

3

**Acting Commissioner Mario J. Musolino  
NYS Department of Labor  
Budget Testimony  
February 4, 2015**

**Joint Hearing of the Legislative Fiscal Committee**

Chairman DeFrancisco, Chairman Farrell and distinguished members of the committees: My name is Mario Musolino and I am the acting commissioner of the New York State Department of Labor. On behalf of the Department of Labor, I am pleased to be here today, and I thank you for this opportunity.

Under Governor Andrew M. Cuomo, the New York State Department of Labor has been and is a leader in the nation compared to other states.

We help more people find work.

We recover more lost wages for workers.

We uncover more fraud.

And we are rewarded more by the federal government because of this.

We are re-thinking our processes to make them more efficient and work smarter for workers and businesses.

As other states look to New York for guidance, we continue to break new ground across our divisions.

What we are doing is working. And we are succeeding like never before.

**New York State Economy**

Simply put, New York State has more jobs now than at any time in history. And this is not an isolated statistic. In nearly every month over the past year, we have announced a new all-time record high private sector job count.

Since Governor Cuomo took office, the state's economy has added more than 535,000 private sector jobs, bringing the total to above 7.6 million. The state has experienced employment growth in 41 of the past 48 months, including a streak of 22 consecutive months of private sector job growth -- the state's longest on record.

December alone saw the biggest monthly gain in two years, adding more than 30,000 private sector jobs and outpacing the nation's growth two to one.

More people are working today in New York State than in 2010 before the governor took office. And these numbers are not just because the population has grown. Under Governor Cuomo, the number of private sector jobs has outpaced both population growth and growth of the overall workforce.

The state's unemployment rate is down to 5.8% -- its lowest level since September 2008. This is a decrease of 2.5 percentage points from 8.3% at the end of 2010. In fact, the unemployment rate is down by more than 2 percentage points in each of the 10 regions of the state. New York City's unemployment rate in particular is down to 6.3% -- its lowest level since October 2008.

The Department of Labor plays a major role in strengthening the economy by connecting job seekers to jobs, supporting businesses in hiring, assisting the unemployed and protecting workers. That is our mission.

## **Budget Overview**

The Department of Labor supports the Governor's Executive Budget. It provides the department with the resources needed to carry out our mission and support the Governor's goal of more effective and cost-efficient operations. And the Department of Labor's 2015-16 Budget Submission is consistent with the Director of the Budget's Call Letter requesting zero growth.

Nearly 90% of the Department of Labor's staff is supported by federal grant funding. The amount requested for federal grant programs is \$716 million.

Although there has been a decrease in some federal funding, the department has maintained a high level of performance and delivery for New Yorkers -- both within the workforce and employer community.

The majority of our state funding supports our Worker Protection programs and is mainly supported through our Special Revenue Other funds. The requested appropriations for the state programs are \$77 million.

I would like to briefly highlight some of the areas and programs that the Department of Labor manages and provide updates on the current status of those programs.

## **Unemployment Insurance**

First is the Unemployment Insurance system. The system is entirely funded by employers to provide benefits to eligible unemployed individuals. Due to significant reforms advanced by Governor Cuomo in 2013 to modernize the system, the department has achieved significant savings for businesses, and advanced groundbreaking increases in benefits for workers which is indexed into the future.

As you may recall, two years ago, New York State employers owed the federal government more than \$3.5 billion dollars in loans used to pay benefits for unemployed workers. Further, the system was structurally flawed with suppressed benefits for workers. On January 1 of this year, New York's employers owed \$1.5 billion, not \$3.5 billion to the federal government. This is a significant \$2 billion reduction in liabilities that no longer exist for employers. As we projected, we are on track to achieving our estimated \$400 million dollars in savings for businesses.

Further, we have implemented significant structural changes to the system and increased the benefits for workers for the first time in years. Unemployed workers now receive \$420 per week and there will be increases in the future. Last year, the department paid \$2.6 billion in Unemployment Insurance to 694,000 claimants. Due to reform and the improved economy, the state's Unemployment Insurance Trust Fund is significantly healthier.

You may have heard about problems some claimants have had getting through to our call centers. The reality is that wait times for New York State calls centers, while noticeably longer this time of year, were shorter than other states in our region.

Today and for most of the year, the average call wait times are less than 6 minutes. However, during peak times, especially the end of December into mid January, the average wait times in New York can be many times that depending on the day of the week and the hour of the day.

To compare, some of the larger neighboring states -- and while we promised we wouldn't mention them by name, there aren't many -- said their average peak call wait times were up to 1.5 hours, with their longest at 5 hours.

Here in New York, call-back technology, confidential online two-way communication, a Claimant Advocate Office and electronic filing have noticeably reduced the number of incoming phone calls related to Unemployment Insurance -- which still totaled more than 2.6 million in 2014.

## **Fraud Enforcement Efforts**

When the Trust Fund is forced to pay out because of a fraudulent claim, employers have to pay more, and that means consumers pay more as well. Some of the other tools that were provisions of Unemployment Insurance Reform help prevent fraud and improve the integrity of the Unemployment Insurance system. Fighting fraud helps ensure that employers do not bear the burden for those who seek to game the system.

New York State is also a national leader in preventing, detecting and recovering improper payments in order to minimize the burden on our state's businesses.

The agency recently marked more than half a billion dollars saved thanks to innovative efforts to prevent Unemployment Insurance fraud in New York State.

The main technologies that the state Department of Labor uses to help prevent and detect fraud are new-hire and incarceration data cross-matching, data mining and foreign Internet Protocol address blocking.

In one case, perpetrators submitted 140 false Unemployment Insurance claims, but our systems were able to detect these attempts and shut them down. Without these systems, we likely would have lost more than \$1 million on that case alone.

The Department had an outstanding year in 2014, finding more than 36,000 overpayments and identifying \$83 million in fraud. The Department also recovered nearly \$88 million in improperly paid benefits in 2014.

On a national level, New York was one the first states to implement collections from federal tax refunds through the federal Treasury Offset Program and has collected more than \$143 million using this offset.

In 2012, New York State was recognized for its continued national leadership and was selected by the United States Department of Labor and United States Office of Management and Budget to create the Unemployment Insurance National Integrity Center of Excellence.

The Center is identifying, developing and piloting new strategies and tools to combat improper payment and fraud on a national level. In 2014, the Center delivered a secure portal for data sharing and collaboration between states. The Center is also working to deliver a nationally consistent and locally adaptable training for all states to improve system integrity. In December, the Center presented their activities to the President's Office of Management and Budget. The office's response was very positive including an interest in duplicating the project for other federal agencies.

## **Minimum Wage / Wage Board**

For those engaged in the workforce, the Department of Labor also protects workers by enforcing minimum wage laws.

The federal minimum wage is currently \$7.25 per hour and the minimum wage in New York is \$8.75 per hour. In 2013, Governor Cuomo signed legislation increasing the state's minimum wage from \$7.25 incrementally to \$9 per hour by the end of this year to better align with the cost of living.

The Governor has proposed raising the statewide minimum wage to \$10.50 by the end of 2016, which we support and encourage the legislature to do the same. Additionally,

because New York City has one of the highest costs of living in the world, we also support the Governor's proposal to raise the City's minimum wage to \$11.50.

Tipped workers in New York State must be paid based on the new minimum wage, which increased to \$8.75 per hour on December 31. Tipped workers' wages and tips must equal or exceed that \$8.75 hourly amount.

Under the budget agreement approved in 2013, the state labor commissioner convened a Wage Board charged with developing recommendations for what, if any, modifications should be made to the required cash wage rates and the allowable credits for tips, meals and lodging for food service workers and service employees in the hospitality industry.

Public testimony was taken at four public hearings held in Syracuse, New York City, Buffalo and Albany in October, November and December 2014. The Wage Board completed its work last week and I anticipate receiving their final recommendation soon.

## **Protecting Workers**

The New York State Department of Labor continues to be a national leader in returning money to workers who were not paid the proper minimum wage, overtime pay or fringe benefits. By enforcing these laws, we level the playing field for the great majority of businesses that follow the rules.

Over the past four years, we have seen a dramatic increase in the amount of money returned to workers who were cheated by their employers. In 2014, the Department of Labor disbursed \$30.2 million to nearly 27,000 workers – that's a 35% increase over 2013 and the highest year in history.

Labor Standards cases are being processed more expeditiously, which means workers receive the money owed to them faster. These improvements are due, in part, to policy and operational improvements, such as referring more cases to compliance conferences to expedite a resolution.

We have also reorganized division staff to allow for more field investigators.

I'm proud to announce that the agency has had a marked downturn in the number of cases under investigation. And, as we promised last year, approximately 85% of all investigations are now completed within 6 months.

Earlier this week, a number of organizations – including The Business Council of New York State; the South Brooklyn Legal Services; the Retail, Wholesale and Department Store Union; and The Legal Aid Society – issued statements of support for our efforts over the past year.

The truth is we are dramatically reducing how long cases take to process while still ensuring higher standards than most states and even the federal government.

In addition to protecting workers' wages, we help reduce the misclassification of workers through the state's interagency Joint Enforcement Task Force. We prosecute those who try to avoid complying with the Unemployment Insurance, workers' compensation, social security, tax withholding, temporary disability and minimum wage and overtime laws that protect workers.

In 2014, the Task Force identified nearly 27,000 misclassified workers and discovered \$330 million in unreported wages.

This is another area where New York is leading the nation and many have taken notice. A report last year by the highly regarded media groups McClatchy and ProPublica reviewed payroll records in states around the nation. While some states showed misclassification rates approaching nearly 40%, reporters in New York found none. Although misclassification remains a nationwide problem, the Department's efforts are making a noticeable difference in New York.

Under New York State Labor Law, contractors and subcontractors must pay the prevailing rate of wage and supplements to all workers under a public work contract. In 2014, the Department of Labor distributed more than \$8.3 million in back wages and interest to more than 4,000 workers who were not paid the proper prevailing wage. In 2014 we processed a record number of cases through our Compliance Agreement Program. This is aimed at bringing employers who made prevailing wage mistakes into compliance as an educational tool, rather than a full regulatory action.

## **Jobs Jobs Jobs – Workforce Development**

New York State also continues its trend of leading the nation in the area of workforce development. Developing a strong workforce -- including working with businesses to match those workers to jobs -- is vital to our state's success. The Department of Labor plays a crucial role.

Governor Cuomo's Jobs Express this year for the first time topped 100,000 available positions spread across each region of the state. Jobs Express continues to grow with more employers using the site to list their positions every day.

In New York State during the most recent year available, more than 260,000 people who received services in one of the department's 96 Career Centers found a job. Nation-wide during that same period, approximately one million people found a job under the same program -- through using the services of a state career center. It is important to note that New York State receives only 5.8% of all national funding for this program, while providing a quarter of all successful outcomes.

Our high rate of success is directly linked to the innovative and efficient strategies we have advanced over the past few years. For example, our Career Centers around the state offer a wide range of services for job seekers, including: job coaching and referrals; basic job-skills training; resource rooms; and technology to match a person's skills to available jobs.

Our efforts also include new technological solutions like virtual career fairs, which allow job seekers to connect with employers without leaving their home or office. A new calendaring system has connected the resources of all of our 96 career centers in one place. Job seekers can now browse through thousands of available training classes and hiring events. In addition, a new employment eligibility score allows job seekers to see how employable they are and how they can improve their chances of getting hired.

And while they're on our website, users can message directly with staff in real-time through our live-chat software. This provides immediate answers to pressing job-search questions.

Our success in this area has been recognized by the federal government. Last year, the White House invited representatives from the New York State Department of Labor to help brainstorm workforce solutions through public-private partnerships. This culminated in presentations by our staff directly to the Vice President, Labor Secretary and other officials.

In 2014, the Department paid particular attention to two areas with workforce development needs.

The first was Buffalo, where the Advance Buffalo program is matching top businesses in Western New York to job seekers who are interested in a career in advanced manufacturing. A Skills Broker works with area businesses and educators to make sure the skills being taught line up with the needs of the area. In addition, Career Center staff assess thousands of individuals to ensure the needs of the industry are being met. Since its inception in summer 2013, Advance Buffalo has provided services to more than 1,200 job seekers, nearly 700 of whom are already working.

In addition to Buffalo, Governor Cuomo launched a strategic effort in the Bronx through his Unemployment Strikeforce in 2014.

Beginning in May, the Governor's Strikeforce reached out to thousands of unemployed people in the Bronx, opened offices in every Community Board and met with elected officials, businesses and educators to determine how we could put the state's resources to work for the people in an area with the highest unemployment rate in the state.

Using the staff and resources of the Department of Labor, the Strikeforce so far has engaged more than 10,000 Bronx residents and secured more than 7,000 job placements for Bronxites, with more underway. Forty percent of those placements were individuals who are considered long-term unemployed.

One year ago, the unemployment rate in the Bronx was 10.6%. Today, the unemployment rate is 9.3%. The number of Bronxites working in December 2014 was more than 512,000 – an impressive 3% increase over 2013 and the highest on record for the month.

Because of its success, the Governor has requested that the Department expand this proven model to include Jefferson, Lewis, Kings, St. Lawrence, Oswego, Orleans, Montgomery, Franklin and Steuben counties – chosen based on their high unemployment rates.

In his State of the State address, the Governor also proposed an expansion of the highly successful New York Youth Works program, which will be called the Urban Youth Jobs Program.

The program, which is run by the Department of Labor, encourages businesses to hire unemployed, disadvantaged youth who live in 13 target areas around the state, was re-authorized in 2013 for four years. Since 2012, it has connected more than 18,000 at-risk youth to jobs with more than 2,000 businesses. Under the 2015 Executive Budget, Governor Cuomo proposed an additional \$10 million annually through 2018 to focus on cities with the highest poverty and unemployment rates: Buffalo, New York City, Rochester, Syracuse and Utica.

Apprenticeship Training is also a key part to workforce development. The New York State Department of Labor's apprenticeship program takes a time-honored approach to training skilled workers through a combination of on-the-job training and classroom instruction. Apprentices are full-time employees who produce high-quality work while they learn skills that enhance their employment prospects. There are more than 16,000 total active apprentices in New York State and almost 14,000 of those individuals are enrolled in union programs. More than 1,700 certificates of completion were issued to individuals in 2014.

In addition to having a ready workforce, the agency pays particular attention to another crucial piece of workforce development -- addressing the needs of businesses. In July, we announced partnerships with 100 chambers of commerce across the state -- reaching 50,000 businesses -- to promote our no-cost business support services.

One of the most successful job-connection methods we use is our hiring events – career fairs and customized recruitments with one of more companies directly targeted to our customers who best fit the needs of those companies.

In 2014, the Department of Labor held more than 300 career fairs and 2,500 customized recruitment events for individual companies. These hiring events helped connect 5,600 businesses to 68,000 job seekers.



## **Safety and Health**

Another crucial part of what we do at the Department of Labor is to help ensure safe conditions for workers and the public.

The Department of Labor enforces amusement ride safety throughout the state outside of New York City. We inspect rides at stationary parks at least once a year and at traveling carnivals or fairs every time a ride is set up in a new location. In 2014, the department inspected more than 1,500 venues and 1,600 amusement devices. The Department of Labor's Ride Safe NY website ([www.ridesafeny.com](http://www.ridesafeny.com)) offers parents and children helpful tips on ride safety. It also has an online database of amusement ride safety inspections.

We want families to know they are safe; that's why we developed the database. We are pleased that the comptroller agreed in an audit last year that rides are safe for New Yorkers. The audit also found that Department inspectors promptly responded to any ride-related incidents reported to the Department.

New York State is home to 52 ski areas – more than any other state in the nation – and the Department of Labor is in charge of inspecting all ski lifts. Lift inspections include checking parts for structural integrity, ensuring brakes function properly, reviewing emergency evacuation procedures, inspecting loading and unloading areas and more. This winter season, we inspected 330 ski lifts to ensure families across the state can ski safely.

The department also oversees the timely inspection of the more than 93,000 boilers in New York State. We perform scheduled and special inspections and ensure the work of private certified inspectors is in compliance.

Additionally, the department issues licenses and certificates to several specialized jobs involving asbestos contractors and workers, crane operators, laser operators and blasters. The department also licenses the possession, storage and transportation of explosives, along with companies involved in the manufacture of explosives. During the 2013-14 fiscal year, the agency issued more than 38,000 licenses and certifications and processed nearly 70,000 asbestos project notifications.

Staff conducted more than 1,500 inspections, issued 1,500 notice of violations and issued 1,500 variances related to asbestos.

The Department of Labor also administers the Occupational Safety and Health Training and Education Program, covering topics like hoisting and rigging, confined space hazards, safe forklift operation, safe patient handling, hazardous waste operations and more. For program year 2013-14 alone, more than 10,000 training sessions were conducted with more than 144,000 workers participating across the state.

The Department of Labor offers free on-site consultation services to help businesses ensure compliance with health and safety laws. The agency has helped hundreds of businesses avoid fines, with an average savings of \$4,300. In the past year, staff conducted 1,400 site visits to private companies to provide free safety and health assistance. They also conducted 140 free safety seminars for businesses to help ensure compliance with the labor law.

Staff performed more than 1,500 safety and health inspections for public employees. In July 2014, the agency launched a series of 12 seminars for municipal and fire department leaders to help ensure compliance with the law and avoid workplace safety and health violations. Staff also dedicated time to the federal Occupational Safety and Health Administration's (OSHA) Local Emphasis Program, assisting two dozen dairy farms across upstate New York to improve hazardous working conditions in advance of planned OSHA inspections.

### **Division of Immigrant Policies and Affairs**

Finally, the agency is also actively engaged, through its Agricultural Labor Program, in working to help employers find the workers they need and understand the rules they must follow. In 2014, Agriculture Labor Program staff conducted more than 1,100 field visits and met with more than 900 agricultural businesses to offer hiring assistance and educate employers about labor law compliance and available resources. We have increased the number of field visits, reduced the number of violations and are accomplishing our goal of helping businesses comply with the law.

This year, The Department began its work as a certifying agency for victims of human trafficking and other qualifying crimes. The Department's U Visa and T Visa certifications are crucial to our efforts to protect victimized workers and an important step for victims who meet the criteria and who have complied with investigations in obtaining work authorization and legal status.

### **Conclusion**

As you can see, we are building on the success of the past four years. The economy is growing and, under Governor Cuomo's leadership, we continue to add thousands of jobs. The Department of Labor is supporting the Governor's initiatives by connecting job seekers to jobs, partnering with businesses to boost hiring and protecting workers and the public across our great state.

Thank you.