

1 JOINT HEARING BEFORE THE NEW YORK STATE SENATE
2 STANDING COMMITTEE ON LABOR
3 AND
4 STANDING COMMITTEE ON ECONOMIC DEVELOPMENT
5 -----

6 PUBLIC HEARING:

7 TO EXAMINE THE MINORITY AND WOMEN-OWNED BUSINESS
8 ENTERPRISES PROGRAM, AND CONSIDER POTENTIAL
9 LEGISLATIVE SOLUTIONS TO CREATE A MORE
10 EFFECTIVE AND EFFICIENT PROGRAM TO ENHANCE
11 NEW YORK'S BUSINESS CLIMATE
12 -----

13 Finger Lakes Community College, Stage 14
14 3325 Marvin Sands Drive
15 Canandaigua, New York

16 September 26, 2018, at 2:00 p.m.

17 PRESIDING:

18 Senator Frederick J. Akshar II (Sponsor)
19 Chairman
20 NYS Senate Standing Committee on Labor

21 CO-SPONSOR PRESENT:

22 Senator Pamela Helming

23 ALSO PRESENT:

24 Senator Thomas F. O'Mara
25 (at the dias)

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5	David Bragg		
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1 SENATOR HELMING: Good afternoon, everyone.

2 I'm Senator Pam Helming, and I represent the
3 54th Senate District.

4 And I want to thank everyone for taking the
5 time to join us this afternoon at Finger Lakes
6 Community College to discuss the New York State
7 Minority and Women-Owned Business Enterprise
8 (the MWBE) program.

9 I also want to welcome and -- well, I guess
10 not really welcome to your own college, but I'd like
11 to introduce Dr. Robert Nye, president of
12 Finger Lakes Community College.

13 Dr. Nye.

14 DR. ROBERT NYE: (No microphone.)

15 Thank you, Senator.

16 The Senator was -- very graciously said, you
17 can have a couple of minutes to speak real quick.

18 And I believe in something that someone
19 taught me a while ago, called "the three Bs": be
20 brief, be bold, and be done.

21 So I just want to tell you that we're really
22 honored to be part of this community to help to make
23 a difference here in the Finger Lakes for what we
24 do.

25 We (indiscernible), and (indiscernible) it

1 focuses on three things. It focuses on student
2 success, anywhere, anytime, anyhow.

3 How do you bring students to the goodness of
4 this college, and how do you retain them so they
5 (indiscernible)?

6 Number two: How do we get better in what we
7 do, internally and externally, our organization
8 processes?

9 And, number three: How do we partner and
10 become a better partner with the community and the
11 industries that are in our community, to help make
12 us better both for graduates and for workforce
13 development?

14 And that's where this is a very, very
15 important conference, because we support anyone,
16 anytime, anyhow, to help them to be successful.

17 And it's an honor to be part of helping
18 minority- and women-owned businesses get started.

19 And why do I say that?

20 Because we are dedicated, after this first
21 year, as part of our strategic plan, of creating
22 applied learning and internships that we can for
23 students, possible for our businesses to help
24 succeed.

25 It makes our students better, it makes our

1 businesses better.

2 So if you walk out with one thing, know that
3 we are doing our best to be able to provide students
4 on internship basis to you all. Of course, to be in
5 a competitive basis.

6 But we want to do that, and we want help
7 (indiscernible) in anyway we can.

8 So, Senator, thank you for the few minutes;
9 I am now done.

10 SENATOR HELMING: Thank you very much.

11 And thank you again for allowing us to use
12 this beautiful facility.

13 SENATOR O'MARA: Thank you.

14 SENATOR HELMING: We really appreciate it.

15 As you may know, this is a working group
16 that's chaired by Senator Akshar who is here with us
17 today, and Senator Ritchie who's unable to be here.

18 This group has held multiple hearings,
19 I believe five to date, with one more scheduled in
20 New York City.

21 The hearings have been held throughout
22 New York State, and I want to thank both
23 Senator Akshar and Senator Ritchie for their
24 leadership on this issue.

25 As I mentioned, I represent the 54th Senate

1 District, which is located primarily between
2 Syracuse and the Buffalo region. And my office
3 continuously receives calls concerning the MWBE
4 program. And these calls really came -- they
5 increased dramatically after the Governor proposed
6 the last budget.

7 In the budget, he proposed increasing the
8 MWBE requirements almost twofold.

9 So once that information got out, the number
10 of calls that were coming into our office really
11 dramatically increased.

12 So while I find that there are many merits to
13 the program in Upstate New York, based on the
14 feedback that I received from so many different
15 businesses, we are faced with a number of challenges
16 regarding this program.

17 And that's part of the reason why we're here
18 today, is to hear back from the businesses and
19 multiple organizations on how MWBE impacts you on,
20 both, the positive, and maybe in a challenging
21 manner.

22 It's my hope that the testimony we hear today
23 will shed light on the issues with the program that
24 severely affect our businesses, as well as
25 recommendations for improvements.

1 Before we begin, I would like to introduce
2 Senator Akshar.

3 And, Senator, I know you'd like to say a few
4 words.

5 SENATOR AKSHAR: Sure.

6 Senator, thank you very much for having us
7 today.

8 When we decided to have these series of
9 hearings, Senator Helming was one of first members
10 to say, I want to have one in the Finger Lakes
11 because this issue is very important to the people
12 that I represent.

13 So, we're happy to make that happen.

14 It's good be with you; good to be in the
15 Finger Lakes.

16 I was reminded of how beautiful the
17 Finger Lakes are on my ride from Binghamton today.

18 So, I think it's important to stress that we
19 look and we seek not to end this program.

20 It is a program that does, in fact, have
21 benefits.

22 We're looking to amend this program, and make
23 it the best program we possibly can.

24 Currently, I feel very strongly that the
25 Administration is working outside of the four

1 corners of the existing statute that governs the
2 MWBE program.

3 And what we're doing is, as the Senator said,
4 is we're traveling the state, Senator Ritchie and I,
5 going into other members' districts, having these
6 public hearings, and we're looking for recurring
7 issues; issues that are in existence in
8 New York City and in Western New York and in the
9 Finger Lakes and in the Southern Tier.

10 And then we're going to compile all of those
11 recurring issues. And when we go back during our
12 next legislative session next year, we'll look to
13 do, as I described, and amend the program.

14 Last year, during the budget process, we, in
15 fact, extended the current MWBE program by one year.

16 And, quite frankly, I think that was the best
17 thing that we could have possibly done, because if
18 you look at what was being proposed, we were
19 certainly going in the wrong direction.

20 So the fact that we were able to hold off any
21 changes for one year afforded some time to do these
22 public hearings, and really make the appropriate
23 changes to make the program the best it could
24 possibly be.

25 Senator, thank you for having me.

1 And I'm looking forward to hearing
2 everybody's testimony today.

3 SENATOR HELMING: Thank you.

4 Also joining us is Senator Tom O'Mara.
5 Senator.

6 SENATOR O'MARA: Thanks, Pam. It's a
7 pleasure to be with you today.

8 Thank you all for coming out to provide us
9 your input on this very important topic.

10 I represent the 58th Senate District that
11 includes the counties of Yates, Schuyler, Steuben,
12 and Chemung, and half of Tompkins County. So it's
13 really the southern half of the Finger Lakes, down
14 to the Pennsylvania border, from Hornell to Ithaca.

15 And it's a pleasure to be here with this
16 group.

17 I think this is the third one of these
18 hearings I've been able to attend.

19 And we've got a problem with the way this
20 program is being run by the Administration, both
21 with unrealistic quotas on the requirement of
22 utilization of MWBEs in various regions of the
23 state.

24 And the secondfold (sic) (ph.) problem of our
25 state administration not being able to qualify

1 minority- and women-owned businesses to be in the
2 program.

3 And another one, who we have in the front row
4 here, Susie Papp-Alexander, somebody who is in the
5 program -- was in the program, and got too
6 successful, was booted out of the program.

7 So, it needs some tweaks to it, and we very
8 much appreciate your input into our efforts to do
9 this.

10 So, thanks for being here.

11 SENATOR HELMING: Okay. Thank you.

12 At this time I would like to call our first
13 presenter, David DeJohn, with Elderlee.

14 Also joining David are Paul Strain and
15 David Bragg.

16 Would you like -- we can pull up a third
17 chair.

18 PAUL STRAIN: (No microphone.)

19 I'll wait. And (indiscernible), I have a
20 small portion, and then I'll fill in after.

21 SENATOR HELMING: Thank you.

22 We have a copy of your written testimony, so
23 if you'd like to present your oral statements, we'd
24 appreciate that.

25 DAVID M. DeJOHN: It's quite lengthy, as you

1 can see, so --

2 SENATOR AKSHAR: Yeah, feel free, not --
3 I don't know if you're planning on reading it
4 verbatim, but feel free to just -- if you want to
5 just talk about the issues directly. And then we
6 can read your written testimony separately.

7 So, however you would like to proceed.

8 DAVID M. DeJOHN: I'll probably read it, and
9 then maybe we can do a little sidebar off it.

10 SENATOR AKSHAR: Okay.

11 DAVID M. DeJOHN: I know it's quite lengthy,
12 but there are a lot of subjects in there I think we
13 need to touch on.

14 SENATOR HELMING: If there's any way to -- if
15 you can keep the presentation to about 10 minutes --

16 DAVID M. DeJOHN: Okay.

17 SENATOR HELMING: -- so that we have enough
18 time to get through everyone, that would be great.

19 DAVID M. DeJOHN: Okay.

20 SENATOR HELMING: Thank you.

21 DAVID M. DeJOHN: Well, I would like to thank
22 Senator Helming and Akshar and O'Mara for being
23 here.

24 Like I said, David Bragg is vice president of
25 construction, sales, and estimating, and Paul Strain

1 is president of Elderlee manufacturing.

2 We are a fourth-generation family-owned
3 company that performs specialty highway contracting,
4 manufacturing, in the highway-safety industry.

5 The history of the company goes back
6 123 years, to 1895, where its origins started in the
7 concrete pipe and drainage products.

8 The company's expansion into the highway
9 guide railing began in the 1920s when the Department
10 of Public Works decided to place a steel cable
11 through the eyebolt of a concrete post that was
12 manufactured by Elderlee at that time.

13 We expanded into the guide-rail business in
14 1946. That's when we started performing
15 installation of highway guide-railing signs.

16 And in the mid-'60s, with the growth of
17 New York's interstate, and the new guide-rail safety
18 products that were developed in New York State,
19 Elderlee expanded their manufacturing facilities to
20 include a steel plant, a hot-galvanizing plant, a
21 highway-sign fabrication plant.

22 We expanded our steel facility in 1994, and
23 our galvanizing facility in 2016.

24 Elderlee, Incorporated, currently has
25 250,000 square feet under roof of manufacturing.

1 Our goal is to continue to invest and grow
2 our business.

3 Elderlee finds itself in the unique position
4 of being the only highway-safety contractor in the
5 United States that also manufactures the materials
6 that we install.

7 This has been our business model since
8 1960s when few companies were doing this kind of
9 work.

10 Our home base is here in Ontario County.

11 We're considered to be a mid-size employer,
12 located in Oaks Corners, New York, with
13 150 full-time employees.

14 Our construction division also employs
15 150 full- and part-time skilled union employees from
16 38 different union locals throughout Upstate
17 New York.

18 Our four manufacturing facilities and
19 maintenance facility are signatory to three
20 different shop agreements.

21 In 2017 we issued 300-plus W-2s, for a
22 total of 252,000 hours of union and non-union
23 employment.

24 This may sound like a large number, but these
25 hours have been decreasing over the last few years.

1 Elderlee, like many contractors, has
2 developed a long-time trusting relationship with our
3 customers that helped make us successful.

4 These are relationships that were developed
5 over many years of working as a team, which has made
6 us very competitive and, at the same time, given the
7 State very competitive prices.

8 Our longtime reputation of quality service,
9 integrity, and safety no longer applies in helping
10 us to get subcontract work in New York State.

11 We compete with MWBE companies based in
12 New York for prime specialty contracts as a general
13 contractor.

14 We also compete in highway guide railing and
15 sign-specialty contracts as a subcontract.

16 Almost all of our competitors are MWBE
17 companies.

18 Our manufacturing division also competes with
19 MWBE companies for the sale of guide rail and
20 traffic-sign materials.

21 Until recent years, Elderlee was successful
22 at competing for subcontract work.

23 In Upstate New York, the majority of the
24 highway contracts consist of blacktop, paving,
25 highway signs, guide railing, drainage, landscaping,

1 trucking, and striping.

2 This is a limited amount of subcontract
3 opportunities on these projects, and Elderlee is no
4 longer able to compete on a level playing field due
5 to the high percentage of work that must go to --
6 subcontracted to MWBE companies.

7 Elderlee is being left out of performing
8 subcontract work by many general contractors due to
9 the 12 percent MBE and the 18 percent WBE goals on
10 state, county, city, highway, contracts.

11 The rigid Administration enforcement is
12 causing New York MWBE goals to be enforced, like
13 contracting quotas.

14 Because of the overconcentration of MWBEs
15 in our industry, we've been locked out of millions
16 of dollars of work across Upstate New York on DOT,
17 Thruway, local municipality projects, including our
18 home base, Ontario County, where we employ from, pay
19 taxes, and support the local businesses.

20 General contractors make big investments of
21 time and money securing contracts through the
22 competitive bid process.

23 Due to the strict MWBE compliance
24 requirements, general contractors fear the risk of
25 projects not being awarded, or costly time delays in

1 the award process, by Office of Civil Rights, which
2 causes significant obstacles for non-MWBE
3 subcontractors, like Elderlee, to secure work.

4 They cannot risk losing work they desperately
5 need over the risky proposition of obtaining a
6 good-faith-effort waiver.

7 Even if Elderlee offers the low subcontract
8 price quote, the prime contractors cannot meet the
9 excessive contract goals of 12 percent MBE,
10 18 percent WBE, demand by New York without
11 subcontracting the guide rail and sign work to an
12 MWBE firm.

13 In many cases, general contractors are used,
14 and higher prices from the MWBE subcontractors, to
15 ensure meeting the MWBE demands at the extra cost to
16 the taxpayers of New York.

17 We are told daily, on many contracts:

18 "You are the low subcontract price, but we
19 can't use you because of fear the award will be
20 delayed or not awarded.

21 "We didn't ask you for a price, and you're
22 wasting your time quoting us, because we need to
23 subcontract your items of work to an MWBE in order
24 to fill the 30 percent quotas," or, "goals";
25 whichever way you want to call them.

1 In one situation, we were told by the
2 low-bidder general contractor that he used our price
3 to bid the job, but was told by the agency that he
4 was not to use Elderlee as a subcontractor because
5 the job was designed to have an MWBE do the work.

6 General contractors that we've been doing
7 work -- business with for decades are telling us:

8 "It's a State-funded project with 30 percent
9 goals. You're wasting your time giving us prices.

10 "You were low, but we had to use a higher
11 price on our bid to fill the MWBE goals."

12 We can no longer work for companies that
13 we've worked for for many decades and generations.

14 In Upstate New York, highway guide railing
15 and traffic signs, especially the subcontracting
16 market, most of our competitors have been classified
17 as MWBEs for many years, and, in some cases, through
18 multiple generations of owners, and there's no
19 expectation for them to ever graduate from the
20 program.

21 Many business ownerships have been
22 restructured from husband to wife, or daughter, or
23 handed down from one generation to another, in order
24 to capitalize on the preferential benefits of the
25 MWBE program.

1 These are successful companies that have been
2 in business for decades, with experienced employees,
3 secure bonding, secure banking, insurances, and
4 still considered to be disadvantaged.

5 Please, do not misinterpret us.

6 There is a need and a place for the MWBE
7 program. At its core, it is to foster and promote
8 business to enter and grow in the industry.

9 The overconcentration of long-established and
10 highly-successful MWBE companies does not allow for
11 new MWBE companies to enter in the business, or
12 existing non-MWBE firms to survive, in what should
13 be an open, competitive marketplace.

14 The intent of the program was to help
15 companies establish themselves, not create a safe
16 harbor for those that are eligible to participate.

17 When no one graduates, there's no room for
18 new MWBEs to enter the program.

19 There needs to be a graduation limit, or the
20 program is a failure.

21 And that's what we face on the subcontracting
22 side.

23 We also operate as a general contractor for
24 specialty contracts. And we're competing against
25 the same MWBE companies as a prime contractor as we

1 do as a subcontractor.

2 We're a highly-specialized business.

3 So when we're bidding as a general
4 contractor, we're competing against the same MWBEs
5 that we compete against as a subcontractor.

6 The majority of guide-rail and sign
7 contractors in New York State are MWBE companies.

8 When bidding as a general contractor, the
9 MWBE program requires us to solicit pricing from our
10 competition that manufactures the same materials as
11 Elderlee, and our construction competitors that we
12 are bidding against for that project.

13 We are being required to contact our
14 competition for pricing for the same items of work
15 we plan to perform if we are the low bidder.

16 In many cases, the expectation is that we are
17 to give our own areas of work to our competitors to
18 perform.

19 Why should we take work away from our
20 employees to have others do it?

21 So we have to question the antitrust legality
22 in requiring contractors who are competing against
23 one another to ask each other for prices.

24 As part of our proposal when submitting our
25 bid, there is a document of (indiscernible) which

1 states:

2 "In submitting this bid, the undersigned
3 declares to be the only person or persons interested
4 in the said bid. That it is made without any
5 connection with any person making another bid for
6 the same contract.

7 "That the bid is, in all respects, fair, and
8 without collusion, fraud, or mental reservation."

9 So, I think that there needs to be some kind
10 of accountability when the program is requiring
11 competitors to seek prices from one another.

12 I don't -- I don't see where that's legal to
13 be doing that.

14 It used to be a challenge in getting a job,
15 was -- was being a successful low bidder.

16 As a result, the MWBE-program implementation,
17 the challenge is now getting a job awarded.

18 In order for us to receive a recommendation
19 for a contract award, we are directed to contact
20 subcontractors that don't do the items of work they
21 are classified to do.

22 We are directed to contact subcontractors
23 that are far outside the geographical area.

24 We are directed to buy from our competitors
25 for materials we manufacture and keep on inventory.

1 Subcontractors won't give us pricing before
2 the bid.

3 We can't get subcontractors to return our
4 calls.

5 We kept track here of a few jobs that
6 recently --

7 DAVID BRAGG: Well, I brought up -- we're got
8 eight projects here that we were the low bidder on
9 as a general contractor.

10 And of those jobs, most of them were in the
11 16 to 20 different contractors that I solicited.

12 This is my job, as the head of estimating, to
13 go out and try and foster a relationship with these
14 companies, and to try and get them to come on board
15 and do work with us.

16 And, in that, I solicit as many companies as
17 I can, based on the geographical area where the work
18 is, what type of work it is, what minority
19 businesses are in those areas.

20 So, on all of the jobs, because we are a
21 specially contractor, very little work is done on
22 those types of contracts. It's what you call a
23 "single-operation contract."

24 Most of it is our work.

25 Very little of it might be something, like,

1 clearing (indiscernible), or seeding, things like
2 that, of that nature. It's very little work to do
3 with the overall project.

4 So I have to go out and I have try and find
5 companies that I can bring on board to do some of
6 this extra work that's on these jobs.

7 So I'm in the neighborhood of, anywhere from
8 16 to 20 contractors -- minority contractors that
9 I solicit on a daily basis.

10 And in these last eight jobs, I just brought
11 eight of them as examples, we've been able to get,
12 usually, in the neighborhood of one out of sixteen
13 to twenty to give me a return call.

14 I know you've heard this before, I watched
15 some of the other testimony.

16 A lot of the companies that we're calling
17 aren't returning calls. Or, if they do return
18 calls, they're telling us that they aren't either
19 interested in doing the work, that it was too small,
20 or it's too far away; that type of thing.

21 So we've managed to get, about 9 percent of
22 the time, a return on the solicitations that we've
23 done.

24 91 percent then have told me either, no, or
25 haven't returned the call.

1 So that's where we're really at in the
2 upstate market, is trying to find credible
3 businesses to come on board and actually do the work
4 that's given to us.

5 DAVID M. DeJOHN: So we solicit prices from
6 subcontractors, suppliers, that are out of business.

7 The list of MWBEs out there needs to be
8 purged.

9 We've been asked to buy materials from MWBE
10 distributor companies that buy materials from our
11 own manufacturing division.

12 This doesn't serve as a commercially useful
13 function. This only drives up the cost to the owner
14 and the taxpayers.

15 This becomes a pass-through, and could set us
16 up for fraudulent claims.

17 Most recently, we were required to solicit
18 prices, as part of our good-faith effort, from a
19 company in New Jersey to buy mailboxes on a job that
20 we had to replace the mailboxes.

21 David called this company and they said, We
22 don't sell mailboxes. But we're willing to go down
23 to the hardware store and buy them for you and sell
24 them to you.

25 So -- and that's an item we can buy locally

1 here.

2 We've had to go out of state to solicit
3 prices for items as small as \$200 in the contract,
4 just in order to get the percentages of MWBE up.

5 We've had to purchase material from our
6 competitors that manufacture the same products we
7 have, to fill the goals.

8 DAVID BRAGG: What David's talking about is,
9 is when we do a solicitation, and we get the
10 contract, and we perform our good-faith effort, we
11 submit that good-faith effort.

12 But if it gets down to the pre-award unit,
13 and they decide that there's other companies out
14 there that they want you to solicit, they'll send
15 you a list of all of these different things that
16 they want you to solicit for.

17 And, in many cases, what we've found is, the
18 people that are asking you to solicit for these
19 other things don't understand the construction
20 industry.

21 I've been asked several times to solicit
22 concrete companies for asphalt work.

23 And you go to these companies and you say,
24 Hey, you know, Civil Rights has asked me to talk to
25 you about doing this concrete work -- or, this

1 asphalt work.

2 "Well, I'm a concrete company. I'm not going
3 to do asphalt work. I don't want anything to do
4 with it."

5 But you're listed as doing that item number
6 in the contract, on your fact sheet.

7 That's all they look for in Civil Rights, is
8 what's on that fact sheet. And they send that out
9 to you and say, Hey, solicit this company.

10 But you know, because you've worked with
11 these companies before, that they don't do that type
12 of work.

13 You solicit them, you send back the next row
14 of solicitation, basically. You've gotten nowhere.
15 And, the process has taken, easily, three to
16 four more weeks, okay, back and forth, and you've
17 gotten no more solicitation.

18 They award the job.

19 But you've already, you know, basically,
20 pushed the award back a month, maybe two.

21 This has a problem in the end of the project
22 because they don't adjust the completion date, you
23 know, so now you're -- now you're squeezed to get
24 that work done in less time.

25 This is what we're faced with, with not only

1 the website, but the way that it's administered by
2 the Civil Rights Division.

3 DAVID M. DeJOHN: They're not familiar with
4 the work that's going to be performed.

5 I mean, we've had to buy materials from our
6 competitors.

7 DAVID BRAGG: We've had -- we bought
8 equipment to help to meet the goal, that we didn't
9 need.

10 We bought materials from manufacturers, that
11 they didn't need.

12 This is all stuff that we've done to try and
13 meet this goal, and it's increased the price of the
14 project, basically, all in order to meet a
15 30 percent goal that really shouldn't be 30 percent
16 in Upstate New York.

17 I mean, I understand, downstate, you know,
18 Long Island, New York City, they might not have as
19 big an issue hitting that 30 percent goal.

20 But in Upstate New York, it's just not
21 feasible to be trying to get that kind of number up
22 here.

23 DAVID M. DeJOHN: It really shouldn't be
24 30 percent of the project either.

25 It's -- I mean, the general contractor needs

1 to do 51 percent of the project. So that leaves
2 49 percent, possibly 49 percent, left to be
3 subcontracted out.

4 And you take a contract in Upstate New York,
5 like I said, a paving -- general paving contract,
6 the guide rail on that project could amount to,
7 anywheres from 5 to 25 percent of the project for
8 the total project.

9 It can amount to, anywheres from, maybe,
10 10 to 40 percent of the items that are
11 subcontractible.

12 So -- so that -- they can fill their goals
13 with that item, general contractors.

14 So contractors like us, majority owned, are
15 left out on those contracts.

16 DAVID BRAGG: Just one more example of a
17 project that we looked at.

18 It was in the North Country. It had about a
19 million dollars worth of striping on it, and
20 \$100,000 worth of signs, which is what we do.

21 So we're -- it was going to be under
22 51 percent for us, so we couldn't bid this job as a
23 prime contractor. There was a 30 percent goal on
24 it.

25 So whoever the striping contractor was that

1 was going to bid this job, had to not only sub out
2 all the sign work, which would have been our work,
3 but they would have had to sub out 20 percent of
4 their own work, okay, as a striper.

5 And nobody bid the job because it had the
6 wrong goals on it.

7 None of the stripers wanted to touch. And we
8 couldn't bid it as a prime, because of the fact that
9 the quantity was only about 10 percent of the job.

10 It's not being -- the goals are not being set
11 correctly on a lot of these projects.

12 DAVID M. DeJOHN: We're seeing the items
13 that -- before the bid, not added, but they're in
14 the contract, that we have no idea where they're
15 going to be used.

16 And we'll call and ask, you know, Where are
17 you going to use these items?

18 And they're subcontractible items.

19 And they said, Well, we put them in the
20 contract in case they're needed.

21 So we end up going out, getting prices from
22 an MWBE, and in some cases, these items never
23 happened.

24 And the MWBE has, in some cases, purchased
25 the materials, secured the insurance, and then the

1 items are eliminated.

2 It's almost like they're being added to the
3 contracts so that there's items that help meet the
4 goals.

5 SENATOR AKSHAR: When you say "items," I'm
6 sorry, do you mean like a nut or a bolt?

7 Or do you mean like, you know --

8 SENATOR HELMING: Seeding. Like a seeding
9 item.

10 SENATOR AKSHAR: And on that particular
11 project, you wouldn't need anything seeded? Is that
12 what you're suggesting?

13 DAVID M. DeJOHN: Or we had no idea where
14 it's going to be used.

15 DAVID BRAGG: They don't put it in table, or
16 anything in the plans, so you don't really know
17 where it's going to be used.

18 It just says "AOBE," which is "as ordered by
19 engineer."

20 So if the engineer decides he wants to have
21 some work that you've -- disturbed some ground
22 you've disturbed, he wants to have seeded, he'll
23 order that seeded.

24 But a lot of times, if that doesn't happen,
25 then the MWBE company that we've hired to do that

1 work is no longer needed on the job.

2 That part of the goal that we've filled is
3 now back to zero.

4 And they look at us as, well, how you gonna
5 refill this goal?

6 And there's nothing to refill it with.

7 SENATOR AKSHAR: But so I understand it
8 correctly, let's say that portion of the contract is
9 worth \$100,000.

10 If you never used it, the taxpayer wouldn't
11 be on the hook for that \$100,000; right?

12 DAVID BRAGG: No, no.

13 DAVID M. DeJOHN: No.

14 SENATOR AKSHAR: Okay. Thank you.

15 DAVID M. DeJOHN: But you've penalized --

16 DAVID BRAGG: You've penalized the company
17 that we hired --

18 DAVID M. DeJOHN: -- we hired.

19 DAVID BRAGG: -- because they got insurances,
20 they went out and got the seed, and all that kind of
21 stuff. They're on the hook for materials that
22 they're never going to use.

23 SENATOR AKSHAR: Right.

24 DAVID M. DeJOHN: And in some cases, they end
25 up being high-bid items.

1 So we're going into this project knowing that
2 that item is bid very, very high, because there's no
3 description as to where it's going to be.

4 And, you know, we know it, there's a good
5 chance it's not going to be used. But we still have
6 to have a number, and sign a subcontract, in case it
7 is used.

8 And, when you're putting in high-bid items in
9 your job, you're risking the chance of losing the
10 job overnight. And it shouldn't have been in the
11 contract to begin with.

12 So -- but, we're seeing inconsistent goals.

13 We bid three projects; one in Erie County,
14 one in Westchester County, one in Orange County.

15 These were sign contracts --
16 pedestrian-crossing-sign contracts.

17 All the items were the same.

18 Orange County, zero goals.

19 Westchester County, zero goals.

20 Erie County had 5 percent DBE.

21 And there were no item on any of these jobs
22 to subcontract out, other than subbing them out to a
23 competitor.

24 So the goals aren't consistent.

25 We've seen up to 70 days to get a contract

1 award.

2 And with that in mind, there's jobs that we
3 didn't put a bid on, because of the 12 and
4 18 percent goals that we knew we wouldn't be able to
5 make. And, the contract award would be delayed, and
6 there wouldn't be enough time in the contract to
7 finish it.

8 Most recently, there was a job bid, a DOT
9 job, that had 12 percent MBE, 18 percent WBE.

10 There were three bidders.

11 The low bidder was an MWBE.

12 Elderlee was second.

13 All bids were rejected because the State put
14 the wrong funding on the project. They listed it a
15 as a State-funded project, and they changed it to a
16 federal-funded project.

17 So when it was rebid, the same quantities,
18 same items, it came out with a 5 percent DBE.

19 Same work, but under the federal guidelines,
20 it only had 5 percent DBE on it.

21 It had a shorter completion date, so we
22 didn't bid it, because we didn't think we could make
23 the DBE percentages.

24 It was all our work.

25 The same MWBE was low bidder. He was the

1 only bidder. His price was 13 percent higher than
2 it was the first time. And he did not make the
3 goals.

4 But he must have received the waiver, and
5 proceeded with the contract.

6 So if an MWBE can't fill the goals, how are
7 we going to do it?

8 Just so happens that, in the spec book, the
9 State is allowed to use the full value of that
10 contract towards the DBE goals because the DBE was
11 the low bidder on that job.

12 So we do apply for waivers.

13 It is -- we go through the painstaking
14 process of applying for the waivers in order to keep
15 our employees' employment hours intact.

16 The type of work we do is specialty
17 contracts. They're guide rail, with highway signs,
18 and there's seldom 30 percent of the job available
19 to sub out.

20 And, you know, we had trouble convincing the
21 Civil Rights Department of that.

22 And items that are available to sub out, we
23 can't always use the most competitive price, and
24 this puts us in jeopardy of losing the contracts.
25 And it's all at an added cost to the taxpayers.

1 And -- the most recent project is a
2 traffic-sign project. We received a waiver because
3 there were no items to sub out.

4 After the job was done, we had to go back
5 through and justify our good-faith effort.

6 They're currently holding our final payment
7 up until we can prove that we did a good-faith
8 effort.

9 They gave us a waiver upfront when they
10 awarded the job. So it's just creating extra work
11 and time delay in getting our payments.

12 On the manufacturing side, we're in the same
13 position.

14 We bid OGS contracts for the sale of
15 materials to New York State DOT, New York State
16 Thruway, and any municipality that can purchase off
17 OGS price lists.

18 99 percent of products are steel products
19 that we fabricate and galvanize in-house.

20 We purchase raw steel by the thousands of
21 tons from major steel companies, like Nucor, Steel
22 of West Virginia, Bull Moose Tube, Bayou Steel,
23 Atlas Tube.

24 Pre-form guide railing, corrugated beam that
25 you see along the highway, we -- and proprietary

1 products, we purchase from big companies like
2 Trinity Industry, Gregory Highway Products and Road
3 System, Lindsay Transportation Systems, and many
4 other major U.S. companies.

5 Most of these companies are publicly-owned,
6 or, large non-MWBE privately-held companies.

7 We are required to spend weeks and weeks of
8 solicitation for MWBE companies that don't exist,
9 other than our only New York competitor, which is an
10 MWBE company and may be submitting their own bid.

11 We are required to solicit prices from
12 companies located outside of New York State and/or
13 companies whose products have no relation to the
14 highway-safety products.

15 The only option is to use them as a
16 pass-through, which is not ethical option for
17 Elderlee.

18 This process in search of MWBEs that don't
19 exist delays the awards, delays us from ordering raw
20 materials, delays us from fabrication of materials,
21 and delivery to the State.

22 In one situation, it took us nine months to
23 get an award on an OGS contract, to go through the
24 good-faith effort.

25 That job was bid -- or, contract was bid in

1 2014. It was a 4-year contract. And it was
2 necessary for us to order steel as soon as we knew
3 we were going to get that contract.

4 You know what the price of steel has been
5 doing over the last few years, you know, and we end
6 up eating that cost by the delay of the award of
7 that contract.

8 That contract was recently bid again, and
9 I think it's another 4-year contract.

10 We happened to be the low bidder on that one.

11 They did reduce the goals on this contract
12 this time around, and it hasn't been awarded yet.

13 We submitted our good-faith efforts, and
14 we're waiting to see what's gonna happen there.

15 On the manufacturing side, there are two
16 family-owned companies in New York that manufacture
17 New York-style guide railing. Both companies were
18 started about the same time in the 1960s.

19 The other company has been afforded the
20 opportunity to become a DBE-WBE from the transfer of
21 funds from the father to the daughter some 25 years
22 ago.

23 So, we're in a situation here where there's
24 only two companies in the state that produce this
25 product, but one has preference over the other

1 because of WBE status.

2 So, request for relief, you know, we're
3 asking for your assistance in reviewing the
4 following:

5 Good-faith waiver process.

6 To stop the atmosphere of intimidation being
7 placed against general contractors to hit the 12 and
8 18 percent goals. These are becoming more of quotas
9 than they are goals.

10 The overconcentration. I think you need to
11 look at areas of overconcentration, not only in the
12 guide-rail business, but in other areas, where you
13 have more MWBEs than majority-owned companies or the
14 volume of work.

15 Look at the volume of work and how it's being
16 distributed.

17 I don't -- that should be all tracked in the
18 EBO's (ph.) contract program.

19 We see this in other states.

20 There are items out there that should be
21 race- and gender-neutral, and the contractor should
22 get credit for those items towards his DBE or MWBE
23 percentages.

24 The MWBE goals need to be tailored more
25 towards a disparity study.

1 The disparity study that was done in 2010,
2 I think, or 2014 --

3 DAVID BRAGG: The one we're using right now
4 is 2010.

5 The one they did in 2016 is flawed, as we --
6 everybody knows.

7 DAVID M. DeJOHN: But you can't throw a
8 blanket over the whole thing.

9 You've got to look at the contracts,
10 what's -- what's subcontractible.

11 You got to look at where the MWBEs and
12 majority-owned companies, how it shares out as far
13 as the percentage of the companies that are doing
14 the work.

15 And I think you need to avoid conflicts.

16 When you're asking competitors to work
17 together, you're opening up Pandora's box.

18 There's a lot of confidential and proprietary
19 information that every company has.

20 And when you're asking us to solicit prices
21 from our competition, you're exposing the companies
22 to proprietary items that nobody should see.

23 And graduation from the program, I know
24 there's people here that have graduated, and trying
25 to get back in. But we've seen over the years that

1 if there isn't a graduation point, the system
2 doesn't grow.

3 And years ago, New York's program was very
4 flat in the 1990s. And we packed up and went to
5 North Carolina to work, because the highway program
6 was booming. And we were there for 10 years.

7 And then when the program flattened out and
8 dropped, there was no work for the majority-owned
9 companies or the MWBEs that graduated.

10 And the only ones that were left were MWBEs
11 that were able to hold their certification.

12 So, we packed up after 10 years, and closed
13 the division up, came back to New York.

14 I see the same situation is gonna to happen
15 here down the road. Our highway program has been
16 very flat.

17 We're all for developing new companies, but,
18 if you can't support it with the highway funds,
19 there's going to be some failures in it.

20 SENATOR HELMING: Dave, I want to thank you
21 for your testimony. It's been very detailed,
22 I think very informative.

23 The request for relief will certainly help us
24 out as we continue going forward.

25 At this time, I'd just like to ask my

1 colleagues if there are any questions for Elderlee?

2 Questions or comments?

3 SENATOR O'MARA: No, I was just -- I was
4 reading over the last part of your thing here, on
5 the shortage of skilled labor, which is certainly a
6 priority of ours as well in workforce development.

7 And, certainly, these areas where you've
8 highlighted with the BOCES schools and technical
9 colleges, and helping that transition, because we
10 hear it from employers all the time: That jobs are
11 available. We're not finding the skill set that's
12 needed, or even, in fact, the work ethic that's
13 needed, to show up to work on time and do the job.

14 So, I really appreciate you having that in
15 here.

16 And, you know, you were covering the issues
17 extremely well.

18 So, thank you.

19 DAVID M. DeJOHN: Back to the shortage of
20 skilled labor, you need a program to transition the
21 kids coming out of the BOCES and the SUNY system
22 into construction, especially on
23 prevailing-wage-rate jobs.

24 You know, they come into the program at full
25 scale, \$28, \$30 an hour, 18, 19 years old. No

1 experience.

2 We need a graduated program, like an
3 apprenticeship program.

4 And the prevailing wage only allows the
5 apprenticeship for minorities, females, and people
6 with financial difficulties.

7 I think we need to make that program bigger.

8 It's -- when you hire an 18-year-old kid and
9 pay him \$30 an hour, he hasn't earned that wage yet.
10 He doesn't appreciate what it took to get there.

11 Plus, it does cause issues within your ranks
12 too.

13 So, I'd like to thank you for your time, and
14 please feel free to give us a call anytime and
15 discuss some of these issues.

16 SENATOR AKSHAR: Let me just get your thought
17 quickly, if I may, on -- in terms of capacity.

18 The issue that I'm interested in is
19 regionalizing our approach to this 30 -- the
20 "30 percent" that the Governor had just arbitrarily
21 come up with.

22 I'm advancing a piece of legislation specific
23 to this program, that would look at each regional
24 economic development district, if you will, of the
25 state, and look specifically at capacity in that

1 region.

2 So, if the capacity was 12 percent, then
3 that's what the number should be. Right?

4 If we've determined that there are, in fact,
5 12 percent MWBEs that exist in this region of the
6 state, why we should be using that number?

7 And if it was really our intent to get to
8 30 percent, why the Administration should do a much
9 better job at certifying and recertifying MWBEs.

10 Just curious as to your thought about a
11 regionalized approach.

12 DAVID M. DeJOHN: Well, I think you got to
13 look at what items are really contractible or
14 subcontractible on a project.

15 I mean, you may have a whole bunch of
16 landscapers in this region, but you may not have any
17 work coming out with landscaping on it.

18 So I think you need to look at each
19 individual work item, and what's available out
20 there.

21 And, you know, what's happening is that, if
22 you've got 15 to 30 percent of, let's say, the guide
23 railing being -- filling the goals on the job, then
24 the curbing guy and the sidewalk person and the
25 landscaper MWBE might not be getting the work

1 because all of the work is going to the bigger
2 subcontractible items.

3 DAVID BRAGG: Senator, your EEO is already
4 done regionally. Those goals are based on those
5 areas.

6 And, there's no reason why your legislation
7 couldn't do the same thing.

8 I mean, I think, regionally, upstate and
9 downstate are completely different areas.

10 And if they've already done the EEO goals
11 that way, there's no reason why we can't do the MWBE
12 goals the same way.

13 SENATOR AKSHAR: Great.

14 Thanks for your testimony.

15 DAVID M. DeJOHN: That information is
16 available. It's all tracked by contract as to who
17 the MWBEs are on the contract, what items they
18 worked on, and the dollar volume.

19 SENATOR AKSHAR: Great.

20 DAVID M. DeJOHN: As a matter of fact, we've
21 asked for that information in the various regions in
22 order to find MWBEs to do work for us.

23 SENATOR HELMING: Thank you very much.

24 DAVID BRAGG: Thank you.

25 SENATOR AKSHAR: Thank you, guys.

1 SENATOR HELMING: The next person joining us
2 is Kay Stone-Gansz, president of Stone Goose
3 Enterprises and Smith's Gravel Pit.

4 Kaye, welcome.

5 KAYE STONE-GANSZ: Thank you for the invite,
6 I really appreciate it.

7 Mine's gonna be a little shorter because
8 I just really have two issues to discuss.

9 I am a WBE currently in the construction
10 business.

11 And when I first started my business, it was
12 around the premise of becoming WBE so that I could
13 get into some of these bigger jobs and do some
14 bidding.

15 I submitted my paperwork, you know, in 2013,
16 and finally became certified in 2014.

17 But I spent a lot of time that whole year
18 trying to contact the office, get status. Nobody
19 ever called me back.

20 So I was really frustrated with just the lack
21 of communication.

22 That is the big piece that I want to talk
23 about just for two seconds, because I lost a lot of
24 time on some of these jobs that I could bid on to
25 start, you know, increasing my business volume.

1 So I ended up getting involved.

2 I went to Senator Nozzolio at the time, and
3 he helped me, but it still took a long time. And it
4 was funny, him and I had many discussions on, hmm,
5 why is this taking so long?

6 The main message to me was that the State
7 kept cutting that department. They were getting
8 bombarded with applications, and going through them
9 was just taking so long.

10 But, you know, my little business in Sodus,
11 New York, was suffering at the time.

12 So, I did become certified.

13 Like I said, it took about a year and a half.

14 And then, here, the interesting thing is,
15 I try to become -- try to become recertified. Put
16 my paperwork in, very early in '17, and I'm still
17 not recertified yet.

18 So, you know, I have worked with
19 Senator Helming several times, let's put that it
20 way, again, trying to get status, where is it?

21 They keep saying it's pending.

22 But in the meantime, when I'm out doing bids,
23 that's not a warm fuzzy for my primes.

24 So, you know, I sell gravel and stone, I own
25 a quarry.

1 So, you know, they want this material, and
2 they want to get it from me, because a lot of times
3 that material is a big item, so they can knock off
4 that 30 percent. So it's been a good partnership
5 based on the rules and regulations on the backside.

6 But now it's, hmm, what does that mean,
7 "you're pending"?

8 And so people are stepping back a little bit.

9 So that's a big deal, because I've got some
10 big contracts, big money, on the line.

11 So -- and then -- so that's the other piece.

12 And, again, you know, Senator Helming, you
13 tried several times, and we keep getting, oh, you're
14 pending, and everything's fine.

15 When I'm "pending" anything, I'm not fine.

16 So it's frustrating again, because maybe they
17 pull it. What happens then, you know, if I'm in the
18 middle of a contract, or something, and then it all
19 falls apart?

20 So, there's issues there.

21 The other thing is, as I expand my business
22 into other disciplines so I continue to build this
23 business of mine, I'm looking to update some job
24 codes.

25 So, to go in and update my profile, so that

1 I can take on more things in my business, that's
2 becoming a whole huge conundrum, because now I've
3 got to go in and it's like I'm a brand-new business.

4 And, you know, I haven't changed.

5 So I -- it's frustrating that I go through
6 all of this, from a time perspective, and now I'm
7 thrown into another time capsule again.

8 So, two messages here:

9 We need to really work on the timing of all
10 of this stuff.

11 I understand what has to be done and why it's
12 being asked to be done, but we've got to move this
13 stuff faster.

14 The other thing, and it also helps with
15 keeping the database up to date too, because if --
16 and I found the same thing, working with colleagues,
17 or just different things that I'm doing, suggesting,
18 go look at the database to some of my primes for
19 these types of things. Come to find out, they're
20 out of business.

21 So we need to keep -- it's that whole
22 communication piece. It needs to be more
23 streamlined, more efficient, and just help us.

24 That's the whole point, is it's to help the
25 businesses.

1 Any questions?

2 SENATOR HELMING: I don't have a question,
3 but I have a comment, it's to everyone here.

4 So, the state agencies involved in MWBE
5 certifications, recertifications, and others, have
6 all been invited to every single one of these
7 hearings. And I don't believe that a representative
8 has showed up to a single hearing.

9 The Governor has sent no one; has not
10 mandated that they be here to listen to these, to
11 hear what's happening around the state.

12 Nothing.

13 So, my office will continue to work with
14 you --

15 KAYE STONE-GANSZ: No, I appreciate it.

16 SENATOR HELMING: -- to do what we can.

17 I know it's frustrating.

18 That's part of the reason why we're holding
19 these hearings.

20 Thank you, Kaye.

21 KAYE STONE-GANSZ: Yeah, I mean, and it's
22 scary to the -- to my primes, because, again, like
23 me, when I'm -- anything's "pending," what does that
24 mean?

25 You know, you worry.

1 Anything else?

2 SENATOR O'MARA: I would just add that, you
3 know, your situation is not unique. It's not unique
4 to Pam's office or her predecessor Nozzolio's.

5 We're dealing with it all the time with my
6 staff in my office. And I know that Fred is as
7 well.

8 It's extremely frustrating.

9 It's not the way New York State should
10 operate if we truly are open for business in this
11 state, and trying to make some -- some positive
12 things happen with this program overall.

13 That's why we're not looking to do away with
14 the program completely, but to refine it and have it
15 be effective.

16 But, if it takes you that long to get
17 certified, and then you can't get recertified,
18 it's -- it's just abysmal.

19 KAYE STONE-GANSZ: Yeah.

20 SENATOR AKSHAR: It's remarkably amazing too,
21 from -- you know, the Administration touts this
22 program as one of its major successes, and I know
23 the Governor thinks very highly of the program.

24 You would think that we would be staffing the
25 agency appropriately. Right?

1 We've talked about this taking a regionalized
2 approach. Right?

3 And if we wanted to get to this number, why
4 we would work harder to get people certified.

5 I'm just curious, have you lost business as
6 you wait for your recertification, because of the
7 reluctance on the part of the prime contractors to
8 use you, not knowing if they'll face issues down the
9 road?

10 KAYE STONE-GANSZ: Yeah, so I -- the way my
11 business works is, I have contracts, because, like,
12 roadwork and, you know, I supply to asphalt
13 companies, and so on.

14 I've kept all of those contracts, but I've
15 had a lot of hard discussions with getting new
16 people coming in.

17 So I've kept my contracts.

18 But as far as getting more work, the longer
19 I'm in "pending" mode, the more it's looking like,
20 well, could it eventually happen that you're not
21 certified? Maybe find something that won't, you
22 know, recertify you?

23 I can't answer that question.

24 And when I -- again, back to the
25 communication, I call the office. You know, I've

1 gotten contacts from Senator Helming. I've called
2 them, and I get nowhere.

3 I just -- it's like I'm calling into a black
4 hole somewhere.

5 SENATOR AKSHAR: It probably is a black hole
6 somewhere.

7 KAYE STONE-GANSZ: Exactly.

8 So I can't give new potential customers that
9 warm fuzzy that we'll be there, that I'm there.

10 So -- and I'm an honest business person, and
11 I work it that way.

12 So I would say, yes, you know.

13 I -- yes.

14 From a continued perspective, yes.

15 SENATOR AKSHAR: You will, in fact, lose
16 business?

17 KAYE STONE-GANSZ: Yes.

18 SENATOR AKSHAR: But you couldn't quantify
19 today as you testify?

20 KAYE STONE-GANSZ: Yeah, not today.

21 SENATOR AKSHAR: Okay. Great.

22 Thank so much.

23 KAYE STONE-GANSZ: Thank you very much for
24 your time.

25 SENATOR HELMING: Thank you, Kaye.

1 SENATOR AKSHAR: Ethan, you're on deck.

2 SENATOR HELMING: Ethan is the executive
3 director of the Canandaigua Chamber of Commerce.

4 And, Ethan, I'd like to welcome you.

5 ETHAN FOGG: Thank you very much.

6 I appreciate you taking the time, all of you,
7 for being here today.

8 My name, like -- thank you, Pam.

9 I'm here in my capacity as executive director
10 of the Chamber.

11 My comments reflect a fairly large audience
12 of businesses, not only in Canandaigua, but,
13 Ontario, Seneca, Wayne, Yates, and other counties
14 across Upstate New York.

15 The Chamber represents 500 businesses of all
16 sizes, from one employee, up to some of the region's
17 largest and most influential employers.

18 In our work as a chamber of commerce, we're
19 pro business in the most inclusive way.

20 We endeavor to make the regional marketplace
21 friendly to all individuals who are seeking
22 meaningful, gainful opportunities, and all
23 businesses that are seeking talented and
24 hard-working people, regardless of their racial or
25 ethnic background or gender expression.

1 My comments today will be brief, in part,
2 because any grievances with program design or
3 functionality I think will be addressed by other
4 folks here, and they're a matter of public record at
5 this point already.

6 I am more interested in talking about the
7 impact on the Finger Lakes --

8 And, actually, Senator Akshar, you already
9 alluded to some items that I'll speak to in a little
10 bit.

11 -- that not every area of the state is the
12 same, no more so are any two people the same.

13 And this program is designed to make up for
14 differences, and level playing fields.

15 I neither operate an MWBE-qualified firm, nor
16 do I subcontract to or for one, so I don't have
17 firsthand accounts. But I can speak to the
18 experiences of several of my member businesses.

19 The Governor's goal has been talked about
20 here, the 30 percent. It's ambitious, for sure.

21 Our rally as a state to that number already
22 has been pretty heroic, but, it's not without lots
23 of issues in the meantime.

24 Pivotal to the concerns of several of my
25 members is the use of statewide standards that don't

1 account for regional differences.

2 These firms report ongoing shortages of
3 minorities and women in skilled and semi-skilled
4 roles, and, also, qualified businesses in that
5 business segment.

6 Some of our testimony already talks about
7 very specific segments. And if you just don't have
8 one in that segment right now, the idea, in a part
9 of this state like this, where groups like mine and
10 politicians like yourselves are trying to retain
11 jobs, and grow businesses, the idea they have to go
12 four or five hours out of area to find a qualified
13 contractor to do work that folks here are going
14 without work to accommodate, isn't putting our
15 people to work.

16 It doesn't mean the Chamber doesn't want
17 MWBEs. We want success in every sphere.

18 It means that, sometimes, our member
19 businesses find it impossible to satisfy the
20 requirements of the program.

21 So folks that have spoken already either step
22 back from an opportunity that would be gainful for
23 them and for their employees, and for the region.

24 Several firms that I've spoken to, member
25 businesses, endorse an interesting alternative that

1 Senator Akshar referred to already: Regionalized
2 compliance standards based on local demographics.

3 Existing territories to find, perhaps by the
4 state's regional economic development councils,
5 could be used to define cohorts of workers, and
6 their demographics could be used to inform local
7 guidelines.

8 And minimum wage is an interesting precedent
9 that exists; an opportunity to create local
10 differentials, if you will, to statewide mandates.

11 Also, coupling -- well, let's get honest.

12 In a state like ours, coupling funding and
13 programs to things that we want to get done.

14 We've already talked about, if you call
15 somewhere and can't get what you need, it's broken.

16 And if we're expecting underperforming areas,
17 or underperforming industries, perhaps, to rally to
18 these expectations, I think it's fair, equitable,
19 and appropriate to support those expectations with
20 programming that works.

21 The Chamber has many businesses, some of whom
22 are MWBE-certified, others aspire to it, but they
23 all share a common denominator that we think of as
24 an imperfect labor supply.

25 I think all of you are probably from the

1 immediate area and understand that it's difficult to
2 get up tomorrow morning and say, You know what? We
3 need ten more of those -- forgive me -- "those kind"
4 of people; whatever the statutes are looking for.
5 You know, whether it be a different race; different
6 gender; different, whatever.

7 I looked at the last two studies on the
8 effectiveness, and lots of red ink and lots of black
9 ink, as far as, you know, where things are and where
10 they ought to be.

11 We live here.

12 You know, reality exists in every one of the
13 economic development zones, but those realities are
14 all different.

15 And I think the idea of a unified, you know,
16 a single paintbrush, brings with it some of the same
17 concerns that the program itself is designed to
18 overcome.

19 The idea that we should be able to all get
20 the same results out of the same expectations is
21 blind to the fact that difference exists.

22 And this program is designed to address and
23 accommodate for difference.

24 Until we work together to make it easier for
25 rural and semi-rural firms to qualify or secure

1 subcontractors, or, requalify, we're going to
2 continue to send money and jobs out of the area.

3 And even from a tourism standpoint, honestly,
4 I can't even endorse out-of-area contractors to fill
5 my hotels, because there's other people I'd rather
6 have using my lodging and restaurants than
7 out-of-town contractors, when I could be employing
8 people that live here, put their kids through school
9 here, and add value in their own home communities.

10 So, perhaps, we're looking at -- "we," the
11 Chamber -- is encouraging consideration of a
12 regionalized approach to compliance standards.

13 A progressive schedule, perhaps.

14 If the 30 percent becomes non-negotiable for
15 some reason, perhaps a progressive schedule, based
16 on those zones.

17 If your area is particularly behind the
18 curve, let's look at remedial opportunities, and
19 fund them and program them and staff them, to bring
20 one area more consistent to another, because it will
21 have several impacts at once, not the least of
22 which, it will allow people to work in the area that
23 they're employed. It will allow jobs to remain
24 local.

25 And I think, when you start shaving some of

1 those 10 and 15 and -- you know, and whatever
2 amount, margins we see to make some of these things
3 happen, that money can be reinvested.

4 We'd certainly love to just shave 15 percent
5 off of your tax bill. But if we can't do that, that
6 builds capacity.

7 If what we need to do costs less, because
8 we're using local labor, and because we're
9 empowering local business to do it, that builds
10 capacity, not only across the state, but it builds
11 capacity here. And it creates almost an incubation
12 dynamic, perhaps, that we can build businesses, and
13 within them we build people and talent.

14 And, ideally, at least some of those people
15 outgrow their opportunity within that business and
16 create a competitor, because an open market is part
17 of what this country is based on.

18 So, in closing, I wish, and I think it would
19 be fair to say that our community wishes, for a
20 marketplace where historic injustices experienced by
21 women and minorities remain just that: historic.

22 That, today, we can find a way to level that
23 playing field in a way that is -- that's beneficial
24 to everyone.

25 When you look at other things that have

1 happened in America, other ways we have overcome
2 injustice, there have often been uncomfortable
3 discoveries during the travel from wrong to right.

4 And I think we have a lot to learn from other
5 equal-right-opportunity history books.

6 Our work is not done, but I think we need to
7 be a little bit more careful in how we define our
8 work.

9 Thank you for the opportunity to speak to the
10 panel.

11 SENATOR HELMING: Thank you, Ethan.

12 SENATOR AKSHAR: Ethan, how often are your
13 members having to use out-of-area contractors to
14 fulfill the goal?

15 Is that something that they discuss with you?

16 ETHAN FOGG: Yes. It's -- anecdotally, it
17 varies a lot, much like the testimony already here.

18 I can't give you hard numbers.

19 If you need them, I can certainly leverage my
20 relationships and put some together.

21 The folks that I talk to, some of the
22 projects that you actually drive by when you're in
23 the area, are employing folks that don't live here,
24 don't support our tax base, you know, don't add
25 value in the long term. But, through the use of,

1 you know, contracts like this that require it, we
2 bring people in to do specific tasks.

3 They do their work, and then they're free to
4 go.

5 So...

6 SENATOR O'MARA: Thank you.

7 ETHAN FOGG: Certainly.

8 Thank you.

9 SENATOR HELMING: Ethan, does the Chamber --
10 I believe the Chamber is a, national organization?
11 state organization?

12 Is there a New York State organization that
13 would have data? Or --

14 ETHAN FOGG: We are a member of the
15 U.S. Chamber, and we are a member of the
16 New York State Chamber.

17 We are not a chapter of either one.

18 Individual community chambers, there's a
19 Victor Chamber of Commerce, and so on.

20 We're all individual entities that belong to
21 those larger organizations.

22 I'm wondering if you're going toward,
23 perhaps, like, national lobby, or, state-level lobby
24 on -- this state, obviously -- state-level lobby,
25 through the New York Chamber of Commerce?

1 SENATOR HELMING: That's part of it.

2 And the other part was, if the state chamber
3 had data that showed, you know, what is it that
4 businesses are seeing in New York State; what are
5 their experiences with the MWBE program?

6 If there's any data available, or if they
7 were taking a position?

8 ETHAN FOGG: Not that I'm aware of.

9 Right now I think everybody is a little
10 snow-blind by the tariffs that are -- you know, that
11 we're dealing with.

12 But what I can do, I'll actually send to your
13 staff, if that's all right, Senator Helming --

14 SENATOR HELMING: Absolutely.

15 ETHAN FOGG: -- I'll send whatever
16 information I can find.

17 SENATOR HELMING: Thank you so much, Ethan.

18 Thank you.

19 Next up we have Darleen Krisher-Meehan, with
20 Country Crossroads Feed and Seeds.

21 Welcome.

22 DARLEEN KRISHER-MEEHAN: Thank you for having
23 me.

24 SENATOR AKSHAR: Thanks for being here.

25 DARLEEN KRISHER-MEEHAN: All right. My name

1 is Darleen Krisher-Meehan, and I own an ag retail
2 store in Andover, New York. It's Country Crossroads
3 Feed and Seeds. And, I've been in business 15 years
4 in October, and I am sole proprietor.

5 I started the business.

6 My husband cash crops with me, so we work
7 together back and forth.

8 My son works for us. And my daughter fills
9 in a little bit.

10 But, we are a family-owned operation.

11 And I work mainly with dairy farmers, hobby
12 farmers. And I do a little bit with homeowners.
13 And I have a pretty good following with hunting
14 enthusiasts that like to plant food-processing
15 stuff.

16 So, 15 years, business is great.

17 I am a member of the Chamber. So, I had
18 gotten invited to our local chamber, through the
19 accord, was offering a seminar in regards to MWBE.
20 And they send me emails on everything. And it was
21 in January.

22 And I'm a very inquisitive person.

23 I like to know what's going on in the world.

24 I like to know what's out there to offer me.

25 So, I agreed to attend the seminar in

1 January.

2 So, I sat through the seminar, and I thought,
3 you know, I'm, like, this might not be a bad thing.

4 I really -- there's not a lot of ag
5 businesses that are women-owned, sole proprietor.

6 And there is a need in our area, amongst our
7 state, our pipelines, contractors, looking for lyme,
8 seed, and fertilizer. It's just something that's
9 common on a job, and I could maybe fill that niche.

10 So, I applied in February, and didn't think
11 much about it.

12 And, the end of May, I was, like, ah, they
13 said four to six weeks. I wonder what's going on
14 with my application.

15 So, I called in.

16 And there, again, lack of communication; they
17 don't communicate.

18 Really got nowhere.

19 The lady informed, she actually answered, and
20 said, I don't know why they say four to six weeks.
21 It takes much longer than that.

22 I'm, like, okay, whatever.

23 So along came some time.

24 And, in June, I had a -- she's a dairy farmer
25 in Nichols, New York. But she had gone to college

1 with my daughter, so she knew who I was.

2 She had gotten a grant to put in a milking
3 parlor. And the stipulation on that grant was, it
4 had to be purchased from an MWBE business.

5 So she had reached out to me because of the
6 mutual of my daughter, and, somebody that was, you
7 know, working on their parlor said, well, why you
8 don't ask Darleen.

9 So I had reached out to Senator Akshar at
10 that time, their office, because that was his --
11 that's his district.

12 So, he had contacted me back, and sent me
13 over to O'Mara's office, because O'Mara is actually
14 my representative for Steuben County.

15 And since then, I've been in contact with
16 Sara (ph.).

17 And --

18 SENATOR AKSHAR: I wanted to make sure
19 O'Mara's earning his paycheck.

20 [Laughter.]

21 DARLEEN KRISHER-MEEHAN: -- so it really just
22 became, for me, more of the timing of everything.

23 Like, their lack of communication.

24 For me, it wasn't that I had to have the MWBE
25 to make my business, you know, what I am today, but,

1 maybe give me a little bit more business, going
2 forward.

3 The dairy industry definitely struggling,
4 very dominantly, with the price of milk and
5 everything.

6 So I thought, oh, you know, maybe this will
7 give me a different avenue.

8 So for me, my frustration is more the lack of
9 communication and the timing.

10 I have talked to numerous people.

11 I, you know, went to Senator Akshar. I went
12 to Senator O'Mara. I talked to my local
13 legislators.

14 I actually reached out to Governor Cuomo's
15 representative for southwestern New York,
16 Lori Cornell. And she actually responded right
17 back. I'm an Active Farm Bureau member. And she's
18 been to my farm bureau meetings, and she knows who
19 I am.

20 And she's, like, yes, someone will call you
21 next week from their office.

22 Well, that was two weeks ago, and I haven't
23 heard anything from the MWBE office.

24 So, for me, it's more of the frustration of
25 the program.

1 And listening to everybody speak today,
2 I have said from day one, that I don't really agree
3 with the program.

4 I work in a very male-dominant world, and
5 it's an even playing field for me.

6 They either like you or they don't. I don't
7 care if I'm male or female. It's, just, that's the
8 way it is.

9 I do business, and that's what I want:
10 I just do my business, and I want to just go
11 forward.

12 But, you know, you look at these programs,
13 and lack of, you know, the -- not the lack of, but
14 the need to fulfill a certain entity that might be
15 missing. It's, like, okay, I might as well do it if
16 I can gain more business.

17 But, that's my big thing, is timing, and how
18 long it's taken.

19 But, I mean, you were saying that it took a
20 year and a half to get yours the first time. And
21 then, recertification.

22 So, is it really worth having the program?

23 Sorry.

24 I didn't know what I was coming into today.

25 And as I sit here listening, I'm, like, why did I do

1 this? Why did I file for this?

2 I'm WBE. I don't even like it anymore.

3 [Laughter.]

4 SENATOR HELMING: Well, we really appreciate
5 you being here, and your very candid and open
6 testimony.

7 And that's part of the reason, to be honest
8 with you, why we're here too.

9 You know, we will do whatever we can.

10 For those of you who are trying to get your
11 recertifications, get your certifications for the
12 first time, we'll push as hard as we can push, but,
13 there are just some times where we hit a brick wall.

14 DARLEEN KRISHER-MEEHAN: Right.

15 SENATOR HELMING: I will say -- or, share
16 with you that, last year, the women from the Senate
17 Majority Conference, we sat down with all of the
18 heads from the MWBE program. And we had commitments
19 from them, that we were going to see improvements in
20 their department, in their program, and the way
21 things were issued, and communication was going to
22 improve.

23 And, actually, it's sounding like it has gone
24 downhill.

25 DARLEEN KRISHER-MEEHAN: Yeah, I have called

1 since then, and no one answered the phone when
2 I called. There wasn't even a message. Like,
3 nothing.

4 And then I -- through my accord in the
5 Chamber, I had done a program, and I had to stop in
6 there and pick up the certificate from them. And he
7 was telling me that, in an accord meeting, they told
8 them that they're 2,000-plus applicants behind.

9 And when they told me that, I just laughed,
10 because I've been in business for 15 years.

11 I have a weigh-master's license. I have a
12 New York State driver's license. I have a feed
13 manufacturer's license.

14 I have all of these certificates -- or, all
15 of these permits from the State of New York.

16 And I just recently applied for a shooting
17 preserve permit.

18 And my name is obviously in the system,
19 because they called me from the DEC office and said,
20 hey, are you sure you want this just under your --
21 you know, your name and Ringneck Ridge Game Farm,
22 and not Country Crossroads.

23 And I said, "I'm positive."

24 So it rang a bell to me then that my name is
25 in the system.

1 It shouldn't take that long to put my name in
2 the system and realize that I've been in business,
3 I'm a sole proprietor, I'm not going anywheres.

4 So, like, I haven't been in business a year.

5 I've been in business 15 years.

6 So that was where my other frustration came
7 in to with, you know, why I put in my oral
8 testimony, all of my certificates that I have.

9 I'm State-certified in more than one thing,
10 so, it shouldn't be that complicated.

11 And then I go to, okay, what if something,
12 that they finally get to my application, what if one
13 of my documents have now expired because it's been
14 seven, eight months? Are they going to kick it
15 back?

16 SENATOR AKSHAR: Well, you can count on that.

17 That's exact -- and this is the truth, that
18 is exactly what's going to happen.

19 DARLEEN KRISHER-MEEHAN: Because I have been
20 hearing that. And I'm just, like, it's not that
21 important to me, where like I said, I'm, like, I'm
22 over it.

23 Like, I just wanted to -- you know, I just
24 feel that fair is fair.

25 And if they say they're going to do it, they

1 should follow through and do what they're supposed
2 to do.

3 But, I don't think that the program is that
4 valuable of a program, personally.

5 So, yeah.

6 Any questions for me?

7 SENATOR O'MARA: No.

8 SENATOR AKSHAR: We're sorry you're going
9 through such a difficulty, but that is why we're
10 traveling the state, and we're trying to fix
11 something that is broken.

12 DARLEEN KRISHER-MEEHAN: You know, like, the
13 grant that she got, you know, my farmer, don't put
14 grants out there, and award grants, that have to be
15 MWBE-certified businesses to buy from, when there
16 are no businesses.

17 You know?

18 And then she loses her grant because, what
19 else is she going to do?

20 So, they put stipulations on stuff that
21 shouldn't be on there.

22 SENATOR O'MARA: Exactly.

23 SENATOR AKSHAR: Thank you for your time.

24 SENATOR O'MARA: Thanks a lot.

25

1 SENATOR HELMING: Kathryn Carroll, Center for
2 Disability Rights.

3 Thank you for joining us today.

4 KATHRYN CARROLL, ESQ.: Thank you for having
5 me.

6 And I really appreciate the others who gave
7 testimony today. It was very informative.

8 Thank you, Senators, for convening this
9 hearing.

10 And thank you, Senator Helming, for the
11 invitation.

12 So, Senator Akshar, we, the Center for
13 Disability Rights, agrees that the MWBE program
14 needs to be amended.

15 And, Senator Helming, to answer your question
16 from the beginning of the hearing, this program
17 could beneficially affect the disability community
18 in New York if it acknowledged the significant
19 barriers that people with disabilities have to
20 employment in this state, and included them in the
21 MWBE program.

22 So, again, my name is Kathryn Carroll. I'm a
23 policy analyst at the Center for Disability Rights.

24 We're headquarters in Rochester, but we have
25 satellite offices in Corning, Geneva, Albany, and

1 here in Canandaigua.

2 We are a center for independent living. We
3 advocate for the independence, integration, and
4 civil rights of people with disabilities.

5 And as advocates for people with
6 disabilities, we don't only expect that people with
7 disabilities -- New Yorkers with disabilities be
8 able to live in their own homes; their own
9 affordable, accessible homes in the community, and
10 have access to services and accessible
11 transportation, but we also expect that New Yorkers
12 with disabilities have the opportunity to compete
13 with their non-disabled peers in the competitive
14 integrated workforce.

15 So, I have some background information for
16 you on just where we are in terms of employment of
17 people with disabilities.

18 The -- basically, the employment rate of
19 people with disabilities is unacceptably low.

20 In August of this year, the
21 employment-to-population ratio for non-disabled
22 people, and this is nationally, was 73 -- and this
23 is for non-disabled people, was 73.8 percent. For
24 disabled people, it was 30.2 percent.

25 And, according to the numbers in the

1 Disabilities Statistics Compendium, New York ranks
2 40th among the states for employment of people with
3 disabilities. We have just a 33 percent disability
4 employment rate.

5 This means a large segment of the New York
6 population is unable to improve their economic
7 situations and fully participate in the community.

8 And just to give you some rough numbers:

9 We have just about 400,000 people with
10 disabilities in New York State. And, generally,
11 it's one in five; one in five people has a
12 disability.

13 And, the trend of these employment numbers is
14 very discouraging.

15 Non-disabled people, nationally, have been
16 able to return to their pre-Great Recession
17 employment-to-population ratio. But, the disabled
18 population, we haven't seen that type of recovery
19 yet.

20 And, the gap between the employment rates of
21 non-disabled and disabled people widened as a result
22 of the Great Recession, and hasn't narrowed as
23 things have gotten better.

24 So, basically, even as the economy is
25 performing better, people with disabilities are

1 still being left behind.

2 So, I'm here today to ask you to include
3 "disability" as a category in the MWBE program.

4 We need to acknowledge the gravity of these
5 employment numbers, and create additional policies
6 that will ensure increased workforce participation
7 for disabled New Yorkers.

8 The equal-employment contracting
9 opportunities were expanded to include a program for
10 service-disabled veteran-owned businesses, but
11 didn't go far enough. These programs should include
12 disabled people, period.

13 The whole purpose of the MWBE program is to
14 improve the economic prospects and entrepreneurship
15 opportunities of people who have historically been
16 excluded from these things, and have particular
17 disadvantages.

18 And, excluding people with disabilities,
19 categorically, ignores the fact, the reality, that
20 we face tremendous barriers to employment,
21 incredible discrimination.

22 And, there's all kinds of docu -- it's well
23 documented that, as a result of these barriers, the
24 disabled population experiences poverty at much
25 higher rates than the non-disabled population.

1 Participation in the MWBE program would be
2 beneficial to disabled people.

3 And, interestingly, according to the Bureau
4 for Labor Statistics, employed persons with a
5 disability were actually more likely to be
6 self-employed than those with no disability.

7 And since the MWBE program supports business
8 ownership and entrepreneurship, the very place where
9 people with disabilities are standing out, we should
10 support those endeavors.

11 Expanding these programs to business owners
12 with disabilities would complement existing
13 employment initiatives.

14 So just the pathways to self-employment,
15 through access VR, and programs like the ODEP
16 (Office for Disability Employment) startup program
17 that was -- that has been used by New York in the
18 past.

19 I mentioned in my testimony, the value of
20 fostering, and include -- fostering an environment
21 of diversity and inclusion, and how diversity
22 inclusion -- diversity and inclusion are being
23 increasingly linked to the bottom line in the
24 marketplace.

25 And organizations are interested in

1 increasing their supplier diversity, and they want
2 to position themselves as leaders in the area of
3 inclusion.

4 I think it goes without saying that
5 increasing employment opportunities for people with
6 disabilities would directly benefit them, and the
7 state.

8 For disabled people, employment represents
9 greater self-sufficiency, and the ability to more
10 actively participate in the community, and for
11 the -- and at the same time, job opportunities for
12 people with disabilities saves the federal and state
13 governments money by reducing dependence on cash and
14 medical and disability benefits.

15 And I didn't spell it out in my written
16 testimony, but, increasing the pool of people that
17 could certify under the MWBE program, I believe,
18 would alleviate some of the stress on farms to meet
19 aspirational goals, whatever that number is.

20 I also wanted to note intersectionality, and
21 briefly talk about the service-disabled
22 veteran-owned business program.

23 And when the State created that program, it
24 implicitly acknowledged intersectionality in the
25 interplay of different identities that contribute to

1 the barriers that a person faces in competing in the
2 marketplace.

3 So, I wanted to point out that, we can -- we
4 can still -- even by expanding the MWBE program to
5 include people with disabilities, we can still
6 acknowledge intersectionality.

7 And in the case of service-disabled
8 veteran-owned businesses, we can create goals for
9 contracting with disabled-owned businesses, but give
10 additional weight to service-disabled veteran-owned
11 businesses, to acknowledge the different sources of
12 barriers that that particular population faces.

13 And, finally, I just want to share that other
14 states are already doing this, including disability,
15 generally, in their minority-owned business
16 development programs.

17 For example:

18 Connecticut's contracting set-aside program
19 for minority-business enterprises does include
20 people with disabilities.

21 People with disabilities can qualify for
22 participation in Illinois' business enterprise
23 program.

24 And, additionally, Delaware includes
25 disabled-owned businesses in its diverse supplier

1 program.

2 And, notably, each of those states is
3 performing better than New York in terms of
4 employment of people with disabilities.

5 So, unfortunately, we can't be the first.

6 I always like it when New York is the first
7 in something, being the first and the best.

8 But, this is an area where we can definitely
9 change our policies to lead, and improve the --
10 improve the situation for a lot of people,
11 particularly the disability community in New York.

12 So that concludes my testimony, and I'll take
13 any questions if you have any.

14 SENATOR HELMING: Thank you.

15 SENATOR AKSHAR: Thank you.

16 SENATOR O'MARA: Thank you.

17 We prefer to be first as well.

18 And, unfortunately, New York, lately, we seem
19 to be either first or last for the wrong reasons on
20 both ends.

21 But, that's the frustration we deal with in
22 Albany.

23 So, we really appreciate your input here.

24 KATHRYN CARROLL, ESQ.: Thank you.

25 SENATOR AKSHAR: Kathryn, are you concerned

1 at all with hearing the other testimony, and
2 whatever you know about the MWBE program?

3 That -- I'm not suggesting for a moment with
4 my line of questioning that we shouldn't, in fact,
5 take you up on your suggestions.

6 I think they're good suggestions, and I think
7 it's something that we, in fact, should look into.

8 But, with all of the trouble surrounding this
9 particular program, and people who are currently
10 certified, recertifying, would you be concerned that
11 those issues would negatively impact, trying to add
12 another layer, or another group of people, if you
13 will, to the program?

14 KATHRYN CARROLL, ESQ.: I mean, right, so my
15 suggestions don't get at the administrative problems
16 that this program is obviously facing.

17 And if we can deal with those, great.

18 But I think that -- so I think it's a program
19 that's meant to help and support businesses that are
20 disadvantaged in some way.

21 We really need to include people with
22 disabilities, regardless.

23 I mean, I look forward to seeing what the
24 Legislature comes up with in fixing the program.

25 But, no, I'm not -- as a fundamental matter,

1 no, I'm not concerned with adding "people with
2 disabilities" as a group.

3 SENATOR AKSHAR: I haven't been around that
4 long, but I have long said that we have a moral and
5 fundamental obligation to take care of people with
6 disabilities, right, and that everybody deserves an
7 opportunity be successful regardless of ability.

8 I happen to think that we are falling far
9 short on fulfilling our obligation, not just maybe
10 in this program, but just on a statewide basis.

11 I'm curious of your thoughts on that issue.

12 KATHRYN CARROLL, ESQ.: I mean, there are a
13 number of issues that the Center for Disability
14 Rights works on.

15 And it is very frustrating to see what's
16 going on at a state level. There's so much that --
17 more that we could be doing to ensuring greater
18 integration of people with disabilities.

19 SENATOR AKSHAR: What about our state's
20 investment?

21 KATHRYN CARROLL, ESQ.: I'm thinking
22 specifically of the housing sector, and what we're
23 not doing to ensure more development of more
24 accessible housing.

25 SENATOR HELMING: Transportation issues?

1 KATHRYN CARROLL, ESQ.: Transpor -- yes.

2 SENATOR HELMING: It's huge.

3 KATHRYN CARROLL, ESQ.: Huge.

4 There are just so many sectors that we're not
5 doing what we could.

6 SENATOR AKSHAR: Thank you.

7 I appreciate the work you do.

8 Thank you.

9 KATHRYN CARROLL, ESQ.: Thank you.

10 SENATOR HELMING: That concludes our
11 testimony for this afternoon.

12 I want to thank everyone who presented
13 information.

14 It's been extremely helpful to hear firsthand
15 from you, your experiences with the program.

16 Is there anyone here who would like to -- who
17 hasn't testified, if you'd like to offer comments or
18 thoughts?

19 SENATOR AKSHAR: Of course we can, yeah, if
20 somebody's here.

21 SENATOR HELMING: No?

22 If not, you can always submit written
23 testimony at any time.

24 Again, I just want to thank everyone for
25 being here, and for your honesty and being candid

1 about the program and your experiences.

2 The information that we gather here will go
3 back with Senator Akshar.

4 Senator Akshar and Senator Ritchie will
5 compile the data, and it will help drive the
6 decisions that we make when we return back to Albany
7 in January.

8 Senator Akshar.

9 SENATOR AKSHAR: Yeah, I think that's
10 important what Senator Helming just said.

11 It may seem unconventional, just because of
12 the way state politics work, but we're really taking
13 a bottom-up approach in dealing with this issue and
14 trying to find solutions.

15 So, while I think I can say this about the
16 three of us, and Senator Ritchie, we -- not specific
17 business owners, we don't operate within the MWBE
18 program, but, it's really important for us to hear
19 from all of you who are dealing with these barriers
20 and these, you know, trials and tribulations every
21 day in the program.

22 So, everything that you have said today, and
23 the testimony that we have taken in other parts of
24 the state, is really going to drive our Conference's
25 legislative agenda in terms of changing this

1 program.

2 So, I just want to thank you all for coming
3 out and having the willingness to testify, and
4 giving us some of your time. I know you all have
5 busy schedules.

6 And, Senator Helming, thank you again for
7 hosting this;

8 And to the college as well.

9 SENATOR HELMING: Thank you.

10 Senator O'Mara.

11 SENATOR O'MARA: I'm good.

12 Thank you all very much for participating.

13 SENATOR HELMING: Thank you.

14 SENATOR AKSHAR: Thank you all.

15
16 (Whereupon, at approximately 3:32 p.m.,
17 the joint-committee public hearing held before the
18 New York State Senate Standing Committee on Labor
19 and the Senate Standing Committee on Economic
20 Development concluded, and adjourned.)

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