

BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE on
BUDGET and TAX REFORM

Public Hearing held In the
Matter of

EXPLORING PROGRESSIVE CHANGES
TO NEW YORK STATE'S
PERSONAL INCOME TAX SYSTEM

Empire State Plaza
Meeting Room 4
Albany, New York

March 12, 2009
12:00 p.m.

PRESIDING: Senator Liz Krueger
Chair

PRESENT: Senator Bill Perkins
Senator Eric Schneiderman
Senator Kevin Parker
Senator Neil Breslin
Senator Ken LaValle
Senator Andrea Stewart-Cousins

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Legislative Director
Citizen Action of New York
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5. E.J. MCMAHON
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Executive Director
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9. JASON ANGELL
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1 (P R O C E E D I N G)

2 CHAIRWOMAN KRUEGER: Hello. Well, thanks for
3 being here.

4 You'll notice that I am missing my fellow
5 Senators, that is because we are on the floor
6 with in session, and in fact, we're having some
7 debates, which is the healthy Democratic way to
8 do things, but it also means that my colleagues
9 can't join me until after we are finished
10 session, and I didn't want to hold up the hearing
11 because of everybody's timelines. But it also
12 means at some point in the hearing, I will get a
13 phone call telling me I must come back to the
14 Capital to vote. It's one of the realities of a
15 30 to 30 split Senate, every vote does count. So
16 at the time, I will, unfortunately, need to put
17 the hearing on hold. I'll run to the Capital,
18 all right, I don't run, but I'll walk fast to the
19 Capital, vote, and then hopefully I'll be able to

1 bring the rest of my Senate colleagues with me
2 back to the hearing.

3 So, if you're one of the early testifiers and
4 you're just getting me, please know, I will make
5 sure every one of the members of the Committee
6 gets your testimony, and we are also taping this
7 because the Senate Democrats are attempting a new
8 model of sharing information, so we're putting
9 all of our hearings on line, we even are YouTube-
10 ing, and if you ask me what that means, I'm not
11 going to be able to tell you I know, but
12 apparently we're YouTube-ing information and we
13 will have available the testimony on line as well
14 as your being the testifier testifying. So
15 people will be able to read your testimony,
16 before and after the hearing; people will be able
17 to watch you testify, and hopefully the value of
18 this is that 19 million New Yorkers, if they're
19 interested, have the opportunity to learn this
20 information as if they were in the room with us,
21 even though they are not.

22 So, I have just a brief opening statement,
23 and then we'll take our first testifier. But I
24 wanted to make sure you, you didn't think it was

1 strange that no one was here, or in fact, that
2 even the Chair will be leaving at some point in
3 time, so thanks, for bearing with us.

4 Good morning. Elected officials, invited
5 guests, staff and members of the press.

6 The person income tax is the tax that most
7 State Legislatures would rather leave untouched
8 because adjustments tend to strike a personal
9 cord with all our taxpayers. So Legislatures
10 have been more open to pursue spending cuts or
11 sales tax hikes rather than agitate taxpayers by
12 increasing income tax withholding from paychecks.
13 But in dire economic times, this is often pulled
14 from the bottom of the bag and placed on the
15 table.

16 Facing huge deficits like our own, states
17 have increasingly turned to their personal income
18 tax to help balance their budgets. In 2007, oh,
19 the phone, sorry.

20 In 2007, Maryland and Michigan followed that
21 path. Thank you. Now as the recession saps
22 states sources of revenue, New Jersey and New
23 York are likewise exploring proposals to increase
24 the personal income tax rates to help bridge

1 larger and larger deficits.

2 In California, Governor Arnold
3 Schwarzenegger last month signed a package of
4 bills, which included a quarter of a percentage
5 point personal income tax rate increase to help
6 plug the Golden State's \$42 billion deficit. At
7 10.3 percent, California last year had the
8 nation's highest personal income tax rate. New
9 York had the 15th highest rate.

10 On December 16th, Governor Paterson presented
11 his Executive Budget, which then forecast a
12 record high deficit of \$13.7 billion. Since
13 then, the Dow Jones Industrial Average has lost
14 22 percent of its value and hit a 12-year low.

15 New York employers have issued over 100 mass
16 layoff or plant closure notices, with Citi Group
17 and Eastman Kodak earlier this week announcing
18 plans to cut over 200 jobs altogether.

19 The State Department of Labor reported last
20 week that New York's unemployment rate climbed to
21 7 percent in January, which compared to 4.7
22 percent a year earlier in the same month.

23 The culmination of these grim economic trends
24 makes it hard for New York Lawmakers to

1 contemplate an increase to the State's personal
2 income tax rate, but it may also be necessary.
3 Spending cuts, a barrage of tax and fee
4 increases, loosening restrictions on gambling,
5 Governor Paterson has proposed them all to bridge
6 New York's Budget deficit now projected to be
7 \$14.1 billion. But some of his proposals are not
8 palatable to members of the Legislature, and two
9 of my colleagues in the Senate Majority have
10 presented us with alternatives; bills that would
11 establish a more progressive personal income tax
12 rate in New York State.

13 These proposals are the focus of the first
14 public hearing held by the Select Committee on
15 Budget Tax Reform.

16 Senator Eric Schneiderman's Bill, S2021,
17 would great new personal income tax brackets for
18 New Yorkers earning over 250,000 annually. It
19 has been dubbed the Fair Share Tax Reform Act of
20 2009, for it's plan to modify the State's top tax
21 rate, which plateaus at 6.85 percent for married
22 couples earning more than 40,000 annually, and
23 for singles earning over 20,000.

24 Eric Schneiderman's Bill would set higher

1 income tax rates for the State's wealthier
2 residents ranging from 8.25 percent for New
3 Yorkers earning over 250,000 annually, and 10.3
4 percent for those with annual incomes of at least
5 one million. The Legislation aims to restore
6 progressivity to New York's personal income tax
7 rate, which in 1972, had 14 different brackets
8 ranging from 2 percent to 15 percent. Since
9 then, that range has narrowed to five brackets
10 between 4 percent and 6.85 percent, meaning that
11 middle class taxpayers are devoting a larger
12 portion of their income to taxes than wealthier
13 counterparts.

14 Senator Jeff Klein's Bill, S2654, similarly
15 proposes new tax brackets ranging from 6.85 to
16 8.97 percent for New Yorkers earning between
17 250,000 and one million annually. Plus a 10.3
18 percent rate for residents whose annual income is
19 at least \$3 million. Senator Klein's Bill also
20 calls for tax cuts for New Yorkers earning less
21 than 250,000 annually.

22 Money from the cuts would be delivered to
23 taxpayers in the form of debit cards that could
24 be used for a finite time to help stimulate the

1 economy.

2 In 2006, the State had at least 36,500
3 residents earning at least one million annually,
4 up 41 percent from six years earlier. New York
5 City housed 18,300 of those millionaires. That's
6 a six-year gain in millionaires, despite a
7 temporary increase in the tape -- excuse me.
8 That six-year gain in millionaires came despite a
9 temporary increase in the State's top personal
10 income tax rate, which stood at 7.7 percent for
11 New Yorkers earning over 500,000 annually between
12 2003 and 2005. Prior to that increase, New
13 York's top rate had not risen since the mid-70s
14 when it reached a high of 15.375 percent.

15 The Legislative proposals before us would
16 bring New York's top personal income tax rate
17 below its level during the stagnate 1970s, but
18 above the Great Depression Era peak of 8 percent.

19 At this 15-month, excuse me. As this 15-
20 month old recession keeps reminding us, it is
21 unlike any other economic downturn we have seen.
22 During past financial crises, New York has
23 collected greater shares of taxpayers' income
24 with the spotlight fairly recently landing on

1 high-income earners. But now, the question is,
2 would it be wise to continue in that tradition?
3 Is it the most effective solution; is it the most
4 equitable? For those answers, we turn to the
5 panels we expect to have gathered with us here
6 today.

7 Now I know that this is a discussion of
8 personal income taxes, but I also know that we
9 all understand that the State is facing a series
10 of questions around tax policy, and the
11 Governor's Budget Proposal, in fact, has several
12 billion dollars of additional fees and taxes and
13 increases proposed. Only yesterday, several of
14 those tax proposals were taken off of the table,
15 so to speak, when the Governor announced that
16 approximately \$1.3 billion of tax revenue
17 proposals that he had in the Executive Budget
18 were being taken off the table, meaning not going
19 to be considered by the Legislature or the
20 Governor in the budget process. Those were
21 referred to as nuisance taxes.

22 I think one of the interesting issues in
23 debating taxation is both what kind of taxes are
24 considered most fair, no, it's unfair to say any

1 tax is popular; I dare you to find a popular tax.
2 The general rule is we don't like taxes, but we
3 like having government services. So we need to
4 pay for them in some way.

5 So, for example, the Governor took off of the
6 table a proposal to tax sugared soda beverage,
7 sugared soft drinks. That would have brought in
8 \$400 million in tax revenue. Yesterday, because
9 that was taken off the table, technically that
10 meant New York State needs to come up with an
11 additional 400 million to replace that revenue,
12 or 400 million more in cuts to services. In
13 total, 1.3 billion was cut yesterday in tax
14 proposals, and so we then, apparently we
15 announced we're paying for it through FMAP.
16 Which is Federal Stimulus money for healthcare,
17 but has a broader definition of how it can be
18 used.

19 I hope that in each person's testimony today,
20 they will consider the dilemma of the State of
21 New York; how do we pay for basic fundamental
22 services and have a fair tax system to do so? We
23 might, we all might disagree on how we ought to
24 spend the monies that we collect in taxes, but

1 hopefully we'll have a fair and honest discussion
2 about proposals for what the best tax system
3 model is in New York State in the 21st century.

4 Now having said that, I'm going to ask each
5 testifier to keep their comments to ten minutes.
6 I know that you've all submitted written
7 testimony, and some of the testimonies are quite
8 long. I personally appreciate your putting that
9 much effort into your thoughts about this, but it
10 doesn't mean we're going to have the time today
11 to cover every detail that you propose.

12 I am planning for this Committee to have a
13 series of different hearings around the state
14 around subset questions in tax policy, but again,
15 the goal of the Senate Majority in having this
16 hearing, and in having this Committee, is to try
17 to evaluate New York State's tax policies in
18 system and see whether we can come up with a
19 better model for the 21st century of taxing
20 citizens in a fair and equitable way, and using
21 that money most appropriately. So even if today
22 we don't get into the specific topics you would
23 most be interested in, and even if we do have to
24 limit our conversations to ten minutes each, I

1 hope that every person here whose testifying
2 knows that we are very interested in hearing from
3 all of you and all the possible proposals that
4 could be brought to the table in New York State
5 for the 21st century.

6 So thank you, very much, for attending.

7 And our first testifier is Donald Boyd,
8 Senior Fellow. Excuse me. Donald Boyd, Senior
9 Fellow, Nelson A. Rockefeller Institute of
10 Government here in Albany. Thank you, very much.

11 **DONALD BOYD**

12 **Senior Fellow**

13 **Nelson A. Rockefeller Institute of Government**

14 MR. BOYD: Thank you, very much.

15 I'm probably one of those people whose
16 written testimony is longer than you need. If I
17 can get some kind of heads up as we're getting
18 near the end, that would be, of the allotted
19 time, that would be very helpful.

20 I did provide a presentation that has a few
21 of the slides in --

22 CHAIRWOMAN KRUEGER: Okay.

23 MR. BOYD: -- from the written testimony, I
24 don't know how we best get that up, but that

1 would be great.

2 There's some primerine material in my
3 testimony, I'll probably shoot through that
4 rather quickly.

5 First, thank you, for inviting me. Yes, I'm
6 a Senior Fellow at the Rockerfeller Institute of
7 Government. We're the public policy research arm
8 at the State University of New York. We study
9 the management and finances of state and local
10 governments in the United States. We do not have
11 a horse in the race. We try to educate and not
12 advocate.

13 I'm seen the work on New York tax issues from
14 several perspectives. In the early 1980s, I was
15 the director of a tax staff in the Assembly Ways
16 and Means Committee. In the late 1980s and early
17 1990s, I was in charge of the Economic and
18 Revenue Analysis Staff in New York's Budget
19 Division. I played a major role in projecting
20 revenue, helping to manage budgets gone bad, and
21 developing and negotiating options to close
22 budget gaps.

23 From the mid 1990s through now, I have
24 studied finances in the 50 states at the

1 Institute. And I'm thankful to be in my seat
2 rather than yours.

3 I will talk about the often-competing goals
4 of tax policies, with a special focus on one of
5 the items you raised in your invitation, which
6 was revenue stability. And I'll try to relate
7 these issues back to the two Senate Bills at
8 hand.

9 Is there, by the way, a way to get the
10 presentation up on the screen?

11 CHAIRWOMAN KRUEGER: It's set up on your
12 computer here on the --

13 MR. BOYD: Is it?

14 CHAIRWOMAN KRUEGER: David, can you come here
15 one sec?

16 MR. BOYD: I believe it was. And if not,
17 we'll go without, but there are a couple of
18 things that are nice to have on taxes.

19 CHAIRWOMAN KRUEGER: Do you know how to use
20 the technology, to get that up?

21 MR. BOYD: Okay. Well, economist and
22 analysts often posit several different broad
23 goals of good tax systems. One is equity or
24 fairness, another is neutrality, third is revenue

1 adequacy, and the fourth is administration and
2 compliance.

3 Fairness usually has two dimensions,
4 horizontal equity and vertical equity. That's
5 where, if you can get to the next slide, that
6 would be great. Horizontal equity relates to
7 treating similarly situated people similarly. If
8 I earn 50,000 and you earn 50,000, are we taxed
9 similarly?

10 Vertical equity is treating different
11 taxpayers differently in ways that are fair.
12 Unfortunately, there is no way that economists or
13 others can give you an answer to that. That is a
14 question you arrive at internally. We can tell
15 you a little bit about how to construct measures
16 that get at that, but the question of whether the
17 person who pays, who earns \$500,000 should pay
18 ten times in tax more than the person who earns
19 50,000, or whether they should pay 20 times as
20 much, or five times as much, is one that we can't
21 answer. We can help you, again, measure it
22 properly and help you to judge it, but you must
23 make that decision.

24 Tax neutrality means that with rare

1 exceptions, tax systems should not distort or
2 alter economic behavior. This is frequently
3 honored in the breach where tax systems are
4 exclusively designed to do exactly that, not
5 necessarily a good idea. Some good exceptions
6 would be tobacco taxes where we, in fact, like
7 frequently taxing smoking and, because of its
8 huge societal costs.

9 Revenue adequacy, and this is what I'm going
10 to focus a little bit more on here. We typically
11 think of it in two different ways.

12 One is, I mean this is the purpose of taxes
13 in the first place, to support government, so can
14 it, over the longer run, can the revenue system
15 sustain spending; and two, how does it respond
16 over the business cycle? And these two Senate
17 Bills certainly raise issues there that need
18 consideration.

19 And lastly, one of the other stepchildren of
20 tax policy debates is administration and
21 compliance, where very important, but very hard,
22 sometimes, to design tax systems that are both
23 politically palatable and administratively easy.

24 The problem is that these are great goals in

1 the abstract, but they compete with each other.
2 Or often they do. A broad-based sales tax that
3 includes food and medical services will be
4 relatively stable, and relatively less
5 distorting, and very unpopular, and perhaps very
6 unfair. And I have dozens of illustrations of
7 that.

8 Now I'd like, again, to say a little bit more
9 about stability and volatility.

10 Volatility is bad for quite a few reasons.
11 When budget gaps, or surpluses appear suddenly or
12 disappear suddenly, governments change plans
13 rapidly, it's hard for business to forecast what
14 the tax environment is going to be like, hard to
15 make investment decisions, hard for parents to
16 know what kind of school system their children
17 are going to have. So volatility, in general, is
18 a bad thing. If you have two paths to the same
19 end point, and one of them is very zigzaggy and
20 one of them is pretty straight, at least when it
21 comes to taxation, the straight path is one that
22 will create less uncertainty and will be better.

23 And the cyclicalities in budgets is driven
24 primarily by tax revenue. Spending plays a much,

1 much smaller role. Of course, Medicaid does go
2 up a bit in a recession, and some other spending
3 issues arise, but tax revenue, and especially
4 income taxes, and sales taxes, and corporate
5 taxes, raise this issue in spades.

6 While there are options for dealing with
7 volatility, they aren't typically very good. One
8 is to try to manage it with big reserve funds.
9 Lots of studies have shown that states do not
10 have reserve funds big enough to manage through
11 business cycles. And quite frankly, the size of
12 reserve funds you would need to have to manage
13 through business cycles would be politically
14 difficult to accomplish and sustain or maintain
15 in good times.

16 Hedging is not a practical option. Except
17 some volatility in individual revenue sources,
18 but try to have a portfolio taxes. This is
19 something states do, should do, and it's good.
20 States that rely on a single industry, states
21 that rely on a single tax structure will have
22 very volatile tax systems. We see that in the
23 oil-producing states in particular, we see some
24 of it in New York, and I'll get to that in a

1 minute.

2 And the last thing we can do is structure
3 individual taxes to be less volatile. Add food
4 to the sales tax, for example; make an income tax
5 actually flatter, not less steep. If you're
6 concerned with volatility, and certainly that
7 ought to be one of the concerns in any tax policy
8 debate, that it's actually the flattening that
9 gets you more stability. But with tradeoffs in
10 other areas of tax policy.

11 So how volatile is New York's tax system?

12 First you can look at the economy. This is a
13 ranking of states from least volatile economies
14 to most. Pennsylvania, believe it or not, was
15 way off on the left and way off on the right, and
16 high is North Dakota. Alaska is even more
17 volatile. You see oil-producing states have very
18 volatile economies. New York is actually in the
19 middle, historically. Now sometimes the problem
20 with looking at history is, especially when you
21 have single large events, they don't, history
22 doesn't tell you the full story, and I think
23 there's some truth to that in New York, here in
24 particular, because we rely so heavily in our

1 economy, and ultimately in our tax system, on the
2 financial sector.

3 This is a graph of wages in New York in the
4 financial sector from back around 1958, as a
5 share of total wages, through 2007, and you can
6 see, we've increased from maybe 6 percent of
7 total wages to 22, 23 percent, and it's really
8 astounding, New York's reliance on the financial
9 services sector.

10 Three industries; securities, brokerage and
11 investment banking and portfolio management,
12 which account for less than 2 percent of our
13 employment, accounted for 30 percent of all the
14 wage growth between 2003, post the last bust, and
15 the bust in 2007. These people in this industry
16 make a lot of money and pay taxes on it, and has
17 contributed substantially to the growth in State
18 revenue over the last decade, and quite frankly,
19 to the decline. And this contributes greatly to
20 the volatility of New York's tax system.

21 Income tax liability declined by 8½ percent
22 in 2001, and 7½ percent in 2002 in New York.
23 These are nominal declines, hard to support, you
24 know, kind of rising costs just to delivering the

1 services you have with those kinds of declines
2 and a tax that's 60 percent of your tax
3 structure. We're looking at declines at least as
4 large for the 2008 tax year, which just ended,
5 and the 2009 tax year that we're in. And this
6 has a lot to do with why the volatility with New
7 York is so great.

8 Where is the money in the New York Income Tax
9 System, and these may be numbers everybody's
10 familiar with, but you'll see three bars here,
11 estimated now, this is for the current year based
12 on Budget Division projections, and what this
13 tells you is, looking at the left set of bars,
14 folks with income in the zero to \$50,000 range
15 accounted for somewhere more than two-thirds of
16 the taxpayers. That's that high blue bar at
17 around 68 percent. They accounted for maybe 19
18 percent of the income subject to tax, and
19 somewhere around 4 or 5 percent of the tax
20 liability in New York.

21 When you go way off to the right, which is
22 where these two bills at issue get most of their
23 money, people making more than a million dollars
24 account for about a half of a percent of the

1 taxpayers. That's that little blue bar that's
2 close to zero. Account for about 23 percent of
3 the income subject to tax, and very nearly a
4 third of the tax liability.

5 So that's where our money comes from in the
6 tax system, and it's actually been like that for,
7 with big variations, but been like that for
8 certainly all the years for which we have ready
9 access to data. It starts at 1996 and runs
10 through, forecasted out to 2010. We're looking
11 at 30 to 40 percent of the total paid by the top
12 now, top 1 percent in every year with big rises
13 through 2007, and a drop now. And this money is
14 very, very bouncy. It's, let me see if I have
15 with me, if I could just quick ...

16 The top 1 percent of your taxpayers actually
17 accounted for more than the, more volatility in
18 the tax system than the other 99 percent of
19 people. And so, for example, in 2001, their
20 liability fell 7 percent while the other 99
21 percent fell 1 percent, and what happened, as a
22 result, was in fact, that total tax liability
23 fell by about as much as theirs did.

24 So, that doesn't, in and of itself, by no

09

1 means, does it in and of itself mean that a more
2 progressive tax system is a bad thing, but it
3 means that one of the things, one of those four
4 policy issues you care about is going to be,
5 quite frankly, dramatically changed to make the
6 system very substantially more volatile. It's
7 beyond what I could do for this meeting to try to
8 quantify that for you, but I would say that at
9 least if you will, five percentage points more of
10 tax liability would fall in the upper one
11 percent, so raising from somewhere in the 35
12 percent range to well over 40 percent with this.
13 And, you know, the question you ultimately have
14 to ask is whether the benefits you perceive in
15 fairness, and the benefits of sustaining spending
16 for the economy can offset what would become a
17 very, much more volatile tax structure in New
18 York, and if you conclude yes, then I think it
19 makes sense to consider whether other things out
20 to be done; greater reserve funds, lessening
21 volatility elsewhere to dampen what will become a
22 system that's harder to manage still.

23 CHAIRWOMAN KRUEGER: Thank you.

24 Now I warned everyone in advance I was going

1 to get a call making me run back to the Senate
2 for a vote, and the call has come. So I want to
3 thank you very much for coming and speaking, and
4 I will have questions, but not right now. So I
5 will call you up, if that's okay?

6 MR. BOYD: Yes.

7 CHAIRWOMAN KRUEGER: To ask questions, and
8 for everyone, we're going to put the hearing on
9 hold while I got to the Senate floor, vote, come
10 back, hopefully bring my colleagues with me. So
11 I'm going to put us on official hold and come
12 back as soon as possible.

13 And people should know that we're not too far
14 from various cafeterias, and it's 12:30, so you
15 might want to grab lunch. I'm hoping this will
16 only take about 15 minutes.

17 So again, thank you, very much.

18 MR. BOYD: Yup.

19 (SHORT RECESS)

20 CHAIRWOMAN KRUEGER: If you're joining me, I
21 ran ahead. They were still explaining their
22 votes, so I ran ahead of them.
23 All right, it was a longer break than I thought
24 it would be. I've decided the Senate gets paid

1 by the word, so everybody has to say a lot of
2 them. Sorry, did I say that on the record?

3 (Laughter)

4 CHAIRWOMAN KRUEGER: Okay.

5 And I also have a letter here from Senator
6 Michael Ranzenhofer, who is apologizing for not
7 being able to be at the hearing today, but he
8 will be very interested in hearing from all of
9 us, and we will make sure that he gets all of the
10 testimony.

11 Okay. Our next speaker is going to be Ken
12 Pokalsky, Senior Director of Government Affairs
13 for the Business Council of New York.

14 **KEN POKALSKY**

15 **Senior Director of Government Affairs**

16 **Business Council of New York State**

17 MR. POKALSKY: Thank you, Senator.

18 CHAIRWOMAN KRUEGER: Thank you.

19 MR. POKALSKY: For those not familiar, the
20 Business Council is the largest statewide
21 employer association in New York State. We
22 represent about 3,000 companies across New York
23 in virtually every business sector; large
24 business, small business, across the board.

1 On behalf of the Business Council, we
2 appreciate the invite to be here today. We look
3 forward to working with the Committee on
4 additional agenda items as well. We'll be
5 sharing with you some additional budget and tax
6 reform priorities being developed by the Business
7 Council.

8 We fully understand the seriousness of the
9 economic situation facing all of New Yorkers,
10 including the businesses we represent. It seems
11 like we have additional bad news from member
12 companies virtually every day. And we also
13 appreciate the financial situation being
14 addressed by the administration, you and your
15 colleagues in the Legislature. We recognize
16 these are very difficult choices being faced as
17 you work on the Fiscal 2010 State Budget.

18 From our perspective, the overriding theme
19 here is, it's essential that this new budget be
20 developed with the objective making the State
21 more competitive, not less, in order to allow New
22 York to participate in the next national economic
23 recovery. And with permanent changes in the
24 financial sector, financial services sector, we

1 cannot expect the full recovery of Wall Street or
2 its revenues, that propelled the State's economy
3 and budget out of recent downturns. Therefore,
4 we need to assure that the entire state presents
5 attractive investment opportunities, both for
6 existing companies and new companies. And we
7 believe spending and tax policy dramatically
8 affect that competitiveness.

9 That said, I'd like to take time today,
10 that's available to us today, to address some of
11 the specific issues you raised in the hearing
12 notice on the progressivity of New York State's
13 Personal Income Tax.

14 We agree that the PIT should be progressive
15 aggressive, and despite arguments to the
16 contrary, we believe that the current PIT is
17 progressive as it's applied. Based on our
18 analysis of recent publicly available data from
19 Department of Taxation and Finance, I'd like to
20 hit a couple principle points.

21 Lowest 40 percent taxpayers as measured by
22 New York adjusted gross income pay no income tax
23 at all, in fact, receive more than half a billion
24 in State tax refunds under the Earned Income

1 Credit, credits whose increase in the past,
2 incidently, has been supposed by the Business
3 Council as reasonable tax policy.

4 Some argue that the application of a same
5 statutory rate on moderate and high-income
6 taxpayers is evidence of a non-progressive tax
7 system. When you look at the effective tax rate,
8 the actual percentage of income paid in New York
9 State income taxes, the data clearly shows that
10 the State's PIT is progressive as it is now
11 structured. The effective tax rate on taxpayers
12 with income over \$200,000 in adjusted gross
13 income, at 6.6 percent, is 94 percent higher,
14 nearly double, the effective tax rate on
15 taxpayers in the 40 to \$50,000 AGI range. Which
16 is about 3.4 percent, despite "being taxed at the
17 same rate."

18 Overall, the effective tax rate on New
19 Yorkers increases significantly as you move from
20 the lowest income earners to the highest, as
21 shown on the table we attached to our testimony.

22 As a final illustration of this point, the
23 top 3 percent of taxpayers, those with AGI above
24 \$200,000, pay 55 percent of all personal income

1 taxes paid in New York in the top 25 percent of
2 taxpayers by income, account more than 89 percent
3 of PIT liability.

4 In short, taxpayers with progressively higher
5 rates of income pay progressively higher share of
6 their income in personal income tax.

7 We haven't had time to do any in-depth
8 research for this hearing that compares New
9 York's PIT structure with that of other states.
10 We expect that due to factors such as a top rate
11 higher than the majority of states, higher than
12 28 of the 42 other states with a PIT in our
13 earned income credit, we would suspect New York's
14 effective tax rate is relatively progressive
15 among the states. We would also cite the
16 institute on taxation and economic policy and
17 organization with a strong emphasis on
18 progressive tax policy, which includes New York,
19 along with California and New Jersey, as being a
20 state, and I quote, "With a particularly
21 progressive income tax." So ...

22 The second point, you raised the question of
23 stability with revenues. In our testimony here
24 tracks what Don Boyd was saying as well.

1 You ask how much more stable the State's tax
2 revenue stream would be with a more progressive
3 personal income tax. And we believe data shows
4 that a greater reliance on high-income personal
5 income taxpayers will result in more, not less
6 volatility, in income and overall tax revenues.

7 Experience in the post-September 11th
8 downturn illustrates significant volatility,
9 incomes and tax revenues at the high and the
10 income scale. From 2000 to 2003, total earnings
11 in the 40 to \$200,000 range actually increased by
12 about 3 percent, and their wage income increased
13 by about 9 percent in aggregate.

14 In sharp contrast, over that same period,
15 2000 to 2003, total earnings for taxpayers with
16 adjusted gross income over \$200,000, I'm sorry,
17 of \$200,000 or greater, decreased by more than 25
18 percent. And the sharp fall is based largely on
19 reduction in their non-wage income, while wage
20 income decreased by about 12 percent. Their
21 capital gains, for example, fell by more than
22 half, 51.1 percent, from about 48.5 to 23.7
23 billion. And a rough calculation of this drop in
24 capital gains suggests more than a billion

1 dollars in lost revenues to the State. The
2 higher income taxpayers are more reliant on non-
3 wage income. That wage is far more volatile,
4 more subject to fluxuations in the economic
5 conditions. More reliance on that higher-end
6 income revenue will add volatility to the tax
7 code.

8 You also asked how a more progressive PIT
9 would impact the State's economy, job creation
10 and competitiveness.

11 Now there's different ways to make the
12 State's personal income tax rate more
13 progressive, including a broadening and indexing
14 of tax brackets in a way that is revenue neutral
15 or close thereto. We would expect that an
16 approach such as that would have a moderate
17 positive impact on the State's competitiveness,
18 to the extent that it would reduce the impact of
19 personal income taxes on wages paid to the
20 majority of current and potential new employees.

21 On the other hand, we have proposals such as
22 S2021, which would impose an estimated additional
23 \$6 billion in tax liability on upper income
24 taxpayers.

1 Business Council is on record of opposing
2 this legislation, the quarter-millionaire tax, as
3 we like to call it, that would establish new
4 income brackets starting at 8.25 percent for
5 incomes over \$250,000. We believe that a
6 significant permanent increase in marginal PIT
7 rates would have a negative impact on the State's
8 economy and competitiveness for a couple of
9 reasons;

10 First, we see the consideration of this
11 increase and a desire to raise an additional \$6
12 billion in revenues as simply one more symptom of
13 the State's excessive appetite for spending
14 growth. The extent that a significant increase
15 in PIT allows the State to continue to adopt
16 unsustainable increases in State spending, we
17 believe it would have an adverse impact on the
18 State's long-term economic competitiveness.

19 Second, the State's recent sharp increases in
20 spending was fueled by significant but cyclical
21 surges in upper income personal income tax
22 revenues driven by Wall Street. These revenues
23 have sent the misleading signal to decision
24 makers in Albany, have lead to permanent

1 unsustainable increases in baseline spending; a
2 feast or famine cycle of budgets driven largely
3 by the health of Wall Street.

4 Finally, we believe that tax policy and tax
5 rates do matter in business investment decisions.
6 And in a state with other significant anti-
7 competitive cost factors such as energy, real
8 property taxes and others, every additional
9 increase in our cost structure adds to our
10 competitiveness gap.

11 If adopted, S2021 would give New York State
12 the second highest maximum income rate of any
13 state in the nation, trailing only North Dakota.
14 It would establish a top rate of about 60 percent
15 above the median top rate of all states that have
16 a PIT. Moreover, in a state with significant
17 economic competitors at our borders, we believe
18 it's important to compare State tax rates to our
19 neighboring states. At 10.3 percent, we would --
20 10.3 percent would leave New York with a top rate
21 well above those in our neighboring states.

22 And finally, increases in the personal income
23 tax have a direct impact on businesses organized
24 as Subchapter S Corporations, partnerships and

1 limited liability corporations.

2 In 2006, according to the Department of Tax
3 and Finance, 62,000 returns, personal income tax
4 returns with corporate income, had Federal
5 Adjusted Gross Incomes over 250,000, and 14,000
6 taxpayers had AIGs over a million. These are
7 shareholders in Subchapter S Corporations who pay
8 the bulk of their corporate tax liability through
9 the personal income taxes. Shareholders in these
10 small businesses would see sharp increases in
11 their income tax liabilities under legislation
12 such as 2021.

13 In wrapping up, the Business Council believes
14 that any permanent increase in the State's broad
15 based taxes during an economic recession is bad
16 economic policy. Any revenue adjustments should
17 be designed to address cyclical downturns in
18 income rather than pose permanent increases in
19 the State's tax burden.

20 We note that in sharp contrast to 2021, the
21 State imposed temporary three-year surcharges on
22 both the PIT and the State sales tax, in response
23 to post-9/11 recession. Surcharges that expired,
24 and State revenues grew with national economic

1 recovery.

2 We look forward to the Senate and Assembly
3 budget resolutions and evaluating them against
4 our budget objectives of additional spending
5 constraint, rejection of anti-competitive
6 business taxes, effective use of Federal Stimulus
7 Dollars, and if necessary, reasonable revenue
8 action.

9 And just to respond to the question, or the
10 point you raised at the outset, we see the
11 Governor's announcements yesterday as exactly
12 what he had said publicly he would do, to the
13 extent that Federal Stimulus Dollars replaced
14 general fund revenues that otherwise would be
15 used for certain spending lines. He would use
16 those revenues, or those, that Federal Aid to
17 offset revenue proposals that were included in
18 the Executive Budget. We believe that's what it
19 reflects. It's not shifting Medicaid money into
20 other spending items, it is reflecting the
21 increased reimbursement to the State for Medicaid
22 items, and that does free up general funds monies
23 to be used for other purposes, and we think the
24 Governor made the right choice in recommending

1 taking revenue measures off the table.

2 So, again, we appreciate the opportunity.

3 I'd be happy to answer any questions you have.

4 CHAIRWOMAN KRUEGER: Thank you, very much.

5 And again, I'm sorry that my colleagues, they're
6 slower walkers.

7 Both, actually you were hear earlier today
8 for the previous speaker.

9 MR. POKALSKY: Yes.

10 CHAIRWOMAN KRUEGER: You both were talking
11 about the volatility of taxes --

12 MR. POKALSKY: Mm-hmm.

13 CHAIRWOMAN KRUEGER: -- and volatility of the
14 personal income tax.

15 If we accept the concern that, you know,
16 being overly dependent on one tax, and being
17 overly dependent on one tax that is
18 disproportionately paid by one or two sub-
19 industries within New York State, what taxes do
20 you like looking at, at part of a mix?

21 Good morning.

22 SENATOR PERKINS: Hello.

23 CHAIRWOMAN KRUEGER: Good afternoon, I'm
24 joined by my colleague Senator Bill, I'm sorry,

1 Bill Perkins from Harlem. Welcome.

2 MR. POKALSKY: We agree that there should be
3 a broad array of taxes used to finance the
4 budget, and using a broad array avoids the
5 problem of having any single volatile tax -

6 CHAIRWOMAN KRUEGER: Mm-hmm.

7 MR. POKALSKY: -- dramatically affecting your
8 budget decisions.

9 Our concern, I think the real issue isn't
10 what taxes we look at, is what, how we look at
11 spending. If we didn't see 10 percent increases
12 in our general fund spending in three out of the
13 last five years prior to this one, we wouldn't be
14 near, in near the budget gap that we are today.
15 So I don't think it's an issue that we're making
16 the wrong choices on taxes. I think our biggest
17 budget problem is that we're making the wrong
18 choices on spending. And I think some of the
19 points that Don raised using, when you do have a
20 dramatic upward spike in revenues, to devote some
21 of those additional revenues to reserve funds
22 rather than permanent increase in your baseline
23 spending, it is a sensible way to go.

24 CHAIRWOMAN KRUEGER: Thank you. It's not a

1 fair question to ask Bill if he has any questions

2 --

3 MR. POKALSKY: No.

4 CHAIRWOMAN KRUEGER: -- because he just got
5 here, but ...

6 SENATOR PERKINS: No, that's all right, I'll
7 wait.

8 CHAIRWOMAN KRUEGER: That's okay. Anyway,
9 thank you, very much, and thank you --

10 SENATOR PERKINS: Well, let me just -

11 CHAIRWOMAN KRUEGER: Oh, certainly.

12 SENATOR PERKINS: Maybe I should just ask
13 one.

14 MR. POKALSKY: Sure.

15 SENATOR PERKINS: So there's a lot of
16 discussion, as you know, with regard to these
17 various possibilities of raising taxes. Have you
18 had a chance to discuss that?

19 MR. POKALSKY: In the Governor's tax package,
20 we would list, we think some of them are
21 incredibly damaging to the State's economy. Our
22 membership has told us there are two number one
23 costs of doing business in the state; is
24 maintaining health coverage for employees, and

1 the budget, the Executive Budget is proposing
2 about a billion dollar increase both in direct
3 charges on health care and charges on insurance,
4 that add to the burden of employer provided
5 health care.

6 Second most significant cost of doing
7 business factor in New York State by our members
8 is energy. And there's a proposal of about \$600
9 million worth of increased assessments on
10 utilities, the largest share of that would fall
11 on energy.

12 We see those types of revenue raisers, I
13 started by saying number one objective for us in
14 this Budget is making the State more competitive,
15 to make sure when the national recovery occurs,
16 New York State is a full participant. We haven't
17 been, we typically lag anywhere from a year to
18 longer behind the national recovery. We need to
19 make our state more competitive, and those types
20 of business tax increases isn't going to help the
21 State's businesses pull out of this current
22 recession. So that's sort of our major focus on
23 the revenue raisers that have been proposed so
24 far.

1 We think, you know, a final budget that has a
2 mix of additional spending controls, and a
3 sensible use of the stimulus money, and some
4 reasonable and, if possible, temporary increases
5 in revenues, is the way to go.

6 SENATOR PERKINS: So I hear what you're
7 saying in terms of the problems that they cause,
8 but I guess the -- where do we get the money to
9 run, to provide the services.

10 MR. POKALSKY: Well, in our view, given the
11 economic conditions in the State, the Governor's
12 Budget was basically a flat-growth budget. It
13 wasn't a significant spending control budget. We
14 believe that additional monies do have to come
15 off the table in terms of spending, either
16 through across-the-board reductions in State
17 operations, some reduction of the work force.
18 These are things that, you know, our members, the
19 decisions our members are struggling with every
20 day. You know, we have to make the hard decision
21 about controlling spending because we can't order
22 people to increase revenues paid to us. We think
23 that has to be part of a final budget, that we
24 can, we think spending, even if, if there were

1 additional spending reductions in the final
2 budget, virtually every program in the State is
3 substantially larger than it was four or five
4 years ago. We think there has to be more of a
5 focus on the spending side of the budget.

6 You know, our point is, even if we raise, did
7 every revenue measure proposed by the Governor,
8 we have 11 to \$12 billion worth of structural
9 deficits over the next five fiscal years. And
10 that number's getting bigger as the revenue
11 projections erode, so we just don't think you can
12 close this budget gap just on the revenue side.

13 SENATOR PERKINS: All right, thank you.

14 CHAIRWOMAN KRUEGER: On the expense side,
15 since you brought up the expenses, does the
16 Business Council support the reductions in the
17 health care budget as proposed by the Governor?

18 MR. POKALSKY: I can't say that we support
19 every one of them. We recognize that controlling
20 the cost of Medicaid is, I mean, the most
21 significant part of the budget. We think there's
22 things you could do in Medicaid that do have the
23 opportunity for long-term permanent cost savings.
24 We had submitted an outline of those

1 recommendations to your office before.

2 CHAIRWOMAN KRUEGER: I'll take a look at
3 them.

4 MR. POKALSKY: I can't articulate on each of
5 the med--

6 CHAIRWOMAN KRUEGER: Mm-hmm.

7 MR. POKALSKY: -- of the health-care cuts in
8 the budget.

9 CHAIRWOMAN KRUEGER: Thank you, very much.
10 Thank you for your testimony today. Thank you.

11 MR. POKALSKY: You're welcome.

12 CHAIRWOMAN KRUEGER: I'll look in my office
13 for the other material.

14 MR. POKALSKY: Thanks, Senator.

15 CHAIRWOMAN KRUGER: Thank you. Thank
16 you. Okay. A little switch in schedule.

17 Our next testifiers will be Jessica Wisneski
18 and Bob Cohen, the Legislative Director and the
19 Policy Director of Citizen Action for New York.

20 Okay, and just, then it will Jay McMahon and
21 Frank Mauro for getting people back in order.
22 Thank you.

23 **JESSICA WISNESKI**

24 **Legislative Director**

1 **Citizen Action of New York**

2 MS. WISNESKI: Thank you so much, Chairwoman
3 Krueger, Senator Perkins.

4 My name is Jessica Wisneski, I'm the
5 Legislative Director of Citizen Action of New
6 York, a statewide membership organization that
7 fights for social, racial, economic and
8 environmental justice, with affiliates in seven
9 regions throughout New York State.

10 Citizen Action is a member of two large
11 coalitions that are fighting against unreasonable
12 cuts to State services, The Better Choice Budget
13 Campaign and One New York Fighting for Fairness
14 Coalition. With me here today is Bob Cohen,
15 Citizen Action Policy Director.

16 Thank you, for inviting us to testify.

17 CHAIRWOMAN KRUEGER: And we've been joined by
18 Senator Ken LaValle.

19 MS. WISNESKI: Citizen Action strongly
20 supports S2021 Legislation sponsored by Senator
21 Eric Schneiderman and many others, to raise
22 personal income taxes on those making over
23 \$250,000 annually, and believes that this
24 Legislation should be included in the final State

1 Budget agreement.

2 A reasonable contribution from those who have
3 benefited most from the previously booming State
4 and national economy is absolutely critical to
5 maintaining a vast array of State services, from
6 education to health care, to human services, that
7 countless New Yorkers depend on in these hard
8 economic times, in many cases, for economic
9 survival.

10 We also, of course, support the Assembly
11 equivalent of that bill, A5912, with the lead
12 sponsor of Assemblyman Darryl Towns.

13 We believe this proposal is critical for all
14 residents of New York, as well as people of
15 color, and the most vulnerable New Yorkers in
16 particular. As others testifying today will
17 outline in more detail, raising taxes on high
18 income individuals is good for the overall State
19 economy as well, in that it is, the best
20 alternative available in the current severe
21 economic downturn.

22 As you know, S2021 would raise personal
23 income taxes on New Yorkers earning over \$150,000
24 annually in taxable income, so roughly \$300,000

1 annually. Currently the highest taxed, excuse
2 me, the highest tax rate in New York State is
3 6.85, as you know, percent, for those earning at
4 least \$40,000 annually. The proposal would
5 increase marginal income taxes for \$250,000
6 annually, annual income earners, to 8.25 percent.
7 And for those earning over \$500,000, to 8.79
8 percent. For those earning over a million
9 dollars annually, the marginal rate would be
10 increased to 10.3 percent.

11 S2021, of course, only closes a portion of
12 the projected \$14 billion State deficit. To
13 address the rest of the deficit, additional fee
14 and tax increases will be necessary. And we must
15 use the overwhelming majority of the new Federal
16 Stimulus dollars to save State services.

17 New York is expected to receive 24.6 billion
18 for the next two years from the Economic Stimulus
19 Bill. The Better Choice Budget Campaign
20 estimates that this stimulus -- do you want to,
21 I'm sorry, go ahead.

22 CHAIRWOMAN KRUEGER: I'm sorry, thank you.

23 I would like to recognize my colleagues
24 Senator Kevin Parker and Senator Eric

1 Schneiderman, who have joined us.

2 MS. WISNESKI: Hi.

3 CHAIRWOMAN KRUEGER: Thank you.

4 SENATOR PERKINS: We were just talking about
5 you.

6 MS. WISNESKI: We were just talking about how
7 much we support your bill, S2021.

8 SENATOR SCHNEIDERMAN: Don't let me interrupt
9 then.

10 MS. WISNESKI: New York is expected to
11 receive \$24.6 billion for the next two years from
12 the Economic Stimulus Bill. The Better Choice
13 Budget Campaign estimates that the stimulus
14 dollars can close roughly 6 billion of the 14
15 billion deficit in this fiscal year, 2009-10, and
16 yes, we also need to take a few judicious cuts to
17 State programs, particularly where the State
18 dollars can be used more effectively at a lower
19 cost.

20 For example, Citizen Action supports closure
21 of under utilized prison and annexes, as well as
22 juvenile justice facilities.

23 The economic deficit we face this year and
24 next year is not just the result of national and

1 State economic downturn, although it's a critical
2 factor, obviously. New York has a long-term
3 structural deficit due to tax changes that have
4 been lowered, that have lowered the revenue
5 available for vital State services, while vastly
6 reducing the equity of the tax code. We reduce
7 the relative tax burden on high-income people and
8 increase the burden on middle and low-income
9 people. The large multi-year tax cuts enacted
10 between 1994 and 2005 reduced revenue in New York
11 by \$20 billion in fiscal year 2008-09. Over the
12 past 30 years, the State has reduced tax rates on
13 the wealthiest New Yorkers by more than 50
14 percent from a top rate of 15.375 percent to 6.85
15 percent today, forcing middle income families to
16 pay a greater share in the form of property and
17 other regressive taxes.

18 Families making \$40,000 annually now pay the
19 same marginal tax rate as wealthy families making
20 \$4 million annually. As a result, New Yorkers
21 with the least income now carry the highest tax
22 burden.

23 As shown by the figure reproduced in this
24 testimony, when all taxes are added together, the

1 richest 1 percent of New Yorkers pay only 6.5
2 percent of their incomes in taxes, while the
3 bottom 20 percent pay 12.6 percent.

4 Comparable Federal tax changes have
5 contributed to New York's current status, as the
6 state with the highest income gap in the nation
7 between the rich and the poor, and between the
8 rich and the middle 20 percent of income
9 distribution. Therefore, the Schneiderman
10 proposal deserves passage not just because
11 additional revenues are needed this year on an
12 ongoing basis to critically needed State services
13 that stimulate the State economy, but as a matter
14 of basic fairness.

15 I'll turn it over now to Bob Cohen, who will
16 refute some of our opposition arguments.

17 **BOB COHEN**

18 **Policy Director of Citizen Action of NY**

19 MR. COHEN: Good afternoon. And for the
20 Senators who just came in, I'm Bob Cohen, and I'm
21 the Policy Director of Citizen Action of New
22 York, completing our testimony for this
23 afternoon.

24 As Jessica said, I'm going to answer some of

1 the arguments that have been raised by business
2 lobbyists who oppose this legislation.

3 First is the assumption that the deficit is
4 due just to excessive State spending and,
5 therefore, should be addressed primarily by
6 spending restraint. Well it's absolutely clear,
7 nobody denies that with a deficit as large as \$14
8 billion, there have to be some cuts made to State
9 services. We simply can't deny that. But we
10 unapologetically argue today that maintaining and
11 where feasible strengthening programs in
12 education, higher education, health care, human
13 services, and other critical areas, is in the
14 interest of the most vulnerable New Yorkers, and
15 the State as a whole. And as others will testify
16 today as well, cutting the core of State services
17 is particularly inappropriate in the bad economic
18 climate we face today, and I'd like to leave to
19 others to go into detail more about that, but I
20 think it's important to point out that opponents
21 of the bill and also what was said by one of the
22 previous speakers, they treat it as if State
23 spending is a drag on the economy, when in fact,
24 innumerable studies by neutral economists,

1 Moodies, et cetera, have talked about the
2 simulative effect of spending, so it's not as if
3 it's one or the other. We have to consider the
4 relative impact of spending versus tax
5 reductions.

6 As a Race Matters report released last week
7 details, the Executive Budget Proposal will not
8 only harm services that the vast majority of New
9 Yorkers depend on, but also continual, or
10 compound racial and ethnic disparities in the
11 State, particularly in education, higher
12 education, human services and juvenile justice.

13 I'd like to very briefly, and our written
14 testimony sort of goes into a little bit more
15 detail, and our Race Matters report goes into
16 still more detail about that. I know we're not
17 primarily here to talk about the cuts, so I don't
18 want to, I want to really go quickly over that
19 part. But I think it's important just to
20 highlight one or two areas.

21 Most importantly, education. The \$2.5
22 billion proposed cut in school aid falls
23 disproportionately on students of color and
24 undermines the goals of the landmark 2000 School

1 Aid Reform Law. I think it's really important to
2 respond to one of the previous speakers, who once
3 again talked about how, you know, New York State
4 spending has gone up, and we have to consider
5 that, and I think it's important to provide the
6 context, and I realize the Senators are aware of
7 that, but I still think for the purpose of this
8 hearing, we have to observe that the reason New
9 York State spent more money is that New York
10 State was found in constitutional violation of
11 funding for New York State, so the spending,
12 while we think it's important from an education
13 policy perspective, also was New York State's
14 complying with its own constitution. So I think
15 it's important that we under, we always
16 acknowledge that when we consider in particular
17 education spending.

18 **In higher education,** we have cuts to CUNY and
19 SUNY, and combined with tuition increases,
20 particularly in the community colleges, we found
21 in our report that they have a disproportionate
22 impact on low-income people, and students of
23 color, who are, particularly depend on SUNY and
24 CUNY in this time of economic recession, or

1 depression.

2 **In health care,** we're concerned about
3 increased premiums for Childs Health Plus, and we
4 think they have a disproportionate impact.

5 In criminal defense, criminal defense
6 spending has never kept pace in New York State
7 with the need.

8 **In human services,** there's a whole host of
9 cuts in the Executive Budget, from civil league
10 services to the poor to nutrition advocacy
11 programs that not only are bad on policy grounds
12 in terms of the importance of these programs, but
13 in some cases, preclude low-income people from
14 accessing federal benefits and, therefore,
15 undermine the stimulate of effect that those
16 programs, like food stamps, would have,
17 particularly in certain communities.

18 Business speakers have also, or opponents to
19 the Bill, have also ignored the fact that the
20 State Budget has already been substantially cut
21 this year, including the 3.35 percent across the
22 board reductions to State operating -- agency
23 operating budgets, and the record mid-year cuts
24 that were enacted a few weeks ago. As a result,

1 a whole host of vital programs, and I know you
2 all know this because you've been sitting through
3 budget testimony, are shutting down or not
4 maintaining adequate service levels.

5 And I'm going to skip this because I've
6 really covered the issue of the fiscal and social
7 impacts of spending, although I do want to say
8 that many of these programs involved with
9 spending have documented impacts on the long
10 term. So for example, we use in our written
11 testimony the fact that early childhood programs
12 lead to lower arrest rates as adults, so there's
13 going to be a long-term impact, we think, on the
14 State Budget if we cut some of these early
15 childhood programs.

16 Other arguments against the Fair-Share Tax
17 Reform are equally without support. Many of the
18 same dire predictions that are being made today
19 of the consequences of taxing high income New
20 Yorkers were heard during the State's last
21 economic crisis following 9/11 in 2003, when the
22 Legislature, we think, wisely adopted a temporary
23 three-year income tax increase, and over Governor
24 Pataki's vetoes. Earlier there were predictions

1 that, for example, taxes on high-income
2 individuals, as we're quoting now, and they
3 certainly raised the issue now, would affect a
4 wide range of New Yorkers, including small
5 business owners and other highly productive
6 taxpayers. Others suggest a negative impact on
7 the so-called middle class due to tax increases
8 on families earning over \$250,000. However, as I
9 believe was said earlier, only 3.5 percent of
10 State tax file a statewide and 1 percent,
11 Upstate, make over \$250,000 in taxable income.
12 It's certainly not my definition of the middle
13 class.

14 Very, very quickly, as our written testimony
15 says, there's not a lot of validity, based on
16 studies of other states, to the arguments that
17 affected people will leave the state. Nor are
18 the arguments, in our opinion, valid when they
19 talk about job losses simply because of increases
20 in personal income taxes.

21 So, I just want to say in closing, because
22 this is a time issue here, that we believe the
23 Legislature should reject what we consider the
24 knee-jerk arguments made by business interest

1 against this reasonable proposal and their
2 refuted, their arguments are refuted by the
3 experiences of both New York and other states.

4 Thank you.

5 CHAIRWOMAN KRUEGER: Thank you. Any
6 questions by colleagues? Eric?

7 SENATOR SCHNEIDERMAN: No.

8 CHAIRWOMAN KRUEGER: Thank you, very much,
9 for your testimony today, appreciate it.

10 The next testifier will be Frank Mauro. Oh,
11 no, excuse me, apologize. E.J. McMahon, from the
12 Empire Center for New York State Policy.

13 **E.J. McMAHON**

14 **Executive Director**

15 **Empire Center for New York State Policy**

16 MR. McMAHON: Somebody is on the way with it,
17 I left it at the office.

18 CHAIRWOMAN KRUEGER: Oh, okay.

19 MR. McMAHON: Good afternoon. Thank you,
20 Senator Krueger.

21 I beg your patience with the one aspect of my
22 presentation, I left the memory stick with my
23 slides on it --

24 CHAIRWOMAN KRUEGER: Oh.

1 MR. McMAHON: -- in the office, and it's
2 being brought down here.

3 CHAIRWOMAN KRUEGER: Okay.

4 MR. McMAHON: In the meantime, you have the
5 color version of the slides printed on an
6 appendix to the report to the testimony, prepared
7 testimony, so, maybe we can begin with that, and
8 then we can kind of display it as it comes in.
9 Yes, here it is.

10 CHAIRWOMAN KRUEGER: Perfect.

11 MR. McMAHON: It's dramatically walked in,
12 and we're all set. I'll just take a second to
13 put it on here.

14 CHAIRWOMAN KRUEGER: Please, take your time.

15 MR. McMAHON: I thank you, very much.

16 CHAIRWOMAN KRUEGER: And then just, because
17 we did throw around the schedule a little bit,
18 after E.J. McMahon is Frank Mauro from the Fiscal
19 Policy Institute, and then afterwards, Elizabeth
20 Lynam, so continuing down your agenda.

21 I also just want to mention, while they
22 weren't able to testify, the Committee's also
23 received testimony from Dan Jacoby, Fran Turner
24 of CSEA, and the Reverend Daniel Hann of the New

1 York State Council of Churches, so when the
2 testimony is put on line, it will include that
3 testimony. I also believe there will be others
4 who will be submitting testimony that will be
5 available to all members of the Committee and the
6 public. Thank you. Doing a commercial break.

7 MR. McMAHON: Woops. I guess that takes care
8 of that. All right, well, we'll go with this. I
9 don't want to hold you up anymore.

10 CHAIRWOMAN KRUEGER: Okay.

11 MR. McMAHON: We'll go with what you have on
12 paper.

13 I would like to begin my testimony today by
14 recalling two points from testimony I delivered a
15 month ago to the Legislative Fiscal Committee
16 staffs.

17 First, this economic and fiscal crisis is not
18 just another cyclical downturn. What we've
19 witnessed over the past year is the end of an
20 era. The old Wall Street, the industry that
21 directly and indirectly generated much of the
22 growth in State tax revenues over the past 15
23 years is dead and gone. It won't be coming back
24 in its old form anytime soon. If ever.

1 This leads to a second point. In the long
2 run, the goal of State tax policy should be to
3 build a more sustainable and diverse economic
4 base in New York. In the short run, as you
5 grabble with a massive budget gap, your goal
6 should be Hippocratic, do no harm. At the very
7 least, do as little harm as possible.

8 Unfortunately, in my opinion, the tax
9 proposals on which you focus today fail to
10 recognize the implications of the profound
11 structural change that has occurred at the heart
12 of New York's income tax base. These proposals
13 will do real economic harm, hindering New York's
14 recovery in the long run.

15 In addressing the key questions in your
16 hearing announcement, I think it's vitally
17 important to get some historical perspective on
18 the evolution of New York State's personal income
19 taxes. The income tax dates back to 1919, when
20 it was set at 3 percent. As you noted in the
21 opening, Senator, during the Great Depression
22 Era, it peaked at 8 percent on incomes equivalent
23 today to about \$140,000 a year.

24 Starting a half century ago under then

1 Governor Rockefeller, the rate was rapidly
2 raised from 7 percent to 15 percent by the late
3 1960's. The tax structure also grew in
4 complexity, there were many more brackets, there
5 were many more rules. It was quite different
6 than it is now.

7 By the mid 1970's, New York State was
8 imposing a rate of 15 percent, plus a surcharge,
9 which brought it over to nearly 15.4 percent. At
10 the same time, New York City's own resident
11 personal income tax, which had been enacted in
12 1966, had risen to 4.3 percent. As a result, the
13 combined city and state rate peaked during the
14 fiscal crisis at a rate of nearly 20 percent.
15 While state and city income taxes have never been
16 deductible from each other, they've been
17 deductible and were deductible then and in
18 particular fully from the Federal income tax. At
19 that time, the Federal Income Tax rate peaked at
20 70 percent. Thus at the margin, the post, the
21 net-post deduction cost of that 15 percent rate
22 was 4½ percent.

23 Flash forward to 2008. Our current rate of
24 6.85 percent, at the margin, is deductible,

1 although in truth, only partially deductible,
2 under a Federal Income Tax Code, whose maximum
3 marginal rate is 35 percent. Thus the net rate,
4 last year, assuming full deductibility just for
5 the sake of illustration, was 4.45 percent,
6 virtually the same as 30 years ago.

7 By the late 70's, doing back to the history
8 for a moment, there was bipartisan agreement here
9 in Albany that New York State and City had
10 suffered economically as a result of those very
11 high tax rates. As a result, there was a strong
12 movement to do something about it. Governor Hugh
13 Carey spearheaded the initial reduction in
14 marginal rates during his final term from 1979
15 through 1982, with strong support in both Houses.
16 The rate was reduced on earned income from 15 to
17 10 percent.

18 Under Governor Cuomo, during his first term,
19 this process continued. Especially at the
20 urging, at the time, of the then Senate Majority
21 working in partnership with the Governor, the
22 rate was further reduced from 10 percent to 9
23 percent. That rate reduction had not actually
24 been completed when the Federal Government

1 undertook a landmark Federal Tax Reform in 1986.

2 The Federal Tax Reform was sweeping and
3 significant. It reduced the rate from the then
4 level of 50 percent to a maximum of 28 percent.
5 It squeezed down the brackets from, I think it
6 was over a dozen, to about three or four, and it
7 significantly broadened the base of income. And
8 because New York is so strongly linked to the
9 Federal definition of income, that posed an
10 immediate challenge to State lawmakers. Because
11 if no further change had been made in the State
12 Tax Code in 1987, the State would have realized
13 what was being called a windfall tax revenue
14 increase of 1.7 billion, in those current
15 dollars.

16 Governor Cuomo and the Legislature responded
17 to that challenge in a very meaningful way. In
18 fact, the Governor and all four of the
19 Legislative conferences, that is each of them
20 individually in turn, came up with quite
21 sophisticated serious and thoughtfully considered
22 tax reform plans. It was frankly one of the last
23 really genuine expansive bipartisan efforts we've
24 seen in Albany on an issue of this magnitude.

1 The plan that was ultimately adopted
2 principally reflected what was called the Fair
3 and Simple Tax Plan, or FSTP, which has had been
4 proposed by then Assembly Speaker Mel Miller.
5 The original FSTP Plan called for a top rate of
6 6.75 percent, and essentially a flat rate. The
7 Plan that was adopted called for a five-year
8 phase in transition to a two-bracket structure
9 with a top rate of 7 percent on taxable incomes
10 over 20; 30 for heads of households and 40 for
11 married couples.

12 It's important to remember two things.
13 First, again, the '87 tax cut, as it was called,
14 was not entirely a tax cut. It was one half the
15 avoidance of a tax windfall. Almost one half.

16 Secondly, the 1987 reform was enacted in the
17 name of improving equity in tax justice. Which,
18 in fact, it did. In a Law Review Article
19 entitled *Tax Justice for New York Families After*
20 *New York State Tax Reform*, a leading non-partisan
21 tax scholar wrote of the change in this way.

22 I'll just read a portion of the quote that's in
23 your prepared testimony.

24 "The reform system, when fully effective,

1 will provide simple and fair tax relief to the
2 poor and will impose substantially equal tax
3 burdens on family members enjoying comparable
4 standards of living. By any reasonable standard,
5 the reform should be called a success."

6 And I'll happily provide you with a copy of
7 that whole article, by the way.

8 The phase-in of the 1987 reform was
9 repeatedly interrupted, however, beginning in
10 1989 in the teeth of a fiscal crisis at that
11 time. So by the time Governor Pataki took office
12 in 1995, the rate had been frozen, the top rate,
13 at 7.875 percent for five years, and the
14 structure was frozen in sort of mid-conversion,
15 to the desired goal, if you will. Now during his
16 campaign, Pataki had proposed a simplified four-
17 bracket structure with a top rate of 5.9 percent.
18 Very much in the spirit of the original Assembly
19 Democrat Plan.

20 The compromised Tax Payer Reform Act of 1995
21 went about halfway to these goals, reducing the
22 top rate to 6.85 percent and raising the top
23 bracket for joint filers to 40,000, the original
24 goal of the enacted Plan of 1987. Now from the

1 outset, Pataki's Plan, as proposed and adopted,
2 was specifically designed to drop a half million
3 low-income workers from the tax roles, which it
4 did. Partly through the expansion of the Earned
5 Income Credit that Cuomo had created. It also
6 targeted a cut of 25 percent or more on average,
7 to middle class households, while, which was
8 roughly twice the average cut at the margin for
9 high-income households. The result obviously was
10 that of the resulting reduced burden, more of the
11 burden shifted up the income scale.

12 Now figures 2 to 5 in the appendix to my
13 testimony illustrate the results of this policy.
14 I'm taking a little out of order. But if you
15 look, I think, at figure 2, shows effective rates
16 at different income levels for New York State
17 income taxes. And you can see there that the
18 effective rates in the lower and middle brackets
19 are quite a bit lower than the effective rates in
20 the top brackets. That's based on official tax
21 data.

22 The tax code is especially favorable to
23 married couples with children. The enactment of
24 the Empire Child Credit has accentuated this

1 tendency, so that effective rates for families of
2 four are considerably lower than those for
3 families of four at the high-income end of the
4 scale.

5 We offer one of the most generous earned
6 income credits in the nation, more than 1.3
7 million New York low-income workers qualify for
8 credits at roughly three-quarters of a billion
9 dollars or more. For a typical single parent of
10 two children working in a low wage job, the EIC
11 can come to 8 to 10 percent of income. Which
12 largely, if not entirely, cancels out the value
13 of State and local taxes paid in other forms for
14 that particular taxpayer.

15 The State has become more heavily reliant on
16 taxes generated by high-income households. Now
17 you saw a slide earlier from Don Boyd that
18 illustrated this. My slide goes back two more
19 years than his does, using Budget Division Data,
20 I think one area where I would expand on what he
21 said. In fact, the level paid by high-income
22 households was quite a bit lower in the last year
23 of the old tax code, of the interrupted tax code.
24 It was 25 percent in 1994, the initial biggest

1 jump in the high-income share. This has not
2 been a permanent long-term feature of the code
3 forever. The biggest initial jump in the high-
4 income share occurred during the phase-in of the
5 1995 tax cut, and was a deliberate outcome of the
6 way that tax cut was designed.

7 I've dwelled on this historical background in
8 order to dispel some misinformation that's grown
9 up a lot, around a lot of the Fair Tax Proposals,
10 some of which has crept into the intense section
11 of the bill. I refer to the initial bill.

12 For instance, it says that over the last 30
13 years, New York's Personal Income Tax Laws have
14 become increasingly unfair and inequitable. In
15 fact, as I've just explained, and by any measure,
16 the truth is precisely the opposite. By any
17 reasonable standard, the Tax Code has become more
18 equitable.

19 It's also repeatedly claimed that the
20 wealthiest New Yorkers don't pay a fair share.
21 Now fairness is a subjective concept, which can
22 be used towards any policy goal. There's no
23 denying that the wealthy pay a large share.
24 Whether it's wise to continue that policy or

1 build on it, is obviously one of the questions
2 you're looking at.

3 Finally, it's alleged in various ways that
4 middle-income New Yorkers pay the same rate as
5 the wealthiest households. Sometimes, but not
6 always, such claims do note that middle-class
7 filers may be subject to the same "marginal" rate
8 on taxable income as million-dollar households.
9 In any case, such statements misleadingly confuse
10 taxable income with adjusted gross income, and
11 ignore the impact of standard deductions,
12 exemptions and credit. In short, no, you don't
13 pay the same tax rate as Donald Trump. Not even
14 close, probably.

15 Now our pronounced dependence on high-income
16 taxpayers is actually a big part of our current
17 fiscal problem. And I won't quote in length, but
18 you, Don Boyd also discussed this, and it's a
19 truism, but it's very important to note it.

20 Our problems are worse than the problems of
21 most states, both because we're the upper center
22 of the meltdown, and because we are so dependent
23 on taxes generated by high-income households,
24 which are more volatile. And that volatility has

1 come back and bitten us for the second time in
2 the last decade.

3 Now we've also heard the claim that the
4 experience of the temporary tax increases of 2003
5 demonstrates that there's no harm to be done by
6 doing a big tax increase now. I would suggest
7 that you need to consider that 2003 was a very,
8 very different situation. The economy was in a
9 very different circumstance then, it was poised
10 for a recovery. The same day, the same
11 withholding period and estimated tax period that
12 those temporary tax increases took effect, much
13 larger Federal tax cuts also took effect.
14 Absolutely no one paid higher taxes as a result
15 of that tax increase, combined. Everybody paid
16 lower taxes. The effect of the investment
17 directed tax cuts that were done then, had a very
18 powerful effect, and along with other Federal
19 fiscal policy and monetary policy, ignited a very
20 strong Wall Street recovery. Which, of course,
21 ultimately lead to a form of a bubble, which
22 we're now living with the consequences of.

23 Now there's a whole lot more things to say
24 about the potential economic consequences here.

1 I know I've reached the end of my regular time.
2 You'll probably have questions on it. But
3 suffice to say, I think that the facts
4 conclusively demonstrate that various claims made
5 about the fairness of the Tax Code are, in fact,
6 unfounded. And that, therefore, the question
7 before you comes down to a matter of the economic
8 impact of doing this, of not just whether you
9 think the money is needed, but whether you think
10 the cost that could be paid, in terms of the
11 economic consequences of such a tax increase, are
12 worth paying. I would suggest that they're not,
13 and in conclusion, I would urge you to reject
14 these proposals and to, instead, concentrate on
15 finding ways to restrain the growth in the budget
16 as Governor Paterson has proposed, and use
17 Federal Stimulus money to finance a soft landing
18 to a more affordable and stable future for state
19 and local government in the long term.

20 And with that, I'll be happy to take any
21 questions you may want to ask.

22 CHAIRWOMAN KRUEGER: Thank you.

23 MR. McMAHON: You're welcome.

24 CHAIRWOMAN KRUEGER: Questions? Senator

1 Schneiderman.

2 SENATOR SCHNEIDERMAN: Mr. McMahon.

3 MR. McMAHON: Yes.

4 SENATOR SCHNEIDERMAN: Thank you, for coming.

5 MR. McMAHON: Thank you.

6 SENATOR SCHNEIDERMAN: I appreciate your
7 division of our inquiry into the issues of
8 fairness and impacts.

9 On the issue of fairness, is it, you've cited
10 some studies. I'm just wondering if you're
11 disagreeing with one of the sort of critical
12 elements of our analysis here, as we consider the
13 coming year's budget. We are not writing on a
14 blank slate. On the table are substantial cuts
15 to health care, education, other programs. On
16 the table are a variety of business taxes and
17 other what have been called nuisance taxes, and
18 the possibility of increasing the tax rates on
19 the highest income New Yorkers, so we're dealing
20 with a range of options here. It's not just a
21 choice between, no one wants to, no politician
22 certainly wants to raise taxes, I mean, you know,
23 but it's not just a matter of the income tax.

24 In your analysis where you talk about the

1 fairness of our current tax system, do you
2 disagree with the analysis that we've gotten
3 from, I've actually never seen anything to rebut
4 this, that if you look at all of New York's
5 taxes, not just the income tax, you look at the
6 sales tax, you look at the property tax, you
7 actually look at everything else, the top 1
8 percent of New York's taxpayers actually do pay a
9 significantly lower percentage --

10 MR. McMAHON: I'm familiar with what you're
11 talking about.

12 SENATOR SCHNEIDERMAN: -- of their income.
13 Could you comment on that?

14 MR. McMAHON: Yes, I disagree with that, in
15 part. I think it's methodologically flawed.
16 You're talking about the 2002 ITEP so-called
17 study called Who Pays. I think it systematically
18 underestimates -- overestimates payments at the
19 very bottom of the income scale, and
20 underestimates payments at the top. It probably
21 is closest to reality in the middle, by the way,
22 whereby any standard of measure or comparison we
23 impose the heaviest tax burden in the country.
24 Which these proposals, I don't think, really

1 adequately begin to address.

2 SENATOR SCHNEIDERMAN: In the middle, and
3 under that study, they show that the middle 20
4 percent pay 11.6 percent on the income --

5 MR. McMAHON: Right. I believe that's the
6 highest, using their methodology, that was the
7 highest they found. By the way, using their
8 methodology, which is flawed, and I can give you
9 a couple of reasons why, their top 1 percent tax
10 bite was the third or fourth highest in the
11 country.

12 Now, by the way, their estimate of what the
13 highest 1 percent pay, they differentiated and
14 measured the highest 1 percent, as they should
15 have differentiated the income for each state,
16 and this, again, is as of 2002. If you note the
17 average income tax rate they're assuming for the
18 top 1 percent, they're assuming nobody lives in
19 New York City. Okay.

20 SENATOR SCHNEIDERMAN: Well this was a study
21 of State taxes.

22 MR. McMAHON: Understood, but half, in terms
23 of state residents, and by the way, it's a study
24 only of state residents. Half of the state

1 residents in the top 1 percent live in New York
2 City and pay a top rate of, averaging 10 percent
3 effectively, not six. They also assume full
4 deductibility of that income tax rate. High-
5 income residents do not have full deductibility
6 of State and local taxes. Those who are not
7 subject to the AMT were subject then to the full
8 brunt of the so-called Pease provisions, which
9 are being phased back in in their entirety in
10 2011 under President Obama's budget.

11 It also assumes that the average person,
12 wealthy person, or high-income person earning
13 \$1.6 million in 2002 lives in a house valued at
14 half their income. Which in terms of New York's
15 real estate market, then as now, I think, is
16 unrealistic.

17 On the lower end of the income scale, it
18 assumes that a family in the lowest quintile made
19 an average income of \$8,700 and spent almost one
20 half of that income on taxable retail items.
21 That's implausible, number one.

22 Number two, it assumed that the average
23 person in the lowest quintile was receiving a
24 negative, or a net-tax rebate of a tiny

1 percentage, less than 2, or around 1. That also
2 is simply not accurate for anybody in the lowest
3 quintile who is actually working.

4 I think I know one reason why that estimate
5 is flawed. If Federal Consumer Expenditure Data
6 have indicated to an increasing degree over the
7 last 20 years, which is the basis for part of
8 that, that incomes in the lowest quintile, the
9 consumption of, by incomes in the lowest
10 quintile, is twice the income for households in
11 the lowest quintile. This has to do with a great
12 deal of volatility and diversity among the types
13 of people who move in and out of the lowest
14 income quintile, and it goes with an
15 underreporting of income, and with the use of
16 income from other sources, including savings and
17 credit cards. In fact, the last consumer
18 expenditure survey in 2006 found consumption by
19 the lowest quintile was average around 20,000,
20 and income in the lowest quintile averaged a
21 little over 9,000. Now I think that was the
22 basis for their very high estimate, and frankly,
23 too high estimate, of the burden of sales taxes.
24 They were assuming that, they're using the sales

1 taxes paid on retail expenditures by somebody in
2 that level, and they're using it as a percent of
3 income when obviously in order to make that much
4 in purchases, the actual available income was
5 higher.

6 Also again, I think they were systematically
7 understating the earned income credit. Your, the
8 tax code that you passed and voted on over the
9 years, very appropriately makes available one of
10 the nation's most generous earned income credits.
11 For anybody in a low-income situation who's
12 working, they get a very, especially if they have
13 children, particularly with children, the tax
14 code makes available a very generous earned
15 income credit, which is a very substantial amount
16 of negative, it can be a substantial negative
17 income tax, which is understated in that study,
18 so I think the study's flawed. I do think it's
19 most correct probably in the middle-income range,
20 because I think that there's no question that
21 every measure anybody's ever done has found us
22 very high there. So that's my answer on that.

23 SENATOR SCHNEIDERMAN: Well, I would greatly
24 appreciate it if you could, if you have comments

1 on that, because that is a study that has been
2 used frequently in these discussions.
3 Particularly I'm interested in your analysis as
4 to whether the middle 20 percent of New Yorkers,
5 under this analysis using that data or updated
6 data, if you have it, actually do pay
7 substantially more than the top 1 percent,
8 because I think even with your critique,
9 according to my understanding of what middle-
10 income taxpayers here pay, is they pay a high,
11 they continue to pay, today, a higher percentage
12 of their income in State and local taxes than
13 upper-income New Yorkers.

14 MR. McMAHON: I think depending on the region
15 of the state, in particular, fully loaded,
16 especially if they're homeowners. I think the
17 clinging fact is if they're homeowners, which
18 not all are, but home owning, especially in New
19 York City. For a home-owning taxpayer, paying
20 property taxes. I think that there's probably
21 very little question that a middle-income
22 taxpayer fully loaded on average, --

23 SENATOR SCHNEIDERMAN: Yes.

24 MR. McMAHON: -- pays at least somewhat more

1 than a high-income taxpayer. But that would not
2 make us, there's nowhere in the country, bar
3 none, where there's a significantly higher tax
4 burden on upper-income taxpayers, and on middle-
5 income taxpayers, I believe. Using any
6 methodology. The main problem is that, it
7 doesn't help the middle-income taxpayer by
8 jacking up the rate to, marginal rate, to
9 stratospheric levels for the high-income
10 taxpayer, in fact, it arguably could hurt them if
11 it diminishes economic activity sufficient to
12 effect their job.

13 SENATOR SCHNEIDERMAN: Well, that's what
14 we're trying to figure out. But that's a --

15 MR. McMAHON: Right, I think that's --

16 SENATOR SCHNEIDERMAN: That's a set --

17 MR. McMAHON: Right.

18 SENATOR SCHNEIDERMAN: I get your assertions
19 on that, but that's subject to a set of
20 assumptions about economic activity that we can
21 also discuss.

22 MR. McMAHON: Right. Right.

23 SENATOR SCHNEIDERMAN: I'm very interested in
24 all of the data you site, and the backup

1 documentation. I'm particularly interested in,
2 you know, really sort of getting to this issue of
3 fairness.

4 My understanding is that between the 1970's
5 and the early part of this century, that New York
6 became the state with the largest gap between
7 rich and poor in the country; is that not
8 correct?

9 Mr. McMAHON: By some measurements, it may
10 have, but I, that had virtually nothing to do
11 with the State income tax.

12 SENATOR SCHNEIDERMAN: No, I understand. I'm
13 just, we're on the issue of fairness. Because
14 assertion has been made that the wealthy in New
15 York pay a lot more in dollar, gross dollar terms
16 now then they did, and I think that, is that not
17 primarily because the wealthy people in New York,
18 their incomes have shot up so dramatically in
19 comparison to the rest of New Yorkers, and in
20 fact, the rest of the country?

21 MR. McMAHON: It's only in part because of
22 that. In fact --

23 SENATOR SCHNEIDERMAN: But that is a pretty
24 big factor, isn't it? If you're making, you're -

1 -

2 MR. McMAHON: It's one of the --

3 SENATOR SCHNEIDERMAN: If you're making 2
4 million and you're making 5 million?

5 MR. McMAHON: There are two major factors
6 there. One factor is the growth in their
7 incomes. But the share of taxes they pay is
8 larger than the share of their incomes. I
9 believe recalling offhand, it's in one of the
10 tables here, the last year we actually had the
11 data available, 2006, I think, taxpayers making
12 over a million dollars that year, who were top ½
13 of 1 percent of the filers in 2006, had 23
14 percent of the AGI and generated 31 percent of
15 the liability. Taxpayers making less than 50, to
16 get at your fairness argument, had 19 percent of
17 the AGI, but paid less than 5 percent of the
18 liability, and that, again, is a figure that
19 doesn't net out the added payments that were very
20 substantial to people through the Earned Income
21 Credit, which is the net tax outflow.

22 SENATOR SCHNEIDERMAN: Right.

23 MR. McMAHON: So I think that, I think that
24 in terms of, if you want to talk about State

1 policy and how it impacts that, I think it
2 impacts that distribution very little expect to
3 the extent to which the State spent a significant
4 amount of money, in part using its Federal TANF
5 Funds, to provide a significant tax subsidy for
6 the working poor, which is again, a very good
7 thing, perhaps should be revisited in terms of
8 further increasing it, depending on what economic
9 statistics indicate, but I don't think that, if
10 we're, I think the whole debate over income
11 distribution is something that is obviously a
12 whole separate subject, but I would rest on the
13 findings of a, there was a study done around 1997
14 or '8 by Martin Feldstein, who was formerly the
15 head of, then was at Harvard, then as now, who
16 was at the time, I think the head of the National
17 Bureau of Economic Research, had been on
18 President Regan's Council of Economic Advisors,
19 and it looked specifically at the question, is,
20 can State income taxes redistribute income? But
21 his answer, in a word, was no. Now there's some
22 who demure from that, but I think that his
23 methodology was pretty compelling, and I think
24 that if you're interested in redistributing

1 income and debating those other issues, I think
2 that can happen at another time, but I don't
3 actually think it's a compelling reason for doing
4 this tax increase now, because, especially if,
5 and again, it depends on how you feel, if you
6 redistribute taxpayers as much as you
7 redistribute income, you will not come out ahead
8 in the end. And that, the concern is that you
9 will ultimately redistribute taxpayers and
10 redistribute your tax base in the course of
11 redistributing income.

12 I would also suggest, in closing, I very
13 strongly believe that within a few years, when we
14 look back on some of those so-called genie
15 coefficients that have to do with providing the
16 income distribution gaps, it's going to close
17 considerably on the basis of the fallen incomes
18 related to what's been happening in the market,
19 so I think a lot of that was related to market
20 froth, to stock options, and to dividends and
21 capital gains, which have collapsed.

22 There's also a very recent study, just
23 published in December, that tends to point in
24 that direction that indicates that in contrast to

1 what studies have found through the early 1980's,
2 there's been a bigger drop in consumption among
3 the highest income households in the wake, in the
4 early part of the financial crisis, then there
5 has been in lower income households. And that's
6 because in contrast to the past generation, going
7 back to the early 80's, to a much greater extent,
8 high-income households are now working
9 households. They're not what economists used to
10 call renters. They're not people who are
11 clipping coupons and gathering dividends purely.

12 SENATOR SCHNEIDERMAN: Mm-hmm.

13 MR. McMAHON: So I think that's part of the
14 answer to that question.

15 SENATOR SCHNEIDERMAN: And finally, on the
16 question of impact, you've off, proffered some
17 stuff that indicates that there's this fear that
18 people will relocate. I just want to know, are
19 there a group of documents that have been
20 submitted to us indicating the strong view
21 supported by, seemingly supported by a lot of
22 evidence that in fact, other increases in upper
23 income taxes have not had the predicted upon
24 effect. I note that you mentioned the, our

1 surcharge here, which as studied by the Fiscal
2 Policy Institute, found it didn't have an effect,
3 as the Princeton study found when New Jersey did
4 the half-millionaires tax, people did not flee;
5 the California Association of Tax Reform found
6 after California went to the 10.3 percent rate.
7 We've also had a letter submitted to the
8 Governor, December 13, 2008 signed by over 100
9 economists in New York State asserting that in
10 this current economic situation, the right way to
11 solve it with the least harm to economic growth,
12 the least negative impact, is a slight increase
13 in income tax on upper incomes rather than severe
14 cuts to state and local spending programs and the
15 layoffs of the people that that would cause, and
16 I'd appreciate your citation of Mr. Feldstein, I
17 assume you've seen the letter from --

18 MR. McMAHON: Yes.

19 MR. SCHNEIDERMAN: -- Joseph Steglits
20 (phonetic) to Governor Paterson dated March 27,
21 2008. And I also, you know, want to cite the
22 work done by the Economic Policy Institute
23 comparing states with higher marginal income tax
24 rates, higher tax rates and lower tax rates, and

1 showing that the higher tax rates in fact had no
2 negative impact on economic growth.

3 As far as impact goes, if you look at only,
4 because everything you've cited appears to deal
5 with all taxes rather than just marginal income
6 tax rates on upper income people, I would just
7 appreciate, and we don't have to go through all
8 of it now, to the extent that there is any proof
9 that adjusting higher marginal income tax rates
10 on upper income people causes an economic
11 downturn, or has a negative economic impact. I
12 would love to see that, because I'm not aware of
13 one single study that separates out this specific
14 tax and has proven that to be true.

15 MR. McMAHON: I will be happy to get you
16 citations. I guess one of the best ways I can
17 summarize my reaction to that is to read from my
18 economics textbook entitled *Economics in the*
19 *Public Sector*.

20 SENATOR SCHNEIDERMAN: This is your book?

21 MR. McMAHON: No.

22 SENATOR SCHNEIDERMAN: Oh.

23 MR. McMAHON: I'll tell you the author in a
24 moment.

1 "Income taxes are taxes on wages plus income
2 from capital. These taxes have a particularly
3 distortionary effect on location decisions of
4 wealthy individuals. They may choose not to live
5 and work in a location where their productivity
6 is highest because the net return, taking into
7 account the additional taxes they must pay on
8 their own capital income, is lower."

9 That's *Economics in the Public Sector*,
10 published Third Edition, 2000, author Joseph
11 Stiglitz.

12 SENATOR SCHNEIDERMAN: Joseph Stiglitz. Yes.

13 MR. McMAHON: I think that the economists
14 letter that you just read to me from, if you
15 could repeat that, or look at it again, you'll
16 see that those economists, although I disagree
17 with their analysis anyway, said a small
18 increase, or a tiny, I forget what word they
19 used. I'm not aware of any standard by which a
20 50 percent increase in the marginal income tax
21 rate would be called small. Or even a 20 percent
22 increase in the marginal income tax.

23 SENATOR SCHNEIDERMAN: I don't think anyone's
24 proposing a 50 percent increase, but --

1 MS. McMAHON: You know, you are proposing a
2 20, 50 percent increase in the marginal income
3 tax rate.

4 SENATOR SCHNEIDERMAN: The, on the income
5 over a million dollars.

6 MR. McMAHON: Yeah, that's the marginal
7 income tax rate.

8 SENATOR SCHNEIDERMAN: Yes, yes.

9 MR. McMAHON: That's a --

10 SENATOR SCHNEIDERMAN: Yes, that's absolutely
11 --

12 MR. McMAHON: -- 50 percent increase. The
13 increase on people making between 250 and 500
14 would be 20 percent, and the increase between 500
15 and a million would be 30. Further, the New York
16 State Tax Code has a quirk, grossly unfair to the
17 middle class and upper middle class, depending on
18 the region of the State, which converts the
19 entire tax into a flat tax of AGIs between 100
20 and 150,000, which also is a marriage penalty.
21 That feature of the Code is preserved in the bill
22 and is extended to the higher income brackets.

23 Now, for instance, that means, for instance,
24 that in New Jersey where the top rate is now 9

1 percent, seemingly much higher than New York,
2 taxpayers earning up to \$700,000 pay lower taxes
3 than they would in New -- lower taxes in New
4 Jersey than they would in New York. Because in
5 New Jersey, as in California, as in every state
6 with a non-flat tax, but a graduated rate except
7 New York, the marginal rate begins at the margin.

8 SENATOR SCHNEIDERMAN: So you're talking
9 about the recapture provision instead of the --

10 MR. McMAHON: I'm talking about the recapture
11 provision --

12 SENATOR SCHNEIDERMAN: Yes.

13 MR. McMAHON: -- which retro, which replies
14 the entire high tax rate to entire income.

15 SENATOR SCHNEIDERMAN: So you would favor, if
16 we were to have to go this route, you would favor
17 getting rid of a recapture provision?

18 MR. McMAHON: I would favor not going this
19 route, and I would favor as a long run priority,
20 looking to getting rid of the recapture
21 provision, which, I think from a tax policy
22 standpoint, is really abominable. It's not
23 invented by any of you, I mean, I hasten to add,
24 but should not have been left in the Tax Code

1 this long.

2 And finally, if I can add one thing in
3 conclusion, that I think you could all agree on,
4 everybody at this table could agree on, and needs
5 to get to first base; one of the most significant
6 things done in the Federal Tax Code 25 years ago
7 was the indexing of Federal Income Taxes to
8 inflation. It was never done in New York.

9 SENATOR SCHNEIDERMAN: Mm-hmm.

10 MR. McMAHON: Most states with income taxes
11 as high as ours do have indexing. As a result,
12 families now, even compared to 1997 after a time
13 of low inflation, middle-income families are
14 paying hundreds of dollars more a year because
15 you didn't index the Tax Code. Right now we are
16 probably momentarily living in deflationary
17 times. At zero cost, you could index the Tax
18 Code right now and guard against a return of
19 galloping bracket creep, if and when inflation
20 resumes, which I fear is going to be quite
21 strongly and within the next few years. So
22 that's a suggestion to you, which you can all
23 agree to do with no cost, has no ideological
24 tinge, and is long overdue. So, to be, to put a

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1 little positive spin on it.

2 SENATOR SCHNEIDERMAN: Thank you, very much,
3 I appreciated it.

4 MR. McMAHON: You're welcome.

5 CHAIRWOMAN KRUEGER: Senator Parker, I see
6 you.

7 SENATOR PARKER: Thank you, Mr. McMahon, for
8 your testimony.

9 So you just mentioned, as relates to the
10 indexing and the recapture provision that both
11 California and --

12 SENATOR SCHNEIDERMAN: New Jersey.

13 SENATOR PARKER: -- New Jersey.

14 MR. McMAHON: Right.

15 SENATOR PARKER: Okay. Right now, do you
16 know what the budget deficit is in California?

17 MR. McMAHON: California's budget deficit, by
18 most measures, is worse than ours, and their
19 response was to enact an across-the-board truly
20 small surcharge of an additional corner of a
21 percentage point on all brackets.

22 SENATOR PARKER: Right. And do you know how
23 many teachers they're laying off this year?

24 MR. McMAHON: I don't know, but if we want to

1 get into that, the question would be, the Federal
2 Stimulus money that is coming to you, a large
3 portion of it is, without any control by you,
4 targeted except in terms of some distribution,
5 must go to restoring cuts in the school aid
6 formula. Just that portion without going to the
7 Title I portion and the IDEA portion, will
8 restore 100 percent of the Governor's reduction
9 in school aid, and then --

10 SENATOR PARKER: Right, but California, who's
11 not also, and even if we took every dollar that
12 we're looking at for Califor-- from the Stimulus
13 Packager, we're only talking about 6, maybe 6
14 billion, somewhere between 4 and 6 billion. And
15 then, and given that with almost a \$15 billion
16 deficit, we're still looking at over \$8 billion
17 in deficit. And the number, by the way in
18 California, is 20,000 teachers they're talking
19 about laying off this year.

20 MR. McMAHON: Well, I think that the issue
21 here in New York, in terms of the Stimulus, is
22 differentiating between the unfettered portion of
23 the Stimulus, which is the State Fiscal
24 Stabilization Fund money, which is also known as

1 the FMAP, and other money.

2 CHAIRWOMAN KRUEGER: Well there's about 500
3 million State's Fiscal Stabilization money.

4 MR. McMAHON: There's the FMAP money, and
5 then there's the --

6 CHAIRWOMAN KRUEGER: The FMAP money is the --

7 MR. McMAHON: Those are two different pots.

8 CHAIRWOMAN KRUEGER: Correct.

9 MR. McMAHON: Then the State Fiscal
10 Stabilization money, the bulk of that money has
11 to be reprogrammed into the School Aid Formula.
12 And the amount for this year alone is more than
13 enough to eliminate 100 percent of the Governor's
14 cut.

15 SENATOR PARKER: Right, and we may be able
16 to, given what you're saying, we may be able to
17 save education. And that's really a partial
18 point. The fact of the matter though, is,
19 without an ability to cover other parts of the
20 budget, just saving education won't be enough.
21 But that being said, I just, you know, just kind
22 of wanted to make that point.

23 Second thing is, as you talked about the
24 mobile nature of capital, in your studies, how

1 many people have actually left when in fact,
2 there's been significant increases in high-end
3 incomes?

4 MR. McMAHON: Well, first of all --

5 SENATOR PARKER: Or taxes, you know,
6 significant increases in tax rate of high-income
7 --

8 MR. McMAHON: First of all, there's
9 substantial literature on the impact of taxes in
10 general, and on income taxes in particular, on
11 taxpayer behavior, on the elasticity of taxable
12 income. Those studies, pro, con and in the
13 middle, don't focus on who "leaves". They focus
14 on the effects economically usually in terms of
15 employment, personal income and taxable income.

16 SENATOR PARKER: Right, but the arguments
17 that are made have been made around the fact that
18 even the quote that you made, that you read out
19 of the economics book --

20 MR. McMAHON: Out of Joseph Stiglets'
21 textbook.

22 SENATOR PARKER: Yes, you know, argues that
23 in fact it's mobile. So I'm just wondering --

24 MR. McMAHON: Right.

1 SENATOR PARKER: -- has anyone actually
2 looked at places like New Jersey, and when they
3 have an increase there, that that's --

4 MR. McMAHON: Yes.

5 SENATOR PARKER: -- tax, how many people --

6 MR. McMAHON: I looked at, I looked at one of
7 the trace effects of New Jersey. And by the way,
8 I'm sorry, but New Jersey is a basket case. New
9 Jersey is in appalling condition.

10 SENATOR PARKER: Mm-hmm.

11 MR. McMAHON: Its economy is the worst in the
12 country of any high-income state.

13 SENATOR PERKINS: Hmm.

14 MR. McMAHON: It trails, it is exceeded only,
15 worsened only by Ohio and Michigan in job growth
16 the last four years. Its budget is in worse
17 shape than ours, even though the economic boom.
18 I don't think it's a positive example of
19 anything, but however, I looked at IRS statistics
20 for high-income taxpayers. The IRS does show
21 high-income taxpayers defined as over \$200,000.
22 New Jersey had one of the lowest rates of growth
23 in the number of high-income taxpayers --

24 SENATOR PARKER: All right, but did anybody

1 leave?

2 MR. McMAHON: -- in the United States, and

3 --

4 SENATOR PARKER: Did anybody leave?

5 MR. McMAHON: Well the tax statistics don't
6 allow you to interpret whether anybody, whether
7 somebody left.

8 SENATOR PARKER: Mm-hmm.

9 MR. McMAHON: All growth is relative.

10 SENATOR PARKER: So you're saying --

11 MR. McMAHON: The economy --

12 SENATOR PARKER: So you're saying we don't
13 know whether people left.

14 MR. McMAHON: Senator, the economy and the
15 tax base is continuous -- this was during an
16 expansion. The economy was growing. So in
17 effect, relatively, yes, people did leave. They
18 didn't stay there or go there. And that's --

19 SENATOR SCHNEIDERMAN: And how do we know
20 that, what's the data to support that?

21 MR. McMAHON: The data is that the number of
22 high-income taxpayers in New Jersey stagnated
23 during an economic boom.

24 SENATOR SCHNEIDERMAN: So you disagree with -

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1 -

2 MR. McMAHON: And New York as well, by the
3 way.

4 SENATOR SCHNEIDERMAN: So you disagree with
5 the Princeton study.

6 MR. McMAHON: Yes, I think the Princeton
7 study's misleading and simplistic. I've read it,
8 I'm quite familiar with it.

9 SENATOR SCHNEIDERMAN: It does contradict
10 what you just said.

11 MR. McMAHON: No, it doesn't contradict what
12 I just said. If you want to look at the number,
13 if you want to look at the impact on high-income
14 taxpayers, you want to look at it in the context
15 of the national economy and what's going on with
16 high-income taxpayers throughout the nation. And
17 you want to look at taxable income growth,
18 because that's your tax base. And taxable income
19 is not the same as adjusted gross, by the way.

20 If you look at the number of high-income
21 taxpayers in New Jersey, at the average incomes
22 of high-income taxpayers in New Jersey, and at
23 the growth in total taxable income in New Jersey
24 during the first three years of the higher tax

1 rates, you'll find that they under-performed the
2 national average, and in fact, in a couple of
3 those measures, ranked near the bottom among 50
4 states.

5 SENATOR PERKINS: Right, but what that
6 doesn't tell us is if we, let me just be simple,
7 right.

8 MR. McMAHON: Right.

9 SENATOR PERKINS: Because I'm only a PhD
10 candidate, so I don't understand all this big
11 stuff. But if we have a hundred people, before
12 we raise tax -- a hundred high-end people defined
13 by \$200,000 in income or more, and in 2003, and
14 in 2004, the State Legislature in New Jersey
15 raises significantly the tax rate of those 200
16 people, oh, I'm sorry, those 100 people.

17 MR. McMAHON: Mm-hmm.

18 SENATOR PARKER: In 2004 or 2005, when we
19 measured, did we still have 100 people, did we
20 have 105 people, did we have 99 people? In other
21 words, were there literally more or less people
22 in that bracket after they raised the taxes?

23 MR. McMAHON: Well, first of all, the study
24 you're talking about did not because nobody can.

1 Nobody has data to indicate whether precisely the
2 same 100 people theoretically were there in the
3 beginning and in the end as the beginning. What
4 that study purported to find was that roughly the
5 number of people in a certain income bracket was
6 the same at the end of the period as at the
7 beginning.

8 SENATOR PARKER: Okay.

9 MR. McMAHON: And what I'm suggesting to you
10 was, that three-year period was a boom.

11 SENATOR PARKER: Mm-hmm.

12 MR. McMAHON: And New Jersey did not
13 participate fully in the boom because it raised
14 its taxing rates.

15 SENATOR PARKER: So we go to the first point
16 where you make an argument about using marginal
17 taxation and that gathering and recapture
18 provisions on --

19 MR. McMAHON: Right.

20 SENATOR PARKER: -- taxing high-income net
21 worth people. The two examples that you used
22 that we ought to follow are two places where you
23 have yourself said, essentially the economies are
24 horrible. And so you're suggesting that New York

1 do not use recapture and follow the examples of
2 two places that you, in your own testimony, have
3 indicated have horrible economies.

4 MR. McMAHON: Well what I meant there was
5 that if even they haven't done it, bad as they
6 are, and as punitive as they are in their
7 taxation policies, maybe we shouldn't do it
8 either.

9 SENATOR PARKER: But they're horrible. But
10 why should we follow the example of a place
11 that's already horrible?

12 MR. McMAHON: No, look, nobody else does this
13 --

14 SENATOR PARKER: Maybe they're in those
15 conditions because, in fact, they, because they
16 haven't done it.

17 MR. McMAHON: Well --

18 SENATOR PARKER: Just suggesting.

19 MR. McMAHON: Understood.

20 SENATOR PARKER: Okay.

21 CHAIRWOMAN KRUEGER: We're having fun.

22 SENATOR PARKER: Right.

23 MR. McMAHON: Yes.

24 CHAIRWOMAN KRUEGER: And I'm actually

1 enjoying this --

2 SENATOR SCHNEIDERMAN: Sorry, I apologize, I
3 do enjoy Mr. McMahon's commentary.

4 CHAIRWOMAN KRUEGER: No, no.

5 MR. McMAHON: I'll be happy to take you
6 somewhere --

7 CHAIRWOMAN KRUEGER: But we are, just for the
8 record, we're -- and I want to thank you very
9 much.

10 MR. McMAHON: Thank you.

11 CHAIRWOMAN KRUEGER: And we obvious want to
12 continue discussion. We are an hour behind on
13 the schedule, which is most of the Senate's fault
14 because we had to leave. I have just, so I just
15 have one proposal.

16 MR. McMAHON: Yes.

17 CHAIRWOMAN KRUEGER: We could have a
18 billionaire tax for Mike Bloomberg, apparently on
19 the Forbes. He did better, he made more money
20 this year --

21 MR. McMAHON: You're assuming he actually
22 made a billion. I'm not saying he didn't.

23 CHAIRWOMAN KRUEGER: Well --

24 MR. McMAHON: But you tax income, you don't

1 tax net worth.

2 CHAIRWOMAN KRUEGER: Well, we'll have to
3 check. But you know what, he can't leave --

4 SENATOR SCHNEIDERMAN: We're working on that,
5 E.J.

6 MR. McMAHON: I know you are.

7 SENATOR SCHNEIDERMAN: We're working on that
8 E.J.

9 CHAIRWOMAN KRUEGER: But he can't leave.

10 MR. McMAHON: Until the income seizure
11 provisions are ready, we talking about the income
12 tax.

13 CHAIRWOMAN KRUEGER: To address Senator
14 Parker and your debate, he can't leave for four
15 years because he wants to remain the Mayor of New
16 York.

17 MR. McMAHON: Right.

18 CHAIRWOMAN KRUEGER: So we don't have to
19 worry about --

20 MR. McMAHON: Exactly.

21 CHAIRWOMAN KRUEGER: -- his fleeing the state
22 for other states --

23 MR. McMAHON: Right.

24 CHAIRWOMAN KRUEGER: -- with lower taxes, so

1 we could just take care of our problem that way.

2 MR. McMAHON: There you go.

3 CHAIRWOMAN KRUEGER: But thank you, very much
4 for your testimony.

5 MR. McMAHON: Thank you.

6 SENATOR SCHNEIDERMAN: Thank you.

7 MR. McMAHON: Okay. Bye bye.

8 SENATOR PARKER: Bye, E.J.

9 CHAIRWOMAN KRUEGER: I appreciate it.

10 SENATOR PARKER: Thanks.

11 CHAIRWOMAN KRUEGER: The next testifier if
12 Frank Mauro from, Executive, everyone knows,
13 Executive Director of Fiscal Policy Institute,
14 and I suspect that Frank might have some response
15 to some of Mr. McMahon's comments as well.

16 We are joined by Senator Andrea Stewart-
17 Cousins, and also we were joined by Neil Breslin
18 during the testimony, I didn't have a chance to
19 interrupt the debate. Thank you, for joining us.

20 SENATOR BRESLIN: You're very welcome.

21 CHAIRWOMAN KRUEGER: Okay.

22 MR. MAURO: Hi ya.

23 CHAIRWOMAN KRUEGER: Hi, how are you?

24 MR. MAURO: Good.

1 CHAIRWOMAN KRUEGER: Good.

2 **FRANK MAURO**

3 **Executive Director**

4 **Fiscal Policy Institute**

5 MR. MAURO: We'll I'm glad that all of you
6 are here, but I'm particularly glad that Senator
7 Cousins and Senator LaValle are here. Because
8 part of what I want to talk about is in the
9 jurisdiction of Senator Cousins' committee, and
10 it's based on, in part, on work that Senator
11 LaValle has done over the years. And it relates
12 to -- one of the things that E.J. said that I
13 disagree with, when you look at where the highest
14 tax burden for middle income people is in New
15 York State, it's not in New York City, it's in
16 the New York City suburbs, because of the high
17 property taxes. The New York City tax system is
18 much more progressive than the tax system in the
19 suburbs, because New York City relies heavily on
20 an income tax and has relatively low property
21 taxes, whereas the suburbs don't have an income
22 tax, but they're average tax burden is as high,
23 but is much, much heavier on the property tax.
24 So the distribution hits in the middle. So I

1 don't think its people in New York City who are
2 at the highest of the middle-income people.

3 This is not in my testimony, but it's what,
4 it's the IPT study that E.J. was referring to,
5 and one of the things, this was for the 2002 tax
6 system applied to 2000 income levels, and one of
7 the things it shows, which is very similar to the
8 numbers that Ken Pokalsky gave for the effective
9 tax rates at different levels, if you look at the
10 income tax line for the top 1 percent, effective
11 tax rate of 6.3 percent; for the next 4 percent,
12 effective tax rate of 5.2 percent, then 4.6
13 percent, so the income tax is progressive in New
14 York State. It's just not progressive enough to
15 even out the regressivity of the property and
16 sales tax.

17 SENATOR PARKER: Right.

18 MR. MAURO: And so one of the things we say
19 in our testimony, is we praise Senator Klein, for
20 in his bill for suggesting that you couple an
21 income tax, progressivity increase with middle-
22 class tax relief, but his way of providing
23 middle-class tax relief through a increase in the
24 standard deduction is not the right way. The

1 right way is to target it to the people in the
2 middle who are really overburdened, who are the
3 people for whom property taxes is a high
4 percentage of their income. So what the, the
5 middle-income relief needs to be is a middle-
6 income property tax circuit breaker similar to
7 the bill that Senator Betty Little and
8 Assemblywoman Sandra Galef generated lots of
9 interest and support around New York State.

10 I think that it's pretty amazing that in
11 poles in New York State, people understand what a
12 circuit breaker is. They understand that term.
13 Among people, that concept has gotten lots of
14 attention.

15 I'm part of a consortium called the Omnibus
16 Consortium that has a slight revision of, and
17 it's discussed in my testimony, a slight revision
18 of last year's Galef/Little Bill, perhaps the
19 most important thing is it includes renters in
20 the phase in of the circuit breaker. It would
21 phase in the circuit breaker over four years to
22 acknowledge the current budget situation. But it
23 would also do something else. It would say, we
24 need a personal income tax increase in the short

1 run to help to balance the budget.

2 But our budget problems are not
3 overwhelmingly structural. And Governor
4 Paterson, on occasion, has acknowledged that.
5 The day when he presented the budget to the
6 Legislature, he acknowledged that about 10
7 billion of the 14 billion gap he was talking
8 about was the result of revenue falling off a
9 cliff. But he lapses into this stuff where he
10 talks about how we have a spending addiction.

11 What we present in our budget, in our
12 testimony, is the fact that the growth in
13 spending is primarily because of major new
14 commitments that we made without adding new
15 revenue. So in effect, we were gambling that the
16 existing revenue system wouldn't just grow fast
17 enough to cover the increasing costs of where we
18 are, of what we were doing at the time, but that
19 it would cover these new programs, and what are
20 these new commitments.

21 We took over the full cost of Family Health
22 Plus. We capped the county share of Medicaid
23 from not growing more than 3 percent. We
24 increased, we created STAR, and then in Governor

1 Spitzer's first year, we added the middle class
2 STAR program, which would grow to 1.9 billion
3 over time. We settled the CFE lawsuit on a
4 statewide basic and only dealt with New York
5 City; made a commitment of increasing school aid
6 by \$7.7 billion over four years. But we did that
7 without paying for it. So what in effect we were
8 doing?

9 We were gambling that the growth in the
10 revenue system would be such that it would pay
11 for it. In the, I'm not going to read my
12 testimony, I'm going to refer to some numbers in
13 the second paragraph of the testimony about the
14 revenue falling off a cliff.

15 Governor Spitzer's 2007-2008 Executive Budget
16 projected personal income tax receipts for 2009-
17 2010, this is in the middle of the second
18 paragraph of the testimony, which is inserted
19 into the, the testimony's inserted into the
20 briefing book. The testimony is, looks this.

21 So in the middle of that paragraph, I'm just
22 going to pick up, just to show what's happened to
23 revenue and what was being counted on and the
24 reaction I've gotten from the Budget Division.

1 Governor Spitzer's 2007-2008 Executive Budget
2 projected personal income tax receipts for 2009-
3 2010 to be 41.37 billion. While Governor
4 Paterson's 2009-2010 Executive Budget projected
5 personal income tax receipts for 2009-2010 to be
6 34.391 billion. The swing of 6.979, let's say 7
7 billion, is repeated in other parts of the
8 State's revenue structure with the difference
9 between the Executive Budget projections for
10 2009-10, and the projections of two years ago for
11 the same year down by 1.6 billion for business
12 taxes, 400 million for the sales and use tax.
13 Overall taking increases and decreases in other
14 categories into consideration, projected tax
15 revenues for 2009-2010 are down by an estimated
16 9.4 billion since 2007. So when I say it's good
17 that we settled the Campaign for Fiscal Equity
18 lawsuit, I hope the Governor doesn't think that's
19 an addiction to spending, the settling of the
20 lawsuit, and Governor Spitzer settled it on the
21 cheap side. That was on the low end of what was
22 proposed, because his 7.7 billion includes the
23 already existing grow. So when I say that the
24 State was gambling that the revenue system would

1 grow fast enough to cover that, the Budget
2 Division says, but we were not counting on an
3 unreasonable rate of growth. We just didn't
4 predict the greatest decline in the economy since
5 the Great Depression. They say, that was not
6 irresponsible what we did in 2007. And I think
7 when you look at the numbers, it wasn't
8 irresponsible. But we've had a cataclysmic
9 event. But you can't then also say we have this
10 addiction to spending, and the problem is on the
11 spending side, looking at the average rate of
12 growth in spending.

13 What we find, the Comptroller puts out a lot
14 of different financial reports, one of them,
15 which is designed to be easily understood, is the
16 State's Financial Condition Report. And it shows
17 this trend in spending from 2004, fiscal year
18 ending in 2004 to the fiscal year ending in 2008.
19 When you leave out education, transportation and
20 health care, the rest of the budget grew by an
21 average annual rate of 2.88 percent less than the
22 rate of inflation.

23 At the time the CFE case was going on, what
24 we were -- when the Legislature was taking years

1 to come to a solution, we said there needed to be
2 a legitimate solution to the CFE case, but if you
3 did a legitimate solution and didn't pay for it,
4 then it would ultimately squeeze everything in
5 the budget.

6 SENATOR: That's right.

7 MR. MAURO: That you had to pay for it.

8 CHAIRWOMAN KRUEGER: Mm-hmm.

9 MR. MAURO: And we didn't pay for it. So
10 that's where the situation as we are now.

11 So on both, I think there's arguments on both
12 sides. I think the Budget Division is right when
13 they say, we were not counting on extremely
14 strong revenue growth, we were just counting on
15 ordinary, run-of-the mill revenue growth. And
16 things fell off a wall, and the Governor points
17 that out, and he takes credit for having been
18 early on that saying it was going to happen,
19 because months went by when he said it was going
20 to happen and it didn't happen. And it still
21 hasn't happened to the extent it's going to
22 happen, but I think his projection for next year
23 is not unreasonable. Given all the bad signs on
24 the economy, it's not unreasonable that personal

1 income tax revenues are going to decline for next
2 year. They didn't decline for this year, they
3 were flat, but he's proposing, and it's not
4 unreasonable, a big decline for next year.

5 We think that in the short run, the least
6 damaging kind of budget balancing action by a
7 State during a recession is an increase in the
8 tax on the portion of income over a relatively
9 high level. Why is that the least damaging kind
10 of budget balancing action in a recession?

11 Because states have no good choices. States
12 have to balance their budgets in both good times
13 and bad. So what do states do during recessions?
14 They increase taxes and cut spending, to balance
15 the budget. Both of those things slow the
16 economy down. This is recognized at the Federal
17 level, that's why of the 787 billion Federal
18 Stimulus Package, 135 billion of that is
19 explicitly to help states balance their budget.
20 Because the Federal Government knows, we can
21 stimulate the economy, we can put more money into
22 the economy through extended unemployment
23 insurance, through food stamps, through tax
24 rebates. We can do all these things. But if we

1 don't help the states to balance their budgets,
2 then they're going to do things that go in the
3 other direction and slow the economy down and
4 make things worse.

5 So there was a broad consensus among
6 legitimate economist. E.J. mentioned Martin
7 Feldstein. Martin Feldstein said this is the
8 time for a major stimulus package. We can't be
9 worrying about the Federal deficit right now. He
10 disagreed on the content of the stimulus package.
11 He, for example, didn't think, and he might be
12 right, that we need infrastructure investment for
13 productivity of the economy, but he doesn't think
14 infrastructure investment is a short-term jolt to
15 the economy because it takes so long to get
16 things going. He felt, and so did others, that
17 the stimulus had to be primarily things that kick
18 started the economy, but what Obama did, and he
19 was explicit about this, is he included both
20 recovery and reinvestment. So his package is not
21 all stimulus. It's called the stimulus package
22 by people, but he's doing some things in the name
23 of stimulus, but he's also doing some things in
24 the name of long-run productivity. So it's a

1 mixed package.

2 Some people say, we could have used 800
3 billion of pure stimulus and not do 800 billion
4 where we split it between stimulus and making the
5 economy more productive in the long run. One of
6 the things in the Obama package that's probably
7 good for the long run, but Feldstein says, how in
8 the world will this stimulate the economy? There
9 is a significant amount of money to computerize
10 all the health records in the United States over
11 the next four years. Obama says that's important
12 to the long-run cost control in the health
13 sector, and he's probably right. And Feldstein's
14 right too when he says, that's not stimulus. So
15 it's vocabulary.

16 Should we have done 800 million of stimulus?
17 I think so. But we didn't. Well the Federal
18 Government deserves credit for doing what they
19 did, and the Stimulus Package is not ill
20 informed. It has broad, the idea of fiscal
21 relief to the states make a lot of sense because
22 if the Federal Government does things to
23 stimulate the economy, and they don't help the
24 states, then states are going to do things to

1 slow it down.

2 So in the short run, the income tax increase
3 is necessary to avoid more damaging actions.

4 Why do progressive income taxes take less
5 demand out of the economy than spending cuts or
6 consumption tax increases? Because increases on
7 the portion, taxes on the portion of income over
8 a relatively high level come out of the portion
9 of income that's least likely to be spent. The
10 marginal propensity to consume, and that's what's
11 in all the economics work on this.

12 In the long run, we think that the income tax
13 revenue, and this is part of our Omnibus
14 Consortiums Proposal, should be used to reduce
15 the pressure on the property tax. So in the
16 short run, we would like to see a circuit
17 breaker, a refined version of the Galef/Little
18 Bill phased in over the next four years. We
19 think that can be done without hurting the
20 balance of this year's budget.

21 The Galef/Little Bill would have replaced the
22 rebate check portion of STAR, not the exemption
23 part, would have replaced the rebate checks with
24 a circuit breaker. The Governor has proposed in

1 this year's budget to eliminate the rebate
2 checks, but he hasn't proposed a replacement. We
3 think you can provide property tax relief for the
4 2009-2010 year. People will still get relief in
5 2009-2010, but you will not take away the savings
6 the Governor wants from repealing the rebate
7 checks. Because the circuit breaker is done
8 through the income tax, and the economic impact,
9 the fiscal impact, would not occur until the
10 2010-2011 fiscal year. So rather than getting
11 rebate checks in the mail in 2000, in October of
12 2009, people could get refund, refundable credit
13 checks in April of 2010. Same school year. A
14 little cash flow difference, but the big thing
15 is, the problem with the rebate checks, is that
16 every homeowner in the state with income under
17 \$250,000 a year whether their property taxes are
18 high relative to their income or low, gets a
19 little bit of money. So I, you know, I think in
20 my school district, everybody's entitled to a
21 check of \$237. But the problem isn't that every
22 homeowner in the State needs \$200, or \$400, or
23 \$500, it's that there's some people who are
24 paying incredible percentages of their income in

1 property taxes. So we have to take the money for
2 property tax relief and use it in a way that's
3 going to defuse the criticism.

4 The long run. So over four years, we want to
5 phase in the circuit breaker.

6 The Governor gets his full savings this year,
7 but he gets less savings in each of the next four
8 years. We think that the recession, we'll come
9 out of the recession, and because so much of our
10 revenue short fall is recession induced, we're
11 going to have a comeback like we've had other
12 times. So what do we want to do in the long run?
13 This is where Senator LaValle's old bill comes
14 in.

15 Starting in 2012, over ten years, we want to
16 take over \$10 billion of local cost. Whereas
17 Senator LaValle and Ron Tochi and Kevin Kalen and
18 others have sponsored variations of a bill over
19 the years that would have the State take over the
20 full cost of a basic quality education.

21 What we have concluded is that, doing that,
22 putting all your eggs in the school basket, would
23 not be geographically fair. That it would be a
24 good suburban solution, it would be good for the

1 school district I live in, the Niskayuna School
2 District, the suburb of Schenectady and would be
3 good for the districts that Senator LaValle and
4 Senator Cousins, and Assemblyman, Senator Breslin
5 represent, but it wouldn't be good for places
6 like Utica and Oneida County, and Buffalo and
7 Erie County. And particularly for the old mill
8 towns in the Mohawk Valley.

9 So what we need to do is do some of the take
10 over in education. We suggest 6 billion over ten
11 years of take over. This is in addition to the
12 regular increases in school aid for CFE.

13 One billion in Medicaid, with the additional
14 take over of 1 billion in Medicaid being based on
15 counties that are particularly overburdened, for,
16 where there's large concentrations of poor people
17 relative to their tax base. The 3 percent cap,
18 in fact, exacerbates the disparities. Because if
19 you're paying \$6 per thousand of full value to
20 pay for Medicaid in --

21 SENATOR BRESLIN: I have a problem.

22 MR. MAURO: -- Montgomery and Fulton
23 counties, and you're paying a dollar per thousand
24 in Nassau County, and they can both go up by a 3

1 percent, the disparities are going to increase
2 over time. So we want to use \$1 billion dollars
3 to provide relief to the counties that are
4 particularly overburdened, and we want to provide
5 3 billion for revenue sharing. Because property
6 taxes are also very high in many of the cities
7 and the older villages in the state because of
8 municipal services. So, yes, on average, school
9 property taxes are 60, 65 percent of all property
10 taxes. But that isn't true every place. So
11 what, rather than putting all our eggs in the
12 education basket, even though the bill that
13 Senator LaValle sponsored was the beginning of
14 our thinking, we say put the majority of your
15 resources there, but also do some for Medicaid
16 and some for revenue sharing. So 6 billion for
17 school aid, 1 billion for Medicaid and 3 billion
18 for revenue sharing over ten years is how we
19 would use the income tax revenue in the long run.

20 Thank you.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Questions. You're okay. Senator, okay the
23 Senators are running, only because we're over,
24 out of time.

1 Thank you. Sorry, I'm just saying goodbye to
2 them. You gave us a lot to think about.

3 MR. MAURO: Okay.

4 CHAIRWOMAN KRUEGER: So I appreciate that.

5 Now recently we had the Revenue Projection
6 Conference, all right. And five economists came
7 and testified, and basically all but one of them
8 testified that in the economic crisis we're in,
9 we shouldn't reduce government spending, as you
10 proposed. They made the exact same argument that
11 this is the wrong time to lower economic
12 spending, and in fact, the Federal Reserve
13 Economist said that at temporary increase in the
14 PIT might be our only option.

15 You talked about the State being between a
16 rock and a hard place because of tank, you know,
17 falling off a cliff economically.

18 MR. MAURO: Right.

19 CHAIRWOMAN KRUEGER: And we're looking,
20 obviously we're looking at the PIT, that's why
21 we're having this hearing today.

22 MR. MAURO: Right.

23 CHAIRWOMAN KRUEGER: But you also brought
24 into your testimony, Frank, and which is very

1 much appreciated, that one really has to look at
2 all of the taxes put together. Right.

3 MR. MAURO: When you go to the fairness
4 issue.

5 CHAIRWOMAN KRUEGER: When you go to fairness
6 issue.

7 MR. MAURO: And I think there's an economic
8 impact issue, which I'll get to in a minute, --

9 CHAIRWOMAN KRUEGER: Okay.

10 MR. MAURO: -- I didn't mention.

11 CHAIRWOMAN KRUEGER: And so I guess, because
12 again, you've opened up the door that economic
13 fairness requires looking at how the total
14 package of taxes effects, you in, in quintile
15 one, quintile, through quintile five. And other,
16 I know it's a long question, but I'm trying to be
17 coherent.

18 MR. MAURO: Okay.

19 CHAIRWOMAN KRUEGER: Several testifiers
20 talked about the volatility concern on the State
21 of just dealing with the PIT.

22 Would you propose that we also be exploring
23 balancing out the proposal to increase the PIT
24 with other tax changes that are, increases, I

1 mean, when you talk about the circuit breaker,
2 which I think you're right, I support that.

3 MR. MAURO: Well, a circuit breaker is a use
4 of money --

5 CHAIRWOMAN KRUEGER: Right.

6 MR. MAURO: -- to reduce the pressure on the
7 property tax.

8 CHAIRWOMAN KRUEGER: Right.

9 MR. MAURO: It's not a generator of money.

10 CHAIRWOMAN KRUEGER: Right.

11 MR. MAURO: And we're proposing it in a way
12 where it would not effect the savings the
13 Governor wants this year from repealing the
14 rebate checks.

15 CHAIRWOMAN KRUEGER: All right, because we
16 need to deal --

17 MR. MAURO: But we want the commitment
18 now --

19 CHAIRWOMAN KRUEGER: -- with that reality,
20 mm-hmm.

21 MR. MAURO: -- that we're replacing it with a
22 circuit breaker, and that circuit breaker will
23 also be in effect for calendar year 2009, it's
24 just that you will get your credit on your income

1 tax return that you file in 2010.

2 CHAIRWOMAN KRUEGER: Right.

3 MR. MAURO: And it'll be more targeted.

4 CHAIRWOMAN KRUEGER: Right.

5 MR. MAURO: So some people who get \$237 in a
6 rebate check now won't get anything, but the
7 problem is, with the property tax, that there are
8 some people who are really overburdened, and we
9 haven't targeted the relief to them.

10 CHAIRWOMAN KRUGER: So again, given our need
11 for revenue now, which I don't think too many
12 people disagree with, should we be doing
13 something in addition to PIT and not putting all
14 the eggs in that basket, so to speak? Given the
15 fact that you've opened the door that there's
16 lots of different taxes that everyone pays, and
17 so to avoid the risk of volatility, and in fact,
18 increasing the dependence on wealthy taxpayers
19 who may not be as wealthy anyway in 2010-11.

20 MR. MAURO: Right. Yeah, people will only
21 pay taxes based on their income. So if they have
22 less income in 2009, than in 2008, and a lot of
23 people will.

24 CHAIRWOMAN KRUEGER: Right.

1 MR. MAURO: They will be less affected by a
2 high, an income tax increase. If you look at one
3 of the inserts I have, looks like this, it says
4 personal income tax on the top, the first page is
5 a page from the Executive Budget.

6 CHAIRWOMAN KRUEGER: Mm-hmm.

7 MR. MAURO: The Governor is projecting a
8 decline in the number of high-income taxpayers,
9 but also for the top one percent of taxpayers,
10 which wouldn't go down in number, but he's
11 projecting that for 2009, the income for the
12 liability year, these are liability years, that
13 the liability, the taxes paid by the top one
14 percent will go down.

15 CHAIRWOMAN KRUEGER: Mm-hmm.

16 MR. MAURO: The yield of a personal income
17 tax increase will be based on what the actual
18 distribution of income is in 2009. And one of
19 the things we've worked on with New Yorkers for
20 Fiscal Fairness, and Ron Deutsch will present, is
21 what we have said, let's be really cautious.
22 Let's say, what would a, what would alternative
23 income tax plans produce if the high end of the
24 income distribution fell off all the way back to

1 the 2004 level? So if you look at the liability
2 of the top 1 percent, the Governor's projecting
3 that under current law, not any tax increase,
4 that in 2009, the liability of the top 1 percent
5 will be 10 billion 357 million, and this is on
6 the first page of this page.

7 CHAIRWOMAN KRUEGER: Mm-hmm.

8 MR. MAURO: So it's column 1, liability top 1
9 percent, 2009, the Governor's projecting that the
10 top 1 percent will pay about \$1.2 billion less in
11 income taxes next year than this year. Ten,
12 three, five, seven.

13 So what we said is, let's take a really bad
14 case scenario. Let's say that the high-end
15 income falls off not just to the level of a year
16 or two ago, but falls off all the way back to the
17 2004 level, what will the yield be? And those
18 are the projections that Ron will present. And
19 what I would say is, I don't think you have to
20 worry about volatility in the long run, I mean in
21 the short run, 'cause we're down. So what I
22 would suggest, if you're concerned about
23 volatility in the long run, of taking an action
24 now to deal with the recession, and I'm not

1 saying I am, but I'm saying if you are.

2 CHAIRWOMAN KRUEGER: Mm-hmm.

3 MR. MAURO: If you're concerned about long-
4 run volatility, and that's not a problem now
5 because we're down.

6 CHAIRWOMAN KRUGER: Right.

7 MR. MAURO: And, you know, we're not going to
8 have volatility right now. I would say take a
9 conservative estimate, like we did, and say
10 anything that comes in over the projected yield
11 based on a very conservative estimate, goes into
12 a rainy day fund that we build up bigger reserves
13 than we built up before. That's what I would say
14 if you're concerned about volatility.

15 I think in the current mix, I think Senator
16 Parker might have mentioned this in questions a
17 minute ago, that, you know, the current projected
18 deficit is about 14 billion, that I think a
19 reasonable estimate is that 6 billion of the
20 stimulus money can be used for budget balancing,
21 that reduces it to 8 billion. The Governor has
22 proposed some other revenue raiser, which we
23 think are a good idea, and it's in Ron's
24 testimony.

1 CHAIRWOMAN KRUEGER: Okay.

2 MR. MAURO: He's taken off the table the
3 really objectionable consumption taxes that
4 people didn't like. So I think that if you did
5 an income tax plan in the range of \$5 billion,
6 which is, you like the plans that Senator
7 Schneiderman and Senator Klein, Senator Klein's
8 without the offsetting standard deduction
9 increase, we'd rather see that go to property tax
10 relief. I think those would produce money in
11 that range. And I think that a progressive
12 income tax increase should be part of the
13 package.

14 CHAIRWOMAN KRUGER: Thank you. One more
15 quick question.

16 MR. MAURO: Okay.

17 CHAIRWOMAN KRUEGER: We'll try to keep it
18 quick.

19 Several testifiers have talked about, when
20 you look at the quintiles of taxpayers, --

21 MR. MAURO: Right.

22 CHAIRWOMAN KRUEGER: -- the top 1 percent pay
23 the vast majority in aggregate of taxes, of
24 income taxes for the state of New York. Since

1 we're individuals, why should we care if an
2 aggregate --

3 MR. MAURO: Right, be --

4 CHAIRWOMAN KRUGER: I mean if they have,
5 maybe I'm confused.

6 MR. MAURO: Yeah.

7 CHAIRWOMAN KRUEGER: But if they earn the
8 most money by definition, they would pay the most
9 in income tax. So from a tax policy perspective,
10 why does everybody get concerned about that?

11 MR. MAURO: Well I think the only legitimate
12 concern is that can lead to the volatility issue.

13 CHAIRWOMAN KRUEGER: Okay.

14 MR. MAURO: I mean, it also is a flamboyant
15 statement, but I think when you get down to it,
16 it's the volatility.

17 There's a table in your package, one of the
18 other inserts, looks like this, and what's
19 interesting, given the questioning that Senator
20 Schneiderman was going through with E.J., E.J.
21 talked about the IRS data, which is available
22 for, it's 200,000 and above, so what that IRS
23 data says is, between 2002 and 2005, the number
24 of earners with 200,000 or up in income from New

1 York went from 222,000 to 289,000. But, that's
2 people whose returns have New York return
3 addresses.

4 The true number from the New York data of
5 income tax returns with 200,000 or more in income
6 went from 301,000 to 396,000. But when you break
7 it down, this is the incredible numbers. There's
8 two sides to this sheet. One deals with the
9 amount of income, and the other deals with the
10 number of taxpayers. And when you look at the
11 growth in the number of taxpayers, you can look
12 at the change from either 2002 to 2005, or 2003
13 to 2005, when you look at those high-income
14 categories, as you went up, the growth got more.
15 So between 100 and 150,000, there was an increase
16 in the number of taxpayers of 22 percent. But
17 then to the next category, 200,000, 25 percent;
18 500,000, 36 percent; 1 million, 57 percent; 5
19 million, 87 percent; 10 million, 166 percent.
20 You don't get this disaggregation out of the IRS
21 data. And when you look at the amount of income,
22 the growth was just as great.

23 The amount of income in the hands of the
24 2,000 or so taxpayers who had incomes of 10,000

1 and above, doubled over the period from 2002 to
2 2005, doubled from 19 billion to 55 billion. So
3 your point is correct, that the reason why the
4 taxes go up is because the income goes up,
5 because there's this increasing income
6 concentration.

7 We have an analysis, which is a little
8 different than the one up here, E.J. talked
9 about, that says that in 2000, we estimate that
10 the top 1 percent of families, this is just for
11 families, --

12 CHAIRWOMAN KRUEGER: Mm-hmm.

13 MR. MAURO: -- had 25 percent of the income.
14 But we estimate that they had 37 percent of the
15 non-subsistence income. What does that mean? We
16 say it, we'll make up a number. If you need, if
17 a family needs, on average, --

18 CHAIRWOMAN KRUEGER: Mm-hmm.

19 MR. MAURO: -- \$27,000 a year to live, what
20 is the top 1 percent share of all the income
21 above 27,000 per family? It then goes from 25
22 percent of total income to 37 percent of non-
23 subsistence income. Their share of personal
24 income taxes is high, back then it was 35

1 percent. But their share of property taxes, 7
2 percent; their share of sales and excise tax is 8
3 percent, so their overall share of tax is 21
4 percent. So this is attached to the piece from
5 the Budget Division. So there's a lot of
6 handouts in here that I didn't have time to go
7 through, but you can look at it at your leisure.

8 CHAIRWOMAN KRUEGER: Thank you, Neil Breslin.

9 SENATOR BRESLIN: Just one question, Frank.
10 You kind of eluded to the fact that, on the
11 recession, that there will be a bounce back. But
12 isn't there some analysis that, at least in terms
13 of New York State, that bounce back will never
14 happen to the extent that it has in the past,
15 that we had 20 percent of our revenue on Wall
16 Street. Many companies have been devastated
17 totally, and permanently. And the excesses,
18 hopefully will never happen again.

19 MR. MAURO: Right.

20 SENATOR BRESLIN: Regulation.

21 MR. MAURO: Yes.

22 SENATOR BRESLIN: That I've seen some minor
23 analysis that says structurally in the
24 neighborhood, 10, 11, 12 percent, might be

1 eliminated on a permanent basis.

2 MR. MAURO: If you look at the Governor's
3 projections of the liability yield of the top 1
4 percent, the only, you know, he projects in 2000
5 -- he projects from 2008 to 2009, the yield of
6 the top 1 percent going down from 11.6 billion to
7 10.4, but coming back in 2010 to 11.4, which is
8 virtually the same level as 2006 and 2008, and
9 much higher than the levels of 2004, 2003. It's
10 just, the only year it's lower than is 2007 when
11 it really peaked. So I think that the, it would,
12 I agree with you, it would be good if the
13 financial sector reaches a new equilibrium at a
14 smaller but more sustainable level. So your
15 profit margins might not spike the way they did
16 in the past. But that isn't the only part of our
17 economy, and even if we don't have growth, we're
18 not going to have tremendous retrogression.

19 And remember, my, I'm taking a very
20 conservative posture. Much more conservative
21 than the Governor. I'm saying, assume that the
22 high-end income distribution falls all the way
23 back to the 2004 level. In 2004, the liability
24 of the top 1 percent was only 8.5 billion

1 compared to this year's, this bad year, 10.4
2 billion. So I'm saying take a very conservative
3 estimate and rely on that, and put the rest in a
4 rainy day fund if you're concerned about
5 volatility in the future.

6 I'm not as concerned about volatility as some
7 people are, but I think there should be a rainy
8 day fund, and I think perhaps me going all the
9 way back to 2004 for my projections is going, is
10 too conservative.

11 SENATOR BRESLIN: Mm-hmm.

12 MR. MAURO: But, it's the logic of that. You
13 know, be relatively conservative on the
14 projections, put the excess into a rainy day
15 fund, use it for good causes in the future,
16 including tempering volatility, if it returns.

17 SENATOR BRESLIN: Even though you're calling
18 it relatively pessimistic, to others it might be
19 optimistic as well.

20 MR. MAURO: Yeah, could be. We'll see. I
21 guess it's pessimistic compared to the Governor.

22 SENATOR BRESLIN: Mm-hmm.

23 MR. MAURO: And I can't, I mean the Governor
24 would say he's been one of the nation's foremost

1 and most outstanding pessimists.

2 SENATOR BRESLIN: Mm-hmm.

3 MR. MAURO: That he's pointed out these
4 problems before anybody else.

5 SENATOR BRESLIN: He pointed them out.

6 MR. MAURO: Right.

7 CHAIRWOMAN KRUEGER: Right.

8 MR. MAURO: Yeah.

9 CHAIRWOMAN KRUEGER: Thank you, very much,
10 Frank.

11 MR. MAURO: Okay.

12 CHAIRWOMAN KRUEGER: Appreciate your
13 testimony.

14 The next testifier is Elizabeth Lynam from,
15 excuse me, the Deputy Research Director of
16 Citizens Budget Commission.

17 MS. LYNAM: Hello. How do I turn off Frank's
18 slides here? Although you can just, it's fine,
19 leave it up, because I was going to talk about
20 the same ITEP study.

21 CHAIRWOMAN KRUEGER: Oh, okay.

22 MS. LYNAM: And that will save me from having
23 to talk about it all that much since you're
24 seeing it right here.

1 CHAIRWOMAN KRUEGER: Yes.

2 **ELIZABETH LYNAM**

3 **Deputy Research Director**

4 **Citizens Budget Commission**

5 MS. LYNAM: Yes, as you said, I'm the Deputy
6 Research Director at the Citizens Budget
7 Commission, and what I want to say basically, I
8 want to talk about two key points that I'd like
9 to emphasize about the personal income tax. And
10 then I want to present to you a framework that we
11 propose for thinking about this issue in a more
12 comprehensive way.

13 So first, let me agree with some of the
14 testifiers before me, that the personal income
15 tax is progressive in New York State, but that
16 the other taxes in New York State are not.
17 Overall, the system is regressive, and so if you
18 want to look at the personal income tax in
19 isolation, which we don't think you should, you
20 know, we can really see that the personal income
21 tax, according to the ITEP study and the work of
22 others, at the low end, the lowest quintile,
23 people are actually refunded on the personal
24 income tax, and they have a negative personal

1 income tax rate overall, however, they do pay,
2 you know, something in the range of 12 percent of
3 their income for taxes, and these numbers are
4 right up in front of you. The twelve, six is
5 right there.

6 CHAIRWOMAN KRUEGER: Mm-hmm.

7 MS. LYNAM: So essentially the problem with
8 New York State tax structure is not necessarily
9 the personal income tax, it is the other taxes.
10 And, you know, we would agree with Frank about
11 the circuit breaker, and support the circuit
12 breaker in general for the relief of that.

13 But in sum, the proposal before you that
14 deals just with the personal income tax is not
15 going to be sufficient to address the problem
16 with New York State's tax system. And it's not,
17 in isolation, the right way to go right now.

18 Also the other thing we do have to remind you
19 of, which also was mentioned by E.J., is that a
20 lot of the filers that are in the category of
21 income that you're talking about, above 200,000,
22 do live in New York City; one-quarter of them
23 live in New York City, and so they there have the
24 local income tax and the progressivity of that is

1 intersecting, obviously, with the State's where
2 their rates are as high as 10, if there is also a
3 surcharge in New York City, you know, it could go
4 as high as 12 or 12 15 is what we saw in '02, '03
5 with the combined impact of the State's surcharge
6 and the city. So you have to think about the
7 residents' patterns and the overall structure.
8 And again, I would agree with E.J. that the ITEP
9 study does not consider that in its metrics, and
10 it's an added factor that we think you need to
11 take into consideration as well. It's not just a
12 system that is for State taxpayers.

13 So, now, New York's tax structure also
14 though, and the rates, and this is a very
15 important consideration that we think you ought
16 to take into account, and that is that, you know,
17 competitiveness should be a major consideration
18 right now. And a lot has been discussed about
19 the mixed evidence on whether people will leave
20 the state as a result of potential increase in
21 the personal income tax at the high end. And our
22 review of the evidence, including the Princeton
23 Study and, you know, the other studies that were
24 mentioned by Senator Schneiderman, shows that

1 it's really mixed. In New Jersey they did not
2 lose that many taxpayers when they did change
3 their structure. They lost about 400 households,
4 they thought, over a total of 44,000 taxpayers in
5 that category seemed to be 1 percent.

6 On the other hand, as E.J. said, they did not
7 grow as much as the rest of the state, and they
8 are in far worse state than what we are in terms
9 of their overall budget situation. So ...

10 The City Comptroller also did a study in 2007
11 that was not mentioned, but that looked at the
12 effect in New York City of the tax increase and
13 the surcharges that were put on the '02-'03
14 period, and they found that the most harm was,
15 and the most potential for out migration was in
16 the middle income, moderate income, you know, the
17 very high earners, and the people at the sort of
18 middle-class part of the scale were not likely to
19 move. But it is hard to tell whether people will
20 move or not, and so I guess, you know, the idea
21 from us would be, you know, do no harm. Right
22 now it's a very fragile state. The experience in
23 '02-'03, may or may not be relevant to today's
24 circumstances. There are, obviously, much more

1 severe economic conditions and indicators.
2 Things look much more serious. It's very likely
3 to be a much more protracted recovery than it was
4 in '02-'03, and obviously if we are looking to
5 try to be competitive in a situation,
6 particularly in new-growth industries, as the,
7 you know, the state with the epicenter of the
8 financial services meltdown, you know, looking at
9 Greentech and other types of growth industries
10 that we might try to promote here, we obviously
11 do not want to do anything that will send a
12 message that we're going to disadvantage people
13 in locating in New York. There's going to be
14 fierce competition, obviously, going forward for
15 any kind of new jobs.

16 And to the volatility issue, you know, 56.5
17 percent of our total revenues come off the
18 personal income tax. We are number 1 in that. I
19 think Oregon, we're either number 1 or number 2;
20 Oregon is somewhere there with us, but the
21 average is about 36 percent. So we really are
22 very dependent, and volatility is a
23 consideration. To deal with that, we would also
24 support the idea of a rainy day fund, as Frank

1 had mentioned, and some suitable contribution to
2 that to relate. But, you know, be that as it
3 may, let me turn to this framework that I'd like
4 to suggest to you.

5 You know, because essentially what we think
6 is that there needs to be a mix of solutions. In
7 two years time, the Federal monies going to run
8 out. Fortunately we've had a very generous
9 bailout from the Federal Government, which will
10 help enormously in avoiding some of the most
11 harmful actions. Be that as it may, the money is
12 going to run out, and the great likelihood is
13 that we are not going to get back to the levels
14 or revenue that we have seen for the foreseeable
15 future. So either way, there's going to need to
16 be some leadership involved in reducing the size
17 of the State budget, trying to do more with less,
18 being more productive, having higher-quality
19 government for lower cost.

20 So what we think is that in order to think
21 about the personal income tax proposals before
22 you, you should fulfill two conditions to do what
23 we think should be a temporary personal income
24 tax surcharge. But, you should not think about

1 doing that until you have worked on the State
2 Budget to bring spending down and implemented
3 significant actions that deal with that side of
4 the equation as well, and that has not happened
5 yet. So we think that both conditions should be
6 there. It should be temporary with set phase-out
7 dates on it to deal with this downturn right now,
8 and postpone potentially more harmful actions
9 that you may have to do. I don't, -- I wouldn't
10 go as high as 5 billion, I wouldn't make it
11 permanent, but, you know, in the short run,
12 perhaps you need to do that, as long as you are
13 also going to do a budget that brings spending
14 down and implements some structural reforms.

15 So what, how then to think about the longer
16 run issue of progressivity in New York State?

17 We recommend that you form a bipartisan
18 commission, and you take a year to look at all of
19 the issues involved in New York State's tax
20 structure that make it difficult for the State to
21 be progressive. Because a lot of the issue is
22 with the local government taxes.

23 Our overall tax burden is the highest in the
24 country; 35 percent above the national norms, and

1 that is driven by and large by local taxes.
2 State taxes were somewhere in the middle of the
3 pack. Local taxes are the highest in the
4 country, so we don't believe you can properly
5 address progressivity or the kinds of reforms
6 that are needed in this state until you take a
7 look at the entire system and deal with
8 potentially swapping out, changing some of the
9 local and state, you know, alignment of
10 responsibilities, and so if, in fact, you did
11 enact a permanent personal income tax increase on
12 the high end earners and left it at that, you
13 would be missing an opportunity presented by this
14 crisis to put the kinds of reforms in place that
15 New York is going to need overall if it hopes to
16 become more competitive, less burdensome, and
17 generally fairer in the way that it finances and
18 distributes the responsibility for its public
19 services.

20 With that, I'll open up to any questions that
21 you may have.

22 CHAIRWOMAN KRUEGER: Well, I want to thank
23 you, very much. I don't know about a commission,
24 but that is, as you described, that's exactly

1 what we hope the work of this committee will be.

2 MS. LYNAM: Mm-hmm.

3 CHAIRWOMAN KRUEGER: That it is a bipartisan
4 committee of the Senate. And that our assignment
5 also is to look at the, and I, as I opened up
6 with today, our goal of the committee is to, in
7 fact, come up with a series of recommendations
8 over time that will lead New York State to 21st
9 century model of taxation, and I agree; you can't
10 look at any one tax in a vacuum. And, in fact, I
11 think every testifier here today basically agrees
12 --

13 MS. LYNAM: Mm-hmm.

14 CHAIRWOMAN KRUEGER: -- with that, so that
15 is, that we need to look at the overarching
16 picture, but I also appreciate the Citizens
17 Budget Commission for coming forward and saying
18 you recognize that we're in tough times now, and
19 we do have to make tough decisions, which
20 includes perhaps doing a temporary surcharge on
21 the personal income tax.

22 You know, and I think the dilemma for Neil
23 and I, and all the other Senators and Assembly
24 Members today is, we can't do x-first look at the

1 expenditure side of the budget, and y-after. In
2 fact, we have just a few weeks left to deal with
3 both at the same time. So that's our challenge,
4 and we are attempting to meet that challenge.
5 This Committee is trying to look at the revenue
6 side of that question, so I appreciate your
7 testimony.

8 MS. LYNAM: Mm-hmm.

9 CHAIRWOMAN KRUEGER: Neil.

10 SENATOR BRESLIN: I just have a question.

11 MS. LYNAM: Mm-hmm.

12 SENATOR BRESLIN: You talked about, obviously
13 systemic problems with our spending. Would you
14 have made your recommendations, obviously, you
15 know, 60, over 60 percent of our budget comes
16 from --

17 MS. LYNAM: School Aid and Medicaid, mm-hmm.

18 SENATOR BRESLIN: -- education and health
19 care.

20 MS. LYNAM: Mm-hmm.

21 SENATOR BRESLIN: And particularly Medicaid.
22 Would you have some preliminary, kind of big-box
23 recommendations on what we should do?

24 MS. LYNAM: Yes. We actually put out several

1 weeks ago our ten dos and don'ts on how to use
2 the stimulus money, and we would recommend that
3 the \$2 billion that's on the table right now in
4 Medicaid and health care restructuring proposed
5 in the Governor's Budget would be a good start
6 and should go forward. We don't believe that
7 restoration should happen in those areas.

8 School aid, there are still, although we
9 agree with the fact that new commitments were
10 made, we still do not believe that the school aid
11 formulas are well enough targeted to the neediest
12 districts. There remain in there several
13 provisions that were put in a place in a way to
14 make things more politically palatable for the
15 wealthiest districts in the state, hold harmless
16 provisions that were as a minimum, 3 percent
17 increase on the first year under Governor
18 Spitzer. The settlement of that lawsuit. They
19 are still in the base.

20 We also think the high tax aid is a
21 baserazation of a school aid formula that should
22 run on need and ability to pay. So that's about
23 600 million we would take out of that. And so we
24 don't think all of the restoration should go

1 forward straight up with every district.

2 We have looked at the Federal Legislation,
3 and believe, as does the Division of Budget, that
4 there is some flexibility around how that formula
5 gets written up that would allow you, in the
6 budget, to target it and better structure it and
7 fix those problems. Perhaps you could even
8 continue forward with some of the CFE commitments
9 in an accelerated fashion for the neediest
10 neediest. So we really recommend that you think
11 through that.

12 We would take off the table, we would not
13 support what was done yesterday in its entirety.
14 We thought that consumption taxes, you know, iPod
15 downloads, there was a story today that said the
16 woman who was getting her manicure, you know,
17 wasn't happy with the tax but had no plans to
18 change her manicure pattern in her life, and so
19 forth. You know, sales tax does affect people,
20 it is regressive.

21 On the other hand, you know, there are
22 assessments on health insurance providers there
23 that are going to be much more painful ultimately
24 and affect the uninsured numbers in the State.

1 And the soda tax, the sugared, we would have gone
2 forward with that, public health reasons, you
3 know, make that probably a good idea. So we
4 would not have done all of the package, in fact,
5 probably not most of it of what was done
6 yesterday. In stead, we would have taken out the
7 utility tax, and that, and rolled back some of
8 what was done in the Deficit Reduction Plan a
9 month or so ago, notably the health insurance
10 provider assessments, and we would not go forward
11 with any more of those, because, you know, that
12 will throw people off the health insurance.

13 SENATOR BRESLIN: On the health insurance, I
14 couldn't agree with you more, and E.J. would
15 probably refer to me as a liberal democrat in
16 spite the fact that I've always intended that
17 there should not be a hold harmless for any of
18 the high-need school districts.

19 MS. LYNAM: Mm-hmm. So that would be our
20 recommendation on the spending side, to start out
21 on a path toward dealing with the fact that the
22 Federal Aid is going to go away in 27 months.

23 CHAIRWOMAN KRUEGER: Thank you, very much,
24 for your testimony.

09

1 SENATOR BRESLIN: Thank you, very much.

2 CHAIRWOMAN KRUEGER: Appreciate it.

3 MS. LYNAM: You're welcome, thank you.

4 CHAIRWOMAN KRUEGER: Ron Deutsch of New
5 Yorkers for Fiscal Fairness.

6 And then we have Jason Angle --

7 MS. ANGELL: It's Angell.

8 CHAIRWOMAN KRUEGER: Excuse me.

9 MS. ANGELL: Thank you.

10 CHAIRWOMAN KRUEGER: Angell. I apologize,
11 and Billy Easton if he shows up. Thank you, very
12 much.

13 **RON DEUTSCH**

14 **Executive Director**

15 **New Yorkers for Fiscal Fairness**

16 MR. DEUTSCH: Thank you, very much. I'm glad
17 I don't have to take my flawed chart down, it's
18 already up there already. But I'll get to that
19 in a minute.

20 Again, my name is Ron Deutsch, I'm the
21 Executive Director of New Yorkers for Fiscal
22 Fairness.

23 I'm going to try and build upon a couple of
24 things that Frank Mauro talked about. I'll

1 probably be a little bit more plainspoken than
2 he, only by virtue of the fact that I'm not as
3 smart as he is.

4 I'd like to think --

5 CHAIRWOMAN KRUEGER: That means you're going
6 to be shorter.

7 MR. DEUTSCH: Shorter. Well, I am a little
8 taller than he is, but I'll do my best to be more
9 --

10 CHAIRWOMAN KRUEGER: Testimony, testimony.

11 MR. DEUTSCH: -- abbreviated in my testimony.
12 If you think of the two of us as a think tank,
13 you can think of him as the think and me as the
14 tank, so...

15 But what I want to say is that we're facing
16 about a \$14 billion budget gap, and that's
17 obviously growing, and that's of great concern to
18 all of us, so the question is, how do we address
19 that budget gap. And I guess what we would say
20 is that about 6 to \$6½ billion of the stimulus
21 package will go a long way towards addressing
22 that budget gap, so that still leaves us
23 somewhere in the neighborhood of about \$7½
24 billion that we need to close. So the question

1 is, you know, how do you close that? Do you
2 close it with a combination of spending cuts and
3 revenue increases? Do you look entire at revenue
4 increases; do you, you know, not do the spending
5 cuts, so what I've done in my testimony is really
6 talk about a number of different ways we could
7 combine a graduated income tax structure with
8 some spending and/or revenue increases that are
9 not related to the income tax.

10 So, just a couple of the things I would talk
11 about, and you can see on the first page of my
12 testimony the chart at the bottom looks at
13 gradually raising income tax rates for incomes
14 above 200, 500, a million, over 5 million, over
15 10 million, and presents five different scenarios
16 and how much money would be raised through those
17 five different scenarios. And as Frank also
18 points out, the amount of estimated revenue that
19 it would yield on an annual basis is also rather
20 conservative, and the Excel charts reflect 2004
21 tax, what it would be if we went back to the 2004
22 tax levels, and the chart here is even more
23 conservative on those assumptions.

24 So we would say that if you look at combining

1 the income tax with other ways to generate
2 revenue or cut spending, we would say that number
3 one, we would look at the tobacco tax for
4 cigarettes sold on Indian Reservations to non-
5 Native Americans. We do think that that's a good
6 idea and generates, could generate at least a
7 half a billion dollars. And estimates range
8 wildly on what that could generate, anywhere
9 from, you know, 300 million to \$1.6 billion.
10 That's a lot of smokes though.

11 The other piece is the Bigger Better Bottle
12 Bill. We think that that's imperative and should
13 be included in this debate. We would say that
14 not only money from the expansion of the Bottle
15 Bill, but also money by recouping unclaimed
16 bottle deposits from the beverage bottling
17 industry would be a wise way to go.

18 We also think the elimination of the Empire
19 Zone Program is warranted, and if not the
20 elimination, at a minimum, a restructuring of the
21 program to put in more accountability measures
22 and to make sure we get a better bang for our
23 buck. We estimate savings in the area of 600
24 million there, but we also think that the

1 Brownfield Cleanup Program should also be
2 revisited. Many of the projects that were grand
3 fathered in are going to cost the State billions
4 of dollars, unnecessarily, we believe, given the
5 high tax credit for development of 25 percent
6 that developers would be getting.

7 We also agree with the Public Employees
8 Federation and the Fiscal Policy Institutes
9 Analysis that we could be saving a great deal of
10 money by eliminating the use of high-priced
11 private consultants to do the work that State
12 workers can and should be doing, whether that's
13 in engineering, computers or other services, we
14 think that we could save somewhere, at the high
15 end, of about \$417 million this year.

16 Also, we are looking at the elimination of
17 the STAR Rebate Checks Program. We do the \$1.4
18 billion that the Governor had proposed, but as
19 Frank pointed out as well, we look at phasing in
20 a circuit breaker starting next year in order to
21 provide tax, property tax relief to those who are
22 most significantly burdened by the property tax.

23 So following that, on the next page, you'll
24 see what I've done is create three separate

1 scenarios, each of them with a different income
2 tax increase proposed, the first one being a top
3 rate of 9.85 percent for incomes over a million
4 dollars. The second one being a top rate of
5 10.35, and the final one being a top rate of
6 10.85. And each of those coupled with the other
7 cost saving and/or revenue generating measures I
8 talked about, as well as some of the tax and fee
9 proposed by the Governor that we don't think
10 negatively impact working families, would
11 generate anywhere from 8½ to \$9.7 billion in
12 revenues and/or savings. So we could go a long
13 way to close our budget deficit, and this is to
14 say, certainly not to say you have to follow any
15 one of these scenarios, but what I wanted to do
16 is provide you kind of a menu of options.

17 You can look at one of these scenarios and
18 say, well, we don't want to get rid of those STAR
19 rebate checks because, darn it, those people like
20 them. But we would have to say that, you know,
21 if you eliminated that, then that drops that
22 figure down to \$7.1 billion. So depending on how
23 much money the State needs to close its budget
24 deficit, I think, will dictate how much is needed

1 in revenue to address that.

2 So I think you have options available to you,
3 options that won't negatively impact working
4 families throughout the State that are already
5 struggling to make ends meet due to the economic
6 downturn. And E.J. pointed out, you know, the
7 first order of business should be to do no harm.
8 I would say it should be to do no harm to the
9 people at the bottom who are struggling with
10 layoffs, struggling with foreclosures, struggling
11 with loss of income.

12 I don't well up with tears when I think about
13 taxing a millionaire, someone whose income in
14 this time and this recession is still over a
15 million dollars a year in income. I don't think
16 that asking them to contribute to solving this
17 budget crisis is unwarranted. I think that the
18 Governor's Proposal basically calls upon the
19 bottom 90 percent, or 80 percent, to put up or
20 shut up when it comes to this budget crisis. And
21 I think it's not too much to ask the people at
22 the top to share in that burden as well. So I
23 think that's a reasonable, reasonable way to go.

24 So, there are Excel charts that Frank talked

1 about that portray each of these scenarios and
2 talk about who would be impacted, the number of
3 taxpayers, and based on the rates, how much
4 revenue each of these plans would yield.

5 But obviously we've talked the ITEP chart to
6 death at this point, I would say, and I would
7 also go further to say, you know, I agree with
8 E.J. that the majority of people that would be
9 impacted by this income tax increase would, in
10 fact, be in New York City. And there is a New
11 York City based income tax as well, but I would
12 also point out the fact that New York City, the
13 property tax burden in New York City is
14 significantly less than it is in Upstate areas.
15 So they're able to basically say that they have a
16 more progressive tax system in New York City
17 because they collect more of their revenue
18 through income rather than property taxation.

19 I would also point out that, as you can see
20 from this chart, from the late 80s to the mid-
21 2000s, the top 5 percent of the richest New
22 Yorkers have seen their incomes increase about 70
23 percent, while the bottom 20 percent have seen
24 their incomes only increase about 5.4 percent.

1 Also as noted, and as you noted in your
2 original comments, Senator Krueger, the income
3 tax rates have been cut in half in New York
4 State. And that puts us, relative to our
5 neighbors, ours is at 6.85 percent, New Jersey
6 8.97, and Connecticut, which has started
7 instituting an income tax, is at about 5 percent.

8 We've also been through some issues like this
9 in the past, certainly where in 2003 we were
10 facing an \$11½ billion budget deficit, and we put
11 in place some temporary income tax surcharges to
12 get us through that problem.

13 Now as you may recall, Governor Pataki, at
14 that time, made many of the assertions that are
15 being made today, that it is going to cause a
16 reduction in employment, it was going to cause
17 wealthy people to leave New York State, and we
18 know now that none of that was true, and yes,
19 those times were a bit different then they are
20 today, certainly, but one of the things I think
21 is worthy of note is the fact that even though we
22 increased the top rates of the personal income
23 tax for those making over \$500,000 a year, we saw
24 a substantial jump in the number of high-income

1 returns that were reported to the New York State
2 Department of Tax and Finance, so we went from
3 somewhere in 2003 from about 250,000 high income
4 returns, in 2008, that jumped to about 450,000
5 high income returns. So the rich were not
6 suffering all that much at that point in time.

7 And certainly as this chart shows, despite
8 the question mark there on one of the figures,
9 the wealthiest New Yorkers, those making over
10 \$200,000 a year saw their incomes increase about
11 108.6 percent between 2003 and 2008. While those
12 with incomes below 200,000 saw their incomes
13 increase only 15.7 percent. And the majority of
14 the increase there was certainly between the 100
15 and \$200,000 range.

16 Also, the prediction that there would be
17 negative economic impacts on employment, we
18 believe, proved to be untrue as well, as
19 employment for each of the years that the
20 temporary income tax surcharge was in place,
21 grew.

22 So I think a lot of what you're hearing about
23 now is founded in fear, and I don't think that
24 the negative impacts that people are talking

1 about will come to pass. I don't think it will
2 result in, you know, negative employment, or loss
3 of employment and migration of wealthy people
4 from New York. And I'd like to quote someone if
5 I could, a rather famous wealthy New Yorker, who
6 back in November 13th in the Associated Press
7 said, and I quote:

8 "I can only tell you among my friends, I've
9 never heard one person say, I'm going to move out
10 of this city because of taxes. Not one. Not in
11 all the years I've lived here. You know, they
12 can complain, oh, I got my tax bill, it's heavy,
13 but they've not ever thought that. My friends
14 all want to live here and they understand the
15 value." And that was Mayor Mike Bloomberg, who
16 apparently now thinks this is a bad idea a couple
17 of months later, but I would say in November, I
18 would think that this comment that he made really
19 accurately reflected what we should expect. That
20 wealthy people live in New York because they want
21 to live in New York. They love New York, and
22 they don't want to shortchange what they love,
23 and I think that the wealthiest New Yorkers, by
24 our estimates, and we've actually been

1 circulating a letter for signage, and we have
2 about 80 wealthy New Yorkers now who have signed
3 on to this letter saying they'd like to share in
4 a solution, and they would accept an income tax
5 increase from anywhere from 1 to 3 percent in the
6 top rates, in order to share in the solution.

7 So I think as we look at balancing the State
8 Budget, and we determine whether or not we should
9 be looking at income tax increases, and certainly
10 permanent income tax increases, we should know
11 that wealthy New Yorkers need to share in this
12 solution. We can't balance the budget entirely
13 on service cuts, and the Stimulus Package is
14 simply not going to give us enough money to meet
15 the needs and close the gap.

16 So, I think we need to take a balance approach, as we
17 have in the past, and I think it's not too much
18 to ask people who are still doing quite well in
19 this economy to pony up and give a little bit
20 more money. So I'll end with that.

21 CHAIRWOMAN KRUEGER: Thank you, very much.
22 If, oh, one question from Neil Breslin.

23 MR. DEUTSCH: Not all at once.

24 SENATOR BRESLIN: A very parochial question.

1 MR. DEUTSCH: Oh.

2 SENATOR BRESLIN: Right below scenario three,
3 you talk about the taxes and fee proposals in the
4 Governor's Budget that do not negatively impact
5 the working families. And you have as the first
6 item, restructure the insurance tax 60 million.

7 MR. DEUTSCH: Right.

8 SENATOR BRESLIN: Can you be more specific
9 about --

10 MR. DEUTSCH: That was the premium on health
11 insurance taxes, and what the Governor was
12 proposing to do was take a, kind of
13 conglomeration of a hodgepodge of taxes on life
14 insurance premiums and apply them to other
15 insurance premiums. This is not the health
16 insurance premium tax.

17 SENATOR BRESLIN: So you're not, you're not
18 suggest --

19 MR. DEUTSCH: It's a different one.

20 SENATOR BRESLIN: You're suggesting though
21 that there's no impact on working families.

22 MR. DEUTSCH: You know, the potential is
23 there for there to be an impact, potentially on
24 rate payers, if the costs are then shifted.

1 SENATOR BRESLIN: Is there anything in your
2 studies that would show that it would not be
3 shifted?

4 MR. DEUTSCH: Um --

5 SENATOR BRESLIN: I think about a lot of
6 times, we don't think about, we think about
7 health insurance and protecting that premium to
8 make sure we don't drive people off of the health
9 insurance roles.

10 MR. DEUTSCH: Right.

11 SENATOR BRESLIN: But then we --

12 MR. DEUTSCH: This one is not in the health
13 insurance premium.

14 SENATOR BRESLIN: But --

15 MR. DEUTSCH: Right.

16 SENATOR BRESLIN: -- a lot of those, for
17 instance, when we took Health New York --

18 MR. DEUTSCH: Mm-hmm.

19 SENATOR BRESLIN: -- out of the HCRA monies
20 and put it to assessments in the insurance
21 industry, we put it in and we charged, not only
22 health insurance, we charged life and property
23 and casualty.

24 MR. DEUTSCH: Mm-hmm.

1 SENATOR BRESLIN: And a lot of working
2 families drive cars.

3 MR. DEUTSCH: Mm-hmm.

4 SENATOR BRESLIN: And if they're, if their
5 car insurance goes up because of that, that's a,
6 I think, hurts working families, and the same
7 would be true, most working families have some
8 modest, at least some modest life insurance
9 policies.

10 MR. DEUTSCH: Right.

11 SENATOR BRESLIN: And we wouldn't want to see
12 those premiums go up.

13 MR. DEUTSCH: I wouldn't want to see those
14 premiums go up, I agree with you, and that's why
15 I presented this more as a menu, and --

16 SENATOR BRESLIN: I understand that.

17 MR. DEUTSCH: -- can certainly pick and chose
18 what you like off the menu and decide what you
19 want to eat for dinner.

20 SENATOR BRESLIN: Thank you, Ron.

21 CHAIRWOMAN KRUEGER: And Senator Breslin,
22 you, if you love being on this Committee now, you
23 will love the hearings we'll hold on business
24 taxes and asking those same questions across the

1 board on business taxes.

2 MR. DEUTSCH: Well thank you very much for
3 holding the hearing.

4 CHAIRWOMAN KRUEGER: Thank you very much,
5 Ron.

6 MR. DEUTSCH: Appreciate it.

7 CHAIRWOMAN KRUEGER: Next, Jason Angell,
8 Director of Center for Working Families.

9 And I know, we're completely over schedule.
10 And we're just going to move along, and I'm going
11 to head to New York City.

12 MR. ANGELL: And I'll move along and try to
13 move through the things that have already been
14 said as we go along.

15 CHAIRWOMAN KRUEGER: Great.

16 **JASON ANGELL**

17 **Director**

18 **Center for working Families**

19 MR. ANGELL: Chairwoman Krueger, thank you,
20 very much.

21 CHAIRWOMAN KRUEGER: Thank you.

22 MR. ANGELL: Senator Breslin, thank you, very
23 much. A lot of numbers being talked through, so
24 probably a long hearing.

1 But I wanted to bring it back, again, my name
2 is Jason Angell, I'm Director of the Center for
3 Working Families, and we work on policy
4 solutions. I address the problems that hurt
5 working and middle class families the most in New
6 York.

7 So today, I want to focus on obviously the
8 need for progressive tax reform, and specifically
9 Senator Schneiderman's Fair Share Tax Reform Act,
10 S0, S2021. And I'd like to do three things in my
11 remarks;

12 One, quickly glance over, we know that the
13 income tax system has to be more progressive.

14 Two, we face a very large budget deficit, and
15 even if we use all the Federal Stimulus Funding,
16 they'll still be an \$8 billion deficit. The Fair
17 Share Tax Reform Act will raise \$6 billion of
18 revenue to blunt the human and economic harm of
19 public program cuts. And I think that's one
20 thing we haven't talked about very much today is
21 the economic harm that cutting public spending is
22 going to do right now. And we haven't spent much
23 time touching upon how the Stimulus money is
24 being put into the idea of getting us out of this

1 economic hole by keeping public money and public
2 spending flowing at this point in time, so I'll
3 touch upon that a little bit.

4 And finally, talk about how we can move
5 towards permanent overall tax reform, because our
6 system, as we know, places the most burden on
7 lower and middle-income tax filers.

8 So I don't think we need to go over the
9 history of how we got here. We know that we've
10 cut the income tax rate in half on the wealthiest
11 earners, in half over the last 30 years. We've
12 also shrunk our, the number of our income tax
13 brackets from 14 to 5 today, and I think why
14 that's important, shrinking the income tax
15 brackets, is once we consider that the top 5
16 percent in New York saw their income grow nine
17 times more than the bottom 60 percent of New
18 Yorkers over the last two decades, we know that
19 we have the most unequal state in the nation, and
20 we know that we have the biggest gap between the
21 top earners and the bottom earners.

22 So the question, E.J. McMahon brought up the
23 point, is this about redistributing income? And
24 I don't think that's the case. It's about having

1 a tax system that applies to the great variation
2 of the amount of money that people earn today in
3 New York. Having a tax system that applies from
4 zero to \$40,000, after we know that incomes have
5 exploded at the top end, just doesn't make very
6 much sense.

7 The third point, and I'm not going to into
8 the ITEP chart, which we've focused on a lot.
9 But I think what needs to be said is that the
10 income tax cuts over the last 30 years have come
11 with a price. Two things;

12 One, I'm not going to talk about -- a lot of
13 people talk about income tax policy separate from
14 property and sales tax policy. But what's
15 happened as a result of those income tax cuts
16 over the last 30 years is that the need for
17 services obviously hasn't been reduced.

18 CHAIRWOMAN KRUEGER: Mm-hmm.

19 MR. ANGELL: And the need for revenue hasn't
20 been reduced, so we've put an incredible tax
21 shift into local property and sales taxes to fund
22 needed services. And that shift is what drives,
23 whether you discuss the methodology of that ITEP
24 chart, but it's what drives really the

1 regressiveness of the tax system. Because now
2 we're relying on funding our public services
3 through property and sales taxes, which are
4 weighing middle income and low-income families
5 the most.

6 So, you know, where do we go from here,
7 knowing we have a regressive tax system?

8 I want to focus on the key elements of the
9 Fair Share Tax Reform Act, because I think we've
10 moved away from some of those things today. A
11 few things.

12 It will raise \$6 billion, and where does that
13 money come from?

14 About 10 percent of the 6 billion that the
15 Fair Share Tax Reform Act will raise will come
16 from the earners between 250 and \$500,000. About
17 14 percent of that new revenue through the Fair
18 Share Tax Reform Act will come between \$500,000
19 and a million dollars, and really the great bulk
20 of new revenue is going to come, 76 percent of
21 the new revenue will come above a million
22 dollars.

23 The question's also been asked, how is this
24 going to impact New Yorkers? So the Fair Share

1 Tax Reform Act is going to impact 3.5 percent of
2 New Yorkers, but by region, when we look at who,
3 what the Fair Share Tax Reform is going to
4 impact, it will affect 7 percent of all Manhattan
5 tax filers; 4 percent of Nassau, Suffolk,
6 Westchester and Rockland County filers; 1 percent
7 of tax files in Brooklyn, Queens, Staten Island,
8 and only 1 percent of all Upstate tax filers.
9 Obviously that's because of the income
10 distribution in our state.

11 The question about will it kick in at
12 \$250,000? It applies to taxable income, and
13 taxable income is Federal and State deductions
14 minus credits, so really we're talking about
15 adjusted gross income around \$300,000.

16 So here's what I wanted to get to. Answering
17 the concerns of the negative impact. The
18 economic climate creates a lot of rhetoric, a lot
19 of fear about raising income taxes right now, so
20 I wanted to spend a little bit of time addressing
21 some of those things.

22 As we heard today, a lot of economists argue
23 that the wealthiest 1 percent have been paying a
24 rising share of income taxes. I think, Senator

1 Krueger, as you mentioned, that's kind of basic
2 math. Their income growth has exploded over the
3 last two decades, and so their rising shares are
4 driven by the fact that they are seeing the
5 greatest income growth. So I think while we said
6 fairness was subjective, we should talk maybe a
7 little bit about what, how we're going to define
8 fairness. And I think defining it by the amount
9 of income you pay, is not the right way to define
10 if the income tax system is fair. It's about the
11 share of the income, the share of taxes that you
12 pay of your available income.

13 CHAIRWOMAN KRUEGER: Mm-hmm.

14 Mr. ANGELL: And that's when we get to where
15 the burden is. And because we don't have a fair
16 tax system that takes that into account, we're
17 putting it into property and sales taxes, which
18 is impacting the bottom half of New Yorkers the
19 most.

20 So will the tax rate hurt the middle class?

21 We know that \$250,000 is not the middle
22 class. Only 3.5 percent of New Yorkers make
23 above that. About 85 percent of New Yorkers
24 actually make \$100,000 or less.

1 Is it going to hurt small business, is the
2 same; 98 percent of small businesses don't make
3 \$250,000.

4 And this question of, if you raise income
5 taxes, will the wealthy leave? I mean, one, we
6 can argue about the reports, but two, from a
7 common sense standpoint, I think families and
8 people decide to leave and move states for other
9 reasons besides an increase in the income tax
10 code. I mean they look for good schools, they
11 look for affordable housing, they look for public
12 programs that we're saying should not be cut.

13 The New Jersey, the thing to point, we've
14 talked about the New Jersey report; I think the
15 thing that's important to point out is that when
16 they increased their taxes in 2004 from 6.37
17 percent to 8.97 percent, that's a bigger rate
18 increase than the Fair Share Tax Reform Act
19 proposes at the same income level. And I would
20 disagree with the fact that they can't tell who
21 left and who didn't. They use IRS data and
22 addresses to see who was migrating out of the
23 country, and a point that they did find is that
24 the people, the most people that were leaving New

1 Jersey after that tax income increase were low
2 income, and they were often leaving to states
3 that had higher income tax rates, and they were
4 leaving because they were seeking a job or
5 because of the cost of living. Because of high
6 cost of housing.

7 So the number of half millionaires grew in
8 New Jersey from 26,000 to 44,000, and as was
9 mentioned, you know, while they said it had
10 little effect on people moving from New Jersey,
11 that is the reality. They said about 354
12 households could have left New Jersey that earned
13 above \$500,000 after the tax increase. So that
14 would have meant about a loss of \$38 million if
15 you assume that they left. But the tax raise is
16 \$1 billion a year right now in New Jersey.

17 The California Tax Reform Association
18 actually found after California increased the top
19 rate, there's no credible data to show that high-
20 income taxpayers had moved out to due to tax
21 increases, and the same can be said about New
22 York.

23 So the last part, will PIT increases cause
24 job loses?

1 There's been a lot of statements in the press
2 that automatically link, if you raise PIT, then
3 jobs are going to be lost from New York State.
4 There's a lot of evidence that does not support
5 that. I mean if we go back to the Federal level
6 and we look at the Clinton Administration in 1993
7 when they changed the Federal Tax Code, that was
8 prior to the strongest economic boom in a
9 generation. And that actually created, during
10 those years when we raised the Federal Income Tax
11 Code, 14 times the number of jobs that were
12 created during the entire Bush Administration,
13 throughout those tax cuts. So evidence at the
14 State level also suggests that there's no direct
15 correlation between increasing income taxes and
16 job loss.

17 We know in New York when we increased income
18 taxes, 127,000 jobs were created. And also at
19 the chart, in my testimony, you also see that
20 California, New Jersey, a number of states have
21 seen sustained private sector job growth even
22 though they have higher rates or they increase
23 income taxes during that period.

24 So the last piece I wanted to focus on is,

1 will increasing our income taxes make New York a
2 less competitive business environment?

3 And I think often, this conversation happens
4 and forgets that, you know, like families,
5 businesses also chose locations based on other
6 options besides income taxes.

7 There was a very interesting survey put out,
8 a 2008 Area Development Annual Corporate Survey,
9 and they're the leading source on business site
10 planning. The found that the leading drivers of
11 business relocation were transportation
12 infrastructure, the cost of labor and the cost of
13 occupancy in construction, whether or not there
14 were high commercial rents. The survey also
15 found that the leading quality of life factors
16 that drove decisions about locating a business
17 were low crime rates, health care, as we know, is
18 becoming a huge business cost and is dragging the
19 economy down, and housing costs. So I think
20 it's, and as the, you know, the Business Council
21 mentioned also, that one of their greatest
22 concerns is health care. And I think what's left
23 out of the conversation is that, you know, as
24 businesses shed some of the responsibility of

1 providing health care benefits on to the public
2 system, of course the public system is going to
3 need more revenue to expand health care options.

4 So, I just wanted to say that, you know,
5 maintain -- these things that businesses find
6 most important when they're deciding what makes a
7 competitive business environment; maintaining and
8 expanding transportation infrastructure, keeping
9 streets safe, improving health care, working to
10 drive down the cost of housing and commercial
11 rents through property tax, reduced property
12 taxes; they're all government responsibilities
13 that require State revenue. And I think that's
14 always left off the table.

15 So I would say if the State fails to enact
16 Fair Share Tax Reform Act and then doesn't take
17 the long-term view of investing in the types of
18 public services, that businesses do care about in
19 the long run, and it does make a competitive
20 business environment, then New York State will
21 actually become less competitive.

22 And I guess a side comment is, we know from
23 past events in the private sector, that right now
24 they're not always taking the long run, and

1 they're guided by the short run. So I guess the
2 question is, will we take this moment and invest
3 in the types of public services and public
4 programs that will make us more competitive?

5 So finally, in summary, I just wanted to say
6 that the Fair Share Tax Reform Act is the best
7 way forward. We completely support it because we
8 know we need to raise revenue to avoid the most
9 harmful cuts. It will share the burden of
10 meeting these tough times with those who can most
11 afford it, and it will finally, if we make it
12 permanent, put us on the path towards making the
13 overall tax system more progressive.

14 So, thank you.

15 CHAIRWOMAN KRUEGER: Thank you, very much,
16 Jason.

17 MR. ANGELL: Thank you.

18 CHAIRWOMAN KRUEGER: Very complete in
19 summary.

20 MR. ANGELL: Thanks.

21 CHAIRWOMAN KRUEGER: Thank you.

22 Is there a representative of A - oh, hello.
23 Because I knew you didn't look like Billy Easton.

24 All right, we have our last testifier today

09

1 is Marina --

2 MS. MARCUAMELLI: Marina --

3 CHAIRWOMAN KRUEGER: Marcuamelli (phonetic).

4 If I pronounced it wrong, --

5 MS. MARCUAMELLI: Yes, no, --

6 CHAIRWOMAN KRUEGER: -- I apologize.

7 MS. MARCUAMELLI: -- you pronounced it right.

8 CHAIRWOMAN KRUEGER: okay.

9 MS. MARCUAMELLI: Hello, thank you, Senators.

10 CHAIRWOMAN KRUEGER: Hi.

11 **MARINA MARCELAMELLI**

12 MS. MARCUAMELLI: Thank you.

13 I will do the 30-second version of this
14 testimony 'cause, as there are only, the only
15 piece we support the Fair Share Tax Reform Act,
16 and we, I just want to add the education aspect
17 for our schools, what does that mean if we don't
18 do it here?

19 So, first, again, thank you, for giving me
20 the opportunity.

21 Now that we have taken care of the nuisance
22 taxes, yesterday, we can look upon restructuring
23 our income tax code and make it more progressive
24 and fairer.

1 As far as the education cuts proposed this
2 year, the Governor proposed 2.5 billion, a 2.5
3 billion cut. That's what his budget book says,
4 that education is contributing to closing the
5 budget deficit. And certainly part of that money
6 will be restored through the Federal Stimulus.
7 And it's 2.5, the Federal Stimulus says 2.5
8 billion will be used over two years for, -- from
9 kindergarten to higher ed. So that \$2.5 billion
10 will be spread across K through 16 over two
11 years. So half of that will go towards
12 restorations of the education cuts for this year.

13 So we will need additional revenue to reach
14 the 2.5 billion cut that's proposed, and I just
15 want to mention that half of the CFE settlement,
16 we started to see this couple, this last couple
17 of years, a lot of progress in schools. And from
18 high-needs districts and from students that have
19 gained from the programs that were implemented.
20 They're starting to catch up. And if we slash
21 education now, they will never catch up, because
22 for all these years, as the courts ruled, you
23 know, our schools were under funded. So now
24 we've given them, we have fulfilled our

1 constitutional obligations, so we started to give
2 them what they need to produce citizens and
3 residents of New York that are productive and can
4 compete in the 21st century.

5 We need this, the Fair Share Tax Reform
6 because if we don't raise revenue, what happens
7 with school districts, they propose raising
8 property taxes. Here in Albany, the Albany
9 School District just proposed, just put out a
10 preliminary budget, and they propose a 3 percent
11 or so increase of their budget. But that will
12 mean a 15 percent increase of property taxes, to
13 raise just that 3 percent. So, and we saw this
14 in the past when State Aid to schools was cut.
15 We saw property taxes skyrocket, and certainly as
16 we've heard, property taxes are not the best way,
17 or the fair way, of funding pretty much anything
18 concerning our schools.

19 So we need this Fair Share Tax Reform, and we
20 urge you to support it. And pass it. And now
21 that there is a companion bill in the Assembly,
22 hopefully we can work towards that.

23 What do we stand to lose?

24 Not too long ago, we have, we at NFPI, have

1 published a report detailing all the cuts per
2 classroom for all school districts in the state.
3 About 60 percent of those school districts face a
4 cut per classroom in excess of 15,000. And about
5 60, 60 to 65 districts, face a cut per classroom
6 of over \$30,000. And the per pupil cut ranges
7 from a few hundred, 3 or 400, to about 1,500.
8 And that's a lot of money to take away from
9 schools. And it's not just programs that are not
10 going to be available to students, that is
11 certainly an incredible, you're taking back a lot
12 of things that are going to be good in the long
13 term, but it also translates to a loss of jobs,
14 and as I said, the loss of productivity. And in
15 this touch economic times, we need to keep people
16 employed if we're going to get out of it.

17 So let me just, like I said, I'm doing the
18 30-second version because you've heard a lot
19 today, no need to repeat it. I'm just going to
20 end with the following.

21 Now that the nuisance taxes have been
22 eliminated, we can focus our full attention on
23 stopping the dramatic cuts to schools and
24 communities. The remaining Federal Stimulus

1 dollars, combined with the Fair Share Tax Reform,
2 can provide the resources needed to protect our
3 school children and our communities from the
4 devastating cuts.

5 And that is all I have to day.

6 SENATOR BRESLIN: Thank you.

7 CHAIRWOMAN KRUEGER: Thank you, very much.

8 MS. MARCUAMELLI: Thank you.

9 CHAIRWOMAN KRUEGER: Last but not least.

10 I want to thank everyone for attending today.
11 I think we learned quite a bit. And again, to
12 just repeat what I started off the hearing
13 announcing, this hearing has been taped, and will
14 be available for view on the Senate websites.
15 And also all the testimony will be available on
16 the website as well. And so I appreciate
17 everyone's testimony and everybody for sticking
18 through the end.

19 Thank you, very much.

20