

NEW YORK STATE LEGISLATURE
JOINT PUBLIC LEGISLATIVE HEARING

NEW YORK STATE SENATE
Standing Committee on Commerce, Economic Development and
Small Business, Standing Committee on Finance, Standing
Committee on Agriculture, Standing Committee on Banks, and
Standing Committee on Insurance

NEW YORK STATE ASSEMBLY
Standing Committee on Small Business, Standing Committee
on Ways And Means, Standing Committee on Agriculture,
Standing Committee on Banks, Standing Committee on
Insurance, Office of State-Federal Relations, Task Force
on Food, Farm & Nutrition Policy

Federal Response to the Economic Impact
of the COVID-19 Pandemic on
Small Businesses in New York State

Virtual Hearing
Wednesday, May 13, 2020
10:00 a.m. - 4:00 p.m.

Joint Public Legislative Hearing, 5-13-20

INDEX

	Page
PANEL 1:	
Jeff Knauss	14
Co-Founder Digital Hyve	
Bob Stark	21
Partner CJS Architects	
Natasha Amott	24
Owner Whisk New York City	
Carlos Suarez	29
Founder Casa Nela	
PANEL 2:	
Heather C. Briccetti	104
President and CEO The Business Council of New York State	
Greg Biryla	109
New York State Director National Federation of Independent Business	
PANEL 3:	
Tom Cosgrove	184
Vice President, Public Affairs and Knowledge Exchange Farm Credit East	
Julie Suarez	189
Associate Dean College of Agriculture and Life Sciences Cornell University	
Lauren Williams	196
Senior Associate Director Public Policy for National Affairs New York Farm Bureau	

Joint Public Legislative Hearing, 5-13-20

PANEL 4:

Scott Wexler 262

Executive Director
Empire State Restaurant and Tavern Association

Mark Dorr 265

President
New York State Hospitality & Tourism Association

Andrew Rigie 270

CEO
NYC Hospitality Alliance

PANEL 5:

William J. Mellin 317

President and CEO
New York Credit Union Association

Anders Tomson 323

Board Member
Independent Bankers Association of New York State

PANEL 6:

Dale Rice 353

Regional Director at SUNY Canton
New York Small Business Development Center

Shervon Small 357

Director, Community Development Project
The Legal Aid Society

1 Joint Public Legislative Hearing, 5-13-20

2 (The public hearing commenced at 10:00
3 a.m.)

4 ASSEMBLY MEMBER AL STIRPE: Before we
5 begin, I'd like to introduce the Assembly chairs
6 and rankers who are attending this hearing. From
7 agriculture, Chair Donna Lupardo and ranker Ken
8 Blankenbush; from banks, Chair Tom Abinanti and
9 Ranker Karen Michael Lalor; from insurance, Kevin
10 Cahill and ranker Andrew Garbarino; from small
11 business, myself, Chair Al Stirpe and ranker
12 David DiPietro; and ways and means, our esteemed
13 chair Helene Weinstein and ranker Edward Ra;
14 Chair from the office of state and federal
15 relations, Nily Rozic; the chair of the task
16 forces on food, farm and nutrition policy,
17 Michaëlle Solages and the ranker John Salka.

18 I'd like to thank my colleagues in the
19 assembly and senate for joining us today,
20 virtually as well as the many guests and experts
21 we have testifying today. There's no doubt these
22 are extraordinary times and while this virus and
23 the efforts to contain it have affected everyone
24 and all aspects of our society, one of the

1 Joint Public Legislative Hearing, 5-13-20
2 greatest impacts, outside of the healthcare
3 system is the pain this has caused small
4 businesses and their employees.

5 As someone who has owned small
6 businesses and grew up washing dishes and waiting
7 on tables at my father's restaurant, it's
8 difficult to see this impact in my own district
9 and across the state and not be able to do
10 something about it. That was the genesis of these
11 meetings. As chair of the small business
12 committee, I reached out to leadership about
13 holding hearings. And the reaction was swift and
14 supportive. So supportive that the idea became so
15 popular that we are now planning several more
16 hearings across the state following this one.

17 The reason we need these hearings is
18 because the challenges our small businesses face
19 is massive. The federal government has responded
20 to the crisis by establishing several programs to
21 help small business through these difficult
22 times. Today we are looking, in particular, for
23 feedback on these programs. What has worked, what
24 has failed and what can be done differently to

1 Joint Public Legislative Hearing, 5-13-20

2 improve the federal support for small business.

3 As witnesses testify, as my colleagues
4 ask questions, I only ask that due to the
5 expected popularity of this hearing and the
6 virtual format, that we all do our best to be as
7 concise as possible. There is a lot to cover and
8 to discuss. Also, as an information gathering
9 pursuit, I would recommend that we all use our
10 time for questions efficiently so that we can
11 focus the discussion and gather as much relevant
12 information as possible. So, again, I thank
13 everyone for being here, wherever you are.

14 And since this is our first Zoom
15 hearings, we wanted to take a few minutes to go
16 through some housekeeping. Please do not read
17 your testimony. We will be reading all of the
18 submitted testimony, so please summarize your
19 main points. Due to the large interest in the
20 topic, each speaker will have five minutes to
21 speak. There's a countdown clock to help keep us,
22 stay on track that can be seen in your zoom
23 gallery view. When the light is green, please
24 begin to speak. When the light turns yellow, you

1 Joint Public Legislative Hearing, 5-13-20
2 have one minute left and it's time to start
3 wrapping things up. After five minutes, the light
4 will turn red and it will be our turn to ask
5 questions. Please keep your video on and use
6 gallery view. You will remain muted until it's
7 your turn to testify and will be muted again once
8 all the questions have been asked and answered.

9 Chairs and members will also have five
10 minutes to ask questions. Please mute cell phones
11 during the hearing. As a reminder for those who
12 may be watching but are not scheduled to testify,
13 please be aware that you can submit written
14 testimony to the email address on the hearing
15 notice reply form within 10 days.

16 And reminder to members, each member
17 will have the option to ask questions for five
18 minutes and there will not be second turns.
19 Remember, you do not have to use all five
20 minutes. Please use the raised hand function if
21 you want to ask a question. You will remain muted
22 until you are called on to ask the question.

23 So, hopefully that clears a few things
24 up. I would like to now turn it over to my co-

1 Joint Public Legislative Hearing, 5-13-20
2 chair, Senator Anna Kaplan for her introductions
3 and opening comments. Senator.

4 SENATOR ANNA KAPLAN: Thank you. Good
5 morning from Great Neck. My name is Anna Kaplan.
6 I'm the chair of senate committee on commerce,
7 small business and economic development. And it
8 is my great honor to be chairing this history-
9 making joint virtual public hearing of the New
10 York State legislature on the topic that is
11 critical and urgent, the federal response to the
12 economic impact of the coronavirus pandemic on
13 our small businesses here in New York State.

14 Before we go further, I'd like to
15 acknowledge that we meet today during an
16 extraordinary moment in our shared history. And
17 while we are here because of, it's our duty to do
18 everything in our power to help all the New
19 Yorkers get through this crisis. There are nearly
20 22,000 New Yorkers who no longer are with us as a
21 direct result of this crisis at hand. I ask
22 everyone to join me, observing a moment of
23 silence for all those that we've lost. Thank you.

24 Now, I'd like to recognize the members

1 Joint Public Legislative Hearing, 5-13-20
2 of the senate in attendance today, joining us
3 from their respective districts around the state.
4 From the majority, we have Senator Krueger who
5 chairs finance, Senator Breslin, chair of
6 insurance, Senator Metzger, chair of agriculture.
7 Senator Sanders, chair of banks. We are also
8 joined by Senator Benjamin, Senator Boyle,
9 Senator Kennedy, Senator Liu, Senator Martinez,
10 Senator May, Senator Rivera, Senator Skoufis and
11 Senator Thomas. From minority we have Senator
12 Seward, ranking chair of finance, senator
13 helming, ranker chair on commerce. Senator
14 O'Mara, ranker on banks, Senator Orr, ranker on
15 agriculture and senator Ranzenhofer, ranker on
16 insurance, Senator Borrello, Senator Gaughran,
17 Senator Jordan, Senator Lanza, Senator Little,
18 Senator Ritchie, Senator Serino and Senator
19 Tedisco.

20 I also would like to say it's nice to
21 have Senator Skoufis and Senator Seward with us,
22 healthy as they both have recovered from
23 coronavirus.

24 I also would like to remind everyone

1 Joint Public Legislative Hearing, 5-13-20
2 participating today that we are keeping testimony
3 limited to five minutes. And questions and
4 comments should stay focused on the purpose of
5 this hearing which, again, is the federal
6 response to the economic impact of the pandemic
7 on New York's small businesses.

8 As many of you may know, I came to this
9 country at age 13, fleeing revolution in my home
10 country of Iran. My parents made the difficult
11 decision to send me and my brother here alone
12 while they worked to secure safe passage for
13 themselves. A lot of people ask me if I was
14 scared leaving behind the only home I had ever
15 known. My answer always is I was, but I remember
16 being more excited than scared, because I knew
17 this country is one full of opportunity. It is a
18 country where people can dream big. It is a
19 country where they can work hard and make all
20 those dreams come true.

21 And for generations of Americans, small
22 businesses have provided an opportunity to follow
23 your dreams and fulfill them, uplifting
24 yourselves, your family and your community in

1 Joint Public Legislative Hearing, 5-13-20

2 process. Through these businesses, we don't just
3 earn a living. We earn a sense of purpose, a
4 consensus of achievement and a sense of
5 achievement and a sense of pride in ourselves.

6 Right now, with coronavirus putting our
7 communities on pause since March, the threat to
8 our small business couldn't be more real and more
9 serious. And that doesn't just put the owners in
10 peril. It harms every employee. It harms every
11 downtown across the state, and puts at risk the
12 very promise of opportunity that is the
13 cornerstone of the American Dream.

14 Those of us here today, who work in the
15 service of the public are stewards of that
16 promise. Each of us is charged with the sacred
17 duty to ensure that American Dream lives on, by
18 promoting and preserving opportunity. So today,
19 as we hear testimony from stakeholders from
20 around the state about how our federal government
21 has risen to this unprecedented moment, I'm
22 hopeful that we can get a true picture of the
23 impact of this crisis on our small business
24 community so that we can take the information and

1 Joint Public Legislative Hearing, 5-13-20
2 transform it into real action to help our
3 residents who are struggling. We all know what's
4 at stake here. We know there will be significant
5 challenges ahead, but we are all in this
6 together. We're New York tough and I know we can
7 do anything when we are united as one.

8 And with that I would like to start the
9 first panel. The first panel is a small business
10 panel and we have here with us Jeff Knauss, co-
11 founder of Digital Hyve, Bob Stark, partner at
12 CJS Architects, Natasha Amott, owner of Whisk
13 NYC. Carlos Suarez, founder of Casa Nela. I open
14 it up to them for their testimony. Thank you.

15 ASSEMBLY MEMBER STIRPE: Jeff, why don't
16 you start?

17 MR. JEFF KNAUSS, CO-FOUNDER, DIGITAL
18 HYVE: Sounds good. Good morning, thank you for
19 inviting me to start. My name is Jeff Knauss, I'm
20 the CEO and co-founder of Digital Hyve, a full
21 service digital marketing agency. We help
22 businesses grow by telling their stories through
23 online marketing platforms such as Facebook,
24 Instagram, and Google, You Tube and others. I

1 Joint Public Legislative Hearing, 5-13-20
2 started the company with my co-founder, Jake
3 Tanner, about five-and-a-half years ago in a 200
4 square foot office in downtown Syracuse. We
5 completely bootstrapped the company, no outside
6 financing and we lived off our savings for about
7 a year, as we made virtually no money.

8 After that first year we found some
9 success, hired our first employee and after that,
10 the business began to scale. Five-and-a-half
11 years later, we have about 13,000 square feet of
12 office space in downtown Syracuse and downtown
13 Rochester, with plans to expand into Buffalo. We
14 have about 53 full-time employees and have grown
15 over 12,000 percent in the last five years and
16 finished last year with eight figure revenue.

17 Inc Magazine named us 52nd fastest
18 growing company in the United States in their
19 annual Inc 5000 list. And we are extremely proud
20 to be growing a tech and digital company from the
21 ground up right here in upstate New York,
22 alongside incredible tech driven companies like
23 TCGplayer, Plowz & Mowz, Sidearm Sports,
24 Terakeet, Innovative Solutions, and many others

1 Joint Public Legislative Hearing, 5-13-20

2 we are stopping the brain drain, keeping young
3 talent from leaving our amazing higher education
4 institutions and going to larger cities. We are
5 also boomeranging back amazing individuals that
6 have left New York State, gained some high level
7 experience and now wish to return for the
8 affordable cost of living and four beautiful
9 seasons.

10 Due to COVID-19, New York State paused,
11 like most businesses, the growth I was referring
12 to came to a grinding halt for Digital Hyve,
13 because many of our clients were deemed non-
14 essential, such as car dealerships, small
15 properties, casinos and others. They were forced
16 to close their business and thus, stopped
17 spending money on advertising.

18 To be clear, I fully support the work of
19 our medical professional community and local
20 government and think they have done a tremendous
21 job in saving lives by social distancing. We are
22 committed to continuing to follow the social
23 distancing guidelines as outlined by the experts
24 no matter the business cost as human lives are

1 Joint Public Legislative Hearing, 5-13-20

2 far more valuable.

3 That said, because of the consequences
4 of COVID-19, Digital Hyve was down from initial
5 projected revenue in March by 33 percent. In
6 April down 66 percent, and in May, we plan to be
7 around 64 percent, again from initial projected
8 revenue.

9 As soon as we saw the effects, we took
10 swift action by cutting expenses wherever we
11 could. However, with that big of a loss, things
12 looked dire. We made a commitment to our staff
13 that the very last consideration we would take
14 would be staff layoffs.

15 When both EIDL and PPP came to light, I
16 read every article could I find. Luckily, we have
17 an outsourced financial team named Gardner &
18 Capparelli, who helped us navigate through
19 seemingly daily changes and various intricacies
20 of the programs. They helped us to prepare the
21 EIDL application well in advance and submitted it
22 the very first day we were able to so do, which
23 got us to the front of the line. They also helped
24 us with multiple iterations of PPP applications.

1 Joint Public Legislative Hearing, 5-13-20
2 Our bank sent the link to apply to PPP at
3 midnight on Sunday, and by Sunday at 2:00 a.m.,
4 we had submitted our PPP application with their
5 help.

6 I'm proud to say we have not laid off
7 one of our staff members. I am wholly convinced
8 that PPP and EDIL have saved our company from
9 having to lay off employees. Our employees are
10 the reason we have grown 12,000 percent and
11 without them, we have no company. So I'm grateful
12 to the quickness the program has launched
13 understand and the legislators that worked across
14 the aisle to get the programs out.

15 Of course, because of the speed in which
16 these programs were launched, it caused major
17 confusion for myself and for my peers and
18 frankly, it still does. We are not sure of the
19 full parameters of the forgiveness element of the
20 PPP. It seems there are still talks about
21 loosening the guidelines and I urge you to
22 consider that option.

23 The financial strain for COVID will get
24 better over the coming months, but I and most of

1 Joint Public Legislative Hearing, 5-13-20

2 my peers do not feel we will return to normal
3 revenue numbers before the end of 2020. Allowing
4 the PPP to be 100 percent forgivable with looser
5 guidelines is a must to keep our businesses
6 afloat and our employees employed.

7 After getting feedback from my friends
8 working in various industries, I would ask you to
9 consider further action to help save our small
10 businesses from devastating effects of COVID-19
11 and these are some elements of part of that
12 communication. Communicate the program to small
13 business owners in the most simple terms, so
14 every business owner can navigate and apply.
15 Create special consideration for MWBE businesses.
16 Digital Hyve is not MWBE, but I want to ensure
17 there's a level playing field for a segment of
18 business owners where it is crucial for them to
19 flourish and help grow their communities.

20 Create special consideration for start-
21 ups relying on fundraising in an environment
22 where capital has dried up. Enforce
23 reimbursements to agents that help businesses
24 navigate these programs, as some of our largest

1 Joint Public Legislative Hearing, 5-13-20

2 banks in the country are refusing to reimburse
3 entities like Gardner & Capparelli, where banks
4 with a local vested interest in our communities
5 have been more than willing to reimburse them for
6 their services in helping small businesses like
7 ours. Improve the loan term from a two year to a
8 five year floor to amortize loans over a longer
9 period, which lowers the monthly payment, loosen
10 the guidelines of PPP to be 100 percent
11 forgivable so it can make up a portion of the
12 bottom lost.

13 I am positive there are other things
14 that can be improved. I want to say again I am
15 grateful for the legislators for providing this
16 funding quickly as it 100 percent saved jobs
17 [unintelligible] [00:17:26]. I'm also grateful
18 for the opportunity to speak today and appreciate
19 you all taking the time to hear small business
20 owners' point of view over the recent
21 unprecedented events. Thank so very much.

22 SENATOR KAPLAN: Thank you, Jeff. I also
23 want to mention, I did not mention, we also have
24 my colleague Senator Carlucci with us, who has

1 Joint Public Legislative Hearing, 5-13-20

2 joined us this morning, too. We can take this now
3 and give it to the next speaker, Bob, would you
4 like to say a few words?

5 MR. BOB STARK, PARTNER, CJS ARCHITECTS:

6 Yes, I would and thank you for having me. Hello
7 from Buffalo, New York. My name is Bob Stark, and
8 I'm a partner in CJS Architects. We are a small
9 to medium-sized firm of about 30 people with
10 offices in Buffalo and Rochester, New York. We do
11 work all around the state for the State
12 University Construction Fund, the Dormitory
13 Authority, various cities and municipalities. We
14 also work with private museums, private
15 universities, cultural institutions. And the rest
16 of our work is probably 50 to 60 percent is with
17 private companies and developers.

18 So far, through this crisis, I feel that
19 we have actually been fortunate because of the
20 nature of our work. For many years, our staff has
21 been working collaboratively between our two
22 offices and trading staff. So when the cutbacks
23 happened or the mandate happened for people not
24 to come to work, it actually worked out pretty

1 Joint Public Legislative Hearing, 5-13-20

2 well for us for people working remotely. And it
3 has been a little bit of a challenge, based on
4 the collaborative nature of our business, but
5 it's actually worked out quite well.

6 We have received a PPP loan. We went
7 through a local small bank that we have a
8 relationship with, Canandaigua National Bank and
9 they were very helpful. It went, we thought, very
10 smoothly. You know, it was a little bit onerous,
11 as all those kinds of paperwork can be. But we
12 applied immediately when the deadline came and I
13 believe we got our money the next day. It's been
14 very helpful for to us maintain our staff. We
15 have not laid off any people. I can say that
16 probably 50 percent of our projects were put on
17 hold and remain on hold.

18 Fortunately, the work that we had in the
19 pipeline allows us to keep everybody working. And
20 the PPP loan was just essential for us to keep
21 everybody on board. We really value our staff and
22 it's very hard to train staff and get staff, so
23 to try to shed staff and then bring them back
24 later could really be a very difficult thing for

1 Joint Public Legislative Hearing, 5-13-20

2 us to deal with.

3 We also applied for the SBA federal
4 Economic Injury Disaster Loan. That did not go
5 quite so smoothly. And we're not even actually
6 sure where that was at. That was the loan where
7 you would initially receive the \$10,000 and then,
8 if you were approved, decide where -- calculate
9 what you might require later. And we really
10 haven't heard anything on that.

11 We're moving forward. Our
12 communications, and actually between our offices
13 has maybe gotten a little bit better, because
14 we're forced to communicate every day on what
15 everybody is doing. So, so far we feel very
16 fortunate and I would really like to thank
17 everybody for providing the PPP loans and the
18 opportunities to garner these funds, because if
19 it was not for that, we would be in serious
20 trouble. So, so far we are moving along.

21 I don't think this is sustainable with
22 the government shutdown. It's very important, I
23 think, that construction be allowed to start
24 back, which I think is probably something that's

1 Joint Public Legislative Hearing, 5-13-20
2 going to happen pretty soon and considering the
3 fact that the construction industry is used to
4 working under various safety standards, I think
5 that they would be able to accommodate any issues
6 that were needed to do that.

7 So at this point, I would just like to
8 thank you for the opportunity to give you my
9 testimony and thank everybody for helping small
10 businesses and recognizing how important they are
11 to our entire economy. Thank you.

12 SENATOR KAPLAN: Thank you, Bob. Why
13 don't we start next with Natasha.

14 MS. NATASHA AMOTT, OWNER, WHISK NEW YORK
15 CITY: Good morning, good morning everyone. My
16 name is Natasha Amott and I own a kitchenware
17 retail store called Whisk, located in downtown
18 Brooklyn. And I think I'm going to be painting a
19 somewhat different picture than the prior
20 speaker.

21 So within a day of the New York State
22 closure order, I furloughed six of my 11 staff
23 and my sales plummeted. Myself and my remaining
24 crew have been working tirelessly, most at

1 Joint Public Legislative Hearing, 5-13-20
2 reduced hours, to effectively flip our front
3 facing customer-oriented business model to that
4 of an internet business and it has been
5 exhausting to say the least.

6 I did apply for a Paycheck Protection
7 Program loan less than 24 hours after my bank,
8 HSPC opened the portal April 3rd, but I failed to
9 receive a loan in that first round. The lack of
10 transparency on the part of my bank was
11 incredibly frustrating. I am happy to report that
12 I did receive my loan in the second round of
13 funding.

14 It is so rare that a small business
15 owner gets to share their thoughts and
16 perspectives with actual policy makers and I
17 would argue that the federal response seems like
18 it was crafted without the engagement of any
19 small business owner. I am sympathetic to the
20 reality that we just had to get money out and it
21 was never going to be perfect. But now there is
22 silence on important and nuanced details that
23 demand reaction.

24 Forgiveness on my loan will be

1 Joint Public Legislative Hearing, 5-13-20
2 determined based on whether or not I've met three
3 thresholds. One, have I spent it all within eight
4 weeks, two, has a minimum of 75 percent of my
5 loan been used for payroll expenses and three,
6 have I restored Whisk full-time equivalent
7 headcount by June 30.

8 Here are my concerns. First, the PPP was
9 designed with two misconceptions. One, that
10 across the country we would all be back to
11 business as normal come end of June and two, that
12 small businesses would still be in operation,
13 though perhaps at reduced levels and so would
14 actually find payroll monies helpful.

15 Second, PPP runs against the CARES Act
16 which added the \$600 weekly bonus for all UI
17 recipients. The PPP demands that we keep old or
18 new staff on payroll but for Whisk, staff can
19 earn more on UI than in their \$17 an hour job.
20 Staff will be reticent to come back to Whisk for
21 reduced pay and in the fact of uncertainty, that
22 if we are not fully operational come end of June,
23 they will be facing furlough again.

24 Third, the program does not enough to

1 Joint Public Legislative Hearing, 5-13-20

2 consider the overwhelming commercial rent reality
3 of those of us in New York City live with.

4 Last, Family First Act allowed for up to
5 two weeks of emergency paid sick leave time for
6 employees, with that pay allowed to be used as
7 offset against payroll tax liabilities. On March
8 20th, the Treasury issued guidance that small
9 business could immediately begin to take
10 advantage of this provision and I applied it. But
11 then the Treasury later declared that the act was
12 in effect only as of April 1, a full 10 days
13 later.

14 We all know that New York City is not
15 close to meeting either the governor's, nor the
16 mayor's, for reopening the economy. Given this,
17 my immediate recommendations include one, extend
18 the timing on PPP loan forgiveness until the end
19 of 2020. Two, with respect to commercial rents,
20 loosen the 75/25 percent split. Three, ensure
21 that 2021 UI premiums on businesses do not
22 reflect all the furloughs we have been forced to
23 make. Two weeks ago I had to pay over \$4,000 to
24 New York State for quarterly UNDER THE INFLUENCE,

1 Joint Public Legislative Hearing, 5-13-20
2 because just one staff person had been on UI in
3 2019.

4 While the CARES Act provides vague
5 language to ensure that employers are not hit
6 with premiums for COVID-19 furloughs, the
7 Department of Labor has told me they believe this
8 only extends to the \$600 weekly bump provided by
9 the CARES Act. We absolutely need to ensure that
10 in 2021, all of us businesses still alive will
11 not be saddled with ridiculously high premiums.

12 Fourth, demand that the Treasury issue
13 clear guidance on how the FTE headcount will be
14 measured and whether one payroll period at the
15 end of the loan period will be sufficient to
16 measure that test. We need this answer this week.

17 Five, ensure that all emergency paid
18 sick leave time granted in March is allowed to be
19 applied as a credit against IRS payroll tax
20 payments.

21 Six, do not use banks as lenders for
22 future loan or grant programs.

23 And then once we are open, let's ensure
24 that there is federal funding for local agencies

1 Joint Public Legislative Hearing, 5-13-20
2 like the Small Business Services Department of
3 New York City and Chambers of Commerce to
4 allocate a steady supply of basic surgical masks,
5 latex gloves and hand sanitizer to all small
6 businesses, as well as disinfecting cleaning
7 services to regularly clean our stores.

8 Create a small business retail team to
9 make practical and helpful recommendations for
10 in-store merchandising and point of sale setup
11 that helps create appropriate in-store shopping
12 experiences.

13 And last, promote local. If anything is
14 more clear now than ever, online selling is a
15 vastly more inefficient and expensive way to get
16 products to the consumer. We need to keep people
17 shopping local. Thank you.

18 SENATOR KAPLAN: Thank you. Next we have
19 Carlos Suarez.

20 MR. CARLOS SUAREZ, FOUNDER, CASA NELA:
21 Good morning. Thank you so much for giving small
22 business an opportunity to share our realities
23 with you. Thank you specifically to my state
24 senator, Brad Hoylman for the invitation to

1 Joint Public Legislative Hearing, 5-13-20
2 speak. I'm here to share the story of New York
3 restaurants and to ask for your support.

4 My name is Carlos Suarez. I started
5 restaurant business in 2006, and today own and
6 operate four restaurant in Greenwich Village,
7 ranging from a 50-seat pizzeria called Rowie's to
8 a 120-seat Italian restaurant with a rooftop
9 garden called Rosemary's. We have a fifth
10 location in construction that was slated to open
11 in May and would have taken our employee count
12 into the 300s.

13 Faced with a 90 percent decline in
14 business on March 15th, we laid off 204
15 employees. We continued for a few weeks offering
16 delivery, but suspended all operations on March
17 25th when we felt it was no longer safe to
18 continue. We are now working to reopen our
19 restaurants safely for delivery and take away and
20 look forward to reopening to diners when it is
21 safe and economically sensible to do so.

22 I'm working with fellow restaurant
23 owners and health and safety experts on a
24 campaign to align independent restaurants on a

1 Joint Public Legislative Hearing, 5-13-20
2 common set of health and safety standards that
3 inspires confidence in our industry on the part
4 of our employees and our guests.

5 I would characterize the federal
6 government's response to COVID-19 from our
7 perspective with three words, chaotic, flawed and
8 inadequate. Chaotic, I spent days compiling my
9 six EID Loan applications, submitted them in mid-
10 March and waited for weeks only to be told that
11 the SBA had scrapped their original application
12 system and I was to resubmit applications through
13 their new system. It is now May 13th, some two
14 months later and I have still not received a
15 response from the SBA on five of the six
16 applications.

17 Despite receiving a call a month ago
18 regarding one of the applications to say that the
19 application was, in fact, approved, we have
20 received \$10,000 in express funds. What am I
21 supposed to do with that? I'm still waiting to
22 hear from the SBA.

23 Flawed, speaking specifically about two
24 critical issues with PPP, firstly the forgiveness

1 Joint Public Legislative Hearing, 5-13-20
2 window. Our eight-week forgiveness window for the
3 PPP funding is expiring in four weeks at which
4 point, our restaurants will still be closed to
5 diners and we will only have just opened for
6 delivery, employing about 10 percent of the
7 former staff. The forgiveness window needs to be
8 expanded to 24 weeks or greater, as is currently
9 proposed. Otherwise the federal government is
10 simply asking businesses like ours to dig an even
11 deeper hole of debt from which most cannot
12 possibly recover. Secondly, there is the
13 repayment term. A two-year repayment term for a
14 loan of this magnitude is fiscal suicide, putting
15 aside the fact that for 12 of the 24-month term
16 we may be forced to operate at reduced
17 capacities.

18 And finally, inadequate, there are two
19 primary issues for us. The federal government has
20 failed to address the fact that the insurance
21 industry is not covering COVID closures under
22 business interruption insurance. What good is BI
23 insurance if it can't be relied upon during a
24 government mandated closure?

1 Joint Public Legislative Hearing, 5-13-20

2 Secondly, the road to recovery. We are
3 currently faced with over a million dollars in
4 short-term payables from AP to rent, and based on
5 our latest guidance, are forecasting a 60 percent
6 sales decline for the next 12 months, which for
7 us translates into another half million to a
8 million dollars in operating losses. Even if the
9 PPP forgiveness window is expanded and the term
10 is extended, we will clearly not have enough
11 capital to sustain ourselves.

12 Two months ago on March 13th, we had a
13 thriving business, feeding 5,000 diners a week,
14 employing 250 people and on the cusp of exciting
15 growth. Much as I did back in 2006, when I
16 bootstrapped my way into business, we will do
17 everything we can to rebuild our business. But
18 our grit may not be enough and the consequences
19 for the chaotic, flawed and inadequate federal
20 response will be tragic for cities, communities
21 and families. We continue to look to our
22 government to lead us through this.

23 SENATOR KAPLAN: Thank you. Those were
24 really wonderful testimonies and we will take

1 Joint Public Legislative Hearing, 5-13-20

2 those in consideration. I would also like to add
3 we are joined by Senator Brooks also. I'm going
4 to pass the first question to Senator Liz Krueger
5 to ask from our panel.

6 SENATOR LIZ KRUEGER: Thank you. It's
7 nice to see all my colleagues, even if we are all
8 in tiny little boxes. And I like all the beards
9 on all the men that I haven't seen in a while. So
10 for the four of you who just testified, I think
11 there was general agreement from three out of the
12 four that the federal process for applying for
13 loan funds didn't make sense, didn't work or
14 doesn't match your business model to be that
15 useful. But I'm curious. You were all in
16 business, you all have different kinds of
17 insurance. Did any of you find that any of the
18 insurance that you have been paying for over the
19 years has been actually helpful to you now that
20 you find yourself in crisis?

21 MR. KNAUSS: No. As Mr. Suarez said, BI
22 insurance has been useless for us as well.

23 MS. AMOTT: That is the same for Whisk.
24 I submitted a claim and I received a call from

1 Joint Public Legislative Hearing, 5-13-20

2 somebody who checks the claims and he said it's
3 all good and well that we've processed this claim
4 but he has little hope that anything will come of
5 it.

6 SENATOR KRUEGER: So going back to, I
7 think at least three out of the four of you
8 talked about applying for the federal PPP funds.
9 When you did get them, did you get an explanation
10 from the bank you went through as to why you
11 weren't getting them or anything sort of as you
12 move forward of maybe it's coming soon or just a
13 black hole? What was your experience?

14 MS. AMOTT: Well, I can speak to the
15 first round, when I did not, when I failed to get
16 a loan. I have a very good relationship with my
17 banking manager. Everything was in order prior to
18 April 3rd, when the SBA initially opened the
19 program. I had everything organized and it was
20 submitted less than 24 hours. I was told for the
21 next almost two weeks, don't worry, don't worry,
22 you're going to get it, everything's in order. As
23 monies were very clearly running out, it was well
24 documented in the media, I said to my banker, I

1 Joint Public Legislative Hearing, 5-13-20
2 don't understand what is going on, I still
3 haven't heard anything. He then told me that
4 other people who had submitted their loan
5 application after Whisk had received their
6 monies. This was a first come, first served
7 program, so I felt very shocked that there were
8 other people getting their loans afterwards.
9 There were no red flags, nothing. I was just
10 placated the entire time.

11 And to be honest, after I found out the
12 moneys had run out, you know, I was, I was very
13 upset. So I spoke with the boss of my banking
14 manager, and then her boss, and then her boss at
15 HSBC. And I have no idea if that made a
16 difference at all but certainly in the second
17 round I got the loan. But it took a lot of effort
18 and a lot of pandering to get there.

19 MR. KNAUSS: Yeah, and just to follow up
20 on that, I mentioned in my testimony that we had
21 a consulting outsourced financial company that
22 was helping us through this process which made it
23 incredibly -- Gardner & Capparelli, as I
24 mentioned, they made it so much easier for us

1 Joint Public Legislative Hearing, 5-13-20

2 because they were there by our side, there were
3 there helping to prepare all the applications. I
4 really, a lot of my work was signing on the
5 dotted line because I trusted them, they do all
6 of our books and things like that, so they knew
7 us inside and out. And they were followed closely
8 for all of their clients.

9 But I think putting myself in the
10 perspective, I'm also an owner in a restaurant
11 called XO Taco in Syracuse, and putting myself in
12 the perspective of smaller businesses that either
13 don't have that financial support or don't have
14 the partner, it would be overwhelming to try to
15 keep up with all of the changes that were
16 happening. The pandering, to your point, just
17 going and speaking, we have a good relationship
18 with our bank as well, but you know, everyone is
19 trying to get the same money.

20 So I think that trying to put myself in
21 different shoes of some of my peers, unbelievably
22 frustrating for a lot of the folks that I talked
23 to trying to get through this process. We were
24 very fortunate. We got our first, we got PPP in

1 Joint Public Legislative Hearing, 5-13-20
2 the very first round. We got EIDL relatively
3 quickly. There wasn't a lot of communication in
4 between when we applied and got it, to be honest.
5 That was kind of frustrating. But I'm very
6 grateful that we did get it, because like I said,
7 it helped save jobs. But if it weren't for, you
8 know, our financial partner, it would have been
9 nearly impossible trying to run a company and do
10 this.

11 SENATOR KRUEGER: I just have about 30
12 seconds left, so in round two of the federal
13 funds, they have expanded it beyond banks for
14 sort of fintech type companies to also be able to
15 make the loans, you know, places like PayPal can
16 make these loans and other online. I'm wondering
17 whether any of the four of you who just testified
18 have looked into that model. Does anyone think
19 that's going to help or hurt in round two?

20 MS. AMOTT: I have not had experience
21 with that, but I know here in New York City that
22 the hope is that the DCFIs that now have that
23 special allocation will somehow be able to make
24 more generous loans. But I ended up working with

1 Joint Public Legislative Hearing, 5-13-20

2 HSBC because I think the fear was that to switch
3 out and go with a lender who I didn't know, it
4 just, it seemed too big of a risk.

5 SENATOR KRUEGER: Great. And you're
6 bringing up yes, there is a separate pot of money
7 towards CDFIs, although it's not that large a pot
8 of money to supposedly work with the, the
9 [unintelligible] [00:38:14] that they are best
10 familiar with. Thank you, Madam Chair.

11 SENATOR KAPLAN: Thank you, Senator
12 Krueger. I also want to mention that we are
13 joined by Senator Jackson and with that I would
14 like to pass the baton to Assemblyman Stirpe to
15 go ahead and have their questions.

16 ASSEMBLY MEMBER SIMON: Okay. I think
17 I'm going to start off here and I would like to
18 ask Jeff a couple of questions. I mean you talked
19 in your recommendations about enforcing
20 reimbursement to agents that helped business
21 navigate the programs. Can you explain a little
22 bit what that is all about and what kind of
23 reimbursement would they get?

24 MR. KNAUSS: Sure. So from my

1 Joint Public Legislative Hearing, 5-13-20
2 understanding, the way that the law was written,
3 is that financial agents that help small
4 businesses navigate through this process were
5 supposed to be reimbursed by the financial
6 institutions that received these loans. I believe
7 from what I, again from my understanding, which
8 is limited, that the language was intended to be
9 that but it could be misinterpreted.

10 And I think that some financial
11 institutions, and the larger ones, that maybe
12 don't have as vested an interest in their
13 communities, are putting the cost structure back
14 on to the financial advisors, saying hey, look
15 it, we're not going to reimburse you for all the
16 time spent. I mean, like I said, at 2:00 in the
17 morning, we were submitting, I was submitting the
18 PPP application alongside of someone at Gardner &
19 Capparelli who had a kid and was woken up anyway.

20 So, we were very fortunate to have them.
21 And, like I said, the cost of their service and
22 hours were supposed to be fallen upon the banking
23 institution that got the loans, that dispersed
24 the loans. And if they don't reimburse them for

1 Joint Public Legislative Hearing, 5-13-20

2 that, either the financial agents will be out of
3 luck and all that time that they invested in
4 helping small businesses will be not compensated,
5 which I don't think is fair. Or it's going to
6 fall on the small business folks to reimburse
7 them, which again was not part of the law. So I'm
8 urging to reconsider how to reinforce that.

9 ASSEMBLY MEMBER STIRPE: Okay. Also, you
10 talked about creating special considerations for
11 start-ups relying on fundraising, et cetera. Can
12 you go into that a little bit, how that would
13 work?

14 MR. KNAUSS: Yeah, so from, you know, my
15 peers that are in, that have, you know, raised
16 capital through venture capital and other means,
17 obviously right now everyone is struggling due to
18 COVID-19 and so some of the venture capital firms
19 -- I mean I have a company that I've personally
20 invested in and about a million and a half
21 dollars vaporized within a week, because a lot of
22 the commitments that were made by angel investors
23 and some other folks just went away. So those
24 commitments can't be done.

1 Joint Public Legislative Hearing, 5-13-20

2 So I think because they're start-ups
3 they have different models in terms of employees,
4 in terms of space. They're on burn rates, right,
5 they're not like a traditional business that's
6 relying on cash flow and things and they're
7 trying to scale quickly.

8 So I'm not sure of what the way that the
9 programs could work, but I just want to be
10 thoughtful around these start-ups that have a lot
11 of potential to grow, have a lot of potential to
12 hire more full-time employees and gain net new
13 jobs to New York State, you know, and giving them
14 special consideration around the loan terms for
15 their specific businesses.

16 ASSEMBLY MEMBER STIRPE: Okay. And,
17 finally, I mean Syracuse is not a big place and
18 you know most of the players there and you know,
19 friends of yours who have other businesses. How
20 would you, what would you estimate the number of
21 people you know that were able to get PPP or
22 EIDL? Was it the majority or just a few? How did
23 it end up?

24 MR. KNAUSS: I would say the majority of

1 Joint Public Legislative Hearing, 5-13-20

2 the folks that I specifically spoke with got
3 their PPP either in round one or round two. So,
4 the majority of the folks that I talked to from,
5 from business owner standpoint got the PPP.

6 The EIDL was a major different story. I
7 think the process, to one of the testimonies, I
8 think it was Mr. Stark that said that that was a
9 completely different process. Even for us and,
10 many business owners didn't know much about that
11 one. They didn't know about the Emergency Injury
12 Disaster Loan. And so I think they were
13 uninformed, because I think the communication
14 wasn't the best. I also think it was a harder
15 process.

16 I will say that we were one of the first
17 people in line for EIDL and we didn't hear for
18 weeks on it, and we didn't know even who to talk
19 to. I mean we tried to talk to our SBA
20 representatives and things, but they were also
21 kind of clueless.

22 So, I think that the PPP was funded well
23 either in first round or second round for my
24 colleagues, EIDL was definitely a different

1 Joint Public Legislative Hearing, 5-13-20

2 story.

3 ASSEMBLY MEMBER STIRPE: Okay, thanks.

4 Back to you, senator.

5 SENATOR KAPLAN: Thank you. So, in your
6 individual cases, are there specific improvements
7 for your industry that can be implemented either
8 on a state or federal level to better assist you
9 in your particular type of business when it comes
10 to assisting during this difficult time?

11 MS. AMOTT: Well, I would reiterate that
12 this program, the main program that we're talking
13 about here, PPP, is designed for businesses that
14 are still kind of open, right? It's not designed
15 for the businesses that are actually not allowed
16 to be opened or that are opened at such small
17 level of what they previously were.

18 So I think what all of us who are in
19 that situation, and that cuts across retail, it
20 cuts across restaurants, bars, hospitality. What
21 we are demanding is that the states work with the
22 federal government to say we've got to amend how
23 this loan program works. If we can make the
24 amendments to extend the forgiveness period, so

1 Joint Public Legislative Hearing, 5-13-20

2 it's not just eight weeks, if we can get a clear
3 answer as to how you established a full time
4 equivalent head count, which is now part of the
5 requirements that that only come on the last
6 payroll of the very end of the program. There's
7 still what? How much money is still left in the
8 pocket, 80 billion, 90 billion?

9 Maybe some restaurants and other
10 retailers who never applied because they thought
11 it would never work for them because they're not
12 open, maybe they could still take advantage of
13 these remaining funds. But we need to know that
14 that flexibility is in place.

15 MR. SUAREZ: Additionally, I would add
16 that the term of the PPP loans needs to be
17 extended. Two years, as I said, is fiscal
18 suicide. You know, our PPP loans equate to about
19 10 percent of sales and we expect the next 12
20 months to be 60 percent down year-over-year,
21 leaving us 12 months to repay a loan that equated
22 to 10 percent of previous sales levels. It's just
23 not possible. So we're not going to go into debt,
24 you know, if we can't repay this thing. So the

1 Joint Public Legislative Hearing, 5-13-20

2 term clearly needs to be expanded, five years or
3 10 years.

4 MR. KNAUSS: Yeah, I agree with that
5 completely. And for us, you know, our reliance as
6 a service based industry, you know, with
7 marketing services we rely so heavily on the
8 success of other industries, businesses,
9 restaurants, retail. And so I think being able to
10 help as many people as possible through this,
11 that's really what we are looking for because our
12 business is so reliant on them.

13 MS. AMOTT: And can I add that part of
14 the reason why I say this eight week period which
15 is written into the PPP loan forgiveness portion
16 is not acceptable is that even if we are opening
17 as a retailer, right, even if I'm opening
18 sometime in June, maybe July, I will not be open
19 at full capacity. I will be social distancing, I
20 will be limiting the number of customers in the
21 store. I will have a reduced staff perhaps. All
22 of these questions around which support the
23 notion that it simply isn't workable under this
24 quick, tight timeline.

1 Joint Public Legislative Hearing, 5-13-20

2 MR. STARK: I agree that the eight weeks
3 is a tight window. It actually works for us
4 because we have everybody working. But it's still
5 very tight to hit it, if you do want forgiveness
6 on the loan.

7 SENATOR KAPLAN: Okay. Thank you. Back
8 to you Assemblyman Stirpe.

9 ASSEMBLY MEMBER STIRPE: Thanks.
10 Assemblyman Victor Pichardo, you're up next.

11 ASSEMBLY MEMBER VICTOR PICHARDO: Good
12 morning everybody, and to the small businesses
13 for joining in this panel this morning, as well
14 as my colleagues. It's good to see many of you
15 guys trying to get back into regular order. So my
16 question is to Ms. Amott. I have a question
17 specifically around commercial rent. In terms of
18 the issues that we're dealing with right now, in
19 terms of COVID-19, what kind of arrangements have
20 you made with the owner of the building in terms
21 of dealing with the rent?

22 You mentioned something about a 75/25
23 split? I didn't quite catch what that meant but
24 also is there any other suggestions that you

1 Joint Public Legislative Hearing, 5-13-20
2 could make in terms of helping particularly small
3 businesses deal with the commercial rent
4 properties? And keep in mind I have a lot of
5 small businesses in my district, particularly
6 around bodegas, so could you explain that a
7 little bit more? I just sort of missed that part.
8 And what other suggestions do you have in terms
9 of dealing with commercial rent properties
10 [unintelligible] [00:48:05].

11 MS. AMOTT: Sure. Thanks for asking that
12 really important question. So I hope every member
13 of the State Assembly and every member of the
14 State Senate fully reads the PPP loan program,
15 just so that we can all understand all these
16 nuanced details, which are so important to get
17 right. The loan, because of the way that it was
18 funded, the Treasury has said it has to be at
19 least -- at least 75 percent of your loan has to
20 be spent on payroll. That leaves 25 percent free
21 to rent, mortgage interest or utility payment, so
22 that's the 75/25 percent split.

23 But of course in New York City, we know
24 that especially if we're not open or we're barely

1 Joint Public Legislative Hearing, 5-13-20

2 open, that level of split just doesn't work here.

3 So, for example, under my loan, the allocation

4 75/25 means that I have less than one month of

5 rent to be able to be covered under this loan.

6 However, I went to my landlady, who's
7 been extremely easy to talk with and she gave me
8 a discount on May's rent.

9 ASSEMBLY MEMBER PICHARDO: Great.

10 MS. AMOTT: So that made a big
11 difference for me. I cannot speak for all the
12 other retailers out there who do not have that
13 good fortune. The current -- I'm sure all of you
14 are so aware of the urgency in here New York City
15 to ask that not only is eviction moratorium,
16 which I know has been delayed or extended, not
17 only that that happens, but that there's actually
18 a real look at rent relief. Because way too many
19 businesses will be suffering and dying if they
20 continue to pay even discounted rented. Even
21 discounted rent is not matching my sales. So
22 there's still a big disjuncture there.

23 ASSEMBLY MEMBER PICHARDO: Then also you
24 recommended that it be extended, the PPP program

1 Joint Public Legislative Hearing, 5-13-20

2 extended until the end of the year, but I also
3 saw some of the other panelists and witnesses
4 today mentioning the end of two years. Do you --

5 MS. AMOTT: I think what is -- I'm
6 talking specifically about the loan forgiveness
7 time period, whereas I think the other gentlemen
8 were speaking about if you were to return it as a
9 loan at the one percent, you want to have an
10 extended loan term period. But for forgiveness,
11 the eight-week period does not work. And I will
12 say that the only reason why I took a PPP loan is
13 because of its forgiveness factor.

14 ASSEMBLY MEMBER PICHARDO: Understood.
15 Thank you so very much. Thank you, Mr. Chairman.

16 ASSEMBLY MEMBER STIRPE: Senator.

17 SENATOR KAPLAN: I'm going to ask
18 Senator Carlucci to ask the next question from
19 the panel. Senator Carlucci? Is he muted or is he
20 --

21 SENATOR DAVID CARLUCCI: Okay. There we
22 go. Can you hear me?

23 ASSEMBLY MEMBER STIRPE: Yes.

24 SENATOR CARLUCCI: Well, good afternoon

1 Joint Public Legislative Hearing, 5-13-20

2 and thank you. In my district alone, here in the
3 Hudson Valley, stores are losing over a billion
4 dollars in sales. So we know that stores are
5 closing, livelihoods are being crushed and
6 employees are losing their jobs.

7 And what does the federal government do?
8 Was we've heard from our panelists today, not
9 very much for New Yorkers. Our economy, as many
10 of us know, is completely dependent on our small
11 businesses, 98 percent of the businesses in our
12 state are fewer than 100 employees, more than a
13 third of them are less than five years old,
14 meaning that there's little money in the bank to
15 help keep them afloat during this really hard
16 time.

17 And the PPP was created, but then New
18 York got short changed. Only six percent of PPP
19 available came to New York and much of that money
20 was siphoned off to large publicly traded
21 corporations. Now there's a new round of funding
22 through the PPP and still there's very little
23 guidance.

24 So, you know, forgive me and I know my

1 Joint Public Legislative Hearing, 5-13-20

2 colleagues share this frustration. But we're not
3 going to sit idly by and wait for the federal
4 government. We have to take action and that is
5 really why we are here today.

6 So first, I have a few questions. And as
7 Natasha mentioned, when small businesses close
8 temporarily and employees are laid off, something
9 called the experience rating suffers, which means
10 that hikes to their unemployment insurance rates
11 would be incurred. Do any of our panelists have
12 any idea of what they expect these rates to be in
13 the future?

14 MS. AMOTT: I don't know an exact, but
15 if I furloughed six people I'm very concerned
16 because in -- so, I opened this location of Whisk
17 in 2018. My rating at that time was I think 3.625
18 percent. Then in 2019, I had one full time staff
19 person, who I was forced to let go, and he went
20 on UI. My first quarter payment, which I had to
21 pay two weeks ago, amidst all of this, right?
22 There was no -- I was not allowed to delay this
23 payment, I would face penalties, so I had to make
24 the payment of over \$4,000 which for a small

1 Joint Public Legislative Hearing, 5-13-20

2 business shop barely opened is very meaningful.

3 That was the amount I paid because one person had

4 be on UI. So, adjusted for my experience rating

5 of 3.6, it was a huge amount of money. So to

6 think about six people now being furloughed, I

7 mean it stands to reason that it could be well

8 over \$10,000 a quarter.

9 MR. KNAUSS: I'll follow up that, Ms.

10 Amott. I have not even thought about that, to be

11 honest. And that's I think the point. The point

12 here is there are so many pitfalls to this whole

13 thing. We are losing revenue, like incredible

14 amounts of revenue by the day, we are having to

15 furlough our staff, we are having to make drastic

16 decisions that no business owner wants to make.

17 And on top of that, we have additional concerns

18 that we're trying to like, it's like plugging the

19 dam every day of things and pitfalls that we have

20 to keep in mind.

21 So, I don't know the exact number

22 either, to be honest. We have folks that handle

23 that in my establishment. But I will say that

24 it's just another thing that this has really

1 Joint Public Legislative Hearing, 5-13-20

2 created and that's why I think, back to the point
3 of all of us, if we can make this easier, more
4 simple for people to understand, if we could have
5 more forgiveness, if the amortization, if there's
6 not forgiveness in it, that it could be longer.
7 Eight weeks is certainly a tight timeframe. All
8 of those things need to be considered, so we can
9 go back to operating our business and taking care
10 of our people. That's what we really need.

11 SENATOR CARLUCCI: Yeah, I think you're
12 absolutely right and that's why I really
13 appreciate Natasha bringing that up and that's
14 why we are having this hearing today, to really
15 bring to light some of these things that really
16 have not been brought out into the daylight. And
17 something like the experience rating, that's
18 something that we have control of here in New
19 York State. And I've drafted legislation and I'm
20 hopeful that we can pass that this year to make
21 sure that one of these unforeseen consequences of
22 having an unemployment insurance rate premium
23 increase is not on the backside, that we are not
24 penalizing our small business owners for

1 Joint Public Legislative Hearing, 5-13-20
2 something that's really been beyond their
3 control. So I really appreciate you bringing that
4 up.

5 The other question I wanted to bring
6 forward is that in New York State, we've worked
7 hard to delay taxes and make sure that mortgage
8 payments are not needing to be paid on time if
9 people are having problems. The concern I have is
10 that when it does come time to pay these
11 backdated payments that there won't be the funds
12 to pay it.

13 SENATOR KAPLAN: I'm sorry, senator,
14 your time has expired.

15 SENATOR CARLUCCI: Okay. Well, thank you
16 very much. Appreciate the answers.

17 SENATOR KAPLAN: Thank you, Assemblyman
18 Stirpe?

19 ASSEMBLY MEMBER STIRPE: Sure, up next,
20 member Marianne Buttenschon.

21 ASSEMBLY MEMBER MARIANNE BUTTENSCHON:
22 Thank you for the opportunity, thank you to the
23 witnesses and my colleagues for hosting this
24 hearing, as it is very valuable to hear from all

1 Joint Public Legislative Hearing, 5-13-20

2 of you. And some of my colleagues have asked the
3 questions that I understand the PPP struggles, as
4 well as insurance and your rent and we will
5 continue to work towards coming to a goal that
6 could support you.

7 In regards -- I am the sub-chair of
8 exports, and I know that one of did you speak in
9 regards to attempting to move forward with more
10 exports, whether it's product or services. And I
11 would just like to hear from you of what we could
12 do to help with you that in regards to not only
13 exports that would be international but exports
14 out of the state of New York. Or is that
15 something that you are not even at the point of
16 considering?

17 MR. KNAUSS: Yeah.

18 MR. STARK: Based on my line of work and
19 the service line of work, you know, we do do some
20 work in other states, but very little, so it's
21 really not a concern to me.

22 MR. KNAUSS: I, I would agree.

23 ASSEMBLY MEMBER BUTTENSCHON: Okay. And
24 as far as the restaurants and small businesses, I

1 Joint Public Legislative Hearing, 5-13-20
2 know what you do best is plan and order to
3 determine what you need to be successful. If you
4 were to look at the needs for your PPE to open
5 and you face struggles of opening, could you
6 identify what length of time you plan on
7 determining how much PPE you will need for your
8 staff? Is it two weeks, a month, two months, to
9 ensure that you could remain open and not have to
10 close due to the lack of having no supplies?

11 MR. SUAREZ: Well, we have a pretty
12 large staff, being in the restaurant business and
13 these supplies are certainly vital. I'm hearing
14 from colleagues who are operating their
15 restaurants for delivery that accessing PPE
16 currently is rather challenging. I know you might
17 have heard of Dominique Ansel, they're getting
18 their masks from their partners in Hong Kong
19 because they can't access masks, whether it's
20 through Amazon or other domestic sources. So
21 that's definitely a concern going forward.

22 We're, like I said, just about to reopen
23 for delivery, so we're just starting to source
24 those materials now. I appreciate you bringing it

1 Joint Public Legislative Hearing, 5-13-20
2 up because I do sense it will be a problem,
3 specifically for the restaurant industry, given
4 the number of people that we employ, the
5 proximity with which we work and the conditions
6 that we work in that will require us changing out
7 masks and gloves on a very frequent basis.

8 The group that I mentioned earlier,
9 working with other colleagues in the industry to
10 establish a common set of standards, one of our
11 additional goals is to pool our purchasing power
12 to access PPE for the restaurant industry, so
13 that other operators have the supplies they need
14 to ensure that their employees are safe.

15 The worst thing that can happen here is
16 that we're so starved of cash that we go back to
17 work and endanger the lives of our employees. So
18 I think it's a great question and I would love
19 support on it.

20 MS. AMOTT: Yeah, I would echo that as
21 well. It's critical and I think that once we do
22 start to see the reopening of the economy, we're
23 probably going to see surges in sales or at least
24 the demand for sales of certain PPE. And I will

1 Joint Public Legislative Hearing, 5-13-20

2 tell you that I have spent inordinate amount of
3 hours trying to buy hand sanitizer, latex gloves
4 and basic surgical gloves. I've bought cotton
5 cloth mittens for everybody who does come to work
6 to pack up the, the orders that we're doing.

7 And it's exhausting. I mean just that
8 part of the business on top of everything else is
9 just, you know, I'm living on barely any sleep. I
10 did make in my recommendations a suggestion that
11 federal funding should be allocated to agencies
12 that are really good, at least here in New York
13 City, for talking and knowing who to connect with
14 all the small business fronts, so SBS here in New
15 York City, the Chambers are terrific. They, if
16 they had the funding, I think they could work
17 then with groups like the New York City
18 Hospitality Alliance for Restaurants and Bars and
19 then retailers to provide these kinds of basic
20 pieces of equipment, so that we're not competing
21 against each other, so they're not running around
22 trying to get, you know, a taxi to even load all
23 of these pieces of equipment in.

24 So I think federal funding for that kind

1 Joint Public Legislative Hearing, 5-13-20
2 of support and anticipating it, so we don't run
3 out, is critical.

4 ASSEMBLY MEMBER BUTTENSCHON: Thank you.
5 I know I've exceeded my time.

6 ASSEMBLY MEMBER STIRPE: Senator.

7 SENATOR KAPLAN: The next question from
8 Senator Kennedy.

9 SENATOR TIMOTHY M. KENNEDY: Thank you
10 Chairwoman Kaplan and thank you to the panelists
11 for your great testimony today. I know we have
12 many other panelists to go. But this is already
13 been extremely enlightening and to hear what's
14 happening on the ground in the community by your
15 respective businesses is so important for all of
16 us. So thank you very much.

17 I just wanted to recognize all of those
18 leaders that have really been out in the
19 community on the frontlines, those frontline
20 essential workers that have helped to keep our
21 communities across the state of New York
22 functioning during this very difficult time. My
23 hat is off to them and of course, all the heroes
24 on the frontlines that are doing such incredible

1 Joint Public Legislative Hearing, 5-13-20

2 work saving lives.

3 You know, each of you has touched on
4 very important aspects of your respective
5 businesses and obviously, Bob Stark, you're in a
6 different place than Natasha and Carlos are and
7 you know, Jeff out in Syracuse, we're looking
8 forward to welcoming you here to Buffalo as well,
9 with your expanding business. You know, a lot of
10 the economic challenges that you are discussing
11 here today, we are hearing about every single day
12 among other issues, including the unemployment
13 debacle that we're all dealing with.

14 Could you specifically touch on any --
15 and this is open to any of the panelists -- any
16 challenges that you foresee that you believe will
17 be the largest challenge for your business as we
18 move to reopen the state, whether it is the
19 safety measures your employees will have to deal
20 with, as Natasha you just touched on, or
21 potentially the pipeline of supplies that we will
22 all have to be paying attention to as well?

23 MR. KNAUSS: I'll say, just to follow up
24 on the last point that was made, PPE for us, we

1 Joint Public Legislative Hearing, 5-13-20
2 are so fortunate to be in a place where our
3 business runs completely remotely without
4 skipping a beat. We are very, very fortunate. I
5 do not take that for granted and so we don't
6 anticipate going back to a physical office until,
7 my minimum July 1st, but potentially the fall or
8 even 2021. I mean we've had discussions about
9 that, just to keep our employees safe and really
10 we don't necessarily need to. We love the
11 camaraderie, we miss our people, but at the end
12 of the day, so that won't be a huge challenge for
13 us.

14 When we do go back we'll have all the
15 safety precautions. But for us, our major barrier
16 to success and growth, because we still project a
17 growth year this year, the biggest barrier to
18 that growth would be reopening the economy and
19 allowing other businesses in other, in all
20 industries, to be able to get back to work
21 safely. Without commerce, without revenue for
22 some of these other businesses that are our
23 clients, they have no ability or need to
24 advertise. And so for us, being able to tell

1 Joint Public Legislative Hearing, 5-13-20
2 their stories, being able to market to their
3 consumers, to help grow their businesses, without
4 that, without getting back to work, we're also
5 not going to be able to thrive so that would be
6 my biggest challenge.

7 MR. STARK: Yeah, I agree with that
8 totally. We are really in the same types of
9 businesses I think, Jeff, you know, providing
10 services. But we're providing services to a lot
11 of these businesses that are not, are no longer
12 open. I do not see when the economy does open
13 back up, our employees coming back immediately as
14 well. A lot of that has to do with we have a lot
15 of employees with families and the schools are
16 closed and they're home with their families. And
17 again, we're very lucky with the way that we work
18 and the technology that we have to be able to
19 accommodate that. So we don't anticipate
20 immediately bringing people back when things open
21 up, so that does give us some flexibility to sort
22 of wait and see what happens.

23 MS. AMOTT: I would just say that, you
24 know, to be very frank, it's money. For any

1 Joint Public Legislative Hearing, 5-13-20

2 business that's a service provider in the sense
3 of in-store, in the experience, whether that's
4 through food or through products they want to
5 buy, we need to know that we have the cash flow
6 because I don't know how much longer I'll have a
7 discounted rent for. We are doing some internet
8 sales but here's the reality.

9 I have learned and I'm not going to
10 going to go on about this, because I could and I
11 won't, but I have really learned in last month
12 that for every order we ship out, it is so costly
13 on the business. It takes so much more time.
14 There's inevitably problems with shipping, with
15 USPS or FedEx and the nature of the business has
16 fundamentally become so much more inefficient and
17 expensive. So for as long as I'm having to do
18 that type of business, I can't keep on the same
19 level of staff because I can't afford it and I
20 can't pay the rent.

21 SENATOR KENNEDY: I'd like to get one
22 last question in here about the business
23 interruption insurance because I recognize each
24 and every one of you has touched on this. And

1 Joint Public Legislative Hearing, 5-13-20
2 those business interruption insurance policies
3 that have been silent on this, there's actually a
4 bill that the Senate is pushing forward,
5 [unintelligible] [01:07:25] by Senator Gianaris,
6 that would actually rectify this, because I
7 always hate companies that are silent on this
8 issue, and we've sent a --

9 SENATOR KAPLAN: Senator Kennedy,
10 [unintelligible] [01:07:37].

11 SENATOR KENNEDY: -- request to the
12 governor requesting that he look into potentially
13 rectifying this. So that's something that's very
14 much on our radar as well. But thank you all
15 again for your efforts and your testimony.

16 SENATOR KAPLAN: Thank you. Assemblyman
17 Stirpe.

18 ASSEMBLY MEMBER STIRPE: Thanks. Next we
19 have Member Rodneyse Bichotte, you're up. Are you
20 there.

21 ASSEMBLY MEMBER RODNEYSE BICHOTTE: I'm
22 here.

23 ASSEMBLY MEMBER STIRPE: Okay.

24 ASSEMBLY MEMBER BICHOTTE: I was just

1 Joint Public Legislative Hearing, 5-13-20
2 waiting to be unmuted. Thank you Assemblyman
3 Stirpe, thank you Senator Kaplan and thank you
4 all my colleagues, for having this hearing today.
5 It's quite important that we listen to our small
6 businesses because -- the other ones who are
7 hurting but as they hurt, we hurt. Small
8 businesses are our lifeblood of entrepreneurship
9 in our country. They provided services of vital
10 need to our diverse community and we must make
11 sure that they survive and continue to be
12 vibrant.

13 In my community, more than 50 percent
14 are hired by small businesses. And I chair the
15 subcommittee of the Minority and Women Business
16 Enterprise and very often, we're talking about
17 obstacles on top of obstacles. And certainly
18 during this pandemic, it's very difficult, very
19 difficult.

20 So hearing your testimonies is essential
21 because we need to take actions as legislators on
22 the state and city and as well as the federal.
23 So, this is very helpful. It was very helpful to
24 hear about the different perspectives on the PPP.

1 Joint Public Legislative Hearing, 5-13-20

2 As you know, the vast majority of the people who
3 got PPP were not small businesses and they had to
4 rollout another set of funds and still it's been
5 difficult.

6 My question to all of you and some of
7 you have different business models, the ones with
8 the brick and mortar, obviously I've heard there
9 was some issues on supply chain the supplies, the
10 warehousing the manufacturing and the
11 transportation. I wanted to get a sense of how
12 you are able to operate if each part of those
13 chain are being impacted. I'm hearing that, you
14 know, transportation is very difficult, you know.
15 We know rent is hard. The warehousing is hard. Do
16 we have workers actually supplying, producing or
17 manufacturing the products? So I would like to
18 know a little bit about that.

19 And I would also need to understand, are
20 any of you working with the government? And if
21 you are, that's also an expertise in my area, in
22 terms of how is government reacting to the
23 procurement process in working with you all? So
24 please, take the stand. I guess Natasha, or --

1 Joint Public Legislative Hearing, 5-13-20

2 you can answer.

3 MS. AMOTT: Sure. Well, I can't speak to
4 procurement and working with government because
5 that's not something we do. But certainly I can
6 speak to the fact that there are many popular
7 kitchenware items right now, right. I sell
8 kitchenware and everybody is staying home a lot
9 more, people are discovering cooking, which in
10 theory, is a wonderful thing. It is really hard
11 to sometimes meet demand. I have heard but I have
12 absolutely no proof that, you know, some of the
13 large online retailers have been hoarding goods
14 and products. So it's sometimes taking me a lot
15 longer to get some of these basic items that I
16 would like to sell as well online.

17 Certainly on the transportation front, I
18 would say that we are encountering an enormous
19 number of problems with USPS and FedEx
20 deliveries. We do not currently work with UPS to
21 service our deliveries. And it's gotten so bad
22 that yesterday I did -- I'm a huge exerciser --
23 and yesterday I power walked six miles downtown
24 Brooklyn delivering orders to customers that

1 Joint Public Legislative Hearing, 5-13-20
2 requested it to ship because I'm fearful of the
3 amount of time I will be spending in having to
4 fix problems, figure out where orders are at and
5 so I'd rather relieve that where I can, where
6 it's possible. So those are kind of my cluster of
7 issues with respect to that.

8 MR. STARK: We do quite a bit of work
9 with, you know, the Dormitory Authority, and the
10 Construction Fund. We don't have a lot going on
11 right now in the pipeline with them, but we do
12 work with, you know, the City of Buffalo, some
13 municipalities. Things have definitely slowed
14 down a lot working with government because of
15 obviously the conditions that they're put under
16 in their workplace.

17 Frankly, I have found that our work in
18 the private sector has been moving better and
19 more smoothly just because they seem to have more
20 flexibility and can control their own destiny a
21 little bit more.

22 ASSEMBLY MEMBER STIRPE: Okay. Thanks,
23 Rodneyse. Senator?

24 SENATOR KAPLAN: I'm going to ask

1 Joint Public Legislative Hearing, 5-13-20

2 Senator Ortt to ask his questions next.

3 SENATOR ROBERT G. ORR: Thank you,
4 Senator Kaplan. And thank you to the presenters
5 who have gone thus far and to my colleagues who
6 are here. So, from what I have heard from the
7 presenters is that while there's certainly is
8 areas that can be improved upon or changes that
9 can be made in a future round of federal
10 legislation, the truth is the PPP, while not
11 perfect has kept a lot of folks afloat. I mean
12 that's just the reality of what I'm hearing.

13 I don't think anyone believes that the
14 calamity or the economic conditions would be
15 better without the PPP. In fact, it seems like
16 maybe we need a more robust or some fine-tuning
17 of the PPP. But certainly, it seems like the PPP
18 was a positive step. I do think timing was, from
19 all the federal officials I've spoken to, both in
20 congress and higher levels, the focus was just
21 getting the money on it the door. And I know
22 there were two different rounds, but it seems
23 like that has been a benefit.

24 I guess my question or a point that I

1 Joint Public Legislative Hearing, 5-13-20

2 would like to say is everyone on this call, you
3 know, I haven't seen Speaker Pelosi or Senator
4 McConnell or Senator Schumer on the call.

5 Everyone on this call is at the state level and
6 is at a state legislative level.

7 And so while there needs to be
8 improvements made, I would like to maybe hear
9 what can the state do to help small businesses?
10 Because at some point, whatever the future
11 funding is, my suspicion is it's not going to be
12 enough, it's not going to be total and complete,
13 and there's going to be a role that we as state
14 lawmakers, who are all elected, need to do. There
15 are things that we are going to need to do,
16 whether it's regulatory reform, whether it's
17 lowering costs for your businesses to operate in
18 New York going forward.

19 I just can't believe that there's 213
20 lawmakers here that can't do anything. So I'm
21 hoping while we're focusing on the federal level,
22 that leads to action at the state level, because
23 we're going to have a role to play here and a job
24 to do, and I don't think we can just pass that

1 Joint Public Legislative Hearing, 5-13-20
2 off to the federal government completely.

3 And so I guess I'd be curious to hear
4 from any of the presenters what we as state
5 lawmakers in the state of New York can do, both
6 in the short term and in the long term to make it
7 more affordable, and to make it better for your
8 businesses to be here, not just in relationship
9 to the pandemic, no doubt, but I think in the
10 long term as we reimagine or review the economy
11 here in New York State for small businesses.

12 MS. AMOTT: So I'll jump in and I'll say
13 I think there's five things. One, the UI issue,
14 which we already touched on, that's something
15 that New York State can work on and advocate for,
16 and I really think we need to get that clarified
17 immediately, how the experience rating will be
18 affected.

19 Two, rents. New York State can
20 definitely consider the options for both
21 commercial tenants and landlords, and this may
22 inevitably hit back to the banks. And I
23 understand at that point, it may or may not just
24 be a state decision. But there's certainly a lot

1 Joint Public Legislative Hearing, 5-13-20
2 of room there for the state to act. Senator
3 Gianaris has a bill. That is something that the
4 state needs to look at seriously, because for
5 businesses that cannot be open, what are we
6 supposed to do to protect our space? And Whisk is
7 operating again at a modicum of what it used to
8 be. But at some point, I will not be able to
9 afford my full rent.

10 Third, payroll taxes, If there's
11 anything we can do to affect what we pay in at
12 the New York State level, and I'm not a huge fan
13 of just saying defer payments, because at some
14 point you're on the hook for that. And if you're
15 not reaching sales now, you're never going to be
16 able to catch up. But let's look at something
17 around payroll taxes.

18 And then fourth, you are our advocates.
19 So even though it's not about policy, you're roll
20 in advocacy to the federal government and with
21 city government is critical. So never walk away
22 from that advocacy role. It's critical.

23 And then finally, I think one of the
24 points I touched on at the end of my testimony is

1 Joint Public Legislative Hearing, 5-13-20
2 about promoting local. As a state government,
3 what we should be doing in thinking ahead to the
4 future is everything we can do to ensure that the
5 likes of Amazon and Walmarts and Target do not
6 take over retail. It is environmentally
7 dangerous. It is so costly and intensive. So
8 whatever kind of package of support that comes
9 out, think about that at a state level. How do we
10 promote local? How do we keep people shopping in
11 their community? I think there's a huge
12 opportunity there to get that dynamic of shopping
13 better than how it has been.

14 ASSEMBLY MEMBER STIRPE: Anyone else?

15 MR. KNAUSS: Ms. Amott crushed that. I
16 don't really have anything else to add. That was
17 exactly on point. I mean, really, those outlined
18 points for me were the major things, especially
19 the last two, advocacy to be our voice, right.
20 We're doing this for a reason, we're sharing our
21 time for a reason and sharing our thoughts for a
22 reason with you, because we want you to advocate
23 for us to the federal government and understand
24 truly what our concerns are, so, yeah.

1 Joint Public Legislative Hearing, 5-13-20

2 MODERATOR: Okay. The time for that
3 question has passed.

4 SENATOR KAPLAN: So, I want to thank you
5 again for being here and answering these
6 questions, and that's exactly what we're trying
7 to do, to find solutions going forward that we
8 all have to do our part to help all of the small
9 businesses, whether it's local level, whether
10 it's county, state or federal government, we all
11 have to work together. With that I pass it on to
12 Assemblyman Stirpe.

13 ASSEMBLY MEMBER STIRPE: Thank you. Next
14 up, Member Ed Ra.

15 ASSEMBLY MEMBER EDWARD RA: Thank you,
16 Chair Stirpe. Thank you to all our panelists for
17 being here. I just want to ask a specific, really
18 industry-related question. I was happy to hear
19 those previous answers, though. I think it's very
20 important that in addition to advocacy with our
21 federal representatives, we do talk about today
22 state issues and things we can do to help our
23 businesses in New York State.

24 But I wanted in particular to ask Mr.

1 Joint Public Legislative Hearing, 5-13-20

2 Stark a question because one of the things that
3 our conference has put out a plan called
4 Jumpstart New York, and one of the things we
5 talked about was how we might able to provide
6 some regulatory relief. And one of the
7 conversations we talked about, and I know a lot
8 of this relates to our local governments and we
9 need to partner with them, just as we need to at
10 the federal level, but what initiatives might be
11 able to be undertaken at the state level and
12 again partnering with our local representatives,
13 to enable the type of projects that your firm
14 might be working on to move forward quickly and
15 get people back to work as the economy is
16 reopening?

17 MR. STARK: Well, I think there's been a
18 lot of talk for a lot of years, for the last
19 number of years, about infrastructure
20 improvement, but I think that generally starts at
21 the federal level and, of course, trickles down
22 to the state. And at least in my experience, we
23 haven't really seen that happen. So it's all
24 about getting the money flowing for projects and

1 Joint Public Legislative Hearing, 5-13-20

2 keeping people working. It's really that simple,
3 I think.

4 ASSEMBLY MEMBER RA: Anything further,
5 though, in terms of permitting and those type of
6 processes that may need to be looked at?

7 MR. STARK: You know, generally speaking
8 we don't have a problem with permitting and
9 things like that. Generally, the government
10 officials that we work with are very
11 professional. So I think it's more a matter of
12 funding than anything. I mean, everybody could
13 always streamline paperwork, but these are public
14 officials doing their jobs, and it's hard to be
15 critical on a basis of specific things of what
16 they do, but generally they're doing a good job.
17 At least I've found over the last ten or 15
18 years, that the permitting process.

19 I mean, you know, we always, we have to
20 deal with codes and the codes are changing for a
21 lot of reasons, energy efficiency, the
22 environment, things like that, but it's -- and do
23 they make things easier to do? Well, maybe not,
24 but it's hard to be critical of them.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER RA: And then in my
3 remaining time, I wanted to just go back to the
4 conversation previously about our state role, in
5 particular promoting local, which I think is
6 going to be a very important thing for all of us,
7 not just to promote the businesses but to make
8 sure are as we're reopening that, you know, our
9 constituents are aware of the impact that that
10 has. It has a great impact on the business, their
11 employees, but certainly on our local sales tax,
12 which our counties are struggling with now as
13 well.

14 One of the things that I think might be
15 something to look at is we've spent money on
16 different state level programs, on promoting
17 them, but partnering with, whether it's all the
18 way down to the local Chamber or regionally to
19 promote those local businesses. So I know, Ms.
20 Amott, I apologize if I pronounced that wrong,
21 you talked about your local Chambers. Do you
22 think that's something that would go down to the
23 local Chamber level? How might something like
24 that be to promote those local businesses?

1 Joint Public Legislative Hearing, 5-13-20

2 MS. AMOTT: Yeah, I mean definitely the
3 Chambers in -- the Brooklyn Chamber and the
4 Manhattan Chamber, they're both wonderful
5 partners for me. They are led by wonderful people
6 who care so much about the state of community.
7 But I think with some more funding there could be
8 a really strong campaign that encourages people
9 to shop local when things are safe to do so.

10 I think what we don't want to see come
11 out of this is that people have developed a
12 greater armchair reliance on shopping, on
13 consumerism and that they feel comfortable to go
14 out. So I think also involves, part of that
15 campaign perhaps could be where we connect the
16 PPE equipment, so the actual setup in the stores,
17 how staff present to the public, do people feel
18 like they look at a store like Whisk and say, oh,
19 they're clearly set up to allow it not to be too
20 crowded, they're clearly wearing appropriate
21 wear, whether it be a surgical mask, gloves. So I
22 think we could combine both of those parts
23 because I think that outward facing perspective
24 that the customer will have is going to be so

1 Joint Public Legislative Hearing, 5-13-20
2 important to ensuring that people want to stay
3 local.

4 I don't know if this is at the state
5 level, but I would just also add that I think
6 anything around the current discussions with
7 monopolies and the anti-monopoly movement, I know
8 that's happening at a federal level, I don't know
9 if it's happening at a state level. I think
10 that's critical also to be looking at.

11 ASSEMBLY MEMBER RA: Thank you.

12 ASSEMBLY MEMBER STIRPE: Okay. Senator.

13 SENATOR KAPLAN: Our next series of
14 question comes from Senator Hoylman.

15 ASSEMBLY MEMBER BRAD HOYLMAN: Thank
16 you, Chair Kaplan, for your leadership and my
17 senate and assembly colleagues. Yes, I couldn't
18 agree more when it was said that the federal
19 response has been chaotic, flawed and inadequate.
20 Of course, that began with the response to the
21 public health crisis, the lack of testing, the
22 inability to plan for contact tracing, has led us
23 into this economic crisis and the fiscal response
24 from Washington has been sub-par, to say the

1 Joint Public Legislative Hearing, 5-13-20

2 least.

3 You know, when you have members of the
4 senate saying that blue states should be bankrupt
5 like ours and states like Alaska receiving \$3.4
6 million in federal aid for positive COVID tests
7 while New York receives just about \$24,000, it's
8 an outrage, and I join all my colleagues in
9 raising our voices and advocating to our federal
10 representatives. And if we're Republican or
11 Democrat, we should be uniting behind our
12 governor's efforts to get more federal aid for
13 our small businesses.

14 You know, I'm very distraught by the
15 descriptions painted today by our small business
16 owners. It's an incredibly grim one. We're
17 looking at a small business apocalypse, really in
18 my district, and I think in all members'
19 districts unless we change the loan program
20 standards for our small businesses. I think
21 that's what it comes down to.

22 And Carlos, you said that the repayment
23 terms are essentially fiscal suicide. Could you
24 discuss a little more why and how that's an

1 Joint Public Legislative Hearing, 5-13-20
2 impossibility for you and your fellow
3 restaurateurs to take advantage of those loans?
4 And secondly, what does the restaurant industry
5 look like after COVID has passed at this point?

6 MR. SUAREZ: Sure, thanks, Senator
7 Hoylman. So, you know, we're sitting on as much
8 as \$2 million in PPP funds currently. The
9 forgiveness window started four weeks ago and is
10 closing in four weeks, at which point that \$2
11 million grant becomes a loan if we choose to
12 spend it. The repayment terms currently require
13 that that \$2 million is returned to the federal
14 government over the next roughly two years. We
15 forecast our business being down 60 percent the
16 next ten to 12 months.

17 We had a thriving business before all of
18 this, and even under those conditions a \$2
19 million loan repaid over two years would have
20 placed a massive monthly pressure on the business
21 to repay. There's absolutely no way that 12
22 months from now we're going to be in a position
23 to start to repay a \$2 million loan. It's just
24 not rational for us to start to spend the money.

1 Joint Public Legislative Hearing, 5-13-20

2 So that money will have to go back to the federal
3 government and will have been useless.

4 SENATOR HOYLMAN: And you're restaurant
5 that has a number of employees, a number of
6 locations. You're probably better off than most
7 of your fellow restaurateurs. Would that be true?

8 MR. SUAREZ: Yeah, I mean I feel very
9 fortunate to have a wonderful team, who are
10 either working, are working whether they're
11 getting paid or not. So I have resources, both as
12 a team and a kind of network of resources to
13 navigate this crisis, and I definitely feel for
14 those who are recently into the business or just
15 don't have the resources, whether they have they
16 have a single restaurant or a small coffee shop,
17 to navigate the complexity of the crisis. It's
18 comprehensive in its complexity. As one of the
19 speakers asked about, you know, our rating,
20 unemployment insurance ratings. Again, I haven't
21 even considered the impact there.

22 SENATOR HOYLMAN: And how much personal
23 liability are you hook for?

24 MR. SUAREZ: So, we have four current --

1 Joint Public Legislative Hearing, 5-13-20

2 well, five current leases. I would be on the hook
3 for hundreds of thousands of dollars, probably
4 half a million dollars in personal liability
5 under the current rules. So what would be very
6 helpful is if businesses are forced to close due
7 to COVID, that the personal guarantees associated
8 with those leases are extinguished. Yeah, That
9 would be tremendous.

10 SENATOR HOYLMAN: Thank you very much.
11 And thank you, thank you again, Chairwoman.

12 ASSEMBLY MEMBER STIRPE: Okay. Next up
13 is Member Tom Abinanti. Hi, Tom.

14 ASSEMBLY MEMBER TOM ABINANTI: Let me
15 get unmated here. Okay. Good morning, Mr.
16 Chairman. How are you?

17 ASSEMBLY MEMBER STIRPE: I'm good.
18 Thanks.

19 ASMABINANTI: And to all of you, I want
20 to say good morning and thank you all for joining
21 us. I think your presentations and responses were
22 excellent, very informative. I think we could use
23 some people like you in the state legislature.
24 You're very articulate. So I want to thank you

1 Joint Public Legislative Hearing, 5-13-20

2 for really being helpful.

3 Today we're taking our first step in the
4 legislature's examination of the impact of the
5 federal response in protecting small businesses.
6 Unfortunately, this health crisis has resulted in
7 a financial crisis for our small businesses and
8 our families. And we in the legislature need to
9 do whatever we can to make sure that when we
10 emerge from the health crisis, our small
11 businesses and our families emerge from this
12 financial crisis.

13 But also unfortunately, the crisis has
14 overwhelmed the state and local governments, and
15 only the federal government can print money,
16 figuratively and literally. So we're looking to
17 the federal government, we're looking for a
18 federal response that helps all. I've heard that
19 only some five percent of the small businesses in
20 New York have received PPP loans, which is
21 clearly not enough. And I'm very concerned about
22 where we go from here.

23 As chair of the Assembly Banks
24 Committee, my role is to focus in on how the

1 Joint Public Legislative Hearing, 5-13-20
2 state and federally chartered banks in the state
3 are assisting small businesses, trying to see how
4 they operated under the federal constraints and
5 whether those constraints worked or were in the
6 way, and what we can do as regulators in the
7 state to make the experiences of small businesses
8 better.

9 So I'm going to put out there three
10 questions and ask the three of you, you all to
11 respond to the three questions in any way you'd
12 like. First of all, what kind of banks did you
13 apply to? Were they state or federal? Did you
14 shop around or use a bank with whom you have a
15 relationship? And how did the banks respond? Did
16 they respond satisfactorily? And if not, what can
17 we do as state regulators to make your experience
18 better? Secondly, are you able to access other
19 sources of funding outside of what this program
20 was? And thirdly, we heard about your expenses.
21 What's happened to your receivables? Thank you.

22 MR. STARK: Well, I'd like to say, we.
23 you know, we deal with a few banks that we have
24 relationships with, and when we originally

1 Joint Public Legislative Hearing, 5-13-20

2 applied for the PPP, we were saying, okay, do we
3 go to a big bank or do we go to a small bank? Who
4 is going to help us the most? And we decided to
5 go with a smaller bank. We thought we would get
6 more attention. And that worked out very well. We
7 did get the attention that we needed and we did
8 get our loan right away.

9 I have heard from some other people who
10 have spoken here that they went with some larger
11 banks and perhaps they had so many clients that
12 were so overwhelmed, that that made it difficult
13 for them to process, process the loans. So I
14 think we made the right decision there. I forgot
15 your second question.

16 ASSEMBLY MEMBER ABINANTI: Were you able
17 to access other sources of funding? And what's
18 happened to your receivables?

19 MR. STARK: Well, we, again we also
20 applied for the SBA disaster assistance, and that
21 was just a black hole. We haven't heard anything
22 from that at all. As far as our receivables, we
23 have a couple of projects in the pipeline that
24 have been carrying us through, but that's going

1 Joint Public Legislative Hearing, 5-13-20

2 to dry up very quickly, so the PPP hopefully will
3 get us over that hump. Otherwise, our receivables
4 we anticipate will be down by perhaps as much as
5 50 percent unless the economy picks back up.

6 MR. KNAUSS: I'll just stick to the AR
7 piece of the too, Assemblyman Abinanti. We
8 anticipated going into this, that exactly what
9 Mr. Stark just said came true. Our receivables
10 have slowed way down and it also puts us in a
11 tough place, because we're a small business,
12 obviously relying on those receivables from a
13 cash flow perspective. PPP and EIDL are doing
14 their jobs for us in terms of cash flow, but you
15 know, ultimately, it makes it very hard to have
16 conversations with our clients to say hey, I know
17 you're a little bit behind, I also know you're
18 struggling. And on top of all that, there's a
19 health crisis.

20 So it's made the conversation very
21 nuanced. We're trying to do our best. But we will
22 also have very slow receivables for the
23 foreseeable future and are doing our best to work
24 with our partners to overcome that.

1 Joint Public Legislative Hearing, 5-13-20

2 MS. AMOTT: Here, for me at Whisk, yes,
3 we went to a large bank. That is the bank we have
4 a relationship with, HSBC and I think you
5 probably are all familiar with the story that
6 here in New York City a lot of us, because there
7 are very new local small banks, we all were
8 forced to bank with the larger banks, and that
9 was not to our help at the beginning.

10 In terms of the communication with the
11 bank, they were lovely, but the person in charge
12 of communicating with me had no role to play in
13 the loan processing. So that was where things
14 went awry because all he could say was, well, I'm
15 not seeing any red flags. But he didn't actually
16 have any knowledge of what was happening. So
17 there was a lot of placating throughout the first
18 round when I did not succeed in getting it.

19 Did I access other funds? I have applied
20 for EIDL, which I did get, which will then be
21 deducted from my PPP loan for forgiveness. I mean
22 the EIDL grant specifically, not the loan. I have
23 applied for a series of small business grants. US
24 SBA came out with one. The site crashed. I was

1 Joint Public Legislative Hearing, 5-13-20

2 not able to access it. Facebook has launched
3 small business grants, I applied. So far, I've
4 heard nothing. And I've applied twice to Verizon
5 their partnership with LISC, a local funding
6 agency. And so

7 MOEDERATOR: I'm sorry. But the time is
8 up for the question.

9 ASSEMBLY MEMBER STIRPE: Okay. Senator
10 Kaplan?

11 SENATOR KAPLAN: Thank you. The next
12 series questions goes to Senator Sanders.

13 SENATOR JAMES SANDERS: Thank you. Thank
14 you, senators. And thank you, chairs. It's good
15 that we are back doing these type of hearings. I
16 want to, of course, encourage us in the future to
17 make sure that we have representatives of women
18 business organizations and people of color
19 business organizations here.

20 In regards to the PPP program, the IG,
21 the inspector general of the SBA has put out a
22 report last Friday saying that the SBA misapplied
23 the CARES Act, that you, according to page five
24 of that report, you guys could have had up to ten

1 Joint Public Legislative Hearing, 5-13-20
2 years to pay this back and that the 75/25 percent
3 was not by law, but by their rules that they
4 created in the IG in that report coming out last
5 Friday, is saying that it's a detriment to
6 business and that you may -- this is not over
7 yet. We're working on it.

8 I have been working with the Congress'
9 banking committee chair of financial institutions
10 Greg Meeks, and we designed or helped design PPP2
11 after the failure of PPP1, the gross failure. So
12 PPP2 we believe is better. We don't have the
13 information yet. It's not over yet. So we'll see
14 soon enough. And at that point I hope to do a
15 hearing on the entire program on this.

16 Senator Ortt wanted to know what the
17 state can do, and I think his is an excellent
18 point. I am trying to design a program, a state
19 PPP type program. Were I to design this program,
20 what should be in it, what shouldn't be in it and
21 what should I look out for?

22 MR. KNAUSS: Senator Sanders, I would
23 just also say that as you're talking about a PPP2
24 to improve things, I think that's great, but I

1 Joint Public Legislative Hearing, 5-13-20

2 would also urge you to ensure that some of the
3 loosening of regulations is also applied to those
4 like the four of us that are on the call. And
5 those are loosen guidelines for us that have
6 already received the PPP, because as we've said
7 many times, those regulations are very -- they're
8 restraining. And so we -- I'm all for creating a
9 new program and I think it's a great idea. I just
10 want to make sure those regulations are applied
11 to us, too, because ten years is obviously better
12 than two, 75/25 is obviously better for folks
13 like Carlos and Natasha.

14 SENATOR SANDERS: Well, we certainly are
15 looking those things to see how can we backdate
16 this, if you wish, how do we make sure that this
17 is available to you. It's not over. It's a work
18 in progress, please.

19 MS. AMOTT: I would also just say that,
20 you know, the very nature of PPP is think about
21 what it's called, Paycheck Protection Program,
22 right, so it's focused on the ability of a
23 business to keep its staff employed.

24 SENATOR SANDERS: Yes.

1 Joint Public Legislative Hearing, 5-13-20

2 MS. AMOTT: So maybe what we should be
3 doing is not necessarily looking at a PPP2 but we
4 should be looking at a new form of support that
5 hits at the support that we're actually missing,
6 which is support for rent, which is support for
7 inventory flows, which is support for internet-
8 related business marketing tools, things that are
9 really not hit on in a Paycheck Protection
10 Program.

11 MR. SUAREZ: Yeah, I would second that
12 sec Natasha's point. That's great. For
13 restaurants, of course, if it's required that
14 guests are six feet apart, or we can on put 50
15 percent of our guests can fit back in our
16 restaurants, we can only expect to have 50
17 percent of business we had previously. We can't
18 employ the same level of people that we had
19 previously, yet we still have the same rent, yet
20 we still have the same insurance, et cetera. So I
21 agree with Natasha that an expansion beyond
22 supporting payroll would be very, very helpful.

23 SENATOR SANDERS: It's going to be
24 difficult to do that. As you can imagine, the

1 Joint Public Legislative Hearing, 5-13-20
2 climate down in D.C. is where people are starting
3 to talk about they're becoming fiscal
4 conservatives, if you wish, it's going to be
5 difficult to do these things, but I certainly
6 will take it forward. Madame Chair, thank you
7 very much.

8 SENATOR KAPLAN: Thank you. Assemblyman
9 Stirpe.

10 ASSEMBLY MEMBER STIRPE: Thanks. Next
11 up, Member Harvey Epstein.

12 ASSEMBLY MEMBER HARVEY EPSTEIN: Hi.
13 Thank you. Thank you, both, to the assembly and
14 senate chair for having this hearing. I want to
15 take a few minutes to kind of talk about what
16 you're talking about, about the commercial
17 spaces. And I'm wondering, obviously we have a
18 budget crisis going on and I understand the
19 problems about rent. So there are a couple of
20 options to the table. I wanted to hear what
21 people thought about.

22 One is allowing people to break those
23 commercial leases even if you have, let's say,
24 ten years left on your lease, allowing to you

1 Joint Public Legislative Hearing, 5-13-20
2 break those leases early. I wondered if that
3 would be helpful. Two is whether there's a
4 forgiveness program in place, whether allowing
5 the rent to be owed, but not to be collected in
6 accessory judgment and housing court. It might be
7 the debt might still be owed but you wouldn't be
8 able to collect it. Versus three, you know,
9 obviously, the big costs would be like cancelling
10 rent and getting a hardship fund set aside for
11 the landlord. That's a tougher one. And four,
12 whether we would do like SCRIE, DRIE like program
13 where we give the landlord a real estate tax
14 abatement in lieu of waiving some commercial
15 rents for the commercial tenant.

16 And I'm wondering which of those or a
17 combination of those might be useful for any of
18 the small businesses on the panel.

19 MR. KNAUSS: For me, on the, the first
20 and last point you made, about commercial real
21 estate, being able to adjust our commitments and
22 our contracts for leases would be helpful,
23 primarily because again we may not go back to the
24 office physically until 2021, right. So we have

1 Joint Public Legislative Hearing, 5-13-20
2 13,000 square feet of office space that's
3 literally just sitting there and no one is
4 utilizing.

5 So I think that being able to either
6 renegotiate those or you know, opening up -- the
7 problem is, and I think Natasha mentioned this,
8 we have a wonderful landlord. We have not asked
9 for a discount this point just because we do have
10 a great relationship and we're in an okay place
11 from a financial standpoint. But certainly, just
12 obviously from an overhead standpoint, it's not
13 good.

14 So being able to renegotiate contract
15 leases, as well as you had mentioned potentially
16 setting some dollars aside for landlords so that
17 they can or some kind of deferment to take up
18 some of the commercial lease, I mean, that would
19 be great, because again it's heartbreaking. I
20 went into the office for the first time in two
21 weeks yesterday. No one's there. It's
22 heartbreaking to see a big empty office. It's a
23 cool space. Nobody is using it. So it's a bummer
24 for sure.

1 Joint Public Legislative Hearing, 5-13-20

2 MR. STARK: I think the leases could be
3 a big problem all the way around, because when
4 this thing is all over, I don't know how many
5 people are going to realize that they've adapted
6 well to working remotely, and people who are
7 renting 13,000 square feet of space ultimately
8 say, why do I need 13,000 square feet of space? I
9 can easily function at the same capacity with
10 5,000 square feet of space. And I do worry a
11 little bit that that's something that's going to
12 happen across the whole country. And it could be
13 a major issue for property owners.

14 MR. SUAREZ: I would agree that
15 substantial support will be required for the real
16 estate industry. From our perspective there's two
17 phases. There's the phase where our sales have
18 gone to zero due to government mandated closure
19 of our business. How are we supposed to pay rent
20 when our business is literally closed?

21 And then we face phase two, which is the
22 government allows to us reopen our business, but
23 due to social distancing, business volumes are a
24 fraction of what they were. And, of course, our

1 Joint Public Legislative Hearing, 5-13-20

2 lease was negotiated under conditions where we
3 could occupy the full space. If we can't occupy
4 the full space, how can we pay the full rent? So
5 the real estate industry is definitely going to
6 need a lot of support.

7 MS. AMOTT: I would just add very
8 quickly that for the retailers, if we are
9 operating as internet businesses, we're still on
10 the hook for retail rents, right, often on main
11 street so we can't afford to pay those rents. So
12 opening up the option to renegotiate leases
13 across the board is going to be important,
14 absolutely. I do think that even businesses that
15 are essential and that are operating, I do know
16 some that are actually trying to get out of their
17 lease.

18 Often, here in New York there are good
19 guy guarantees. Often those still require that
20 the landlord's start-up costs to provide that
21 space be borne by the tenant when they break
22 their lease, even under the terms of the good
23 guy. And in one case I know that would cost the
24 tenant hundreds of thousands of dollars. So some

1 Joint Public Legislative Hearing, 5-13-20
2 option to renegotiate, even the good guy
3 guarantee is going to have to be looked at.

4 And then I think a tax abatement for
5 landlords is going to have to be part of the
6 package.

7 ASSEMBLY MEMBER EPSTEIN: Okay. All
8 right.

9 SENATOR KAPLAN: Thank you. I don't have
10 any more questions from any of the senators, but
11 I'm going to pass it on. I understand there's
12 more assembly members that have questions.

13 ASSEMBLY MEMBER STIRPE: Yes, we have
14 one left. Member Yuh-Line Niou, you're up.

15 ASSEMBLY MEMBER YOU-LINE NIOU: Hello. I
16 wanted to say thank you for all your time. I know
17 it's been two hours. But I just wanted to also
18 bring up the fact that in my district, I
19 represent Lower Manhattan so a lot of folks
20 probably know a little bit about what's been
21 going on there. But Chinatown has been hit
22 particularly hard, due to the fact that there is
23 two epidemics happening at the same time. One is,
24 of course, the virus, and the other is racism and

1 Joint Public Legislative Hearing, 5-13-20
2 xenophobia, and a lot of the runway for our
3 restaurants and our small businesses were
4 actually burnt out by mid-February, when people
5 were already starting to avoid the Asian
6 communities all over the city. And I think that
7 that has been particularly devastating for a lot
8 of small businesses in my district.

9 And I just kind of wanted to ask for
10 Carlos, who's in the restaurant industry, you
11 probably know that when you mentioned that
12 smaller restaurants have an even harder time, it
13 was very telling that you knew also like what the
14 small restaurants go through. And so I guess just
15 kind of help us to all be able to know what the
16 runway looks like for brick and mortar
17 businesses, what it's like to seat folks, what
18 it's like to depend on turnover.

19 And then also I know that Ms. Amott also
20 probably has some thoughts on switching over and
21 how a business is able to have to look -- I guess
22 not even able to, but has to look towards a
23 different kind of modernization in this time.

24 But, you know, I know that the

1 Joint Public Legislative Hearing, 5-13-20

2 restaurant industries all over the city and all
3 over the state are thinking that it may be an end
4 to restaurants the way that we know it, and what
5 that sounds like and what that feels like and how
6 that impacts our economy is something that I
7 don't think anybody is prepared for. So I would
8 love to be able to get your thoughts on that.

9 MR. SUAREZ: Sure, just quickly, then,
10 you know, we, we are a small business, but, sure,
11 a few years ago there was only one restaurant.
12 And I, you know, it was me, a chef, you know,
13 some line staff. I couldn't imagine trying to
14 navigate all the guidelines that you need to
15 navigate at this stage to ensure the safety of
16 your staff. So I really do feel there's a looming
17 crisis, which will be that restaurants will
18 reopen and the employees will be put at risk.

19 So that's why I'm trying to work with
20 others in our industry and health and safety
21 experts to device a single code or standards that
22 are easily communicated to restaurant operators
23 and PPE support so that they have the supplies to
24 provide to their staff, so that their staff are

1 Joint Public Legislative Hearing, 5-13-20

2 safe. So that's I think the primary concern, you
3 know, looking ahead.

4 Secondly, there's fear on the part both
5 of the staff and of guests, and unless as an
6 industry or as a community, we come together and
7 proactively take on these challenges, that fear
8 will linger and guests will stay at home,
9 cooking, ordering in, et cetera, and our
10 restaurants will be empty. So there's a big kind
11 of leadership void that we're trying to fill by
12 proactively pulling together safety standards
13 with the help of experts and then putting out a
14 positive message to our staff and to guests that
15 it's safe to eat out when it is.

16 ASSEMBLY MEMBER NIOU: And we've seen
17 like a lot of folks are very worried that once we
18 -- if we are able to open again and then there is
19 a ramp-up, that there's a risk of having to close
20 back down again, and that's very scary for folks,
21 and why is that? And what is the cost of that?

22 MR. SUAREZ: Yeah, as we saw in South
23 Korea last week or last weekend, that's a huge
24 risk. It'll undermine confidence for even longer

1 Joint Public Legislative Hearing, 5-13-20
2 in our industry, and it'll make the process of
3 rebuilding these businesses and bringing people
4 back to work that much longer and harder. Yeah, I
5 think it could be devastating.

6 ASSEMBLY MEMBER NIOU: Yeah, and I just
7 wanted to put on the record also that not one of
8 our -- I haven't heard a single small business in
9 Chinatown actually received the PPP loan. I
10 haven't seen -- you know, they've applied for all
11 six different programs and they haven't received
12 anything. And I also wanted to, you know, just
13 note that I also had the question that our chair
14 of banks had as well because I think that there
15 is a big lack there and I think that if there's
16 something missing within the bank system that is
17 very dire for the allocations of PPP. Thank you
18 so much for allowing me the time.

19 ASSEMBLY MEMBER STIRPE: Okay. I want to
20 thank the first set of witnesses. You did a great
21 job. We're going to the second panel. I just want
22 to remind everybody, both members and witnesses,
23 to be as concise as possible. We're in two hours
24 and we have our first panel. We've got six panels

1 Joint Public Legislative Hearing, 5-13-20

2 altogether. So the more concise everybody can be,
3 the better.

4 So we're going to move on to panel two
5 which consists of Heather Briccetti, president
6 and chief executive officer of the Business
7 Council New York State, and Greg Biryla, New York
8 State director of the National Federation of
9 Independent Businesses. And we can start with
10 Heather.

11 SENATOR KAPLAN: Before we start, I want
12 to thank our first panel. Thank you so much for
13 your time, for being here and giving us your
14 insight as to what you've been dealing with and
15 helping us really highlight those concerns and
16 issues and see how we can help you out. Thank
17 you.

18 ASSEMBLY MEMBER STIRPE: Okay, Heather.

19 MS. HEATHER C. BRICCETTI, PRESIDENT AND
20 CEO, THE BUSINESS COUNCIL OF NEW YORK STATE:

21 Okay. Thank you. First, I just want to say thank
22 you very much for the opportunity. I'm a former
23 assembly staffer, a former senate staffer, and I
24 have a great appreciation for what you all do,

1 Joint Public Legislative Hearing, 5-13-20
2 and the degree to which you represent your
3 constituents.

4 The Business Council of New York State
5 is the state of Chamber of Commerce and the State
6 Manufacturers Association. Two-third of our
7 members are small businesses, and what you heard
8 from that first panel greatly reflects what we've
9 been hearing from our small business members
10 throughout the state. There's a lot of concern, a
11 lot of confusion, and definitely a lot of need
12 for additional support.

13 I know that the focus and the topic is
14 on the federal response, but I wanted to start
15 off by saying that from the inception, small
16 business in particular have been dealing with a
17 lot of ground rule changes in terms of the
18 federal sick leave, the state sick leave, and
19 then the PPP and the EIDL program and a lot of
20 confusion around that.

21 We've tried to act as a resource for
22 them, as have other Chambers of Commerce across
23 the state. Sadly, Chambers of Commerce were
24 excluded from eligibility for the PPP program,

1 Joint Public Legislative Hearing, 5-13-20
2 which I think is a grave oversight given the
3 degree to which Chambers have supported small
4 business throughout this.

5 I want to say I think our greatest
6 concern is that in the federal programming, there
7 was no differentiation between states that were
8 hardest hit and those that were not. New York
9 received funding allocated based on population
10 with virtually no consideration given to the
11 disproportionate impact that it has had on our
12 state and on our economy. And I would urge all of
13 you as legislators to press our congressional
14 members to really factor that in as we go
15 forward.

16 I participate in a number of national
17 organizations that are entities like myself, and
18 I'm hearing from other states that they have,
19 through their CARES Act money, been able to
20 allocate funds for things like small business
21 grant programs, to shore up their own state
22 insurance fund, unemployment insurance fund, so
23 that they don't have to, moving forward, place a
24 tax on employers who had to lay off workers due

1 Joint Public Legislative Hearing, 5-13-20
2 to this. We won't able to do that, given the
3 resources that we were given because all of them
4 have been forced to deal with sort of the
5 emergency and the crisis of it.

6 So I think that would be our biggest
7 ask, would be that there be more weight given to
8 the disproportionate impact that it had on New
9 York. Some of those funds could actually reach
10 small business and help them navigate the crisis.

11 In addition to that, I do want to say
12 there's been a lot of discussion about the
13 percentage of small business that received
14 funding. Based on our data, which is from the SBA
15 and state labor data on employment, about 60
16 percent of small business in New York State that
17 was eligible did receive some form of funding
18 under be either the Payroll Protection Act or the
19 EIDL program. The numbers are available, and
20 depending on how you want to describe small
21 business, there were 271,000 loans given in New
22 York, 460,000 businesses fewer than 500
23 employees, so that's about 60 percent, did
24 receive some form of funding. That being aside

1 Joint Public Legislative Hearing, 5-13-20
2 that the rollout was very, very confusing, very
3 difficult, and New York did not receive a
4 proportional share in the first round of funding.

5 Lastly, I just want to turn to one of
6 the questions, which is how can New York help.
7 First and foremost what we're hearing most
8 questions about right now is reopening
9 guidelines. Businesses want to know that if they
10 follow the guidelines, if they follow the
11 guidance, that they are not going to be then sued
12 down the road, and I think having some clarity
13 around that is something that is going to be
14 really, really critical.

15 And second, support small business and
16 support Chambers of Commerce because we're out
17 there every day trying to help these businesses
18 get through this. We've been an information
19 resource. And I can attest to the fact that
20 Chambers of Commerce around the state have been
21 overwhelmed with requests for assistance from
22 their members, and they could use some help and
23 support as well.

24 ASSEMBLY MEMBER STIRPE: Thank you. Very

1 Joint Public Legislative Hearing, 5-13-20

2 concise. Okay. Next up, Greg.

3 MR. GREG BIRYLA, NEW YORK STATE
4 DIRECTOR, NATIONAL FEDERATION OF INDEPENDENT
5 BUSINESS: Thank you, assemblyman. Thank you,
6 Senator Kaplan. Thank you, all the members on the
7 call today. As mentioned, I'm Greg Biryla, state
8 director for NFIB, representing thousands of
9 small business across every community in New York
10 State and hundreds of thousands across the
11 nation. I'm also a small business owner by
12 marriage. My wife's independent cycle and fitness
13 studios in downtown Rochester, Compass Cycle,
14 shameless plug, it has been shut down since March
15 15th.

16 I wish you and all your families and
17 communities nothing but safety and wellbeing. Our
18 economy is in rough shape right now. No secret
19 about it. And it's small businesses that are in
20 the roughest shape of all. Most small businesses
21 have enough cash on hand, talking about runway,
22 most small businesses have enough cash on hand to
23 operate for about six weeks without any revenue.
24 Small business owners are less likely to have

1 Joint Public Legislative Hearing, 5-13-20

2 business or personal savings accounts because
3 under normal business circumstances, the wisest
4 use of profit is reinvestment in staff, equipment
5 or facilities at their business.

6 When we talk about local job creation
7 and sustainable domestic development, we're
8 talking about small independent businesses,
9 businesses that stabilize tax bases, support
10 community and charitable organizations, and make
11 our cities, towns and neighborhoods different and
12 special.

13 Eight weeks ago, without any ability to
14 prepare or plan, small business owners closed
15 their doors to commerce. They did this because
16 public health demanded it in order to flatten the
17 curve, give our health care system and workers
18 the opportunity to confront COVID head on. But
19 just because something is necessary does make you
20 sleep any easier.

21 NFIB's members and all small business
22 owners are experiencing unprecedented anxiety and
23 uncertainty. Many of them are simply are down to
24 the felt. Like all of us, they want to reopen New

1 Joint Public Legislative Hearing, 5-13-20
2 York's economy in a way that is safe, full and
3 fair. Because of the actions taken by New York
4 State and because of our frontline workers, we
5 can begin to discuss how that's achieved. During
6 the initial outbreak of COVID and furthermore
7 when New York and downstate can became the
8 pandemic's epicenter, the states took the lead in
9 confronting the public health crisis, while
10 economic and social support came from federal
11 programs.

12 These programs, to some extent have been
13 lifelines for small businesses. It is important
14 to understand their effectiveness, where they
15 fell short, challenges that still exist and most
16 importantly applicable lessons for New York at a
17 time. The Paycheck Protection Program is by far
18 the most in demand and attractive program,
19 evidenced by its initial \$250 billion
20 appropriation being exhausted in a matter of
21 days. There were problems with the construction
22 of PPP and its execution but for many small
23 businesses able to access its funding, it will
24 literally make the difference between staying

1 Joint Public Legislative Hearing, 5-13-20

2 open and bankruptcy.

3 A national survey conducted by NFIB's
4 Small Business Research Center, published late
5 last week has found that 77 percent of business
6 owners nationwide have applied for PPP and 61
7 percent of loan applicants have received their
8 loan funding. This is a marked improvement from
9 the program's initial rollout, which included
10 horror stories of relief designed small
11 businesses being gobbled up by high-end
12 multistate steakhouse chains and billion dollar
13 sports franchises.

14 While the PPP should continue to be
15 improved, it has been far more effective and
16 efficient than the EIDL program, as evidenced by
17 earlier testimony today. The single biggest
18 problem we now see with PPP is ensuring its
19 recipients have clear guidance regarding its
20 forgivability. For small business, forgiveness is
21 essential. New even with low interest is not an
22 an option during this level of uncertainty. NFIB
23 is also seeking increased flexibility regarding
24 the 75/25 expenditure ratio, and increasing what

1 Joint Public Legislative Hearing, 5-13-20

2 would be considered forgivable expenses,
3 including not just real estate costs and renting,
4 but also businesses like manufacturing that may
5 have equipment costs, upkeep. Some people lease
6 their equipment. These are something significant
7 pieces of overhead for small businesses.

8 This brings us to what I think is the
9 most important part of today's conversation. What
10 can we do as New Yorkers to ease our reopening
11 and ensure it's safe, full and fair?

12 The first and most important thing we
13 can do is improve communication between small
14 businesses and all employers and ESD or any state
15 agency deemed to govern or influence our
16 reopening strategy. As we speak construction in
17 certain parts of the state are planning to open
18 up by the end of the week. We are still awaiting
19 clear guidance, unless some came out during this
20 hearing, about how to open construction
21 facilities and operations safely at the end of
22 this week. We need to be doing a better job
23 communicating between small businesses and ESD.

24 Reopening also must be fair. We have

1 Joint Public Legislative Hearing, 5-13-20
2 seen large big box retail able to operate through
3 this entire crisis but we have not seen small
4 businesses with very similar operations be able
5 to operate while their competitors are continuing
6 to bring in revenue. So with that, I will open it
7 up to questions, and I thank you for the time
8 today.

9 ASSEMBLY MEMBER STIRPE: Thank you.
10 Okay. We will start off the questioning with
11 Assembly Member Robert Smullen.

12 ASSEMBLY MEMBER ROBERT SMULLEN: Thank
13 you very much, Member Stirpe and Chairwoman. I
14 really appreciate the opportunity. I know that
15 New York is home to 608,351 small businesses, and
16 they've all been affected very differently. But
17 the key fact is that they employ 54 percent of
18 the state's workforce. We've been talking this
19 morning about a variety of programs, but what I
20 wanted to see is what you know that New York has
21 done to help small businesses to be able to get
22 through this pandemic.

23 MR. BIRYLA: Sure, I'll take that first.
24 New York State, first of all, had a little bit

1 Joint Public Legislative Hearing, 5-13-20

2 less ability. We understand that the public
3 health emergency and the cost to confront that
4 has largely been borne by the states, and
5 hopefully, to my colleague Heather's point, there
6 will be additional resources coming from the
7 federal government to reimburse New York for some
8 of those expenses.

9 So a lot of the relief programs have
10 come from the federal government. But before
11 session closed, there was some relief as we've
12 talked about on mortgages and rent payments, but
13 also some immediate sales tax revenue that was
14 due I believe March 20th. Some types of small
15 businesses were given some relief on that, which
16 was incredibly important because the biggest
17 problem when we instituted New York on Pause was
18 small businesses and their cash on hand. So,
19 allowing certain small businesses to keep some of
20 that sales tax money that was due to the state
21 for a little while longer gave them some initial
22 breathing room, while they figured out some of
23 these federal programs.

24 ASSEMBLY MEMBER SMULLEN: So one of the

1 Joint Public Legislative Hearing, 5-13-20

2 things that we proposed was Jumpstart New York.

3 And a couple things that it would do would be to

4 provide some zero interest forgivable loans from

5 a state level. Is that something that would help

6 out the small businesses that you've heard from

7 that would be able to fill in the gaps, if you

8 will, between the federal programs by repurposing

9 existing state programs, moneys, and specific

10 programs that would then help our businesses in

11 New York State that are supposedly falling

12 through the cracks here?

13 MS. BRICCETTI: I would first echo

14 Greg's comments but also say that obviously

15 forgivable loans at the state level would be

16 something that would be very welcome. The

17 question is where does the funding come from? And

18 in New York, the vast majority of the federal

19 funding has gone to deal with the immediate

20 health emergency, which we understand is

21 necessary. But because of the way the federal

22 government allocated the money, states that

23 aren't dealing with this kind of health emergency

24 are able to do programs like forgivable loan

1 Joint Public Legislative Hearing, 5-13-20
2 funds for small business and shoring up the
3 state's UI fund, which will impact every business
4 down the road.

5 So that's why we think it's so critical
6 that we lean on the federal government to
7 allocate the funds differently and it's got to
8 start with our congressional delegation, that we
9 get some recognition of the fact that we're
10 dealing with this on a much higher level than any
11 other state.

12 ASSEMBLY MEMBER SMULLEN: And we agree
13 that it's a proportional effect that it's having
14 on New York as the epicenter and that it's not a
15 per capita decision but it's more of a
16 proportional thing. Now, looking to what the
17 bridges beyond the reopening phase, what I would
18 like to discuss is some of the possibilities
19 about reducing the regulatory requirements and
20 some of the overhead costs for small businesses.

21 What would be helpful amongst state
22 regulations to either extend the emergency
23 regulations that have been waived or those going
24 forward that would help small businesses to help

1 Joint Public Legislative Hearing, 5-13-20

2 those that can survive, but then to help those
3 who need to regenerate themselves to start again.
4 What would be most helpful, from your
5 perspective?

6 MS. BRICCETTI: I mean, I'll start and
7 I'll let Greg weigh in, too, but I think that the
8 first thing we need to do is evaluate all these
9 regulations that have been suspended. Are they
10 necessary moving forward? We need to look at
11 whether or not we have some regulations that
12 really don't serve any purpose. And then beyond
13 that, what is the cost/benefit of some of the
14 regulations that are in place and how do they
15 impact small business? And with that, Greg, I'm
16 sure you want to weigh in on this.

17 MR. BIRYLA: So I think there's a couple
18 of things, one, as we look to beyond COVID-19 and
19 what we need to do to not only -- right now it's
20 about surviving -- so now how do we thrive once
21 this is over? I did love your mention of
22 forgivable loans. We have a lot of different low
23 interest type loans in this state through ESD or
24 various other economic development programs, but

1 Joint Public Legislative Hearing, 5-13-20

2 debt is to finance growth, and that's not what
3 we're talking about right now. That's not the
4 problem we're having. The problem is financing
5 operations and reestablishing operations. So
6 loans to have to be forgivable, I think to have
7 any real effect.

8 Now, on the regulatory front, let's
9 first do no harm and look at some of the things
10 that are already coming down the pike and it's
11 been mentioned by others today, there's going to
12 be a lot of fear about businesses reopening and
13 rehiring if we don't address the liability
14 concerns that are out there. The state needs to
15 communicate clearly with the insight and
16 cooperation of the private sector what is going
17 to be expected from small businesses when they
18 reopen and if those rules are followed, some
19 protection of liability.

20 ASSEMBLY MEMBER STIRPE: Okay. Thank you
21 very much.

22 ASSEMBLY MEMBER SMULLEN: Thank you very
23 much for the time. Thank you.

24 SENATOR KAPLAN: Thank you, Heather and

1 Joint Public Legislative Hearing, 5-13-20

2 Greg. So there were two \$30 billion sets aside
3 included to be processed by small and medium
4 sized community banks and credit unions. I
5 believe that the smaller banks have loaned more
6 than \$30 billion, and that medium sized lenders
7 are close to reaching this threshold. Is that
8 correct? And if so, do you have any idea of how
9 much more funds these particular entities would
10 be able to distribute? And why do you think these
11 particular types, any insight that you might
12 have, as to steps that could be undertaken to
13 resolve these concerns.

14 MR. BIRYLA: Go ahead, heather.

15 MS. BRICCETTI: I was just going to say
16 I think that the set-aside was a good idea to
17 ensure that especially small businesses that
18 don't have relationships with large banks with a
19 lot of experience with the SBA, that they are
20 able to access the funds through the bank that
21 they deal with, which includes credit unions and
22 SBDCs and the like and I think that was a very
23 good thing.

24 I think whatever funds are left, I think

1 Joint Public Legislative Hearing, 5-13-20
2 they have equal access to, and I know that
3 there's still a lot of funds remaining to be
4 accessed. So I would hope that on a proportional
5 level that they would continue to participate in
6 the programs. I think in particular, in MWBE
7 situations those smaller lenders having access to
8 this is going to be really important. So I'm not
9 sure I've answered your question, but --

10 SENATOR KAPLAN: The message is really
11 to go ahead and apply. Still, there is
12 opportunity.

13 MS. BRICCETTI: Yeah, absolutely.
14 They're still participating. It's just the set-
15 aside has been fulfilled.

16 MR. BIRYLA: Yes, they're still
17 participating. They may not have their dedicated
18 \$60 billion in funding, but they are certainly
19 still participating. I believe there's somewhere
20 around 90 to 100 million dollars left in the PPP
21 ram for round two. Now, granted that data is a
22 couple of days old, so there's obviously been
23 loans processed in the interim. But I think it
24 was great to see some spotlight and dedication

1 Joint Public Legislative Hearing, 5-13-20

2 shown to these small, medium sized community-
3 based lenders.

4 I'm not going to defame anybody but
5 anecdotally speaking in our office at NFIB, and I
6 can't imagine that anyone's heard more about
7 people dealing with PPP or EIDL loans than we
8 have in our office, anecdotally there was a
9 better experience with the smaller, local
10 community, even larger regional banks. And as you
11 went up the food chain to the very highest,
12 that's where you saw, I think a lot of anxiety
13 and disappointment, so obviously getting more
14 type of lenders.

15 There was a question earlier about some
16 of these e-lenders like Cabbage and folks like
17 that, getting those type of lenders, competition
18 is good. And we've seen in this second round of
19 funding increased participation through some of
20 those alternative types of lenders, and I think
21 that's all led to a better experience in round
22 two.

23 SENATOR KAPLAN: My next question is I a
24 spoke to a woman from Great Neck, who was

1 Joint Public Legislative Hearing, 5-13-20
2 employed in a medical field. She owned and
3 operated her own private practice, sharing office
4 space with another medical professional. The
5 individual she shared space with has decided to
6 retire as a result of the pandemic. She's now
7 looking at the need of locating a new office
8 space and moving her longstanding practice. Have
9 you heard similar stories from individuals who
10 find their businesses model so significantly
11 changed that they either have to move or bring in
12 new partners or undertake significant changes to
13 their business model as this woman? And what
14 advice would you give her?

15 MS. BRICETTI: Yes. Every business that
16 I've spoken to is facing significant challenges
17 and changes to their business model, including
18 how do you bring people back to work even once
19 it's permitted. They are all very concerned about
20 complying with the directives, but also being
21 able to attract customers or clients who may be
22 concerned about the safety. It's different in
23 every industry and a medical practice, I'm sure
24 because it's hands-on, that would be very

1 Joint Public Legislative Hearing, 5-13-20
2 concerning. My advice is talk to your local
3 Chamber of Commerce, reach out to business
4 associations that represent people in your field.
5 There's an association for everything. But they
6 certainly would have ideas on how to evolve.

7 We've been working with all different
8 sectors to try and develop reopening plans, but
9 some of that also includes a discussion around
10 not just how do you configure your work space but
11 how do you evolve your business model to survive
12 in what is certainly going to be a very different
13 operating environment in the future.

14 SENATOR KAPLAN: One last question. Can
15 you identify, from the conversations you have had
16 with small business owners, what would be the
17 most common occurring problem they are having
18 with the CARES Act. And from your conversation,
19 can you offer us any insight what they need to do
20 going forward?

21 MR. BIRYLA I think what we're seeing
22 has been an evolution of the last couple of weeks
23 with the CARES Act, and the CARES Act is a big
24 piece of legislation that was, I think \$2.5

1 Joint Public Legislative Hearing, 5-13-20

2 trillion give or take a penny, and the small
3 business, direct small business relief what is a
4 relatively smaller portion of that, when all is
5 said and done. And I'm not going to speak to the
6 entire CARES Act, but the problem was accessing
7 funding.

8 Now that people have accessed funding,
9 it's how do I spend it and how do I spend it
10 appropriately, because as I mentioned before, we
11 can't have forgivable loans turn into new debt.
12 This is a second recipe for disaster in this
13 whole process.

14 So I think it goes back to as we are
15 continuing to explore changes to PPP and through
16 Treasury, or guidance by the United States
17 Department of Treasury and other as we go
18 actions, they have continued to tweak around the
19 edges and make some changes. Or, as we explore
20 state-specific solutions when we reopen or after,
21 flexibility is the key. That goes for how we
22 rollout our reopening as well. We need to
23 understand every business is unique and
24 flexibility is important.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER TAYLOR: Okay. All
3 right.

4 SENATOR KAPLAN: Thank you.

5 ASSEMBLY MEMBER STIRPE: Great, thanks.
6 Next up is Member Tom Abinanti. You've got to
7 unmute. You're okay now.

8 ASSEMBLY MEMBER ABINANTI: Okay. There
9 we go. Thank you. Hello, Heather.

10 MS. BRICCETTI: Hi.

11 ASSEMBLY MEMBER ABINANTI: It's nice to
12 see you. Let's see, where is -- there he is.
13 Thank you for joining us as well. I want to,
14 again in my role as chair of the banks committee,
15 I want to focus in on what seems to be the main
16 vehicle that the federal government is using,
17 which is the banks. Have you seen any evidence
18 that the response is different and the impact is
19 different depending on geography and industry?

20 MS. BRICCETTI: I would say in the first
21 round, yes. If you look, a huge percentage of the
22 funds went to, in particular Texas, for reasons
23 that we can't ascertain. Second round, New York
24 actually kind of caught up, and so based on

1 Joint Public Legislative Hearing, 5-13-20

2 geography, yes.

3 ASSEMBLY MEMBER ABINANTI: What about
4 geography in the state of New York?

5 MS. BRICCETTI: Oh, within the state.

6 ASSEMBLY MEMBER ABINANTI: I'm concerned
7 that the cost is so much greater downstate that
8 I'm hearing that fewer people were satisfied with
9 what happened because the costs are so expensive,
10 and you heard some people before talking about
11 how their rent is so much higher, their insurance
12 premiums are so much higher and everything else.

13 MS. BRICCETTI: Well, right. So the
14 75/25 rule is something that I think is more
15 acutely felt in areas where the actual cost of
16 bricks and mortar are that much higher than they
17 are in the rest of the state. I mean, I think
18 that's certainly true. So that would be a
19 geographic difference. And I think the volume of
20 applications probably was dramatically higher in
21 the downstate region. I mean I've heard from a
22 number of businesses in upstate that received
23 their loans, although not in the first round, in
24 the second round, relatively quickly. That was

1 Joint Public Legislative Hearing, 5-13-20
2 not the case with the first round and it
3 certainly was not the case in the New York City
4 metropolitan area.

5 ASSEMBLY MEMBER ABINANTI: Greg, what
6 about you?

7 MR. BIRYLA: You know, there's also been
8 some evidence that rural communities have had
9 some issues with this as well, and that obviously
10 density and the volume is probably not the
11 problem there but there may not be as many
12 lenders in those communities or businesses with
13 the same types of relationships with lenders that
14 other larger population communities have.

15 I don't know that the whole story has
16 been written either, so I think this is something
17 incredibly important, that as we finish up PPP
18 round two is well understood. And I believe it
19 was mentioned earlier about an SBA study done by
20 the IG's office on Thursday or Friday of last
21 week that scratched the surface. So it's good to
22 know that they're looking at it, because we're
23 going to need to improve this at the state and
24 federal level to make sure that it's fair and

1 Joint Public Legislative Hearing, 5-13-20

2 equitable.

3 ASSEMBLY MEMBER ABINANTI: Are you two
4 able to solicit information from your members to
5 help us as we go forward to what we can do to get
6 more lenders into particular areas or to ease the
7 process so that there's a broader distribution of
8 the funds?

9 MS. BRICCETTI: Yeah, absolutely.

10 ASSEMBLY MEMBER ABINANTI: I mean, the
11 banking committee, I'd like to work with the
12 banking community to see if we can solve the
13 problems your members are facing.

14 MS. BRICCETTI: Absolutely. We have
15 access to our members and I'm sure that they
16 would all be very happy to weigh in.

17 ASSEMBLY MEMBER ABINANTI: Okay. Now,
18 there's one industry that was mentioned that I
19 don't know if it's going to be represented in
20 this hearing we may want to talk to in future
21 hearings. And that's the real estate industry.
22 Not every owner of property is a large, big
23 conglomerate that can absorb the losses.

24 A lot of properties are owned by, even

1 Joint Public Legislative Hearing, 5-13-20
2 in the suburbs by families. They may have a small
3 shopping center. They may have a five-family
4 house. They may own a couple of stores. And this
5 is income to them and to grandma and to everybody
6 else. Have you heard anything from those
7 entities, those parts of our economy?

8 MS. BRICCETTI: Yes. I mean, absolutely.
9 And I think it just shows sort of the domino
10 effect. If folks can't pay their rent and the
11 landlord can't get the rent, then they can't pay
12 the mortgage, and it just ends up having a
13 catastrophic economic effect. So I mean I think
14 it is something that, again other states have had
15 a lot of flexibility in dealing with this because
16 the funds, you know, they didn't have the
17 emergency situation the way that New York does
18 and have had a lot more ability to use the funds
19 in ways that support businesses, including small
20 business real property owners, and that's
21 something that's very important. And moving
22 forward --

23 ASSEMBLY MEMBER ABINANTI: It sounds
24 like we need to have a cost of living factor

1 Joint Public Legislative Hearing, 5-13-20

2 baked into what we're doing here, right?

3 MS. BRICCETTI: I mean, I would assume
4 so, yeah.

5 ASSEMBLY MEMBER ABINANTI: But we don't
6 have that now, right?

7 ASSEMBLY MEMBER STIRPE: Right.

8 ASSEMBLY MEMBER ABINANTI: That's my
9 understanding, we don't.

10 ASSEMBLY MEMBER STIRPE: Okay. So can I
11 remind everybody, keep your eyes on the clock.
12 Okay? Senator.

13 SENATOR KAPLAN: Thank you. I also want
14 to mention that we've been joined by Senator
15 Biaggi and Senator Robach. And the next questions
16 come from actually Senator Martinez, who asked me
17 to ask the questions from you. Do you do you feel
18 that the PPP program was properly distributed to
19 businesses that had the greatest needs? How
20 should additional PPP funds be distributed to
21 ensure businesses that were unable to gain access
22 before were -- before ensure equal benefits? And
23 do you believe businesses will be able to comply
24 with the June 30th deadline to restore employment

1 Joint Public Legislative Hearing, 5-13-20

2 and salary levels?

3 MR. BIRYLA: I think that's a pretty
4 complex and multifaceted question, so I'll just
5 take the last part of it first. There's certainly
6 some concerns about that June 30th deadline, and
7 it was mentioned earlier today by the retail
8 owner and the restaurant owner, there's a lot of
9 types of businesses that are density-based.
10 That's the business model. Restaurants, gyms, any
11 sort of entertainment venue, and I'm not talking
12 about football games and concerts, I mean small
13 entertainment venues. They are not going to be
14 able to open on June 30th. They received a PPP
15 loan. What's next? And we don't have those
16 answers.

17 So I think that's an important
18 consideration. It gets back to my point about
19 flexibility. And if we can make the program any
20 better to ensure the right businesses are getting
21 these funds, first I liked what they did with
22 PPP2, was that if you are already in the queue,
23 you were next up to make sure we didn't start
24 again and we didn't automatically favor

1 Joint Public Legislative Hearing, 5-13-20

2 businesses that had advanced accounting
3 departments or accountants that worked for them
4 or contracted with them so that those in the
5 queue were already rolled. If we re-fund this
6 program, and improve it hopefully, that needs to
7 be the paradigm moving forward. And I guess I'll
8 kick it over to Heather because I can't remember
9 the frontend of the question.

10 MS. BRICCETTI: Yeah, I think the
11 frontend was did the right businesses receive the
12 funding? And I think that kind of points out one
13 of the fundamental flaws in the program. I mean
14 it was, the fact that all that money was deployed
15 a quickly as it was, is impressive, but so many
16 smaller businesses had a lot of difficulty
17 getting their loans processed in the first round.
18 Some of that was corrected. But the lack of clear
19 guidance on who was eligible, I think pretty much
20 ensured that by virtue of the fact of not
21 everyone getting funding, folks that probably
22 were hardest hit weren't able to access funds,
23 particularly in the first round.

24 MR. BIRYLA: Obviously, the Los Angeles

1 Joint Public Legislative Hearing, 5-13-20

2 Lakers or certain other organizations, sorry for
3 any Laker fans, I mean this is not what this was
4 intended for.

5 MS. BRICCETTI: No.

6 MR. BIRYLA: It was an abuse of the
7 system and that was atrocious.

8 ASSEMBLY MEMBER STIRPE: Okay. All
9 right. So next up we have Member Ed Ra.

10 ASSEMBLY MEMBER RA: Thank you, chair. I
11 just wanted to go back to something that was
12 discussed a little bit earlier generally, both in
13 terms of workers and customers and safety, as you
14 reopen. I know that Greg, in particular, you had
15 mentioned that as we get up to this Friday with
16 certain regions starting phase one, that there's
17 not been clear guidance, and obviously many of
18 your members have been, not just in this process
19 but in the past couple months probably have been
20 looking to entities, whether it's ESD or others,
21 for guidance on whether they qualify to be
22 essential in the interim.

23 So can you elaborate a little bit more
24 on do you think it's ESD is a better way -- is

1 Joint Public Legislative Hearing, 5-13-20
2 the way to coordinate that and get clear
3 information? I know we also now have these
4 regional control rooms and all of that that's
5 going to be involved in the opening as well. So
6 what do you think the best way to facilitate that
7 information, really on both ends because I think
8 your members are going to have a lot of
9 information that needs to be heard that I think
10 you said in your written testimony we can't be
11 afraid to adjust as time goes on. I think that's
12 going to be crucial and I think it's going to
13 have to be a two-way conversation.

14 MR. BIRYLA: Absolutely. And I don't
15 mean -- I'm not criticizing ESD. I mean this is
16 all unprecedented for a lot of different aspects
17 and a lot of different entities. I think they did
18 their best. We were on the phone with them every
19 day, and when they had answers they gave them,
20 they were overwhelmed. But we're not in a day-to-
21 day public health crisis any more in large parts
22 of the state and I'm not diminishing the crisis
23 we are in.

24 But we have the opportunity to take a

1 Joint Public Legislative Hearing, 5-13-20

2 little bit of a breath, see what we've done these
3 last couple of weeks or months in communicating
4 with the private sector and state government and
5 improve it. I think ESD should continue to be the
6 primary vehicle. I don't need to upset the apple
7 cart too much. We've already gone two months down
8 that road.

9 But we're going to bring businesses
10 online on Friday in certain regions. And then
11 hopefully in successive weeks after that,
12 additional types of businesses and hopefully it
13 all goes safe and we don't to have completely
14 recalibrate our reopening strategy.

15 But there's going to be confusion week
16 anxiety, and what we don't want that to become is
17 anger as this moves forward. There are businesses
18 that are going to be confused about whether or
19 not their business can operate and why can a
20 business one county over operate and mine can't?
21 So I think incorporating organizations like
22 Heather's and mine into to that discussion
23 process and allow us to do some of the work for
24 you, allow us to identify some contradictions or

1 Joint Public Legislative Hearing, 5-13-20

2 red flags during the process of devising these
3 guidelines. Allow us to communicate them to our
4 members quickly and efficiently in addition to
5 what ESD and state government is doing.

6 I just think this is an unprecedented
7 opportunity for state, local government, private
8 sector and the legislature, executive branch to
9 work together, and the only the way to do this
10 safe, fast and fair is to communicate with one
11 another.

12 ASSEMBLY MEMBER RA: And then just
13 lastly with regard to that, the other thing that
14 you mentioned, I know both in your written
15 testimony and in your initial comments were just
16 the whole idea of essential versus non-essential.
17 And obviously, we're shifting now to trying to
18 evaluate, based on safety, which makes perfect
19 sense. How might, if you have any ideas in terms
20 of what the phases have been laid out, we know
21 there are a number of different types businesses
22 that don't necessarily fit neatly in and we're
23 still trying to determine where they're going to
24 fit in. So how might that be adjusted to make

1 Joint Public Legislative Hearing, 5-13-20

2 sure that we really are focusing on what
3 businesses can be operated safely and getting
4 them online sooner rather than later?

5 MR. BIRYLA: Well, safety obviously
6 comes first, but we have to look at what we've
7 already been doing and make sure there's equity
8 in who we're allowing to operate in moving
9 forward. I can't tell you how many phone calls --
10 I'm going to only use one example, but phone
11 calls I received from a small business owner a
12 week or two ago, who is an independent local
13 flooring retailer. But they only sell flooring,
14 and they're not essential. But they drive by
15 their local Home Depot and there's a truck with a
16 whole bunch of flooring product in the
17 background. Because Home Depot sells enough of
18 the right products they're essential. But a
19 business who's smaller by nature, less dense,
20 because it's a small business, has a smaller
21 footprint, easier to clean, easier to social
22 distance, they're not able to operate. And they
23 already have the deck stacked against them from
24 these huge big box corporations.

1 Joint Public Legislative Hearing, 5-13-20

2 So again, these are the inequities that
3 I think we can look at now and just say, well, if
4 we had put established practices in Wal-Mart,
5 Target and Home Depot that have led those really
6 large operations with big footprints to operate
7 safely, efficiently and deliver certain products
8 to their customers, are there other types of
9 businesses that we can do that with? And should
10 we advance them, again, letting safety be our
11 guide, but can we advance them to a greater stage
12 being open than just door-to-door pickup?

13 MS. BRICCETTI: Yeah, and I would just
14 add onto that that manufacturing is one of the
15 areas where there were some differentiation based
16 on whether they were considered essential or not,
17 and it got to be, you know, sort of confusing.
18 People couldn't figure out, well, I make pallets,
19 that's part of the supply chain. But are they
20 really essential manufacturing? And so more
21 clarity, I mean we've all learned a lot from
22 this, more clarity moving forward as to who's in,
23 and who's out and how do you get a waiver would
24 be helpful.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER STIRPE: Okay. Senator
3 Kaplan.

4 ASSEMBLY MEMBER RA: Thank you.

5 SENATOR KAPLAN: The next series of
6 questions comes from Senator James Seward.
7 Senator Seward?

8 SENATOR JAMES SEWARD: Hello.

9 SENATOR KAPLAN: Yes.

10 SENATOR SEWARD: Thank you, Madame Chair
11 and my colleagues. I think the issues that we're
12 discussing here today are critically important to
13 our state. After all, our small businesses employ
14 half of our state's workforce, nearly half of our
15 state's gross domestic product. Numbers come from
16 our small businesses throughout the state. And so
17 these are critically important issues to the
18 people of our state.

19 Now, I think it's no question, it's
20 important for us as state legislators to advocate
21 at the federal level for some changes in the
22 CARES Act, and specifically the PPP going forward
23 and other aspects of the CARES Act. We're
24 certainly going to do that. And I appreciated the

1 Joint Public Legislative Hearing, 5-13-20

2 testimony from both Heather and Greg in terms of
3 what we can do at the state level to be of more
4 help here to our small businesses.

5 And that's what I'd like to key in on. I
6 think it's important to point out that even
7 before the pandemic, it was not a panacea here in
8 New York State. Remember back earlier in the year
9 we were pre-pandemic, we were dealing with a very
10 tight, difficult budget with a looming deficit.
11 We were dealing with this out migration issue. We
12 lost, last year 180,000 people left the state of
13 New York. And at least from the upstate's
14 perspective, kind of an anemic economy lagging
15 behind the downstate region as well as the rest
16 of the country in terms of our economy, you know,
17 hearing from about over regulation, taxes, fees,
18 those types things from small businesses.

19 And as we look to emerge from the
20 economic shutdown and to be of help to small
21 businesses, I think it's important for us at the
22 state level to deal with some of these systemic,
23 chronic problems that we have seen over the years
24 and come up some specific programs and, yes,

1 Joint Public Legislative Hearing, 5-13-20

2 funding even in a tight budget, difficult budget.

3 For example, there are some sources that
4 come to mind. The coronavirus relief funding from
5 the federal government that's over \$5 billion
6 that have come to the state unallocated, as to my
7 knowledge. Perhaps some of that could be used to
8 help small businesses. You know, Hollywood is in
9 a pause, and how about the film tax credit? Let's
10 direct some of those funding toward the regular
11 people and main street businesses throughout our
12 state. There's money in the budget for ESD
13 capital program, the downtown revitalization
14 competition, that's \$100 million right there.
15 There's a potential source of funding.

16 SENATOR KAPLAN: Senator Seward, do you
17 have any questions for the panel?

18 SENATOR SEWARD: Yes, I do.

19 SENATOR KAPLAN: Okay.

20 SENATOR SEWARD: I'm getting to that.
21 And as we move forward with other ways that we
22 can help small businesses, my question to the
23 panel is this. As we emerge from this what we've
24 gone through, would you see as potential

1 Joint Public Legislative Hearing, 5-13-20

2 opportunities for our state and our businesses
3 throughout our state, new business opportunities
4 in terms specifically in having protective gear,
5 the PPEs produced right here in New York State,
6 some of this medical equipment that's needed,
7 ventilators and other medical equipment. Would
8 you see this as a business opportunity that we as
9 a state should be pursuing for the benefit of the
10 people of the state and particularly our
11 businesses that we're trying to help?

12 MR. BIRYLA: Oh, Heather's muted. Well,
13 I'll start off. So, senator, first of all, great
14 to see you healthy and well.

15 SENATOR SEWARD: Thank you.

16 MR. BIRYLA: A sight for sore eyes. So
17 absolutely there's an opportunity. I think one of
18 the things we've learned here is that we rely on
19 foreign production of a lot of this material for
20 various reasons. But would I say this can solve
21 two problems at once. I have a lot of concern for
22 small businesses members of NFIB as they begin to
23 reopen, there clearly at least initially, going
24 to be requirements on social distancing and PPE

1 Joint Public Legislative Hearing, 5-13-20

2 and other measures in the workplace.

3 During this crisis we have seen billion
4 dollar companies and entities as vast as the
5 state of New York, struggle to procure some
6 pretty basic materials. So, as we bring more
7 businesses online in New York State and across
8 the country, there's going to be a crush for
9 things as simple as face masks. And I have
10 concerns that small businesses that don't have
11 the same access to supply lines and large
12 quantity order of manufacturing could struggle to
13 find some of this stuff that they're going to be
14 required to have.

15 So we need to -- manufacturing here
16 would be great and making sure we have a supply
17 that everybody ever everyone that needs it is
18 credibly important.

19 MS. BRICCETTI: I know the time is up,
20 but I just wanted to jump in and say New York
21 historically is a very robust paper industry. We
22 are very strong in pharmaceutical manufacturing
23 historically and medical device manufacturing.
24 These are all real opportunities that are before

1 Joint Public Legislative Hearing, 5-13-20
2 us if we can find ways to incentivize
3 repatriation of this kind of manufacturing.

4 ASSEMBLY MEMBER STIRPE: Okay.

5 SENATOR KAPLAN: Thank you.

6 ASSEMBLY MEMBER STIRPE: Thank you. Next
7 up we have Assembly Member Deborah Glick.

8 ASSEMBLY MEMBER DEBORAH GLICK: Hi,
9 everyone. Thank you very much. Heather, I have
10 three questions. I'm going to put them out all at
11 once so that I'm concise in deference to the
12 chairs. One, which kind or which businesses,
13 small businesses, didn't apply and why? Maybe
14 that will inform how we go forward. What agencies
15 in the state do you think could and should help
16 put together a safety code for businesses, one
17 that's understandable, considering that we have a
18 variety of businesses. So we have an alphabet
19 soup of agencies. Which do you think we should be
20 focusing on to see that they get together and
21 have a task force on this to help small business
22 figure out how to open safely?

23 And if there aren't changes in the
24 Democratic bill in congress now, does do some of

1 Joint Public Legislative Hearing, 5-13-20

2 the changes that have been suggested, like the
3 75/25 rule and if we don't change some of the
4 repayment or timeline triggers, what effect is
5 that going to have on businesses that took out
6 PPP loans but the triggers don't work for them,
7 the short timeline for bringing back staff when
8 you're clearly not reopening in parts of the
9 state by June? So those are the top line
10 questions, if you could give me some guidance,
11 especially on what agencies could be helpful.

12 MS. BRICCETTI: Right. So I'll take -- I
13 did write them down so I could be quick -- but
14 the first question I don't know the answer which
15 small businesses didn't apply. I don't think that
16 data is available to us yet. But it's something
17 we're certainly going to be keeping our eye on
18 because I do believe that some of this will
19 relate to which small businesses have very robust
20 relationships with their lenders. So I think
21 there might be a connection there. So when we
22 find that out, we will certainly be willing to
23 share that information.

24 Agencies that should put forth safety

1 Joint Public Legislative Hearing, 5-13-20

2 code, my inclination on that would be ESD and
3 DOH. The reason for that is ESD deals with every
4 sector. And what you would want would be not for
5 this panel to be kind of freestyle putting
6 together these plans themselves, but consulting
7 with industry.

8 And we've been working on this from day
9 one essentially on how do you safely reopen a
10 business. But it's different depending on what
11 industry and what sector you're in. So those are
12 the two. I mean, there may be others that I'm not
13 thinking of but to me that's the obvious choices.

14 And as far as the legislative changes,
15 yeah, obviously if there's no change to the 75/25
16 or eligibility of certain businesses, like C6
17 entities, Chambers of Commerce, you're going to
18 see some businesses not come back. And those who
19 took loans are going to be in a precarious
20 position moving forward.

21 So we're hoping to see some changes and
22 some more clarity, but also some flexibility in
23 how small businesses are able to use the funds
24 because, for example, like a restaurant, if

1 Joint Public Legislative Hearing, 5-13-20

2 you're closed, you might have employees who are
3 actually going to earn more on unemployment and
4 continue ting to pay them just for if you were of
5 forgiveness of the loan still may not put you in
6 a financially liable position. So there, I tried
7 to answer them as quickly as I could.

8 ASSEMBLY MEMBER GLICK: I appreciate
9 that. The one other thing that I'd like to ask
10 since we were both very pointed and sharp in our
11 questioning and answers, it seems, and it hasn't
12 come up today, but it seems that in many
13 instances small businesses, and have you heard
14 this, small businesses are saying that if you're
15 an owner of a small business and you let your two
16 people go and you can't bring them back right
17 away, you also can't pay yourself, so is that
18 actually one of the restrictions? The Payroll
19 Protection Plan was essentially for employees,
20 not for an owner who is now doing the job of
21 their three former employees.

22 MS. BRICCETTI: Well, I think it would
23 depend how you run your payroll because it is
24 based off of payroll, right? And it's basically,

1 Joint Public Legislative Hearing, 5-13-20
2 it's refundable on a percentage basis, it's
3 forgivable on a percentage basis. So in your
4 example, there's three, so you'd have only 33
5 percent retention of payroll. That means it would
6 be 33 percent forgivable. That's my
7 understanding. If you're an owner and you're on
8 the payroll, then it shouldn't make any
9 difference whether or not you're an owner.

10 ASSEMBLY MEMBER STIRPE: Okay.

11 ASSEMBLY MEMBER GLICK: Thank you.

12 ASSEMBLY MEMBER STIRPE: Thank you,
13 Deborah. Senator.

14 SENATOR KAPLAN: The next series of
15 questions go to Senator Borrello.

16 SENATOR GEORGE M. BORRELLO: Thank you,
17 Madam Chair. Appreciate it. Can you hear me?

18 SENATOR KAPLAN: Yes.

19 SENATOR BORRELLO: Okay. First of all,
20 I'd like to start off by saying thank you to both
21 of you for participating in this. I am a proud
22 member of the NFIB, even long before I was a
23 senator. I'm also a member of our local Chamber.
24 My wife and I are proud small business owners.

1 Joint Public Legislative Hearing, 5-13-20

2 And as a senator and a small business owner, I
3 have heard the struggles of small businesses
4 across my district and beyond, of what's going on
5 as part of this pandemic.

6 And certainly most importantly, the
7 arbitrary and capricious manner in which
8 businesses have been allowed to operate, while
9 some are considered essential and people
10 operating in the exact same industry and same
11 spares not allowed. To the point where I've
12 actually had businesses tell me that their
13 competitors have called them to buy raw materials
14 from them. So it's really truly egregious, in my
15 opinion.

16 But my question deals with unemployment.
17 In particular, I have heard from business owners
18 all across the state about the fact that the
19 federal government's kneejerk reaction was to pay
20 all this additional money for unemployment to the
21 point where better than 90 percent of people
22 collecting unemployment are now making more on
23 unemployment than they were while they were
24 working. And that has had a tremendous strain on

1 Joint Public Legislative Hearing, 5-13-20

2 our workforce, particularly for our small
3 businesses that are able to operate right now.

4 In addition to that, New York State
5 doubled down on that bad idea by giving virtually
6 anybody a long list of reasons to quit their job
7 and collect unemployment. So this is the feedback
8 I'm hearing from fellow small business owners.

9 And I'd just like to hear from both of
10 you what you're hearing about the impact of this
11 and the advocacy that you see needs to be done to
12 change this.

13 MR. BIRYLA: Thank you, senator. On the
14 unemployment issue, yes, the \$600 federal
15 supplement almost works in contradiction to the
16 PPP loan program. The PPP loan program is
17 designed to bring employees back to work, that's
18 why the bulk of the money goes to 75 percent for
19 payroll. And now, with the incentivization of
20 initial \$600, it is difficult for small
21 businesses who now need to bring employees back
22 onto the payroll to make sure in is forgivable,
23 they need to do it. And there is disincentive for
24 their workers to return because of the \$600

1 Joint Public Legislative Hearing, 5-13-20

2 supplement.

3 We have heard Senator Schumer and
4 Congressman Katko, in the same news article, the
5 news story, talk about a need to address this, so
6 obviously, there's a bipartisan understanding of
7 the conflict here. So hopefully, that continues
8 to get addressed.

9 A couple things that have mentioned
10 throughout this hearing is protection against
11 potential unemployment insurance spikes. There is
12 a state legislation that has been introduced, I
13 believe by Senator Carlucci and Senator
14 Zebrowski. That is important to take a good,
15 hard, long look at.

16 And for anyone who's been doing this as
17 long as I have, you will remember in 2010, after
18 the last economic recession, small businesses and
19 employers of all shapes and sizes were hit with
20 what was a surprise unemployment insurance
21 assessment. And that was based on the fact we had
22 to borrow money from the federal government to
23 keep our unemployment insurance funds solvent in
24 New York.

1 Joint Public Legislative Hearing, 5-13-20

2 Well Politico reported last week that we
3 have again sought, I think, three to four billion
4 dollars in a loan to cover our unemployment
5 insurance benefits. so we need to make sure that
6 when that federal loan comes due, which is
7 different than a lot of these other programs.
8 This a standard program that the federal
9 government offers, that we don't hit small
10 businesses and other types of employers with an
11 out of nowhere surprise unemployment assessment
12 to repay back this loan like we did in 2015.

13 SENATOR BORRELLO: Yeah, I remember that
14 sneak attack. And it caused a lot of peoples'
15 bank accounts to actually overdraft. I know
16 business owners that did do that. Yeah, so I
17 totally agree and appreciate that. Also, I've
18 introduced legislation to hold harmless
19 businesses on their experience rating, as others
20 have and in a bipartisan way, I think that it's
21 critically important that we do that. That could
22 kill a lot of small businesses, the massive
23 increase of unemployment insurance costs.

24 ASSEMBLY MEMBER STIRPE: Okay. Next up

1 Joint Public Legislative Hearing, 5-13-20

2 we have Assembly Member Doug Smith.

3 ASSEMBLY MEMBER DOUGLAS SMITH: Thank
4 you, so much, Chairman and thank you everyone for
5 being here and being able to do this. A few
6 things, now, you mentioned the Chambers of
7 Commerce and how helpful they can be. I can say
8 firsthand that I represent -- my district's down
9 on Long Island, I have four excellent Chambers of
10 Commerce that span my entire district and they
11 have worked with me as a sub-business council to
12 help hundreds of businesses in the community.

13 So I wanted to ask, and given what you
14 had said about the not being eligible for a lot
15 of these programs, they do have staff that are,
16 like I said, an extension, they're helping their
17 members. Do you have any thoughts just really
18 briefly on what we can do, either the state or
19 federal government, to include them going
20 forward?

21 MS. BRICCETTI: Sure. So just so you
22 know, we were aware when the first PPP
23 legislation was drafted that C6s had been
24 intentionally excluded from the legislation. The

1 Joint Public Legislative Hearing, 5-13-20
2 original legislation said all nonprofits, and
3 then limited it to C3s and C12s. We did some
4 advocacy, so there was a high level of awareness
5 among members of Congress that this is an issue.

6 I think this is one of those things
7 where every Chamber of Commerce, every legislator
8 should lean on members of Congress to ensure C6s
9 are included in the next round because they are
10 so vital in helping small business in sorting
11 through really the whole -- not just the loans
12 but also the new -- what the standards and
13 guidelines are going to be for reopening, how to
14 secure PPE, all of these things. They're really
15 critical for small business. So that would be my
16 advice would be to pressure every member of
17 coming that you have a relationship with to make
18 sure that they're included.

19 And know that there is legislation
20 pending right now in D.C. Obviously, it's caught
21 up in the whole debate over liability versus
22 including state and local municipalities and
23 additional aid for government. So, you know,
24 you'd hope that this is something that wouldn't

1 Joint Public Legislative Hearing, 5-13-20

2 get caught in that morass but --

3 SENATOR BORRELLO: Thank you. That's
4 kind of what we're feeling as well. Now, when
5 we're talking about the PPP loans, what I'm
6 hearing from a lot of businesses that I represent
7 in my community, are as you mentioned, I think
8 you said about 60 percent have been successful.
9 And largely, that may have been depended on a
10 relationship with their local bank.

11 But right now, what I'm hearing is that
12 the Small Business Administration changed a
13 frequently asked questions, a FAQ on their
14 website, that really is changing and making my
15 businesses feel very uncomfortable, and some of
16 them may only have 20 employees. So these are the
17 small businesses we're talking about. But they're
18 fearful that they and some of them were debating
19 whether to actually return the money. And now
20 it's become something that's gotten bad
21 publicity. And I, you know, they sought counsel.
22 All I can say is look, you legitimately do need
23 this to continue to operate, you really don't
24 know going forward and this is what this program

1 Joint Public Legislative Hearing, 5-13-20
2 was made for. Do you have any thoughts on that
3 and advocacy or things that we can work on to
4 ensure we have these large companies that employ
5 thousands, maybe they shouldn't be getting it but
6 these small, really home-based businesses, these
7 small guys, wondering if they should return the
8 money?

9 MS. BRICETTI: Yeah, well, I mean, I
10 would just say off the bat that a large employer
11 over 1,000, should not be eligible for PPP. That
12 was designed for smaller businesses, 500 or
13 fewer, which is the federal definition of small
14 business, some of the time. But as far as
15 concerns, I think their concerns are legitimate.
16 There's been a lack of clarity as to what the
17 standard is going to be for both accepting a loan
18 and also for how you have to use it in order to
19 be eligible for forgiveness. And I'm sure Greg is
20 going to want to weigh in on this as well. But I
21 think having clarity and communicating with the
22 SBA directly are two very important aspects of
23 it.

24 MR. BIRYLA: Absolutely. And I would

1 Joint Public Legislative Hearing, 5-13-20

2 encourage members or not, to send any small

3 businesses in your community to Heather's

4 organization or my own, and we'll be happy to

5 help them with any information that we do have.

6 And if you -- and I'm not giving legal advice --

7 but if you are a small business with 20

8 employees, you obviously, in New York, you've

9 been impacted by COVID-19. If you're trying to

10 access PPP, you are in all likelihood doing

11 exactly what you should be doing.

12 Obviously, the rules can be confusing

13 but they should not be concerned that they're

14 going to get the bad publicity or federal auditor

15 coming after them, like we saw with some of these

16 large restaurant chains and others. That's

17 exactly who this one is intended for. It can be

18 confusing. But I think they're pretty safe in

19 pursuing funding and just making sure they're

20 following the rules on how they disburse it

21 moving forward.

22 SENATOR BORRELLO: Thank you.

23 ASSEMBLY MEMBER STIRPE: Thanks.

24 Senator.

1 Joint Public Legislative Hearing, 5-13-20

2 SENATOR KAPLAN: Thank you. Senator
3 Skoufis, you're next.

4 SENATOR JAMES SKOUFIS: Thank you very
5 much. Good afternoon and thank you Chairwoman,
6 for the kind remarks at the start of the hearing.
7 I want to focus, I know both the Business
8 Council, as well as the NFIB had mentioned that
9 approximately 60 percent of the eligible
10 businesses have applied for PPP or other federal
11 assistance.

12 I'd like to ask about and focus on the
13 remaining 40 or so percent and ask why have they
14 not received federal assistance? Have they, are
15 they simply in the pipeline and their application
16 hasn't been processed yet by the federal
17 government? Have they for whatever reason been
18 compelled to not apply? Or have there been other
19 issues or problems? Were they locked out? I know
20 the first round ran out of money very quickly.
21 Can both of you briefly talk about why nearly
22 half of eligible businesses have not received any
23 federal assistance?

24 MS. BRICCETTI: No. I mean, I can say

1 Joint Public Legislative Hearing, 5-13-20

2 that first, many of them may not have applied,
3 second, included in that number are businesses
4 that are not eligible, those being any kind of
5 nonprofit that's not a C3. So they would not have
6 applied. And I don't know what percentage of the
7 businesses that is. But there's funding available
8 now. There's still additional funding available.
9 So it may be that some are in the pipeline.

10 And frankly, it may be that some of the
11 small businesses are in a sector where they're
12 not experiencing financial hardship, a small
13 grocery store, for example or something like
14 that. I can only guess, but a certain percentage
15 of those businesses aren't eligible currently
16 under statute and probably a certain percentage
17 don't feel a necessity to borrow money to get
18 through this for whatever reason. Greg, you might
19 have a better sense as well.

20 MR. BIRYLA: I think it's all of the
21 above. Some businesses, God bless them, were
22 maybe extremely well capitalized going through
23 this and didn't see the need to go to this
24 federal program and surmised that they could wade

1 Joint Public Legislative Hearing, 5-13-20

2 through this on their own with their own

3 individual resources or other sources of capital.

4 Others, like agriculture businesses of
5 certain kinds, they may have been pursuing relief
6 not through PPP or EIDL, but through FDA programs
7 or other federal programs designed for
8 agriculture interests.

9 But there is a certain percentage, which
10 is what I think you're trying to get to. And the
11 last national survey, and this is national, but
12 it's easy to extrapolate down to New York, about
13 seven percent of small businesses, seven to 10
14 percent simply were intimidated by the process.
15 And that doesn't mean they didn't meet it. So I
16 mean that is, if that's an accurate number or if
17 it's larger, that's where we've got to be
18 focusing, to make sure that anybody who does need
19 this is getting it.

20 Certain entities simply won't need it,
21 or maybe the 75/25 doesn't work for their
22 business model. Their overhead is based on
23 equipment, machinery, or real estate cost, so
24 they didn't want to take on additional debt if

1 Joint Public Legislative Hearing, 5-13-20
2 they couldn't get it forgiven. But there's
3 certainly some subset out there that needed it
4 and didn't get it and that's where we need to
5 focus.

6 SENATOR SKOUFIS: And just to follow up
7 on that, so nearly or upwards one out of 10
8 businesses are intimidated and they need the help
9 but they just simply haven't applied, what do we
10 do about that? Right, I mean I'd ask, is it sort
11 of an educational issue, but the news about this
12 has been 24/7. I know your organization and
13 others, Chambers, have been reaching out and
14 fielding thousands of calls. What more can we do
15 to reach upwards of one out of 10 businesses that
16 need help and just haven't applied because they
17 feel it's an insurmountable process?

18 MS. BRICCETTI: I mean point them to our
19 web pages, mine or Greg's. We both have
20 information and guides on how to apply for the
21 loans. Checklists, basically a whole lot of
22 information for people who are feeling confused
23 about the process.

24 MR. BIRYLA: Yes.

1 Joint Public Legislative Hearing, 5-13-20

2 SENATOR SKOUFIS: But is it as simple as
3 that? Do we just wait to hear from or identify
4 businesses as we stumble upon them? Or should we
5 be doing something more proactively I guess is my
6 question?

7 MR. BIRYLA: Well, I mean whatever
8 ability you have communications resources in your
9 senate office and every member in the senate
10 office on this line today, communicate these
11 things to everybody you can. We're trying to do
12 the same, whether it's through our own dedicated
13 communications channels or earned media. You have
14 to understand there was a lot of confusion at the
15 beginning about how long this was going to last.
16 I mean nobody knew how long they might be shut
17 down. I mean people thought a week, two, a month.

18 You know, as this continues, people who
19 may have initially thought this isn't for me,
20 maybe it is now. And we need to continue this
21 program open and fund it to some extent even
22 though it seems like the crush has died down a
23 little bit in terms of the amount of loans
24 they're having processed a day. But make sure

1 Joint Public Legislative Hearing, 5-13-20

2 that we don't just assume everybody who needed it
3 is all set and continue to communicate and keep
4 this program open and operating and making it
5 more flexible as we go along, if possible.

6 SENATOR SKOUFIS: Thanks very much for
7 your testimony and your answers.

8 SENATOR KAPLAN: Thank you. Assemblyman
9 Stirpe.

10 ASSEMBLY MEMBER STIRPE: Yes. Let's see
11 the next member is Member McDonald.

12 ASSEMBLY MEMBER JOHN T. MCDONALD, III:
13 Thanks, Al and good morning or good afternoon,
14 everybody. And Heather and Greg, it's good to see
15 you and thanks for your organizations' great
16 work. I'm not going to spend too much time on
17 PPP. It seems like you guys are covering
18 everything. I will say this, your organizations
19 have been very helpful with their timely updates,
20 which has been helpful to really understand the
21 program. And some of the other comments, I will
22 say this. I think some of the reticence with this
23 is because there seems to be ever changing
24 philosophies in Washington. So once it gets

1 Joint Public Legislative Hearing, 5-13-20

2 clarified, I think there will be more of a take
3 up.

4 Last week, Member Fahy and I had a forum
5 with the Capital Region Chamber, Rensselaer
6 Chamber and the Upstate Black Chamber of
7 Commerce. And the one good thing that came out of
8 it is that so far with this second round, the
9 loan amounts are smaller, which would be an
10 indicator that smaller businesses are now feeling
11 a little more comfortable in being able to
12 participate, particularly because community banks
13 are involved.

14 My question to you actually goes to a
15 different funding source, which is IDAs. As you
16 know IDAs are sitting on probably about 109 to
17 110 million dollars throughout the State of New
18 York in their accounts. I know working with our
19 Capital Region IDAs, but also with other
20 statewide organizations, too. Allow IDAs, during
21 this time with some very prescriptive guidelines,
22 really mimic legislation that Fred Thiele carries
23 in the Assembly. I've forgot who the Senate
24 sponsor is, to allow IDAs to go back to being

1 Joint Public Legislative Hearing, 5-13-20

2 able to administer loan programs, which they had
3 that authority back until the mid 2000s.

4 I know here in Capital Region, in Albany
5 County alone, the IDAs have banded together
6 saying we can provide a business loan program for
7 up to a total of \$2 million to our respective
8 communities. Because we know that, as much as the
9 support is critical now, there are industries
10 like the restaurant industry and maybe even the
11 hair salons, that aren't going to be able to open
12 up right away. They're going to be another month
13 or two and they're going to need money down the
14 road.

15 Have your organizations weighed in at
16 all with the executive? Because I know there is a
17 consideration of an executive order and really
18 what are your positions? And that's my question.

19 MS. BRICCETTI: I'll jump in and just
20 say that I think we would generally support
21 permitting IDAs to reengage and lending at the
22 local level. I mean this particularly would get
23 to some of the micro businesses that may not have
24 good banking relationships. So I think that in

1 Joint Public Legislative Hearing, 5-13-20

2 general, we would be supportive of it and we're
3 looking for every tool that we can find to try
4 and help small businesses navigate this, to get
5 through this.

6 ASSEMBLY MEMBER MCDONALD: Thank you.

7 MR. BIRYLA: I would second that and
8 assemblyman, thank you, you sent that legislation
9 along to our office a week or so ago. We've had
10 conversations with the New York State Economic
11 Development Council. And this is a perfect
12 example of every single tool we have in the tool
13 box, we need to look how to sharpen it better and
14 direct it towards where we need it the most. And
15 IDAs are a tool that is focused on community
16 economic development. And if we can come up with
17 ways that are more impactful and certainly follow
18 prescriptive guidelines to ensure the money is
19 going to be right places for small businesses, we
20 have to look at that absolutely.

21 ASSEMBLY MEMBER MCDONALD: Thank you.

22 Thanks, Al.

23 ASSEMBLY MEMBER STIRPE: Okay. Senator?

24 SENATOR KAPLAN: Thank you. Senator

1 Joint Public Legislative Hearing, 5-13-20

2 Jordan, you're up. Senator Jordan?

3 SENATOR DAPHNE JORDAN: I'm trying to
4 unmute myself.

5 SENATOR KAPLAN: Okay.

6 SENATOR JORDAN: Thank you, Chairwoman
7 and thank you, assemblyman for having this
8 hearing today. It's vitally important that we
9 listen to our small businesses and hear from the
10 experts. So I've been looking forward, especially
11 today the testimony from the Business Council as
12 well as NFIB. You are the heartbeat and the pulse
13 of our businesses in New York State and we
14 appreciate that.

15 As a former small business owner, who
16 employed 14 part-timers, I truly understand the
17 pain that businesses are feeling across the
18 state. When you have a small business and you
19 have a bad couple of weeks, that's bad. When you
20 have a month that's bad, then you start to really
21 wonder what's happening to your business. When
22 you've been out of business now for two months,
23 that's when you start many -- from what I hear
24 from many of our small businesses -- that's when

1 Joint Public Legislative Hearing, 5-13-20

2 they start to think about considering closing.

3 That they cannot recover.

4 And small business employs so many
5 people in our state and is responsible for so
6 much of our economy that we can't let that
7 happen. As part of our reopen-reset plan that my
8 Senate Republican colleagues and I -- we've
9 called for a re-examination of New York State's
10 rules and regulations to see which ones, aside
11 from public health could be suspended to help
12 businesses recover faster.

13 As the study done in January of 2014, it
14 was found that in New York State there were
15 actually 22 miles of regulations, if you were
16 going to put them, string them all out and measure
17 them. It was 22 miles worth. And right now, New
18 York State is of the worst in business climate
19 before the COVID virus was here and attacked
20 businesses.

21 So, I'm wondering, are there any state
22 regulations unrelated to health and safety that
23 the business council or NFIB would like to see
24 suspended? Or gotten rid of totally?

1 Joint Public Legislative Hearing, 5-13-20

2 MS. BRICCETTI: So I'll just take that
3 and I will sort of change your question a little
4 bit. I would say the first step would be, let's
5 take a look at all the regulations that have been
6 suspended during the crisis and re-evaluate
7 whether or not they are necessary moving forward.
8 And it varies by industry, there are things that
9 are just kind of a pain, and then there are
10 things that make operations very difficult. So,
11 that would be my answer to that.

12 In addition to that, I think moving
13 forward, we really ought to do a cost benefit
14 analysis of regulations that we impose on
15 business, because sometimes while the intent may
16 be good, the outcome, the cost of compliance
17 outweighs the benefit and drives up the cost of
18 doing business.

19 MR. BIRYLA: Yeah, I would add on to
20 that, again, taking a little different direction
21 towards my answer. One of the most important
22 things that we have going for us right now that
23 we did not have after the great recession is a
24 property tax cap, in terms of protecting what is

1 Joint Public Legislative Hearing, 5-13-20

2 a huge piece of overhead for homeowners but also
3 businesses and renters.

4 That being said, we just saw with the
5 recent numbers at the end of last week, sales tax
6 returns which is for county revenue is down a
7 quarter across the entire state. So we need to
8 take a really, really good hard look at mandate
9 relief for local governments to make sure that
10 they're not continuing to be strained and that we
11 can continue to control property taxes on
12 businesses who are trying to reemerge.

13 SENATOR JORDAN: Thank you. I appreciate
14 that. Thank you.

15 SENATOR KAPLAN: Assemblyman Stirpe?

16 ASSEMBLY MEMBER STIRPE: Thanks. Next up
17 is Member Carrie Woerner.

18 ASSEMBLY MEMBER CARRIE WOERNER: Thank
19 you, Chairman for organizing this very complex
20 hearing today and thank you to Heather and to
21 Greg for your very comprehensive testimony. I
22 wanted to focus on two things. One is the role of
23 community banks. I've heard anecdotally and
24 that's been mentioned today that in communities

1 Joint Public Legislative Hearing, 5-13-20

2 where there is strong population of small, local
3 community banks, those small businesses were more
4 successful in the first round in securing the PPP
5 loans than communities where there were fewer
6 banks or primarily the large national banks.

7 And so my question is, A, was that your
8 experience statewide, and B, what would you
9 advise in terms of how we could encourage the
10 expansion of local banks into communities where
11 there are no banks?

12 And then I'll just ask a second
13 question, just to tee it up and that is, Heather,
14 you mentioned bringing medical device companies
15 back, that strengthening the medical supply chain
16 in New York so we have businesses that is can
17 ramp up to meet the needs of our citizens to
18 respond to crises like this or in the aftermath
19 to ensure that small businesses have access to
20 the PPE they need to have for people to have
21 confidence.

22 And I'm just wondering if you could
23 reflect a little bit on what are the steps we
24 could take to try to encourage some of those

1 Joint Public Legislative Hearing, 5-13-20

2 medical device companies to repatriate back to
3 New York State. Thank you.

4 MS. BRICCETTI: So I'll take that one
5 first, I think because New York has, as I
6 mentioned a long history of medical device
7 manufacturing and actually probably eight to 10
8 years ago, there was a tax proposal that
9 basically imposed additional tax on medical
10 devices that were manufactured in the U.S. and
11 exported elsewhere, and so many of our
12 manufacturers actually moved some of those
13 manufacturing operations offshore. I believe that
14 tax has since been removed, but the manufacturing
15 has not come back.

16 We do have a high cost structure
17 compared to other countries like China that maybe
18 don't have the environmental protections that we
19 do or the labor protections that we do. And I
20 think there should be consideration given to the
21 relative importance that we've seen now of having
22 access to this kind of manufacturing locally.

23 I do think it's probably going to
24 require some kind of an incentive to encourage

1 Joint Public Legislative Hearing, 5-13-20

2 companies to open up manufacturing facilities in
3 New York. As I mentioned, it's a high cost state.
4 But, it would be worth it, because we would have
5 access to materials that are produced and perhaps
6 the cost of the end product might be higher but
7 that consideration could be given to the fact
8 that they were produced in an environmental
9 sustainable way and that labor was appropriately
10 compensated.

11 Our paper industry is very, very
12 competitive and could be the base of PPE
13 manufacturing in New York. But again, we've been
14 beaten by the cost structure, by the low cost
15 ability of countries like China to import, to
16 manufacture and import at a cost lower than it
17 can be manufactured here. So I think some
18 consideration conversation should be given to
19 that. But I do think we have a big opportunity in
20 front of us.

21 ASSEMBLY MEMBER WOERNER: Thank you.

22 MR. BIRYLA: So, on the first question,
23 assemblywoman, and I'm not an expert on banking
24 regulations. NFIB does represent a few small

1 Joint Public Legislative Hearing, 5-13-20

2 community banks and credit unions but I would not
3 include high finance as a prominent member or
4 portion of our membership.

5 But anecdotally, and this is purely
6 anecdotally based on my own conversations with
7 members of ours working through the PPP program,
8 I think your assessment was right. You saw
9 communities that had a diverse array of banking
10 and lending institutions from large banks to
11 regional to local banks had more options and
12 people were able to I think have an easier
13 process during this loan period.

14 And then you got rural communities that
15 just simply didn't have enough lenders, so maybe
16 there's an answer there with the way that banking
17 is done. It's so digitally oriented nowadays that
18 ensuring that even if banks don't have a very
19 large retail presence in a given community that
20 they're still trying to access and communicate
21 with customers there through digital means.

22 But it was clearly a problem. And the
23 experiences that our members had were so wildly
24 different based on a lot have had to do with your

1 Joint Public Legislative Hearing, 5-13-20
2 lenders. So, I think as we learn more about PPP
3 as it comes out and there's continued to be
4 investigations from the IG and SBA, we just have
5 to recognize where these problems exist and
6 correct them.

7 ASSEMBLY MEMBER STIRPE: Thank you,
8 Greg.

9 ASSEMBLY MEMBER WOERNER: Thank you.

10 ASSEMBLY MEMBER STIRPE: Thank you.

11 SENATOR KAPLAN: Senator Gaughran,
12 you're next. And in the interest of saving some
13 time, please be a little bit more precise with
14 your questions and your answers so we can move
15 this. We still have a lot of other panels we need
16 to hear from. Thank you. Senator Gaughran.

17 SENATOR JAMES F. GAUGHRAN: Anybody
18 there? Okay. Now I'm unmuted. Thank you,
19 everybody. Thank you, Senator Kaplan and
20 Assemblyman Stirpe and everybody on this call.
21 Two quick questions, one, looking at the
22 definition of small business as 500 or fewer of
23 employees, it seems to me when I'm talking to a
24 lot of my small businesses, there's a different

1 Joint Public Legislative Hearing, 5-13-20
2 standard as to their business. I'm talking about
3 people 50 employees or fewer, 10 or fewer, that
4 seems to be more the backbone of the people in my
5 district and the program is kind of equating
6 people at 500 or less, who we also want to make
7 sure are helped similarly to what I would
8 consider a more traditional small business on
9 main street. Those seem to be the people that are
10 hurting the most and not getting the
11 opportunities.

12 So I wonder if there's any thoughts on
13 maybe taking a look at that definition and re-
14 evaluating the programs. Second quick question is
15 people who are unemployed now, many of who think
16 they're probably not going back to their old job,
17 some are calling me saying can we get some
18 relaxations of some of the restrictions of what
19 they're able to do, so that perhaps they could go
20 and become entrepreneurs and start up their own
21 business and use the time and resources they have
22 now to do that? Anybody have any thoughts on
23 that? Thank you.

24 MR. BIRYLA: Well, I'll answer the first

1 Joint Public Legislative Hearing, 5-13-20

2 question. I mean, that's difficult to define
3 where upstate begins and downstate begins, what
4 exactly is a small business. The federal
5 definition generally speaking is 500. But we've
6 even numerous pieces of state legislation where
7 we define it differently. We define it by
8 revenue, we define it by 25 employees, 50
9 employees and we have micro-businesses that are
10 10 employees or less, five employees or less, as
11 recent as this past session with the paid sick
12 leave bill.

13 So that definition is not fixed in
14 stone, but yes, we need to always be considering
15 there is a difference between a 10 employee shop
16 on main street and 450-person manufacturer which
17 is still an important part of the economy, but
18 they're just different entities.

19 MS. BRICCETTI: Yeah, I don't have much
20 to add to that. I mean I think the definitions
21 vary widely, even between the state and the
22 federal government. So I agree, a 500 employee
23 shop is a little different than a five employee
24 shop.

1 Joint Public Legislative Hearing, 5-13-20

2 As far as relaxing restrictions on the
3 unemployed, I'm not sure 100 percent what you
4 mean. But I would say this, there's a lot of
5 tools right now available for people to upskill
6 for positions that are right now available. We
7 have a partnership with SUNY that, actually Skill
8 Amp is what it's called where you can go, look at
9 available jobs, see what the skill sets are and
10 actually take the courses necessary to fill those
11 positions, so that's just one thought on that.

12 SENATOR GAUGHRAN: Yeah, I mean some of
13 it was like, you know, initiating, setting up a
14 corporate structure, an LLC, maybe starting to
15 pool money together with a couple of fellow
16 unemployed partners, and just a concern that the
17 way the rules are written that they would lose
18 out on the benefits they're getting now.

19 MS. BRICCETTI: I mean, I think only if
20 they're actually getting paid, so that would be a
21 good thing, right?

22 SENATOR GAUGHRAN: It would be. Okay.
23 Well, thank you so much.

24 SENATOR KAPLAN: Thank you. Senator

1 Joint Public Legislative Hearing, 5-13-20

2 Sanders, you're next.

3 SENATOR SANDERS: Good afternoon to the
4 chairs, again. Much has been spoken about the PPP
5 program. A former labor commissioner, a secretary
6 rather, Robert Reich pointed out in PPP1 that 80
7 percent of the monies went to the largest 10
8 percent of corporations according to Robert
9 Reich. Under that, he believes that the PPP1 was
10 a hoax, according to him.

11 And I'm really concerned that these
12 giant corporations need to be more patriotic at a
13 time of this crisis, that they should remember
14 that this money was designed to prop up the
15 smaller companies and by gobbling this money up,
16 they are putting us, the country at risk. The
17 PPP2 however, was better designed, because it
18 took in smaller banks, CDFIs, and the fintech
19 industry.

20 My question or my suggestions to both
21 Heather and to Greg are if you have any ideas on
22 a state PPP program, you need to get them to me
23 or we're still playing with the idea, we're not
24 totally out of the woods yet, that we may come up

1 Joint Public Legislative Hearing, 5-13-20

2 with a PPP3. A PPP3, it's almost -- it depends on
3 the day, it's 50/50 or whatever. It's rough down
4 there. But we may come up with that and your
5 ideas on shaping that one.

6 Give me some information that I can get
7 to my congressmen who of course is the chair of
8 the subcommittee on financial institutions, so
9 that we can work on these. What would be good for
10 New York? Thank you, Madam Chair.

11 SENATOR KAPLAN: Thank you.

12 MS. BRICCETTI: I would be happy to
13 supply you with ideas on a PPP3 and/or a state
14 program. As far as the 80 percent going to
15 largest 10 corporations, I would just say if they
16 have more than 500 employees, they're not
17 eligible under the PPP guidelines, even in round
18 one. So I would suggest that if that's true, they
19 should return the funds.

20 SENATOR KAPLAN: Thank you.

21 MR. BIRYLA: Senator, in my hand I have,
22 and it's got my notes on it, so I'm not going to
23 send this copy. It's called the legislative plan
24 for the survival of America's small businesses

1 Joint Public Legislative Hearing, 5-13-20
2 and it is 10 points on how to improve PPP and
3 other federal and state programs. I will send
4 that to you, I will send it to the chairs and
5 encourage them to distribute it. It's federally
6 facing, but it gives an idea how to improve this
7 program.

8 SENATOR SANDERS: Thank you.

9 SENATOR KAPLAN: Thank you very much. We
10 will definitely share that with everyone on this
11 hearing with us. Next is Senator Little.

12 SENATOR BETTY LITTLE: Thank you.

13 SENATOR KAPLAN: Go ahead.

14 SENATOR LITTLE: Thank you very much.

15 And I won't take much time. But one of the things
16 that we're all hearing and I'm hearing up here is
17 some of the unfairness that goes on with who is
18 open and who can't be open, who's selling what.
19 You know, the big box stores sell everything from
20 kitchens and carpets and paint and all of that
21 and Wal-Mart does the same.

22 So as we go forward, I think, I'm hoping
23 that these associations that work with
24 hairdressers, with nail salons, with all of those

1 Joint Public Legislative Hearing, 5-13-20
2 businesses, as well as the smaller retail stores
3 will put out plans or guidance for these entities
4 so that they have some consistency. You go in one
5 store and another store, it's the same, mask,
6 spacing, everything alike, that we can move
7 forward and help more and more of our small
8 businesses get open. We're on the verge, the
9 North Country got the okay today. The Capital
10 District, which is Warren, Washington and the
11 rest of the Capital District is very, very close,
12 just one more thing to achieve. So I'm just
13 hoping that you're working with them as lead
14 business councils to get this going.

15 MR. BIRYLA: Every day, senator. You
16 know, we put a letter into Empire State
17 Development on Friday that specifically called
18 out the inequity of certain huge, big box retail
19 being able to operate when their competitors for
20 the sole flaw of not selling the right
21 combination of materials have not been able to
22 operate. And we understand it was very chaotic at
23 first and we needed to make sure certain vital
24 types of retailers were open, but we need to do

1 Joint Public Legislative Hearing, 5-13-20

2 better going forward. It's a priority of ours.

3 SENATOR LITTLE: Thank you.

4 SENATOR KAPLAN: Thank you very much. I
5 want to extend again, a thank you to our
6 panelists Heather and Greg. We're going to start
7 with the next panel, panel number three is we're
8 starting with Tom Cosgrove, Farm Credit East and
9 and also Julie Suarez, the associate dean of
10 Cornell College of Agriculture and Life Sciences
11 and Lauren Williams, New York State Farm Bureau.
12 Please go ahead, take this time and give us your
13 testimony.

14 ASSEMBLY MEMBER STIRPE: Tom, maybe you
15 can start.

16 MR. TOM COSGROVE, VICE PRESIDENT, PUBLIC
17 AFFAIRS AND KNOWLEDGE EXCHANGE, FARM CREDIT EAST:
18 Okay. Can you hear me?

19 ASSEMBLY MEMBER STIRPE: Yeah.

20 SENATOR KAPLAN: Yes.

21 MR. COSGROVE: So my name is Tom
22 Cosgrove, with Farm Credit East. I oversee our
23 public affairs, our knowledge exchange and our
24 marketing group. As most folks probably know,

1 Joint Public Legislative Hearing, 5-13-20

2 Farm Credit East is cooperative. We provide
3 credit and financial services to farms, horse
4 product and fishing businesses in New York and
5 across the Northeast. We've got about over four
6 billion dollars in loan commitments to more than
7 10,000 customers New York. And as a cooperative,
8 most of our board of directors are elected and
9 that includes our chair, Laurie Griffen from
10 Stillwater, New York and our vice chair, John
11 Knopf, from Canandaigua, New York.

12 I appreciate the opportunity to make
13 some comments about the federal response to the
14 COVID-19 pandemic and its effect on small
15 businesses. Certainly most farm businesses are
16 considered small businesses. And like every other
17 sector of economy, it's had a major impact on the
18 food and agriculture sector in New York. Farm
19 Credit East issued a report a few years ago,
20 called Northeast Economic Engine that really
21 looked at the economic impact of agriculture and
22 food in the state, estimating \$40 billion in
23 economic activity and supporting more than
24 160,000 jobs in the state.

1 Joint Public Legislative Hearing, 5-13-20

2 And we know that although we don't know
3 the level of impact, we know that a lot of farm
4 families are facing financial hardships right
5 now. And I certainly want to assure legislators
6 that Farm Credit East and our team are going to
7 be working with our members on a case-by-case
8 basis to help them get through this challenging
9 time.

10 So since the pandemic started, Congress
11 has passed four major pieces of legislation. I'm
12 going to comment on three of them. The Paycheck
13 Protection Program, the Economic Injury Disaster
14 Loan Program, the Coronavirus Food Assistance
15 Program. These were all programs that were
16 somehow touched in those laws that have been
17 passed by Congress.

18 I would mention though, that in the
19 CARES Act, there has been some significant tax
20 provisions that affect both individuals and
21 businesses. I'm not going to get into those
22 today. Those are less immediate than the the
23 subject of today's hearing, but I do think
24 they're important and our knowledge exchange

1 Joint Public Legislative Hearing, 5-13-20

2 group has some information on those on our
3 website.

4 Relative to the Paycheck Protection
5 Program, I think one the challenges for folks in
6 agriculture accessing that program is that it was
7 administered by the Small Business
8 Administration. And that's certainly not a
9 criticism of the SBA, but like most farms, Farm
10 Credit East has really had very little
11 interaction with the SBA over the years. In fact,
12 ag producers are ineligible for some SBA
13 programs.

14 And like farms, Farm Credit East, we are
15 primary provider of credit to farms in New York
16 State. Our primary partner on the lending side in
17 federal government is the USDA Farm Service
18 Agency. And so we weren't set up with ready
19 access to the SBA program.

20 So, nonetheless, we want to make sure
21 our customers had an opportunity to participate,
22 so as a result, we focused on a couple of things.
23 Producer education, you know, held several
24 webinars, had regional specialists teams set up

1 Joint Public Legislative Hearing, 5-13-20

2 to help provide the information that was going to
3 be needed to apply for the program. We did make
4 arrangements with a third party provider to
5 process applications for Farm Credit East
6 customers and we did assist other customers in
7 accessing the program.

8 In the first round, it was somewhat
9 disappointing that agriculture had a fairly low
10 share of PPP funding, but when the additional
11 fund were provided by a Congressional action in
12 April, we're encouraged that more farms did
13 receive funding or are currently waiting for
14 their loans to close as part of the process
15 currently. But I would say, it was a difficult
16 program to participate in for many farms. And
17 despite certainly the efforts of SBA staff to
18 help people.

19 I won't spend a lot of time on the EIDL,
20 but I would point out that that's an example of a
21 program where farms were not originally eligible
22 for the program. And now again, when congress
23 acted in April to provide additional funding for
24 the PPP as well as the EIDL, they did make ag

1 Joint Public Legislative Hearing, 5-13-20
2 producers eligible for that program. But there
3 was a delay in the window being opened up. There
4 is a window currently open for ag producers to
5 apply for that program. But there are some
6 interactions with PPP that may cause some issues
7 and challenges.

8 Looking for my timer clock, and it is
9 getting low. Okay, so I guess the last comment I
10 would make is on the Coronavirus Food Assistance
11 Program, a lot to unpack there. Certainly, I
12 think the assistance that has been put forward is
13 possibly not going to be enough. We certainly
14 support the recommendations of the New York Farm
15 Bureau and other organizations that are going to
16 make recommendations. I want to applaud the
17 efforts of Commissioner Ball as well. I'm happy
18 to take any questions at the end.

19 SENATOR KAPLAN: Thank you. Julie, would
20 you like to go next?

21 MS. JULIE SUAREZ, ASSOCIATE DEAN,
22 COLLEGE OF AGRICULTURE AND LIFE SCIENCES, CORNELL
23 UNIVERSITY: Great, Thank you so much and you
24 have may have noticed I'm not Kathryn Boor. She

1 Joint Public Legislative Hearing, 5-13-20

2 sends her regrets, she was called away to another
3 meeting. But again, Julie Suarez, I'm associate
4 dean of the college and really appreciate the
5 opportunity to be here today and represent CALS
6 and our extension system and our over 150 year
7 partnership with New York State as your land
8 grant.

9 So I'd like to emphasize first of all
10 that good public health is simply not possible
11 without access to nutritious food as regionally
12 sourced as possible. And so as we seek to
13 reimagine would what our state will look like in
14 the post COVID-19 era we simply have to create a
15 more resilient farm and food system.

16 I have more comprehensive remarks about
17 the federal programs and what we've been seeing
18 happening in our supply chain and for our farms
19 written information but I'll share a few
20 highlights with you today.

21 When we think about the supply chain,
22 according to the USDA, in 2017 U.S. families
23 spent more money on food consumed out of the home
24 than on food consumed at home. This is why the

1 Joint Public Legislative Hearing, 5-13-20

2 almost immediate cessation of food consumption
3 outside the home, including in our schools,
4 restaurants and institutions had an
5 extraordinarily disruptive effect on our food
6 system and that's why you as a consumer have seen
7 all these images of farmers dumping milk or other
8 crops.

9 From CALS' perspective, we have to
10 restructure to ensure that processors in our
11 supply chain networks can implement changes more
12 quickly in the future to avoid both shortages for
13 consumers and financial losses for farmers. New
14 York's Economic Development Program should in the
15 future really try to focus on improving
16 resiliency to supply and demand shocks by
17 allowing access capital food processors to build
18 more flexibility into their facilities so they
19 can more rapidly adjust should we see shocks like
20 this in the future.

21 When we think the economic impact in New
22 York State from COVID-19 here in New York, it's
23 really clear that the dairy sector has been the
24 hardest hit with the equine and ornamental

1 Joint Public Legislative Hearing, 5-13-20

2 horticulture sectors also experiencing grave
3 losses. The craft beverage community is
4 negatively impacted from the loss of visitors to
5 tasting rooms, like our wineries, cideries and
6 distilleries, as are produce farms with storable
7 crops like cabbage.

8 Farms that were able to pivot very
9 quickly to online and direct marketing have had a
10 far easier time navigating this crisis. So there
11 is opportunity out there for New York farms, but
12 it certainly has been a very difficult
13 adjustment.

14 I want to touch briefly on USDA ag
15 programs and other federal relief and my
16 colleague, Tom has done a great job talking about
17 PPP and the EIDL. But there are a number of
18 agricultural assistance programs that have been
19 announced by USDA that details are actually going
20 to be forthcoming, frankly tomorrow which will be
21 interesting. Very little cash assistance to the
22 farm community right now has been disbursed,
23 which exacerbates the financial challenges for
24 farmers in New York State.

1 Joint Public Legislative Hearing, 5-13-20

2 So first the USDA announced that 16
3 billion in payments will be made to farmers based
4 on their actual financial losses from price
5 reductions. This gets a little complex. But the
6 goal of the USDA is to cover 85 percent of the
7 price losses from the period of January 1 to
8 April 15th and 30 percent of the price losses
9 from April 15 to October 15th.

10 The seasonal weighting on this program
11 is geared towards other regions of the country
12 already in production and provides a really
13 uncertain safety net for New York specialty crops
14 farmers who will experience COVID-19 marketplace
15 impacts later this season when our crops are in
16 production.

17 Additionally, payment limitations per
18 farmer and per commodity are still under
19 consideration by the USDA. New York's dairy and
20 specialty crops farms tend to have a much higher
21 production expenses that typical row crop
22 agriculture, so think Midwest, corn and soybeans.
23 So USDA relief programs may not be adequately
24 designed to provide relief to New York.

1 Joint Public Legislative Hearing, 5-13-20

2 Policy makers really have to carefully
3 and thoughtfully monitor the USDA's relief
4 efforts to determine whether there are in fact
5 adequate funds available to support New York
6 producers throughout our growing and harvesting
7 season especially in our hard hit dairy sector.

8 USDA has talked about food assistance
9 programs and they've really doing a good job of
10 augmenting nutritional programs so far. They
11 announced three billion has been allocated for
12 the purchase of fresh produce, dairy and meat for
13 community food assistance. Farms that have
14 experience in New York's Farm to School Program
15 were likely to be better positioned to take
16 advantage and our extension system in the state
17 department of Ag and Markets are working with
18 potential applicants in the future.

19 However, the USDA just announced the
20 first awards under this program and I have to say
21 we were extraordinarily disappointed to learn
22 that many of the New York's applicants were not
23 awarded fund. I hope sincerely that future rounds
24 contain more New York awards. This does however

1 Joint Public Legislative Hearing, 5-13-20

2 make the governor's effort in Nourish New York
3 and New York City efforts to purchase locally
4 even more important, both from a food security
5 perspective and also from a local farm's
6 perspective.

7 The CARES Act, as Tom Cosgrove pointed
8 out, did make farmers available for the PPP
9 Program. But in the first round, PPP funds were
10 gone by the time guidance was released by SBA to
11 help lenders understand exactly how sole
12 proprietors such as farmers would apply. There's
13 also a lack of clarity and eligibility for
14 farmers with seasonal labor costs. The second
15 round of PPP funding has been smoother with many
16 farms securing needed funds from what we're
17 hearing from our extension system and our
18 partners. A change in the formula for calculating
19 seasonal --

20 MODERATOR: I'm sorry your testimony time
21 is up. Thank you.

22 MS. SUAREZ: Yep.

23 SENATOR KAPLAN: Thank you. Lauren,
24 would you like to start your testimony?

1 Joint Public Legislative Hearing, 5-13-20

2 MS. LAUREN WILLIAMS, SENIOR ASSOCIATE
3 DIRECTOR OF PUBLIC POLICY FOR NATIONAL AFFAIRS
4 NEW YORK FARM BUREAU: Yes. Good afternoon,
5 everybody. On behalf of New York Farm Bureau,
6 thank you for providing our organization the
7 opportunity to testify today on the impact of
8 coronavirus on New York's ag industry. My name
9 Lauren Williams and I handle national affairs for
10 New York Farm Bureau. And we represent over
11 20,000 farm families across the state, which
12 represents all sizes, types and commodities of
13 farmers.

14 And to really start off with, I don't
15 think anybody really could have predicted the
16 impact that our farmers and our food supply were
17 going to feel when this whole thing began across
18 the country. Not only have our farmers
19 experienced the loss of markets, dumping of
20 products and labor disruptions, there also
21 remains uncertainty of what the future holds for
22 these businesses. And I think when we talk of
23 recovery time or if these farms are able to
24 bounce back, we're talking not in months but

1 Joint Public Legislative Hearing, 5-13-20

2 years going forward.

3 Especially focusing on dairy industry,
4 we were just coming off of four years of low milk
5 prices and 2020 was going to be a positive year,
6 and now it looks like that's going to be the
7 case. So definitely have a lot of concerns there
8 for dairy, but also commodities like specialty
9 crop, equine and horticulture as well.

10 And I will point out it hasn't been all
11 negative. Those farmers who are able to be direct
12 marketers have seen increases in interest in the
13 local food movement, which is really positive and
14 we've will also seen our distilleries and our
15 ethanol industry step up to the plate and make
16 sanitizers, which we view as real big positive.

17 Again, kind of as everybody said, really
18 want to thank the Department of Ag and Markets
19 for all their efforts to kind of link our farmers
20 who have excess produce or food to those who are
21 in need across the state, including those in New
22 York City.

23 So focusing on now the federal programs,
24 the CFAP Program, or the Coronavirus Food

1 Joint Public Legislative Hearing, 5-13-20
2 Assistance Program, that USDA is going to
3 administer, as Julie said, that program is going
4 to provide \$16 billion in direct assistance to
5 farmers. That may sound like a lot of money about
6 you once it's divided across the country, we have
7 real concerns whether or not our farmers in New
8 York are going to be able to receive adequate
9 support and have the resources and money they
10 need to move forward.

11 And we haven't seen -- our farmers
12 haven't received any money from that program at
13 this point, which is definitely concerning
14 because we're now in kind of the third month of
15 the impacts going forward and we are going to
16 continue to see those impacts. A lot of details
17 of that program and concerns we have are in my
18 written testimony, but I think specialty crops
19 and horticulture have been a typically
20 underserved industry by USDA programs, so I
21 really want to make sure that those guys find
22 support in that program.

23 I won't get into too many details of PPP
24 and EIDL, because I think we've really touched on

1 Joint Public Legislative Hearing, 5-13-20

2 them. But I think we face the same hardships that
3 other industries are faced with, trying to find
4 lenders that were approved to be an SBA lender
5 through PPP and ineligibility initially for the
6 EIDL program. So continuing to try and get our
7 farmers signed up for those programs.

8 So, looking forward, kind of what we're
9 looking for from the federal level going forward
10 is making sure we, you know, more money is
11 allocated to USA through Congress, as we see the
12 need continue to be there.

13 Also, I want to talk about the need to
14 make sure our farm workers have the supplies they
15 need. We've been working with Ag and Markets
16 through cooperative extension to make sure we get
17 masks and sanitizers out to farmers and farm
18 workers who have continued to work through this
19 pandemic, so we think that's a real critical need
20 going forward. And making sure everybody has that
21 guidance, you know, as they continue to be open
22 but as they reopen their u-pick operations or
23 their [unintelligible] [03:35:51] and operations
24 or their equine operations about how they can

1 Joint Public Legislative Hearing, 5-13-20

2 move forward.

3 So also, focusing on ag finance for our
4 businesses, working with Farm Credit East but
5 also farm service agency to make sure our farmers
6 have the funds they need.

7 And so the question when we look at the
8 state, what the state can do, a big one for us is
9 ensuring that the state provides the critical
10 funding that's there for current ag programs,
11 that were allocated in the state budget. We think
12 those are critical. One I will point out is New
13 York FarmNet, which provides a lot of mental
14 assistance and business assistance to our
15 farmers. So, thank you.

16 SENATOR KAPLAN: Thank you, Lauren. I'm
17 going to ask the first question. I know you
18 mention dairy. But is there any other particular
19 sector that has been particularly hard affected
20 by COVID-19? And is it possible that various
21 sectors of agriculture could be better served by
22 different types of assistance? Could you speak a
23 little bit about specific problems, different
24 types of agriculture businesses or experiencing

1 Joint Public Legislative Hearing, 5-13-20

2 and what your recommendations are?

3 MS. WILLIAMS: Do, I will tackle some of
4 that. We kind of focused on dairy, but I think
5 equine, we have had big concerns there just
6 because their operations haven't been able to be
7 opened. Other than exercising horses, they're not
8 able to do riding lessons or offer any other
9 larger operations. Also, the horticulture
10 industry, they were not considered essential
11 under the governor's guidance, so those folks
12 have had to close down. So, through the Easter
13 and the other spring season and Mother's Day,
14 when people are typically buying a lot of
15 flowers, they weren't able to operate as normal.
16 A lot of significant hurt there.

17 Not to put those big box stores on the
18 kind of spotlight but they were still able to
19 sell flowers, where, because they met those
20 minimum requirements but where some of our
21 smaller shops may not have been as well. But I
22 think we've also seen some specialty crop guys
23 who had some cabbage in storage. And they were
24 kind of forced to dump some of that, because they

1 Joint Public Legislative Hearing, 5-13-20
2 saw a restaurant closures in the Chinese markets,
3 because they use a lot of cabbage in those
4 industries.

5 MS. SUAREZ: Senator, I think you asked
6 a really good question. And I just want to point
7 out because the seasonality of New York State
8 agriculture, we're really coming into our
9 production season now. Farmers are out in the
10 fields, they're planting, getting stuff ready for
11 crops. So we'll really harvesting more in that
12 July-august, September, October, November
13 timeframe.

14 And so depending what happens with our
15 economy, with our institutional markets, with our
16 restaurateurs, you know, the impact of COVID-19
17 on farms in New York will be felt for a long
18 time. That's why we pointed out we're so
19 concerned over the federal assistance package and
20 whether that will be enough to have a good
21 supportive network for our specialty crop farms
22 as our season progresses.

23 SENATOR KAPLAN: Thank you. And across
24 New York, we all are hearing about food banks and

1 Joint Public Legislative Hearing, 5-13-20

2 the dire need of food and goods for families to
3 provide for themselves. I attended three
4 different distributions and I see long lines of
5 people who are in these lines for the first time,
6 while at the same times we also hear about
7 upstate farmers having surplus of consumables.
8 The governor undertook Nourish New York to
9 connect these two perfect partners together. How
10 successful has this program been? And is there
11 capacity for our farmers for further
12 participation? Prior to Nourish New York, was
13 there any other programs of this nature in New
14 York? And post COVID, do you think these programs
15 could be sustainable? Any one of you.

16 MS. WILLIAMS: Yeah.

17 MS. SUAREZ: It's kind of like a who's
18 on first. I guess I will tackle this first and
19 then turn it over. I think the Nourish New York
20 program was absolutely vital. Cornell Cooperative
21 Extension and CALS have partnered with the agency
22 in a number of different ways, like trying to
23 identify farms with surplus crops as Farm Bureau
24 and I'm sure Farm Credit as well.

1 Joint Public Legislative Hearing, 5-13-20

2 As I mentioned in my testimony, with
3 USDA bids not primarily going to New York based
4 food hubs and farm aggregators and dairy co-ops,
5 without Nourish New York, I can say with some
6 confidence that it would have been very, very
7 difficult to see any more New York products going
8 to food banks. It was disheartening to see that
9 first round of the Families First food box
10 distribution awards.

11 So, Nourish New York has been a great
12 initiative. Prior to Nourish New York there's
13 also the HPNAP program and I may get the acronym
14 slightly off, the Hunger Prevention Assistance
15 Program, run through DOH, that's been really
16 successful. Cooperative Extension run a gleaning
17 program with local farms that donate straight to
18 food banks and community food assistance programs
19 in the Hudson Valley. And that HPNAP program has
20 also helped facilitate purchases by food banks of
21 fresh fruits and vegetables.

22 I don't know what the current funding
23 level is, senator, but I can look that up and get
24 that to you. But that's been a way New York State

1 Joint Public Legislative Hearing, 5-13-20
2 has been leading the way frankly, in matching
3 local farm needs into the food assistance
4 programs. Programs like that have been really
5 helpful, and demonstrated economic impact, as has
6 the Farm to School Program.

7 SENATOR KAPLAN: Thank you. Assemblyman
8 Stirpe, you're next.

9 ASSEMBLY MEMBER STIRPE: Thank you. I'll
10 take this myself. I don't want to tire you out,
11 Julie, but I was reading your written testimony,
12 and I thought it might be interesting for you to
13 explain to everybody the problems with this CFAP
14 direct payments and the fact that they want to
15 give out 80 percent between January and April, I
16 think, and then 30 percent after that and how
17 that affects New York.

18 MS. SUAREZ: Yeah, that's a great
19 question. I would be curious on Tom and Lauren's
20 thoughts on here, too. For the dairy industry,
21 clearly that will be an appropriate program. But
22 for other sectors in New York State agriculture,
23 it's real a complete gray area. And as Lauren has
24 already touched on both ornamental horticulture

1 Joint Public Legislative Hearing, 5-13-20
2 and equine and aquaculture were largely also shut
3 out of some of these programs, too.

4 But if you're weighting the assistance
5 towards a price loss between January to April,
6 that means other regions of the country that are
7 already in production, California, et cetera,
8 Florida, where you've seen kind of these images
9 of dumped crops rotting in the field, which is
10 not a good situation for anyone, but those farms
11 going to get a higher level of assistance versus
12 when our farmers start to come into production
13 and start to sell, worth at 30 percent of the
14 price loss coverage.

15 So that's going to have a very real
16 impact on New York State specialty crops farmers
17 and potentially a detrimental one, particularly
18 as we don't know how long that 16 billion will
19 last. It sounds like a lot of money, right, 16
20 billion, when you divide it up throughout the
21 entire country, we're just not sure what the
22 impact could be.

23 MR. COSGROVE: And maybe if I could
24 weigh in on that one, too?

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER STIRPE: Sure.

3 MR. COSGROVE: It's good question, I
4 agree with Julie's comments. Yeah, I mean a
5 couple of different things, one of the things,
6 points I wanted to make in my testimony is that
7 because EIDL and PPP really weren't set up well
8 suited to agriculture, I mean I think it's
9 extremely important that CFAP is simple. That
10 it's simple for producers to apply for, they
11 understand how much they can get and to be able
12 to get the assistance out quickly, I think that's
13 going to be critical.

14 I know the Department of Ag and Markets,
15 Commissioner Ball, they've done some analysis as
16 to the relative amounts. There's allocations
17 within that 16 billion and the 2.9 billion for
18 dairy I think, as Julie has alluded to, partly
19 because of the formula, et cetera, you know, that
20 may not go that far. So that is a real concern.

21 I think another one to keep in mind is
22 an issue that I've heard relative to there's five
23 billion allocated for cattle assistance. Well the
24 sale of dairy cull cows for beef is an important

1 Joint Public Legislative Hearing, 5-13-20
2 revenue stream for dairy producers, and that's
3 another market that's been impacted both from
4 their marketing, as well as the price. So I think
5 those are all things to take into account.

6 ASSEMBLY MEMBER STIRPE: Okay. Also, the
7 PPP, I mean, the 75/25 split on that and how the
8 seasonality in New York also effects that is
9 because it's going to run out at the end of June.
10 And then all of a sudden, you've got to have all
11 hands on deck. Is that really set up in any way
12 to sort of minimum the way that New York farms
13 operate?

14 MR. COSGROVE: No, that's a good point,
15 assemblyman. They did make some provisions to the
16 -- because basically, the PPP was based on your
17 monthly average payroll times 2.5. There were
18 some provisions of being able to look at a
19 smaller slice of the year other than the full
20 year. But depending on your business, especially
21 in New York, that wasn't a good fit.

22 And I do think to your other point and I
23 heard this actually in the previous panels as
24 well, is that the timeframe by which you're

1 Joint Public Legislative Hearing, 5-13-20
2 trying to bring employees on and the time frame
3 by which you have to spend it and because 75
4 percent has to be for payroll, that can be
5 difficult. My understanding is that you have
6 eight weeks from when you get the loan. But
7 still, that may not bring many of our producers
8 into the point where they're at their peak
9 employment.

10 ASSEMBLY MEMBER STIRPE: Right. Okay.
11 Thank you. Senator?

12 SENATOR KAPLAN: Thank you. Next is
13 Senator Metzger, chair of agriculture committee.
14 Senator Metzger?

15 SENATOR METZGER: Am I unmuted? Just
16 want to make sure.

17 SENATOR KAPLAN: We can hear you.

18 SENATOR METZGER: Alright. Great,
19 thanks. Thank you, Senator Kaplan and A Assembly
20 Member Stirpe for leading this hearing. We talk
21 about small business being the lifeblood of our
22 economy in New York and that is exponentially
23 true of our farms that are feeding us, nourishing
24 us and our main, if not the main driver of the

1 Joint Public Legislative Hearing, 5-13-20

2 economy in New York's many rural communities.

3 And, of course, their wellbeing effects
4 many other small businesses up and downstream,
5 from farm supply businesses to the restaurants
6 that purchase their products. And they're
7 essential businesses, but many of them are
8 struggling. I have a few questions. I think I'll
9 ask them just upfront and just to be efficient.

10 But for our small farms specifically,
11 could you talk about whether federal assistance
12 programs to date are really set up to meet their
13 needs? And are there particular kinds of
14 assistance that are our farms need that they're
15 not getting, for instance, I know farm worker
16 housing is a big issue in this, during this
17 crisis, just keeping basically reducing the risk
18 of transmission. There are certain costs like
19 that that I think are unique to agriculture.

20 Secondly, the New York nourish program,
21 or Nourish New York program was mentioned. It's a
22 great initiative. I am extremely concerned, I
23 mean, we haven't seen what's coming out of this
24 three billion dollar program through USDA, but

1 Joint Public Legislative Hearing, 5-13-20

2 there's not necessarily a connection in that
3 federal funding between where the program is
4 sourcing its food and where it's being
5 distributed. And I'm just wondering if our
6 panelists feel it would be more beneficial for us
7 to look to increased funding for state programs
8 so that we can expand programs like Nourish New
9 York rather than try to tweak to the USDA
10 programs to better meet our needs?

11 And then just lastly, if we have time to
12 get to it, Julie, you mentioned at the start the
13 need to strengthen our regional food systems and
14 this is an opportunity, I believe, you know, as
15 we're coming out of this crisis to invest wisely
16 and really strengthen those systems and if you
17 want to say a few things about how we should be
18 investing that money and I think we should be re-
19 examining how we're using our economic
20 development funding in New York with an eye to
21 that. Why don't we start with the first question?
22 Go ahead.

23 MR. COSGROVE: I'm just going to make a
24 quick comment and then I want to turn quickly to

1 Joint Public Legislative Hearing, 5-13-20

2 Lauren and Julie for theirs. One item relative to
3 the USDA aid that I think is important, you
4 mentioned small farms. I also think many of the
5 producers, as we've all discussed, are ones like
6 specialty crop producers and others are maybe
7 ones who have not often gotten USDA assistance.
8 So, I think that's going to be real critical how
9 that's done and that's got to be thoughtful and I
10 think they've got to find a way to make direct
11 payments folks who have suffered the
12 [unintelligible] [03:49:37] farm. But I will pass
13 it to Lauren or Julie for the other parts of your
14 question.

15 MS. WILLIAMS: Yes, I think when it
16 comes to small farms and any farm in general, I
17 think we're really curious to see how that CFAP
18 program is going to provided enough payments to
19 them. I think the letter that Ag and Markets did
20 to USDA kind of highlighted the critical need
21 that even for our small dairy farms, the CFAP
22 program was only go to cover about 4.6 percent of
23 production losses for farms, for small dairy
24 farms when actually their production loss is

1 Joint Public Legislative Hearing, 5-13-20

2 closer to 16 percent. So I think that's a major
3 concern for all of our operations going forward.

4 In terms of farm worker housing, that
5 remains to be a concern. Our county farm bureaus
6 have been working with our cooperative extensions
7 and the county health departments to try and
8 identify in the county health department plans if
9 quarantine housing is needed for those farm
10 workers, what locations can be utilized for that.
11 So there is a lot of proactive things happening,
12 so we encourage folks to keep utilizing the
13 county departments of health and CCEs to help
14 with that. And I'll let Julie talk kind of about
15 strengthening that regional food system as well,
16 which I think is a definite thing that this
17 pandemic has brought to light.

18 MS. SUAREZ: I agree, and senator, I'd
19 just say that I hope if we learn nothing at all
20 from this crisis, then the experience of so many
21 of us have now had of walking into a grocery
22 store and finding either a limit on a purchase or
23 a completely empty store shelf, that I hope that
24 this makes us realize that we really do need to

1 Joint Public Legislative Hearing, 5-13-20

2 re-think how our food system has been behaving.

3 And I am not invalidating the wonderful

4 efficiencies that do occur from having just-in-

5 time delivery strategies and you know, greater --

6 MODERATOR: I'm sorry, the time to
7 answer the question is up.

8 MS. SUAREZ: But it's really important
9 to invest regionally because I think we're going
10 to continue to see supply chain disruptions like
11 we're seeing and so your question on the economic
12 development, I think is probably worthy of a
13 broader conversation and perhaps a different
14 hearing. But how do we actually restructure our
15 food processes in the future so there's more of
16 them in New York? We have a good, robust food
17 processing sector, so they're better support and
18 our farms can maintain more economically viable.
19 And that is worthy of a long hearing in and of
20 itself, I think.

21 SENATOR METZGER: We'll hold one.

22 SENATOR KAPLAN: Thank you, Julie.
23 Assemblyman Stirpe.

24 ASSEMBLY MEMBER STIRPE: Yes, next we

1 Joint Public Legislative Hearing, 5-13-20

2 have our ag chair, Donna Lupardo.

3 ASSEMBLY MEMBER LUPARDO: Thank you
4 very much. Well, thanks, tom, Julie and Lauren
5 for your testimony. It's very thorough and of
6 course, we will all review it in detail. I want
7 to thank members of my ag committee on the call
8 as well and I'm sure quite a few of them are
9 going to have some specific questions for you.
10 Just so you know, we're focusing on the federal
11 response so we can be better advocates for you to
12 your congressional advocates as this thing moves
13 forward. So we are keeping a keen eye to where
14 the gaps are, so that in our state legislative
15 work we can benefit you and be better advocates
16 as well.

17 So, Julie you mentioned something that
18 caught my attention when you said there were some
19 programs that were not funded at the federal
20 level. And I'm curious if Cooperative Extension
21 is one of them. As you're answering that
22 question, if you could discuss how the role of
23 Cooperative Extension has changed in the middle
24 of this pandemic.

1 Joint Public Legislative Hearing, 5-13-20

2 MS. SUAREZ: Yeah, Donna, thanks so much
3 for asking that and I want to thank you for your
4 partnership. I think you've been working hand-in-
5 hand, as has of course Senator Metzger, with lot
6 of our county cooperative extensions and you know
7 us very well. So as we've had to pivot as
8 everybody else has, to online and educational
9 programs, we've tried to mobilize in much more
10 coordinated fashion between our county extension
11 associations and statewide office.

12 We've done things that I don't think we
13 ever would have imagined holding distribution
14 events for not just not New York State cleaning
15 sanitizer and face coverings but also frankly
16 dairy donation visits, community food assistance
17 drop-offs. CCEs have been a very valuable part of
18 their community. Our technical side, our
19 statewide extension people have been giving
20 farmers advice from everything how to actually
21 dispose of dumped milk, things that we never
22 thought we would have to advise people on before,
23 to answering a ream of food safety questions and
24 helping to keep our food processors strong.

1 Joint Public Legislative Hearing, 5-13-20

2 We have a lot of food scientists who are
3 working hand-in-hand day in and day out along
4 with Ag and Markets in our food processing
5 industry, making sure that they can stay in fact
6 open so that we're able to feed people and also
7 keep those farm supply of ingredients coming. And
8 for those who have food safety questions and want
9 answers, feel free to get in touch with me. We
10 have a lot on our websites. But I think overall -
11 -

12 ASSEMBLY MEMBER LUPARDO: Julie, if I
13 could just interrupt you, because I've only got a
14 couple of minutes left. Maybe you can send me a
15 list of some of the other programs that were not
16 funded. Of course, I'm a regular touch with all
17 of you folks. But I'm interest, Tom, if you could
18 talk a little bit about how you would rate the
19 stress in the dairy industry compared to
20 downswings the past and how you see Farm Credit
21 East playing a greater role. It was helpful to
22 any that the funding was not quite there for you
23 in the beginning of this federal stimulus through
24 the mechanisms that generally are funding farms.

1 Joint Public Legislative Hearing, 5-13-20

2 But how do you anticipate playing a better role?

3 MR. COSGROVE: Right, well, let me make
4 a couple of questions. I mean certainly, the
5 price drop, which frankly at the beginning of the
6 year there was a certain amount of optimism. You
7 know, prices were decent, better than over the
8 few years. The price drop has been significant. I
9 think two things I will point out. The price drop
10 is going to be [unintelligible] [03:55:58] and
11 then you've got farms dealing with the disruption
12 to their operations, dealing with work
13 [unintelligible] [03:56:03] safety and all the
14 things that come with this pandemic. And then you
15 do have a fair amount of marketing disruption as
16 well. And that's where we find the dumping of
17 milk, et cetera, in terms of some smaller co-
18 opportunities and other folks losing their
19 markets, other co-ops reacting by having to cut
20 back on the permitted production of their
21 numbers, you know, all necessary steps but making
22 it difficult.

23 So that's going to make it difficult.

24 We're going to work with our customers to help

1 Joint Public Legislative Hearing, 5-13-20

2 them through and we have the flexibility and the
3 financial resources to help them through, but
4 ultimately I think there's going to be needed
5 some outside aid from the USA and other places.

6 ASSEMBLY MEMBER LUPARPO: Okay. And just
7 a minute left, question to Lauren about mental
8 health issues among our farmers. Obviously, we
9 have a very important program with FarmNet, which
10 I'm sure farmers are using and could use an
11 expansion. If you could just speak to what you're
12 seeing out there, just give the members a little
13 snapshot as to the level of stress. They were
14 already under a lot of stress, to begin with, but
15 now with this going on.

16 MS. WILLIAMS: Yes, so as the
17 assemblywoman said, we really rely on FarmNet
18 which provides mental health services for our
19 farmers. So, it really helps in those times of
20 need, especially right now. We're a hearing from
21 a lot of folks, just a lot of business
22 uncertainty, you know, if they've had to dump
23 their milk, they may be receiving less money and
24 so they've seen a whole upheaval of their budgets

1 Joint Public Legislative Hearing, 5-13-20
2 at this point. So they're looking for assistance,
3 not only on the business side but just dealing
4 with mental stress of this situation. So it's
5 really important that we continue to fund those
6 programs and continue to provide assistance
7 through that program.

8 ASSEMBLY MEMBER LUPARDO: We'll
9 certainly try our best. Thank you.

10 SENATOR KAPLAN: Thank you. Senator May,
11 you are next.

12 SENATOR RACHEL MAY: Thank you so much,
13 Senator Kaplan, Assemblyman Stirpe, and to the
14 panel, hi, everybody. I wanted to thank Lauren
15 for bringing up the PPE and the housing issues
16 with farm workers. We've had a big problem in my
17 district at Green Empire Farms, which is not a
18 small business, but it's been illustrative of how
19 when the farm workers are housed too closely
20 together, then you get outbreaks of the virus and
21 it can spread really fast.

22 So, I feel like it's raised one issue
23 for me that I hadn't understood before, which is
24 the extent to which multiple agencies are

1 Joint Public Legislative Hearing, 5-13-20
2 involved in overseeing things like farm worker
3 housing. And it's the Department of Health, it's
4 the department of Health in the county. There's
5 also the Department of Labor. There's also Ag and
6 Markets and it gets very confusing and you get a
7 sense that nobody really feels a sense of
8 responsibility. So, do you have ideas about how
9 we can do at that better at the state level?

10 MS. WILLIAMS: Yeah. We've been working
11 with Department of Labor since they've kind of
12 taken the step on this. But if there's a way to
13 create clear guidance through Ag and Markets and
14 Department of Labor, as well as Department of
15 Health, I think would be helpful, especially as
16 we move forward if anybody does need to provide
17 quarantine housing of here are the 10 steps you
18 should take and having something streamlined
19 would be helpful.

20 We continue to get the information out
21 to our farmers as much as possible, here are
22 guidelines or things you should be following. And
23 I put a shout out to Cornell ag workforce
24 development. They have done a lot of good

1 Joint Public Legislative Hearing, 5-13-20

2 guidance on employee safety and just information
3 for our farmers to provide to their employees.

4 SENATOR MAY: Thank you. And because I
5 chair the commission on rural resources, I'm
6 thinking about the whole kind of context within
7 which our farmers work. And one thing we're very
8 keenly aware of is the discrepancy number of
9 lawyers, legal representation that's available to
10 people in rural areas, compared to urban areas in
11 the state. And, I don't know if any of you have
12 comments about that. It feels like something
13 important and starting a push to advocate and
14 pass some legislation about that. But I would
15 love your input, any of you Julie, Tom or Lauren.

16 MR. COSGROVE: Julie, you want to take
17 that one?

18 MS. SUAREZ: I know this has been long a
19 challenge and Albany Law School does have a Rural
20 Law Institute, which has started to make some
21 inroads there. I do agree, legal capacity, both
22 for farmers and farm employees and also for rural
23 businesses is not as available in rural areas.
24 It's absolutely true. You would be surprised but

1 Joint Public Legislative Hearing, 5-13-20

2 it is definitely a missing service in rural
3 areas.

4 I would note with housing concerns,
5 federally, it would be really helpful if we
6 understand and can find out whether or not FEMA
7 will help reimburse farmers for the additional
8 cost of housing, so we can implement more
9 socially distanced housing. So that would be
10 something that would be helpful to gain clarity
11 from the federal government. It would help a lot
12 of farms.

13 SENATOR MAY: Okay. Great. Thank you.
14 And then my last question is about what we're
15 seeing nationwide with meat packing facilities
16 and how many problems are arising there. And so
17 it makes me think about meat processing within
18 the state and whether there are opportunities to
19 do not just local but smaller scale meat
20 processing that might not run into those kinds of
21 problems we're seeing nationwide.

22 MS. SAREZ: That's a great question,
23 senator. If I can, I'll tackle that because the
24 Food Safety Institute actually has done a meat

1 Joint Public Legislative Hearing, 5-13-20
2 specific office hour just this past week aiming
3 at that specific question. In New York State, we
4 have more smaller slaughterhouses, we don't have
5 the large scale processors. And so that's
6 definitely an opportunity to increase our
7 capacity of smaller scale slaughterhouses, so
8 that we can help meet increased local meat
9 consumption demand.

10 You know, we are seeing some COVID-19
11 positive cases in some of our processors as I
12 think I referenced in my testimony. But, again,
13 in the actual act of processing meat, the
14 employees are very close together. That situation
15 isn't quite as widespread through other
16 processing operations. So we're hopeful that
17 through education, through really working with
18 our processors, we can hopefully help avoid some
19 of the large-scale outbreaks that they've had in
20 other of those larger meat packing plants, both
21 in our local slaughterhouses and also in our
22 other food, dairy and fruit and vegetable
23 processors.

24 SENATOR MAY: Thank you, all.

1 Joint Public Legislative Hearing, 5-13-20

2 SENATOR KAPLAN: Thank you.

3 ASSEMBLY MEMBER STIRPE: Okay, next we
4 have up Member Carrie Woerner.

5 ASSEMBLY MEMBER WOERNER: Hi, everybody.
6 Thank you so much for your great testimony today.
7 I have, what's been on my mind is a statistic I
8 heard a couple years ago that in New York State,
9 we produce enough food to feed 40 percent of our
10 population. And certainly over the last few
11 weeks, we have learned the limitations of that,
12 the hard way. That depending on a national and
13 international food supply puts many of our
14 residents at risk.

15 So, my question for you is, as we think
16 about the future, what could we do as a state to
17 encourage or to support the expansion from 40
18 percent to 60 percent so that in New York, our
19 farmers are growing enough food to meet the
20 nutritional needs of 60 percent of our
21 population? Excepting of course that we'll never
22 grow coffee beans, which I really depend on and
23 we'll never grow bananas, but of the things that
24 are possible for us to grow, what could we do to

1 Joint Public Legislative Hearing, 5-13-20

2 support the expansion of food production in this
3 state?

4 MS. WILLIAMS: So I would say probably
5 the first one is just continued investment in
6 technology and research. And I think Cornell, we
7 have a great partner there, to help our farmers
8 become more efficient and produce crops at a more
9 efficient level, but also produce things we may
10 not traditionally produce in New York and kind of
11 finding technologies that would help us do that.

12 ASSEMBLY MEMBER WOERNER: Thank you.
13 Julie I know that at Cornell, that you have a
14 number of technologies in development that will
15 support the expansion of the growing season
16 beyond our relatively short weather-dependent
17 season. What could we do to try to expand the
18 adoption of those technologies?

19 MS. SUAREZ: Carrie, that's a great
20 question. You talked, and actually towards some
21 of our controlled environment agriculture
22 facilities and our research that is going on. In
23 New York, we've actually seen a significant
24 expansion in controlled environment agriculture,

1 Joint Public Legislative Hearing, 5-13-20
2 which is basically large greenhouse operations,
3 and I think that in order to really facilitate
4 movement to a regional food supply chain and more
5 of an import substitution model, continued
6 investments in the R&D that makes those
7 facilities more energy efficient, more
8 environmentally sustainable. And then also that
9 we can grow the type of crops that have the
10 agricultural characteristics taste, quality,
11 freshness, and also frankly the ability to be
12 grown in a greenhouse environment succeed in New
13 York State would be great. That's certainly a
14 growing area and they rely heavily on investments
15 from NYSERDA's Green Banks and also the RIDC
16 programs, which have been quite successful.

17 ASSEMBLY MEMBER WOERNER: Thank you.

18 ASSEMBLY MEMBER STIRPE: Senator?

19 SENATOR KAPLAN: Senator Borrello,
20 you're next. Senator Borrello?

21 SENATOR BORRELLO: Thank you, can you
22 hear me okay?

23 SENATOR KAPLAN: Yes.

24 SENATOR BORRELLO: Thank you very much,

1 Joint Public Legislative Hearing, 5-13-20

2 Madam Chair. My question is actually similar to
3 Senator May's. Not only do I represent probably
4 the largest number of farms in my senate
5 district, I'm also a restaurateur and I was
6 having conversations recently with other
7 restaurants about the whole idea of locally-
8 sourced products.

9 And my question is, the conversation
10 came up with could we have our local meat
11 processors and local farmers meet the standards
12 so that they can meet the USDA standards so they
13 could sell into our wholesalers, our food
14 wholesalers because one the challenges for
15 restaurants is that many, while many restaurants
16 are able to source agricultural products
17 themselves directly from farmers, for the most
18 part, the vast majority of restaurants in our
19 state go through wholesalers.

20 And with the strain on the system that
21 we've seen, could we have a more robust process
22 to get our farmers certified so that they could
23 sell into those food wholesalers?

24 MR. COSGROVE: Maybe I'll take a first

1 Joint Public Legislative Hearing, 5-13-20
2 stab at that, senator. Yeah, I think, I do think
3 one of the things that we have seen in the
4 pandemic and the large-scale meat processing has
5 been a huge issue in terms of that disrupting the
6 supply chain. I mean obviously there's health of
7 the workers, who are in difficult circumstances,
8 but then it sort of backs up the supply chain.

9 And while I think some of the niche
10 producers as you referenced, I think those are
11 actually finding some good opportunities in this,
12 I do think particularly for the dairy industry in
13 terms of the cull cow market, there's concerns if
14 that part of the supply chain breaks down, and so
15 I do think the ability for smaller facilities to
16 be become USDA certified would be a huge
17 advantage because I do think that's a risk point
18 right now.

19 SENATOR BORRELLO: Is there some kind of
20 protocols that could be recommended from whether
21 it's the Farm Bureau or in conjunction with
22 Cornell to kind of give some protocols that could
23 be acceptable, especially in this emergency
24 situation right now, that we could recommend and

1 Joint Public Legislative Hearing, 5-13-20

2 advocate for to the federal government, so we
3 could get this done quickly, also.

4 MS. WILLIAMS: Yeah, and this is a tough
5 one. So, I think, you know, we haven't seen any
6 relaxation by FDA or USDA and their food service,
7 inspection service on meat packing plants, even
8 the small ones at this point. I think the best
9 support we could see is can we provide resources
10 or financial assistance to those businesses or
11 those smaller meat processing plants that may be
12 interested in going the USDA route so they can
13 market more meat or have their customers market
14 more meat.

15 It's definitely unfortunately not
16 something that's going to happen overnight, due
17 to the way New York's meat inspection interacts
18 with the USDA, but if there's opportunities to
19 kind of provide resources or help those
20 businesses, you know provide cost share or
21 something, I think that's something we would be
22 interested in as well.

23 SENATOR BORRELLO: So you're saying
24 there's bureaucratic disconnect right now between

1 Joint Public Legislative Hearing, 5-13-20
2 the way the state and federal governments
3 communicate when it comes to this? Is there
4 something that we can as a group, advocate to
5 kind of break at that logjam.

6 MS. WILLIAMS: So, and not to get into
7 the weeds on the meat packing, so some states
8 have what's called a state equivalent, which
9 means the state does basically what USDA does.
10 And so, they're still inspecting and that's
11 happening at the state level, but New York has
12 what's called the USDA oversight. So USDA does
13 all the inspections of processing facilities in
14 New York.

15 SENATOR BORRELLO: So, is there a, to
16 that end, are you saying it's duplicative and
17 unnecessary for New York to do that? How can we
18 streamline that, in your opinion?

19 MS. WILLIAMS: So New York would have to
20 basically adopt the USDA standards for meat
21 inspection and they'd have to get inspectors and
22 be equipped to do that. So there would be really
23 some really some uptake on Ag and Markets part to
24 be able to do that, so it would take time.

1 Joint Public Legislative Hearing, 5-13-20

2 SENATOR BORRELLO: Okay. Thank you.

3 ASSEMBLY MEMBER STIRPE: Okay. Next up
4 Ken Blankenbush. Hey, Ken?

5 ASSEMBLY MEMBER KENNETH BLANKENBUSH:
6 Hello. Hi, Julie and Lauren. Just a comment,
7 first of all is that we went through a tough
8 budget this year. And hopefully, that when we see
9 our revenue sources coming in and what we can do
10 to help is that we're not going to be taking a
11 look at reducing anything more on the ag budget.
12 We hope to keep that where it is right now.

13 But a lot of my members and the members
14 have already asked questions that I was going to
15 ask, but I have with Julie, you talked about --
16 and other people have talked about this, too, the
17 meat processing. In my area, we have a small meat
18 processor who is literally working around-the-
19 clock trying to keep up with the demand. And
20 right now, he's seeing that the prices that he's
21 paying for meat to come in, they're increasing,
22 which means that he's going to have to pass them
23 on to the consumer. And I think many of the
24 members have already asked, why can't we have

1 Joint Public Legislative Hearing, 5-13-20

2 more meat processors, food processors in our
3 area? And I just want to say that I think Julie
4 touched on it and maybe Lauren touched on it, is
5 that think that's something that when we get back
6 in session, we should e taking a look at that.
7 The transportation of meat coming in, we can
8 certainly help cut the cost and the supply. So I
9 know our -- and I only have small meat
10 processors, that are working around-the-clock.
11 That's something to be concerned about.

12 The other thing, Lauren, you talked
13 about direct marketers not having the same type
14 of problems. Can you explain what the difference
15 is between a direct marketer and the others?

16 MS. WILLIAMS: Yeah, so, I will try and
17 explain this quickly. So direct marketers, you
18 know, you're going to a farmer's market and
19 selling it direct to consumer or the consumer is
20 coming to your farm and picking that right up. So
21 there's no middle man who you're selling the good
22 to, who would then sell it to somebody else. The
23 way a lot of our farms work is they typically
24 would sell it to a wholesaler who is then turning

1 Joint Public Legislative Hearing, 5-13-20
2 and selling that to a grocery store or restaurant
3 or another food sector industry.

4 So, because we've seen a lot of
5 restaurant closures or school closures, that
6 wholesaler doesn't have those markets anymore so
7 it's backing up on the farm side.

8 ASSEMBLY MEMBER BLANKENBUSH: Yeah. So
9 why don't they do more direct marketing, our
10 farmers? Is there something I'm missing?

11 MR. COSGROVE: Well, assemblyman, maybe
12 I can take this part of it. The economics of it
13 are, and again, a lot of the opportunity that's
14 come for some producers is because just the
15 extreme circumstances that we've had. I mean it's
16 hard. It's a different set setup of the operation
17 to have a customer facing front, whether you're
18 doing a CSA, subscription-type based service
19 where you have like a farm stand. Those who have
20 farm stands, you know, because people aren't
21 wanting to go to the grocery store, if they have
22 a product to sell those have become popular. And
23 then certainly, others sell at let's say a
24 farmer's market.

1 Joint Public Legislative Hearing, 5-13-20

2 So, it's just a different structure. And
3 I'm sure many folks are probably right now
4 thinking -- and we know many Farm Credit East
5 customers did, have kind of adjusted on the fly.
6 They were set up for one approach or maybe they
7 did some of both but they've really had to adjust
8 their operations. But we've seen a lot of
9 ingenuity and resilience among our members in
10 terms of who are making that adjustment on the
11 fly. But it's not easy and a lot of operations
12 were set up for one and not the other.

13 MS. SUAREZ: I think a real potential
14 exists, Ken, in the model of a food hub
15 collaborator, right. So farmers have collaborated
16 for a long times but we're seeing in some of our
17 extension efforts and private sector efforts,
18 I'll shout out a western New York example. Eden
19 Valley Growers, a cooperative of eight farmers,
20 vegetable growers, collaborated for a very long
21 time. They started a food hub and now they take
22 in product from local farms, again, more local
23 farms, a little bit smaller than their own
24 operations, some of them organic, some of them

1 Joint Public Legislative Hearing, 5-13-20

2 not organic. And through working together they're
3 actually hitting more of the New York City market
4 collaboratively by working together and sharing
5 some of that marketing cost, so that's been a
6 good model.

7 ASSEMBLY MEMBER BLANKENBUSH: Okay.

8 Thank you. Our conference put forward a couple
9 provisions that we thought could help our farmers
10 right away.

11 MODERATOR: I'm sorry. The question
12 period has expired.

13 ASSEMBLY MEMBER BLANKENBUSH: That's
14 five minutes already?

15 MODERATOR: Yes.

16 ASSEMBLY MEMBER STIRPE: Yes. Senator?

17 ASSEMBLY MEMBER BLANKENBUSH: All right.
18 Thank you.

19 SENATOR KAPLAN: Senator Seward, you're
20 next.

21 SENATOR SEWARD: A panel that's on this
22 afternoon. You know, what I'm hearing
23 consistently from the farmers in my area,
24 particularly dairy farmers, is we don't want a

1 Joint Public Legislative Hearing, 5-13-20
2 handout. We want just a fair price for our
3 product, our milk. And I realize that
4 particularly in the dairy area, farm policy is
5 basically set at the federal level, but is there
6 anything that we can do at the state level to
7 assist these hard pressed farmers who have gone
8 through a difficult period of low prices and that
9 were looking to 2020 as a turnaround year, and so
10 far it's not going to be there because of the
11 pandemic. Is there anything we can do at the
12 state level to provide relief?

13 MS. WILLIAMS: That's a good question,
14 and I think we're still grappling with that
15 because we're understanding there's limitations
16 on what financially the state may be able to do
17 for our dairy farmers. But I think continuing to
18 provide good resources, good business planning
19 and how they may be able to restructure are
20 probably the good resources that the state can
21 provide now through existing programs.

22 MR. COSGROVE: Senator, I would agree.
23 Because the pricing mechanisms, as you point out,
24 are really a purview of the federal government, I

1 Joint Public Legislative Hearing, 5-13-20

2 do think continued state support for sort of the
3 infrastructure around agriculture, certainly for
4 Cornell and its programs, those are critical as
5 well, even outside of the price question of it.
6 So I think -- and really, this actually gets back
7 to a comment that Assemblywoman Woerner
8 mentioned, sort of maintaining that
9 profitability, in addition to some of the
10 research and technology, maintaining
11 profitability is one of the key things to help
12 maintain New York's self-sufficiency in terms of
13 food.

14 MS. SUAREZ: Yeah, and I'd just
15 highlight again the Nourish New York program
16 which we've talked about a lot. I thought that
17 was a really innovative and groundbreaking new
18 program of the governors and the commissioner of
19 Ag and Markets, and that's going to do a lot of
20 good for our dairy farms by actually enabling
21 that milk to be processed into a product that
22 then can be donated to people in need. It's a
23 really nice example of New Yorkers helping New
24 Yorkers.

1 Joint Public Legislative Hearing, 5-13-20

2 SENATOR SEWARD: Thank you. I want to
3 jump in on the meat processing issue that's been
4 discussed by a number of my colleagues already.
5 But what I'm hearing from local, my local
6 livestock farmers, you know, these are basically
7 on a smaller scale, is the actual lack of meat
8 processing facilities in our area. And these
9 livestock farmers are telling me that they're
10 having to wait until 2021 for dates in terms of
11 processing of their animals. Is there anything we
12 can do in terms of encouraging more meat
13 processors to service our farmers as part of the
14 infrastructure that others have talked here in
15 terms of supporting agriculture?

16 MS. SUAREZ: I think, senator, you know,
17 first you have to have an entrepreneur who wants
18 to go into this business, and that's first and
19 foremost. And then once you do find somebody who
20 develops a really good business plan and can make
21 the supply and demand equation work, it's just
22 really important to continue to have that state
23 economic development assistance to really be
24 targeted towards food processors and expansions

1 Joint Public Legislative Hearing, 5-13-20

2 of slaughter capacity would be really helpful.

3 I don't think we'll ever become state
4 like South Dakota with that many animals and that
5 much necessity for slaughter facility just
6 because of our land base, but certainly the need
7 is there to have more local slaughterhouses
8 available. Because I think consumers are
9 increasingly turning more and more to local farms
10 to supply them with meat that they can feel good
11 about purchasing, and that's great opportunities
12 for our local farms.

13 MR. COSGROAVE: And I would just say,
14 senator, I think the economics on that will
15 change with this and that that will be a more
16 sort of profitable, desirable investment
17 opportunity going forward, because obviously, it
18 does take a fairly significant capital investment
19 for a meat processing facility.

20 SENATOR SEWARD: Right. Thank you very
21 much.

22 ASSEMBLY MEMBER STIRPE: Okay. Next up
23 we have Brian Manktelow.

24 ASSEMBLY MEMBER BRIAN MANKTELOW: Yes,

1 Joint Public Legislative Hearing, 5-13-20

2 can you hear me?

3 ASSEMBLY MEMBER STIRPE: I can hear you
4 and I see your new beard.

5 ASSEMBLY MEMBER MANKTELOW: Oh, thank
6 you. Good afternoon, Julie, Tom and Lauren. Just
7 two quick questions, I know Chairwoman Lupardo
8 had spoke a little bit about this. After being a
9 farmer for 30-something years and understanding
10 low prices, bad weather and everything else in
11 between, the mental health aspect of it for our
12 farmers is very severe, especially at this time.
13 And I've talked with Congressman Katko a little
14 bit about this.

15 Is there something more that you feel we
16 could do with the federal side from, as state
17 legislatures to help even push this a little
18 further along? You know, much like our veterans
19 that I deal with, the peer-to-peer groups work
20 very well. Sometimes you don't have enough
21 funding there for them, but is there more that we
22 can do to help our farmers especially moving
23 through this pandemic?

24 MS. SUAREZ: Yeah, Brian, I think you

1 Joint Public Legislative Hearing, 5-13-20

2 ask a good question and I'll just take a stab at
3 this and I put these metrics in my written
4 testimony. But New York FarmNet has really
5 experienced almost over a doubling of calls for
6 our farmer 1-800-hotline, and also in volume of
7 assigned cases which means we need to provide
8 one-on-one personal consultation for mental
9 health challenges or for financial structural
10 advice. So we're certainly seeing the need from
11 the farm community with our New York FarmNet
12 program.

13 The federal government did allocate an
14 additional sum of money, I forget exactly how
15 much it is, to USDA to help bolster the Farm and
16 Ranch Stress Assistance Network, so we're
17 actively exploring that right now, and we'll most
18 likely put in a request for some of the grant
19 funds. They're competitively grant-based, so we
20 don't know what our allocation may be. I would
21 share that by the time the put in the grant
22 application and actually get the funds, we may or
23 may not be on the other side of this pandemic, so
24 it's always a little bit of a challenge for us in

1 Joint Public Legislative Hearing, 5-13-20

2 accessing some of those federal relieve funds.

3 But we certainly hope that more capacity
4 is opened up to meet the mental health needs of
5 our farmers, and also frankly the agri-service
6 community and we're also starting to see a good
7 deal of stress in agriculture related businesses,
8 nutritionists, veterinarians, et cetera.

9 MR. COSGROVE: And assemblyman, I would
10 say that Farm Credit East, we actually did this
11 before the pandemic, but made our employee
12 assistance program open to our customers and
13 their employees. I know that our national trade
14 association of Farm Credit Council has a
15 partnership to help awareness and training,
16 actually the American Farm Bureaus is one of the
17 partners in that. Obviously resources in that
18 area are critical.

19 ASSEMBLY MEMBER MANKTELOW: And then my
20 second question is I know it may be more of a
21 statement than a question, I do know that as a
22 farmer, as a New Yorker, as a New York farmer, we
23 feel very strongly about the products that we
24 produce and how good we do, and I know that as a

1 Joint Public Legislative Hearing, 5-13-20

2 farmer, all we need is a little bit of help to
3 continue to move us forward and to continue with
4 our family farms, our bigger farms. And I know as
5 a legislator here at the state level, I'd like to
6 do more for that.

7 And a few weeks ago we were at a food
8 box distribution, and the apples that we were
9 distributing, again, I think, Assemblywoman
10 Woerner said something about this, they were
11 apples from Michigan. And I had a fruit farmer
12 with me there, and he couldn't believe it. We
13 took some pictures of the bags, and I hate to say
14 this, they were nice apples. But anyways, is
15 there more that we can do at the state level to
16 again help our farmers, giving them that hope
17 that we are going to push to use their products?
18 And I know tying that in with the federal side,
19 we just want to make sure we give them hope and
20 that they have the ability to move their product
21 within their own state.

22 So again, there if there's any thoughts
23 that you could give us in helping us as
24 legislators to move that from the state side and

1 Joint Public Legislative Hearing, 5-13-20

2 also anything we can do to pass it on to our
3 federal representatives as well.

4 MS. WILLIAMS: Yeah, and not to
5 reiterate this, but I think again the Nourish New
6 York is a great model for that, and that's where
7 the flaw of the USDA program comes into play
8 because they'll purchase products from anywhere,
9 so like you said, we'll often see Michigan or
10 Washington apples coming to New York.

11 So, one idea that's been thrown around
12 is providing a block grant to states so simply
13 USDA would give money to states to help purchase
14 products. So that would be a way to ensure that
15 you're purchasing local products because the
16 state is doing it versus USDA.

17 MR. COSGROVE: And I would just add
18 quickly I know Commissioner Ball is, that's been
19 a big priority of his in terms of getting New
20 York products in the New York City schools,
21 working on reimbursement rates and other things
22 like that to help encourage that. But clearly
23 it's an important way to be able to feed our own
24 folks through the different channels we have,

1 Joint Public Legislative Hearing, 5-13-20
2 which are admittedly are probably changing now in
3 the new environment

4 ASSEMBLY MEMBER MANKTELOW: Well, thank
5 you for your answers. It's much appreciated, and
6 we'll do our part, too, to continue to push this
7 for our local farmers, our farmers from New York
8 and chairman, thank you for the time.

9 ASSEMBLY MEMBER STIRPE: Okay. Thank
10 you. Next we have Member Micki Solages.

11 ASSEMBLY MEMBER MICHAELLE SOLAGES:
12 Thank you to the chairs, also as well the
13 panelists. We really see that COVID-19 is the
14 third shockwave when it comes to the food crisis
15 that we're speaking about. And so we know that
16 New York is very dependent on imports of food
17 outside of the state and around the world, so we
18 really need to focus on making buy local less of
19 a tag line and more of an action that we need to
20 do. So I have several questions, and the first
21 question I have is were we able to stop the
22 dumping of the milk? Thank you.

23 MR. COSGROVE: Well, I can comment on
24 this. I mean, I don't know specifically right

1 Joint Public Legislative Hearing, 5-13-20

2 now. But it's, because you basically have a
3 mismatch in the supply chain, when all the food
4 service shut down, a lot of the processing plants
5 are set up for those particular types of products
6 which then are no longer being demanded. So in
7 some cases there's still not a choice. Now, I
8 think the market is changing. I know some of the
9 processors and handlers are reacting. They're
10 putting supply controls on their members so that
11 you don't have that issue. Because, I mean, I
12 heard -- I can't remember who said it, but the
13 comment was and I thought it was apt, is that
14 farmers dumping food or milk or any product is
15 like a painter throwing away a paint, and they
16 don't want to see that. So we've got to find ways
17 to not do that happen and I know there are
18 efforts underway. But I can't say that it's
19 stopped.

20 ASSEMBLY MEMBER SOLAGES: Okay. So how
21 can we coordinate the milk or any other food from
22 any other farm, how can we coordinate it with the
23 food banks? How can we have a closer conversation
24 and get that direct to the food banks? And also,

1 Joint Public Legislative Hearing, 5-13-20

2 I know for example in the east end, some of the
3 fishermen were trying to sell to the food bank
4 but the fishermen didn't want to disclose what
5 prices they wanted to sell at because they, of
6 course, wanted to make a profit, which is no
7 problem to them, but now we have a issue of the
8 pricing.

9 So can there be a closer conversation
10 had? How can we bring all the stakeholders in the
11 room to talk to the food banks and also the food
12 producers so we can streamline it as soon as
13 possible?

14 MS. WILLIAMS: I think, assemblywoman,
15 you raise really excellent points, and Tom
16 touched on this a little bit. When we talk about
17 trying to build more resiliency into the food
18 system, it's really important that we look at the
19 entire food system, not just farms, not just food
20 processors and not just food banks, but is
21 working together synergistically. And I know one
22 of the significant challenges that we have in New
23 York agriculture in selling or donating more to
24 food banks is the ability of food banks

1 Joint Public Legislative Hearing, 5-13-20

2 themselves to actually store and maintain cold
3 chain compliance of the products, so the products
4 can be safely held for consumers to have. So I
5 think your question, there's many answers to your
6 question but we really need to think about the
7 resiliency of the infrastructure that we have
8 that moves food to people. So that our processors
9 like Tom mentioned, dairy processors, can be able
10 to pivot much more quickly to produce the
11 products that consumers need more immediately. I
12 don't know if that's the right answer to your
13 question.

14 ASSEMBLY MEMBER SOLAGES: Are those
15 people or individuals in New York State? Or do we
16 have to ship the milk out of the state in order
17 for it to be processed and bring it back?

18 MS. SUAREZ: We have a lot of processors
19 in New York State directly. We do ship some milk
20 outside of New York State to be processed and
21 whey and some other products, but we do have a
22 lot of New York State processors, particularly in
23 dairy. It's one of our key strengths.

24 ASSEMBLY MEMBER SOLAGES: Okay. And then

1 Joint Public Legislative Hearing, 5-13-20

2 with regards to a lot of schools are doing grab
3 and go lunches, and I'm sorry to rush it because
4 I only have five minutes, a lot of schools are
5 doing grab and go lunches. How are we partnering
6 with the schools and so that we can encourage
7 children to drink more milk because I noticed a
8 lot of the grab and go lunches don't consistent
9 of a beverage. So maybe we can encourage the
10 schools to purchase the milk.

11 MS. WILLIAMS: Yes, so when this was
12 originally starting to happen and we saw some
13 cases where schools weren't providing milk, I
14 would encourage anybody who has seen that or
15 really connect with Ag and Markets because that's
16 been pay priority for them to ensure that every
17 meal that goes out to those kids have milk in it.
18 So they're able to make connections between a lot
19 of the processors who have milk, and to those
20 schools as well. I'm happy to provide that
21 contact info for you.

22 ASSEMBLY MEMBER SOLAGES: Excellent. And
23 then with the food hub that we're talking about,
24 how can we start coordinating that? Because I

1 Joint Public Legislative Hearing, 5-13-20

2 know I have a great farmers market, Crossroads
3 Farms, which is a local farm close to my district
4 and they're doing a farmers market and it's
5 packed every Saturday. So how can we encourage
6 more farmers market and connect all these
7 individuals to get to the food at the farmers
8 markets?

9 MR. COSGROVE: I think we're probably
10 about out of time.

11 MODERATOR: The time is up.

12 MR. COSGROVE: I would just say that
13 that's an important channel going forward, and I
14 think we're going to see greater interest in it
15 for sure.

16 ASSEMBLY MEMBER STIRPE: Okay. All
17 right, thanks. Next up, Member Aileen Gunther.

18 ASSEMBLY MEMBER AILEEN M. GUNTHER: Hi.
19 Can you hear me?

20 ASSEMBLY MEMBER STIRPE: Yes.

21 ASSEMBLY MEMBER GUNTHER: Okay. So I did
22 want to talk about something that we did, and I
23 see Jen Metzger in front of me also, that we did
24 in Sullivan County, and we opened a food hub, and

1 Joint Public Legislative Hearing, 5-13-20

2 since this virus took hold in New York State, we
3 went to selling \$4,000 worth of products per
4 month to \$24,000 of product, per week. Excuse me.

5 And I think that it's been a terrible
6 situation, but what we're seeing is that more and
7 more people are buying locally because we can
8 provide the food and a lot of people don't want
9 to go to grocery stores, so on a weekly basis we
10 are selling \$24,000 a week, and we also do a lot
11 of milk there. It's the A2 milk that I buy, and
12 so we're doing it with dairy farmers and we're
13 also working with another dairy farmer as Jen
14 knows, that he has kosher milk and we're going to
15 turn it into yogurt and they do sell in Rockland
16 and all over.

17 So I think that because of the COVID
18 virus, people are beginning to buy locally
19 because they trust local, and I think that as a
20 go forward motion, it's really been important to
21 our farmers and I think that it will spread
22 throughout New York if you advertise. And it
23 started with a little square building that no one
24 was using, and from there we built up this

1 Joint Public Legislative Hearing, 5-13-20

2 incredible business, and it's really helping the
3 farmers. And we do pickups, and, you know, you
4 become a member of the food hub, and each week
5 they tell you what products you have. You order
6 online. And then you do pickups on Friday. So
7 it's been a pretty amazing thing. And Jen will
8 attest to that.

9 So I think that that's a positive thing.
10 The only positive thing I can actually say that
11 has come out of this horrible virus.

12 MS. SUAREZ: Yeah, I just have to say I
13 could not agree with you more, assemblywoman. I
14 really think that is the significant bright spot
15 is that we've started to realize the benefits of
16 having local farms.

17 ASSEMBLY MEMBER GUNTHER: And we did, as
18 a community, we went down to the Bronx to try to
19 see if we could sell some of our farm goods to
20 schools in Bronx and nothing really materialized,
21 but as a go forward motion I think that we should
22 consider really selling the fresh food products.
23 And we sell milk, we create milk, we have kosher
24 milk. And I think that upstate will benefit but

1 Joint Public Legislative Hearing, 5-13-20

2 also New York City will benefit tremendously. And
3 that's all, folks. Do I have to turn this off?

4 ASSEMBLY MEMBER STIRPE: I'm sorry.
5 That's me. Okay. Next up is Member Rodneyse
6 Bichotte.

7 ASSEMBLY MEMBER BICHOTTE: Hi.

8 ASSEMBLY MEMBER STIRPE: Hi there.

9 ASSEMBLY MEMBER BICHOTTE: How you
10 doing? Great. I'm so happy we have
11 representatives from the Farm Bureau. Thank you
12 so much for all that you're doing, very essential
13 to our economy, our living. We know there's been
14 some issues with, again, the transportation of
15 the food, getting the food here to the urban
16 areas like Brooklyn, but we have a number of
17 opportunities to really receive those foods. We
18 have trucks available, and we would like to
19 receive those foods.

20 There's potential farmer markets as as
21 Assembly Member Michaelle Solages had mentioned,
22 and we just need to connect. We're hearing that
23 food is being thrown away. We're hearing that
24 animals are being euthanized. I mean that's

1 Joint Public Legislative Hearing, 5-13-20

2 outrageous. And I know it's of no fault of the
3 farmers. It's a matter of there's just issues
4 with the whole value chain. And so how can we
5 connect? How can update and downstate farms and
6 urban areas connect, because we need the food.

7 MS. WILLIAMS: Definitely.

8 MR. COSGROVE: Go ahead, Lauren.

9 MS. WILLIAMS: Oh, I was just going to
10 say, so I think the best avenues currently during
11 the crisis is Ag and Markets, we've been working
12 through them to help coordinate the movement of
13 food to where it needs to be, also working with
14 the New York State food bank system, trying to
15 coordinate the movement of food as well. So I
16 think going forward here, we can help provide
17 those connections and see how we can use the
18 Nourish New York program to get into the city and
19 get food to where it needs to be.

20 MR. COSGROVE: The only comment I was
21 going to make, and then I'll let you go, Julie,
22 and this goes back to Assemblywoman Gunther's
23 comments about their efforts in Sullivan County
24 is that I do think you've got to think kind of

1 Joint Public Legislative Hearing, 5-13-20
2 the support network that goes around it makes
3 some of these things possible, whether it's the
4 Department of Agriculture and Markets, the
5 research and the expertise at Cornell. All those
6 things are kind of needed to do what's being done
7 but especially since I think things are changing
8 going forward in terms of being able to take more
9 advantage of that. Julie?

10 MS. SUAREZ: And I'd just highlight,
11 assemblywoman, the state, the governor and the
12 commissioner and the legislature has made an
13 investment in Grow NYC, which runs the New York
14 City farmers markets, and so they'll be opening
15 at some point. I've lost sight a little bit as to
16 where exactly the project is, but they'll be
17 opening effectively a wholesale space where
18 upstate farms can more effectively store and then
19 sell their commodities to more people down in New
20 York City. So I'll find out the status on that
21 project. But that would be a significant step
22 forward in the capacity of upstate farms to be
23 able to supply more consistently, persistently
24 into New York City.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER BICHOTTE: Thank you.

3 And that's what the Grow NYC project.

4 MS. SUAREZ: The Grow NYC Program, yeah.
5 I think it's under construction but I shouldn't
6 be too firm. I'll find out and get that back to
7 you.

8 ASSEMBLY MEMBER BICHOTTE: Okay. Thank
9 you so much. Thank you all for all that you're
10 doing. We really appreciate you all. Thank you.

11 ASSEMBLY MEMBER STIRPE: Thanks. Let's
12 see. Next we have Member Smullen.

13 ASSEMBLY MEMBER SMULLEN: Thank you very
14 much, Chairman. I really appreciate it.
15 Obviously, this is one of the most essential
16 businesses in New York State, in the country. We
17 depend on agriculture for a safe, secure food
18 supply, something that we take for granted, and I
19 think we're learning in this crisis that this is
20 something that we absolutely need to make sure
21 that is not taken for granted, that our response
22 is completely bulletproof. And I'm quite
23 determined to make sure that we don't leave any
24 stone unturned either now, in the near future but

1 Joint Public Legislative Hearing, 5-13-20

2 also going forward.

3 So what I'd like to ask the panel
4 speaking now, is there any agribusiness right now
5 that needs to have the definition of essential
6 business changed in any way to make sure that
7 they're able to not only get through this season
8 but be able to have the means going forward? Are
9 there any businesses right now in the sector that
10 are being left behind?

11 MS. WILLIAMS: That's a good question.
12 And so through this, you know, we've been writing
13 letters to the governor asking really a lot of
14 our businesses, ag businesses were covered under
15 this, including associated businesses because
16 they were producing food, taking care of animals.
17 Probably the sectors that were left out most were
18 horticultural and equine, just because they
19 weren't considered as essential because they
20 weren't taking care of a food product or a
21 production animal. Although we would say those
22 are still essential and need to be taken care of
23 dale, so just throwing that out there.

24 But I think as we start to reopen,

1 Joint Public Legislative Hearing, 5-13-20

2 luckily agriculture is considered under phase one
3 for reopening, so we view that as a positive
4 going forward and hopefully those businesses are
5 able to get up and running while still
6 maintaining the guidance from the governor.

7 ASSEMBLY MEMBER SMULLEN: Sure. And
8 where else does the sector need help from the
9 state in terms of its regulatory environment of
10 taxes and fees that might either be suspended
11 temporarily or, if it makes sense, permanently to
12 make sure that we're able to make sure that this
13 sector recovers quickly and fully?

14 MS. WILLIAMS: That's a good question,
15 and I think as previous panel have said, I think
16 taking a look at what's been suspended and are
17 there workarounds to what has been suspended. And
18 if they were able to be suspended, could we use
19 new technologies or different things to maybe
20 make those work. I would say it on tax front,
21 that's going to be a big question for our farmers
22 going forward with property taxes, but sales tax
23 as well, and whether or not they're able to meet
24 those obligations as well and any flexibilities

1 Joint Public Legislative Hearing, 5-13-20

2 we can provide there.

3 ASSEMBLY MEMBER SMULLEN: Very good. And
4 is there anything in the recent law that we
5 passed that needs to be looked at in order to,
6 going forward, to ease the burden of farmers
7 because of this crisis? I've heard a lot from the
8 federal side about some of the visas that are
9 being changed. Is there any adjustments that need
10 to be made this season or next?

11 MR. COSGROVE: Assemblyman, are you
12 talking about the H2A and H2B visa program?

13 ASSEMBLY MEMBER SMULLEN: Yes.

14 MR. COSGROVE: Well, that's a major
15 concern. Certainly labor, a lot of New York's ag
16 industries are very labor intensive. You know,
17 again, there tends to be a lot of kind of chatter
18 in this space. I mean I think in general the
19 federal government is supporting the fact that
20 H2A workers need to come to the United States to
21 serve as the seasonal workforce. I heard
22 something recently about H2B and some of our -- I
23 know there are some specialized industries, I
24 believe in equine and some of our ag retail

1 Joint Public Legislative Hearing, 5-13-20
2 operations that use H2B workers and there's
3 concern there, that that could get caught up in
4 sort of the immigration discussion in a negative
5 way.

6 I mean we've certainly got to bring
7 workers in safely and make sure their health is
8 taken care of, but they're essential and in terms
9 of being able to access them. So I support you if
10 you can provide on that area is welcome.

11 ASSEMBLY MEMBER SMULLEN: Well, great.
12 Thank you all very much for speaking today and
13 thank you very much, Chairman, for the time.

14 ASSEMBLY MEMBER STIRPE: All right. That
15 concludes that panel. And now we'll move on to
16 the next one with restaurants, hospitality, and
17 on the panel we have Scott Wexler, executive
18 director, Empire State Restaurant and Tavern
19 Association. Mark Dorr, president, New York State
20 Hospitality and Tourism Association and Andrew
21 Rigie, chief executive of New York City
22 Hospitality Alliance. And could we get started
23 with Scott.

24 MR. SCOTT WEXLER, EXECUTIVE DIRECTOR,

1 Joint Public Legislative Hearing, 5-13-20

2 EMPIRE STATE RESTAURANT AND TAVERN ASSOCIATION:

3 Thank you, assemblyman. And before I get started,
4 I, too wanted to acknowledge Senator Skoufis' and
5 Senator Seward's return. We're glad to see
6 they're healthy and well and look forward to
7 working with them in the future.

8 I want to thank you for the chance to
9 present feedback on behalf of our members on the
10 federal response to the COVID-19 pandemic and
11 whether the federal assistance provided was
12 adequate and accessible for small businesses
13 across New York State. And the short answer to
14 your question is no.

15 And this is particularly true for our
16 members. As the members can see from our written
17 testimony, as implemented, the Paycheck
18 Protection Program presented many challenges for
19 small businesses with, but particularly for
20 restaurant and tavern owners. Our primary
21 complaints were the eight week loan forgiveness
22 provision and the requirement to spend least 75
23 percent of the funds on payroll costs. You've
24 heard about that during the course of the hearing

1 Joint Public Legislative Hearing, 5-13-20

2 so far today.

3 Well, those and a number of the other
4 flaws in the PPP would be fixed by the Heroes Act
5 which was released by the House of
6 Representatives yesterday. And we wholeheartedly
7 endorse this proposal and urge its quick approval
8 by the House and Senate.

9 Another program our members have been
10 working with is the EIDL Program you've been
11 talking about. It's a good program. It's an
12 attractive loan vehicle. But the SBA messed it p
13 by changing the rules administratively. And if
14 they would just let the program work as intended,
15 that would be an additional benefit to our
16 members.

17 The other suggestion I hear quite a bit
18 from our folks is to require insurance companies
19 to cover their losses under the business
20 interruption provisions of their insurance
21 policies. Congress is considering legislation
22 that would force insurers that offer business
23 interruption insurance to cover these losses, and
24 they're discussing backstopping the insurance

1 Joint Public Legislative Hearing, 5-13-20
2 industry for those losses the way they did with
3 the Terrorism Risk Insurance Act which was
4 enacted following 9/11. We support these efforts
5 to use the business interruption insurance as a
6 means to compensate our members.

7 And finally, if I could, while the focus
8 of today's hearing is the federal response on the
9 impact of small business, I did want to take a
10 minute to express our members' appreciation for
11 the healthcare workers, first responders,
12 teachers and essential workers for everything
13 they're doing to serve our communities and to
14 lend our full throated support for the efforts of
15 Governor Cuomo, Leader Stewart-Cousins, Speaker
16 Heastie and all of you.

17 You've mentioned it several times today,
18 to obtain federal aid for New York to help
19 shoulder the enormous costs the outbreak has
20 imposed on the state. We've seen the headlines.
21 Without this aid, it's hard to imagine how you
22 and your colleagues will avoid imposing playoffs,
23 furloughs or other economically damaging measures
24 on these very workers we universally hale and

1 Joint Public Legislative Hearing, 5-13-20

2 whose services we've defined as essential.

3 So while we're here asking your support
4 for our member restaurants and taverns, we're
5 also here to pledge our support for your efforts
6 to make sure our fellow New Yorkers get the
7 support they need and deserve. We were pleased to
8 see the Heroes Act also provide aid to states and
9 we're hopeful to provide the relief we need to
10 make our heroes whole. Thank you.

11 ASSEMBLY MEMBER STIRPE: Thanks. Mark.

12 MR. MARK DORR, PRESIDENT, NEW YORK STATE
13 HOSPITALITY & TOURISM ASSOCIATION: Thank you,
14 good afternoon. My name is Mark Dorr. I'm the
15 president with the New York State Hospitality and
16 Tourism Association. We represent 1,000
17 hospitality members and the lodging attractions
18 and tourism promotion industry, and I'd like to
19 thank the members this morning, the legislature
20 for allowing me to testify on this important
21 issue. And most importantly I just want to
22 commend the leadership New York has shown and the
23 swift response to the actions, as we've all seen
24 to flatten the curve here in New York State.

1 Joint Public Legislative Hearing, 5-13-20

2 I wanted to just kind of kick off, most
3 of our members are predominantly hotels, and one
4 of the misconceptions is that it is that is
5 always out there is they look at the flags out
6 there that say Marriott and Hilton and Hyatt and
7 Holiday Inn, and while those are major chain
8 hotels, 99 percent of those hotels in New York
9 State are owned by independent business people
10 who pay a franchise fee to those big brands. So
11 we're really in the hotel industry still talking
12 about small businesses, usually under 50
13 employees that are being run by local people
14 within our community.

15 And those local people make up the
16 tourism industry in New York State, which is the
17 third largest industry within our economy, and it
18 supports nearly one million jobs with a total
19 income of 35 billion. And as you can imagine,
20 tourism is always at the top of every headline in
21 paper, about its impact on our industry and the
22 overall impact on the state revenue that is
23 obviously going to be significant.

24 And the anticipated cuts are what I

1 Joint Public Legislative Hearing, 5-13-20

2 wanted to try to zero in on in the state budget
3 that will reflect this shortfall. And the tourism
4 industry as a whole relies heavily on the funding
5 to provide the tourism industry the ability to
6 market itself and bring people into New York
7 State and to grow the economy, and a lot of that
8 money is the aid to localities part of the
9 budget. And namely the convention and visitors
10 bureaus, their marketing funds, the money for the
11 I Love New York program.

12 So without the infusion of the federal
13 money, which is what we're here to talk about
14 today, this funding obviously is vulnerable to
15 the cuts at this time when we should be investing
16 in responsible tourism, as we make our way back
17 and have further recognizing that it's critical
18 to make sure the funding to promote tourism
19 throughout the state is there.

20 Just to give you a context of the jobs
21 lost in the hotel and hospitality industry since
22 we started, 120,000 direct hotel related jobs
23 have been lost and over half a million jobs that
24 support tourism throughout New York State and

1 Joint Public Legislative Hearing, 5-13-20
2 historically low occupancy, as you can imagine
3 imagine. The impact to travel is nine times worse
4 they say than in 9/11.

5 And the revenue, and I talked to a few
6 of our members just this morning, is going to be
7 more than a 40 percent decline in the hotel
8 industry, and this is going to be across all
9 sectors. But being such a huge economic driver, I
10 just wanted to give you some context of how
11 tourism is going to fare going forward.

12 One of the things that we were asked to
13 do today is to help educate and talk about what
14 you can do as a state legislatures to support our
15 efforts. And a few of those are to continue to
16 advocate at the federal level for funding for our
17 state to help defray the expected cuts to, as I
18 mentioned our aid to localities, which helps with
19 our marketing and promotion.

20 The other thing, we've talked about it
21 over and over for several hours now, is the
22 assistance in advocating for changes to the
23 Paychecks Protection Program, maybe going from
24 2.5 percent of the payroll to four and expanding

1 Joint Public Legislative Hearing, 5-13-20

2 the loan repayment, which was one of the initial
3 things talked about this morning.

4 Another thing is your support for the
5 convention and visitors bureaus, again that are
6 not, and I know that it was mentioned by the
7 Business Council, those organizations are not
8 able to get the PPP program. So for us, those
9 convention and visitors bureaus that promote and
10 bring people into New York State when the tourism
11 industry in the state opens up, have not been
12 available to get the PPP program, and they've had
13 to lay off almost all of their staffs. And trying
14 to bring them back later on is going to be
15 difficult. So if we can get that money in there,
16 that would be one of our big requests to have
17 those C6 organizations included.

18 And through all this, we continue to be
19 encouraged again by the governor's commitment to
20 tourism and the responsibility that tourism is
21 going to play in our economic recovery as we open
22 up and welcome visitors from the northeast first
23 back to our great state. Thank you very much for
24 your time and consideration.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER STIRPE: Thanks, Mark.

3 Andrew.

4 MR. ANDREW RIGIE, CHIEF EXECUTIVE
5 OFFICER, NYC HOSPITALITY ALLIANCE: Yes. Thank
6 you. Good afternoon, thank you to the chairs and
7 all the members. My name is Andrew Rigie. I am
8 the executive director of the New York City
9 Hospitality Alliance. We are a not-for-profit
10 association that represents thousands of
11 restaurants and bars and nightclubs throughout
12 the five boroughs.

13 However, we recognize we are part of a
14 statewide ecosystem. Our restaurants are serving
15 vegetables and fruits and beers and wines that
16 are produced throughout the state. And our
17 industry is in crisis. We are in so many ways the
18 fabric of our communities, and the economic
19 backbone of so many neighborhoods, and we employ
20 people from all walks of life.

21 As far as the PPP goes, many of the
22 speakers were so spot on. We need a longer period
23 for loan forgiveness. We need more than 25
24 percent of that loan to be able to be used for

1 Joint Public Legislative Hearing, 5-13-20
2 rent, utilities and other expenses. So we support
3 all that, including the monies for 501(C)6 not-
4 for-profits that are really the conduit between
5 the business community and government in so many
6 ways.

7 But Scott Wexler made a great point,
8 business interruption insurance claims. This is
9 something being addressed at the federal level
10 but there are bills in the state senate and
11 assembly who would get insurers who are now
12 denying claims for restaurants that have been
13 paying their premium for years when there's a
14 business interruption. And I won't get into all
15 the nuances at this point, I'm happy to answer
16 questions. But we really need to get these
17 premiums, I'm sorry, these claims paid out.

18 The insurance industry has an
19 infrastructure to timely pay claims. We wouldn't
20 have to invent the wheel, whereas we know if you
21 create a new system, there's always unintended
22 consequences. The system's there. We can get the
23 claims paid. That would help with rent, which
24 some of the small business owners said earlier is

1 Joint Public Legislative Hearing, 5-13-20

2 such a big issue because it's a fixed cost. So
3 even if you're not open, you're still paying your
4 rent, and there's no way small business owners
5 are going to be able to pay back multiple months
6 of missed rent.

7 Also, this is something a little New
8 York City-focused but it's also really throughout
9 the state. If we open under a reduced occupancy,
10 we will need to reimagine how we use public
11 space, streets, sidewalks, plazas, parks, to set
12 up restaurants outside. We think the health
13 benefits are clearly there, it gives consumers a
14 peace of mind, also helps to bring a little bit
15 of vitality and energy back to our state and all
16 of our towns. And I think it could be an
17 incredible way to help generate additional sales
18 outside that are going to be limited indoors
19 because we will likely have some reduced
20 occupancy and need to have social distancing
21 measures in place.

22 Another thing that's going to be really
23 important is there's this thing called the 80/20
24 rule in New York State, and basically it prevents

1 Joint Public Legislative Hearing, 5-13-20

2 a tipped worker like a server or a bartender from
3 participating in a tip pool if they work more
4 than two hours or 20 percent in a non-tip
5 capacity. And it's been problematic for years and
6 resulted in lawsuits and other challenges, and it
7 also is bad for workers because they don't often
8 get the abilities to learn other skills, like
9 a busser or a barback and the chef says, hey, I
10 need to you come here and cut some carrots. Well,
11 that's non-tipped work so if they get that, they
12 get in trouble.

13 But we're talking about public safety.
14 Workers are going to have to focus a lot more on
15 public safety when we start reopening,
16 sanitizing, working with PPE equipment and doing
17 other duties that may be outside the scope of
18 their direct tip work. So we think we can really,
19 in a fair and equitable way amend the 80/20 rule
20 to allow workers to participate in the tip pool
21 when they're working in a tip capacity, but then
22 doing these other important job functions related
23 to safety and other matters when they are not
24 doing the tip work but during the same shift.

1 Joint Public Legislative Hearing, 5-13-20

2 Lastly, because I see the time is
3 running out, is one of the things that there's
4 been some talk about but I think we need to focus
5 on is getting grants or long-term low-interest
6 loans to small businesses for reopening. There's
7 a lot of talk about the PPP, but for a restaurant
8 for bar owner, it's going to be like -- and many
9 other small businesses owners, frankly -- it's
10 going to be like opening up a new business.
11 You're going to have to hire people back,
12 purchase products and do all of this. So they're
13 going to need some money there.

14 With that I'll turn over the rest of my
15 time but I just want to you thank all of you for
16 your incredible leadership. The hospitality
17 alliance is here to support you in any way we
18 can. We believe that our industry is so much a
19 part of state's backbone that for us to fully
20 recover, both economically and socially, the
21 hospitality industry needs to be at the center of
22 that recovery. So thank you so much, and I'm
23 happy to answer any questions.

24 ASSEMBLY MEMBER STIRPE: Thank you,

1 Joint Public Legislative Hearing, 5-13-20

2 Andrew. Let's start with questions with Harvey
3 Epstein.

4 ASSEMBLY MEMBER EPSTEIN: Hi, thank you
5 for meeting me and thank you for taking time to
6 join on us this hearing. I know we're all living
7 in these really unusual times. I really want to
8 focus on tourism and hospitality and a lot of it
9 is storefront businesses. And I'm just worried
10 about what it means to be able to come back. So
11 what are the lease experiences that people are
12 having? What do we think we can do on the state
13 level to support those small businesses that need
14 to come back? Have people been able to negotiate
15 with their landlord rent forgiveness? Is there
16 something the state should be stepping in to
17 support that?

18 The second idea is whether we should be
19 doing, like if we can't get the rent waived or
20 get some state or city money to cover the cost of
21 the rent, how about just allowing it to be
22 collected but not result in eviction?

23 And the last thing is whether some kind
24 of city or state tax forgiveness. I know there's

1 Joint Public Legislative Hearing, 5-13-20

2 a budget problem, the city and state has it.

3 Would that be at all helpful for both in the

4 hospitality and tourist industry?

5 MR. WEXLER: Andrew, I know you're doing
6 some work on leases. Do you want to start the
7 with answer?

8 MR. RIGIE: Yeah, absolutely. Thanks,
9 assembly member and thanks, Scott. Yes, so today
10 the council, City Council of New York is set to
11 pass, if they haven't already, a bill we've been
12 advocating for that would suspend the personal
13 liability provisions in leases from March 15th
14 until September 30th. That's basically the good
15 guy guarantee I think speaker earlier referenced
16 it by. This is critically important. This means
17 that a business owner won't only lose their
18 business, but now they can potentially lose their
19 home or their personal assets. This would stop
20 that from happening.

21 Quickly, would I say on the rent issue,
22 businesses are going to have to move to a
23 percentage rent, where instead of paying a base
24 rent they pay a percentage of their sales. This

1 Joint Public Legislative Hearing, 5-13-20
2 happened during the Great Depression, and there's
3 some interesting correlations there. And I know
4 landlords may need support because some of the
5 mortgage agreements don't let them not collect a
6 base rent. So in those cases there may need to be
7 conversations with the landlords and the banks,
8 but I think going to a percentage rent is the way
9 of the future if it can be done.

10 ASSEMBLY MEMBER EPSTEIN: And any of the
11 other panelists want to answer that?

12 MR. WEXLER: Assembly member, on the tax
13 issue, we were very appreciative that the
14 governor delayed the March 20th sales tax payment
15 that was due by 60 days. But, of course, 60 days
16 from March 20th is May 20th, which is a week from
17 now. So we recognize the dilemma the state's in.
18 Obviously anything you could do on the tax front
19 would be helpful. But most especially an
20 additional delay in that sales tax payment, our
21 restaurants still aren't open. We can't pay the
22 bill any sooner, any better now than we could a
23 few weeks ago.

24 ASSEMBLY MEMBER EPSTEIN: And just

1 Joint Public Legislative Hearing, 5-13-20
2 another quick question just if I can on this
3 topic. So I understand the idea of the percentage
4 of rent. How do you do that if the landlords are
5 not willing to renegotiate the lease terms? Do
6 you feel we should allow you to do early
7 termination of those leases as a leveraging tool
8 in these negotiations?

9 MR. RIGIE: Yeah. I think everything
10 needs to be on the table. I also think that this
11 is going to start hitting landlords in way
12 perhaps they're hoping it wasn't. The fact is
13 most small businesses are not going to be able to
14 pay their rent. They have not been able to pay
15 their rent. And I am hoping, and I don't think we
16 can just rely on the goodwill all the time, but
17 that they're going start realizing soon, wow, I
18 want to keep this tenant, particularly if they're
19 a good business beforehand, we're going to have
20 to move into another type of deal, Because
21 otherwise the reality is theatre going to collect
22 their rent, and then they're not going to be able
23 to pay their mortgage, they're not going to be
24 able to pay their property taxes, which I think

1 Joint Public Legislative Hearing, 5-13-20

2 are due in July or so, so I think there will be
3 pressures created that are already happening to
4 push them in that direction. But if there is
5 something that can be done to support the
6 landlords through this process, or compel if
7 needed, then that makes sense. But, yeah, it's
8 going to be a challenge.

9 But there's not going to be many
10 businesses waiting to go fill all these vacant
11 storefronts, and tenants can just say, you know
12 what? You're going to push me out of this place.
13 Well guess what? There's a fully built vacant
14 restaurant across the street and I'm going to go
15 in there and that person maybe give me a
16 percentage rent.

17 Look at legislative issues or look at
18 sort of tax incentives, I've heard from landlords
19 would be very helpful because they want to, in
20 those cases when they do want to work with the
21 tenant.

22 ASSEMBLY MEMBER EPSTEIN: Thank you.

23 ASSEMBLY MEMBER STIRPE: All set,
24 Harvey? Senator?

1 Joint Public Legislative Hearing, 5-13-20

2 SENATOR KAPLAN: Thank you. I want to
3 thank Scott, Mark and Andrew. Your testimony was
4 really very good and answered a lot of my
5 questions. But one thing that I keep coming back
6 to, I held a small webinar on Facebook where I
7 heard from multiple business owners in
8 hospitality-based industries, and were worried
9 that they couldn't meet the requirement of hiring
10 back the same number of employees who were
11 previously employed by them. Have you had this
12 discussion with your members? Have you come up
13 with any solutions? Do you believe maintaining
14 this employment level will be possible during
15 what would likely be a reduced tourist season for
16 New York?

17 MR. WEXLER: Senator, that's one of the
18 really important things that's been done by the
19 members of the house in the Heroes Act. They have
20 -- because you're absolutely right, when
21 restaurants are allowed to reopen, we're
22 certainly not likely to be allowed to be open
23 without the limitations. And even if we were, the
24 public is not going to come back. Some are saying

1 Joint Public Legislative Hearing, 5-13-20

2 it could take as long as two or three years to
3 return to old levels of business.

4 So one of the things that the house has
5 done in the Heroes Act is to extend to the end of
6 this calendar year when we would have to expend
7 the PPP money. If that's passed, that's really
8 important. That gives us much more runway. But
9 also Andrew and I and Mark and others in the
10 industry, have been pushing for a special package
11 out of the Congress focused on restaurants and
12 the unique needs of restaurants, just like was
13 done for the airline industry and some other
14 industries. We're not the only one that have this
15 kind of a unique situation.

16 MR. DORR: Thank you, on the employment
17 question, our members again are predominantly
18 hotels, and they were deemed essential from the
19 beginning, so they've been open, unless they
20 chose to close, but that is the biggest thing we
21 hear from our members is even when people start
22 traveling, they're not going to be up to full
23 capacity or have their employees. They might have
24 50 percent of their employees back by the end of

1 Joint Public Legislative Hearing, 5-13-20

2 the year because it's going to be a slow summer,
3 a slow fall, so that's going to be a big concern
4 for a hotel. They're not going to get there.

5 And on the PPP also, bringing them back
6 to extent where they'll have the loan forgiven,
7 they're not going to get those employees back in
8 time because there won't be the work available.
9 Even at 50 percent they're not going to be there.

10 SENATOR KAPLAN: Thank you. Back to you,
11 Assemblyman Stirpe.

12 ASSEMBLY MEMBER STIRPE: I think that's
13 all I've got, so you can move on to the next
14 senator.

15 SENATOR KAPLAN: Okay, Senator Krueger
16 is next.

17 SENATOR KRUEGER: Hi everybody. I really
18 appreciate the testimony. I know I've been
19 hearing a great deal from restaurants and hotels
20 in my district, which is Manhattan. So I'm
21 curious, I do think landlords will be willing to
22 negotiate some kind of different deal, because
23 they also know it's going to be a much slower
24 time for commercial, much slower time for retail

1 Joint Public Legislative Hearing, 5-13-20
2 of all kinds, and I'm curious when you
3 referenced, I think Mr. Rigie referenced the idea
4 that this has happened before, was it sort of a
5 plan that was put together with government or did
6 just individual restaurants and individual
7 landlords make these kind of deals? Is there
8 actually a model we could look at to help at
9 least particularly in our cities?

10 MR. RIGIE: Thanks, senator. I'm not
11 sure if there was a model. I went back and our
12 team did some digging in the New York Times
13 archives and elsewhere, and we just found
14 articles that was this was the thing to do during
15 the Great Depression. They were trying to figure
16 out how to survive. So, I'm not sure if there was
17 a formal process. I'm also presuming maybe some
18 of the mortgage agreements were a little bit
19 different.

20 But I do think, based on conversations
21 that we've had with the real estate community,
22 that many of the landlords, they get it. We are
23 all in this together. It's a very unprecedented
24 and unique situation. So I think if we could

1 Joint Public Legislative Hearing, 5-13-20
2 incentivize them or address their issues such as
3 what would have to happen in their mortgage
4 agreement to permit them to do a percentage rent,
5 that would be very helpful.

6 And I've heard discussions about you do
7 a lower base rent, perhaps, or seven percent of
8 sales, whichever is greater. So you could almost
9 even do a combination of it. So I think there
10 does need to be flexibility versus if it's a REIT
11 versus if it's a small neighborhood landlord or
12 something in between the two.

13 SENATOR KRUEGER: Right. And that may
14 play out differently in the cities than
15 [unintelligible] [05:08:02].

16 MR. RIGIE: Correct.

17 SENATOR KRUEGER: Next question for any
18 of the three who testified, I am very concerned
19 that we shouldn't reopen the restaurants unless
20 we have a really solid new set of policies about
21 how people keep distance from each other, how the
22 people who are working in the restaurants, you
23 know, are protected from the visitors and vice
24 versa. How the food standards for safe handling

1 Joint Public Legislative Hearing, 5-13-20
2 of the food is followed, and I'm wondering
3 whether you all in the restaurant industry have
4 been working with anybody at the Department of
5 Health to come up with new guidelines or
6 mandatory guidelines for at the time of opening,
7 these are the rules of the road, because I think
8 we have to do that.

9 MR. WEXLER: Well, senator, we would, as
10 an industry, not be doing our job as the
11 hospitality sector if we weren't doing those
12 types of things. And I will tell you, at least in
13 my capacity with the tavern association, I'm
14 spending many hours looking at resources. There's
15 been some really excellent work done by the CDC
16 and the FDA on this. Of course, the president
17 would allow it all to be out there.

18 One of the interesting things was that
19 the interim guidance for industry that got a lot
20 of attention last week for being quashed actually
21 had been published, at least the guidelines for
22 industry, and we had seen them and were basing
23 our preliminary proposal or recommendations based
24 on them.

1 Joint Public Legislative Hearing, 5-13-20

2 They're outcome oriented, so they have
3 mandatory outcomes, but provide flexibility
4 because of the recognition that different types
5 of establishments work differently. But they
6 cover areas of employee wellness and protection,
7 of cleaning and sanitation of restaurants, of
8 social distancing, of signage to communicate, and
9 also we think most importantly, an element on
10 contact tracing so that as we do go back and
11 eventually there are outbreaks and we have to get
12 ready for that phone call both to the restaurant
13 and to the customer, we want to have that.

14 As a matter of fact, today I reached out
15 to the Department of Health to start working on
16 the contact tracing element. We are expecting ESD
17 will come out with that. There was some
18 discussion about that earlier today. And we
19 certainly hope they will put that out. Our
20 restaurants need that guidance from the state and
21 federal government.

22 SENATOR KRUEGER: Exactly. We all need
23 that guidance to have the confidence that we can
24 allow to you reopen and that it will go well for

1 Joint Public Legislative Hearing, 5-13-20

2 all involved. So thank you. I think I would be
3 very interesting in knowing if there's some way
4 the legislators can help in that process if for
5 some reason the Department of Health or whomever
6 seems to be moving too slowly on this, because
7 for this set of businesses, it seems to me it
8 doesn't matter what region you're in --

9 MODERATOR: The question period is over.

10 SENATOR KRUEGER: -- we can't let you
11 open unless we have the setup. So thank you.

12 ASSEMBLY MEMBER STIRPE: All right. Next
13 up is Assembly Member Ra.

14 ASSEMBLY MEMBER RA: Hi. Thank you guys
15 for your testimony. I think we all know what an
16 essential part of our state's economy your
17 industries are. So I think you're a very
18 important part of this hearing today and this
19 discussion. I just wanted to go back to something
20 that was said just looking at this in the long
21 term, going into the future. We know that
22 different states are approaching this in
23 different ways and talking about reopening these
24 types of establishments with different limits on

1 Joint Public Legislative Hearing, 5-13-20

2 capacity and things of that nature.

3 So I was wondering if you have any
4 thoughts in terms of some of the temporary things
5 we've done and whether those are things that
6 maybe should be extended into the future, not
7 just because of capacity limits but also maybe
8 people's reluctance to go out to an establishment
9 like off-premises alcohol and things of that
10 nature. Any thoughts on those type of things,
11 temporary things that we've done now that might
12 need to be extended or might be beneficial to
13 your members if they were extended out as you're
14 allowed to reopen even for on-premises use?

15 MR. RIGIE: I would just say I think
16 many of what has been extended should all be
17 considered to be extended, because again we don't
18 know when we will get back to a new normal. I do
19 think as far as an occupancy goes, that's going
20 to be a big issue so businesses are going to have
21 to think creatively, as do lawmakers, about how
22 are we going to generate that additional revenue
23 while consumers' purchasing behavior is still
24 unknown. When are people going to be comfortable

1 Joint Public Legislative Hearing, 5-13-20

2 going out and eating and drinking out?

3 So I think again everything that has
4 been done without looking at the whole list,
5 should be under serious consideration. But I do
6 think the outdoor dining aspect is going to be
7 the only way to really help generate that
8 additional revenue.

9 MR. WEXLER: Assemblyman, the point
10 Andrew makes is very important and it's going to
11 be part of our request to the governor's office.
12 I actually reached out to the State Liquor
13 Authority this morning to give them the heads-up,
14 so I feel like I can comfortably share it with
15 the panel. The cocktails to go has worked out
16 very well, and we're going to ask for that to be
17 extended as long as there are restrictions on us.

18 And Andrew just mentioned seating.
19 Senator Krueger asked about social distancing and
20 spacing. We're going to have to reimagine our
21 establishments. Restaurants can't survive on 25
22 or 50 percent capacity and customers long term.
23 So one of the things we're going to ask for is to
24 allow us to temporarily extend or premises, set

1 Joint Public Legislative Hearing, 5-13-20
2 up seating in outdoor areas that are aren't
3 currently licensed. This has to be done in
4 conjunction the with localities to make sure that
5 we're not violating zoning rules or also trading
6 problems, nuisance problems for our neighbors,
7 but some flexibility so that a restaurant or a
8 tavern can provide the social distancing without
9 losing half their customer base.

10 MR. DORR: Yeah, for our smaller
11 members, the alcohol to go, which was mentioned
12 was big for some of our smaller inns, smaller
13 B&Bs that have a restaurant within it. Able to do
14 that was helpful to them. So again, I think
15 that's one of the things that may be able to be
16 looked at long term, because I know that that
17 helped with some revenue for some of our inns and
18 B&Bs who were out in the wine country and could
19 do that type of thing. I think that was
20 beneficial for our folks.

21 ASSEMBLY MEMBER RA: great. And thank
22 you, that point about outdoor seating I think is
23 a very important one. I know we're already seeing
24 some local governments kind of start to talk

1 Joint Public Legislative Hearing, 5-13-20
2 about that. Our town, the town of Hempstead which
3 I represent a portion of, was talking about
4 streamlining that process for that very reason,
5 because if you can extend the amount of space
6 they can put tables, you can, even though the
7 capacity is reduced, you can get much closer to
8 what would be a full capacity in terms of
9 revenue. So thank you. Thank you for your
10 continued efforts on behalf of your industry and
11 your testimony today.

12 ASSEMBLY MEMBER STIRPE: Senator.

13 SENATOR KAPLAN: Next is Senator Serino.

14 SENATOR SUSAN SERINO: Hello. Did you
15 say Senator Serino?

16 SENATOR KAPLAN: Yes. I'm sorry.

17 SENATOR SERINO: No, no, that's okay.
18 There are three of us that have similar names.
19 Thank you, Chairwoman. And I'd also like to say
20 thank you to Scott and Mark and Andrew for a lot
21 of your great ideas and really it's time for us
22 to all think outside of the box.

23 I spent most of my life working in the
24 restaurant industry. As we know, it's a huge

1 Joint Public Legislative Hearing, 5-13-20
2 economic booster, not only for tourism but our
3 local communities as well. It is our local
4 community. We already know that they will part of
5 the last phases and my heart goes out to the
6 business owners and to the employees, a good
7 portion of which we know live paycheck to
8 paycheck, that we've been helping with
9 unemployment, the debacle that is a whole other
10 story.

11 But there's already a lot of talk about
12 the federal money should not be used if a
13 business cannot hire back everyone they laid you
14 of, as Senator Kaplan said. And I understand
15 that. But, when it comes to the restaurants and
16 the other hospitality industries who are going to
17 be required to host smaller capacities, whether
18 it's 25 percent or 50 percent, how do we justify
19 that? Do you think there should be funding
20 specifically for those businesses that cannot
21 come back at 100 percent, 50 percent, knowing
22 that they cannot hire all of their employees
23 back?

24 And another part of my question is, in

1 Joint Public Legislative Hearing, 5-13-20

2 many cases the hospitality sector is setting the
3 standard for health and safety and what we know
4 now from that industry can actually help be used
5 to develop best practices for other industries. I
6 also understand that the National Restaurant
7 Association is currently offering serve safe
8 training, and I believe it's free right now for
9 the folks to take, and are you familiar with
10 that? I know it's a three-part question, scott.

11 MR. WEXLER: Senator, thank you for your
12 question. On the funding issue, both the National
13 Restaurant Association and a group called the
14 Independent Restaurant Coalition, which was
15 started by a bunch restaurateurs including Tom
16 Colicchio, who owns a bunch restaurants down in
17 New York City, they're seeking a federal fund to
18 do the kinds of things that you addressed. And it
19 has a number of -- I don't have the summary at my
20 fingertips, but it has a number of different
21 elements that would bail restaurants out.

22 One of the reasons, and I do recognize
23 the impact on the insurance side of this, one of
24 the reasons that we like the business

1 Joint Public Legislative Hearing, 5-13-20
2 interruption solution is it really gets money to
3 restaurants quickly and in a controlled way, but
4 we do have to backstop the insurance industry.

5 I think you're right about the
6 restaurant and hospitality industry having a good
7 track record on cleaning and sanitation as a
8 rule. Obviously there are exceptions. And I think
9 we will do a good job maintaining sanitation and
10 cleanliness, but we do need cooperation of our
11 customers. Some of the establishments that are
12 open right now, the retail, convenience stores
13 and others, are having a real problem with
14 occasional customers refusing to socially
15 distance or wear masks when they're not socially
16 distanced.

17 So the only way that we're going to be
18 able to open our restaurants up and not have
19 outbreaks break out throughout Dutchess County,
20 Manhattan, wherever is if we all kind of work
21 together on this. We pledge to do that. I know
22 that Andrew and Mark and their associations are
23 doing the same thing that we're doing. And, yes,
24 I do believe the Restaurant Association is

1 Joint Public Legislative Hearing, 5-13-20
2 offering serve safe for free. And that's
3 available through the NRA website which is
4 restaurant.org.

5 MR. RIGIE: If I would just add that the
6 serve safe is a very good curriculum. In the city
7 of New York, however, our health department that
8 regulates the restaurants requires that you take
9 your own certification. There are some instances
10 where they allow that curriculum to meet their
11 standards, but you still need to then take the
12 city of New York's food protection course. I'm
13 not sure if other jurisdictions throughout the
14 state have that, but those are all very good
15 courses and we need to again make sure that it's
16 not as only the business but also the consumers
17 that understand what the expectations are when
18 they go in.

19 The last thing we want is restaurants to
20 open to only then have to close again. So we want
21 to get open as soon as we can, but we don't want
22 to rush it and we want to do it as best as
23 possible because we feel like we really have one
24 opportunity to get this right.

1 Joint Public Legislative Hearing, 5-13-20

2 SENATOR SERINO: I agree. I think you
3 had mentioned about the alcoholic beverages too.
4 Would it help for the restaurants because you
5 have to do the safe distancing now, you know,
6 sometimes you can only have it in a certain part
7 or you can't be outside. Would it help if we
8 lessen the regulations, right, to offer it to be
9 spread out a little bit more so you're --

10 MODERATOR: I'm sorry. The question
11 period is over.

12 SENATOR SERINO: Oh, thank you.

13 MR. WEXLER: That's a tough moderator.

14 MR. RIGIE: But I like it. But thank
15 you, the answer is yes, it would be helpful.

16 SENATOR KAPLAN: Assemblyman, you go
17 ahead.

18 ASSEMBLY MEMBER STIRPE: Sorry about
19 that. Up next is Yuh-Line.

20 ASSEMBLY MEMBER NIOU: Hi, thank you so
21 much for taking the time. Again, I just wanted to
22 say first off it's been a very long hearing but I
23 just wanted to say thank you to everyone for
24 being able to speak. Just very quickly again

1 Joint Public Legislative Hearing, 5-13-20

2 Chinatown has been hit really, really hard in my
3 district, for example, and a lot of our
4 businesses are obviously restaurants, sit down
5 restaurants, dine-in restaurants. And some
6 restaurants are already telling me that they
7 can't survive because, you know, obviously the
8 effects of COVID-19 had hit my district in a
9 particularly difficult way because there were two
10 epidemics happening at the same time.

11 One was, of course, the virus itself,
12 but the other was racism and xenophobia. And the
13 racism had cause for our district to lose a lot
14 of foot traffic, and this was in particular
15 difficult times because during our Lunar New Year
16 holiday that around the world there was, before
17 even the United States had a single case or
18 before New York had a single case, there was
19 reports of COVID-19 and folks were already
20 avoiding Chinatown due to racism, not due to the
21 actual virus itself, and there was less foot
22 traffic and loss of sales by about 50 percent.

23 And I just wanted to see if you guys had
24 any thoughts or ideas for small businesses like

1 Joint Public Legislative Hearing, 5-13-20

2 Chinatown that have used up their entire runway
3 starting January, February and now going into
4 June almost. They're shuttering and their
5 shutting down and there's no -- all of the
6 difficulties that you've talked about when it
7 comes to rent, when it comes to the hardship of
8 starting up again and shutting down again, these
9 are all on their minds, but it's exacerbated and
10 amplified by many months.

11 And so kind of the wanted to see what
12 your thoughts were on what they can do right now,
13 and what are the things that our state can do to
14 help especially the ethnic enclaves with their
15 small businesses when there is a difficulty with
16 language access and none of them have gotten any
17 of the federal or city loans or grants or help.

18 MR. RIGIE: So, assembly member, thank
19 you. So I was actually with [unintelligible]
20 [05:24:37] a week before everything was shut down
21 and we brought restaurateurs in the neighborhood
22 and we've been speaking frequently about this
23 issue. I know it's just even more pronounced in
24 many of these communities.

1 Joint Public Legislative Hearing, 5-13-20

2 I don't really unfortunately have a good
3 answer of what can be done immediately, but I
4 really, really believe that we need to start
5 thinking about when we are able to reopen, what
6 kind of just campaigns can we put in place, like
7 was starting to happen early on to get people to
8 the neighborhood, to go eat at a restaurant, go
9 visit the shops. So maybe it's even like tours
10 and giving people like a sense, when it is safe,
11 of course, to kind of get out and go visit these
12 neighborhoods that were hit even more hard than
13 others.

14 So I think the best thing people can do,
15 and if they're closed, restaurants are 24/7,
16 nights, weekends, holidays, so a lot of people
17 now find their selves with free time on their
18 hand for the first time. They can start thinking
19 about how can we do some sort of community
20 campaign to specific neighborhoods. You have our
21 commitment to help work on that, and if we can
22 provide any kind of advocacy.

23 But I think these bills, whether you're
24 in Chinatown, in lower Manhattan, you're in

1 Joint Public Legislative Hearing, 5-13-20

2 Flushing, or anywhere in the state, the business
3 interruption insurance and everything else, these
4 are the things that need to get done because they
5 will have the most meaningful impact for them.

6 And I do think the business interruption
7 insurance and then getting either grants to
8 reopen or very low interest long-term loans
9 because theatre going to have money and they're
10 going to have to restock and hire people back, so
11 that's going to be really important too.

12 MR. DORR: I also think for -- it's
13 going to be a confidence thing. You could go,
14 those communities could go to the folks at I Love
15 New York, New York City and Company, and be
16 proactive and say here's what happened in this
17 particular community and go after that funding,
18 marketing dollars that are provided a lot from
19 state to grow some confidence, give some
20 confidence to those areas, being proactive ahead
21 of time saying, hey, here's why you should come
22 back to this area to support tourism and
23 restaurants. For all the things you said, those
24 communities go and be proactive and make the ask.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER NIOU: Okay. I mean, the
3 thing is I hear you and I've been one of those
4 people who have been promoting our areas, but at
5 the same time, you know, the big difficulty has
6 been that they fall through every single crack in
7 the system of asking for help and getting that
8 kind of access to the PPP, for example, or even -
9 -

10 MODERATOR: I'm sorry, the question time
11 is over.

12 ASSEMBLY MEMBER NIOU: Sorry.

13 ASSEMBLY MEMBER STIRPE: Senator.

14 SENATOR KAPLAN: Next is Senator
15 Borrello. And in the interests of time, I'm going
16 ask everybody to please stay within the five-
17 minute period. If you can half it, please take
18 less time. We still have two other panels to hear
19 from. Thank you.

20 SENATOR BORRELLO: Thank you, Madame
21 Chair. Once again, as someone who actually owns
22 businesses in the hospitality and restaurant
23 industry, I understand how particularly hard hit
24 we have been. In fact, in New York State I would

1 Joint Public Legislative Hearing, 5-13-20
2 say our industry is probably more highly
3 regulated than any others. State Liquor
4 Authority, Department of Labor, sales tax,
5 Department of Health, just to name a few. So, and
6 now this industry has been hit hard by this virus
7 and the impact of it.

8 And on top of that, we are now seeing
9 that while we are, some of us or surviving with
10 take-out only, that the idea of coming up with
11 plans, and I think the plans that I've seen from
12 our industry have been great, whether it's plans
13 supported by the National Restaurant Association
14 or others or individual plans that innovative
15 restaurateurs and hospitality operators have come
16 up with, but we need to start to move forward.

17 My biggest concern, we've already
18 touched on the occupancy can we do 50 percent
19 occupancy, will that work? We've talked about all
20 these other things, but my biggest concern right
21 now is that our neighboring states are going to
22 move forward. Already, where I live here in the
23 western New York, in the southern tier
24 Pennsylvania is already open, and those

1 Joint Public Legislative Hearing, 5-13-20

2 restaurants that were surviving with take-out are
3 likely going to now suffer as people have choices
4 to go into restaurants in other states.

5 And as far as the hospitality and
6 tourism business goes, we're going to now see New
7 Jersey likely opening up its tourist
8 destinations, its beaches and so forth this
9 summer, and that's going to further strain our
10 industry. And I'd just like to ask the panel in
11 general to talk about the fact that while we can
12 have somebody crowd people into a Wal-Mart and
13 people walking up and down aisles, brushing up
14 against each other, picking up the same box of
15 cereal and then putting it back on the shelf, we
16 can't have people responsibly socially distance
17 at a restaurant, and how can we advocate for that
18 to happen?

19 MR. WEXLER: Thank you, senator. What we
20 think is the best we can do to accomplish that is
21 to put together a strong plan that our member
22 restaurants can implement so that their customers
23 will see that it's safe to come back into our
24 restaurants. We're looking at some research data

1 Joint Public Legislative Hearing, 5-13-20

2 which shows that frankly the vast majority of the
3 public is not ready to dine out, and you see in
4 some of those states that have already opened and
5 allowed restaurants to open that the public is
6 not coming out.

7 In fact, many restaurant owners haven't
8 opened their restaurants. So we're working -- we
9 think we need to work on a plan with the state
10 that will require restaurants and other public
11 establishments to have the kinds of elements that
12 we discussed earlier so that the public will feel
13 safe, and then we can open our doors and welcome
14 our customers in and they'll actually come. So we
15 appreciate your support. We agree with you we
16 need to open soon, but we need to open safe and
17 we need to stay open, not be open and then be
18 closed again.

19 SENATOR BORRELLO: Well, I totally agree
20 that it should be and can be done safely, but I
21 also feel like as of right now, you know, the
22 plan is just kind of arbitrary on the part of the
23 state, and we've had -- we had a punch in the gut
24 before we left Albany with new mandates,

1 Joint Public Legislative Hearing, 5-13-20
2 including the new paid sick leave that was going
3 to hit our industry and all small businesses
4 hard, and I think that that's, you know, we
5 haven't been doing any favors in Albany for this
6 industry or any other small business industry as
7 well.

8 So I think we need to certainly look at
9 how we can relax some of these regulations that
10 were hurting the industry before COVID-19 and are
11 certainly potentially devastating going forward.

12 SENATOR KAPLAN: Thank you. Assemblyman
13 Stirpe.

14 ASSEMBLY MEMBER STIRPE: Yes. Next up we
15 have Tom Abinanti.

16 ASSEMBLY MEMBER ABINANTI: Thank you
17 again. Thank you all for joining us this
18 afternoon. You've all highlighted how the
19 hospitality business, industry is really
20 different and requires some special treatment.
21 I'm the chair of the banking committee. In 25
22 words or less, what would you tell my committee
23 to do to help you? What approach should we take
24 with respect to the lending industry in New York?

1 Joint Public Legislative Hearing, 5-13-20

2 Give me some quick guidance on where we should go
3 from here until things get back to normal.

4 MR. DORR: Well, I can talk to the hotel
5 perspective because they all -- they really
6 don't, like the restaurants lease their
7 buildings, our members own them and have
8 mortgages on them. And one of the things that I
9 get the most calls on is, is there any way we
10 could get some mortgage forgiveness and put the
11 payments out a little further. Again, it would
12 probably be working with their local banks, but
13 that's been their biggest concern, that they --
14 you know, the sales tax deferral has been great,
15 but I think just on the mortgages, like I said in
16 the very beginning, our members are local
17 community people that own the hotels. The hotels
18 aren't own by Hilton. They a pay a franchise fee
19 to them.

20 So the local mortgages when they're
21 looking at -- we had a hotel that is in Saratoga,
22 just for an example is they're already looking at
23 August with mortgages on some of their buildings,
24 they're going to do -- the last August they did

1 Joint Public Legislative Hearing, 5-13-20

2 1.5 million. This year, they're projecting
3 they're going to do 300,000. So you're looking at
4 \$1 million in one month in August that they would
5 pay their mortgage with. So any type of mortgage
6 relief or help or --

7 ASSEMBLY MEMBER ABINANTI: Well, just
8 move it to the backend.

9 MR. DORR: -- uh, it would be a key.

10 ASSEMBLY MEMBER ABINANTI: Well, just
11 move it to the backend. It's a period of time and
12 say we'll put it at the other end and
13 [unintelligible] [05:33:56].

14 MR. DORR: Right. That would be very --
15 and they've talked to us about that, too. That
16 would be great just until they're back up even
17 running even 75 percent would be welcome.

18 MR. RIGIE: And I would just add to
19 that, absolutely, I think we're going to have to
20 restructure mortgage payments. One thing that I
21 thought I should reiterate here is that any
22 benefit that is going to the banks and to
23 landlords, a [unintelligible] [05:34:20] amount
24 is passed through to the commercial tenant, and I

1 Joint Public Legislative Hearing, 5-13-20
2 know these can get complex because all the
3 different agreements [unintelligible] [05:34:29]
4 but whether it's tax relief or some sort of
5 benefit, everything [unintelligible] [05:34:35]
6 should, or I say in our opinion, is that it needs
7 to be proportionately passed through. So if there
8 is mortgage forgiveness, that proportional amount
9 needs to be passed through to the commercial
10 tenant, because they obviously are the ones that
11 are right there on the ground and, you know, I
12 don't think the top floor tenants come back if we
13 have a bunch of vacant storefronts.

14 ASSEMBLY MEMBER STIRPE: Okay.

15 SENATOR KAPLAN: Thank you. Next is
16 Senator Seward.

17 SENATOR SEWARD: Thank you, Senator
18 Kaplan. And I want to thank Scott and Andrew and
19 Mark for your testimony and the great information
20 you're providing us today. I have two questions.
21 The first is on the -- I think Scott may have
22 mentioned this earlier, but how important -- I
23 would ask all three of you -- how important is
24 limiting liability and putting some protection

1 Joint Public Legislative Hearing, 5-13-20

2 from frivolous lawsuits, how important is that to
3 your industry as you proceed to reopen in the
4 coming days and weeks?

5 MR. DORR: I can talk to that. That was
6 a big discussion for us on the liability aspect
7 because in the rollout of reopening, one of the
8 bullets at the bottom that you needed to have as
9 a business to be able, you know, as part of your
10 plan, was a statement of liability. So we had our
11 members call and say, okay, well what exactly
12 does that mean as far as my liability when people
13 start to travel and stay in hotels? We went to
14 our legal firm and they kind of said, well, we've
15 got to get some direction from the state on what
16 that actually means and what people would be
17 liable for.

18 So liability in a direction that would
19 be able to protect the business owner would be
20 very welcome. I think that was kind of the
21 question, is what is that going to be going
22 forward, and what do they need to be protected
23 from once we up on and cases are still out there
24 circulating and people are still testing

1 Joint Public Legislative Hearing, 5-13-20

2 positive.

3 SENATOR SEWARD: Thank you. Coming from
4 the Cooperstown area, I'm a big supporter of the
5 hospitality and tourism industry because I know
6 full well the importance of your industry to our
7 economy. I don't complain in the summertime when
8 it's hard to get out of my driveway because of
9 the traffic because I [unintelligible] [05:36:59]
10 15 for our area.

11 MR. WEXLER: You're the only one.

12 SENATOR SEWARD: However, this summer is
13 going to be very quiet. We've postponed Derek
14 Jeter's induction in into the Baseball Hall of
15 Fame for a year and many other activities, of
16 course, are canceled for this year because of the
17 pandemic. My question is to Andrew and to Scott,
18 you both mentioned the business interruption
19 insurance. My question is have you or your
20 attorneys reviewed your insurance, the contract
21 you have with your insurers? Is this covered at
22 all, or is there an exclusion in your contract,
23 or is it silent? Can you just describe what that
24 says in your contracts if you have reviewed

1 Joint Public Legislative Hearing, 5-13-20

2 those.

3 MR. RIGIE: Good question.

4 MR. WEXLER: Go ahead, Andrew.

5 MR. RIGIE: Well, I say it falls into
6 three buckets. You have policies that -- and
7 there's not as many, but there's policies that
8 have virus inclusions. Then there's bucket two
9 that is silent. And then there's bucket three
10 that has exclusions. One of the challenges has
11 been, and I'm not sure about the governor's
12 order, I do know Mayor de Blasio's executive
13 order to shut down did include language to the
14 extent that COVID-19 has a propensity to stick on
15 surfaces, therefore, causing a dangerous property
16 condition, which should then trigger the coverage
17 under civil authority.

18 So they fall into three different
19 categories. I think there could be different
20 levels of being paid out where insurers should
21 obviously pay out where they have an inclusion,
22 which they're currently denying. The ones that
23 are silent, they should pay out. And the ones
24 where there's an exclusion, government may need

1 Joint Public Legislative Hearing, 5-13-20

2 to come in and backstop or provide some sort of
3 support.

4 But that would definitely be the best
5 way to get money paid timely and in an efficient
6 infrastructure. I don't know if Scott has
7 anything to add but that's how we see.

8 MR. WEXLER: No, I think Andrew's got
9 that right. And, senator, I noticed that the
10 insurance industry submitted testimony to the
11 hearing, pointing on that they can't, that their
12 policies didn't cover this. Well, that's the
13 whole point of the action Congress is
14 considering. They would, A, require them had to
15 cover it, and B, backstop them, provide the
16 support to the insurance industry to do that.

17 And it seems to me an incredibly
18 efficient way to do it as well. Instead of having
19 billions of dollars or whatever go into the state
20 of Alaska or wherever, where they haven't had a
21 lot of impact from the COVID-19 outbreak, this
22 will go to very specific claims where losses are
23 demonstrated, and the insurance industry is very
24 good about this. The insurance industry did a

1 Joint Public Legislative Hearing, 5-13-20
2 great job helping the state residents and
3 businesses recover from Super Storm Sandy, and
4 they can play the same role here.

5 SENATOR KAPLAN: Thank you. Next is
6 Senator Metzger.

7 SENATOR METZGER: Thank you, Senator
8 Kaplan. So my district represents the Hudson
9 Valley and Catskills and we've actually been
10 seeing, you know, we have huge recreational
11 assets out here, tremendous parks, and we've
12 actually been seeing a lot of people coming out
13 from the city, wanting fresh air, and, you know,
14 and tourism is a huge driver of the economy. It
15 is the single biggest driver in Sullivan County,
16 for instance.

17 But there's a wide variety of
18 businesses, like we have casinos and resorts,
19 water parks, down to smaller B&Bs, and I just
20 wanted to just get a sense from you, you had
21 mentioned earlier surveys have found that people
22 were worried about they're hesitant to go out to
23 restaurants and the like, but do you see
24 different businesses, different types of

1 Joint Public Legislative Hearing, 5-13-20

2 businesses facing different kinds of challenges
3 this way? And also, are there actual -- we've
4 talked about, we've touched on accommodations
5 that businesses may need, like zoning
6 accommodations or to be able to expand outdoor
7 usage and that kind of thing. But is there talk
8 about actual physical investments that need to be
9 made to just make the internal business, perhaps,
10 safer or can we just rely on best practices,
11 because that would be a cost as well to
12 businesses.

13 MR. DORR: I think for the hotel
14 industry it's going to be quite a bit different
15 than the restaurant industry as we get back into
16 it. With the cleaning procedures, the hotels, a
17 lot of the brand hotels have your check-in our
18 phone be, you walk by the front desk. You're
19 going to be confident that room has been
20 sanitized and is clean and you're in there and
21 you don't have to sit really next to anybody to
22 eat. I think that that's going to be different. I
23 think in the summer and in the fall, people are
24 already starting to get out and want to get out

1 Joint Public Legislative Hearing, 5-13-20

2 and go for a ride, go see -- we talked as an
3 association this morning about the parks, the
4 historic sites, the hiking and biking trails.
5 People are going to want to get out to those in
6 the summer and stay in an accommodation where
7 they feel safe within their room.

8 So that's kind of from the hotel
9 perspective, they think that that might, people
10 staying in hotels, may come back quicker than say
11 the restaurants where you're sitting in close
12 proximity to somebody else. I hope not, but
13 that's kind of our take from the hotel industry.
14 You're right. People are starting to travel
15 already just to get out and get some air.

16 We have some parks here in the capital
17 district, Thatcher Park, even if you go there
18 last weekend and it's 70 degrees, there are a lot
19 of people out, just looking to get out and
20 they're going to do more of that as the state
21 opens up.

22 MR. RIGIE: I think we're going to have
23 to -- we've been doing is on the thought
24 experiments and I think we're going to have to

1 Joint Public Legislative Hearing, 5-13-20

2 look at different populations. If you have a
3 younger population, they tend to be a little bit
4 more risk taking, so they may be more comfortable
5 going out to a restaurant. Obviously, as age
6 increases, you become more susceptible to the
7 COVID-19, so there may be considerations there.
8 We've seen unfortunately, I have a young daughter
9 and you've seen I think 100 or so children now
10 have the illness. So I do think that depending on
11 the type of establishment, their customer base,
12 there's going to be different impacts, and they
13 may get their business back at a different time,
14 on a different time frame, but I think those are
15 things that we're going to have to think about as
16 well and what kind of procedures can be put in
17 place to give these different demographics a
18 peace of mind.

19 SENATOR KAPLAN: Thank you. With that, I
20 want to thank Scott, Mark and Andrew for your
21 time and for your testimony and for taking a lot
22 of these questions. I think we walk away with a
23 lot of information. And I would like to introduce
24 the next panel, which consists of two people,

1 Joint Public Legislative Hearing, 5-13-20
2 William J. Mellin who is the president and chief
3 executive officer of New York Credit Union
4 Association, and John J. Witkowski, who is the
5 president and chief executive officer of
6 Independent Bankers Association of New York
7 State. Welcome.

8 MR. WILLIAM J. MELLIN, PRESIDENT AND
9 CHIEF EXECUTIVE OFFICER, NEW YORK CREDIT UNION
10 ASSOCIATION: Well, thank you. If it's okay, I
11 will go first. Thank you for including credit
12 unions in today's hearing. I know it's been a
13 long day. I will be brief. We just have some
14 thoughts we want to share with you collectively
15 on behalf of the credit union community.

16 As you probably know credit unions are
17 not-for-profit cooperative finance institutions.
18 We actually got our start back if the Great
19 Depression, when New York State created the first
20 -- one of the first charters for credit unions in
21 America. And our mission, our purpose is
22 basically bringing people to a better place
23 financially, helping them navigate difficult
24 times. We're very active in small business

1 Joint Public Legislative Hearing, 5-13-20

2 lending and have been from the beginning, which
3 goes back well over, at least for credit unions
4 in America a hundred years or so.

5 Just a couple of comments and what I've
6 I heard today, I think we've heard some
7 frustrations, obviously about the payment
8 protection program. I can tell you that credit
9 unions and I know community banks worked very
10 diligently, very hard over the weekends, many,
11 many hours to get their customers, to get their
12 members approved, to get the money that they
13 needed in order to get their employees employed
14 or continue to keep them employed.

15 I would suggest that we continue to work
16 with banks and credit unions in that regard, not
17 try to bring it into a government-sponsored kind
18 of an organization. Let banks, credit unions do
19 their job. They know their members, they know
20 their customers. And let the SBA and the
21 government work behind the scenes to create the
22 programs and help people move forward and help
23 small businesses move forward.

24 Quickly, we just have three suggestions.

1 Joint Public Legislative Hearing, 5-13-20

2 I know today's hearing is based on looking at the
3 PPP program, opportunities to go forward. But
4 again, I think the PPP program helped, but in
5 some ways it doesn't help. And we've heard that
6 from some of the witnesses today.

7 Small businesses need the opportunity to
8 use funds in different ways. Unfortunately,
9 during a recession or depression, small
10 businesses just reduce staff. That's just the way
11 life is. It's unfortunate, but it's true. So
12 we're proposing, number one, that the state
13 consider creating a pandemic government
14 guaranteed loan program for small businesses,
15 again, created by the state but administered and
16 facilitated through banks and credit unions.

17 It would not be a forgivable loan
18 program and it would not be specifically related
19 to keeping people employed. Whether we give them,
20 and we heard that from some folks today in the
21 restaurant business, give them some better
22 flexibility, greater flexibility of how they can
23 open up their businesses almost from a start-up
24 situation. There would be underwriting criteria.

1 Joint Public Legislative Hearing, 5-13-20

2 There would be documentation requirements, which
3 obviously did not apply to the PPP program.

4 But there would be some type of
5 guarantee if the bank or credit union cannot
6 collect that debt, even though it was made
7 prudently, that the government, the state would
8 come in and help that financial institution
9 whole. So we think that's a something that -- I
10 know we have a lot of budgetary concerns here in
11 New York State, but I think it's something that
12 really if we could find the funds to do it.

13 Again, it's not a grant. It's not a
14 forgivable loan, but it's a guaranteed loan, that
15 the state would make through their banks and
16 credit unions.

17 And the other two suggestions really
18 focus on credit unions and how we can help.
19 Number one, we have state charter credit unions
20 in New York State. Because of the structure of
21 credit unions, they're restricted as far as their
22 field of membership is concerned. We're proposing
23 at least on a temporary basis, remove that field
24 of membership restrictions and allow New York

1 Joint Public Legislative Hearing, 5-13-20

2 State chartered credit unions to help any small
3 business, any consumer that lives or works here
4 in New York State, operates here in New York
5 State.

6 For example, if you're a state chartered
7 credit union and you had New York City as your
8 field of membership, if there's a company
9 Westchester County or in Nassau County that you
10 could help, why not give that credit union to the
11 opportunity to extend services to that entity,
12 that small business.

13 And then third, and we talked about this
14 assemblymen and senators for many, many years,
15 but give municipalities the option of using
16 savings and loans and credit unions for their
17 banking needs. We can show you that by doing
18 that, we can save taxpayers' money, we can help
19 municipalities get a better deal when it comes to
20 handling their banking needs.

21 Now is the time, we know what school
22 districts are looking at, we know what cities are
23 looking, we know what towns are looking at. Why
24 not give them every opportunity to see where is

1 Joint Public Legislative Hearing, 5-13-20

2 the best deal that they can make for their bank
3 pg needs and let them move in that direction.
4 Again, we've been talking about that for many
5 years. Many states have already adopted that
6 process. And again, we can from credit union
7 perspective, we can show you that in the long run
8 we save taxpayers' dollars, we save
9 municipalities money and again, those kind of
10 little things will hopefully help this state move
11 forward.

12 And I can tell you that credit unions in
13 New York State were very active in the PPP
14 program. I mentioned that before. We ranked, SBA
15 tells us we were one the most -- we dispersed
16 more PPP loans than almost any other state.

17 MODERATOR: I'm sorry your testimony
18 time is up.

19 MR. MELLIN: So thank you very much. I
20 appreciate the opportunity.

21 SENATOR KAPLAN: Thank you.

22 MODERATOR: Thank you.

23 SENATOR KAPLAN: Next, we have Anders
24 Tomson giving his testimony today for us with

1 Joint Public Legislative Hearing, 5-13-20
2 regard to the Independent Bankers Association of
3 New York State. Mr. Tomson, please, you have the
4 floor.

5 MR. ANDERS TOMSON, BOARD MEMBER,
6 INDEPENDENT BANKERS ASSOCIATION OF NEW YORK
7 STATE: Thank you so much, senator. I appreciate
8 it. I'm pleased to be here very much representing
9 the community banking industry and IBNA, as you
10 mentioned, John Witkowski. And obviously, we
11 support communities across the entire state. A
12 little bit about our company to give you some
13 perspective and I'll tell you a little bit about
14 what we did through the pandemic so far, which
15 will help, which should help you give some
16 perspective as well.

17 We're the oldest locally owned and
18 managed community bank in New York State. We've
19 been around 186 years. In fact, we just hosted
20 our 186 annual shareholder meeting today. We're
21 in 32 offices, across 12 counties. We're in the
22 Southern Tier, in the Finger Lakes region and
23 across the Capital Region. We serve approximately
24 39,000 households in upstate New York and we've

1 Joint Public Legislative Hearing, 5-13-20
2 been doing it, as I said, for a fair amount of
3 time. We have 360 employees, supervised by the
4 Department of Financial Services and the Federal
5 Reserve Bank.

6 So, needless to say, we're deeply
7 connected and have deep roots into the
8 communities we serve and have for many, many
9 times. And obviously, it hurt very much to see
10 the pandemic take hold in our communities and
11 have the really immediate and dramatic impact
12 economically on our communities and the
13 healthcare scare that's occurred. So the
14 coronavirus has been intense.

15 The temporary closure of business has
16 led to layoffs, furloughs, terminations, et
17 cetera. We've had really, really hard hurt
18 businesses. You've heard from hospitality,
19 accommodations, tourism, the hospital, the
20 healthcare communities, the education, the non-
21 profits. These are our clients, these are our
22 customer, the people we serve.

23 And there's a tremendous fear of the
24 unknown economically but also a very real thought

1 Joint Public Legislative Hearing, 5-13-20

2 about making sure that our neighbors and our
3 families and our communities are safe and
4 healthy. So that's been really important.

5 So, like we have for many, many years we
6 immediately felt the need to support our
7 communities. And we had two primary goals. The
8 first goal was we knew the importance of keeping,
9 providing financial services to our community.
10 That is the backbone of our region. Access to
11 people's money, access to credit had to continue
12 through this process and we were committed to
13 doing that. And we needed to do it in a way that
14 was safe and was safe for not only us but for our
15 clients and bringing that home to our families.

16 We had to dramatically change how we did
17 business and make sure we were still open for
18 business. Some of the things that we did and
19 we've talked about it a lot here today, but we
20 immediately waived ATM fees, overdraft fees, CD
21 withdrawal penalties. And for those businesses
22 and people that were having cash flow issues, we
23 modified nearly 25 percent of our loans. That
24 equaled \$320 million in loans for nearly 1,000

1 Joint Public Legislative Hearing, 5-13-20
2 different clients that we helped structure new
3 payment structures to help them get through this.
4 We helped families take on and access money
5 through the EIP, 19,000 direct deposit payments
6 made sure those found the right home.

7 As for the PPP program, obviously, a lot
8 talked about there. We were deeply involved with
9 this in both phase one and phase one. In phase
10 one, we provided 405 loans and \$150 million that
11 averaged \$350,000 per applicant. In phase two,
12 590 loans, \$36 million, \$61,000 per applicant. So
13 totally different, nearly 1,000 loans provided on
14 average 182,000 loans.

15 But that doesn't tell the story. The
16 median loan size was \$45,000. We provided loans
17 less than \$1,000, 54 percent of our loans were
18 less than \$50,000 and more than 50 percent of our
19 loans went to people who had no borrowing
20 relationship with the bank. We worked hard for
21 nonprofits and the community to get the money out
22 the door. We closed more loans in that period
23 than approximately three years' worth of normal
24 originations. We had to double our staff and

1 Joint Public Legislative Hearing, 5-13-20

2 literally work around-the-clock. It was intense
3 and it was important but I gotta tell you we felt
4 great by providing that service. A lot of
5 technical challenges, but we worked through it. I
6 think the intent was fantastic.

7 I want to thank Senator Sanders and all
8 the public officials who we've met with,
9 Congressman Reed and different senators and
10 assembly members reached out and provided their
11 assistance and support. Our regulators have been
12 fantastic. The Department of Financial Services,
13 the Federal Reserve Bank, the SBA, tough job
14 trying to find, a good intention to get the money
15 out the door to help people in need. And I gotta
16 say that I appreciate the opportunity to be here
17 today. I thank you for that. I'm pleased to
18 represent the community bankers across the state
19 and IBNAs and I thank you for your time.

20 SENATOR KAPLAN: Thank you so much.
21 Thank you for your testimony. I'm going to ask
22 the first question. Main Street Alliance stated
23 that many small businesses, without immediate
24 access to commercial banks continue to struggle

1 Joint Public Legislative Hearing, 5-13-20

2 to access aid, that banks process loans have been
3 limiting whose application they will process.

4 What steps are you and your members undertaking
5 to ensure that all small businesses, regardless
6 of size, MWBE status or location, have access to
7 this capital? And I appreciate that you have
8 actually increased your workforce and have tried
9 to do a lot more in this time. But, obviously,
10 these are small businesses that really do need
11 our help. These are small businesses that don't
12 have the access. So how do we make that access
13 more readily available to them?

14 MR. TOMSON: Well, I think that's a
15 great question, and I think as I said, I
16 represent this community, but I'd like to think
17 that I'm representative of banks across the
18 state. And we have an intense interest to serve
19 all citizens of the state and all communities and
20 all members of our community.

21 As we sit here today, there's money
22 outstanding and it's available. Someone earlier
23 today said, hey, this is a payroll protection
24 plan and it was designed originally for payroll

1 Joint Public Legislative Hearing, 5-13-20
2 protection and now it's, discussion sometimes,
3 it's certain people and certain businesses have
4 been left behind. And I think we can work to
5 correct that. We're taking applications right
6 now. It has slowed down. We would like to see
7 more people apply. We outreach through our normal
8 channels, be they Chambers, community
9 relationships and through all sorts of our
10 community infrastructure.

11 I was pleased at 50 percent of our loans
12 went to noncustomers, nonbank borrowing
13 customers. And I was pleased to see so many were
14 small, small loans. So I think we're trying
15 really hard on bank side. I think the key thing
16 is to communicate the money was there. Now that
17 doesn't mean that the architecture of the program
18 meets everybody's needs and that's a challenge
19 and you heard a lot about that today. So the
20 program doesn't meet everybody's needs but
21 certainly there's a tremendous interest to
22 provide the capital to those that need it and
23 that would benefit from it. So even today the SBA
24 is coming out with different rulings and

1 Joint Public Legislative Hearing, 5-13-20

2 considerations that I think help people.

3 But I think for this next \$100 billion,
4 I think we need to continually get the message at
5 to those people who are smaller or less served or
6 don't have the resources through conventional
7 business means and try it make sure that those
8 people have access to the money, because I can
9 tell you the intent of the banking community is
10 to provide the money to all persons.

11 And you know, there was an intense
12 frenzy for the money for phase one. And it's down
13 to a trickle right now, maybe a couple dozen a
14 day, three dozen a day, whereas we were doing
15 hundreds through the night on the first time. So,
16 I think there's a great opportunity to do better,
17 senator.

18 SENATOR KAPLAN: Thank you. And I join
19 you. I hope that everyone who is listening to
20 this hearing joins all of us to get the word out
21 to the Chambers, to all the MWBEs, small
22 businesses, there is money available, please go
23 ahead and apply. And then I'll pass it on to
24 Assemblyman Stirpe.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER STIRPE: Okay. Thank
3 you. Our chair of banking, Tom Abinanti.

4 ASSEMBLY MEMBER ABINANTI: Thank you,
5 thank you, Al. And thank you to both of you for
6 coming forward today. I have some process
7 questions first. How do you determine the amount
8 of money that a small business gets? I mean do
9 you look at their ability to repay? What are the
10 factors that you look at? Secondly, how does the
11 bank get paid? I mean is there a financial
12 benefit to you? How do you benefit from this? And
13 thirdly, when we're talking about the monies
14 being paid back, where do the return funds go? Do
15 give them back to the federal government or do
16 you get to do it again? And what about if they
17 don't meet the conditions? Who is checking on
18 whether they're meeting the conditions and how
19 much they have to repay and all of that? Is that
20 you or somebody else?

21 And then lastly, I guess, is what steps
22 would you suggest to change this program? If I'm
23 writing to my counterpart in Congress, what do I
24 tell them they should do a little bit better this

1 Joint Public Legislative Hearing, 5-13-20

2 time? So I guess the application process, how do
3 you determine the amount, et cetera, how do the
4 banks get paid on this, the repayment plan here,
5 I mean do the banks get the money. Does it go
6 back to the feds? Do you get to re-loan it? And
7 what happens if they don't meet the conditions?

8 And then the last one is, what should we
9 do differently on the next round? How should the
10 feds restructure the program to meet the rest of
11 the people's needs? To both of you.

12 MR. TOMSON: Thank you, assemblyman. I
13 can try to take that first. It's a 5-part
14 question. It's an excellent question and I assume
15 you're speaking to the PPP loan program not just
16 in general?

17 ASSEMBLY MEMBER ABINANTI: Yes, I am.

18 MR. TOMSON: So, the SBA created a
19 process and a formula by which they would
20 determine the size of everybody's amount. And it
21 was two-and-a-half times a payroll number. And
22 there was all sorts of calculations if it was a
23 self-employed person. But, in general, there were
24 specific IRS forms that people had to supply that

1 Joint Public Legislative Hearing, 5-13-20
2 validated payroll amounts and there was a
3 multiplier effect that's two-and-a-half times.

4 And then during the, you had to, you got
5 approved by the -- we submitted applications and
6 then we were approved and you got an approval
7 number, you had to close within ten days and then
8 the clock starts. They have two months with which
9 that they're going to assess repaid that money.
10 And during that time, 75 percent of the funds had
11 to go through or be credited towards payroll and
12 another 25 percent for other expenses, rent,
13 utilities, mortgages, et cetera.

14 A couple things, the banks one, have not
15 yet been paid. The forms are still evolving. And
16 one thing about this that's been challenging is
17 the process has evolved. Even today there was
18 really useful safe harbor communication from the
19 SBA today on eligibility, which helped a lot of
20 small companies for loans under \$2 million. That
21 was great.

22 We still don't have the forms yet to
23 apply for the applications fees that the banks
24 will be paid. But we'll be paid a sliding scale

1 Joint Public Legislative Hearing, 5-13-20

2 based upon the loan size. And then once the loan
3 is in place, the interest rate is one percent,
4 which we will get and that's a fully guaranteed
5 loan from the SBA.

6 And one other thing that hasn't been
7 determined is how the forgiveness works and the
8 forms work. And I think the ICBA and American
9 Bankers have asked the SBA repeatedly for what is
10 that process?

11 So there's a tremendous amount of good
12 faith here in trying to figure out how to get the
13 money out immediately before we know lots and
14 lots of stuff or get paid. So, those are all
15 great questions. As far as responsibility for
16 making sure people use the money correctly or the
17 allocations correctly, I think we'll know when
18 the SBA tells us this is how we're going to do
19 it. And I don't know if they're going to try and
20 wean out bad actors through that process. I
21 really don't know yet.

22 As we look forward, I really respect,
23 again, the intention of everybody who tried to
24 put together a thoughtful process, you know, more

1 Joint Public Legislative Hearing, 5-13-20

2 than \$600 billion in a very short amount of time
3 and not surprisingly, it wasn't perfect. But the
4 intention wasn't flawed. And so I think, the mad
5 rush to get the money out was hard, the changing
6 rules are hard. The fact that many, many
7 businesses aren't able to participate is really,
8 really difficult.

9 Going forward, I do think people need to
10 communicate with their community banks. A lot of
11 talk today about Chinatown, you know, there's a
12 great bank in Chinatown Abacus Bank, who I got a
13 text while I was sitting here, please let them
14 know that we're ready to help people. Reach out
15 to your community bankers. There's tremendous
16 intent to support these communities and I think
17 it's a great first step to figure it out because
18 we'll get it through.

19 ASSEMBLY MEMBER STIRPE: Okay.

20 ASSEMBLY MEMBER ABINANTI: Thank you.

21 ASSEMBLY MEMBER STIRPE: Senator.

22 SENATOR KAPLAN: Thank you, Mr. Tomson,
23 that actually brought a smile to my face, just to
24 hear that you're telling some of our listeners

1 Joint Public Legislative Hearing, 5-13-20

2 that there is a bank out there that is more than
3 happy to go out ahead and help them in Chinatown.
4 The next round of questions goes to Senator
5 Sanders.

6 SENATOR SANDERS: Thank you, Madam
7 Chair. Mr. Mellin, Mr. Tomson, good to see you
8 guys again. I'm glad. You guys stay safe in a
9 difficult situation. Let me take a moment to
10 complement the small banks, the fintechs and the
11 credit unions. The first round of this PPP, in my
12 view was a disaster for small business and you
13 guys stepped up big time. I was working, as you
14 know well, Mr. Tomson, I was working with the
15 chair of the financial institutions and we were
16 working and trying to figure out how do we create
17 an avenue, how do we put this money to the side
18 so will go through small banks, CDFIs and
19 fintechs, and it's probably well done, probably
20 well done. We won't know until the whole thing is
21 over.

22 I was speaking to Congressman Meeks, the
23 chair, and he wants me to tell everybody that we
24 still have 100 billion left. Go for this money.

1 Joint Public Legislative Hearing, 5-13-20

2 We are going to, we're talking about repurposing
3 the money, repurposing some of the money in there
4 to get to some of these smaller places. So I
5 would encourage those in agriculture and other
6 places to get in touch with me, get in touch with
7 us, to see if we can't figure out how to
8 repurpose it. If you have 100 billion -- and
9 we're shocked -- we thought this money would be
10 gone by now. And everybody involved in this is
11 shocked. Under those conditions, some of the
12 stuff that we're talking here, Madam Chair, Mr.
13 Chair, is actually possible if we could repurpose
14 some of this \$100 billion that's left. But we'd
15 have to move fast at that.

16 And that brings me to Mr. Mellin and he
17 had some very interesting ideas. I would
18 encourage him to get them to me as quickly as he
19 can. I'm really interested in it. That's it for
20 me, Madam Chair. I'm the easy guy.

21 MR. MELLIN: Thank you, senator.

22 SENATOR KAPLAN: Thank you. Assemblyman?

23 ASSEMBLY MEMBER STIRPE: Thanks, Next,
24 we have Yuh-Line.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER NIOU: Hi. Thank you so
3 much. I just wanted to say thank you for
4 addressing Chinatown just a little bit. I think
5 everybody is like very worried and I love Abacus
6 Bank. I think that they're one the best
7 institutions here in my community. And tell the
8 sisters that I say hello. And I just wanted to, I
9 guess say, again, that what some of the other
10 members had already said. I fought really hard
11 for 25 million to be put in our budget for CDFIs
12 and for the ability for community banks and
13 credit unions to be able to have that funding to
14 grow.

15 I know that came this year, which not
16 ideal. I wish it had been three years ago and we
17 could have built a network to be able to drive
18 some of these funds forward and try to make sure
19 that folks have the network and systems and
20 growth you guys needed to make sure to dole out
21 these funds in a faster and more expedient way.
22 But we do have now and I wanted to kind of ask if
23 it's helpful and if there's a way for us to
24 capitalize on the growth in the midst of this.

1 Joint Public Legislative Hearing, 5-13-20

2 And then I also wanted to kind of follow up again
3 with my bank's chair, Tom's question on where
4 does -- does it resolve, or do the funds go back
5 to the federal government? How does that work,
6 because I don't think that we got that quite
7 answered and I just wanted to ask you again on
8 that front because I also have that question.

9 MR. MELLIN: Well, if you want, Mr.
10 Tomson, I'll make that. So the funds are actually
11 disbursed by the community bank or the credit
12 union, so as those funds would be returned to the
13 financial institution, so, whether it's a
14 forgivable loan, then the funds would be coming
15 theoretically from the SBA directly to the
16 financial institution that made the loan. If it's
17 not a forgivable loan, then those funds would be
18 paid back by the borrower that received the loan.

19 So again, it's credit union or bank
20 money being dispersed out to their members or
21 their customers and then those funds are coming
22 back either through a repayment program or
23 through a forgiveness program. And the CDFI
24 funds, you know, is incredibly important. We have

1 Joint Public Legislative Hearing, 5-13-20

2 a lot of credit unions, one fairly close to
3 Chinatown, lower East Side, Peoples Federal
4 Credit Union.

5 ASSEMBLY MEMBER NIOU: Oh, my Lower East
6 Side Peoples.

7 MR. MELLIN: Yeah, it's a wonderful
8 credit union and I know you love them. They're
9 doing everything they can. They're a very small
10 credit union, but they're one the biggest SBA PPP
11 credit unions in the country, believe it or not.
12 So hats off to you and to the folks in New York
13 City that need it the most.

14 ASSEMBLY MEMBER NIOU: Thank you for
15 that.

16 MR. TOMSON: I'd just add in, and then
17 so the amount of loan that isn't forgiven becomes
18 a one percent loan that's repaid over the term.
19 There's a no payment window, I think it's six
20 months then the 18 months, it's repaid at one
21 percent. The challenge even though the interest
22 rate is great, I think, is the repayment period
23 is really short. So it's not reliable capital.
24 You really just have to pay it back too quickly.

1 Joint Public Legislative Hearing, 5-13-20

2 And that's something that the The CARES Act
3 allotted the flexibility to 10 years and they
4 elected for two. And again, I don't question
5 that. But that's something to consider going
6 forward. You know, you asked what else we can do.
7 I also think it's very hard to have the clock
8 start when you get the money and close. You have
9 to close the loan within 10 days of getting the
10 approval. There's this frenetic crush to get the
11 approval and this anxiety around it. You get the
12 approval then you have 10 days to close and then
13 the clock starts to spend the money. And many of
14 the businesses aren't allowed to operate.

15 ASSEMBLY MEMBER NIOU: Right.

16 MR. TOMSON: So I just don't understand
17 why the clock should start if someone's not
18 legally allowed to be operating. How does that
19 work? So those are simple ideas, the ten years is
20 a simple idea, when the clock starts is a simple
21 idea. And then maybe how long should the window
22 of evaluation being open? I don't think, even
23 though we say that the economy can now start, we
24 realize that it won't immediately. That it's a

1 Joint Public Legislative Hearing, 5-13-20

2 gradual and it is going to build up over time and
3 businesses have to spend their money wisely.

4 So I think a plan that anticipates that
5 and allows business to adapt and ramp up and
6 serve those communities would be great. And so
7 simple ideas, and we do have \$100 billion left, a
8 lot of money. And I do think it should be
9 targeted to those states that have been impacted
10 so greatly, such as New York. That's me and my
11 parochialism so I apologize that.

12 ASSEMBLY MEMBER NIOU: No, I appreciate
13 everything that you're saying. And I also wanted
14 to just say again, that I really think that --
15 like you were saying, there's so many barriers to
16 the application itself, for particular small
17 businesses. And in Chinatown I think the
18 difficulty and I'm definitely going to hit up
19 advocates right now, right after this. But
20 there's difficulty, especially for our small
21 businesses which fall between all the different
22 cracks that we're seeing that have been kind of
23 by design implanted into the application. So,
24 thank you so much for pointing it out.

1 Joint Public Legislative Hearing, 5-13-20

2 MR. TOMSON: You're very welcome. Thank
3 you for the time.

4 SENATOR KAPLAN: Thank you. Senator
5 Krueger, you're next.

6 SENATOR KRUEGER: Thank you very much.
7 Am I on speaker?

8 SENATOR KAPLAN: We can hear you.

9 SENATOR KRUEGER: Perfect. So, this is a
10 tricky question to ask both of you, but I'm going
11 to. On PPP round one, even though now Congress
12 admits they did a bunch of things wrong and
13 they're trying to fix it, it turns out the big
14 banks grabbed most the money, gave it to the
15 biggest people who were applying for it, not
16 necessarily the smallest businesses in greatest
17 need. As we heard all day today, small businesses
18 describe trying to get money and not being able
19 to.

20 So now it turns out, banks made \$10
21 billion on two weeks' worth of work, giving out
22 the first round of PPP. And there's class action
23 lawsuits that have been filed against the biggest
24 banks for harming small businesses by unfairly

1 Joint Public Legislative Hearing, 5-13-20
2 prioritizing the emergency loan request from
3 their largest customers in order to earn the
4 highest fees, it was the bigger loans got the
5 bigger fees. So we're suing -- we. They're being
6 sued, Bank of America, Wells Fargo, J.P. Morgan
7 Chase, US Bank.

8 One, don't you think the banks ought to
9 give back that money they made on this, that \$10
10 billion, hand it back? And two, if in fact they
11 in theory fixed it for round two, I'm really
12 confused why there's so many small businesses who
13 still have never heard back from their banks that
14 they might be eligible for something. Help me
15 understand these things.

16 MR. MELLIN: Well, if you want, I'll
17 take it, great questions. I mean I really can't
18 comment on the commercial banks. We've read that,
19 we've heard that. I don't think that it's not the
20 case for credit unions definitely for sure. Most
21 of the loans that we made were in the \$10,000
22 scenario, very generally, small, small loans.
23 What the credit unions did, is they didn't
24 prioritize based on how much money they were

1 Joint Public Legislative Hearing, 5-13-20
2 going to make. They prioritized when the loans
3 came, when the applications came in. And they got
4 those loans, I remember the round two, credit
5 unions worked the whole weekend fine-tuning,
6 cleaning those applications up so that 10:00
7 o'clock on that Monday morning they could submit
8 them and get them out.

9 But I don't think community banks and
10 the community banks that I know and credit
11 unions, we work to serve our members, our
12 customers, our communities. And the large
13 commercial banks, they're very sophisticated.
14 They have huge staffs. They're probably SBA
15 lenders and used to all the bureaucracy that goes
16 along with submitting SBA type loans. They were
17 in a position to move quickly, whether they
18 prioritized or not, that's an unfortunate
19 statement.

20 MR. TOMSON: I can speak from our
21 experience and I can't speak from others, but I
22 think it's representative. And I do respect the
23 question tremendously. And there was a fee
24 schedule went from five percent to one percent,

1 Joint Public Legislative Hearing, 5-13-20

2 one percent for the largest loans and five
3 percent for the smallest loans. And more than 50
4 percent of our loans, I forget what I said, was
5 under a dramatic threshold, and we did several
6 below \$1,000.

7 And I can just tell you from practice
8 that it was not prioritized based upon size or
9 money. I think you've been around in business for
10 186 years, you do you it by not making decisions
11 that way. And I think we've operated with
12 integrity and integrity to the people. And it
13 hasn't been about a quick buck, it's been about
14 an enduring process. And community banks, we
15 value all our stakeholders, and of course, there
16 are shareholders. But they're the clients, our
17 communities, the people that work here. And if it
18 doesn't work for all of them, it's just not going
19 to work at a community bank.

20 And so I can just respectfully say, that
21 didn't happen at our bank and I don't believe it
22 happened really anywhere. The reality is that the
23 biggest institutions have the most
24 sophistication, those big companies are fairly

1 Joint Public Legislative Hearing, 5-13-20

2 sophisticated and understand how to get through a
3 government process. And they use those resources
4 to access money. Now, by definition you couldn't
5 be a company that had more than 500 employees,
6 [unintelligible] [06:17:07] small business.

7 Again, all imperfect, but I think good intentions
8 in a very challenging situation.

9 SENATOR KRUEGER: I know, it wasn't a
10 question necessarily addressed at your two
11 entities but the overall banking industry. But
12 Senator Sanders, our banking chair keeps popping
13 in on this hearing and saying that he's still
14 working with the feds to get better rules
15 applied. So I say go, James Sanders. Get rules
16 that actually allow small businesses to get these
17 loans and a reasonable amount of time for them to
18 use them in as opposed to loans that they won't
19 even be able to legally spend and will have to
20 give back before we even open our regions again.

21 So I'm just very concerned we have all
22 these missed opportunities already and yet all
23 these small businesses that we are hearing from
24 crying out for our help. Thank you, Madam Chair.

1 Joint Public Legislative Hearing, 5-13-20

2 SENATOR KAPLAN: Thank you.

3 ASSEMBLY MEMBER STIRPE: Okay. Next up,
4 Harvey Epstein.

5 ASSEMBLY MEMBER EPSTEIN: Yeah, thank
6 you. I kind of want to first of all thank you for
7 the shout out for the Lower East Side Peoples
8 Federal Credit Union in my district where I bank.
9 It's really great to hear about our lower east
10 side institutions at these hearings. I really
11 just question about businesses that you've been
12 turned down from PPP loan. How many, what
13 percentage of people are being turned down, what
14 have you heard? What are the concerns that the
15 credit unions across the state have been talking
16 about and why those businesses have not been able
17 to get the loans that we have been talking about?

18 MR. MELLIN: From the --

19 MR. TOMSON: I can take it first.

20 MR. MELLIN: Go ahead.

21 MR. TOMSON: I'll take it first. I don't
22 think people -- they have been turned down over
23 process if they don't provide the right amount of
24 documentation that's required or can't validate

1 Joint Public Legislative Hearing, 5-13-20

2 their expenses, or haven't been in business for
3 the period that they said. But this isn't a
4 credit test. This is really government subsidy
5 and a government program. So, we're not putting a
6 credit -- this is not a credit process. This is
7 an eligibility as defined by the SBA, do you have
8 500 employees? Have you been in business? Are you
9 an eligible use company? Certain businesses are
10 not eligible for SBA funds, and we can talk about
11 that. But there's no credit filter.

12 So it's really just helping people get
13 the information they need to get through a
14 process, so that they can apply and get in the
15 cue and as we know, it's first come, first served
16 basis. Get in the cue, get the approval number
17 and then close in 10 days.

18 So if someone didn't get the money it's
19 because, one, they elected not to take it because
20 they couldn't use it within that eight weeks or
21 they felt they couldn't apply for the
22 certification, meaning they didn't meet the level
23 of distress, financial distress that was required
24 in the application process. Or, they maybe didn't

1 Joint Public Legislative Hearing, 5-13-20

2 meet some of the other qualifications in the
3 program. But the bankers did not provide a credit
4 filter on determining eligibility.

5 ASSEMBLY MEMBER EPSTEIN: But that
6 really, more my question is, like what are we
7 seeing that the turn-down rate is? Like if
8 people, you're saying, you know, like from the
9 credit union's perspective, how many people are
10 not getting the PPPs is it a high percentage, a
11 small percentage?

12 MR. MELLIN: A very small percentage
13 when it comes to receiving approval for the loans
14 if they come in with the proper document, which
15 Mr. Thomson says is not a lot. I mean you have
16 show your payroll, you have you have to
17 demonstrate that you had employees. Most the
18 people you might be referring to that didn't get
19 the loan that might have been turned were self-
20 employed individuals. What they were presenting
21 just didn't make sense as far as their
22 documentation is concerned. A self-employed
23 individual that consider themselves an employee
24 and yet had no employees, so there was a lot of

1 Joint Public Legislative Hearing, 5-13-20
2 questions about certain types of loans when it
3 came to really small businesses, self-employed
4 individuals and frankly some of our credit unions
5 struggled with trying to figure those type of
6 things out. And so at least round one, some of
7 those funds ran out before we could really make
8 those type of loans. But most of them were very
9 small individuals that just didn't have the right
10 documentation to show that they had employees,
11 that they had payroll.

12 ASSEMBLY MEMBER EPSTEIN: And have you
13 heard that's broken down by kind of race and
14 gender lines? We heard a lot of people mostly
15 people of color, women-owned businesses really
16 being turned down because of those factors? Maybe
17 they have too many, they had 1099 employees,
18 people who were W-2s, they didn't have sufficient
19 documentation. Have you heard the same thing?

20 MR. MELLIN: We have not. The credit
21 unions we worked with, I know the NYU down in
22 also New York City, they were struggling with a
23 lot of minority members. But it wasn't relative
24 to who they were. It was, again, the

1 Joint Public Legislative Hearing, 5-13-20
2 documentation that they either didn't want to
3 provide or couldn't provide.

4 MR. TOMSON: I would just reiterate,
5 sir, that that absolutely did not occur, that
6 people were not filtered by race, gender,
7 ethnicity or anything like that. As, of course
8 you can't, and we're held to those standards and
9 [unintelligible] [06:22:35] do that. But --

10 ASSEMBLY MEMBER EPSTEIN: Right. It's
11 not the intent, it's more like the impact. It's
12 like not the intent was to do that, but the
13 impact on the program and its designation that it
14 had a race and gender bias.

15 MR. TOMSON: I respectfully didn't feel
16 that. And you know, we can only manage the
17 applications that come through to the bank, and I
18 can tell you we served as many as we could. I
19 know that we went back and tried -- there wasn't
20 -- the reporting probably wasn't as good from
21 that perspective, gender, ethnicity, things like
22 that. But we can go through, since we know so
23 many of our community members and try to figure
24 it out. But it -- oh, sorry.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER STIRPE: Okay. Thanks,
3 everybody. We're now entering our sixth and final
4 panel. I can hear the cheers through all your
5 your muted microphones. And it's really
6 organizations that exist to help businesses, and
7 we have Dale Rice, the regional director at SUNY
8 Canton's New York small business development.

9 MR. DALE RICE, REGIONAL DIRECTOR AT SUNY
10 CANTON, NEW YORK SMALL BUSINESS DEVELOPMENT
11 CENTER: Is this my group?

12 ASSEMBLY MEMBER TAYLOR: Yes. Hold on
13 just a second, Small Business Development Center.
14 Shervon Small, director, Community Development
15 Project for the Legal Aid Society. And Patrick
16 MacKrell, president and Chief Executive Officer
17 of Pursuit. So, Dale, why don't you start off
18 with your testimony?

19 MR. RICE: Good afternoon, Chairwoman
20 Kaplan, Chairman Stirpe, members of the
21 committees. Thank you for giving me the
22 opportunity to talk today. I've been with the
23 Small Business Development Center over 20 years
24 you now. I started out as a business advisor and

1 Joint Public Legislative Hearing, 5-13-20
2 now I'm regional director at SUNY Canton. We
3 serve the northern part of the state. I'm filling
4 in for our state director Brian Goldstein, who He
5 had a scheduling conflict.

6 I believe that today more than ever
7 before in our history, small businesses and
8 entrepreneurship is truly critical to the well-
9 being of our local, state and national economies
10 and our recovery from this pandemic. Above all
11 else, the SBDC is a diversified partnership
12 between the state university, US Small Business
13 Administration, higher education in the private
14 sector, bringing in an array of skilled resources
15 for the direct assistance of small businesses
16 across New York.

17 I know most of you are familiar with the
18 SBDC, but we provide a wide assortment of
19 services through three core activities, one-on-
20 one business counseling, training and research.
21 In New York State, we have 22 regional centers
22 and over 40 outreach offices. Right now, about
23 100 percent of our staff is working remotely,
24 providing our services through phone, email and

1 Joint Public Legislative Hearing, 5-13-20

2 video.

3 COVID-19 has obviously has created an
4 unprecedented situation that has devastated our
5 small business communities. The NYSBDC is all too
6 familiar with assisting small businesses in
7 recovering from disasters. Having working in the
8 aftermath of 9/11 and Superstorm Sandy, Irene.
9 All these disasters were relatively isolated, the
10 destruction was visible.

11 We're dealing with something totally
12 different now. In the disasters I mentioned, the
13 SBDC was able to shift our resources to centers
14 that weren't directly impacted by the disasters
15 to help out and the SBA was able to direct their
16 loan programs for specific area and that's just
17 not the case now. So it affects the entire state,
18 the country, the world. And it's created a very
19 uncertain business climate on a scale that makes
20 it much more difficult to assist with the
21 recovery.

22 Just to put it in perspective, between
23 the dates of March 1st and April 30th, the SBDC,
24 we've counseled over 7,000 small businesses and

1 Joint Public Legislative Hearing, 5-13-20
2 another 10,000 in training through webinars. Most
3 of that training and counseling was helping
4 people with the PPP and the EIDL loans, kind of
5 understanding the programs and helping them
6 apply.

7 There have been issues with small
8 business owners understanding which loan is best
9 for their situation, understanding the terms. You
10 heard that from some of the witnesses today.
11 There's a lot of different terms and conditions,
12 so there's a lot of work that needs to be done to
13 help these businesses understand what they're
14 signed up for.

15 I can't really add too much to the
16 conversation we had today by PPP and IEDL. I
17 think everything's been said. One thing I would
18 like to mention is the three SBA districts in New
19 York State, Syracuse, New York and Buffalo. I
20 can't say enough good things about the Syracuse
21 district office, they were very helpful
22 throughout this. The staff and their team was
23 pretty accessible 24/7 to us and I know talking
24 to my colleagues throughout the rest of the

1 Joint Public Legislative Hearing, 5-13-20

2 state, it was the same in the New York district
3 and the Buffalo district.

4 One thing I would like to mention is the
5 New York State SBDC has received additional
6 funding through the CARES Act. We just found out
7 about that, or it was we got the notice of the
8 award Friday. What that means is through this
9 additional funding, we're going to be able to
10 bring on 70 new business advisors throughout the
11 state, additional research network team and some
12 technology to help us provide these services
13 better. These advisors will be on staff until the
14 end of September, 2021, so we're going to have
15 them for the rest of this fiscal year and all of
16 next fiscal year. And they're totally dedicated
17 to helping with disaster recovery, helping
18 businesses get funding, helping them navigate
19 with reopening plans, pivoting their business and
20 working forward with resiliency planning to help
21 soften future impacts. Thank you.

22 ASSEMBLY MEMBER STIRPE: Okay. Shervon,
23 you're next.

24 MR. SHERVON SMALL, DIRECTOR, COMMUNITY

1 Joint Public Legislative Hearing, 5-13-20

2 DEVELOPMENT PROJECT, THE LEGAL AID SOCIETY: Yes,
3 good afternoon. So my name is Shervon Small. I'm
4 attorney with the Legal Aid Society in New York
5 City and also the director of Community
6 Development Project. Thank you very much for the
7 opportunity to present testimony which has been
8 informed with by our work with low-income and
9 minority small business owners, who we represent.

10 So, many of you are probably familiar
11 with our work and familiar with our work around
12 housing and immigration, et cetera. But we're
13 very diversified at the Legal Aid Society. We
14 have tax practice, consumer practices, et cetera.
15 So the Community Development Project has provided
16 free legal services to qualified low-income small
17 businesses and non-profits in New York City for
18 over 20 years. We've assist businesses after
19 major disasters including Super Storm Sandy and
20 9/11 and we continue to provide assistance after
21 local disasters in our work with the New York
22 City Department of Small Business Services and
23 Emergency Response Unit.

24 As you are all aware, just about every

1 Joint Public Legislative Hearing, 5-13-20
2 business sector has been impacted by COVID-19 and
3 as such, our services have come into even greater
4 demand. Today I'm going to outline the
5 debilitating challenges faced by small businesses
6 hurt by COVID-19 and call on the federal
7 government to improve its response by reforming
8 the Paycheck Protection Program to provide
9 technical support for applicants, ensure
10 equitable distribution of fund and ensure fair
11 access to those funds.

12 So we do applaud Congress for moving
13 quickly with this program, but we do believe that
14 it's fallen short in helping small businesses in
15 New York State, the state which has been hit the
16 hardest by the COVID-19 pandemic. So, therefore,
17 we think it should be reimaged.

18 Number one, the federal government
19 should provide technical support for applicants.
20 So we have found that there was a lot of
21 confusion around the program between bankers and
22 New York small business owners, many of who had
23 to apply on their own, were not familiar with
24 grants and loan programs, were not intimately

1 Joint Public Legislative Hearing, 5-13-20

2 familiar with their own finances because they
3 usually relied on accountants, bookkeepers and
4 tax preparers. Sometimes the business owners were
5 confused about what forms or platforms to use.

6 And once that was cleared up, they were
7 then devastated to find out that the money had
8 dried up and they had to reapply. So the Small
9 Business Administration should ensure a uniform
10 application process or platform for all
11 applicants and a way for the small business
12 owners who are not financially or technologically
13 savvy to get answers. And more time also to
14 submit a completed application.

15 Two, the federal government should
16 ensure an equitable distribution of the funds.
17 The first-come, first-served nature also created
18 a problem for our clients. While the drafters may
19 have thought this would be a fair system where
20 every business was treated equally, in reality,
21 it actually favored the larger multi-million
22 dollars business with accounting departments and
23 law firms on retainers who had personal
24 relationships with their bankers and could polish

1 Joint Public Legislative Hearing, 5-13-20

2 and push those applications.

3 So in order to achieve greater fairness
4 of outcomes with the PPP applications, there
5 should be a sense of equity where small
6 businesses with, for example, less than 20
7 employees that make up 88 percent of the small
8 businesses around the state and country have as
9 great a chance of succeeding as those with 100 to
10 499 employees that make up only 1.7 percent of
11 small businesses.

12 Additionally, while many businesses have
13 been able to open, owners wonder how to spend PPP
14 fund to get the most out of the forgiveness
15 provisions. So the forgiveness calculations will
16 be based on how the business spends their money
17 within eight weeks. But with New York on pause,
18 some businesses currently have little or no work
19 for their employees. Others cannot get furloughed
20 employees to return, who maybe receiving enhanced
21 unemployment. So while the PPP encourages
22 employers to get people back to work, there's a
23 competing unemployment provision that keeps
24 employees away. So those who cannot hire will be

1 Joint Public Legislative Hearing, 5-13-20

2 left with interest bearing loans that may prove
3 unaffordable for them.

4 Third, the Small Business Administration
5 should ensure fair access to the funds. So under
6 PPP, we do believe that lenders had an incentive,
7 so the last panel said they did not prioritize
8 the loans, but lenders did have an incentive to
9 prioritize those larger loans for larger
10 businesses, which brought in greater fees. And
11 over the first two weeks of PPP alone, banks
12 earned more \$10 billion in fees processing those
13 SBA guaranteed loans. So this resulted in loans
14 to thriving businesses like over 100 publicly
15 companies, national chain restaurants,
16 professional sports teams, et cetera.

17 Additionally, another source of funding
18 for the small businesses may be their insurance
19 policies, whose premiums owners have paid for
20 years hoping it would protect them against the
21 losses they're currently experiencing.

22 Unfortunately, the insurance industry's
23 response has been to generally dissuade
24 policyholders from filing claims. So what policy

1 Joint Public Legislative Hearing, 5-13-20

2 owners have been forced to do is that if they
3 could afford it would be to sue their insurance
4 companies to in order to be made whole.

5 Additionally, there's state bill, an
6 identical state bill in the Assembly and Senate,
7 which was put forward by Carroll and Gounardes on
8 March 27, 2020 that would apply to restaurants
9 and other businesses with 100 or fewer full-time
10 eligible employees, which overrides any
11 provisions requiring physical damage and gets
12 around any virus exclusions. So since the
13 insurance and regulatory law is primarily
14 enforced by state insurance departments, it is
15 important the legislator move this bill forward
16 to help vulnerable small businesses around New
17 York State. Thank you very much for your time.

18 ASSEMBLY MEMBER STIRPE: Thanks.

19 Patrick? Is Patrick still here? It doesn't sound
20 like it. Okay, let me just start with a question
21 and maybe, well, you both can answer but let's
22 start with Shervon. I mean when a small business
23 applies for assistance under one of these federal
24 programs, what's your experience been? Are they

1 Joint Public Legislative Hearing, 5-13-20
2 aware of the potential legal and financial
3 obligations associated with the programs?

4 MR. SMALL: So many of them may be aware
5 of the legal implications of the program because
6 they have engaged in contracting before, whether
7 it's with suppliers, whether it's with their
8 landlords, et cetera. But when it comes to the
9 financial obligations, a lot of them are not so
10 much familiar with that aspect of it because
11 that's just not the area that they work in.

12 Folks are just, a lot of our clients are
13 smaller, more mom and pop businesses, they're the
14 main street business that keep this economy
15 afloat. And they just may not have the financial
16 savvy in order to really understand how these
17 things work. They might not have relationships
18 with their bankers in order to pick up the phone
19 and say, what do I need to do right now to get
20 this to you so I can get this money now? They may
21 not have these resources available.

22 Earlier today someone testified that
23 they paid a third party to actually help them.
24 Our clients just can't do that. Our clients just

1 Joint Public Legislative Hearing, 5-13-20

2 do not have the ability to do any of that and
3 they are stuck and have been denied loans, have
4 been not hearing anything from the banks. Someone
5 else testified they found that someone who
6 applied after them got in first. And that's not
7 the way the program is supposed to work. Folks do
8 not have the support they need in order to get
9 the benefits of this program.

10 ASSEMBLY MEMBER STIRPE: I've to give
11 you three stars, because you paid attention all
12 the way back to I don't know when. So, very nice.
13 What about you, Dale? What's your experience
14 been?

15 MR. RICE: I think when the loans first
16 came out, they came out so fast, there was a lot
17 of information out there that people didn't
18 really understand, when they started coming out,
19 you know, their lives were turned upside down. So
20 it was a really frantic time for them. We've
21 spent a lot of time, mostly the stats I gave you
22 for that eight week window, most of our time was
23 talking to people and making sure they understood
24 the program.

1 Joint Public Legislative Hearing, 5-13-20

2 But since then, we've gotten a lot of
3 calls from people that have applied. They're
4 starting to get the funding and they really don't
5 have any idea what they signed up for.

6 ASSEMBLY MEMBER STIRPE: Okay. That's it
7 for me. Senator, I don't think you have anybody.

8 SENATOR KAPLAN: I have a question.

9 ASSEMBLY MEMBER STIRPE: Okay. You go.

10 SENATOR KAPLAN: Well, actually, a
11 couple of questions. So, I want to thank you both
12 for your testimony and also for your time here. I
13 actually held two webinars. And I got really
14 great help from SBDC here in Long Island and a
15 big shout out, they came on board. We did these
16 webinars where we answered a lot of questions.

17 Maybe you can talk a little bit about
18 what advice you could give in terms of any
19 business that is really looking forward to have a
20 business, whether it's an existing business or a
21 different business, because circumstances have
22 changed. If they want to have a new business
23 going forward, reimagining something different,
24 how can SBDC and EAC help them and if you have

1 Joint Public Legislative Hearing, 5-13-20

2 advice for these new people who want to take
3 advantage this time going forward and really try
4 to build a business from ground up.

5 MR. RICE: Do you want me, I'll start.
6 It's been really refreshing the last couple of
7 weeks. We're finally starting to get calls back
8 from clients that are calling because they want
9 to start new businesses, which is we're pretty
10 happy about that. The existing businesses, pretty
11 much every business that we work with, their
12 business is going to change in one direction or
13 another moving forward. I'm really excited that
14 we were able to -- well, we haven't yet, but we
15 just started to bring on the 70 additional staff
16 members. They're going to be dedicated just to
17 working with businesses and they're going to have
18 a lot of time to be able to work with them one-
19 on-one to help them pivot their business and make
20 sure had they open they're going to have a safe
21 business, look at new markets, new ways to
22 deliver their products. So it's going to be
23 really interesting to be able to have that kind
24 of work.

1 Joint Public Legislative Hearing, 5-13-20

2 MR. SMALL: I agree with what Dale said.
3 Additionally, I think SBDCs are always good
4 places for small businesses to start because they
5 will get the training, they will get the
6 resources that they need in order to move
7 forward. Also, legal services providers like the
8 Legal Aid Society. So we help folks determine
9 what the best form of entity should be. We help
10 folks incorporate. So we have been getting calls.

11 Right now about 25 percent of our calls
12 are from people who are not COVID-19 impacted. So
13 it is promising that we are getting folks that
14 need assistance. And we've banded with a lot of
15 the nonprofits and some of the large law firms
16 around New York City in order to move forward
17 quickly. So with drawing this small business
18 legal relief alliance, which is a bunch of legal
19 services providers and law firms which are ready
20 and able now to answer questions and help people
21 move forward. So that's what we're able to do.

22 SENATOR KAPLAN: Thank you. My next
23 question is I'm aware that the SBDC does really a
24 lot of wonderful programming. I am aware that

1 Joint Public Legislative Hearing, 5-13-20

2 [unintelligible] [06:40:02] the entrepreneurship
3 assistance centers, the 24 centers that we have
4 throughout the state, do great work in terms of
5 really helping small businesses develop a
6 business plan and go forward, help get access to
7 capital and hopefully help them succeed in their
8 plan.

9 My question to you is, how do we try to
10 really get the word out? Because I don't think a
11 lot of residents, a lot of people, are aware of
12 these centers that could be a very good resource
13 for them. Any suggestions?

14 MR. RICE: You're right, senator. Folks
15 are not familiar. Sometimes, I'm surprised by the
16 types, you know, we get calls every day, because
17 the way -- so many times, it's by word-of-mouth,
18 it's by maybe walking into one of your offices
19 and they'll be pointed in the right direction.
20 But I think we need to do a blitz, the same way
21 these programs have been announced. PPP, you
22 know, there were state hearings about it. There
23 were webinars all over the place about it. So I
24 think the same thing should be done to get the

1 Joint Public Legislative Hearing, 5-13-20
2 word out, blitz the screens, blitz the airwaves
3 in order to let people know that help is
4 available to them and they shouldn't just be
5 sitting idly by, hoping that they can get their
6 business up and running or hoping they could get
7 their business back on secure footing. I think we
8 need to get the word out and do it soon.

9 SENATOR KAPLAN: I agree. And if you
10 have any other suggestions how we can do that
11 more effectively, please shoot us a text, an
12 email, we would love to hear from you. And I
13 would love to work with anyone, whether it's
14 senators, whether any of the witnesses on this
15 hearing, all that panels that have been here,
16 there are resources available for a lot of
17 people. It's just a matter of people knowing
18 these resources exist and for them to tap into
19 that.

20 With that, I want to thank every witness
21 for taking the time and coming today, being part
22 of this wonderful forum. And I want to thank all
23 the senators, all the assembly members, all the
24 elected who took part in this. And Hopefully, we

1 Joint Public Legislative Hearing, 5-13-20
2 got some good feedback and we'll try to work and
3 hopefully, we'll continue having these hearings
4 to see how we can actually help our constituents,
5 especially our small businesses, because we
6 understand the importance of their success in our
7 own communities.

8 I want to also thank my colleague,
9 Assemblyman Stirpe. Thank you so much for hosting
10 this with me. And I will hand it over to you.

11 ASSEMBLY MEMBER STIRPE: All right.
12 Thank you. We have three more assembly well, two
13 more assembly members that want to speak. So,
14 let's go to Rodneyse Bichotte, she's next.

15 ASSEMBLY MEMBER BICHOTTE: Hi, how are
16 you, again. Thank you, I want to thank the
17 witnesses for being here today to testify on the
18 obstacles. I know SBDC, you guys have been very
19 helpful with lending a hand and being of service
20 to many of the small businesses who didn't know
21 anything about how to fill out the PPP
22 application. We actually would refer many of our
23 business community members to our local SBDC, so
24 thank you for that.

1 Joint Public Legislative Hearing, 5-13-20

2 And, Mr. Small, thank you for your work
3 in serving as a legal aid to many of the small
4 businesses. It's certainly needed. I must say
5 when I heard the statistics, I was a little bit
6 baffled, but that is the reality. The vast
7 majority of the people who benefited from the PPP
8 stimulus loan were not those very small
9 businesses that make the majority of our economy.

10 And so, I agree that we need to rollout
11 a level of technical assistance and, also, we
12 need to find a way where there's a better
13 relationship between the banks and the small
14 businesses. We know that there were \$60 billion
15 that were given to CDFIs, community development
16 financial institutions, because the banks were
17 turning their backs to the majority of small
18 businesses, in particular minority-owned
19 businesses.

20 So, I wanted to hear a little bit more
21 from the whole grand scheme of things what was
22 the percentage of minority and women, in
23 particular minority-owned business, that is
24 benefited from this? Was it five percent? Was it

1 Joint Public Legislative Hearing, 5-13-20

2 half of a percent? I mean, was it two-tenths of a
3 percent? We want to know. That's important. We
4 need to know. Please.

5 MR. SMALL: Thank you, assembly member.

6 So, I don't have an answer to that particular
7 question. In fact, I'm interested in it myself.
8 Because from looking at the statistics, it
9 appears there were, it's almost like the one
10 percenters. It's like there were a very few
11 companies on the top who received a substantial
12 portion. The loans were capped at 10 million, but
13 there was a number of individuals or businesses
14 that did get that \$10 million, whereas we had a
15 number of clients who told us they applied for X
16 amount of dollars and they were told that they
17 would get \$1,000 per employee. We're like that
18 doesn't even make any sense. So how are all these
19 folks getting all this money on one side and most
20 of our clients are minorities, or women-owned
21 enterprises. So we do see it on the ground. I
22 haven't run the stats, I haven't done the
23 research on that particular issue. I would be
24 very surprised if the number was anything that

1 Joint Public Legislative Hearing, 5-13-20

2 would make us happy. It's not going to.

3 So I do think this is another area where
4 a new PPP should -- again it's about equity. It's
5 not about making everybody having access to the
6 same application at the same time, it's ensuring
7 the folks who need the help the most are
8 assisted, not everybody at the same time but
9 those that need the assistance the most. And
10 there's going to be the minority, the women-owned
11 business enterprises.

12 ASSEMBLY MEMBER BICHOTTE: Thank you.

13 Did you want to say something, Mr. Rice?

14 MR. RICE: Yeah, I don't have the
15 statistics you're looking for. Those, I think you
16 would have to get from the SBA. I haven't had a
17 chance to look into that. We have been trying to
18 keep our head above waters keeping up with the
19 increased demand. I do know our downstate
20 centers, overall the majority of the clients they
21 work with, 65 percent, are minority-owned
22 businesses. And I know that there's been a lot of
23 economic impact in the downstate centers. But I
24 couldn't tell you the breakdown of who got what.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER BICHOTTE: Going to, in
3 terms of the CDFIs, do both of you see that it's
4 more beneficial than working with the banks?
5 Because again, the banks were giving a lot of
6 these small business, minority and women-owned
7 businesses, a hard time in lending them that
8 money and that's why the government, federal
9 government had to set aside literally \$60 billion
10 so CDFIs can do the actual lending. CDFIs in our
11 communities have been the backbone of lending
12 money to our small businesses that are minority
13 and women-owned. Have you seen any anything
14 around that in terms of improvement? Or do you
15 have any information around CDFIs versus banks?

16 MR. SMALL: I do not, assembly member.
17 But do I think from speaking to our clients, that
18 they did get a better response when they actually
19 called the banks. The smaller ones were able to
20 give them answers to the questions as opposed to
21 the larger institutions. So just anecdotally, I
22 think the CDFIs and credit unions were able to
23 better to respond than the national banks.

24 MODERATOR: I'm sorry, the question time

1 Joint Public Legislative Hearing, 5-13-20

2 is up.

3 ASSEMBLY MEMBER BICHOTTE: Thank you.

4 ASSEMBLY MEMBER STIRPE: Thanks. Next
5 up, we have Tom Abinanti.

6 ASSEMBLY MEMBER ABINANTI: Thank you for
7 being with us today. I have been attending some
8 community meetings. There was one sponsored by
9 Assemblywoman Bichotte, I went to one sponsored
10 by Senator Sanders. And where I go seems to
11 determine the message that we hear. We heard
12 today about a very complicated process. We heard
13 about some success stories, with respect to the
14 process that was set up by the federal
15 government. But we also heard [unintelligible]
16 [06:49:03] of some problems.

17 And when I compare what I heard today
18 with what I heard in some other communities,
19 they're not really telling the same story. And
20 I'm getting the sense that the geography, like
21 where you're located, the industry you're in, the
22 size of your business, whether you're a nonprofit
23 or a for-profit, where you have a lending
24 relationship, a banking relationship matters.

1 Joint Public Legislative Hearing, 5-13-20

2 That some banks were excluded and there were a
3 lot of the people who were inner cities on main
4 street, the micro businesses have the
5 relationships with those institutions that were
6 excluded. On the other hand, some of the other
7 people gave us some great stories but how it's
8 working for them. I'd like your response to that,
9 to that comment.

10 And then I have a second question. Since
11 you're dealing with small businesses, one thing
12 we didn't talk about today was the state is
13 trying to help the small businesses, you know,
14 mortgage forbearance, non-eviction policies.
15 What's going to happen to these small -- what has
16 been the impact of those on small businesses? And
17 what's going to happen when the state lifts the
18 no eviction policy?

19 And lastly, you've kind of given us this
20 answer, but when you conclude, but just give me
21 in 25 words or less, what you would ask the banks
22 committee to do. What message should we send to
23 the banks? So tell me about the different
24 disparities, what's going to happen when our

1 Joint Public Legislative Hearing, 5-13-20

2 present state freeze lifts and what lesson should
3 we take, what should we do in the next PPP?

4 MR. SMALL: Thank you, assembly member.
5 I'll take the second question first, regarding
6 the moratorium. So we've had a lot of questions
7 about that, a lot of folks have questions
8 regarding lease obligations, whether or not they
9 need to contact their landlords, et cetera,
10 because they're worried. They are worried that
11 basically once the moratorium is up, that they're
12 not going to have the money in order to pay their
13 landlords. So the moratorium is on evictions but
14 the moratorium is not really on paying. So at the
15 end of 90 days, they will have to come up with
16 the money somehow in order to pay the landlord.

17 So we are trying to encourage folks to
18 negotiate with their landlords. Some landlords
19 have been, we've been successful in getting maybe
20 a month and a half, sometimes completely rent
21 free and then a percentage off for the next
22 months. So we have been able to do that, but
23 those are one-offs.

24 I think in general, most people do not

1 Joint Public Legislative Hearing, 5-13-20

2 have an attorney, do not have anyone to advocate
3 for them. So they are going to find at the end of
4 three months that they have to come up with this
5 money that they do not have. So I'm not sure
6 where we could, you know -- so, our businesses
7 are hurting. Our individuals around the New York
8 State are around. Our poor and minority folks are
9 hurting. So something has to be done there, but
10 the moratorium is not going to be completely
11 helpful to them.

12 Regarding disparities, I think you're
13 absolutely right. You're going to hear different
14 stories depending on the size of the entity,
15 where in the state they are, who their
16 relationship are with, and that's one of the
17 major problems we have. Again, it's about equity,
18 not really -- we need everything to be people who
19 need the help the most need to get the most help.
20 And I think that's what you hear when you go to
21 these different town halls because the different
22 places, different individuals are not receiving
23 the assistance that they do need.

24 Now, the banking departments, I think we

1 Joint Public Legislative Hearing, 5-13-20

2 need -- I think someone also mentioned that maybe
3 we need to have some interest-free loans. I don't
4 know how we can encourage the banks to force them
5 to -- you know, banks have a requirement to give
6 back to communities and maybe the Community
7 Reinvestment Act could be used in order to force
8 banks to loan to these companies.

9 ASSEMBLY MEMBER ABINANTI: Okay. Thank
10 you.

11 MR. RICE: For northern New York, your
12 assessment of kind of what's been going on with
13 the loan program, definitely the businesses that
14 had strong relationships with their bankers in
15 northern New York, at least, were the ones that
16 made out pretty well in the first round. The
17 second round in my area, a lot of the credit
18 unions and the smaller savings and loans that are
19 normally not SBA lenders really stepped up and
20 picked up.

21 MODERATOR: I'm sorry your question time
22 is up.

23 ASSEMBLY MEMBER STIRPE: Okay. We're
24 going to finish up with Rebecca Seawright.

1 Joint Public Legislative Hearing, 5-13-20

2 ASSEMBLY MEMBER REBECCA SEAWRIGHT: Hold
3 on a second. I'm on another call. All right,
4 thank you very much. So I just have a question
5 for SBDC, for Dale Rice and please give my
6 regards to Brian Goldstein. How many centers do
7 you have in Manhattan?

8 MR. RICE: In Manhattan? Geez, there's a
9 22 throughout the state. I know we have probably
10 six or seven in the city. I can't name them off
11 the top of my head. I'm sorry.

12 ASSEMBLY MEMBER SEAWRIGHT: Okay. And
13 can you just like recite over this -- the best
14 way for our constituents to contact the SBDC.

15 MR. RICE: I've been telling people in
16 my area the easiest way to is to go to our state
17 website, NYSSBDC, and click request for
18 counseling, because we're working remotely.
19 Sometimes it takes -- it's the easiest way to get
20 the information and get it to the right advisor
21 working from home.

22 ASSEMBLY MEMBER SEAWRIGHT: Okay, great.
23 And thank you very much and thanks to all of you.

24 ASSEMBLY MEMBER STIRPE: Okay. Well,

1 Joint Public Legislative Hearing, 5-13-20

2 looks like we're wrapped up here. Senator Kaplan,
3 I just want to say you asked if there were any
4 recommendations on how to get more awareness of
5 SBDCs. And what we do in our office, we have the
6 central New York SBDC that operates out of
7 Onondaga Community College. And we have a
8 database from our constituents of about 6,000.
9 And every month, we send out a newsletter and
10 they let us know when they're having classes or
11 any of those things and we put it in our
12 newsletter. It's just a way that we help and I
13 think everybody else could do something like
14 that, too.

15 SENATOR KAPLAN: Absolutely. I think
16 you're absolutely right. We've tried to do that.
17 I actually was able to take a tour. I visited
18 nine of the entrepreneurship assistance centers
19 in New York State. Those are another vehicle for
20 a lot of our constituents to really tap into. And
21 I think SBDC does a great job I do have to give a
22 big shout out to Robert Piechota, who came on
23 board with us and helped us with a lot of our
24 constituents. So there is a lot of help out

1 Joint Public Legislative Hearing, 5-13-20
2 there. It's just matter of making sure our
3 residents are aware.

4 ASSEMBLY MEMBER STIRPE: Yes, all the
5 funding they get is for actual programs, nothing
6 for marketing so that's why it's hard to find out
7 that they're actually there. I want to first of
8 all thank you, senator for co-hosting this with
9 me. And, you know, we made it through, which is a
10 good thing. I also want to thank all the members
11 who participated and lot of you I'm surprised
12 have hung in there the entire day. So
13 congratulations for that. And most of all I want
14 to thank all the witnesses who came forward and
15 spent their time with us today.

16 I think no matter how long it took, we
17 got some valuable information out of this and
18 hopefully, we can put that together and Chair
19 Nily Rozic and transmit that to the federal
20 representatives and hopefully it will help them
21 putting together the next package. So, thank you
22 all very much. And stay safe. Okay.

23 SENATOR KAPLAN: God bless, stay safe
24 everyone.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Joint Public Legislative Hearing, 5-13-20

ASSEMBLY MEMBER STIRPE: Take care.

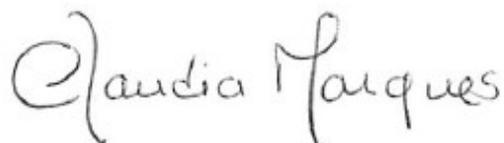
MODERATOR: This hearing is now closed.

(The public hearing concluded at 4:00
p.m.)

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of the Joint Public Legislative Hearing on Federal Response to the Economic Impact of the COVID-19 Pandemic on Small Business in New York State on May 13, 2020 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Claudia Marques

Date: June 5, 2020

GENEVAWORLDWIDE, INC

256 West 38th Street - 10th Floor

New York, NY 10018