

1 BEFORE THE NEW YORK STATE SENATE STANDING
2 COMMITTEE ON BUDGET AND TAX REFORM

2 -----
3 Public Hearing

3 In the Matter of
4 Weighing the Fairness of the Corporate Franchise
5 Tax and the Effectiveness of its Tax Expenditures
6 -----

6 Monroe County Office Building
7 Room 407
8 West Main Street
9 Rochester, N.Y.

8 April 30, 2009
9 Thursday
10 12:30 p.m.

11 PRESIDING:
12 Senator Liz Krueger
13 Chair

14 PRESENT:
15 Senator Michael Ranzenhofer

16 ALSO PRESENT:
17 Brad Usher
18 Chief of Staff

16 James Schlett
17 Staff Member

18 Mike Lefebvre
19 Executive Director
20 Select Committee on Tax and Budget Reform

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1 SENATOR KRUEGER: Good afternoon, my
2 name is Liz Krueger, and I'm the State
3 Senator from the 26th District where I
4 represent Manhattan Island a little south
5 ever here, so I'm delighted to be up in
6 Rochester, a beautiful drive from Albany to
7 Rochester yesterday.

8 I will be joined by my colleague
9 Senator Ranzenhofer, but he is going to be
10 -- his estimated time of arrival is 1:30, so
11 he apologizes that he's going to be late for
12 the hearing.

13 Everybody hopefully knows that there is
14 material out front. And when you come in,
15 if you would just let one of my staff, if
16 they don't see you -- in fact, Brad Usher is
17 one of my staff, and he will be wandering
18 around. James Scllett also here on the
19 second table. And at the podium is Mike
20 Lefebvre, who is the Executive Director of
21 the Select Committee on Tax and Budget
22 Reform.

23 So this is the second hearing that we
24 are holding, the first hearing was on the

1 personal income tax and we held that in
2 Albany in March. And, in fact, we have some
3 copies of the report that came out of that
4 hearing on the front table. We also are
5 going to be launching within a week, a
6 website for the Select Committee on Tax and
7 Budget Reform, and so you might have noticed
8 that we are videotaping and transcribing
9 this hearing as we did the last hearing.
10 And the Senate Democrats have a very serious
11 commitment to trying to make sure that all
12 the work that the Senate is doing is easily
13 accessible to the public, so we're going to
14 have a website where you'll be able to watch
15 any sections of any hearing that we do.
16 There will be, I guess it's called scanned
17 PDF copies of all the testimony by anyone
18 who testifies at the hearing, or as at the
19 last hearing, a number of people who are not
20 able to attend the hearing have wanted to
21 submit their testimony, which is more than
22 welcome, and that also will be up on our
23 website.

24 Finally, we are having a New York City

1 hearing on May 21st on a variation on the
2 same topics of today's hearing. So if
3 anybody just loves traveling the State of
4 New York as I do and wants to come to New
5 York City on May 21st, we would be delighted
6 to see you there as well.

7 I want to welcome everyone and thank
8 you for coming today. 40 years ago New York
9 became the first state to roll out an
10 investment tax credit, which soon became one
11 of the most powerful tools in our state and
12 in numerous state's economic development
13 arsenal.

14 By 2006 a total of 21 states were
15 offering businesses various investment tax
16 credits. New York's Investment Tax Credit,
17 our ITC promises businesses credits of up to
18 ten percent of their eligible investment on
19 production, property and equipment. The
20 rationale behind these tax initiatives has
21 largely been that government can help
22 stimulate private sector investment, and
23 that a state's economy is improved by
24 decreasing the cost of capital; thereby

1 increasing the business's after-tax
2 profitability.

3 But after 40 years there is no clear
4 answer as to whether these economic
5 development strategies are working as they
6 were originally intended to work. And with
7 the state having lost over 161,000 private
8 sector jobs since March of 2008, it's
9 crucial for our business taxes to be
10 structured in a way that is both equitable
11 and favorable to economic recovery. After
12 all, our economy is changing and we should
13 be continuing to evaluate whether the tools
14 that we were using need to be changed as
15 well.

16 New York State faces new dilemmas in
17 the 21st Century, increased demands for
18 accountability when we give away tax revenue
19 for business productions and expenditures.
20 Fairness so that there is an even playing
21 field for compensation by sector and across
22 town and county lines, and justification
23 that what we are doing for the tax code is
24 in fact working. That is why we are having

1 this hearing today and will hold another
2 downstate next month.

3 We want to hear from you and others in
4 the public what works and what doesn't.
5 What might have made sense in 1985 but not
6 in 2009? How do we need to rethink both tax
7 policy and economic development in a global
8 economy that is rapidly changing all the
9 assumptions we have had about supporting
10 successful businesses and a successful
11 economy throughout the State of New York.

12 Corporate Franchise Tax. New York's
13 main business tax also known as the
14 Corporate Franchise Tax was established
15 under Article 9-A of the Tax Code. The
16 franchise tax on corporations dates back to
17 1874, but a tax was not imposed on the
18 corporations until 1917 when the
19 income-based tax rate was 3 percent; the
20 rate peaked at 12 percent in the mid-70's.
21 By 2008 corporate income tax had been
22 lowered to 7.1 percent, still 24th highest
23 in the nation. By 2004 New York had 257,500
24 S Corporations filing taxes under the

1 corporate franchise tax, and 344,300 C
2 Corporations.

3 New York's finance and insurance sector
4 accounted for 16.3 percent of the state's
5 corporate revenues in 2002 compared to 28.3
6 percent in 2005. During the same period,
7 the manufacturing sector's liability
8 decreased from 16 percent to 13.3 percent.
9 Health care liability fell from 8 percent to
10 1 percent during that same period, 2002 to
11 2005.

12 The most recent annual state tax
13 expenditure report lists 38 credits,
14 deductions and preferential tax rates,
15 exemptions, and other incentives under the
16 Corporate Franchise Tax. Altogether New
17 York's Corporate Franchise Tax expenditures
18 total 2.28 billion dollars in 2005, the most
19 recent year for which data is available.
20 Again, because of the Corporate Franchise
21 Tax expenditures, the state collected 2.28
22 billion dollars less in taxes.

23 Corporate Franchise Tax expenditure
24 examples include the Empire Zone Investment

1 Tax Credit, which was created in 1986,
2 estimated cost in 2009 of 20 million
3 dollars. But of course the Empire Zone tax
4 credits are really a group of tax credits,
5 and so taken together actually calculate out
6 to more like 700 million in tax expenditures
7 for the state. Investment tax credit for
8 the financial service industry created in
9 1998 with an estimated cost of 13 million in
10 2005 and 15 million in 2009. The Empire
11 State Film Production credit created in 2004
12 with an estimated cost of 14 million in 2005
13 and 35 million in 2009.

14 Despite these tax expenditures, New
15 York ranked 33rd in private sector
16 employment growth between '04 and '07.
17 During that period private sector grew by
18 3.6 percent according to the Public Policy
19 Institute of New York State.

20 And so I see our challenge as a
21 committee and are asking for your help to
22 better understand again, what has been
23 working, what has not been working, and how
24 the state can move forward with potential

1 changes to our Corporate Franchise Tax
2 policies to be a win/win for the State of
3 New York, to do exactly what they are
4 intended to do; support economic development
5 and support business growth in the State of
6 New York and job growth in the State of New
7 York, to ensure that the policies that we
8 have are fair and equitable so that we do
9 not have one group of businesses coming
10 forward and saying these taxes are great,
11 and another group of businesses coming
12 forward and saying, you've completely
13 disadvantaged me from a competitive
14 perspective with my quote, unquote
15 competitors in the State of New York, to
16 avoid what I would call range wars between
17 towns and counties fighting to claim the
18 jobs, where we are simply moving the jobs
19 like deck chairs on the Titanic as opposed
20 to actually meeting our assignment, create
21 new jobs and new business activity for New
22 York State.

23 And of course because the fundamental
24 purpose of tax policy is to ensure that our

1 states and localities have adequate revenues
2 to meet their obligations for public
3 service, that we also don't find ourselves
4 in a situation where good tax policy
5 translates to nothing to operate government,
6 because I would also put on the table for
7 you, that when I speak to businesses in my
8 part of New York, which is New York City,
9 one of the first things they will tell me is
10 yes, tax policy is important for economic
11 development, but if I can't hire an educated
12 workforce, I have no opportunities for my
13 company. If I can't get my people, my
14 workers and my clients to and from where I'm
15 doing business, I can't be located in this
16 area.

17 And finally, as one constituent
18 businessman recently explained to me: If
19 nobody else is earning enough in the
20 economic to buy what I'm selling, then I
21 can't sell. So it's also tied into ensuring
22 that we have a well-rounded and diverse
23 economy.

24 So thank you very much for allowing me

1 a few moments of, I suppose, a policy
2 introduction. And so I would like to ask
3 Judy Seil to come forward. Judy is the
4 Executive Director of the Monroe County
5 Industrial Development Agency. And actually
6 I also, while she comes forward to this
7 chair right here, I want to just state for
8 the record how much I appreciate the Monroe
9 County Executive and Legislature for
10 allowing us this beautiful room to hold this
11 hearing, and they have been terrifically
12 helpful in ensuring that we could come to
13 Rochester and open this hearing up to the
14 public. So I know they are actually all in
15 there right now, but I wanted to have for
16 the record a thank you to them.

17 Hi, how are you, Judy?

18 JUDY SEIL

19 Director of Planning & Development

20 Monroe County IDA

21 MS. SEIL: Good, how are you? Thank
22 you for allowing us to testify before you
23 today on the views of Monroe County on this
24 critical issue.

1 As you said my name is Judy Seil, and
2 I'm the Director of planning and development
3 for Monroe County, and also the Executive
4 Director of the County of Monroe Industrial
5 Development Agency also known as COMIDA.
6 I've been in economic development for the
7 last 17 years, and previous to that I was in
8 commercial banking as a commercial loan
9 officer for 10 years.

10 The past eight months have been very
11 trying for the local business community;
12 however, I must say in Monroe County we've
13 seen business continue to expand and grow,
14 although not at the pace of the previous
15 four years.

16 I'm going to address why we need
17 incentives in New York State and the Empire
18 Zone and the investment tax credits and
19 such.

20 In New York State we need to compete
21 with our neighbors, both locally and
22 globally. Businesses have choices when it
23 comes to locating or expanding in Monroe
24 County and New York State.

1 New York State is the 49th highest tax
2 state. We hear that a lot from companies.
3 The choices may not be New York State when
4 the decision needs to be made when they are
5 looking at costs. The franchise tax is only
6 one of a numerous tax the businesses have to
7 pay. That, coupled with rising real estate
8 taxes and health care costs and Workers'
9 Compensation make it difficult for their
10 businesses to make money they need to invest
11 in the future and expand.

12 Our Economic Development Department in
13 Monroe County manages the Empire Zone. New
14 York State's Empire Zone was created to
15 simulate economic growth through a variety
16 of business incentives to attract new
17 businesses to New York State, and also
18 enable those existing businesses to expand
19 and create more jobs. The role of the
20 Empire Zone program has grown increasingly
21 important as we continue to lose jobs and
22 businesses to other states and foreign
23 competition due to New York State's
24 extraordinarily high tax burden. High

1 taxes, coupled with rising energy and health
2 costs in New York State puts us in a weak
3 competitive position when we're vying for
4 businesses. By offering the tax credits and
5 benefits the Empire Zone program helps to
6 level the playing field. I often say that
7 it would be the best thing if I did not have
8 a job, that would mean we've leveled the
9 playing field in New York State, and you
10 don't need people in economic development to
11 be handing out incentives to companies;
12 although, I do like my job, so I really
13 don't want to lose it.

14 Monroe County's localized economy is
15 greatly strengthened by the Empire Zone
16 program. It's critical -- it's a critical
17 economic development tool that's been
18 significant in attracting new business to
19 our area, as well as encouraging businesses
20 already with a presence here.

21 As of 2007 Monroe County's Empire Zone
22 program was home to 112 companies that
23 created 6,138 jobs for local residents. The
24 companies paid over 329 million dollars in

1 wages and induced 154 million dollars worth
2 of investments in our community. For
3 example, companies such as Adecco, Cooper
4 Vision each previously had a small local
5 presence in our community. When looking to
6 expand their business operations, they chose
7 to do it in Monroe County solely because of
8 the benefits provided by the Empire Zone.
9 These two expansions alone retained 964
10 local jobs and impacted 206 and will create
11 289 for local residents. Callfinity is a
12 company that was founded in Boston and moved
13 to Monroe County in 2004 because of the
14 incentives offered through the Empire Zone
15 Program. It allowed the company to
16 favorably compare New York State to its
17 other location. Callfinity has brought 30
18 jobs to Monroe County and it continues to
19 grow and make investments that would not be
20 feasible without the benefits of the Empire
21 Zone program.

22 The recent reforms outlined in the
23 state budget bill to the Empire Zone program
24 will negatively impact Monroe County's

1 ability to remain competitive in attracting
2 and retaining companies in our region. The
3 new provision which allows all companies
4 currently in the Empire Zone to be subjected
5 to a new review of their certification
6 status drastically hinders New York State's
7 ability to remain competitive in a viable
8 place to do business.

9 Many companies within Monroe County
10 certified in an Empire Zone can lose their
11 certification with this new provision. Once
12 a company loses its Empire benefits, they
13 are liable to close up shop and leave New
14 York State entirely for a region with
15 improved business climate.

16 Monroe County and New York State cannot
17 afford to lose jobs, and millions of dollars
18 invested by these companies.

19 I'd also like to briefly address the
20 detrimental effect the Hoyt/Thompson bill
21 will have on IDA's across New York State.
22 The two economic development tools that
23 attract and keep business in our community
24 are the Empire Zones and IDA's. The bill

1 raises the cost for a business to construct
2 their facility while at the same time will
3 put the company at a competitive
4 disadvantage of requiring the company to pay
5 a minimum of \$15.42 as a starting wage. The
6 bills require that the company must pay the
7 median wage for the metropolitan statistical
8 area, which in our case is \$15.42.

9 We recently approved a local project,
10 the company employees 109 people, they were
11 going to add on to their facility a 1.5
12 million dollar investment, so we applied
13 this median wage to the project, the \$15.42,
14 and how it would affect the company. The
15 payroll of the company in year one would
16 increase by over \$500,000. The total
17 benefit the company was receiving over 10
18 years by using the IDA was \$180,000. Simply
19 put, no smart businessman is going to spend
20 \$500,000 in year one to save 180,000 over
21 year 10 -- over 10 years rather.

22 Due to the overtaxed nature of our
23 state, Monroe County is relatively limited
24 in its capacity to attract business. The

1 Empire Zone and the IDA are significant
2 assets to Monroe County in its job creation
3 and retention efforts, as well as the Finger
4 Lakes Region. Amongst the current economic
5 crisis it is critical that we continue to
6 look for ways to facilitate job creation and
7 growth for local residents.

8 Thank you for the opportunity to
9 address you today.

10 SENATOR KRUEGER: Thank you. How
11 many businesses do you have in Monroe County
12 that are using Empire Zone credits, do you
13 know?

14 MS. SEIL: 112.

15 SENATOR KRUEGER: You have 112. And
16 since you are the representative who works
17 with them on economic development, what are
18 the other issues that they talk about when
19 they are considering expanding or coming to
20 Monroe County?

21 MS. SEIL: I think you addressed it
22 in the beginning. The thing that they like
23 about this area is the talented workforce
24 that we have here. We've had significant

1 layoffs over the years from Kodak and Xerox
2 and Bausch & Lomb, like every other
3 community the larger companies, but the
4 smaller companies are the ones that seem to
5 be creating the jobs, and they love the
6 talented workforce that we have here. Real
7 estate taxes. I mean, the IDA at least
8 levels the playing field for 10 years in a
9 real estate project, which is primarily what
10 IDA's do. We're not taking away from the
11 tax base, we're just giving them a graduated
12 time to reach full taxes. I think that's
13 one of the biggest misunderstanding about
14 IDA's. People think that the company
15 doesn't pay taxes for 10 years. Our
16 particular tax abatement program gives them
17 a 90 percent abatement in year one, and it's
18 only on the increase in the taxes, it's not
19 on the existing tax base. So I think real
20 estate taxes are the biggest concern that
21 people have as well as state taxes that they
22 have to pay.

23 SENATOR KRUEGER: And since you are
24 the IDA as well --

1 MS. SEIL: Correct.

2 SENATOR KRUEGER: -- for Monroe
3 County, thank you. How do you think an IDA
4 -- I guess, what's the word I want, in the
5 item, that in the arsenal of options that
6 you have available, how do you see the IDA
7 and Empire Zones sort of merging effectively
8 or not or being conflicting in some way?

9 MS. SEIL: Well, they are two
10 distinctly different programs. The IDA
11 benefits are bestowed upon a project and
12 each project is different depending on the
13 community. The Empire Zone is pretty
14 uniform across the state; they only get
15 benefits if they create jobs, the company
16 only gets the benefits if they create the
17 jobs. So to say that the program isn't
18 working, they are only getting credits to
19 create the jobs, if they don't create the
20 jobs, they don't get the credit. I mean,
21 you can argue about how it was set up
22 originally and whether the legislation was a
23 problem and there is a lot of talk about
24 shirt changers and such.

1 When we have a group here called the
2 Greater Rochester Enterprise, and what they
3 do is they try to attract businesses from
4 outside New York State to come to the
5 Fingerlakes region to expand, and the two
6 tools that they have in the arsenal are the
7 Empire Zone and the IDA's, whether it would
8 be Monroe County or any of the Fingerlakes
9 IDA's. And basically what it does is when
10 they are talking to site selectors,
11 companies that can utilize those programs,
12 it levels the playing field. It just makes
13 it so they can expand in New York State.

14 So the programs are critical. And the
15 example that I gave you in my testimony,
16 that is an existing company, they employ
17 109, their average wage they pay to their
18 employees is \$12.42. As a matter of fact,
19 the County Executive and I were out there
20 visiting the company the other day, and the
21 gentleman at this company pays health
22 benefits to everyone, he has a 401-K for all
23 the employees, he pays 65 percent of their
24 health benefits. If we -- if the

1 Hoyt/Thompson bill goes through and he
2 instantly has to start paying \$15.42 I asked
3 him what he would do if his payroll went up
4 by 500,000. He said well, I'd have to take
5 away health benefits, I'd have to take away
6 the 401-K. So it doesn't help businesses
7 that are trying to expand in the community
8 by instantly telling them that their minimum
9 wage is \$15.42 as opposed to anybody else,
10 no matter what the skill level is of the
11 person that's going to take the job.

12 SENATOR KRUEGER: Thank you. And
13 because you brought up the Thompson Hoyt
14 bill, which has many provisions for IDA's --

15 MS. SEIL: It does.

16 SENATOR KRUEGER: -- and so I
17 understand the point you are making around
18 the prevailing wage and clearly --

19 MS. SEIL: That's just the median
20 wage.

21 SENATOR KRUEGER: Right. There are
22 some transparency requirements also in that
23 bill.

24 MS. SEIL: Correct.

1 SENATOR KRUEGER: Do you think that
2 it would be useful for the State of New York
3 to improve transparency in the IDA model?

4 MS. SEIL: The program that we have
5 to -- currently under the Public Authorities
6 Accountability Act, we have to report on all
7 our projects. We report everything from the
8 jobs to the taxes that are abated to -- we
9 have 369 projects in Monroe County. We
10 report on 450 companies because they are
11 multiple tenants in some of these. So the
12 Public Authority Reporting Information
13 System is an annual report that we file with
14 the AAA Office, as well as the Office of the
15 Comptroller. I don't know how much more
16 transparent we can get. We have to survey
17 every company, we have to make sure that
18 what they are saying, they are exempted in
19 taxes, that they filed an ST 340 with the
20 state. So I kind of question the
21 transparency. All of our meetings for IDA's
22 in our community are on the third Tuesday of
23 every month, we have everything on our
24 website. I don't know how much more

1 transparent we could be. And, you know,
2 we're one of the few communities that has a
3 requirement for local labor on all of our
4 projects. Any project that is done in
5 Monroe County, it's not prevailing wage, but
6 we require that the persons that are working
7 doing the construction must reside in the
8 nine county region. And we spend about
9 \$80,000 a year through our IDA to ensure
10 that the people that are working on the job
11 are local. We pay an independent group to
12 go out and monitor that. Granted, we can't
13 be there 24/7 because we have several
14 projects going on at the same time, but we
15 do have our local requirement for local
16 labor. I personally feel that if all IDA's
17 just had required that anybody working on a
18 project reside in New York State, that we
19 would eliminate a lot of this call for how
20 each IDA does it differently.

21 And, you know, we have companies that,
22 you know, they take it very seriously. And
23 at all of our meetings we ask the company as
24 they are being approved and bringing in

1 their project, do you understand that we
2 want local jobs for local incentives, and
3 they do get it.

4 SENATOR KRUEGER: Some counties have
5 multiple IDA's or multiple Empire Zones,
6 what's the situation in Monroe County?

7 MS. SEIL: There are two IDA's, ours
8 which is the largest, and the Village of
9 Fairport has a small IDA. As I said, we
10 have 369 projects and they probably have
11 five or six, there is no competition between
12 us at all.

13 SENATOR KRUEGER: And just one Empire
14 Zone?

15 MS. SEIL: The City of Rochester has
16 its own Empire Zone, and they had one
17 originally because it fit that model of an
18 urban community, and then later on the state
19 allowed additional areas to get Empire
20 Zones.

21 SENATOR KRUEGER: Since you
22 referenced in reaching out for site
23 selection to try and encourage people to try
24 to come to Monroe County to start their

1 businesses, there is a magazine called "Site
2 Selection Magazine" and they haven't
3 targeted local or state taxes as one of the
4 top reasons for companies to select to come
5 to an area. It's a trick question, I
6 suppose, because you are in the business of
7 trying to make sure that people come here
8 and that we do offer these tax credits.

9 Have you found that any businesses you
10 actually have successfully brought into
11 Monroe County have specifically chosen to go
12 into your Empire Zones as opposed to other
13 parts of the county?

14 MS. SEIL: Yes. Yes, we have.

15 SENATOR KRUEGER: Okay. And you
16 talked about doing outreach to try to bring
17 businesses into New York State. Some have
18 been concerned that counties are competing
19 with each other or Empire Zones are
20 competing with each other and moving
21 companies from one location to another when,
22 in fact, they are both New York, and they
23 might even in some situations be both in the
24 same county. Have you had to deal with that

1 issue and how have you dealt with the
2 situation?

3 MS. SEIL: Sure. Typically it's --
4 the company would need to be creating new
5 jobs, it is a decision they are making.
6 There is something called a shift resolution
7 where the existing community that the
8 project is located in does need to sign off,
9 it does have to go before that particular
10 governing body so they are aware of it. In
11 most cases, the ones that have occurred here
12 in Monroe County, is they were in a leased
13 facility, they were going to be putting up a
14 new building, and there was no available
15 space or available land in that particular
16 community. But the community that's
17 affected does need to sign a shift
18 resolution saying it's all right with them,
19 so that is a requirement of the Empire Zone.

20 SENATOR KRUEGER: Great. Thank you
21 very much for your testimony today. I
22 appreciate it.

23 MS. SEIL: Okay.

24 SENATOR KRUEGER: Thank you. All

1 right. Our next testifier will be
2 Christopher Koetzle, who I hope I pronounced
3 correctly, the vice-president of Membership
4 Services Support Services Alliance.

5 MR. KOETZLE: Good afternoon.

6 SENATOR KRUEGER: Afternoon.

7 CHRISTOPHER KOETZLE

8 Vice-President

9 Membership Services Support Services Alliance

10 MR. KOETZLE: Thank you for the
11 opportunity to speak today. My name is
12 Chris Koetzle, and I'm the vice-president of
13 Membership Services and Marketing for
14 Support Services Alliance, also known as
15 SSA. For over 30 years SSA has served New
16 York's small business community by bringing
17 in the products and services they need to
18 succeed. Started as a membership
19 organization, we've always believed that
20 small businesses are America's backbone,
21 economic backbone, and that they can
22 strengthen their economic position by
23 forming a purchasing alliance.

24 Now, SSA provides a vast array of

1 benefits and assistance to thousands of
2 small businesses that are self-employed
3 across New York State. Our programs include
4 a strong advocacy initiative before the
5 state government, group insurance purchasing
6 opportunities for health, life, vision,
7 long-term care and dental; payroll and
8 benefits administration services, a
9 bimonthly news magazine, and a toll free
10 help line for our members.

11 I'm here today to deliver a small
12 business perspective. Before we begin, I'm
13 sure that you know that small businesses are
14 an important part of our economy and the
15 essential component to our recovery. In
16 fact, our recovery depends on them. Most
17 recent data shows that the state has 450,000
18 small employers representing over 90 percent
19 of the state's private employers, and who
20 together employ over 50 percent of the
21 state's private sector employment.

22 The SBA noted that small employers
23 create all of the state's new private sector
24 jobs from 2004 and 2005. And, on a national

1 level, small businesses generated half of
2 the nation's non-farm GDP in 2005.
3 Although those are the latest numbers
4 available, I'd be willing to bet the trend
5 continues from '06 to '07 to '08 and will
6 again in '09.

7 Clearly, small businesses are essential
8 to our economy and I appreciate this
9 committee's attention to helping them thrive
10 in New York.

11 While it is the goal of this committee
12 to focus on and examine the Corporate
13 Franchise Tax in New York State, I would
14 like to begin my testimony by focusing on
15 some immediate first steps that the
16 Legislature can take in order to improve the
17 business climate in New York State. Given
18 the current fiscal crisis both within New
19 York's borders and globally, SSA is well
20 aware of the various sacrifices and needed
21 changes to our fiscal behaviors that
22 everyone must endure. Our organization, as
23 well as the entire small business community,
24 is determined to forge ahead and fight

1 through our current economic downturn.

2 So that being said, I would be remiss
3 if I did not first address some of the
4 specific budgetary actions that New York
5 State undertook in the final enacted
6 '09/2010 state budget, as well as the
7 deficit reduction plan which passed in early
8 February.

9 So just quickly on the budget and the
10 deficit reduction plan. Despite the
11 availability of federal stimulus funding to
12 help balance the budget deficit, the final
13 state budget included a personal income tax
14 increase for higher income taxpayers. Well,
15 this was originally couched and marketed
16 across the state as the "millionaire's tax,"
17 it should be more aptly be called the "small
18 business owner's tax." Unlike the true
19 millionaires of the state, small businesses
20 do not have the ability to pick up and move
21 and to avoid new tax increases. What I feel
22 was never recognized during the budget
23 debate was the fact that the tax increase
24 affects the thousands of small businesses

1 that pay personal income taxes as subchapter
2 S Corporation. SSA strongly encourages the
3 Governor and the Legislature to revisit this
4 issue and carve out small businesses from
5 the recent personal income tax increase.

6 Also included within the enacted budget
7 were new or increased taxes in two areas
8 that are the most costly for small
9 businesses; health care and energy costs.
10 In the health insurance arena the final
11 state budget increased the HCRA surcharge on
12 hospital visits from 8.95 to 9.63 percent
13 and it also extended the 1.75 percent
14 premium tax to for-profit HMO's. Even
15 worse, in the deficit reduction plan the
16 Governor and the Legislature increased the
17 covered lives assessment by 240 million
18 dollars and added another 180 million
19 dollars in Insurance Department assessments.

20 Altogether, the final state budget and
21 the DRP added over 800 million dollars in
22 new and increased health insurance taxes and
23 assessments. At a time when businesses and
24 families are already struggling to pay for

1 health insurance, it makes no sense to add
2 800 million dollars in taxes and assessments
3 on the cost of coverage.

4 In the energy arena the final state
5 budget increased the current 18-A
6 assessments by approximately 525 million
7 dollars. In addition, in the DRP, there
8 were -- there was 476 million dollars swept
9 from the New York Power Authority funds into
10 the state General Fund, which could have
11 been used to provide lower cost power to
12 small business. Energy costs are another
13 significant cost burden that many small
14 businesses struggle with on a daily basis.
15 The price that a New York State resident
16 pays for energy is already exorbitant
17 compared to other states. Adding 525
18 million dollars in assessments and sweeping
19 475 million dollars from NYPA will only make
20 it harder for small businesses in these
21 already tough and challenging economic
22 times.

23 While we appreciate the committee's
24 focus on the Corporate Franchise Tax, we

1 respectfully submit that the Legislature
2 must first revisit these recent tax
3 increases in the final state budget and DRP
4 and take immediate action to reduce the
5 negative impact these tax hikes will have on
6 small business.

7 Now, as far as the Corporate Franchise
8 Tax in New York. The Corporate Franchise
9 taxes in New York are a major part of the
10 high cost of doing business in New York
11 State. New York had the third highest level
12 of state and local corporate income tax per
13 capita in the country, only Alaska and New
14 Hampshire were higher. High taxes make it
15 more difficult for existing businesses to
16 stay afloat and contribute to making New
17 York uncompetitive with other states.

18 With regard specifically to the
19 Corporate Franchise Tax in New York, we
20 acknowledge that the extent that the tax is
21 used to spur economic development programs,
22 which theoretically may benefit small
23 business across New York, but it's SSA's
24 strong belief that the best way to help

1 small businesses would be to simply reduce
2 the 9-A rate for all small businesses.

3 In the 2005 and 2006 state budget, the
4 corporate franchise tax for small businesses
5 was reduced from 6.85 percent to 6.5
6 percent. SSA feels strongly now is the time
7 for the state to reduce this rate once again
8 for small businesses as a sign of its
9 commitment to helping revive many aspects of
10 the economy during this fiscal crisis.
11 Investment in the small business sector now
12 will pay huge dividends in future years for
13 the local economies that they serve, as well
14 as the state itself.

15 We appreciate your interest in leveling
16 the playing field between small and large
17 businesses. Clearly, many small businesses
18 do not have the resources, the expertise or
19 professional assistance to take advantage of
20 some of the state's special tax credit
21 programs in the same way that large
22 businesses do. Our members have been clear,
23 there are three issues that are impacting
24 them the most; high energy costs,

1 ever-increasing health insurance premiums,
2 and skyrocketing property taxes. These
3 costs are the culprits that kill our
4 economy, overburden our small businesses,
5 and make New York uncompetitive. This
6 burden is felt equally across all industries
7 and every sector in the market.

8 So in addition to lowering the tax for
9 small businesses, we suggest the following
10 plans: First, we ask you to repeal the
11 increase to the covered lives assessment.
12 Or, if you prefer, use Article 9-A revenues
13 as a credit itself to offset the assessment.
14 Second, repeal the 525 million dollars in
15 new assessments for energy for small
16 businesses or apply the Article 9-A credits
17 to cover those as well. And finally, we
18 need a cap on property taxes so that we can
19 begin to get a handle on the runaway
20 property taxes for all New Yorkers.

21 In closing, we believe that small
22 businesses have suffered an economic
23 disadvantage relative to larger businesses
24 and other out of state small businesses for

1 years. The state's code is too complex, we
2 need simplification. The state's tax code
3 provides too many specific credits that
4 require too much capital from small
5 business. We need help on the big cost
6 drivers that are breaking the backs of our
7 small businesses on a daily basis. And the
8 state's tax code places too great a burden
9 on the smallest employers, we need relief
10 now.

11 We look forward to working with the
12 Legislature and the Governor in the coming
13 months to address some of these all
14 important issues that I have brought up with
15 you today. I'm convinced that with the
16 partnership between New York's business
17 leaders and the government we can make New
18 York the Empire State once again.

19 Thank you for your time. I'd be happy
20 to answer any questions that you have.

21 SENATOR KRUEGER: Thank you. I have
22 several, I'll go back to the first notes I
23 made. You raised the point that yes, the
24 state increased a number of taxes around

1 health insurance costs and other related
2 insurance costs. And we did, in fact, do a
3 personal income tax surcharge, which you are
4 correctly pointing out, impacts S
5 Corporations as well. And I think that
6 there is room to explore on that topic, but
7 I guess I ask you, when I raised it with tax
8 and finance, they pointed out well, just
9 because you are a business who pays taxes
10 through S Corporation versus PIT, it doesn't
11 mean you're not wealthy, you know, not all
12 small businesses are S Corps or quote,
13 unquote, you know, small, low-return
14 businesses.

15 In fact, the S Corp model has been
16 growing as a model of filing taxes in New
17 York State. So can I ask you to fine tune
18 your question, your point? Do you think
19 there is a way to re-evaluate the PIT tax
20 relating to S Corporations to still capture
21 the reality that there should be a
22 progressivity to those taxes, even if it's
23 through the S Corp model?

24 MR. KOETZLE: So in essence you are

1 asking perhaps is there a carve out to my
2 proposed carve out, so to speak?

3 SENATOR KRUEGER: Yes, that's another
4 way to put it.

5 MR. KOETZLE: I think there is room
6 there obviously, to meet. Our concern is
7 the small businesses who very well aren't
8 the wealthiest and are filing in this
9 capacity, but may not necessarily have that
10 type of personal income. So when we ask for
11 a carve out, we're open to whatever works
12 and whatever is equitable for the state, but
13 also for the small business owner, and I
14 think we'd be open to exploring that.

15 SENATOR KRUEGER: And while it's not
16 really a tax question, in your presentation
17 you described what your organization does
18 for small businesses, including allowing
19 group purchase -- the power of group
20 purchase, and you even reference with health
21 insurance and other insurance. I hear
22 constantly in my district from people who
23 are sole proprietors or businesses under 10
24 people how impossible it is to get health

1 insurance or other forms of insurance for
2 themselves and their employees, because the
3 cost is so prohibitive for the smallest of
4 the small businesses. And I was led to
5 believe that there weren't really models
6 that would work for them in becoming groups.
7 So could I just ask you how that's working
8 for you?

9 MR. KOETZLE: Regarding the -- you
10 are talking about the small business itself,
11 how can they come together as groups?

12 SENATOR KRUEGER: Yeah.

13 MR. KOETZLE: It's working well. In
14 the sense that we are the last of the large
15 and diverse pools within the state,
16 basically association insurance pools, it's
17 working well for us. We cover an awful lot
18 of sole proprietors that can't get in
19 anywhere else, and small employers. So I
20 believe that's a model that we can continue
21 to work. Community rating does offer some
22 challenges though with that, because one of
23 the things that we're finding is a lot of
24 our members are reaching out and trying to

1 make wellness choices a little bit
2 differently so they can lower their rate
3 impact, but because of community rating,
4 their behavior doesn't necessarily impact
5 their health insurance premiums, and that's
6 frustrating for them, and I think it's
7 difficult to then get to that behavioral
8 difference that we're trying to make, so
9 that we can lower rates in the long run. So
10 we're looking at the idea of how do we
11 incent wellness initiatives within a
12 community rated product without undermining
13 the community rating.

14 SENATOR KRUEGER: I guess tie into
15 both, from your perspective or your members'
16 perspective, which is the larger burden on
17 them; are tax rates or health insurance
18 costs?

19 MR. KOETZLE: I think it depends in
20 the year that you ask it, because we survey
21 our members every year, and there is always
22 three that vie for the top spot and it
23 changes every year; it's either health
24 insurance, property taxes, or energy costs.

1 Last year, it was fuel and energy costs.
2 Typically health insurance makes its way up
3 to the top probably more than anyone else.
4 But we hear a lot of our members talking
5 about property tax relief now. So, I think
6 it depends on the year, so -- but health
7 insurance would certainly be a huge, huge
8 impact on our small businesses.

9 SENATOR KRUEGER: And that's property
10 tax on their business location, not their
11 own personal frustration as homeowners?

12 MR. KOETZLE: Correct. Some of that
13 probably colors it a little bit, but it is
14 on the business, yes.

15 SENATOR KRUEGER: So you actually
16 survey your members?

17 MR. KOETZLE: Yes.

18 SENATOR KRUEGER: Is that made public
19 to them?

20 MR. KOETZLE: It's made public to the
21 members, and I know the media covers it. I
22 don't know if there is a resource for that
23 right now, but we could make it available to
24 you.

1 SENATOR KRUEGER: It would be
2 interesting to see what you are hearing from
3 small businesses.

4 MR. KOETZLE: Absolutely.

5 SENATOR KRUEGER: And you talked
6 about the need to try to simplify the tax
7 code system for businesses, and to even, you
8 know, streamline down to one system, which I
9 am very interested in. When small
10 businesses -- I'm sorry, we heard from
11 Monroe County and you were here, when small
12 businesses come to your organization saying
13 I need help to understand what, you know,
14 how can I decrease my taxes, how can I get
15 advantages that I need to be able to be
16 competitive and be able to grow, do you find
17 that there are actually places in state
18 government that you can send them for
19 guidance and technical assistance, and are
20 those working? I mean, we are the State of
21 New York, we should do better if we're not
22 meeting the standard.

23 MR. KOETZLE: We do kind of act as a
24 connector between the members and the

1 various programs within the state, and it
2 does work to a degree. I think what I hear
3 back is feedback from my members after we
4 connect them, is that it's still cumbersome
5 to go through the process. We talked about
6 streamlining our economic development
7 programs by having maybe a one short form or
8 something along the lines to help them
9 pre-qualify where they don't have to go
10 through getting their tax returns and hiring
11 an attorney or a CPA to fill out the
12 paperwork and then find out that they
13 necessarily don't qualify. So we found
14 there is kind of a lot of feedback that
15 having a one-stop shop that the state might
16 be able to provide would be very helpful.
17 Having a kind of good will ambassador type
18 of organization within the state, an office
19 somewhere that is well funded and able to
20 help them through the process.

21 You know, I often point my members to a
22 lot of the economic development programs,
23 and a lot of them come back and say the same
24 thing, I just don't have the time, I don't

1 have the resources to help me through it,
2 and they walk away from the opportunities,
3 because it's too cumbersome. So in that
4 way, if we can find a way to simplify the
5 process, I think that would be very helpful.

6 SENATOR KRUEGER: And a variation on
7 the same point, you are right there are a
8 huge number of business tax expenditures,
9 you know, possibly available, usually
10 through, you know, your tax accountant
11 sitting there and knowing the answers. Do
12 you think there would be a way -- well, let
13 me rephrase it.

14 Do you think that your members are
15 finding it's too impossible and complex for
16 them to analyze whether they have taxes that
17 they can be, in fact, exempt from or is it
18 that if you really look through what our
19 various tax expenditures are, they just
20 don't qualify. Do you get a sense between
21 the difference there?

22 MR. KOETZLE: I think it is a little
23 bit of both. And I certainly believe that
24 when you think of the day in the life of a

1 small business owner, they're struggling,
2 and I'm talking about the smallest of small
3 business owners. They're struggling with
4 making payroll or paying health insurance,
5 or just basically keeping the lights on.
6 And for them to start thinking strategically
7 long term, say it's April now to think about
8 well, what next April can I get as a tax
9 credit on my return, is difficult, and I
10 think a lot of them walk away with
11 frustration. They don't have the time.
12 They're focused on their business, and they
13 are focused on providing what they need to
14 provide to the community to survive, so I
15 think it is a little bit of both of that.

16 I also think it's difficult, a lot of
17 these credits the small business owner has
18 to have capital already, and that's the
19 catch 22, they have to somehow invest in
20 something already to try and capture a
21 percentage of it or some piece of it, or
22 they might have to have other criteria to
23 hit employment numbers that they can't hit,
24 so a lot of them won't take a risk and try

1 to say okay, I'll hit the employment number
2 so I can get that credit in 2010, even
3 though in 2009 I can't pay my health
4 insurance premium this month. So I think
5 that's the problem.

6 And what we focus on in trying to get
7 the Legislature to think about, how do we
8 lower the tax burden across the board over
9 all for small businesses, so that it isn't
10 such a burden for them at the end of the
11 year.

12 SENATOR KRUEGER: What's the role of
13 county or local taxes overlapping state
14 taxes as an impact on businesses?

15 MR. KOETZLE: Regarding personal
16 income tax or?

17 SENATOR KRUEGER: I suppose, yeah,
18 what do you hear from people?

19 MR. KOETZLE: The number one tax from
20 the localities is the property tax, there is
21 no question about it. And that again is on
22 business. And I'm sure a lot of them being
23 sole props, it's on their homes, and it's
24 property tax from the school and from the

1 town and from the county that it is just
2 killing them.

3 SENATOR KRUEGER: And I apologize for
4 my ignorance, because in my district small
5 businesses are much more likely to rent
6 their space than to own their space, but
7 does property tax policy for businesses vary
8 from town to town, as far as having the
9 different tax structure for business
10 property versus home property?

11 MR. KOETZLE: We find that it's just
12 a rate issue, not so much the variance in
13 different structures. And although you are
14 right, a lot of our small businesses are
15 renters, not all, but some are renters,
16 still, that cost is passed down to them
17 through rents. And so -- theoretically, if
18 the property tax component of that cost
19 structure and that rent is lower, that rent
20 would be lower as well. So we still think
21 it's a benefit to all small businesses if we
22 are able to get a handle on property tax
23 increases.

24 SENATOR KRUEGER: Thank you very much

1 for your testimony. I appreciate it.

2 MR. KOETZLE: Thank you.

3 SENATOR KRUEGER: Thank you. Our
4 next testifier -- and again, for those of
5 you who weren't here in the opening, we're
6 mixing up the order a bit because of
7 people's schedules. And again, my
8 colleague, Senator Ranzenhofer, if I said
9 his name wrong I apologize, I will have to
10 apologize to him when he come in, he is
11 scheduled to be here any minute, I hope. So
12 on that note, Chris Wiest, Vice-President of
13 Public Policy and Advocacy Rochester
14 Business Council.

15 MR. WIEST: Good afternoon.

16 SENATOR KRUEGER: Good afternoon.

17 MR. WIEST: I'm sitting in the hot
18 seat, literally, on a day like this.

19 SENATOR KRUEGER: I know, it is a
20 little warm in here. That wasn't part of
21 the plan. And also, you can adjust the mike
22 up a little more comfortably because you are
23 tall.

24 CHRIS WIEST

1 Public Policy and Advocacy

2 Rochester Business Alliance

3 MR. WIEST: Thank you. Thank you for
4 the opportunity to speak to you today about
5 taxation and economic growth in New York
6 State on behalf of the 2,200 member
7 companies that the Rochester Business
8 Alliance represents. Like you, we are proud
9 to live and work in New York State. We are
10 proud that most of the state's residents
11 enjoy a high quality of life and excellent
12 public services. And we're also proud of
13 our tradition of carrying generously for the
14 needs of the state's disadvantaged.

15 We can all agree that if we are to
16 continue to support high quality public
17 services, we need a healthy and vibrant
18 economy. New York's economy must mobilize
19 the skill and the ability of the state's
20 superb workforce and harness the
21 entrepreneurial zeal of the state's business
22 leaders. We also can agree, as stated in
23 the announcement distributed for this
24 hearing, that New York's economy has been

1 lagging, and not just in the current
2 recession, particularly when compared to the
3 growth experienced in many other states.
4 Yet your announcement suggests that our poor
5 economic performance is at least in part a
6 result of ineffective tax incentives. And
7 that's a conclusion with which we
8 respectfully disagree.

9 The error, in our view, is to view the
10 Corporate Franchise Tax in a vacuum.
11 Admittedly, the corporate tax rate is
12 moderate by the standards of the nation.
13 New York rank's 22nd in the country,
14 according to an analysis by the Tax
15 Foundation. However, New York depends
16 heavily on corporate tax revenues. In 2006
17 over seven percent of the state's tax
18 revenue came from corporations, the sixth
19 highest in the nation. On a per capita
20 basis, New York is the second highest in the
21 nation. The collapse of the Wall Street
22 finance sector may change this ranking, of
23 course, which reinforces the need for
24 policies that support economic growth.

1 What we believe distinguishes New York
2 from other states is the scope of its tax
3 appetite. New York, taxes is pretty much
4 everything. When all taxes are included,
5 New York's overall tax burden is the second
6 highest in the nation, barely behind New
7 Jersey. Of particular concern is the
8 property tax which you just heard about.
9 When viewed as a share of median home value,
10 New York counties swept the top 10 places
11 and captured an astonishing 22 of the top
12 25. Monroe County had the unfortunate honor
13 of placing fifth on this list with
14 neighboring Orleans County taking the top
15 spot.

16 Upstate has traditionally relied heavy
17 on manufacturing. The industry's large
18 investments in plant and equipment confer a
19 similarly large property tax burden.

20 The personal income tax, which I'm sure
21 you are going to continue to hear a lot more
22 about today, is also a major competitiveness
23 factor. New York was second in the nation
24 in tax collections per capita in 2007. The

1 PIT affects business in two ways; first,
2 many small businesses pay their taxes
3 through the PIT, so increases in PIT rates
4 means fewer dollars are available to invest
5 in equipment, supplies and people. In a
6 state dependent on the growth and success of
7 small employers to help end the recession,
8 an increase in PIT rate harms small
9 employers and the people that work for them.

10 And second, PIT influences business
11 location. A decision to expand an existing
12 site, start a new venture, or select a new
13 location is made by individuals, not some
14 impersonal corporation. The decision makers
15 care about their own tax liability and that
16 of their fellow employees. Concerned about
17 high personal income and property taxes,
18 individuals may choose a location that isn't
19 as good for the business, but is better for
20 the employees. With the recent tax
21 increases raising rates from 7.85 percent
22 for married taxpayers earning over 300,000
23 and nearly 9 percent for fillers with
24 500,000 or more in income, the personal

1 income tax will be even more of a deterrent
2 to decision makers who believe that it may
3 apply to them.

4 Direct taxes aren't the only
5 competitive problem confronting business.
6 For decades, the Legislature used the
7 state's regulated utilities as proxy tax
8 collectors. New taxes became built in the
9 rate base and passed along to ratepayers,
10 much as they passed along the cost of fuel.
11 Legislators did it again in the 2009/2010
12 budget, adding 600 million to the state's
13 utility bills, in a state with electric
14 rates that already lead the nation.

15 And this ploy has also been extended to
16 the state's health care sector. The
17 recently enacted added about 640 million in
18 taxes through fees imposed on the health
19 care providers and insurers. These
20 increases will result in a cost shift to
21 employers and individuals, many of whom will
22 be forced to drop coverage altogether. The
23 consequence of these significant new
24 insurance taxes will be an increase in the

1 number of uninsured, placing an additional
2 cost burden on the state and its taxpayers
3 to provide health care for these
4 individuals.

5 Taxes aren't the only cost of doing
6 businesses in New York. Businesses in New
7 York are subjected to some of the most
8 onerous regulations in the nation, and more
9 are waiting in the wings. Senate Bill 1241
10 and Assembly Bill 3659, the Thompson Hoyt
11 IDA, that's been referenced several times
12 already would impose a prevailing wage on
13 all firms receiving assistance from
14 industrial development agencies. Estimates
15 by the nonpartisan Center For Governmental
16 Research estimated that this would increase
17 construction costs by an average of 28
18 percent. The cost of doing business is
19 already too high.

20 In summary, New York's economic
21 stagnation isn't the result of ineffective
22 tax breaks, but an economic climate that
23 discourages businesses from locating and
24 expanding in this state.

1 This anticompetitive economic climate
2 that discourages businesses from locating
3 and expanding in this state.

4 This anticompetitive economic climate
5 is created by a comprehensive network of
6 direct taxes, indirect taxes through state
7 charges and fees that drive up the cost of
8 electricity, health care and other goods and
9 services, and a daunting and confusing set
10 of costly regulations.

11 You imply that we should eliminate some
12 Corporate Franchise Tax preferences. Let us
13 instead simply eliminate the tax. New York
14 receives just over seven percent of its
15 revenue from the Corporate Franchise Tax.
16 Eliminating the tax would spur economic
17 growth, creating more revenue from every
18 other tax, likely adding more to the state's
19 coffers within only a few years of passage.
20 At a minimum, the state should consider
21 further Corporate Franchise Tax reductions,
22 specifically for small businesses,
23 manufacturers and other Upstate businesses.

24 Our problem isn't fundamentally about

1 taxes. Taxes simply reflect a deeply
2 entrenched habit of overspending. That New
3 York State would choose, in these difficult
4 times, to increase spending is staggering,
5 particularly as the golden goose otherwise
6 known as Wall Street that made our
7 decade-long spending spree possible is on
8 life support.

9 Instead, let us act boldly to cut
10 spending. We urge New York State to take
11 control by empowering local governments to
12 take control of rising labor costs by
13 granting more local control over the cost of
14 public employee pay and benefits. This
15 would include reforms like strengthening the
16 ability to pay consideration in binding
17 arbitration cases, and allowing municipal
18 officials to participate in disability
19 retirement proceedings. Empower local
20 governments, including school districts, to
21 renegotiate unaffordable contract provisions
22 by repealing the Triborough Amendment to the
23 Taylor Law. Cut onerous regulations and
24 mandates that drive up cost, beginning with

1 a complete review of administrative policies
2 governing special education, which is
3 responsible for huge increases in public
4 school cost increases over the past 20
5 years. Reform Wicks Law threshold levels to
6 reflect current economic realities. Wicks
7 Law drives up construction costs by as much
8 as 20 to 30 percent, causing local
9 governments, school districts and taxpayers
10 to pay more than they should have to for new
11 buildings. The three tiered threshold
12 established last year that sets a 3 million
13 dollar exemption for New York City, 1.5
14 million for the surrounding suburbs and
15 500,000 for Upstate does not recognize the
16 simple fact that Upstate needs more help,
17 not less as we try to turn our economy
18 around.

19 Create a temporary Medicaid Reform
20 Commission to review the Medicaid system and
21 identify reforms to contain escalating
22 costs. Combined federal, state and county
23 Medicaid spending is expected to total over
24 46 billion dollars in 2009 and 2010.

1 Considering the magnitude of this expense,
2 it is imperative to find ways to deliver
3 essential Medicaid services at an affordable
4 cost.

5 And finally, approve a new Tier V in
6 the state retirement system that will save
7 money for local government and cut property
8 taxes. The New York State Department of
9 Budget has estimated that the state would
10 save more than 48 billion dollars over the
11 next 30 years with this one reform.

12 We agree that tax reform is timely.
13 For example, the Empire Zone program was
14 originally structured to target economic
15 development in distressed neighborhoods.
16 And while we continue to support this
17 intent, we also believe that program
18 benefits should be allocated by merit and
19 not conferred simply as of right based on
20 location. Zones might be a sign a flexible
21 share of a fixed pool of benefits rather
22 than an unlimited pool of funds for firms
23 meeting the criteria. Tax expenditures
24 should be targeted and tied to performance.

1 While some flexibility is essential,
2 especially during these difficult economic
3 times, clawbacks should be enforced.

4 New York has a chance to come out of
5 the current national economic crisis
6 stronger than we entered it, but it won't
7 happen if we continue to do business as
8 usual. We simply can't afford to continue
9 spending the way we do at local and state
10 levels. We need political leaders to be
11 willing to look beyond ideology and special
12 interests and take a hard practical minded
13 look at our problems and what we can do to
14 solve them. Thank you for the opportunity
15 to speak to you today.

16 SENATOR KRUEGER: Thank you. You
17 covered a lot of territory some of which was
18 covered earlier. Let's start out with your
19 most radical proposal, eliminating the
20 franchise tax. And let's assume that we
21 don't have a perfect world where we then
22 wouldn't need to get that money somewhere
23 into the state budget. Would you actually
24 make the argument that expanding the

1 personal income tax as a replacement -- in
2 some formula for replacing Corporate
3 Franchise Taxes actually might be less
4 harmful to the business environment and in
5 fact, provide for greater competitiveness in
6 New York State in decision making about
7 businesses staying or coming or growing?
8 I'm sort of pushing the envelope with your
9 radicalism.

10 MR. WIEST: Boy, I can't see any
11 situation where I would advocate for
12 expansion of the personal income tax, for
13 the reasons I cited earlier. But
14 recognizing again, what I stated in my
15 testimony, that we believe that it's not so
16 much a taxation problem, it's a spending
17 problem. So I go back to our list of
18 targeted areas, a lengthy list albeit, that
19 suggests ways for us to reign in on
20 spending. And, you know, what a stimulus it
21 could be for the state and Upstate to
22 actually roll back some of these taxes. In
23 2007 it happened with the corporate
24 franchise tax. A continuation of that could

1 be a great spur in economic development and
2 growth for businesses, particularly small
3 businesses, and I would encourage the
4 legislature to consider that.

5 SENATOR KRUEGER: You heard the
6 previous testifier talk about where they
7 have member services where they provide for
8 group purchases of insurance and other
9 products. Does your organization provide
10 that as well?

11 MR. WIEST: Yes, we're the Chamber of
12 Commerce for the region here.

13 SENATOR KRUEGER: That's what I
14 thought.

15 MR. WIEST: Sure.

16 SENATOR KRUEGER: Have you found that
17 that has been a significant value to members
18 and we should be working to do more of that?

19 MR. WIEST: Health insurance -- you
20 asked a question earlier about surveys and
21 the gentleman referred to that, and we do a
22 lot of surveys as well. In fact, I was
23 participating in a meeting earlier today
24 with the Empire State Development

1 Corporation where we were having some
2 similar conversations, and we were talking
3 about the issues impacting businesses the
4 most, and the number one issue, clearly far
5 and above anything else for our members is
6 health care, health insurance cost. 87
7 percent indicated that it was the single
8 issue impacting the success of their
9 business the most, followed by workers comp
10 and then taxes was actually third or fourth
11 on the list. So it's a huge issue impacting
12 them from an affordability standpoint, I
13 think you received testimony to that effect,
14 that it's coming down to tough decisions, as
15 to whether or not benefits can be continued
16 or not. Certainly the assessments that were
17 just put in place with the deficit reduction
18 plan and the budget are placing an enormous
19 burden on employers and individuals, and we
20 fully expect that it's going to have
21 negative ramifications by the state.
22 Individuals that no longer are being covered
23 by employers, may fall off those rolls and
24 require assistance from the other state

1 resources, so it's a shifting, it's a cost
2 shifting that's occurred.

3 SENATOR KRUEGER: You close by
4 talking about Empire Zones and actually made
5 two very interesting proposals, which, you
6 know, on the surface I haven't heard other
7 people suggesting, and, you know, actually
8 seemed very reasonable to explore. Of
9 course the state has sunset Empire Zones in
10 June of 2010, yes, everyone is shaking their
11 head I was right, so that in fact we do have
12 to explore what worked and what didn't work
13 in the context of Empire Zones, and so I'm
14 very interested in looking at that, thank
15 you very much.

16 At the same time you are here in
17 Rochester, how do you see -- besides the
18 prevailing issue that you pointed out, are
19 IDA's working for businesses?

20 MR. WIEST: They have a role. They
21 absolutely have a role, you know, it's a
22 tool that, you know, we need to have for an
23 economic development standpoint. And we're
24 not dealing just within the confines of New

1 York State obviously, we're competing with
2 other states that have similar agencies and
3 entities in place, so we can't take that
4 arrow out of the quiver. We're suggesting
5 through the Empire Zone testimony, for
6 example, that there are opportunities for
7 improvement, we recognize that, and we
8 certainly would like to be involved in those
9 conversations, but we don't think that
10 elimination of these programs and is going
11 to be helpful.

12 SENATOR KRUEGER: And since you
13 represent you said 2,200 businesses?

14 MR. WIEST: Right.

15 SENATOR KRUEGER: And so obviously
16 they are very diverse -- and going back, and
17 by the way, I think you are right, to
18 suggest to bite off and looking at the
19 franchise tax and say you can look at that
20 in a vacuum doesn't make that much sense,
21 except I also feel like this committee needs
22 to get its arms around certain sections of
23 tax law and put the whole picture together;
24 and clearly, many people today are

1 broadening beyond the assignment for the
2 testimony, and they should. But do you find
3 that because you represent such a diverse
4 group of different types of businesses, I
5 guess, not by definition, not always small
6 businesses, but my experience is it tends to
7 be the small businesses who are more active
8 in their chambers, are tax policies
9 discriminatory within the different types of
10 businesses that you talk and work with?

11 MR. WIEST: Almost 2,200 members;
12 probably about 80 percent have 20 or fewer
13 employees, so we do have a significant
14 amount of our population that is smaller.
15 The honest truth is we don't hear a lot
16 about the Corporate Franchise Tax, we hear a
17 lot about property taxes, we hear a lot
18 about health insurance, we hear a lot about
19 other fees and assessments. So I think in
20 totality there is just this overall sense
21 that -- again, I made the comment,
22 facetiously, but not, in New York, tax is
23 everything, and that is the sense that you
24 get from the small and larger employers.

1 And in many respects, many times the
2 feedback is just, get out of the way, let
3 us, you know, let us run our businesses and
4 grow, but these additional regulations,
5 these additional taxes and fees are just
6 hampering our economic growth. And what
7 great potential there could be for the state
8 if we didn't have those restrictions and
9 those hindrances for our growth, if we did
10 roll back some of these taxes if we did not
11 put the fees and taxes in place, what sort
12 of potential can we unlock. I think that's
13 the message we want to leave.

14 SENATOR KRUEGER: It's off the topic,
15 but I happen to be a supporter of universal
16 health care and don't think that health
17 insurance should be tied to employment,
18 because of all the points you've made, and
19 also because of all the dilemmas for a
20 person or the family if, you know, if they
21 lose a job or if they choose to move from
22 job to job, you are completely disrupting
23 the model of quality health care for them.
24 Do you get a sense from your members that --

1 because you said that health care costs is
2 one of the biggest issues that you hear
3 about, do you get a sense from your members
4 that they would like to see us go down that
5 road?

6 MR. WIEST: You know, it's
7 interesting, because you are right, just
8 conceptually, you would think there would be
9 a strong interest in going in that
10 direction, but I've not heard that. And I
11 think part of it might be perhaps a sinicism
12 that ultimately they're going to pay for it.
13 And you know, what will it be, and will it
14 be even more so than what they are doing
15 now. At least they have some control maybe
16 in managing what they are doing now, the
17 delivery system. If it goes beyond their
18 control, there may be assessed fees and
19 taxes that they will no long be able to
20 manage, so I don't hear too much about it
21 one way or the other to be honest with you.

22 SENATOR KRUEGER: Thank you very
23 much.

24 MR. WIEST: Thank you.

1 SENATOR KRUEGER: I appreciate your
2 testimony. Our next testifier is Randy
3 Wolken, president of Manufacturing
4 Association of Central New York. Good
5 afternoon.

6 RANDY WOLKEN
7 President
8 Manufacturing Association of Central NY

9 MR. WOLKEN: Good afternoon to you,
10 too. Thank you for having this hearing and
11 for inviting us to speak today. In
12 recognizing the immediate needs to address
13 the significant increasing tax burden that
14 effects New York State residents and
15 businesses.

16 My name is Randy Wolken, and I'm the
17 president of MACNY, the Manufacturers
18 Association. And you may know, MACNY is a
19 trade association, we represent over 330
20 members and 55,000 employees within a 19
21 county region, essentially Central Upstate.
22 We advocate for the growth and development
23 of the manufacturing sector in New York
24 State. We were founded in 1913 and pride

1 ourselves for not only being the largest
2 association of manufactures in New York
3 State, but one of the oldest and most widely
4 recognized manufacturing associations in the
5 country. We will continue and have
6 continued to advocate the causes that enable
7 New York State manufactures to thrive in
8 today's competitive global market.

9 These days our many causes have been
10 somewhat overshadowed by one large cause,
11 and that's critical to protecting our
12 state's future economy is creating a
13 business better climate for manufacturing.
14 Particularly New York State manufacturers
15 are at a loss. Not only are they dealing
16 with manufacture in an increasingly
17 competitive global market and climate, but
18 they are also being hit everyday with
19 progressively increased business costs,
20 often imposed by Albany. While expect some
21 of these imposed difficulties result in
22 prior decisions made in years past, many of
23 the decisions of increased costs occurred
24 more recently, such as the 7 billion dollars

1 in increased taxes in costs resulting in
2 this year's state budget. Our manufacturers
3 and members here for the state legislature
4 and the administrator, they understand that
5 manufacturing is the backbone of our
6 economy, especially the Upstate economy. We
7 hear from you that the multiplying effect
8 from manufacturing creates two and a half
9 jobs in other every other sector for one job
10 in the manufacturing sector, and these jobs
11 are priceless and need protection. We hear
12 on the news in countless interviews that
13 Albany gets it, that the way they treat
14 their manufacturers will have a significant
15 impact on the future of our state's economy.

16 However, what they see is often far
17 different than what they hear. They see 632
18 million dollars in utility assessment
19 increases to their already high energy
20 costs, which are, as we know, some of the
21 highest in the nation. They see a failure to
22 extend their current power programs,
23 powerful jobs program, economic development
24 power program for example, a long time

1 buffer and necessary cost reduction in their
2 very high electricity costs. They see
3 proposals actually calling for the complete
4 elimination of Empire Zone benefits or at
5 least a significant change in them, despite
6 years of abiding by the rules and
7 maintaining these benefits and providing a
8 sort of protection for the otherwise high
9 cost of doing business.

10 I think what we need in the
11 manufacturing sector is in fact a
12 reassurance by the state legislature and
13 administration that they truly see how
14 valuable manufacturing is to New York State.
15 As we continue to endure this difficult
16 recession, which as we know has hit
17 manufacturers broadly across this country,
18 but also specifically New York State, it's
19 more critical now than ever, that we do
20 everything that we can and everything in
21 your power to make the climate in New York
22 State as easy as possible for doing business
23 here is simply help manufacturers whether
24 the storm and stay in business. This is the

1 only way we can get through such difficult
2 times. And I'm going to talk about two such
3 ways of protecting manufacturers and
4 businesses during these times, and solutions
5 that can be acted upon by Albany.

6 One would be the elimination of the
7 corporate franchise tax from manufacturers
8 and the other protecting current Empire Zone
9 benefits to abide by the rules given to them
10 and, of course, creating a stronger and a
11 better structured Empire Zone for current
12 and future recipients to benefit from.

13 With this I believe New York State can
14 be a more viable and attractive place to
15 maintain a successful business. Let me
16 first start with the elimination of the
17 corporate franchise tax for manufacturers.
18 We continue to be a main proponent for
19 eliminating the corporate franchise tax from
20 manufacturers. In 2006 Albany lawmakers
21 recognized this need and provided a more
22 attractive business climate, responded with
23 a general tax rate reduction for
24 manufacturers. With this initiative an

1 estimate 3,400 manufacturing corporations
2 received a reduced rate from seven and a
3 half to six and a half percent, effective
4 for taxable years starting on or after
5 January 31st, 2007.

6 MACNY urges you to continue the
7 reductions of the '98 corporate tax rate for
8 manufacturers, and continue to do so in
9 annual phases until the six and a half
10 percent tax rate is eliminated for
11 applicable manufacturing operations. Such a
12 plan directed towards helping struggling
13 manufacturing communities is well
14 structured, well targeted, badly needed, and
15 most importantly, completely feasible. In
16 doing so, New York State would make a solid
17 investment in its economic future by
18 providing the manufacturing sector with
19 incentives to continue to do business in New
20 York State.

21 Additionally, with the manufacturing
22 sector job's multiplier effect being as
23 strong as it is, this incentive will
24 increase related jobs and overall investment

1 in New York's economy.

2 Most importantly, it will send a very
3 strong message; that New York State values
4 its current manufacturing community and is
5 ready to step up as a major competitor on
6 the international playing field for
7 retaining the talent of our manufacturing
8 sector within the State of New York.

9 Let me now talk a little bit about the
10 Empire Zone program. Another critical
11 component in the long term viability of New
12 York State's manufacturing community lies
13 within the New York State Empire Zone
14 program. This highly appreciated essential
15 program came under fire earlier this year
16 when Governor Patterson issued the 2009/2010
17 proposed budget for New York State.

18 In it he recommended significant
19 changes to the current Empire Zone benefit
20 program, one of them being retroactively
21 applying new criteria for the qualification
22 to existing Empire Zone participants,
23 including a 20 to 1 ratio. As you saw, the
24 state's business community was up in arms

1 over such a proposal, and the legislature
2 reacted by countering some of these
3 proposals and making changes. Final budget
4 negotiations left much for desired, but it
5 was better than the original proposal, it
6 specifically called for a 10 to 1 ratio from
7 manufacturers, rather than the 20 to 1 ratio
8 as previously proposed.

9 While I do not believe the Empire Zone
10 reform final budget changes provided the
11 best overall solution for supporting
12 economic development in our state, this
13 negotiated solution exceeded the original
14 proposed introduced in the executive budget.
15 The ratio of 10 to 1 for manufacturers is
16 more realistic and attainable for the
17 manufacturing sector, which constantly
18 endures a difficult state business climate,
19 as mentioned by others already today,
20 coupled with an increasingly competitive
21 global economy.

22 More importantly, it showed our
23 membership that you, the legislature, agreed
24 to the program itself, although flawed as a

1 critical economic development tool for
2 survival in our state. And with that, the
3 time is now to address the Empire Zone
4 program rather than eliminate it, but make
5 it better and more effective as a New York
6 State tool.

7 MACNY feels the solution is twofold;
8 one continue to support New York State
9 manufacturers and businesses by honoring
10 current Empire Zone benefits. Two, align
11 with this an analysis and proposal of what
12 in the future would make a better
13 constructed and a more beneficial economic
14 program that replaces the Empire Zone
15 benefits for the future recipients. Also
16 suggested here are ways to better achieve
17 the mission of job creation in economic
18 development.

19 MACNY believes the following critical
20 components are necessary for a better
21 program; true local discretion for projects
22 going forward. We continue to believe that
23 the most reliable and efficient method of
24 maintaining who is eligible for Empire Zone

1 recipients remains at the local level. The
2 continued availability of local economic
3 development offices in doing so will allow
4 for more accurate information and
5 identification as key for extraordinary
6 projects that would be most beneficial to
7 the benefit of local communities.

8 Expedience in determining Empire Zone
9 benefit recipients. MACNY believes another
10 critical component includes the timely
11 turnaround in the final decision on projects
12 to receive these benefits. The sooner
13 businesses know that they are eligible for
14 the program, the better able they are to
15 make long term business plans. A cost
16 benefit ratio acknowledges the unique
17 benefit and situation of manufacturers.
18 MACNY understands that our members continue
19 to struggle in a difficult business climate,
20 as well as New York State's continuing
21 hurdle in continuing to attract outside
22 businesses to relocate here. Providing a
23 more realistic cost benefit ratio for
24 manufacturers is critical in order for New

1 York State to remain competitive at both the
2 national and international level. And of
3 course create and implement new programs
4 efficiently and quickly. Final budget
5 negotiations called for a sunset of the
6 program as mentioned earlier, June 30th,
7 2010, rather than a year later. MACNY
8 believes it's imperative to focus on the big
9 picture, the creation and the implementation
10 of a new program without gaps or benefits of
11 current recipients; therefore, allowing
12 continued protection and bridge for
13 businesses to rely on during these difficult
14 times.

15 In closing, a means to the solution is
16 simple, we should take a lesson from a day
17 in the life of New York State manufacturers
18 and businesses. Excessively high taxes,
19 increasing business costs, skyrocketing
20 energy rates are just some of the daily
21 challenges that businesses must endure. So
22 what does a business do as a means of
23 survival, I know what our manufacturers are
24 doing, they are cutting costs, they are

1 making difficult business decisions, they
2 are implementing lean practices in order to
3 get them through. New York State
4 manufacturers and businesses make these
5 difficult decisions everyday as a means of
6 staying open.

7 It's my belief that Albany can take a
8 lesson in how to handle the entire cost. To
9 start the calling for this hearing is
10 certainly a step in the right direction, we
11 applaud you for that. Going forward, MACNY
12 encourages the legislature to take these
13 methods into consideration, and lower taxes
14 for individuals and businesses, and make New
15 York State a better place to do business.
16 Thank you.

17 SENATOR KRUEGER: Thank you. You
18 didn't mention health insurance costs as a
19 problem, is manufacturers different?

20 MR. WOLKEN: No, absolutely not. I
21 didn't mention it, I knew my colleagues in
22 the room would mention it. And the way my
23 members saw it, both the utility taxes and
24 the health care taxes added well over a

1 billion dollars to the cost of operations.

2 And I'll be honest, I've been doing
3 this job for a few years now, the level of
4 people being upset and concerned is -- it
5 just went through the roof on this budget,
6 and I've become very concerned about
7 people's attitude about being in New York
8 State. I especially worry about that for my
9 members, many of the manufacturers don't
10 need to be in New York State, their products
11 are sold all over the world, so it really
12 concerns me as people look to the future.
13 Keeping them positive and excited about New
14 York State is a challenge for us today and
15 we need to do more of that, I know I'm doing
16 that, I continue to talk about New York
17 State manufacturing.

18 SENATOR KRUEGER: I don't want this
19 to make it sound silly, my question, but
20 because of the global economy and radically
21 changing industries of what it is that we
22 make and buy, how do you define
23 manufacturers in the 21st century, is it a
24 different definition both for you as an

1 association, and also for thinking how we
2 target a sector. So I have lots of
3 conversations downstate about growing high
4 tech industry, and I have lots of
5 discussions about green tech and green jobs,
6 and even you know a lot of new federal money
7 potentially for everything and anything that
8 uses the word green -- and I'm a big
9 environmentalist, so I'm excited about that,
10 but is there a changing sort of universe as
11 well for your association and how do you
12 think through, you know, who are your
13 members, and what's -- how should we try to
14 expand and attract manufacturing? It may
15 not be a tax question, but it will help me
16 get my arms around what we're talking about.

17 MR. WIEST: Yeah. I think it's a
18 great question. By the way I spend a lot of
19 my time explaining and describing the
20 impact. I have a very simple definition,
21 it's when you make something, it's a product
22 or in many cases it is a knowledge based
23 business where you are not creating
24 something tangible that you sell. The

1 manufacturing sectors have completely
2 change. I've often heard that the
3 manufacture sector is going away, we won't
4 be making things and manufacturing things in
5 the State of New York, and that's just not
6 true. The reality is up until the more
7 recent downturn of the economy, we never
8 made more products or delivered more
9 products and goods ever.

10 So less of the workforce is in the
11 manufacturing sector. There was a time,
12 especially in Upstate, 30 to 40 percent of
13 local communities were engaged in the
14 manufacturing sector, and today that's
15 closer to 8 to 10 percent. But it still
16 drives the Upstate economy, half of the
17 Upstate economy is still dependent or
18 related to the manufacturing sector.

19 So it's clear that today's manufactures
20 are advanced manufacturers, it's a probably
21 more useful term, that is they are value
22 creators and the commodity products are
23 typically not done other than at the craft
24 level in New York State, and they are high

1 tech. In fact, most of the businesses that
2 we talk about are high tech businesses, and
3 many of them are manufacturers, we just call
4 them high tech versus manufacturing. The
5 green sector I think is a tremendous
6 opportunity for all of New York State. We
7 ought to be investing in it. I think it's
8 wise for both the federal and State level to
9 invest in it. I think the changes in
10 manufacturing are primarily around who they
11 serve today and that is who their customers
12 are, and that really has become a global
13 market for the smallest of manufacturers.
14 We've got manufacturing members that have 20
15 people and they sell globally. That was
16 unheard of 50 years ago especially, but even
17 20 to 30 years ago you could primarily
18 service a clientele that was within your
19 region, often within your community. That's
20 increasingly not the case, you need to be
21 global. We tell all of our members no
22 matter what size you are, think about
23 selling globally. People find their
24 products on the internet today in vast

1 places in the globe, so that makes it
2 easier. And also from the Tax Code,
3 becoming more and more unique, they don't
4 need to be in our communities. If they can
5 find a lower cost state to produce in or a
6 state in which they can get their product
7 done, they're going to look at that.

8 You mentioned earlier the need to have
9 an educated workforce, that's one of our
10 strategic advantages, and I think we need to
11 continue to have that. People want to be
12 here because of our education system and
13 because of our talent. So I think it's --
14 continuing to emphasize that, but we have to
15 be particularly sensitive to the needs of
16 manufacturers. That's why I think
17 eliminating the corporate franchise tax or
18 continuing to reduce it is critical. It
19 sends a message that we know that they are a
20 unique category of business, that they can
21 move anywhere in the world today. And also
22 I think the key thing for manufacturers is
23 we're the trend when it comes to taxes. So
24 if you continue even a half percent decrease

1 over time, over time eventually phasing it
2 out or moving it to a much lower rate, it
3 would show that we understand the uniqueness
4 of manufacturing, we get it as a State.

5 And by the way, it's probably -- you
6 know, there are various estimates, maybe in
7 total maybe take it all away 400 to 500
8 million dollars. That seems like a lot of
9 money, but if you incrementally reduced it,
10 what you would get is a flow of
11 manufacturing into the state, those are good
12 paying jobs. Still the best paying jobs in
13 Onondaga County are manufacturing jobs. So
14 you can get a much higher return on the
15 investments than the Corporate Franchise
16 Tax. So we are convinced that if there is a
17 unique sector where New York State could
18 afford to eliminate that tax it would be in
19 manufacturing incrementally over time, which
20 would provide the kind of benefit to grow
21 manufacturing. Obviously we should target
22 many of our incentives towards the high tech
23 manufacturers as we look at the big picture,
24 not just taxes, but that's a little bit of

1 sense of why manufacturing is different
2 today, but it's still fundamentally as you
3 may think.

4 SENATOR KRUEGER: And help me with
5 this: Is the -- are the 9A franchise taxes
6 really significant for manufacturers because
7 so many of the ITC's credits are being
8 carried forward and never drawn down?

9 MR. WOLKEN: Obviously we need to
10 look at that as a condition which makes it
11 less valuable to manufacturers, but they are
12 important. And not to say that property
13 taxes aren't important to them or in many
14 ways, you know, personal income taxes,
15 that's all about keeping talent here, so I
16 don't want to overstate the case and say
17 this is the only tax that matters, and if we
18 do something here they'll stop worrying
19 about taxation, they won't. But is it
20 significant for a lot of companies?
21 Absolutely it is. And again, we have to
22 make sure that people can use it, and I
23 think there are ways to do that.

24 But it's a piece that allows us not to

1 say -- again, it's a welcome mat that says,
2 if you stay here or if you come here, we're
3 going to be much better than other states.
4 There are only a handful of states that have
5 a really low corporate franchise tax.
6 Wouldn't it be great if New York State was
7 one of them? That would allow us to be
8 number one in something different than a
9 higher cost.

10 SENATOR KRUEGER: You started off by
11 talking about energy costs in the beginning
12 of your testimony. I have not been
13 convinced that the power for jobs program
14 that we have actually is designed right or
15 is working right, and my understanding is
16 that manufacturing is a disproportionately
17 heavy user of energy. What's your
18 association's position on what is or isn't
19 working with the power for jobs and what we
20 could be doing?

21 MR. WOLKEN: Yeah. The power for
22 jobs program over time has continued to lose
23 its benefit, in part because of the way once
24 Fitzpatrick was sold by the state, the

1 benefit was diminished, depending on what
2 portion of the program you were on. We
3 actually believe that we should create a new
4 energy program with a first tier of
5 manufacturers, because they are the most
6 energy intensive businesses.

7 By the way they also tend to be the
8 most energy conscious businesses because
9 they drive down their costs, they use less.
10 The reality is they pay an incredibly high
11 cost of energy and we need to help energy
12 intensive businesses, maybe even
13 manufacturers, to be just competitive. If
14 you are a former economic development power
15 recipient or a power for jobs recipient you
16 were just trying to get competitive, you are
17 not paying less than your competition across
18 the globe or especially across the United
19 States. So it just got us in the door to be
20 somewhat competitive.

21 But the power for jobs program has lost
22 many of its benefits, it needs to be
23 transformed into a new program.
24 Manufacturers should be seen as places that

1 use energy and we want to keep them in our
2 state. So it's a unique way I think, to
3 help our companies be competitive. For some
4 of our members, you know, 20 percent of
5 their cost is manufacturing, you know, if
6 they are a high energy -- an energy
7 intensive business. So I think a way to
8 make them competitive is what we are trying
9 to get with the programs.

10 We think there should be an overhaul
11 and a new program. We're working right now
12 with members of the legislature; Senator
13 Parker, Senator Valesky, we sat and talked
14 to. I know others in the business community
15 are working on this as well, but we've
16 really taken a lead role in saying, how do
17 we redo these programs to make them
18 beneficial again and to make them long-term.
19 One of the big problems with them today is
20 they are just extended annually. Well,
21 companies want to make long-term
22 investments. We ought to have no less than
23 seven years when it comes to their contracts,
24 so they know what they can do, so they make

1 those big capital investments which keeps
2 them here in our state. The beauty of
3 making an investment in manufacturing, if
4 it's a capital investment, it stays here.
5 Actually, service industries are more
6 vulnerable, because of plug and play. A
7 call center can be done anywhere in the
8 world. But when you've got tens of millions
9 of dollars in your capital invested in a
10 manufacturing facility, you're not likely to
11 move anytime soon, and that's good news for
12 Upstate.

13 SENATOR KRUEGER: Since you are an
14 association of manufacturers and you are
15 highlighting your concern rightfully of how
16 do we stay competitive and keep
17 manufacturing in New York State, we also
18 know there is world competition and that's
19 fairly complex and not necessarily within
20 our control, but there are also sort of the
21 old states versus the new states, so we have
22 the rust belt states, so we are a rust belt
23 state. Are there other models for economic
24 development supporting manufacturing from

1 other states that we should be looking at in
2 New York, whether it's tax policy or
3 something else?

4 MR. WOLKEN: Yeah, we have a lot to
5 learn when it comes to promoting the high
6 tech economy that we want with those good
7 paying jobs. And there are states that do
8 components of these better than we do, you
9 know, and some of them start at a lower tax
10 base, you know, they're economies that have
11 a lower tax rate to start with, so they
12 already have a competitive advantage.

13 But that is why the Empire Zone is
14 important I think to New York State in terms
15 of retaining those jobs that can go
16 anywhere, it gives us a chance to at least
17 at some level the playing field.

18 But there are, yeah, we would be more
19 than willing to put some information
20 together for you. There are a series of
21 states that do it better. What's
22 interesting is many of the rust belt states,
23 as you term them, they are working hard at
24 this. I mean, Pennsylvania I think has many

1 better programs than we do when it comes to
2 manufacturers. Ohio and Michigan are
3 working hard in part because they are in
4 crisis and they have to, so it's not bad to
5 take a playbook from them.

6 Some of the other states have been very
7 successful in getting foreign investments,
8 we should think about that, we are in a
9 global market, wouldn't it be great to have
10 companies invest across the globe, and why
11 not here in New York when you can be close
12 to 80 million customers. So I think our
13 location in New York is close to so many
14 customers is a unique venue. We see
15 companies come to Central New York and
16 around the state and Upstate New York
17 because of the closeness to customers.

18 And I'll give you an example. I was
19 with a company called Byrne Dairy just this
20 morning. And you think well dairy, that's
21 an agricultural business, and they are
22 manufacturers, they make things. They are
23 an ultra dairy, they are starting to ship
24 products all over the world and they are

1 looking at work with a Finnish company.
2 Well, in Finland you can be next to five
3 million consumers. In New York State or
4 Central New York near 80 million customers.
5 That's a big advantage. And those are
6 customers that spend money and you'll have
7 net wealth if they can sell.

8 SENATOR KRUEGER: A pet peeve of mine
9 from another side of life, New York State
10 dairies produce fabulous cheddar cheese and
11 then we drive it to Vermont so we can stamp
12 it "Made in Vermont" and then we can sell it
13 back in New York because Vermont has a
14 sexier name associated with cheese. And
15 again, in the realm of the world, I don't
16 know how much, but it really irritates me.
17 The same thing with maple syrup; it's sent
18 up and stamped a Vermont product when it's
19 coming out of our trees.

20 So you are right in the perspective of
21 marketing and doing a better job of
22 competing with other states, why can't New
23 York cheddar and maple be what everybody
24 says they want. Actually, it's what you

1 want, right?

2 MR. WOLKEN: It should be. We have
3 to do a better job marketing our own
4 products both to ourselves and to others.
5 New York State is a great place to make
6 things, in my opinion, it has competitive
7 difficulties. But the ag business sector
8 should be thriving much more than it is, we
9 need to do a better job from marketing
10 everything from our apples to our wine, all
11 the great things that we make in New York
12 State which is really quite still large.

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

15 MR. WIEST: Thank you for having me.

16 SENATOR KRUEGER: Our next testifier
17 is James Bertolone from the Rochester and
18 Genesee Area Labor Federal, but he is not
19 here. So sorry about that.

20 Ken Pokalsky, Senior Director of
21 Government Affairs of Business Council of
22 New York State. Thank you for coming from
23 Albany to testify before us today.

24 MR. POKALSKY: My pleasure, Senator,

1 thanks for having us.

2 SENATOR KRUEGER: Thank you.

3 KEN POKALSKY

4 Government Affairs Business Council of NYS

5 MR. POKALSKY: I appreciate the
6 opportunity to testify today on behalf of
7 the business council and our approximate
8 3,000 members across New York State. We
9 have a large membership and a diverse
10 membership by location and by sector and by
11 size. The largest component is
12 manufacturing, we represent about 1,100
13 manufacturing firms, and the vast majority
14 are small businesses.

15 I have to say I haven't heard much
16 today that I don't agree with, including the
17 level of discouragement that we're seeing
18 within our representatives from our member
19 companies about the direction the state is
20 going and the ever growing hurdles and
21 barriers to being a successful business in
22 New York State.

23 In the limited time we have today, I
24 want to touch on several of the issues and

1 questions that you raised in your hearing
2 notice and to give you a sense of the
3 Business Council's main concerns about
4 policy recommendations regarding the state's
5 business tax policy, we are submitting
6 detailed written testimony today, and we
7 will be providing the committee with
8 additional business tax reform
9 recommendations in the near future.

10 In your hearing notice you cite 3.1
11 billion dollars in corporate franchise tax
12 expenditures for 2005 related to economic
13 development purposes. That's a big number
14 and it really deserves a closer look. The
15 vast bulk of that number, 2.9 billion, is
16 due to the exclusion of interest, dividends,
17 and capital gains, primarily dividends that
18 comes from subsidiary capital from the
19 federal taxable income used to calculate
20 Article 9 A taxpayers as an inclusion that
21 dates back to 1944. And since then, most
22 states that we've looked at, most states in
23 the union, provide exclusions for some or
24 all of dividend income from subsidiaries.

1 And from that respect this inclusion is
2 comparable treatment that you find in many
3 states. And my point is that the inclusions
4 is far more similar to the exemption of
5 business expenses of taxable income rather
6 than a more traditional investment tax
7 credit or Empire Zone type of tax credit.

8 In setting aside this core component
9 when you look at the corporate franchise
10 tax, you look at the 2005 corporate
11 franchise tax, economic development tax,
12 expenditures of about 350 million dollars,
13 it's fairly limited compared to a state
14 budget that year of 105 billion -- I'm sorry
15 our point being that from the start here the
16 number we think is misrepresentative in
17 terms of what they are really doing in
18 economic development tax expenditures.

19 You cite concerns about the state's
20 limited economic growth in recent years.
21 Make no mistake, we share your concern about
22 our disappointing level of job growth and
23 economic growth, and we share your concern
24 about the need for New York State to become

1 more competitive. And we also agree that we
2 need to make sure that our economic
3 development investments are strategically
4 targeted and that those investments provide
5 an adequate economic return to the state.

6 However, we can't emphasize enough, we
7 urge you, we urge you, we urge you, a point
8 raised by other speakers today, to realize
9 that our competitiveness issues are not
10 confined to corporate tax rates or tax
11 credits, our high cost structure heavily
12 influenced by legislative actions and
13 exacerbated by the most recent budget are
14 more significant. And for the vast majority
15 of businesses operating in New York State,
16 these high state imposed and state
17 influenced costs are not and cannot be
18 offset by tax credits and development
19 incentives. By far the most effective and
20 conclusive economic development strategy for
21 the state is a more competitive business
22 cost structure that would entail lower
23 marginal tax rates across the board, lower
24 real property taxes achieved by reduced

1 state band aids, reduce local government
2 spending, local government consolidation and
3 compensation reforms, lower energy prices,
4 an issue raised by several of the earlier
5 speakers, lower health care costs. And in
6 our surveys, it's the number one cost of
7 doing business issue in New York State
8 regardless of the size of the company or the
9 sector that they are in.

10 You asked whether tax benefits
11 associated with the corporate franchise tax
12 are doing what they were intended to do.
13 First obviously there has been a lot of
14 interest and attention paid to the Empire
15 Zone program in recent years. Most of the
16 concerns that we still hear about have been
17 addressed and written out of the statute at
18 least several years ago. Most of the
19 initial loopholes, uncapped real property
20 tax credits were closed prior to 2005,
21 although the same issues raised about the
22 Empire Zone program. On the other hand, we
23 believe the zones program has been very
24 effective in bringing large capital

1 investments to New York State.

2 In most other cases we also believe
3 that the specific corporate franchise tax
4 credits were performing as intended. As an
5 example, the investment tax credit and the
6 New York State variants including the
7 qualified emerging technology credit, which
8 is targeted exclusively to small growing
9 technology businesses and the film
10 production credit are directly dependent on
11 your level of investments. If you don't
12 make capital investments, you don't earn the
13 credit. If anything, the effectiveness of
14 the state's ITC, its traditional
15 manufacturing based ITC is eroded by
16 alternative minimum tax. To assure a more
17 full effectiveness of the ITC we should
18 consider further reductions or eliminations
19 of the AMT or as an alternative to allow
20 some form of refundability of ITC's earned
21 by incumbent businesses.

22 You asked whether certain tax credits
23 provide -- whether there is a disparity
24 between tax credits offered to small and

1 large businesses. Generally speaking, we
2 don't believe that's a significant problem
3 in our tax code.

4 Many of the tax credits that you find
5 in Article 9 A corporate franchise tax you
6 find in personal income tax as well. For
7 businesses paying under that tax, we agree,
8 as was mentioned earlier today, the issue of
9 resources available to small businesses to
10 access tax credits in other states programs
11 are an issue, it's certainly not unique to
12 tax credits in economic development
13 programs.

14 On the other hand, the state's most
15 significant economic development credit,
16 the Empire Zones Program, is generally
17 accessible to businesses small or large, and
18 the vast majority of the businesses in the
19 zones program are in fact small businesses.

20 A major distinction in tax treatment
21 between small and large business was created
22 in the recently enacted budget as discussed
23 before, it was the increase in the marginal
24 income tax rates for business taxpayers,

1 subchapter S's, LLC's, partnership who can
2 be paying marginal tax rates 30 percent
3 higher than if they were subchapter C
4 Corporations taxed under Article 9 A
5 corporate franchise tax. We agreed, we made
6 recommendations to both houses in ways to
7 address that issues in adopting the upper
8 income PIT, upper income earner PIT and we
9 do hope that the legislature will consider
10 rolling back the impact on small business.

11 You asked what's the best way to use
12 tax benefits to revitalize Upstate urban
13 areas. Any number of recommendations, but
14 one crucial one in our view is further
15 reforms to our state brownfield program.
16 Provide a more expedited program, more clear
17 and certain administrative process, more
18 definitive post remedial liability
19 protections. We created a very arduous
20 brownfield program offset by very generous
21 clean up and investment tax credits. We're
22 widdling back on the tax credits, we haven't
23 changed the process, so we have right now I
24 think the worst of both worlds.

1 You asked earlier about examples of
2 other states. There are many state
3 examples. The State of Pennsylvania for
4 example that has a far more easy to use,
5 straightforward brownfield program that's
6 produced thousands of sites that have been
7 redeveloped compared to maybe a couple
8 hundred in New York State, and we'll give
9 you additional details on that.

10 You asked what provisions of the Empire
11 Zone program should be preserved, scraped,
12 replaced, amended, et cetera. Until we
13 achieve these broad cost competitive reforms
14 we talked about earlier, we believe programs
15 like Empires Zones are going to be essential
16 to promote new capital investment in the
17 state.

18 In considering future alternatives, and
19 we do need to do that, given the moving up
20 of the expiration date, we should consider
21 multiple programs with distinct purposes.
22 One of the major reasons for concerns about
23 the zones program is because of mission
24 creep. It's been used to do so many

1 different things and stretched in different
2 ways.

3 We think the state should consider
4 programs modeled on Empire Zones to
5 incentivize large capital investments. We
6 think the state should have programs
7 specifically targeted for municipal
8 redevelopment efforts. Programs to address
9 the unique needs of emerging technology
10 companies, building on the existing QETC
11 would be a good example. And in our
12 testimony regarding empire zones, we offer
13 some specific reforms that we think should
14 belong in a new revised and more efficient
15 and more effective zones program.

16 You asked what benefits should be added
17 to or enhanced in the corporate franchise
18 tax to give us an edge in attracting
19 businesses. As mentioned earlier, further
20 reductions or elimination of the alternative
21 minimum tax would provide a significant,
22 more immediate incentive for capital
23 investments in New York State. As an
24 alternative we should consider either

1 refundability or allowing companies to use
2 carry forward and soon to expire investment
3 tax credits to cash them in, in a new form
4 of credit that would be refundable against
5 new investments in the state.

6 You asked whether the state's four way
7 corporate franchise tax structure is too
8 complex or too unfair. It's certainly
9 complex and in some respects we think it is
10 very unfair and uncompetitive. We talked
11 about the AMT and how it erodes the value of
12 tax credits to profitable business. Last
13 year we adopted a 10 million dollar cap, a
14 tenfold increase in tax liability for
15 companies who pay their tax liability on an
16 in-state capital basis. Basically this is a
17 significant increase in taxation in
18 companies that are not earning a profit, but
19 a significant physical or capital -- or
20 physical or financial capital in the state
21 reversing that would be very appropriate.

22 And finally, you asked whether
23 businesses are paying a reasonable share of
24 the overall state tax burden and whether

1 increasing taxes on business would improve
2 the stability of the state's revenue system.
3 And arguably, the more important question is
4 whether the state's burden is too high and
5 whether it's impacting economic development
6 before you get to the distribution of the
7 tax, and we think the answer is an
8 unequivocal yes.

9 As already mentioned by previous
10 speakers, we're a high taxed state. You
11 have to look at taxes in totality, combing
12 the wide range of state and post taxes,
13 income taxes, sales taxes, energy taxes,
14 with property taxes. It's a very high taxed
15 state.

16 Does business pay a reasonable share of
17 these high taxes? We do know that business
18 pay a considerable share of all state and
19 local and combined taxes in New York.
20 According to a study we did in 2003 business
21 pays 25 percent of all state imposed taxes,
22 40 percent of all local imposed taxes, for a
23 combined share of 34 percent and we attach
24 that study with our testimony.

1 We don't see how increasing business
2 tax burdens could have anything but a
3 negative impact on the state's economic
4 development efforts. Likewise, considering
5 a corporate franchise tax revenue based on
6 net income is fairly volatile compared to
7 the state's other major tax sources,
8 increasing the state's reliance would reduce
9 rather than increase stability in tax
10 revenues.

11 In closing, these are some responses to
12 the specific issues raised by the committee.
13 As I said, we're going to be submitting some
14 additional recommendations on tax reform to
15 you. As always, I appreciate the
16 opportunity to provide this testimony and
17 look forward to any questions that you have.
18 Thank you.

19 SENATOR KRUEGER: Thank you very
20 much. And I have been joined by Senator
21 Michael Ranzenhofer, and I'm delighted that
22 you were able to join us.

23 SENATOR RANZENHOFER: I've been all
24 over the western parts of the state. I'm

1 glad to be here, I caught a couple of tail
2 ends of your comments, thank you.

3 SENATOR KRUEGER: Would you like to
4 make any opening statement and then we can
5 take questions?

6 SENATOR RANZENHOFER: Oh, no.

7 SENATOR KRUEGER: No. Okay. Thank
8 you. Well, you have barely had a chance to
9 look through the testimony, so I'll just
10 start with some questions.

11 So you brought up the Empire Zone
12 program as well. Do you think that maybe
13 all the emphasis we're putting on Empire
14 Zone programs is taking away consideration
15 of other models that might better achieve
16 the goals that we've pretty much heard from
17 all the testifiers today.

18 For example, there is a New Jersey BEIP
19 program, which I've been told that is a very
20 successful program model. And I'm just, you
21 know, I know -- at least I think we've even
22 heard from people testifying today, they
23 recognize that there are problems with the
24 Empire Zone, although differing views about

1 that and, you know, differing responses
2 including, you know, more local control,
3 less local control, but targeted by industry
4 and a different situation for manufacturers
5 versus other types of businesses. Is it
6 possible that New York State should maybe
7 just not be as concerned about fixing the
8 wheel, but coming with up with a new model?

9 MR. POKALSKY: Well, I think it's a
10 good point. I think a lot of us use Empire
11 Zone reform as shorthand. We can ditch that
12 terminology and basically say we're going to
13 create a new program and we'll call it
14 different, something different. But some of
15 the key elements that I think we pulled over
16 from the zones. I think we need incentives
17 that offset the most significant
18 anticompetitive tax burden in New York,
19 which is local and real property taxes.
20 That's a key element of the zones program,
21 call it what you will, but that element
22 should be in the replacement program.
23 Empire Zone tax reduction credit is designed
24 to increase tax benefits based on the

1 quality of jobs provided using the function
2 of wages paid in calculating it. We think
3 that's very appropriate. We think we should
4 have tax credits that reflect not just the
5 number of jobs, but the quality of those
6 jobs being created in the state. We can do
7 that a number of different ways. The BEIP
8 program does that. In our testimony, we
9 suggest that should be one of the elements
10 considered in the Empire Zone replacement
11 program.

12 What that program does is it gives a
13 cash grant back to employers that create
14 jobs and the grant is a percentage of actual
15 new personal income tax revenues to the
16 state. So it has to be a win/win. The
17 state thrives greater total revenues than it
18 would have otherwise, and the employer has
19 some of the cost of job creation offset, as
20 a financed by a fraction of the new PIT
21 revenues they create.

22 So sure, maybe we should ditch the name
23 Empire Zone and talk about the components of
24 effective tax policy and incentive policy,

1 what we need to incentivize, what type of
2 behavior we need to incentivize, job growth,
3 high quality jobs, job retention, capital
4 investments, and look at the specific
5 credits or incentives or grants that do each
6 one of those jobs the best.

7 SENATOR KRUEGER: You're the only one
8 that brought the AMT today in testimony so
9 far. My understanding was that wasn't that
10 much AMT, you know, taxes in total being
11 paid. So do you really think it's a very
12 large factor in the situation, or is it a
13 subuniverse of types of companies that are
14 in this dilemma?

15 MR. POKALSKY: For certain companies
16 it remains a pretty big issue. For a
17 company -- for a large company making
18 capital investments in the state whose not a
19 zoned company, who is not a new co in
20 particular, a company that gets refundable
21 tax credits. It erodes the value of their
22 investment tax credits. It doesn't produce,
23 I don't believe, a lot of revenue to the
24 state. I'm not sure it serves a great tax

1 policy purpose. You could retain the AMT.
2 As I said, we have alternatives. We cite
3 that as an issue. We have an ITC, but we
4 take away some of its value for certain
5 taxpayers.

6 There are ways to do that. Say even if
7 you are paying the alternative minimum tax,
8 you have the carry forwards. Limit it to
9 three years, and if you can't take the full
10 credit in the remaining tax years, the
11 remaining value that the ITC is refundable
12 to you. And frankly, it's one area in the
13 Tax Code where we treat companies that have
14 never been in New York State who come here
15 and make capital investments far better than
16 we do incumbent companies that have been
17 here for years and are making new capital
18 investments. The refundability of Empire
19 Zone credits for new co's is a dramatically
20 more powerful economic incentive for an ITC
21 limited by the AMT for an existing company.
22 It doesn't apply to everyone, but --

23 SENATOR KRUEGER: So if I understand
24 you, if company X hasn't been here and

1 company Y has and they are both prepared to
2 make an equal investment and create new jobs
3 ought of that investment the company that
4 already has been in New York State company
5 is disadvantaged compared to somebody new
6 coming in?

7 MR. POKALSKY: And that is just if
8 that company happens to be in an Empire
9 Zone. If you are not, which most aren't,
10 you don't even get the chance to have that
11 degree of an equity. Your incentive is
12 limited to an ITC, some limited availability
13 of empire state capital assistance, but
14 compared it's limited.

15 SENATOR KRUEGER: Jumping to
16 brownfields which you brought up also, I
17 agree that we keep trying to fix brownfields
18 and we haven't seemed to quite get it right.
19 I was talking to some people who were work
20 with brownfields in New Jersey, they haven't
21 bothered with a tax credit, they are saying
22 the tax credit is not what the issue is for
23 us, the issue for us is getting a clear and
24 concise answer quickly from our state as to

1 what are the rules in place, what is the
2 liability and definitions.

3 Do you think, I mean, from their
4 perspective again, and I think guess these
5 were developers who worked in a New Jersey
6 and New York who said, we're doing work in
7 New Jersey, we don't care about the tax
8 credit. Would that surprise you that you
9 would hear that?

10 MR. POKALSKY: Not at all. Most
11 states don't have a dedicated brownfield tax
12 credit. Most states also don't have the
13 elaborate administrative process that we
14 have with the brownfields and the very
15 uncertain ability to use used space credits,
16 and the very poorest post clean up liability
17 protection that we have in brownfields. As
18 I said, we started out with, and I was told
19 this by the legislators who negotiated the
20 final deal, sure it's a difficult program to
21 get through but there will be great tax
22 credits at the end. And in their mind, that
23 was the proper balance. What I knew was
24 going to happen when we passed this, what

1 was it in '99 or 2003, I think?

2 SENATOR KRUEGER: Yeah, it was right
3 after I came to legislature.

4 MR. POKALSKY: I worked on this for
5 15 years so the years are blurred. What I
6 thought was going to happen then, has
7 already happened, we're going to start
8 pulling back on the credits and we'll be
9 left with an arduous, and difficult and
10 uncertain administrative process that -- I
11 mean, look at it this way: Particularly
12 with respect to Upstate economic
13 development. In Upstate New York if you are
14 going to make a capital investment building
15 a new facility, you have a lot of options in
16 terms of where to go even, if you want to be
17 in the Monroe County. To do a brownfield
18 program and look at an added up front time
19 delay of six months, 12 months, 18 months,
20 two years before you get your application
21 approved your work plan approved, the final
22 clean up report approved, and the issuance
23 of a completion certificate before you can
24 put your first shovel in the ground in order

1 to qualify for the tax credits that make
2 this all worth your while, you've got a lot
3 of other places to look. You look outside
4 of New York State, you look outside the
5 brownfield. It's a lot of burden to get
6 those tax credit, so we have argued over and
7 over. The process should be simpler and
8 more certain, and there are a lot of
9 examples looking at other states on how to
10 do it better.

11 SENATOR KRUEGER: You started your
12 testimony talking about the vast majority of
13 the corporate franchise tax is really under
14 one category that started in 1944 and so it
15 was sort of a matching federal policy and
16 apparently how many states let me, I'm just
17 talking, doubling checking.

18 MR. POKALSKY: Most states exclude
19 some or all of the dividend income from the
20 capitals. Those are when you talk about
21 economic development tax expenditures, the
22 fact that this isn't it a state tax
23 expenditure report, to me it isn't
24 necessarily the determinant whether it

1 belongs in the category. We do a lot of
2 things in personal income tax and business
3 taxes, excluding types of income from
4 taxability, and we do standard reductions,
5 et cetera, et cetera. I'm not sure this
6 belongs in the right category.

7 So when I see the present issue that we
8 have three billion dollars build in economic
9 development tax expenditures, and the bulk
10 of it is the subsidiary division exclusion,
11 I just don't think that's it's not apples
12 and oranges.

13 SENATOR KRUEGER: Okay. So, but --

14 MR. POKALSKY: I'm sorry, but...

15 SENATOR KRUEGER: No, that's answers
16 the question, I appreciate it. Would we be
17 better off doing other things with the three
18 billion or 2.9 billion in reductions. Is
19 there better use of incentivizing all the
20 things that all of us in this room want to
21 happen in economic development in New York
22 State or are we just tied to this because
23 it's been in the law since 1944?

24 MR. POKALSKY: I think we're tied to

1 it because it's a common component of
2 virtually every state's Corporate Franchise
3 Tax. Just like we exclude business income.
4 I mean, that's a number larger than three
5 billion.

6 SENATOR KRUEGER: Right.

7 MR. POKALSKY: I don't think
8 excluding that -- I believe very strongly
9 that reducing that exclusion would
10 definitely be an adverse impact in economic
11 development in the state. On the other hand
12 it would be, in a perfect world could we
13 have a, you know, so-called flat tax, count
14 everything with a much lower rate, sure if
15 you said we're going to tax all income no
16 exclusions no exceptions at the tax rate of
17 two percent, that might be worth,
18 considering and you would be probably pick
19 the right number where it would be
20 relatively revenue neutral and it would be
21 imply do I think it will be work in New York
22 State no, I'm not sure that I would want to
23 suggest that as a practical alternative.

24 SENATOR KRUEGER: Thank you.

1 Senator, do you have any questions?

2 SENATOR RANZENHOFER: Yes, thanks.

3 First of all, thank you, Senator, for
4 posting the hearing in Rochester. I'm from
5 the area a little bit west of here just
6 outside of Buffalo and I had a number of
7 events throughout the district this morning,
8 so I apologize for being a little late and
9 not catching the people who testified before
10 you and just the tail end of what you had to
11 say. But I want to pick up on a couple of
12 things you are talking about brownfields and
13 the delay in setting up a new business in a
14 brownfield site. In the area that I'm from,
15 one of the complaints that I hear is that
16 there is just not enough physical space for
17 a company that wants to expand their
18 business and, you know, you might have a
19 company that has say 100 people 125 people
20 and they want to grow to 200 and 250, and
21 there just isn't the physical space inside
22 for instance in Buffalo, and I'm wondering
23 if you have a similar situation here in the
24 City of Rochester, the County of Monroe.

1 Are there companies that feel that there
2 just isn't enough space to build a new
3 facility or expand their facility.

4 MR. POKALSKY: I think there is
5 space, it's brownfield space. And for a
6 non-responsive party to come onto that site,
7 you are talking on the potential of almost
8 unlimited financial liability for future
9 clean up costs, and that's the issue that
10 brownfield programs are supposed to address.
11 And I think the concern you hear and I know
12 City of Buffalo and Erie County made this
13 point repeatedly, most of our developable
14 sites, even if we have someone willing to
15 come there is brownfields and they don't an
16 efficient mechanism to allow the company to
17 come on the site, do the investigation do
18 the required clean up in a timely way,
19 timely enough to make it worth the while for
20 that potential investor to give it serious
21 consideration.

22 The City of Buffalo and the Erie County
23 made some real innovative proposals, they
24 asked for the authority to run their own

1 county specific brownfield program that
2 could convey liability protection for
3 example. But that's the concern, the
4 developable property is brownfields, and our
5 process for dealing with those sites just
6 isn't good enough or fast enough.

7 SENATOR RANZENHOFER: So which is the
8 greater problem, the liability that the new
9 company is taking on or the amount of time
10 that it takes to be able to start the
11 project?

12 MR. POKALSKY: The time delay I think
13 is. I mean, you can address liability
14 through insurance, you can't get insurance
15 for, you know, a two-year delay in doing a
16 project. I think the process delays are the
17 most significant. But, you know, just like
18 a lot of things in New York State, it's not
19 just one problem that creates the barrier,
20 multiple problems, but the long process, the
21 uncertainty of the process.

22 SENATOR RANZENHOFER: What do you
23 mean uncertainty?

24 MR. POKALSKY: The uncertainty of the

1 process. I'll give you two examples; in
2 most states, if you come on to a former
3 industrial site and say I want to enter the
4 brownfield program and clean that site to an
5 industrial level, you know, we're not going
6 to have people living there, we're not going
7 to have kids playing there, we're not going
8 to be growing gardens there. Most states
9 would say that's fine, approve it, there is
10 no doubt you can go through the process with
11 an industrial use clean up. New York State
12 doesn't give you the certainty up front.
13 There are multiple ways the state says no
14 based on this factor or that. If we think
15 it's equally affordable for you to do an
16 unlimited use clean up, we can make you do
17 that.

18 At the end of the day, the second major
19 uncertainty that is growing, if you are a
20 true nonresponsible party, I've never been
21 on that site before, a major question now is
22 am I going to be responsible if five years
23 from now we find this site caused offsite
24 impacts, vapor intrusion or groundwater

1 intrusion, our state law is not particularly
2 clear on that point.

3 So these are significant uncertainties
4 as to what this cleanup is going to cost
5 you. It's factors that have to go into the
6 economic viability of a project at a site.
7 So it's cost, that cost uncertainty is added
8 to the time uncertainty.

9 SENATOR RANZENHOFER: How long does
10 it take to find out that you are on the hook
11 as you move through the process as opposed
12 to if you worked right up front?

13 MR. POKALSKY: Well, off site clean
14 ups it could be at any point in the future.
15 That's one of the things that we argued for
16 when we first did the law in 2003. If you
17 have no responsibility for the site, you
18 weren't there when the pollution was caused,
19 you didn't cause the pollution. Once you do
20 your clean up, you should have for any
21 pre-existing conditions, absolute liability
22 protection through the state. It's a degree
23 of certainty of that long term exposure that
24 certainly wouldn't be the end all to be all,

1 but it would be helpful.

2 SENATOR RANZENHOFER: I heard you
3 talk about Empire Zones and I wanted to
4 know, do you have an opinion on a related
5 subject, which is the IDA's, whether or not
6 they are helpful in creating economic
7 development opportunity in Monroe County and
8 just generally Upstate.

9 MR. POKALSKY: I think IDA's provide
10 a very valuable service, particularly for
11 companies not located in zones. They
12 provide some elements of the benefits
13 provided under empire zones real property
14 tax relief through a pilot sales tax relief,
15 and it's major benefit is reduced cost
16 financing. We definitely think they provide
17 a role. We are engaged in on-going
18 conversations with organized labor and with
19 the legislature on how to improve the
20 program, make sure that it is efficient in
21 terms of the economic benefits to the state,
22 relative to the tax credits provided, to
23 make sure that, you know, there is
24 accountability in terms of hitting your

1 investment targets and your job retention
2 and creation targets, so we think it can be
3 improved, but we do think it provides a very
4 useful service.

5 SENATOR RANZENHOFER: Okay. Just a
6 couple of follow-up questions on that.
7 Right now there is obviously -- that's one
8 of the bills that's in the legislature right
9 now, and the legislature will decide what to
10 do respect to changing and modifying the
11 IDA's. There are particular provisions
12 right now dealing with prevailing wage and
13 living wage, and I wanted to know if you had
14 an opinion, at least with respect to at
15 least in Monroe County, let's just start
16 with prevailing wage, if those requirements
17 are inserted into the new law that you now
18 have to pay prevailing wage for these
19 projects, is that going to help your
20 economic development and job creation in
21 Monroe County or is it going to hurt it?

22 MR. POKALSKY: Well, the first
23 speaker today was the director of the Monroe
24 County IDA, and she pointed out the cost

1 burden imposed on projects through the
2 median wage mandate. Studies have been done
3 in New York State that show the prevailing
4 wage for construction jobs, the prevailing
5 wage mandate would add 25 to 30 percent for
6 construction costs in Upstate New York. The
7 Thompson Hoyt bill you mentioned has three
8 separate wage mandates; prevailing wage for
9 construction regardless of -- prevailing
10 wage is calculated by the Department of
11 Labor just basically union wage, regardless
12 of whether union wages are prevailing in the
13 community, so prevailing wage for
14 construction, prevailing wage for building
15 management positions, and a wage no lower
16 than the median wage in that metropolitan
17 area for every person that works in an IDA
18 financed building, regardless of the
19 prevailing quote unquote local wage of that
20 occupation class. We've seen recent studies
21 showing that combined these wage mandates
22 add dramatically to the cost of projects.
23 And as the first speaker said, you are
24 talking a 30 percent premium on the cost of

1 building for a 10 percent on average
2 reduction in your tax cost. So it's not a
3 -- it really would dramatically erode the
4 value of the IDA assistance on projects. We
5 think there are other ways to get at the
6 issue of wage requirements. Like we've done
7 in the Empire Zone program, you can tie the
8 value of the benefit to wages paid, the
9 quality of the jobs. You can have local
10 employment requirements for the construction
11 phase of a project. There are ways to get
12 at it at some of the concerns that were
13 raised regarding employment practices and
14 wage levels the IDA's without going to
15 prevailing wage prevailing wage meeting
16 wage.

17 SENATOR RANZENHOFER: What do you
18 think would happen in your county if the
19 requirements are inserted and the law
20 passes?

21 MR. POKALSKY: Well, I think we'll
22 see IDA financing, particularly for mid size
23 to smaller projects, it would not longer be
24 done through IDA's.

1 SENATOR RANZENHOFER: Is that going
2 to hurt your job retention and job creation
3 in Monroe County?

4 MR. WIEST: Well, I'm statewide, I'm
5 not specific to Monroe County. I don't
6 think there is any doubt that it damage one
7 of the two most significant tools that we
8 have more economic development for the
9 state.

10 SENATOR RANZENHOFER: Is your
11 sediment the same or Upstate and downstate
12 or is it there is a difference?

13 MR. POKALSKY: We've seen
14 particularly for the prevailing wage mandate
15 on construction costs, the cost difference
16 would be lower downstate than Upstate, maybe
17 not now with the depressed economy and
18 reduced construction projects. In fact, we
19 know that the building unions in the city
20 are negotiating developments in the city for
21 a wage policy other than traditionally
22 defined prevailing wage, because of the fact
23 that with a depressed economy and future
24 construction projects, prevailing wage as

1 traditionally defined may be impairing the
2 ability to bring construction jobs to the
3 city. I do think from the data that I've
4 seen the difference in average project costs
5 for a prevailing wage mandate for
6 construction only is more Upstate than
7 downstate.

8 SENATOR RANZENHOFER: And you are
9 saying you don't think big companies are
10 going to take a 10 percent advantage on the
11 pilot because it will be 25 to 30 percent
12 more in terms of construction costs?

13 MR. POKALSKY: Well, that's just the
14 construction costs. The bill also has a
15 prevailing wage for operators and a meeting
16 wage for all people working in the building,
17 and we've only seen a couple of couple of
18 company specific calculations that have been
19 done. And over the life of -- because of
20 the wage mandates, it's been five years
21 beyond the expiration of the pilot, so it's
22 15 years worth of wage mandates for 10 years
23 of pilot benefit. The cost premium is
24 significant.

1 SENATOR RANZENHOFER: And you may
2 have touched on this and some of the other
3 speakers may have touched on this, but can
4 you, if you could, define in a nutshell one
5 of the things that I hear is, you know, a
6 company is deciding again in my area which
7 is the suburbs of Buffalo and Genesee
8 County, deciding whether or not to expand
9 their company and they have been in that
10 area for, you know, a number of years, and
11 they are looking at Pennsylvania and Indiana
12 and other states, because of, you know, they
13 are there to make a profit and as a result
14 of that they have to create more jobs. In
15 your position, if you were to wave your
16 magic wand would one of the two or three
17 things that you would do to be able to make
18 us more competitive to have more jobs and
19 more economic opportunity to create some
20 more private sector development and private
21 sector wealth and improve the economic.

22 MR. POKALSKY: If I could wave a
23 magic wand, I would do things that are
24 probably undoable in the current climate. I

1 would do across the board cost reductions in
2 the major cost factors that we hear from our
3 member companies. Reduction in the cost of
4 employer provided health care, which are
5 driven by state coverage mandates and state
6 taxes on health care. Reductions in the
7 cost of energy, which are driven by a lot of
8 state policies, but including state
9 assessments SBC, RPS, the new so-called 18 A
10 assessment on electric energy cost, and
11 reduce the cost of real property taxes. And
12 in the tax arena the most non-competitive
13 tax, that's what I would do with my magic
14 wand. That would benefit -- it would reduce
15 costs for every business in the state, no
16 matter what type of business you were, you
17 know. It would make the overall state, all
18 parts of the state more competitive. That's
19 awful hard to do, that's why we say, before
20 we get that -- between the time between now
21 and the day we have that magic wand, we do
22 need to look at targeted tax credit
23 incentives and tax treatments for some parts
24 of the economy. And frankly, right now that

1 may be all that we can do.

2 SENATOR RANZENHOFER: Obviously if
3 you -- in the loss of state revenue, do you
4 think that would create enough jobs to
5 ultimately increase the state revenue with
6 those cuts in energy, health and real
7 property taxes?

8 MR. POKALSKY: Well, if I had my
9 magic wand I wouldn't have to worry about
10 that. But I do think that we have a perfect
11 example right now how tax policy can effect
12 economic development through the Empire
13 State Film Production Credit where we have
14 -- I don't think there is any doubt, movie
15 and TV show production activity in the city
16 we wouldn't have had without a targeted tax
17 credit.

18 I think through major projects done in
19 the Empire Zone, I don't think there is any
20 doubt we can show major investments that
21 were done in the state, because of the tax
22 treatment provided to those companies under
23 Empire Zones.

24 So, yeah, I think we can reduce

1 marginal rates and reduce state taxes in a
2 way that produce economic activities. And
3 we get a lot more money in the state from
4 personal income taxes from people that have
5 good paying jobs than we do from corporate
6 taxes. So I think corporate tax credits and
7 reduced tax rates would produce revenues to
8 offset the costs of those tax credits.

9 SENATOR KRUEGER: You may notice that
10 Angelina Jolie was in Albany the other day.

11 SENATOR RANZENHOFER: She actually
12 E-mailed me.

13 SENATOR KRUEGER: Oh, excuse me. I
14 thought she was just holding up traffic to
15 the capital. She was, in fact, there making
16 a movie.

17 MR. POKALSKY: Yes, she was.

18 SENATOR KRUEGER: Yes, I'm sorry. I
19 didn't mean to cut you off. You are going
20 to prove to me that you have an E-mail from
21 her.

22 SENATOR RANZENHOFER: I do. Thanks.

23 MR. POKALSKY: You're welcome.

24 SENATOR KRUEGER: Thank you very

1 much. I appreciate it. You brought up
2 many, many issues and took the assignment
3 very literally with all the questions, thank
4 you very much.

5 MR. POKALSKY: Thank you, Senator.

6 SENATOR KRUEGER: Our next -- and
7 unless someone else has announced
8 themselves, our next and last testifier, but
9 not last in any negative sense is Brian
10 Sampson Executive Director of Unshackle
11 Upstate.com. Is that your official name
12 now?

13 BRIAN SAMPSON
14 Unshackle Upstate

15 MR. SAMPSON: Not dot com. Well, I
16 think I get to clean up today. And maybe
17 the easiest thing to do is to point back and
18 say ditto to everything that you've heard
19 today. And I think the phone ringing
20 earlier was the Governor calling to say he
21 agrees with us as well.

22 SENATOR KRUEGER: That's all taken
23 care of.

24 MR. SAMPSON: I won't read my full

1 testimony, because a lot of what I've put in
2 here you've heard today, but Unshackle
3 Upstate represents about 45,000 businesses,
4 about a million and a half employees
5 stretched out over the 48 counties, roughly
6 48,000 square miles of Upstate New York.
7 And I think what we really need to look at
8 is understanding how the private sector
9 employers look at the State of New York and
10 some of the challenges that we face, and so
11 I want to point out a few of those.

12 But, you know, first the property taxes
13 among the highest in the nation.
14 Comptroller get DiNalopi says we're 49
15 percent above the national average. That
16 certainly has an impact. As my colleague
17 Chris pointed out, we have some of the
18 highest tax counties here in Upstate New
19 York, which is a challenge.

20 Our combined state and local tax burden
21 is the second highest in the nation. And
22 while second is sometimes good, I think
23 what's a little bit more frightening is
24 we've held that title of number one or

1 number two every year since 1977. So for
2 over three decades we've been one or two in
3 the combined state and local tax burden.

4 Our 2009 business tax climate, which
5 reviews corporate taxes, individual taxes,
6 sale taxes, unemployment insurance and taxes
7 on property was 49th in the country; second
8 worse obviously, and that doesn't take into
9 account other high cost areas, like energy,
10 health insurance and workers compensation.
11 CEO Magazine ranked New York State as the
12 worse state for the cost of doing business.
13 And in July of 2008, a survey of 281
14 corporate executives by Development
15 Counselors International revealed
16 California, New York and Michigan as the
17 three states for the least favorable
18 business climate with 42.4 percent saying
19 New York was the worst.

20 So I think it's safe to say regardless
21 of the size of the business, whether you are
22 big or small, we placed some pretty serious
23 burdens in front of them, and I think we're
24 trying to figure out how we can correct

1 that. And I think sometimes what we end up
2 doing is we look at taxes individually. And
3 I think that's where we have a great
4 disservice. I think we have to look at the
5 total tax package in its complexity if we're
6 going to figure out how to get out of this.

7 But being mindful of the business tax
8 climate I think what lawmakers tend to do is
9 rely on tax incentives and subsidies like
10 we've heard today. They create these deals
11 as job creation and economic development.

12 We've seen it here as the Empire Zone,
13 but I think the truth of it is, we create
14 the programs because we have a wilful tax
15 burden. And instead of doing short term
16 solutions to the problem, we need to address
17 the long term issue, and that is if the
18 taxes continue to run high, I think what
19 we're going to do is worse doing drive
20 private sector employment right out of the
21 State of New York.

22 So I think what we need to understand
23 is that taxes do matter, business taxes
24 affect business decisions, job creation and

1 retention, plant location, competitiveness,
2 transparency of the state tax system, and
3 the long term health of the state's economy.

4 Most importantly, if taxes diminish
5 profits. If taxes take a larger portion of
6 the profits, the cost is passed along to the
7 consumers, to workers or to shareholders,
8 and thus the state with the lower tax cost
9 will have a more competitive advantage like
10 the one in New York that has a high one.

11 And that states don't enact tax changes
12 in a vacuum every tax law will have an
13 impact on competitiveness of what we're
14 trying to do. So again, instead of looking
15 at things individually, and I think we have
16 to look at them in totality and understand
17 if there is an increase. What does it mean
18 and how do we maybe offset that in another
19 area.

20 There are clearly a number on non-tax
21 factors that come into an organization
22 choosing which state they are going to look
23 at, as we've heard today, the workforce,
24 natural resources, access of transportation,

1 those have an impact on where someone
2 chooses to put a business.

3 In New York we've got a great resource,
4 our transportation access is pretty good.
5 And when you consider that, you know, here
6 in the northeast we've had such a large
7 percentage of the worldwide population, that
8 it's a pretty nice area to put a business if
9 you can afford to be here.

10 So we have some of those. But I think
11 if we don't change the tax structure what
12 we're looking at we're going to see the
13 private sector job loss continue. So what I
14 think we need to do, you heard it earlier
15 from Chris, you know, in the budget and in
16 the deficit reduction plan that was passed,
17 personal income tax is a serious burden that
18 we have the small businesses that do file
19 through the personal income tax system are
20 now going to pay at a higher rate. And I
21 think that's interesting in that is that
22 even at the minimum increase level that we
23 went up to, the S Corps, the LLC's and the
24 smaller businesses in the State of New York

1 that are generating and driving our economy
2 will now pay a higher percentage rate of the
3 C corps.

4 So you asked Chris earlier, you know,
5 what's the carve out of the carve out?
6 Well, we would dearly love to see New York
7 State grab the federal language, the federal
8 budget which does carve out the small
9 businesses and bring them into the State of
10 New York. If you can't, there's got to be a
11 way to at least equalize the difference
12 between the C Corps and the S Corps, to get
13 that back down to where the C Corps are
14 right now at this point.

15 So obviously we have some concern,
16 again you've heard about the health
17 insurance and the energy insurance, we have
18 to figure out a way to roll those back,
19 understanding the revenue in the State of
20 New York right now so we have to find ways
21 to replace that.

22 So we think those are some things that
23 can be done immediately. As you heard Randy
24 and others say, we need to change the

1 Corporate Franchise Tax system, we've done
2 it before, we've lowered in 2007, I think we
3 can roll it down more. I think the easiest
4 and most direct way for us to make it better
5 is to have a consistent tax rate that we can
6 understand. I think what we have as part of
7 an issue here in the business community and
8 I think even you as elected officials, there
9 is no predictability, there is no
10 consistency in what we do. I think the
11 business community would be much happier if
12 they fully understood what's coming as
13 opposed to the individual let's put a finger
14 in the dam because I have a leak. Why can't
15 we have a system that works for the state of
16 the New York that works for the business
17 community. I think as elected officials you
18 get loads of stuff thrown at you we in the
19 business community don't understand all the
20 things that get thrown at you. But there
21 are experts out there. Why can't we put
22 them at the table. Those are practitioners
23 in the tax law day-after-day, put them at
24 the table with the state's employees that

1 implement the tax law and let them figure it
2 out. There is a revenue to the state that
3 we have to look at, but there is
4 competitiveness to the private sector that
5 has to be considered as well. So I think
6 those are some of the things that we would
7 recommend, and again, you've heard a lot of
8 what I was going to say anyways, so I'll end
9 there and take your questions.

10 SENATOR KRUEGER: Well, thank you.
11 And unfortunately, you didn't hear all the
12 testimony that came before you, you'll have
13 it all to read.

14 MR. SAMPSON: It's excellent reading.

15 SENATOR KRUEGER: Well, there are
16 some consistent themes we heard today. And
17 so we will certainly follow-up on the S and
18 C corporation and the federal model to look
19 at because yes, one of the themes that I've
20 been trying to point out today is we want,
21 you know, we want fairness, right, and it's
22 very hard to explain to any two businesses
23 why they would be treated completely
24 differently under New York State tax policy.

1 So I also appreciate that.

2 But you also heard today at least from
3 a manufacturers association the idea of
4 perhaps having a lower franchise tax for
5 them. I'm just curious what your reaction
6 is again given the arguments on equity and
7 on simplification. Do you think there is a
8 justification for having a different rate
9 for a particular industry or even to throw
10 it out, to have a lower rate for smaller
11 businesses versus larger businesses, to have
12 a lower rate for businesses who are creating
13 new jobs versus retaining jobs, what's your
14 sense of that?

15 MR. SAMPSON: We actually say in here
16 that perhaps looking at a lower corporate
17 franchise tax for small business and
18 manufacturers could be right. Clearly the
19 preference would be to have one that is good
20 for all. And I think Ken even hit on it
21 saying, you know, maybe there is a two
22 percent on everything and that's what you
23 have going forward, and it's the same for
24 everybody and as long as it works, like Ken

1 I'm not going to say that's the right idea,
2 but manufacturers I think are at a distinct
3 disadvantage and maybe they do need to be
4 treated differently. They are very energy
5 intensive. They compete right now in a
6 global economy. Imagine what they would do
7 if we took some of these burdens away, how
8 much more they could compete, and the jobs
9 that they could create, and they do create
10 higher paying jobs. So I think we would
11 much rather prefer to see one consistent
12 rate, but I think if there is one, I think
13 manufacturers and small businesses should be
14 considered.

15 SENATOR KRUEGER: And since you
16 represent so many small businesses as you
17 describe in your testimony, do you think you
18 could go back home and say, there is a
19 justification for that policy, do you think
20 that they would say wait a second here, if I
21 was a manufacturer I could, I mean...

22 MR. SAMPSON: Yeah, because I think
23 it would have to be in combination with some
24 others. So, yeah. I mean, everybody I

1 think understands the challenges of
2 manufacturing. You know, when we hear
3 manufacturing is dying, I think what we're
4 talking about is there is not smoke stacks
5 in the State of New York, but we do have a
6 great core of smaller manufacturers that
7 have the ability to grow, and they do create
8 some extra additional spinoffs, you know,
9 two jobs for every one manufacturing job and
10 they're all tied into the business
11 community, so...

12 SENATOR KRUEGER: And while you
13 didn't necessarily specifically talk about
14 Empire Zones, we had a lot of discussion
15 with them today. Do you share the view that
16 we might explore new models as opposed to
17 just always say we are quote, unquote trying
18 to tamper with the one we've got?

19 MR. SAMPSON: I would agree and have
20 my prior life I worked at the ESDC so I know
21 well the challenges of the Empire Zone but
22 yeah, we need to -- I think that is
23 sometimes what we do is we tinker, you know.
24 I think we have this -- there is an

1 arrogance about New Yorkers, rightly so, we
2 should have one. But sometimes we don't
3 have the right answers and other states may
4 have them, and why can't we adopt those.
5 Maybe we can make them a little bit better
6 even. But if there is a baseline one that
7 is working, let's look at it. The Keystone
8 opportunity in Pennsylvania is a pretty good
9 model. Why can't we look at that and make
10 it work for the State of New York.

11 SENATOR KRUEGER: Thank you.

12 SENATOR RANZENHOFER: I have just a
13 couple. How is the Keystone model different
14 than ours?

15 MR. POKALSKY: It's predictable. It
16 has a base rate. It identifies certain
17 industries that are eligible for the zone
18 benefits and it's just -- it's clear, it's
19 consistent, and it's predictable, it's the
20 best model. And again, it targets. There
21 was an idea floated earlier this year in
22 looking at Empire Zones that New York State
23 has identified niche businesses, niche areas
24 of growth. If those become the ones that if

1 you are in these industries, then are you
2 eligible for zone benefits. I mean, what it
3 did is it eliminated zones across the state,
4 it made the entire state an empire zone.
5 But if you were in the key areas you would
6 be eligible and then each region of the
7 state can have an additional niche business
8 or niche area that they wanted to have in
9 there as well.

10 SENATOR RANZENHOFER: How do you
11 explain the equity to, you know, somebody
12 picks business A or that type of business,
13 what do you say to business B that feels
14 that they are just as important.

15 MR. SAMPSON: You're never going to
16 have every answer for everybody.

17 SENATOR RANZENHOFER: Of course,
18 right.

19 MR. SAMPSON: So if Empire State
20 development has identified the niche growth
21 areas for the State of New York, I think
22 there is some justification in that. And I
23 think the nice thing, if I remember
24 correctly about the Keystone zones, it's not

1 just for businesses moving into the state,
2 it's for businesses that are already there,
3 so it's an equal opportunity for both.

4 SENATOR RANZENHOFER: Two more
5 questions. How is their timeliness compared
6 to the timeliness of New York's Empire Zone,
7 we heard it could take up to two years how
8 quick is it?

9 MR. SAMPSON: It's very quick,
10 because again it's clear and consistent.

11 SENATOR RANZENHOFER: How long?

12 MR. SAMPSON: I don't know specific
13 numbers, but I can tell you it's
14 significantly shorter than New York.

15 SENATOR RANZENHOFER: How do you
16 define a small business if you were going to
17 carve out a small business exception, what's
18 the number that you are thinking of in terms
19 of the number of employees?

20 MR. SAMPSON: Well I think my sense
21 would be, you know, those businesses with
22 probably 25 to 500. I think those are the
23 -- classically the federal government I
24 believe says 500, and fewer is classified as

1 a small business. So I think if you are
2 going to do something consistent, why not
3 look at what the federal government
4 dictates.

5 SENATOR RANZENHOFER: Okay. Thanks.
6 That's all I have.

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

9 MR. SAMPSON: Thank you for having us
10 today and have save travels home.

11 SENATOR KRUEGER: Thank you. Well,
12 we have completed our hearing. Again, just
13 in closing I want to thank my colleague for
14 joining us, and all the members of the
15 committee will get all the testimony and
16 again within a week we will have a website
17 up with the taped productions of the
18 hearing. We are a movie stars and you
19 didn't know it yet.

20 SENATOR RANZENHOFER: No, is that a
21 niche industry?

22 SENATOR KRUEGER: Maybe. Maybe we'll
23 get a tax credit in the legislature. Sorry.
24 So we'll have anyone's testimony both those

1 that testified at the hearing, as well as
2 others that submitted their testimony and
3 couldn't so that will be up on the website,
4 and they will bring the tape up on the
5 website, and we will be producing a report
6 summarizing.

7 And I appreciate everyone's testimony
8 because we need to address a whole series of
9 tax policies. And I also appreciate
10 everyone who testified today pointing out
11 that you can't look at any one tax policy in
12 a vacuum. And it's not the intention of
13 this committee to do so, but just
14 recognizing that there is only so much
15 territory that you can cover in one day, we
16 have a series of hearings scheduled on
17 different issues around tax policy, and I
18 suspect that at future hearings we'll also
19 hear from people that we need to look at
20 these things in the context of each other,
21 and I certainly expect that we will do so.

22 I want to thank you very much for
23 joining us today. And again in closing
24 thank Monroe County for allowing us to use

1 this wonderful legislative chamber for our
2 hearing. Thank you.
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