

JOINT BUDGET HEARING
OF THE
ASSEMBLY WAYS AND MEANS COMMITTEE
AND THE
SENATE FINANCE COMMITTEE
ON THE
TRANSPORTATION BUDGET
FOR FISCAL YEAR 2013-14

Held in Hearing Room B
Legislative Office Building
Albany, New York

January 31, 2013

10:00 a.m.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

APPEARANCES:

ASSEMBLYMAN HERMAN D. FARRELL, JR., Chairman, New
York State Assembly Ways and Means Committee

SENATOR JOHN A. DEFRANCISCO, Chairman, New York State
Senate Finance Committee

ASSEMBLYMAN ROBERT C. OAKS, Ranking Minority Member,
New York State Assembly Ways and Means Committee

SENATOR LIZ KRUEGER, Ranking Minority Member, New York
State Senate Finance Committee

ASSEMBLYMAN DAVID G. MCDONOUGH, Ranking Minority
Member, New York State Assembly Transportation Committee

SENATOR CHARLES J. FUSCHILLO, JR., Chair, New York State
Senate Transportation Committee

SENATOR MARTIN MALAVE DILAN, Ranking Minority Member,
New York State Senate Transportation Committee

ASSEMBLYMAN JAMES F. BRENNAN

ASSEMBLYMAN MICHAEL J. CUSICK

ASSEMBLYMAN DENNIS H. GABRYSZAK

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ASSEMBLYWOMAN DEBORAH J. GLICK

ASSEMBLYMAN PHILLIP STECK

ASSEMBLYMAN SAMUEL ROBERTS

ASSEMBLYMAN CLIFFORD W. CROUCH

ASSEMBLYMAN DAN STEC

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYWOMAN EARLENE HOOPER

SENATOR TIMOTHY KENNEDY

SENATOR GUSTAVO RIVERA

SENATOR CECILIA TKACZYK

SENATOR VELMANETTE MONTGOMERY

ALSO APPEARING:

JOAN MCDONALD, Commissioner, New York State Department
of Transportation

THOMAS PRENDERGAST, Interim CEO, Metropolitan
Transportation Authority

ROBERT FORAN, CFO, Metropolitan Transportation Authority

BARBARA FIALA, Commissioner, New York State Department of
Motor Vehicles

CARM BASILE, President, New York Public Transit Association

WILLIAM WRIGHT, President, New York State County Highway
Superintendents Association

RICHARD KUKUK, Superintendent, New York State Association of
Town Superintendents of Highways, Clifton Park

BILL CARPENTER, CEO, Rochester Genesee Regional
Transportation Authority

ANN CROOK, President, New York Aviation Management
Association

SCOTT WIGGER, Executive Director, Railroads of New York

NADINE LEMMON, Legislative Advocate, Tri-State Transportation

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Campaign

BRIAN KEHOE, Executive Director, New York Bicycling Coalition

JOSHUA REAP, Director of Government Affairs, Associated

Builders and Contractors, Empire State Chapter

ALAN PERO, President, Fair Apportionment of Infrastructure

Revenue

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

CHAIRMAN HERMAN D. FARRELL, JR.: Good morning. Today we begin the fourth in a series of hearings conducted by the Joint Fiscal Committees of the Legislature regarding the Governor's proposed budget for fiscal year 2013-2014. The hearings are conducted pursuant to Article VII, Section 3 of the Constitution and Article II, Section 31 and 32(a) of the Legislative Law.

Today the Assembly Ways and Means Committee and the Senate Finance Committee will hear testimony concerning the budget proposals for Transportation.

I will introduce the members who are with me from the Assembly. Assemblyman Brennan, Chair of Corporations; Assemblyman Cusick, Assemblyman Gabryszak, Assemblyman DenDekker and Assemblyman Oaks.

ASSEMBLYMAN ROBERT C. OAKS: And we're also joined by the Ranker on Transportation, Dave McDonough.

CHAIRMAN FARRELL: Senator.

CHAIRMAN JOHN A. DEFRANCISCO: Yes. The Chairman of Transportation is here, Senator Fuschillo; Senator Kennedy is here and Senator Krueger, the Ranker on this Committee, is going to introduce her members.

SENATOR LIZ KRUEGER: Senator Marty Dilan is our Ranker and Senator Tim Kennedy from Buffalo.

CHAIRMAN DEFRANCISCO: I thought he was one of ours, Kennedy.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

SENATOR KRUEGER: I keep trying, but it's not working.

CHAIRMAN FARRELL: And Assemblywoman Deborah Glick is also with us.

Today's hearing is about the transportation situation. The last three days we've had pretty good hearings. The last two were extremely late. One went until 6:15, the other one went into quarter to 7:00 last night.

ASSEMBLYMAN OAKS: 7:30.

CHAIRMAN FARRELL: 7:30, okay.

ASSEMBLYMAN OAKS: Whatever.

CHAIRMAN FARRELL: My eyes went crossed from that. This one is intended to end at 2:00 -- what is it? 2:30? 2:15. We are going to work very hard to make sure we come as close as we can to that because I have to be in New York City at 6:30. I have a meeting with my constituents.

We will be holding -- the first person to talk is Joan McDonald, Commissioner, good morning, New York State Department of Transportation. At 11 o'clock, any member that is not here at that time may not ask questions once they come in, but for the first hour they can. So, if anyone is in their room listening and waiting to run down here at 12 o'clock to speak, please get here by 11:00.

Thank you and good morning.

COMMISSIONER JOAN MCDONALD: Good

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

morning.

CHAIRMAN DEFRANCISCO: One last thing. I must -- I'm making this into a science of how to conduct hearings, and I've analyzed over the last three days that one of -- we have control over the ten minutes for each questioner. We don't have control over the length of the answers. Some people are not very concise and to the point when they answer a question. Please do so. If there's a follow-up question, it will be -- you will be provided the opportunity. Filibusters don't help us. Thank you. I am certain -- I'm not referring to you, Commissioner. I know that you're very concise. Thank you.

SENATOR KRUEGER: And we've also been joined by Senator Gustavo Rivera.

CHAIRMAN FARRELL: Commissioner.

COMMISSIONER MCDONALD: Is my mike -- my mike is on?

CHAIRMAN FARRELL: Yes.

COMMISSIONER MCDONALD: Okay. Chairman DeFrancisco, Chairman Farrell, Chairman Fuschillo and members of the Legislature, thank you for this opportunity to discuss Governor Cuomo's Executive Budget as it pertains to the Department of Transportation for the 2013-2014 State Fiscal Year. I'm Joan McDonald, Commissioner of DOT.

Let me start this morning by recognizing the dedicated men and women of DOT who keep our State open for business. One of the outstanding attributes of DOT is the agency's

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ability to respond during times of need. A little more than a year after the one-two punch of Hurricane Irene and Tropical Storm Lee, our mettle was tested more than ever by the devastation caused by Superstorm Sandy. The size and scope of the ongoing recovery efforts from Sandy remains daunting. Thanks to Governor Cuomo's leadership and the great work of our own forces and construction industry partners, most of New York's roads and bridges were quickly reopened to traffic. At the peak of the storm response, more than 2,000 lane miles were impacted by the storm surge, rendering them temporarily impassable due to flooding, downed power lines and/or debris. DOT crews from around the State worked expeditiously to open the State and local roadway system within days.

In addition to deploying maintenance staff, hundreds of DOT engineers, working with our industry partners, conducted nearly 3,000 bridge and large overhead sign inspections and completed more than 9,000 damage assessments. Work continues on long-term restoration efforts in this region.

The Executive Budget and management plan unveiled by Governor Cuomo last week makes significant new capital investments to improve the transportation system, enhance the system's resiliency, create jobs and deliver historic levels of aid for transit systems as they recover from Superstorm Sandy. The Executive Budget includes \$300 million of new State funding under the New York Works program to maintain, repair and replace critical highway, bridge and other transportation infrastructure and to prolong

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

the useful life of these assets. This includes \$200 million for core infrastructure improvements throughout the State; additionally, to encourage regional economic development and to help leverage private investment, \$100 million for all modes of transportation infrastructure will be awarded competitively through the regional economic development councils; the State-financed capital enhancement built upon core transportation funding to provide a total DOT capital program of nearly \$3.7 billion, including highways, bridges, rail, aviation, non-MTA facilities -- non-MTA transit, excuse me, and DOT facilities.

Funding for local highway and bridge projects under the Consolidated Highway Improvement Program and the Marchiselli program is maintained at \$402.8 million. In addition, the budget provides operating assistance support totaling \$4.7 billion to transit systems. The MTA will receive more than \$4.2 billion, an increase of approximately \$358 million from 2012-2013, and other transit systems will receive over \$454 million, which reflects an increase of \$23.5 million.

Governor Cuomo's New York Works program has provided DOT with an unprecedented opportunity to accelerate the delivery of hundreds of additional bridge and pavement projects Statewide. I am pleased to report that within months of receiving authorization to proceed from the Legislature, DOT developed and let 24 bundled paving contracts totaling \$250 million. These contracts were delivered during the current State fiscal year and improved more

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

than 2,100 lane miles at 172 sites within 12 months. In addition, DOT developed a program to accelerate improvements for 112 bridges using 12 bundled contracts worth \$212 million. More than 95 percent of these bridge projects were awarded within nine months of program inception, from planning to construction start. This included \$85 million in Design/Build contracts awarded within eight months of the enabling legislation. In total, 40 of the bridges were substantially completed this year and the program of 112 bridges will be completed on schedule in 2013 construction season. During the upcoming season, DOT will continue to advance the larger New York Works projects, such as the Kosciuszko Bridge in New York City, Paterson Bridge in the Southern Tier, Long Island Bridge parapets, the Sprain Brook Parkway, Kendrick Road in Rochester and the Patroon Island Bridge in Albany.

At DOT we continue to look for innovative opportunities to work with local governments to advance projects that creatively finance improvements to our infrastructure. While we have many challenges, we also have many unique opportunities to imaginatively work together and redefine how we look at infrastructure. This was apparent when I was in Rochester for the opening of the Diverging Diamond at Winton Road and 590 in October. While this European design had never been done before in New York State and only a few times across the country, DOT used our talented professionals to research this new method and build the confidence of the public to build the first Diverging Diamond in the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

State. The cost of this project was redefined from a \$20 million project to a \$4.9 million project, never compromising safety.

Additionally, DOT has collaborated with local governments to creatively utilize public/private partnerships. Examples of some of these partnerships include the new pedestrian underpass on Route 9 at Marist College in Poughkeepsie; Kendrick Road over I-390 in the City of Rochester, in partnership with the University of Rochester; and the Fuller Road improvements right here in Albany in partnership with the City of Albany and the SUNY Nanoscale Science and Engineering Center. These projects were done either through direct investment in the transportation system or through support of existing and emerging economic development opportunities.

In September, Governor Cuomo announced a new Drivers First initiative directing State DOT to place an even higher priority on motorist convenience when planning highway maintenance and construction projects. To implement this initiative, I have formed a Drivers First Task Force within the department. The task force has completed a thorough review of the existing State highway and bridge projects accounting for corridor, cost and complexity to ensure that work zone disruptions are as minimal as possible for motorists. As the Governor has said, we must prioritize the convenience of motorists and ensure that we minimize the disruption to drivers caused by our highway and bridge projects across the State.

In conclusion, DOT is successfully using new

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

procurement methods such as Design/Build, pre-qualification of contractors and best value in addition to our traditional Design/Bid/Build procedures to deliver our capital program. I'm proud that the department is, once again, a national leader in developing our program through award-winning innovations. In recognition of these efforts, this past November the department received the President's Award from the American Association of State Highway and Transportation Officials for our Forward Four Asset Management process.

Governor Cuomo has made historic investment in transportation infrastructure by empowering ingenuity, which is the cornerstone of technological advancement, and establishing new methods of project delivery, thereby creating a blueprint for job creation. DOT is excited to play a central role in the State's economic recovery and expansion.

Thank you for your time. I am happy to respond to any questions and will follow the lead of Senator DeFrancisco and keep my remarks and answers to the point.

CHAIRMAN FARRELL: Thank you very much. We've been joined by Assemblyman Phil Steck and Assemblyman Sam Roberts.

Mr. Oaks.

MR. OAKS: Yes, also by Assemblyman Cliff Crouch.

CHAIRMAN FARRELL: First to question, Chairman of Corporations, Mr. Brennan.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN JAMES F. BRENNAN:

Commissioner McDonald, good morning. Good morning.

COMMISSIONER MCDONALD: Good morning.

ASSEMBLYMAN BRENNAN: Okay. Last year the New York Works program received a \$1.16 billion appropriation and you described some of the projects in your testimony, but it didn't total \$1.16 billion. Do you have some kind of a published list of the projects and their status available?

COMMISSIONER MCDONALD: We do have a list that we'll be happy to provide for you. The biggest projects that are yet to be awarded but that are in process right now are the Kosciuszko Bridge at approximately \$400 million, the Patroon Island Bridge, the Kendricks Road, those are all in process right now and will be awarded within the next three to four months.

ASSEMBLYMAN BRENNAN: All right. You testified that we have \$200 million in additional New York Works appropriations this year. When will the project list for those new appropriations be published?

COMMISSIONER MCDONALD: What we do at the department is we have our rolling capital program. We always look out five years. We have those planning targets and the final list will be part of the budget negotiations between the Executive and the Legislature with our focus on asset management and preservation.

ASSEMBLYMAN BRENNAN: You also -- you testified that there will be an additional \$100 million through the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

regional economic development councils. And how is the funding to be divided between regions?

COMMISSIONER MCDONALD: That has not been determined as of yet.

ASSEMBLYMAN BRENNAN: Okay. Will there be a project list published for the REDs projects?

COMMISSIONER MCDONALD: We will be working with the Empire State Development Corporation and the regional councils. I believe that the intent is to do it as a competitive process, which is similar to the success of the prior two years of funding, but that will all be discussed in the coming months.

ASSEMBLYMAN BRENNAN: Yes. Just as a comment on that process, this is \$100 million for transportation. Your capital budget --

COMMISSIONER MCDONALD: Tied to economic development.

ASSEMBLYMAN BRENNAN: -- will be tied to this.

COMMISSIONER MCDONALD: Right.

ASSEMBLYMAN BRENNAN: Does that mean private entities will be able to receive funding from -- through the DOT piece of the REDs process?

COMMISSIONER MCDONALD: That determination hasn't been made yet.

ASSEMBLYMAN BRENNAN: Okay. Now,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

through the past two years, New York City, in the first round of the REDs process, received approximately 8 percent of the funding and this year, or in round two, received 6 percent of the funding of the \$780-and-some million in each round. So, is the department going to attempt to assure some sort of regional equity in the process? You have -- the department has a vote, so to speak. It has a -- in the decision-making process, the department sets forth 80 -- 80 percent of the process; isn't that correct?

COMMISSIONER MCDONALD: No.

ASSEMBLYMAN BRENNAN: You're 80 percent of the decision and then the little regional group is the other 20 percent; is that right?

COMMISSIONER MCDONALD: I'll explain how it has worked so far. The way the unified funding application has worked so far is eligible entities submit applications and then, using the program criteria, awards were made and weight was given to those projects that were -- you know, that were approved by the economic councils. In DOT's case, in the past two years, our projects and our programs were primarily in aviation and rail freight and we used our criteria and awarded projects in that way. There was no regional allocation for any projects that we did through the New York -- through the regional economic council. It was all a competitive process.

ASSEMBLYMAN BRENNAN: I want to move to the Dedicated Highway and Bridge Trust Fund for a moment. The

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

projected revenue from the fund for the coming year is \$2.82 billion. Can you tell us what portion of that will go to debt service as the -- in the budget?

COMMISSIONER MCDONALD: I'm not sure of what that is, but I'm happy to get back to you on that.

ASSEMBLYMAN BRENNAN: You're not sure what debt service is?

COMMISSIONER MCDONALD: No, I know what debt service is, but I'm not sure what portion of our budget goes to debt service.

ASSEMBLYMAN BRENNAN: You're not sure? Can you let us know?

COMMISSIONER MCDONALD: I would be happy to do that, yes.

ASSEMBLYMAN BRENNAN: So another question. I mean, you have no staff sitting there with you. Usually a simple question like that, that the DOT ought to have at its fingertips at a budget hearing, you know, ought to be available for an answer, so let me ask another question here.

What percent of the expenses from the fund actually support capital construction and what percent goes to operating parts of the budgets?

COMMISSIONER MCDONALD: I don't have that with me, right in front of me. I will get that to you right after the hearing.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN BRENNAN: Okay. The Federal MAP-21, what impact has MAP-21 had on your budget request here?

COMMISSIONER MCDONALD: MAP-21, for everybody's information, was passed by Congress in June of 2012. Both New York State and states across the country had been five years without a Federal funding bill. Our level stayed flat, as most every state did, and we continue to use that money in the programmatic formulas that are dictated by the Federal law and it's actually -- it's good to help our planning process.

ASSEMBLYMAN BRENNAN: Okay. Thank you, Denny.

CHAIRMAN FARRELL: Thank you.

Senator.

CHAIRMAN DEFRANCISCO: Chair of Transportation in the Senate, Charles Fuschillo.

SENATOR CHARLES J. FUSCHILLO, JR.: Thank you, Senator DeFrancisco.

Good morning, Commissioner. How are you today?

COMMISSIONER MCDONALD: Good. How are you, Senator?

SENATOR FUSCHILLO: Good, thanks. I want to thank my colleague, Jim Brennan, for most of his comments were most of my questions, but I want to go back to the \$300 million, \$200 million for New York Works and \$100 million for the regional councils. Was that a department request to put in the proposed budget

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

or did that come from the Executive?

COMMISSIONER MCDONALD: That came from the Executive branch, but we -- as I said, we always have our running capital program and we adapt and put the projects in the queue depending on whatever funding is provided by the Legislature and the Executive branch.

SENATOR FUSCHILLO: Now, would you rather see -- now, there's been no increase in funds in Marchiselli or CHIPS funds in the last five years. That's been pretty much the same amount, correct?

COMMISSIONER MCDONALD: Correct.

SENATOR FUSCHILLO: Would you rather see that \$100 million go into CHIPS?

COMMISSIONER MCDONALD: I like it the way it's positioned in the budget right now because it gives the department, working with local governments and the regional council, which is a successful model, to be flexible about how the money gets allocated.

SENATOR FUSCHILLO: And I didn't hear your answer to Assemblyman Brennan, but what role does DOT play with that \$100 million, if that's approved?

COMMISSIONER MCDONALD: The \$100 million?

SENATOR FUSCHILLO: For the regional councils.

COMMISSIONER MCDONALD: What we've done in the past, through the consolidated funding application, is the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

projects came in through the process. If they were endorsed by the regional council, that counted for part of it, but they also had to adhere to the existing programs. And over the past two years, for DOT those were aviation, rail freight and transit programs that we allocated the funding to. The \$100 million will be done in consultation with ESDC and through the budget negotiation process to encourage infrastructure investment in the core transportation projects that spur economic development.

SENATOR FUSCHILLO: One of the issues that's very important to my colleagues in the Senate is the regional shares. I heard your response, but I would urge you, if that is adopted, that the distribution sticks to the regional shares. I believe that's critically important throughout the State. Any comment on that?

COMMISSIONER MCDONALD: Well, what we did this year was we adhered to the regional shares that were in the MOU that was signed by the Governor's office and staff to Senator Skelos and Speaker Silver. So, we adhere to those MOUs as part of the budget negotiation.

SENATOR FUSCHILLO: Last year there was an issue of concern to many of my colleagues throughout the State of the DOT and the Executive wanting to consolidate regional offices. Are there any plans to do that?

COMMISSIONER MCDONALD: No. As I committed last year, all regional offices are remaining open.

SENATOR FUSCHILLO: All right. Thank you.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

The Assemblyman talked about it, the \$3.7 billion that's proposed in capital spending. When would we expect a detailed list as we negotiate this budget?

COMMISSIONER MCDONALD: Of projects? We have our planning targets and we'll be happy to share those with you. I can get them to you pretty quickly.

SENATOR FUSCHILLO: Okay. You talked about Hurricane Sandy and the work of the DOT and I want to commend your department for their work throughout the entire State. Did Hurricane Sandy and the work that was done delay any existing projects?

COMMISSIONER MCDONALD: No. We -- we had to put on hold some of the improvements that were ongoing during the months of November and December, but all of those that were -- that we put on hold are back on track right now. Hempstead Turnpike safety improvements was one. We weren't able to do everything that we had wanted to do, but all the capital projects on Long Island are back on track.

SENATOR FUSCHILLO: Can we talk about Ocean Parkway?

COMMISSIONER MCDONALD: Sure.

SENATOR FUSCHILLO: -- and the status of that project?

COMMISSIONER MCDONALD: Sure. For the other members the committees, Ocean Parkway was the one State

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

DOT asset, Ocean Parkway and the Robert Moses Causeway, that were wiped out as a result of Hurricane Sandy, and utilizing the powers under the Governor's Executive Order, we quickly awarded a contract to three contractors, local contractors, working with DEC, Parks and our Federal partners to both restore the road, restore the dunes that serve as barriers and restore the beach. That is an approximately \$33 million project and it's underway right now.

SENATOR FUSCHILLO: Last year's budget had the Design/Build approved.

COMMISSIONER MCDONALD: Yes.

SENATOR FUSCHILLO: And this year it's Design/Build/Finance. We're expanding it by adding one more word, which I think is a positive direction to continue on the ultimate goal of public/private partnerships and P3s. Can you talk about any pitfalls, success or failures you've had over your experience last year with Design/Build?

COMMISSIONER MCDONALD: Sure. We had significant success in Design/Build. Actually, we would not have been able to advance many of the projects under New York Works if we did not have that legislation in place. Thirty-two projects were funded through the New York Works Accelerated Bridge Program, have been awarded using the Design/Build best value. Nine of those bridges have been completed and the remain 23 will be completed in 2013 as we originally scheduled. In addition, Kendricks Road over 390 in Rochester is Design/Build. We have four bidders. We will be

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

getting proposals in the next few weeks. 347 in Long Island, those proposals are due in the next few weeks and the K Bridge, which is our largest project, at approximately \$400 million is going through the qualification process right now.

We believe the Design/Build methodology is a tool in our toolbox to help us advance projects quickly and put people to work and also save time on the schedule and on the cost of projects.

SENATOR FUSCHILLO: Thank you, Commissioner. One final question. The accelerated program.

COMMISSIONER MCDONALD: Yes.

SENATOR FUSCHILLO: -- last year. Of that money, \$1.16 billion, could you tell me if any of those dollars went to local governments for local programs, local roads?

COMMISSIONER MCDONALD: The programs did not directly go to local programs, but the 112 bridges across the State are in New York State DOT's network, but one of the things I always like to say is a driver on a road doesn't distinguish between a local project or a State project.

SENATOR FUSCHILLO: But we do.

COMMISSIONER MCDONALD: I know you guys do, but it provided employment to local contractors around the State.

SENATOR FUSCHILLO: Would that be more of an argument then that the \$300 million, \$200 million and the \$100 million should be put into more local projects, the CHIPS and the Marchiselli funding, especially CHIPS, since we haven't had an

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

increase to local government funding in five years?

COMMISSIONER MCDONALD: I leave those kinds of discussions as part of the ongoing budget negotiation. I think it's clearly one point of view and there are other points of views, also.

SENATOR FUSCHILLO: All right. Thank you, Commissioner.

COMMISSIONER MCDONALD: Thank you.

SENATOR FUSCHILLO: Thank you, Senator DeFrancisco.

CHAIRMAN FARRELL: Assemblywoman Glick.

ASSEMBLYMEMBER DEBORAH J. GLICK: Thank you, Mr. Chair. Just a quick question, at least I think it will be quick, and I don't necessarily expect you to have all of this at your fingertips, but it is of interest, at least to me.

Over the last several years, the State has had several major storm-flood events, Sandy being the most recent, but prior to that there was Irene, Lee and in 2006 a storm that affected, I think, something like 23 counties, knocking out 88 and many, many, many other roads. In those instances there has been, once the Feds decide that there is a disaster and it's declared, there's a split, as I understand it, of 50 percent from the Feds for repair, 25 percent from the State and 25 from the county to do the road repairs. And in past years, certainly in 2006, the State picked up the county's 25 percent.

I'm wondering -- I believe that may have also happened during Lee, but I'm wondering if it did, A, and, B, what the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

total cost of these storm-related repairs have been and I -- obviously, we won't know all of that. We'll get a very large amount of money from Sandy, but it won't cover everything because there's much more damage than people realize.

So, if your staff at some point could give us some information about the magnitude of storm-related cost, the overall cost and what the State has had to -- what the State's share of that has been and whether, in those instances, they've picked up the county share, that breakdown would be very helpful and I -- the follow-up to that is what is the State planning on doing in terms of setting aside some funding for emergency response to storms? How is that -- because, obviously, when we have a major storm we can't wait three months for the Feds to get their act together if we face something -- especially in parts of the State where there is no other alternative; there is no mass transit, there's nothing. You have a road. There were roads out that, you know, a three-mile detour turns into a 32-mile-a-day trip to get around an area where a bridge is out or something like that. So, I would like some information. And if you have any thoughts on that right now, I would love to hear it.

COMMISSIONER MCDONALD: Sure. We'll be happy to get you the specifics for Irene, Sandy and Lee. I do know off the top of my head that 400 roadway segments and 40 bridges were wiped out just in our system alone as part of Sandy, and all of the Federal programs are on a reimbursement process and we do front that money to get the work done and then it is reimbursed at whatever

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

level by the Federal government, but I will get you the specifics on that.

Regarding what DOT does for both emergency response and how we are dealing with our capital projects, we have a very good system in place. It's called the ATIG system, which is the Area Transportation Infrastructure Group, where we work with local governments and with the Department of Emergency Management and help out in getting the roads, the bridges, the traffic signals, road signs all repaired as quickly as possible because of the safety impacts.

And as far as our capital plan goes, on a macro basis, the -- I mentioned in my remarks our new way of doing asset management on a preservation-first approach, that factors in resiliency and reliability and it has been -- we have been part of the discussion with the Governor's 2100 Commission. So, we do that as part of our capital planning process now, and I would be happy to get you some more detail on what that all entails.

ASSEMBLYWOMAN GLICK: Thank you.

CHAIRMAN DEFRANCISCO: Senator Dilan,
Ranking member of the Transportation Committee.

SENATOR MARTIN MALAVE DILAN: Good morning, Commissioner.

COMMISSIONER MCDONALD: Good morning.

SENATOR DILAN: How are you?

COMMISSIONER MCDONALD: I'm good, thank you. How are you?

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

SENATOR DILAN: Very good. First, I want to thank you for your agency's diligent work on the Kosciuszko Bridge. Your local folks in Queens and Brooklyn have really done a great job at keeping the community informed and having community involvement, so -- and all the efforts that you're doing there, so I want to thank you for that.

COMMISSIONER MCDONALD: Thank you.

SENATOR DILAN: But I want to ask you with respect to the Tappan Zee Bridge, the status of that and any information you can give us, the financial aspects.

COMMISSIONER MCDONALD: Sure. The Tappan Zee Bridge is owned by the Thruway Authority, so it's really a Thruway Authority asset. The contract has been awarded and the environmental documentation was completed in the fall. The selection was made and, as the Governor outlined in his cabinet meeting in December, the project is on schedule and is moving forward.

SENATOR DILAN: Yes, but, you know, I really believe that it's disappointing that the New York State Thruway Authority is not here, and I know that's not your problem, but I figured I just wanted to mention that.

I want to ask some questions with respect to your W -- your MWBE program and the level of participation relative to, I believe it is, 2005-2010 capital budget and relative to the 2010-14 capital budget and what do you anticipate targeting for that program

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

this year?

COMMISSIONER MCDONALD: I am actually -- I am happy to report a few things. Number one, last year I made an organizational change that has the Office of Civil Rights reporting directly to the Commissioner because of the priority of those goals and objectives. I made that decision. Second of all, in -- for the 2012-2013 fiscal year, for the first time ever, New York State DOT has achieved 20 percent in MWBE performance over the various quarters. So, we are happy with that. Three of the projects were in New York City. They were paving projects under New York Works where the contract -- we set the goal at 20 percent and in one instance the contractor achieved 27 percent; in one it was 22 and in one it was 23, so we are very proud of how we are turning the department around in the area of both MWBE goals and MWBE attainment under the Governor's task force.

SENATOR DILAN: Thank you very much.

CHAIRMAN FARRELL: Assemblyman Steck.

ASSEMBLYMAN PHILLIP STECK: Good morning, Commissioner. I'm a new member of the Transportation Committee. I have actually had some experience litigating construction cases in my private life and, sadly, I'm very familiar with some of the difficulties that are encountered with the Design/Build model. Some of the problems that I've encountered are the fact that the builder, in essence, owns the engineers, owns the inspectors and owns the architect on the project. I was involved in a case where that

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

led to corruption in the State of New Jersey where proper inspections were not being done and so, first on that subject, I would like to ask you, you know, what has the department done to make sure that these safety concerns don't rear their ugly head here in New York?

COMMISSIONER MCDONALD: Well, safety is our top priority, both on construction projects with our maintenance crews and for the traveling public. So, we have built in safeguards in our construction documents. The inspectors on projects are independent from the Design/Build team because we believe that that is the way to make sure that there is an independent set of eyes and ears. We have very rigid QAQC policies in place where we would be happy to share them with you and if you have any thoughts on that, incorporate them into. I am personally very excited with Design/Build because, as I said, it does allow projects to move more quickly. As with -- even with a traditional Design/Bid/Build, we are the owners of the asset, the State of New York and the department, so it is our responsibility to stay on top of those projects both from a schedule, financial and legal standpoint and we will continue to do that.

ASSEMBLYMAN STECK: I think one of the problems with contractual agreements is that they can always be breached. And I would just ask the question, when we have our State workforce, which is unquestionably independent, why is that workforce not being deployed to do this work, particularly in light of what you testified to in your experience in Rochester where use of the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

State workforce saved a substantial amount of money that, I think, would not have been saved had you used the Design/Build model? So, how can you address those issues?

COMMISSIONER MCDONALD: I think the best way to address those issues is to use whatever innovative and cost-efficient method is available on a project-by-project basis. In some instances it will be Design/Build, in some instances it will be pre-qualifying and best value. I could also argue that when you use traditional Design/Bid/Build you have to go with low bid and the contractor may enter a project knowing that they are going to start right off the bat filing claims. So, there are pluses and minuses with both and it is our responsibility to use our due diligence and move the project forward to the method that fits that project best.

ASSEMBLYMAN STECK: My understanding is that DOT's own internal have done some studies to indicate and, you know, the contracting out model that was employed, for example, under Governor Pataki in certain areas had actually increased the State's cost tremendously. I'm wondering whether the department -- how the department feels about that issue.

COMMISSIONER MCDONALD: There were some projects in the past that have led to cost overruns. I have instituted a very rigid monthly project review where projects managers and the regional directors are accountable for their capital programs. We have a senior executive staff meeting every month to track projects - it's on our website - to see where projects are as far as schedule and budget,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

and I believe that having the different procurement methods is the best way to move the program forward for the taxpayers of the State of New York, but the management of the projects, whether they be DOT employees or consultant employees, it is imperative that we stay firmly managing those projects.

ASSEMBLYMAN STECK: If the Chairman will permit me, I would like to just ask a few questions in another area, which is the area of high-speed rail.

New York is a very -- one of the most populous states, it's a very large state, it's large in its populous as many foreign countries and, yet, our rail network is third-class, to put it bluntly.

What is the status of high-speed rail in New York? Did we receive funding in the American Recovery and Reinvestment Act for the purpose of upgrading rail and, you know, what's going on in that area?

COMMISSIONER MCDONALD: A few points. I chair the Northeast Corridor Commission, which is a coalition of nine states from Virginia to Maine, Amtrak and U.S. DOT looking at the northeast corridor and making those types of investments. It is a high priority for this region and for the Governor. New York State, under both ARRA and the high-speed rail program, received close to -- actually, over \$2 billion in Federal funds and we'll be happy to provide that breakdown of those funds for you.

ASSEMBLYMAN STECK: One of the things I really appreciate is the Governor's style of getting things done, and I

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

certainly hope that this would actually be reflected in the area of high-speed rail or even advancing rail, generally, in the State. Is there any specific project that's ongoing right now?

COMMISSIONER MCDONALD: There are many that are ongoing. The biggest one is the interlocking at Herald in Penn Station, which is where the bulk of the congestion occurs. That is an approximately \$300 million project that is being managed jointly by Amtrak and Long Island Railroad. We are going to be starting construction this spring - Amtrak is, excuse me - on approximately \$150 million worth of projects on the Hudson line corridor, and two weeks ago I was in Rochester with Congresswoman Slaughter and the mayor and we're kicking off a \$26 million new intermodal station in Rochester.

ASSEMBLYMAN STECK: Thank you very much.

CHAIRMAN FARRELL: Thank you.

Senator.

CHAIRMAN DEFRANCISCO: Senator Kennedy.

SENATOR TIMOTHY KENNEDY: Thank you very much. Good morning, Commissioner.

COMMISSIONER MCDONALD: Good morning.

SENATOR KENNEDY: As you know, I've been pushing for more equitable distribution of DOT dollars to Western New York Region 5, Erie, Niagara, Cattaraugus, Chautauqua Counties. Last year we were promised our region would receive its fair share. You had alluded to the MOU that was signed earlier in

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

your testimony here. It's about 10 percent of the Statewide funding is what was committed to and promised to the region. Less than half of that has actually come to the region thus far; \$166 million in DOT core funding, \$72.5-, as of the most recent letting figures I could come across. Now there's still some time left in this fiscal year, so I would just like to know, you know, why the case that, you know, we have about \$90 million, a little more than \$90 million that we're short from what's been promised up to this point.

COMMISSIONER MCDONALD: As you said, we still have some months left in the fiscal year and it is our intention to use all our best efforts to get all capital projects that were committed to in the MOU obligated so that we can put people to work at the start of the construction season.

SENATOR KENNEDY: That would be very welcome news to the folks in Western New York in Region 5 and in the construction industry. I can tell you in peak season they were complaining of over 20 percent unemployment, and so that would definitely be welcome news.

So, your expectation is that in the course of the next two months or so we're going to be looking at \$90 million or more that's going to be let?

COMMISSIONER MCDONALD: I don't have the specifics in front of me, but we were -- we are using every effort to get the remaining projects that need to be let in Region 5 and across the State obligated so that we can start the construction season and put

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

people to work.

SENATOR KENNEDY: Great. The Accelerated Bridge program in 2012, in June of 2012, a few of the projects, actually, in the Buffalo area, Buffalo-Cheektowaga, bridge redecking, some delapidated bridges over Route 33 that cuts through the Town of Cheektowaga and the City of Buffalo were slated for reconstruction, redecking and those were delayed and downgraded. Can you explain that, you know, what the reason is for these delays and downgrades and is there a solution? What are we going to do to resolve this issue and others moving forward?

COMMISSIONER MCDONALD: Are you talking about one bridge in particular or...

SENATOR KENNEDY: There's actually four bridges.

COMMISSIONER MCDONALD: Four bridge decks.

SENATOR KENNEDY: Bridge decks, three in the City of Buffalo, one in the Town of Cheektowaga, all over Route 33.

COMMISSIONER MCDONALD: I can explain that for you. Those four bridges were originally part of a package for Design/Build. When the proposals came back from the four teams, the estimates were -- ranged between 20 and 50 percent higher than what we had anticipated. We had conversation -- I rejected all bids. We worked with the industry and what we did was we took that package and broke it into smaller packages. The design on those for

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

the four bridges in Buffalo has been completed and those -- that project will be let by the end of this fiscal year and work will start in the spring.

SENATOR KENNEDY: Very good. Now, that would be under the New York Works program. You've, again, alluded to, in some of your testimony, some of the speed bumps, so to speak, with that program. There was \$147 million that was promised to the western region, again, Region 5, about 23 percent, a little over 23 percent, and those numbers are very low compared -- that has been let, actually, \$12.5 million, which is about 2.9 percent rather than 23 percent. Can you just discuss that a little bit and if, in fact, this will be resolved as well moving forward?

COMMISSIONER MCDONALD: Per the MOU, the New York Works portion for Western New York for Region 5 was approximately \$35 million. That is excluding the Peace Bridge, which was the biggest project in Western New York. All of that will be either awarded or has been awarded to date and we'll give you the details after the meeting.

SENATOR KENNEDY: Very good. I want to just switch to the Skyway. You have recently corresponded with Congressman Brian Higgins about a plausibility review that the Department of Transportation is undertaking. Can you talk about the scope of the study; where you are in the process and the timeline on when you'll be releasing the findings of the study?

COMMISSIONER MCDONALD: The process is

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

underway right now. What we are looking at is what the -- from a very macro perspective, what the impact could be on the City of Buffalo if the Skyway were to come down from a traffic and pedestrian movement. It's underway. I expect to receive that in the near future and then we'll be sitting down with the Congressman and you to talk about what the results are.

SENATOR KENNEDY: Too, I would like to thank publicly Chairman Fuschillo, Senator Fuschillo, for his leadership on this issue. He's committed to working with us out in Western New York on bringing the Skyway issue to the forefront. And a lot of times when these studies have been done at various levels of government, the studies often find themselves sitting on the shelf.

What commitment do we have in making sure that whatever plausibility review is done doesn't collect dust on the shelves?

COMMISSIONER MCDONALD: Well, I did say that, you know, the Thruway Authority owns the Tappan Zee Bridge, but I do think that what's important to note is under Governor Cuomo's leadership, he has set the bar so that we complete all environmental documents in a much expedited way, which is the direction I am going to in the department. So, you will see things move much more quickly than they have in the past and part of that discussion is how are projects funded.

SENATOR KENNEDY: And would you be willing to come up and give us the study findings once it's completed up in

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Buffalo?

COMMISSIONER MCDONALD: I would be happy to do that.

SENATOR KENNEDY: Okay. And then one last thing I would like to discuss is the NFTA State Transit Operating Assistance. The Department of Transportation, you know, obviously, administers those funds. The NFTA receives less STOA funding per passenger trip or per revenue mile than any other major Upstate agency, despite being the State's second-largest transit provider and the only Upstate system with light-rail service.

Can you just discuss what the DOT is doing to ensure the formulas used to calculate State funding will reflect the needs of the NFTA system and to ensure our region doesn't have to raise fares to make it more difficult for transit riders to go to and from work? Because the NFTA remains underfunded by about \$5 million compared, on average, to the other Upstate cities.

COMMISSIONER MCDONALD: You know, we at DOT recognize the difficulties that all transit systems, the MTA and our Upstate providers, face and NFTA, in particular, has been doing some very positive things over the last couple of months to improve their operation and their efficiency.

The revenues that are -- the appropriations that are in this year's budget match the revenues that are in the statute to fund these agencies. So, it is something we need to continue to grapple with but right now, that's where we are. The revenues match -- the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

appropriations match the revenues and I know that all of the Upstate providers are doing everything that they can to decrease costs and become more efficient without raising fares.

SENATOR KENNEDY: Thank you. I also understand that for the past six years funding for non-MTA account of the State's Dedicated Mass Transportation Fund, the trust fund, has not been distributed for transit capital needs, projects that improve aging transit facilities, you know, ultimately creating jobs, helping the infrastructure. As a result of this non-distribution, there's about \$100 million or more in State funding for capital projects at these transit agencies Upstate that have had to dip into their operating funds to pay for some of these capital improvements. Oftentimes when they dip into the operating funds it leads to route cuts and rate hikes. You know, again, what you just mentioned we're experiencing. And so, I would like to know if, in fact, these funds can be released and when, in fact, they could be released.

COMMISSIONER MCDONALD: I don't know that answer right here today, but we will -- I will look into it directly and get right back to you.

SENATOR KENNEDY: Thank you.

CHAIRMAN FARRELL: Thank you.

Assemblyman McDonough.

ASSEMBLYMAN DAVID G. MCDONOUGH:
Thank you, Chairman, and good morning, Commissioner; nice to see you again.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

COMMISSIONER MCDONALD: Nice to see you.

ASSEMBLYMAN MCDONOUGH: I just have a couple of minor questions, one you mentioned in the ongoing projects, is Hempstead Turnpike, that project, which is in part of my district and I've been there recently. That's progressing on schedule? Because it's a big safety factor there, as you know.

COMMISSIONER MCDONALD: Yes, it is. The Hempstead Turnpike is a new model that the department is employing under my direction. We're looking at the full 16 miles. We're going to use that model on other roadways on Long Island and throughout the State.

Back in May we announced a two-phase project. Phase one was completed. Phase two, which was some of the more detailed work, pedestrian fencing, left-turn bays, et cetera, was scheduled to start in October and then Sandy hit, but that's now back underway and we'll get you a list of where all those locations are.

ASSEMBLYMAN MCDONOUGH: Yes, it has started and as recently as yesterday I was out there. The no-right-turn-on-red has been implemented, which is a big safety factor, but thank you for -- and your regional, Subi Chakraborti, is doing a wonderful job, too.

On the two things that you mentioned on higher priority on motorist convenience that the Governor has suggested, the one thing is the new hours that may be implemented on weekends for DMV offices. Do you know where those -- I mean, how that selection

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

will be made? I mean, I'm sure you don't have all that information now, but...

COMMISSIONER MCDONALD: I actually don't have that information. That falls under the jurisdiction of the Department of Motor Vehicles and I think they're going to be here a little bit later and will address that.

ASSEMBLYMAN MCDONOUGH: Okay. And then the other part is that, I'll save for them, regarding the kiosks as well.

COMMISSIONER MCDONALD: Yes.

ASSEMBLYMAN MCDONOUGH: Okay. Thank you very much.

CHAIRMAN FARRELL: Thank you.

Senator.

CHAIRMAN DEFRANCISCO: Thank you. Just a couple of points. I guess as the new Assemblyman Steck who had mentioned about Design/Build, I've been into a lot of litigation on that as well. Have you -- I don't know. How long has the process being going on under your leadership?

COMMISSIONER MCDONALD: Just a year. It's only been a year because the Legislature approved the legislation in December of 2011, so we've just been --

SENATOR DEFRANCISCO: Are you --

COMMISSIONER MCDONALD: Just this construction season is our first time.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

CHAIRMAN DEFRANCISCO: Have you started receiving claims for additional work because of -- as the project's going forward, circumstances change because of the -- fast track is a good thing in one sense, but it's not as deliberate and sometimes runs a lot of cost overruns. Have you been seeing that lately?

COMMISSIONER MCDONALD: You know, we track each of the projects individually. One of the reasons we picked the Accelerated Bridge program is because the deck replacements that we picked to do Design/Build, the environmental process was complete, there was no property acquisition. So, we tried to pick out the bad -- those that were the least complicated. I don't have any information that you're asking right in front of me, but we'll go back and check.

CHAIRMAN DEFRANCISCO: I guess what I'm getting at is oftentimes there's a dispute in a fast build on any contract, but with Design/Build where a contractor is set to go forward with his change and the contract says you need a signed change order by the owner, the construction manager says, *Keep going*. You know, *We'll get it for you. We'll get it for you. We're on a fast track. We'll get it.* And the contractor never gets it. He does the work and then at the end of the project or as soon as he's wiped out without money coming in he's told that the -- he never had a change order. He had to have a signed change order.

So, I would just hope, I'm just -- as an alert, I'm sure you're well aware of all this, but I just don't want to see the contractors

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

in this process get hurt.

COMMISSIONER MCDONALD: No, and to that point, in December we had a "Lessons Learned" session with the contracting and consulting community to talk about what some of the positives were after the first year, what -- where are the areas we need to improve and it's my plan to do that on a regular basis. As you said, Senator, we won't eliminate all claims --

CHAIRMAN DEFRANCISCO: Of course.

COMMISSIONER MCDONALD: -- but the goal is to minimize those claims on both sides.

CHAIRMAN DEFRANCISCO: Thank you. I'm going to give a second to Senator Fuschillo's comment about CHIPS money. I mean, that's the lifeblood for so many localities. If there's any way we can adjust things, I know it's sort of out of your hands at this point, but I'm going to try to do the same.

Lastly, our project locally that's going to be hot soon is Route 81. Can you just give me a ballpark timeline of when you think there will be a decision made on whether -- how that's going to be designed?

COMMISSIONER MCDONALD: We're finishing up the planning phase right now and I've accelerated that so it will be done in the next month or two and we are meeting with Federal highway, again, using the Tappan Zee as the model for an accelerated NEPA process. Because we'll be using Federal funds, Federal Highway will be the lead for the environmental process and as soon as

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

I get a definitive timetable, I'll share it with you.

CHAIRMAN DEFRANCISCO: Is it possible that something -- some shovels can be in the ground even by this fall?

COMMISSIONER MCDONALD: No, no.

CHAIRMAN DEFRANCISCO: Okay. So we're talking --

COMMISSIONER MCDONALD: Yes, it would take longer than that to get through the analysis.

CHAIRMAN DEFRANCISCO: Okay. Very good.

COMMISSIONER MCDONALD: Yep.

CHAIRMAN DEFRANCISCO: Thank you.

CHAIRMAN FARRELL: Thank you.

Mr. Gabryszak.

ASSEMBLYMAN DENNIS H. GABRYSZAK:

Thank you, Commissioner. Just get being back to Region 5 for a moment. I'm glad to hear in terms of the commitment back to the funding for Region 5 that, for whatever reason in the past, has fallen below what has been the traditional 10 percent in terms of funding for Region 5.

You had mentioned the Peace Bridge. The Peace Bridge project, that funding is not included in any of these projects; is that correct?

COMMISSIONER MCDONALD: There is \$15 million in DOT's budget for the Peace Bridge as part of the New York Works program, but the Peace Bridge is not in our core program;

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

correct.

ASSEMBLYMAN GABRYSZAK: Okay. In terms of the remaining projects, would you please, in terms of what those projects are, if you could get a list of what the projects are and the associated costs with that, that would be beneficial to myself.

And also, Senator Kennedy was -- previously mentioned about bridges. Do you know if the Cleveland Drive Bridge in Cheektowaga, is that one of the bridges that's under consideration or scheduled for repair?

COMMISSIONER MCDONALD: I'm not sure, but we'll get you the full list of bridges.

ASSEMBLYMAN GABRYSZAK: Okay. And looking -- going forward in terms of Region 5, just so that we don't have the snafu that happened in the past, is it safe to assume that going forward that Region 5 can expect -- maintain funding at approximately the 10 percent level?

COMMISSIONER MCDONALD: What I said in my earlier comments was we adhere to the MOU that is negotiated between the Executive branch and the leaders of the Legislature, that MOU that is in effect through this fiscal year.

ASSEMBLYMAN GABRYSZAK: Thank you.

CHAIRMAN FARRELL: Thank you.

Assemblyman DenDekker.

ASSEMBLYMAN MICHAEL D. DENDEKKER:
Thank you, Commissioner, for being here and answering some of the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

questions.

My concern is in some of the gap closing actions and, specifically, a couple. Reducing the salt costs and usage. I would like, first, to know what is your plan on reducing the costs of purchasing the salt and what is your plan on usage? Obviously, we all know, anybody that has experience in de-icing or in snow removal, that the pre-storm application of salt is imperative to reducing the amount of accumulation and also making the roads safer for the people that are going to be using it.

So, I'm very interested in knowing how you could project that so far in advance to save these -- make these savings.

COMMISSIONER MCDONALD: We pretreat our roadway system to the extent possible when there is sufficient time before a snow event comes and we do that across the State. As far as materials that we use, we conform to DEC and EPA guidelines as far as both salting and storage of the salt. So, we follow those guidelines and those laws very religiously. But we are always looking at new ways and new technologies. We are using a brine mix in certain areas where it makes sense, particularly in Long Island because that doesn't have the same snow/ice as some of our Upstate regions, and DOT staff continues to look at the best practices, both in the State and across the country, when it comes to pretreating and salting the roadways to make them safe for motorists.

ASSEMBLYMAN DENDEKKER: So, according to projections last year, the 2012-2013 budget had a savings of \$3.6

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

million. Did you realize those savings? Were they real?

COMMISSIONER MCDONALD: We -- what we do is we live within our budget and, depending on where the needs are, we reallocate if we need to. Last year was a mild winter, but what we did was we deployed personnel to repairing culverts and bridges if they weren't doing snow removal. The savings that were in our budget last year we took.

ASSEMBLYMAN DENDEKKER: Okay. So, you would feel comfortable then on the new projection that to go from \$3.6 million in savings to \$5.6 million in savings, an additional \$2 million you'll be able to save just from controlling the purchase and the usage of salt?

COMMISSIONER MCDONALD: What we do is we -- the budget that we get, we are always working on ways to be more efficient and we have been very fortunate that we've gotten some good savings in our salt purchases and we will continue to do that working with OGS.

ASSEMBLYMAN DENDEKKER: Okay. I just reiterate, my major concern is the application of the salt and, hopefully, that we won't be cutting back on application, thereby endangering any members of our State at all that are driving.

COMMISSIONER MCDONALD: We absolutely do not compromise safety and take very seriously our pretreating and salting and plowing of our roadways.

ASSEMBLYMAN DENDEKKER: The other part I

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

want to mention is the pay-as-you-go maintenance. I mean, I would imagine we're talking about fleet maintenance, the vehicles that the State currently utilizes to performance its functions. Previously, and it's been a best practice up to this point, has been preventive maintenance and the changing of equipment, you know, according to its lifespan, whether it be 70,000 miles or seven years or whatever criteria we had before that.

We have learned that when we do a pay-as-you-go maintenance, in essence, we're letting the fleet deteriorate at a faster rate because we're not doing that preventive maintenance and we're not replacing the equipment in a timely fashion, that we're trying to extend the life of the equipment past its -- you know, what we've found out to be economically feasible for us. So, I have a concern about that.

How do you think we will be able to maintain and, of course, in this year's budget, we're increasing that from \$7.5 million last year to \$8.5 million. Aren't we getting dangerously close to having the fleet reach such a point of it's going to be so decapitated that we're going to eventually have to replace the entire fleet at a larger cost?

COMMISSIONER MCDONALD: You hit the nail on the head. New York State DOT is a best practice across the country for fleet maintenance, and I am proud of the work that our fleet maintenance staff does as far as preventive maintenance and vehicle replacement. And it's a full program and we will not

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

compromise the safety of DOT employees or the traveling public and we replace vehicles when it's needed and we maintain them when it was needed.

And I was extremely proud when many of those Upstate vehicles were utilized in recovery for Hurricane Sandy, and if it were not for DOT fleet maintenance making those investments along the way, we would not have been able to do that. But we have a very solid fleet maintenance program where we replace when we need to and we repair when we need to.

ASSEMBLYMAN DENDEKKER: Thank you.

CHAIRMAN FARRELL: Assemblyman Bob Oaks.

ASSEMBLYMAN OAKS: Thank you, Commissioner. Just to follow up a little bit, you were just talking about fleets. The DRA, or the Diesel Reduction Act, I know that has a target as the end of December of this year of being compliant. Any sense where our fleet is in compliance and what's the target for having it done and the cost of that?

COMMISSIONER MCDONALD: I don't have those figures with me. Last year, because of the after-effects of Irene and Lee and then we went right into Sandy, we did get the date extended. We're working with DEC on that. I'll get you some specifics on that after the hearing.

ASSEMBLYMAN OAKS: Thank you, Commissioner. I know one of the issues, infrastructure is always there. I have the canal that runs through my district. We've had a

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

number of canal bridge inspections and closures. I would like to, one, say that DOT in the region, Bob Traver, has been extremely helpful in trying to work through that, but it doesn't take away the need that is there. And just a -- I guess it's a call to just say, you know, that a focus on that and looking at public -- well, not public, but State and local partnerships, I think the counties and the communities stand ready to work where we can and if we can be creative in that way and -- we would like to do that.

Continuing on with partnerships with local government, I think part of the issues that we're dealing with here are where the money's divided up and I know the costs are hitting everyone, the State and localities, but just where money's going. I know earlier we were talking about the MAP-21. You said that it's flat funding from the Feds. Is there, though, some restrictions now on where that money's going and is that either going to make it more difficult for us or less?

COMMISSIONER MCDONALD: One of the changes in MAP-21 is the number of formula programs were collapsed. Where there were approximately 10 or 12, there are now 4. And some of the programs that traditionally went directly to local bridges have been collapsed and we have been in conversations through the MPO process and through the local -- the county highway superintendents. They will not receive less than they did before. They are still eligible for Federal funds; it is just a different formula that they have to go through and we're working through that with

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

them, but there will be no diminution of what they receive from a Federal basis from before.

ASSEMBLYMAN OAKS: Some of the recognition, I was alluding to that, I guess, with the bridge issue and whatever, but I know localities sometimes, because of their workforce or whatever, might be able to do some projects even at a less cost as the State or whatever. And, again, from that perspective, again, where partnerships or driving money to the localities with some of the projects that benefit all of us, I think, make a lot of sense.

Thank you, Commissioner.

COMMISSIONER MCDONALD: Thank you.

SENATOR KRUEGER: We've been joined by Senator Cecilia Tkaczyk.

ASSEMBLYMAN OAKS: We've also been joined by Assemblyman Dan Stec.

CHAIRMAN FARRELL: Thank you. Route 9 north of the George Washington Bridge to the Henry Hudson Parkway, started working on it when I was a child and they're still working on it. And many years ago I had one of your predecessors who became a Federal Commissioner, we took a ride because the street -- that's one of those streets that were built when Moses - not the guy that did the water thing, but the one that did the highway thing - he came in and decided to build a bridge, that Henry Hudson Bridge, and when he built it, he took a New York City Street, which was Lafayette Boulevard, which was a humpback road and he turned it into a

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

highway, which was good, except if you were on the left side of it making a right going around a right curve, your car was leaning to the left and we killed a couple people and we spun out a lot of cars. But when I took him for the ride and he actually rode it, he saw that there were a couple of those curves that were dangerous. So, he came in and he add -- but you were doing work on 9 at the time, but he immediately dropped in about 12 inches of asphalt so he could level it out a little. It's never gone past that. They were supposed to rebuild that and finish it and straighten it out.

Do you know anything about what I'm talking about?
And if you do, when is it going to happen?

COMMISSIONER MCDONALD: I'm familiar -- I'm very familiar with the roadway. I will go back and check on the status of what happened to that project and where it could be in the pipeline.

CHAIRMAN FARRELL: I think they now finished the work on the Henry Hudson. They've done the upper and the lower.

COMMISSIONER MCDONALD: Right, right.

CHAIRMAN FARRELL: So, now the only thing they haven't done -- that was to be from 165th to the bridge. And in there was a plan to build access to Riverside Drive and that access was going to be at 153rd Street because there used to be an entrance there. If you could find that because there was a couple dollars in there that I kept watching and suddenly it disappeared.

COMMISSIONER MCDONALD: I would be happy

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

to get back to you. I know exactly where it is. I'm --

CHAIRMAN FARRELL: All right. So we can talk about that.

COMMISSIONER MCDONALD: Yes, we can talk; yes.

CHAIRMAN FARRELL: Thank you very much. Assemblyman Brennan to close.

SENATOR KRUEGER: I'm sorry, also just Senator Velmanette Montgomery has joined us. Sorry, Jim.

ASSEMBLYMAN BRENNAN: Commissioner, we're coming to the end of the 2012-2013 fiscal year. Do you have a forecast for the letting levels for the year or an amount, an approximate amount?

COMMISSIONER MCDONALD: It is our intent to let as much of the \$3.2 billion as we can. Some of it will slip into the first quarter of the next fiscal year.

ASSEMBLYMAN BRENNAN: Sure. But do you have a forecast for the letting level for the fiscal year?

COMMISSIONER MCDONALD: This current fiscal year?

ASSEMBLYMAN BRENNAN: Yes.

COMMISSIONER MCDONALD: Our forecast for the letting is the full \$3.2 billion.

ASSEMBLYMAN BRENNAN: The full \$3.2 billion?

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

COMMISSIONER MCDONALD: Mm-hmm.

ASSEMBLYMAN BRENNAN: And the letting level for next year?

COMMISSIONER MCDONALD: The New York Works, the \$1.3- came down, so I don't have that with me, but I'll get it back to you because I don't want to do the math in my head.

ASSEMBLYMAN BRENNAN: Will it come down from the \$3.2-?

COMMISSIONER MCDONALD: It will come down.

ASSEMBLYMAN BRENNAN: Okay.

COMMISSIONER MCDONALD: Because New York Works was \$1.2 billion and this year --

ASSEMBLYMAN BRENNAN: It was an acceleration?

COMMISSIONER MCDONALD: Yes, because New York Works was \$1.2-; our traditional is about \$1.6-, \$1.7-, so it will be \$1.6-, \$1.7- plus the \$200 million, plus the \$100 million, so it will be close to \$2 billion.

ASSEMBLYMAN BRENNAN: All right. Now, you testified that the MWBE percentage in New York Works was over 20 percent, which is --

COMMISSIONER MCDONALD: No, not in New York Works, in our overall program.

ASSEMBLYMAN BRENNAN: In the overall?

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

COMMISSIONER MCDONALD: Yes.

ASSEMBLYMAN BRENNAN: So that the
MWBE --

COMMISSIONER MCDONALD: Yes.

ASSEMBLYMAN BRENNAN: -- is over 20
percent --

COMMISSIONER MCDONALD: Yes.

ASSEMBLYMAN BRENNAN: -- for the --

COMMISSIONER MCDONALD: The examples I
gave were some New York Works projects.

ASSEMBLYMAN BRENNAN: Okay. All right.
Well, that's good. I wanted to refer back to something that Senator
Kennedy had mentioned. We're seeing an appropriation of \$18.5
million from the Dedicated Mass Transit Fund for capital for
non-MTA mass transit systems, both Upstate and Downstate, and they
are reporting to us that for the past five years they have not received
the appropriated amounts, and that relates to his discussion about a
backlog of almost \$100 million. So, they are reporting to us that they
are being forced to cannibalize the State operating funds that they are
getting to address their capital needs. And so, they're experiencing
shortfalls and we are anxious to see the funds released. So, hopefully
you'll follow up and find out what's happening with that.

COMMISSIONER MCDONALD: I absolutely will.

ASSEMBLYMAN BRENNAN: Okay. There was
also some discussion about the fact that the Upstate transit systems

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

were getting a flat amount for this year and the Downstate transit systems appear to be getting about a 9 percent increase. And you mentioned that that appears to be related to the specific statutory prescriptions for --

COMMISSIONER MCDONALD: Revenues.

ASSEMBLYMAN BRENNAN: -- the funds and that they were simply getting what those prescriptions were. But the MTA, there appears to be a sweep of \$20 million from its dedicated taxes to transfer to other purposes than their operating requirements. Can you explain why that is occurring?

COMMISSIONER MCDONALD: I can't right now, but I will get back to you on that. I do know there was some reconciliation and I will check on that. I don't want to say specifically because I don't want to say it incorrectly.

ASSEMBLYMAN BRENNAN: Yes. Our understanding is that the prescription, the statutory prescription --

COMMISSIONER MCDONALD: Right, are various taxes.

ASSEMBLYMAN BRENNAN: -- would fund an extra \$120 million, but that is being swept for other purposes.

COMMISSIONER MCDONALD: I will check on that.

ASSEMBLYMAN BRENNAN: Okay. Thank you.

CHAIRMAN FARRELL: Thank you very much.

Have a good day.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

COMMISSIONER MCDONALD: Thank you. You, too.

CHAIRMAN FARRELL: All righty.

Next, Metropolitan Transportation Authority, Thomas Prendergast, Interim CEO, and Robert Foran, CFO. This is the 11 o'clock. We're not doing badly.

Good morning.

MR. THOMAS PRENDERGAST: Good morning, sir.

CHAIRMAN FARRELL: Unless my glasses are bad, there's only one of you.

MR. PRENDERGAST: Yes, sir.

CHAIRMAN FARRELL: We had anticipated two of you.

MR. PRENDERGAST: Mr. Foran is here. He's right behind me. I have an opening statement.

CHAIRMAN FARRELL: Yes, please.

MR. PRENDERGAST: Okay. Senator DeFrancisco, Assemblyman Farrell, Assemblyman Gantt and members of the Senate and Assembly, good morning. My name is Tom Prendergast and I'm President of New York City Transit and, at the moment, I'm also the interim Executive Director of the Metropolitan Transportation Authority. Thank you for the opportunity to testify today.

I would like to begin with a brief update on our efforts to recover and restore service after Superstorm Sandy. Despite

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

the storm's devastating effects, we are running almost full services in all aspects of our operations, and I simply could not be more proud of the way our employees rose to the challenge and handled the storm. Buses were up and running seven hours after Sandy hit and only nine hours after that, the buses were running full schedule. A few of our commuter trains were running less than 24 hours after the storm passed and limited subway service was back 36 hours after the storm. Much of the success and rapid restoration was due to preparation and the decision to suspend service as the storm approached, and all of it was due to the dedication of our workforce and their contributions. While today we've restored most services, we're still working around the clock to remediate the most serious damage. In some cases, including service to the Rockaways, repair work will take many months.

Looking more generally at the year ahead for the MTA, Governor Cuomo's proposed budget will provide \$4.2 billion in operating support for the MTA, an increase of more than \$358 million from last year. This increased support is much appreciated, and I think the Governor's budget recognizes the hard work that the MTA has been doing to reduce costs, contain costs, improve efficiencies and balance our budget while improving service to our customers. The MTA has been pursuing an aggressive cost-containment and control effort. We've reduced personnel costs by reducing administrative head count at headquarters by 20 percent and at the agencies by 15 percent. We were able to cut some \$700 million from the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

discretionary categories of our operating budget in both 2011 and 2012. In fact, were it not for Superstorm Sandy, we may have ended 2012 with a reduction year to year in those costs. As it is, those savings will recur every year, growing to more than \$1.2 billion by 2016. We're also committed to identifying further cost reductions in the coming fiscal year.

At the same time, as a result of the 2011 savings, we were able to implement a package of service investments worth more than \$29 million. These investments restored some of the painful service cuts that were enacted in 2010 and extended service to new markets in growing neighborhoods. Despite our best efforts to reduce discretionary costs, the MTA's non-discretionary costs, particularly healthcare and pensions, continues to rise. The recovery from Superstorm Sandy is another factor placing pressure on the budget. We've already spent tens of millions of dollars to restore service as quickly as possible and we are working on the preliminary phases of repair work, scoping projects, developing estimates and performing early planning and design work. Our goal is to have the contracts for this work, totaling some \$4.755 billion, in the pipeline as soon as possible after the Federal aid approved by the Senate this week is appropriated.

Finally, our financial plan assumes the continuation of existing State subsidies. In August the State's payroll mobility tax was struck down by a judge in Nassau County. The tax remains in effect as we vigorously appeal the ruling, which I'm confident will be

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

overturned. If it is not, the elimination of this tax revenue could cost the MTA nearly \$2 billion every year and new sources of subsidy to keep the system running would be necessary. So, as I hope you can see, we're working non-stop to keep the organization on sound financial footing, doing everything we can to hold the line on discretionary expenses and it is our goal to deliver customers safely and efficiently, but also make the nation's most extensive transit system as efficient and affordable as possible to our customers.

Meanwhile, our capital funding needs continue to be critical. Over the past 30 years the capital program has invested some \$90 billion in the vital infrastructure that keeps New York moving and its economy growing, and the success of these investments is all around us. It can be seen in the striking difference between our transit system today and the transit system when this program began when I came to New York first in 1982 when subway trains broke down 25 times more frequently and derailments and collisions were experienced frequently. It can be seen in the MTA's speed and coordinated response to Superstorm Sandy, and it can be seen in the many of our recent projects delivering real benefits to customers such as the new transfer between the Number 6 Train at Bleaker Street and the Broadway Lafayette Complex, the F Line, and the rebuilding of the East 180th Street Station in the Bronx, which is now ADA accessible and larger projects like the exciting Fulton Transit Center in lower Manhattan.

A healthy, fully-funded capital program creates new

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

opportunities for movement and growth. It means the MTA can keep moving forward in expanding the region's economy. Of course, the capital program is also an economic boon to every other region in the State where hundreds of vendors contract and employ New Yorkers who provide billions of dollars in goods and services for MTA capital projects. Following Superstorm Sandy, Governor Cuomo's New York 2100 Commission on Infrastructure submitted what I think is an excellent blueprint for the steps the region must consider if we are to prepare for and mitigate the effects of similar natural disasters in the future. The MTA was honored to participate on the commission and we are closely studying its recommendations. Meanwhile, our capital program will also focus on the critical nuts-and-bolts work that keeps our 24/7 system reliable and moving more than 8 million people each and every day. We appreciate the support you have given the MTA and we are working hard to gain or maintain your confidence in the organization's management, and we look forward to continuing working with you.

Again, thank you for inviting me to speak at the committee today and I'm happy to answer any questions you might have.

CHAIRMAN FARRELL: Thank you very much.

Mr. Brennan, Assemblyman Brennan.

ASSEMBLYMAN BRENNAN: Mr. Prendergast, it's good to see you and thank you for your leadership during Sandy and for your guidance of the MTA as the interim CEO.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Question: Does the Executive Budget proposal, in terms of its appropriations to you, match what you are -- you assumed you would get in the financial plan?

MR. PRENDERGAST: Yes.

ASSEMBLYMAN BRENNAN: Okay. Do you have any understanding of how the -- have you received any explanation for why there is a sweep of \$20 million for non-MTA purposes to be dedicated?

MR. PRENDERGAST: I don't. I have to -- much like Commissioner McDonald stated, I would have to get that answer for you. I don't know.

ASSEMBLYMAN BRENNAN: Okay. You testified that you're getting \$4.75 billion from the Feds related to storm recovery, but there is also additional funds for mitigation?

MR. PRENDERGAST: Yes.

ASSEMBLYMAN BRENNAN: How much mitigation money are you getting?

MR. PRENDERGAST: A little over \$4 billion, about \$4.1 billion, so the total cost would be the sum of those two numbers, the \$4.7- and the \$4.1-.

ASSEMBLYMAN BRENNAN: Have you prepared a plan for the expenditure for the mitigation program?

MR. PRENDERGAST: We're working extensively with all the agencies in the region as well as New York State to come up with a combined plan. So, a lot of work has already been done in

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

terms of identifying what those projects are and what their scopes would be and they need to be finalized once the appropriation gets made.

ASSEMBLYMAN BRENNAN: The 2100

Commission catchword, "resiliency," is that what the MTA is going to adopt as its operating theme in relation to the mitigation expenditures?

MR. PRENDERGAST: Yes, I believe so. I mean, we've been founded for the last 25 years on state of good repair. I believe the recent storm events have indicated a need to take a look at these experiences that we're having on a more frequent basis and what do we need to do in concert with state of good repair to make the system more resilient.

Probably in the days after Superstorm Sandy, we all saw how important the transportation system was to New York City, and so the importance of that resiliency was underscored by that event.

ASSEMBLYMAN BRENNAN: The combination of Federal funds and insurance reimbursement, you anticipate will provide what percentage of the funds you need to recover in relation to what happens?

MR. PRENDERGAST: Recover and mitigate 100 percent, but at the end of the day we need to make sure that we do what needs to be done to restore the system to the way it was the day before the storm and provide for that level of resiliency.

ASSEMBLYMAN BRENNAN: I thought you had

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

indicated previously that you were going to do some bonding for unrecovered costs?

MR. PRENDERGAST: I believe we did some bonding early on. I'm not sure of all the details, but we didn't want to be sitting in a position where we were waiting for money to come from the Federal government when needs were apparent now. So, it was our intention to let bonds, to have that work go forward, but then at a later date use the moneys that would be appropriated by the Federal government.

ASSEMBLYMAN BRENNAN: All right. Let's move on to the capital plan.

In the current plan you had a \$2 billion reduction in capital costs to be implemented without postponing or eliminating any projects. Are you on track to save those funds and advance the plan as anticipated?

MR. PRENDERGAST: Yes.

ASSEMBLYMAN BRENNAN: That's good. Hopefully, you could provide us with some background information to show that to us.

MR. PRENDERGAST: Oh, yes. I mean, we've gone forward with an amendment to the plan to account for the first \$4.75- -- \$4.77 billion for the recovery moneys and I believe that was approved or no action taken against that on the 22nd of this month. The next amendment needs to come forward to include the mitigation, but also provide for that \$2 billion reduction and we would share that

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

information along the lines, as you discussed.

ASSEMBLYMAN BRENNAN: Yes. What is the status of the RRIF loan from the Federal government?

MR. PRENDERGAST: It's the largest RRIF loan ever applied for. The due diligence process, there's actually two passes of due diligence because of the size of the loan. It's over a billion dollars. I believe we either have or are very close to wrapping up the first round of that, about ready to start the second round and it's moving forward.

ASSEMBLYMAN BRENNAN: You anticipate the Federal government will provide the MTA with --

MR. PRENDERGAST: At this point, yes.

ASSEMBLYMAN BRENNAN: -- full funding for that? Okay. The mega projects.

MR. PRENDERGAST: I'm sorry, which projects?

ASSEMBLYMAN BRENNAN: The mega projects.

MR. PRENDERGAST: Yes.

ASSEMBLYMAN BRENNAN: The expansion projects.

MR. PRENDERGAST: Yes.

ASSEMBLYMAN BRENNAN: East Side access, Second Avenue subway. There was a delay in the schedule for East Side access completion. Can you explain to us how it came to pass that there was such a -- I think it's like a three-year delay in completion. What is happening that gives -- that forced the MTA to

delay the schedule?

MR. PRENDERGAST: There was a re-baselining of the project last year at which the date was moved forward -- moved back to 2019 and the total project budget was set at about \$8.24 billion. We're still on track for that. It is a very difficult project, but there were a whole host of issues that led to the re-baselining in terms of problems with construction on some of the projects. The cavern work in Manhattan is done. That's where the major station will be, underneath Grand Central, and the work is continuing in Queens. And Commissioner McDonald stated, you know, the work at Herald, for example, is a part of that and that is probably the most difficult passenger rail network location in the country, so... But the work is ongoing and we're still committed to those dates and that budget.

ASSEMBLYMAN BRENNAN: How are you analyzing the situation with respect to the cost overruns in these large projects and what steps are you taking to try to make sure that you stay on time and on budget going forward?

MR. PRENDERGAST: There's an independent engineer that reports directly to the board and their role is to watch these projects. That was something that was a product of an earlier capital program and problems we had with projects, and those projects are reviewed on an ongoing basis, but they're reported to the board on at least a quarterly basis. And so, there's a level of control at the board level that supercedes the internal management controls and that's the basic process and structure under which we track the projects.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN BRENNAN: The Number 7 line extension. What is the status of that project?

MR. PRENDERGAST: It's stated to be completed and go into revenue service, I believe, the first quarter of 2014 and it's going well.

ASSEMBLYMAN BRENNAN: What is the MTA's MWBE percentage in terms of contract signings?

MR. PRENDERGAST: Our percentage right now, I think, is 21.6 percent, almost 22 percent. Our committed goal is 20 percent. We've got a very aggressive small business mentoring program and we've actually changed the mindset within all of the agencies and organizations about how we achieve those goals. Rather than depend on the goals being met through primes that then sub to MWBEs, we're letting some contracts directly to people. I would like to say that that focus is also going to be apparent in both the recovery and mitigation projects. We want to make sure that the same goals that we have for our day-in, day-out capital program will also apply to the recovery and mitigation projects as well.

ASSEMBLYMAN BRENNAN: Thank you.

CHAIRMAN FARRELL: Thank you.

Senator.

SENATOR KRUEGER: Senator Chuck Fuschillo.

SENATOR FUSCHILLO: Thank you very much.

Hey, Tom, good morning.

MR. PRENDERGAST: Good morning.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

SENATOR FUSCHILLO: In 2008, 2009 and 2010 and now March of 2013, another fare increase is expected. You know, the whole system, as you know, was devised as an alternative to transportation and it's getting cost prohibitive. What are the plans going forward to eliminate these increases? This is, you know, four increases in a short period of time.

MR. PRENDERGAST: With the fiscal challenges we saw ourselves in in the 2009-2010 period, which came right on the heels of what we thought, collectively, was going to be a financial solution, we put together a financial plan looking ahead five years where it was identified that through a variety of actions, we could take the cut costs within the agency in terms of actions we could take on our own. We also had to cut some services which were very, very painful and then we looked at the gap we saw between what the costs were and the revenues coming in and so there were, I think, in the order and magnitude of about \$450 million of need every two years, now and then another two years out, and we're still on track of that.

The issue of fare increases and what impact it has on the customers and the economy is one that we fully understand and so, for that plan, they're still there, but we do realize they just can't continue on and on.

SENATOR FUSCHILLO: Part of your budget, years ago, and the former Chairmen Jay Walder and Joe Lhota was the sale of real estate as well. Has that been realized at all?

MR. PRENDERGAST: We are looking to sell the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

headquarters buildings at 341, 345 and 347.

SENATOR FUSCHILLO: By the way, I've heard that for many years now.

MR. PRENDERGAST: No, no. I mean, we're -- we've got plans underway to relocate MTA headquarters down to 2 Broadway. We have a 35-year lease on that building to move Metro North to another building in central Manhattan, and that's something that Jay committed to and Joe kept the pressure on and while I'm interim executive director, that will go forward. There is a -- you know, Midtown -- the City of New York is working on ways to change some of the zoning in that particular area, so we're poised in a position to take advantage of that, so that is something that we will see, we will definitely see that happen.

SENATOR FUSCHILLO: Are there interested buyers? Are you in contract now for the sale of the building?

MR. PRENDERGAST: I don't stay in touch, on top of the real estate development side, but given the parcels and how they can be coupled together, although you can't couple a whole block because there are a couple other buildings there that are -- I think the Yale building is there, the alumni building is there, but definitely there's going to be potential to realize a benefit from that, the sale of those proceeds.

SENATOR FUSCHILLO: Do you know when we'll realize that? I mean, will we realize it within --

MR. PRENDERGAST: The scheduled move is for

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

next year down to 2 Broadway and I believe the real estate development actions start, probably, the latter part of this year or next year to get it moving. So it's in that timeframe. It's not five years out.

SENATOR FUSCHILLO: You talked about, in your opening statement that you reduced personnel costs, administrative head count by 20 percent and agencies by 50 percent. Is that the \$700 million you're talking about in discretionary funding?

MR. PRENDERGAST: It's part of it, but there's other savings we did. I mean, we went back to vendors and we basically said, *We've got a long-term contract with you; you've got a long-term contract with us, but we think you can do better.* And we even looked at ways where we could extend the contract, but then they offered up savings so that we could get to that. So, there were other administrative actions we took. We just did whole scale restructuring in terms of how we could do something better. So, part of it was head count reduction centered and other parts of it were efficiencies and economies and the way we structured and managed the organizations.

SENATOR FUSCHILLO: Let's talk about the double track. You know that's a priority of mine and many of my colleagues on Long Island. I recently attended an event with the President of Long Island Railroad, Helena Williams, out in the Ronkonkoma station and many other individuals as well. That project remains a priority of yours as well?

MR. PRENDERGAST: Absolutely. I mean, I think you know I was a former president of Long Island Railroad, so I do

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

understand it is probably, from an operational standpoint, one of the most, if not the most, difficult operations to run because of the physical layout, whatever. And the single track from Farmingdale to Ronkonkoma has limited the ability to have high-quality service.

So, it is a high priority. The first phase, which would be from, I think, Central Islip to Ronkonkoma at around \$140 million is funded and the second phase is a high priority as well. It's a very important project for Long Island Railroad.

SENATOR FUSCHILLO: Right. And the economic impact is tremendous. And you and I talked about you still need to put that in the amended capital project. Has that meeting been scheduled?

MR. PRENDERGAST: Yes. In the next amendment we go forward with we put it in there.

SENATOR FUSCHILLO: Have you scheduled a meeting yet for that, for the MTA to vote on that?

MR. PRENDERGAST: No, but we're putting it together. I believe the timeframe is March, that's when we intended to come forward with the amendment.

SENATOR FUSCHILLO: Okay. Thank you.

There's been a lot of talk recently about safety issues and the MTA was exploring some about individuals that have tragically lost their lives, they've been pushed onto tracks. Where are you at with that? And I recently saw in the, I believe it was, the *Daily News* about the infrared systems, alert systems?

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. PRENDERGAST: Yes. At this month's transit committee meeting, which was Monday, we had a detailed presentation. Platform ed safety is something that -- I've been in public transportation my entire career and rail transit, the majority of it, and it has been an issue of high concern, whether they be accidental or deliberate actions.

SENATOR FUSCHILLO: Right.

MR. PRENDERGAST: While the trend line has been relatively flat, there's been some increases over the years. In some cases they're just casualties and injuries; in other cases they're fatalities, the largest percentage of which is suicides, and then the next-largest category is people tripping or falling to the right-of-way.

We have a very aggressive campaign to try to make sure people are aware of the hazard. One of the problems with safety when you're trying to change behavior is if you experience a hazard, very, very often but you don't realize its severity, you tend to become either callous deliberately or not deliberately to what the hazard is, so we have to point out what that hazard is. There's 16.2 million different boardings and lightings of individuals on a single day in the New York City subway. With the issue of the pushes and the emotionally-disturbed person issue, the campaign is also going to cover if you see someone either in distress or you see someone who is exhibiting those behaviors, go to somebody who has the tools, has been trained and has the wherewithal to deal with that; don't challenge it yourself.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

When it comes to technological solutions, rail rapid transit at the turn of the 19th to the 20th Century didn't have a lot of technology and that's the way the nature of the New York City subway was built. There are a lot of stations with horizontal curves, vertical curves on the platform. The new standard of construction for systems built in the 21st Century around the world are to have platform screen doors. It would be very difficult to install, but we'll look at it on a pilot basis on one line. The two systems in the world that we compare ourselves to, not only in terms of culture but in terms of the nature of when they first went into service were Paris and London and they've had difficulties in this area.

The item you talked about is the use of laser technology to be able to detect the presence of someone who got beyond the platform edge and got into the track way. That technology is used for security purposes right now. It's been perfected because of the advances made in the security area, so we're going to see -- and in actual fact, we have it in some ways cases where we're trying to secure a portion of the system. So, we will investigate to see what the -- its feasibility is on the subway in terms of providing advanced notice to train operators and others that somebody's in the track bed.

SENATOR FUSCHILLO: Thank you, Tom.

Could you talk about the status of the labor negotiations with TWU?

MR. PRENDERGAST: Labor negotiations on all fronts are ongoing. And I can tell you that they are ongoing. We

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

generally do -- we do not discuss in public what the details are, but we have ongoing negotiations with the two commuter railroads, with the Transport Workers Union and the other unions that represent New York City transit right now.

SENATOR FUSCHILLO: Just touch a base a little bit, that is always a concern of ours with the MTA and the State as a whole. Talk about the refinancing program the MTA has and how successful it is and what you're saving by continually refinancing debt.

MR. PRENDERGAST: I can touch it at a pretty top level. In terms of details, I would have to refer to someone like the chief financial officer but, basically, we're constantly in the habit and effort of refinancing existing debt and refinancing it at a lower level. That's ongoing. I believe we would be able to do that on an ongoing basis and realize savings. That's about as much as I know at a senior level.

SENATOR FUSCHILLO: I want to just conclude, and I appreciate you being here and taking the time to testify. This economy, as you know, has driven the unemployment rate at record amounts and foreclosure rates in certain communities in the State in record amounts as well. Commuters can't afford to pay anymore. You know, I think Jay Walder started a trend, which I think is critically important, and Joe continued and I know you will as well as institutional savings that will continue to grow and grow. Despite the fixed costs you have, governments have that as well and you've seen what we've done here on a State level in limited spending over two

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

years and a budget on time. They just can't afford to pay anymore and they're being choked to death by the commutation rates. And I think it's going to be a problem; it is a problem now, but a continued problem going forward.

As I said to you in the beginning, the transit system was always created, the rail system, as an alternative to get out of the car and the cost is a tremendous concern going forward. So, I thank you for being here.

MR. PRENDERGAST: Thank you.

CHAIRMAN FARRELL: Thank you.

Assemblyman Crouch.

ASSEMBLYMAN CLIFFORD W. CROUCH: Good morning, Commissioner. You addressed briefly the issue of safety, the issue of pushers. Do you have a timeframe when you'll feel comfortable that all stations are safe and passengers are kept from being pushed over or falling into the path of the train?

MR. PRENDERGAST: The timeframe is immediate from a standpoint of not only enforcement -- I mean, let's just take it apart in pieces. Freedom from accidental injury where someone is not -- has no intention of doing anything and coming off a platform edge and subjecting themselves to a train or the track way, we can do some things immediately with behavior and we have. Even though those trend lines I talked of have been relatively flat over 12 years with some spikes, we're seeing 660-, 680,000 additional customers a day in the subway system. I don't want to talk about rates because any

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

single casualty or death is unacceptable, but we do believe some of the behavioral change is working.

With respect to the emotionally-disturbed persons and the people who deliberately want to push somebody, the Transit Bureau of the New York City Police Department is solely responsible and we have an excellent working relationship with them and we not only notify them of when someone is on the system that may be presenting those type of behaviors in terms of hurting somebody, they respond immediately, and we also keep watch out for people who've come back to the subway again and again, so those are the things we can do.

On the technological front, we've talked about the feasibility of platform doors and we've talked about the feasibility of the this new technology of intrusion detection, but we've never really gone forward with a test to see whether or not it is feasible or not. And I am going to put a scope schedule and budget together so that we can present it to our board saying, *This is what we're going to test to see if it's feasible or not.* If you were to do platform doors, though, which is the current standard that new systems are built to, order of magnitude costs are over a billion dollars and that would have to be looked at in competition against other billion-dollar expenditures for health and safety and state of good repair within the subway system, but it is something we are going to look at. But the behavioral change activities is -- that's underway, has been. We're cranking it up and it's immediate.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. CROUCH: Okay. All right. Thank you.

CHAIRMAN FARRELL: Senator.

CHAIRMAN DEFRANCISCO: Senator

Montgomery.

SENATOR VALMANETTE MONTGOMERY:

Thank you, Mr. Chairman.

Good morning --

MR. PRENDERGAST: Good morning.

SENATOR MONTGOMERY: -- Mr. Prendergast. I don't know if this question has already been asked, but I will ask it. Do you -- where are you or where is the MTA regarding the -- your vacant building in Brooklyn, the Jay Street building?

MR. PRENDERGAST: We've signed a lease with New York University. They are taking over that building. They're giving us a cash payment. We have a telephone switch for our own internal communications system in that building. It needs to be relocated. It's on track to be relocated, but that building has, as part of a real estate transaction, been turned over to them and I believe they're going to utilize it for educational purposes.

SENATOR MONTGOMERY: Yes.

MR. PRENDERGAST: A longstanding issue, that I'm sure you know about from a history standpoint, and we've actually gotten to the point where it is getting into somebody's hands to not only use, but improve as it needs to be done.

SENATOR MONTGOMERY: Great. That's very

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

good news. Thank you.

I notice that -- and I really want to thank you for the restorations, especially some of those in Brooklyn that have brought back bus service, in particular, to some parts of Brooklyn that are very difficult in terms of transportation, one of them being the Red Hook area, which you know is an isolated area. I do want to just ask if the budget, as presented, includes funding for some additional possibilities? I know there is one bus line, in particular, in Brooklyn, the Third Avenue, which was not one of those restored and it's really critical to people in parts of the borough that I represent, in particular, but I think that whole line because there are a number of senior citizens that use that bus line and it really connects people from South Brooklyn to Downtown Brooklyn and it's very critical. And I also have a new subway station - to me, it's new to me because it's in my new district. It's one of the deepest stations in your system, I believe. And we're looking for the possibility of some assistance with safety measures and -- to address the situation in that particular station. So, I'm just wondering if this budget anticipates the possibility of addressing some of those issues that you haven't been able to do in the past?

MR. PRENDERGAST: In a general sense, yes, but in a specific sense, no, and let me elaborate on that. There was a point in time in 2009 when we had identified the service cuts that were implemented in 2010 and the circumstances were pretty dire. I can tell you the public hearing process was the most painful I'd ever gone

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

through in my career because when you hear people say that a bus that's five or six block away is now -- the only alternative is 12 or farther away, especially some of the places like Red Hook, you have to feel for people. But at that time we didn't know when we were going to be able to turn the corner, but we did, and we had some money that went toward the \$29 million in service restorations that we were realizing late last year, this year.

So, in a general sense, as we generate savings and we're able to generate savings over and above that that are in the financial plan, we would look to reinvest in services. So, that would be the general question. But as it stands right now, that's as much as we could do right now.

With respect to the station issue, I would say for you to reach out to the government affairs people at New York City Transit, and that's Lois Tandler, because there are oftentimes things we can do, minor things we can do in terms of a scope issue if a station is going to have work done on it or even within the operating budget to accommodate some of those needs. So, by all means, I'll have my government affairs person, Lois Tandler, reach out to you.

SENATOR MONTGOMERY: Thank you. I believe we have a meeting that's scheduled.

MR. PRENDERGAST: Okay.

SENATOR MONTGOMERY: So, it's good to hear that there is some possibility of addressing it. I appreciate that.

Thank you.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

CHAIRMAN FARRELL: Thank you. Assemblyman Cusick.

ASSEMBLYMAN MICHAEL J. CUSICK: Thank you, Mr. Chairman. Tom, thank you for coming up to Albany.

Tom, I'm going to start off with some Staten Island questions, if you don't mind. I want to follow up on what Senator Fuschillo was talking about, plan going forward. As you know, you've been to all the hearings out on Staten Island and, over the years, it's -- the Verrazano Bridge toll has gone up, it almost seems like every year. And now in March we are looking at a toll of \$15. There are estimates from experts that within five more years it could be up to almost \$20. We don't know when it would end and if it could end, and it's unsustainable the way that the tolling has been going and I know that that is one of the main revenue sources for the MTA.

My question -- and I've been working with Allen Cappelli, who is the Staten Island board member on the MTA, and other elected officials -- is Staten Island is part of the region, and I'm not just advocating here for the residents on Staten Island, but there are folks who want to do business on Staten Island or go through Staten Island to do business and I believe New York and New York City is losing business because of these high tolls.

Is the MTA looking at a future plan? I know there are many plans out there. There have been plans concerning whether it would be feasible to toll other bridges, whether it would be feasible to get other revenue sources. My concern is, I think, you know, if the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MTA is not already looking at plans, we need to start planning this. There needs to be a regional plan here. There needs to be some sort of way of not only alleviating the Verrazano, but making it equitable throughout the Metropolitan area. I know I gave you a lot there, but could you --

MR. PRENDERGAST: Well, let me answer it in some pieces. First of all, as everyone knows, the underlying legislation back in the '60s was to use toll revenue and unsubsidize some of the others because it was good from a transportation policy perspective and I believe the State and we still believe that. However, the point you raise in terms of how high those tolls are going has had an effect on us, and even when we put together the fare and toll hearing tariff -- the tariff for the fare and toll increases, we have the public hearing and then we get that information, we try to end up with and the board tries to end up with something where we're trying to spread the pain, maximize the gain, all the right phrases. When it comes to revenues, I'll stop at the point of saying that I have a responsibility as either heading an agency or the interim executive director to get the costs as low as we possibly can and squeeze out as many efficiencies and that has to be ongoing. You can't just do it once and then come back in five years; it has to be ongoing. But then when you get to the point where you've done all that and there's still an imbalance between a substantiated need everybody says they have and revenue streams, then there needs to be a dialogue. And I'm not going to focus in on any one revenue source or -- because in your position,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

you're trying to feed a lot of mouths and it's easy for me to say transportation's got to have this much money, but when housing's got to have money, health's got to have money, so it's got to be a dialogue, and that's about as far as I could go. But we are sensitive to the fact that they're getting very high and we are sensitive to the impact it has on households.

ASSEMBLYMAN CUSICK: On that note also, on planning. When the MTA goes ahead with toll and fare increases, in that process do they take into account -- like I'll use Staten Island as an example. Staten Island has three Port Authority bridges also and many of our residents, the only way off the island is either the Verrazano Bridge or those three Port Authority bridges. In the last year, the Port Authority raised those bridge tolls to now \$13 and they're scheduled to go up as high, I believe, as \$15. Does the MTA coordinate with the Port Authority or other agencies or is there a mechanism in place or maybe we should put a mechanism in place on the economic impact that has when agencies are doing these increases?

MR. PRENDERGAST: We coordinate with them to the extent that we let them know what our plans are and they let us know what their plans are, yes.

ASSEMBLYMAN CUSICK: Okay. All right.

MR. PRENDERGAST: But we do factor into some of the discussions as to what the fares and tolls should be and an example, with respect to Staten Island, the level of subsidy for the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

express buses is different than it is other places because of the fact that it doesn't have a subway system, because of the fact that it's got the longest ride into Manhattan and there's a reason to say that they should be subsidized at a higher level, clearly.

ASSEMBLYMAN CUSICK: Right. Also, I want to switch gears here too on the South Ferry train station. I know it's been in the local paper and I know you've been working on that and the damage that was done during Sandy. And could you give me a rundown on what's going on? I know there was -- we had asked you, the elected officials on Staten Island had asked you, to look into the old station as a possibility.

MR. PRENDERGAST: Right.

ASSEMBLYMAN CUSICK: I know that I read somewhere and in my discussions with Mr. Cappelli, I think the decision made by you and the board was that the new station, we should be moving forward on that, that it would take away funds if we went back to the old station. Could you give me a timeline? Is there a timeline that we can count on? Because one account that I saw that it would be three years before things would be up and running in the new station and that's -- that's unacceptable.

So, could there be a timeline that you could give us that we can tell our commuters who work in Manhattan that it works for them?

MR. PRENDERGAST: We need to work toward a timeline. The answer to your question is yes, and let me tell you why

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

we don't have an exact timeline right now. By far, the two -- there's probably three or four elements across the network that were damaged very significantly, Long Island Railroad, Long Beach, East River tunnels, New York City Transit going across Jamaica Bay, going out to the Rockaways and the Rockaways and South Ferry Station. South Ferry Station, if you saw it, repeated news events, CNN, whatever, we were floor to ceiling with not only with water, but construction timber floated down. The old South Ferry station, while it's still used as a loop, it was fully decommissioned. We built a new South Ferry station. As a matter of fact, one of the entrances to that station no longer exists. So, from a safety standpoint for egress and ingress, for egress and ingress we could not -- you could not open open up the station without expending a lot of money and resources to get it open. What I'm directing staff to do is look at -- first of all, you have heard all kinds of statements, it's two years, it's three years.

ASSEMBLYMAN CUSICK: Yep.

MR. PRENDERGAST: I've seen people being quoted, and I don't know who the person is because they're not one of my employees and they're not somebody who would know, but that happens. We need to fix on a date, but we also need to get to a different paradigm. Ideally, you'd like to have all the work done in the station, no more construction work going on and then open it up for service.

I believe, given the impacts to the people with the station being out of service, we may have to change that paradigm and

say, *What can we do to minimally, safely, reliably open the station and finish the work in the station but the station is useable?* And we need to start that process. Now that we -- we're close to getting the appropriation, we need to have that ready so that we can go forward and let contracts.

ASSEMBLYMAN CUSICK: Okay. So, we want to work with you to shorten that timeline because, as you know, there are thousands of commuters that use that lifeline to work and we need to get that up and going. As a temporary fix right now, could I ask you to look into the possibility of shuttle buses for some of these folks up the road? Because I know it was used in 9 -- after 9/11. They did a similar thing. Has that been looked into?

MR. PRENDERGAST: We've looked at it but, to be honest with you, the bus requirement and the traffic congestion down there, people would vote with their feet and walk. We've seen it before. So, and we can give you that explanation so we're not just telling you that. We can show you on paper why it wouldn't work .

I think the best efforts would be all of us looking at how collectively we can get South Ferry station open safely and reliably as soon as possible and then finish the work in another timeframe.

ASSEMBLYMAN CUSICK: Well, I know that my colleagues and I will work with you to get it open as quick as possible.

I know my time is running out. I just want to end on going back to the Verrazano Bridge. You know how important an

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

issue this is, the tolls, and I really think if we could work on figuring out a plan, whether it's looking at a study on the feasibility of other tolls throughout the Metropolitan area to limit the amount on the Staten Island Verrazano Bridge, this is something that I would want to work with the MTA and my colleagues to get done. Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FARRELL: Thank you.

Senator.

CHAIRMAN DEFRANCISCO: Senator Krueger.

SENATOR KRUEGER: Good morning.

MR. PRENDERGAST: Good morning.

SENATOR KRUEGER: One of my colleagues started out asking you about some of the mega projects and you answered the question about the timeline for the East Side access project. Where are we in timeline on Second Avenue subway?

MR. PRENDERGAST: I believe 2016 on that project right now.

SENATOR KRUEGER: So, Sandy didn't make any changes in the schedule at all?

MR. PRENDERGAST: No, it didn't. It may have, but not to the schedule.

SENATOR KRUEGER: Okay. Follow-up. Are there any lessons we learned from Sandy, vis-a-vis mitigation, that ought to be changing design plan at all for either East Side access or Second Avenue subway?

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. PRENDERGAST: In much the same way that we would apply them in a retroactive way for the rest of the system, yes. I mean, by and large, we would anticipate major water events, rising of tides that would flood tunnels once every 15 years. It just so happens that East Side access is definitely going to have some of the same issues under the East River. Second Avenue's a little bit further away. But, yes, we would incorporate those, but nothing that would interfere with the timelines and the schedules right now for either one of those two constructions.

SENATOR KRUEGER: I raise it -- my district has both of those projects, but Second Avenue, I know, is twice as -- the subway will be twice as deep as the other Manhattan line, so I don't know whether it's a bigger problem or a lesser problem when you go twice as deep if you're going to have water seepage.

MR. PRENDERGAST: No, not necessarily. It depends on your proximity to where the tidal event is going to occur and what type of barrier you can put between where that tidal event occurs and where the water enters the subway. But in some cases, and we want to be also be very careful. In the case of the Transit Authority, all of our under-river tubes have a stand pipe, have an ability to hook up pump drains. We have specially-designed drains that you actually put halfway under water, you hook up hoses to them, you pump the water out and they actually serve -- as much as you want to keep water out, but if you can't keep water out, if you had a Category 4 storm, for example, it would hard to keep the water out.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Much like in your basement you have a sump, the water goes to a place, then you can pump it out easily. This is the same thing. If we can keep water out, we will do everything we can to, but if we know we can't, we'd like to direct it to those locations where we can quickly and efficiently pump it out.

SENATOR KRUEGER: So, maybe you'll just make a note to ask about -- and during Sandy the water surge in the 90s went as far west as First Avenue, so it did go FDR across three avenues. So, it didn't get to Second Avenue, but pretty close.

MR. PRENDERGAST: Yes, yes.

SENATOR KRUEGER: So, to factor that in. In a recent meeting, I don't know whether it was you or someone else from the MTA, when asked about the upgrading of the MTA swipe card system said that there was going to be a delay for three to five years in changing your technology for the swipe cards. So, in light of that, again, my district is the Lexington Avenue corridor and at least at 86th and 77th Street it's a rare moment when you actually have machines that work to upgrade or get new cards, so I'm wondering -- and in the past I have asked what we're going to do about that and I kept being told, *Well, we're going to upgrade the system so we're not investing in improving or even continuing the existing system.* But if, in fact, there are justifiable reasons why the MTA needs to delay to as late as 2018, the implementation of a smart card alternative system, I'm very concerned that you don't have the infrastructure to continue your existing system.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. PRENDERGAST: Well, I'm not so much -- I'm not so sure it's as much of a delay. It may have been portrayed that way or perceived that way. The original new fare payment system plan that began that began under Jay Walder's tenure was one in which we had anticipated that the banking industry was going to more quickly advance some of the new technologies and move away from swipe technology and go to touch technology and smart chips and cards, and that hasn't progressed anywhere near as fast as we thought it would. So, we had a lot of it -- you know, an investment not in money but an investment in principle and them doing that and following their lead, but that industry is changing very fast. It used to be one point in time there were three major banking institutions that did it but, now you've got Pay Pal, you've got all these other players that are in the business. The State of good repair for the MetroCard system will last through 2019 and it's a system that has served us very well. We have millions of transactions a day that are supported. Some of the issues you're talking about at these locations, they're due to vandalism, they're due to police, they're due to issues where people are deliberately damaging machines because they want to do other things to collect revenue. But in any case, we're not delaying that program. We want to move it forward. We want to take advantage of the technological changes in the industry, make it easier for customers to buy fare, make it cost -- end up in a place where we actually expend less money to collect the fare and also have a seamless fare system because 20 years ago versus today, the number of people who would

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

start the entrance of their trip on one part of the MTA system and end on another was far lower than it is today, but a large number of the commuter rail customers are ending their trip on a subway, or vice versa in the afternoon, and you're having regional travel that people never thought of. So, the importance of interoperability across all three agencies, or four agencies, is important. We have to replace it before it falls down. We totally agree with you on that.

SENATOR KRUEGER: Okay. On the East Side access, so the schedule's delayed, but there is also the recognition that when it's completed there will be additional needs for intermodal connections and entry/exits at and near the Grand Central terminal area. Are the projected plans for that included in your East Side access capital budget?

MR. PRENDERGAST: In some cases they are, in some cases they aren't. There's a number of different things that are happening in the Grand Central area; the City's rezoning, for example, that's going to draw traffic to the area. The Second Avenue subway will take some people away from the Lexington line, so that will be -- you know, that will be somewhat of a net decrease. But we are -- have a very close relationship with New York City, both DOT and Department of Planning, with respect to what we see in terms of increased occupancy from an office standpoint in that area and what we may need to do, not only for transferring customers, but people who are starting or finishing their trips in the Grand Central area and some of the money's budgeted, some of it isn't budgeted.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

One of the lessons we've learned over the past few years is we have to have a close relationship with the City. There has been a tremendous amount of real estate development in Long Island City, for example, and we're now trying to catch up with respect to capacity improvements, but also saying to developers, maybe they need to help us with some of the cost for those because they're seeing a benefit.

The same is happening along the L Line in Brooklyn where demographic change is occurring, the G Line in Brooklyn and Queens and it all starts with a dialogue with respect to what type of change is going to happen, how is that going to affect transportation and how do we be able to accommodate for it not only in terms of how it changes the capacity, but who's going to fund it.

SENATOR KRUEGER: Since I have been involved in the East Side rezoning discussions with the City of New York, one, I don't think the MTA should plan for its capital needs based on what might or might not happen in rezoning which, even if it did happen, would be scheduled not to allow anything before the five-year mark and, certainly, the City has been selling its East Side rezoning proposal, or its East Midtown rezoning proposal, as there could be funds made available in mitigation to the community. Some people believe that that would be the MTA's capital money for Grand Central improvements and, just for the record, as a local politician, mitigation for the community of massive rezoning does not mean funding the MTA's capital needs in the area. So, those need to be recognized, that

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

you're doing East Side -- you're doing East Side access. I'm not opposed to East Side access and it's happening, but the MTA will also have to figure out how it moves the people on and off the trains in and out of the area separate from asking the community to use its mitigation funds for that purpose.

The bus cameras. I'm shifting above ground.

MR. PRENDERGAST: Okay.

SENATOR KRUEGER: The bus line cameras. How has that pilot been working?

MR. PRENDERGAST: Internal cameras for security purposes?

SENATOR KRUEGER: No, the cameras on the buses that can take pictures of illegal parking and driving in the bus lanes.

MR. PRENDERGAST: I believe it's going very well but I don't know, right off the top of my head, the latest developments, but I know -- and there's been some legislation to expand it, but I don't believe we've gotten it yet, so...

SENATOR KRUEGER: And in followup, if there are reports you can provide about disruptions in train service, it feels like post-Sandy along the Lexington Avenue line there has been an increase in disruptions in the number of -- particularly during rush hour, evening rush hour, more and more problems, but I don't know whether that's anecdotal complaints from my constituents or whether there's actually a new pattern or problems.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. PRENDERGAST: Let me answer it this way:

We report monthly on all the lines in terms of on-time performance and also the regularity of service which, in some cases, is more important, how even is the service, service reliability?

There have been a number -- there have been a few incidents on the Lex line that were either police actions as a result of a crime or a fatality that are extremely impactful, because if it's a police action and the line is shut down and it's shut down for hours -- the Lexington Avenue line is the most heavily-traveled subway line in the United States; Queens Boulevard line is the next. So, in the peak of the peak when you're running two-and-a-half minutes between trains, you take a 15- or 20-minute delay, let alone an hour delay, and so, what you're hearing from your constituents has been nothing related to Hurricane Sandy as much as they're related to these singular events. We had two training persons at 125th Street in an afternoon rush about a week-and-a-half ago and we were -- right at about five to 5:00, the worst time in terms of how many trains you're trying to get through there, and anybody who had to traverse from Grand Central north that day had to find another way to get home.

So, those complaints that you got are real, but they're based on individual incidents.

SENATOR KRUEGER: I'm out of time. Thank you very much.

CHAIRMAN FARRELL: Thank you.

Assemblyman DenDekker.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN DENDEKKER: Thank you.

Thank you very much for coming and answering some of our questions and our concerns.

So, I'll start off right away with the Number 7 line. I appreciate the work that you're doing; I understand it's going to help service improvement; however, I must stress the hurtfulness that it's doing to my community, shutting it down every weekend for all these weekends in a row and it's not the first time it's happened to us. It's happening over and over and over. Light at the end of the tunnel, so to speak? When is it going to be done? When is it completed and when is it not going to happen again? Because it can't go on where we're doing the work on the weekends for a period of time. You tell me it's 13 weeks and then the next year you go, *Oh, by the way, it's another 14 weeks*. It's every weekend. Any help there? Any outlook?

MR. PRENDERGAST: Sure. When I came back three years ago, I think I was a little disheartened -- I wouldn't say shocked, I worked too long -- at the condition of the Steinway tube. It's the oldest under-river tube we have in the system. It wasn't really built for the Transit Authority. It was built by a predecessor company. And we had infrastructure failures in there in terms of the bench wall, which holds all the communication power cables, and the wall was crumbling, literally crumbling.

So, here is a line that is exceptionally important to Queens in terms of the number of people it carries. It's a line that we're making a tremendous investment of some \$2 billion at the west

end to extend it to the West Side, and we had this problem with the Steinway tube. So, I put the organization on as fast speed as possible to deal with those issues so that when the 7 Line opens, the extension, we're not having these outages all the time.

We're also putting in a state-of-the art communication-based train control system. It's the only line in the system where you have the express track running in in the morning and out in the afternoon. So, the proverbial light at the end of the tunnel is when that system gets done and installed at a much higher level of service. Right now we've got a lot of activity going on in the Steinway tube and in that immediate area of Long Island City and then some others as the signal system goes, but in the next two, three years, we've got to get to the point where we're not having weekend outages all the time.

I mean, an issue that came up was the Lunar New Year issue and we need to make sure that we also -- we try to have as little impacts to the Lunar New Year celebration as well.

ASSEMBLYMAN DENDEKKER: As well as St. Patrick's Day, which happens to fall on a Saturday this year, so if you're going to shut down the 7 train, you're going to disenfranchise many people from the Woodside area to getting to the parade. So, I wish you'd keep that in mind, also.

Going into labor real quick, you said you don't speak about labor contract negotiations as they're going on; however, this particular contract has been expired for over two years now. You're

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

saying that you're hoping to get a net-zero contract. I don't know if it's attainable or not because we can't give people a pay cut. If you're going to give them a zero and their healthcare's going to go up, they're going to take home less money than they were already making, that's not good for our economy either, especially when during all of your testimony you praised the workforce.

So, when are we going to reach some sort of an agreement with this contract negotiation?

MR. PRENDERGAST: So, we just don't -- we don't discuss collective bargaining here, we just don't. It's been a policy we've always had. It's difficult to do collective bargaining even in closed sessions, let alone --

ASSEMBLYMAN DENDEKKER: But keep in mind, this collective bargaining agreement --

MR. PRENDERGAST: We understand your point, sir.

ASSEMBLYMAN DENDEKKER: -- is budgetary.

MR. PRENDERGAST: We understand that. We understand.

ASSEMBLYMAN DENDEKKER: You know, we have a right to know because it's budgetary. So you've got to, like, come with us here and be a little bit more -- if you don't want to say out in public, meet with us in private and tell us where we're going because, obviously, much of your budget is based on labor and --

MR. PRENDERGAST: It's based on three zeros, yes.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN DENDEKKER: -- we need to know where it's going to go.

MR. PRENDERGAST: Yes.

ASSEMBLYMAN DENDEKKER: The mobility tax. Obviously, we're giving you a \$307 million transfer from the General Fund to offset revenue reductions that we did in 2011 which is going to hold you, quote, "harmless."

When we did the mobility tax, it was a new recurring source of revenue for you and the problem that I have is constituents come to me and say, *If we gave you new revenue, why did we suffer any service cuts?* So, you came in and you say, *Oh, we did \$29 million worth of restorations*, but you received hundreds of millions of dollars of new revenue. There should have been no service cuts whatsoever if you had new revenue.

So what do I tell my constituents? How do I explain that to them, that we gave you hundreds of millions of dollars and we still cut service simultaneously?

MR. PRENDERGAST: It's the financial picture in terms of the revenues we have coming in and the costs that we have to incur and some of them are uncontrollable costs in terms of pension and labor and health. So, I mean, it's part of a longer discussion and we understand one of the changes, and it goes back to Chairman -- to Jay Walder is before we just come up to Albany and say, *We need more money*, we have to do our own belt tightening from within, and that was the \$700 million, some of which was head count reduction,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

some of which was new efficiencies and economies and the way in which we operate and manage the place.

ASSEMBLYMAN DENDEKKER: But, in essence, the residents, or our constituents, got punished after we gave you more money. We taxed them more, came out with new revenue for you and in exchange for that, they took service cuts and that doesn't seem right. So we would like you to look at that.

The \$29 million worth of restorations that you did are fantastic. There should be total restorations. You have the money in this new revenue that we gave you in the mobility tax which, as salaries are going to continually go up in the private sector, the mobility tax and the revenue you're going to collect is going to increase and that will lead directly into what my colleague was saying about Staten Island. When you're willing at the tolls that you're charging, if you're preventing new businesses from opening up where new employees would be, where there would be new taxes that you would collect off a mobility tax, in essence, you might be hurting yourself because if you prevent those businesses from opening up due to the taxes going so high, you actually may be costing yourself more money if you would have looked at the businesses that may open up there and the mobility tax money you would collect off those salaries. So, that's why I would ask that you think about that when you look at raising the fares on some of the bridges, that you may ultimately be hurting yourself.

The last thing that I wanted to talk about was the bus

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

services in the Queens area, which I know my colleague, the Senator, was mentioning in Brooklyn. In Queens we also had some substantial cuts and one thing that I notice is I believe you're losing revenue as far as you've cut your -- some of the bus services down so that the buses are so full, no one else can get on and the livery cabs have been picking up people at the bus stops. This is happening more and more in my area of Queens. And when the buses do come, because they're on a slower schedule, they're full.

So, have you had anybody go out and ride your bus routes to see the amount of revenue that you're losing to these livery cabs because you're not putting extra buses on?

MR. PRENDERGAST: The bus service is on a scheduled recycle to take a look at loadings and we, on a normal basis, built into the budget our adds where they're needed because ridership has increased to the point that we can't carry people. So that's an ongoing process. I can tell you that in some cases, even with before we came up with the \$29 million, we generated the \$70 million in cuts, we had to come back and redo things because they couldn't -- the level of service out there wasn't able to meet the need, so we had to add service back. So, that's an ongoing process that we always go through. If there are specific routes that you see and we're slow getting to them, share them with us and I'll have a special look done on them.

ASSEMBLYMAN DENDEKKER: Okay. And the last thing I just want to mention is the Number 7 overhead line,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Roosevelt Avenue specifically, we had meetings with some representatives from the MTA for several reasons; one, on 61st Street they wanted to put a plaque up in front of a mural that had to do with 9/11. It seems like we can never get an answer if we're allowed to put this plaque up on the wall or not. I would like to have a follow-up with somebody on that. And also, we asked about some increased lighting along the Roosevelt Avenue corridor that we wanted to actually work with DOT to get lighting to come down from the overhead train and we were told that MTA wouldn't allow any overhead lighting or lighting being put underneath their trestle because they just don't allow it. And we need you to, if you can, work with us on that. We need the MTA to be a good neighbor. We need to light up the streets more and if the only way we can light up the streets is by hanging lights from the overhead train that the 7 -- seeing that we're the ones that are inconvenienced by having this noisy train above us, the least thing we can do is light up our streets better.

And the one thing I'll leave you on, the Number 7 line, is when you talk about the extension to the West Side, I don't believe that's going to help the Queens residents in my area as much as it's going to help residents in Manhattan that are going to be taking the 7 to get to the West Side. I still think the majority of the people that are coming from Queens, when they get into Manhattan, are going into other train systems, like Lexington Avenue, going downtown, et cetera. They're not going to run all the way across to the west town. So, I don't really see -- I think we're getting punished

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

for that work, but I don't think it's going to benefit us as much as I would like it to.

I, unfortunately, have run out of time, but thank you very much for being here and answering our questions.

CHAIRMAN FARRELL: Thank you very much. We've been joined by Assemblywoman Earlene Hooper.

Senator.

CHAIRMAN DEFRANCISCO: Senator Rivera.

SENATOR GUSTAVO RIVERA: Thank you, Mr. Chairman, and thank you, Mr. Prendergast, for being here with us. I would like to add my voice to a couple of my colleagues and say that I publicly want to commend the MTA for the work that you folks did, along with your workforce, after Sandy in getting the trains up so quickly. We saw how crucial the trains and buses are to the City of New York and, by extension, to the State of New York. So, I commend you publicly for that.

I did want to follow up on a question that my colleague, Senator Fuschillo, asked earlier. I see on the list that, actually, Mr. Foran, who is your -- if I'm not mistaken, Mr. Foran is up there. We have a question regarding debt service and you didn't have the numbers available to you. I don't know if Mr. Foran -- I believe he's here -- if, as the chief financial officer, if he could maybe come down and provide us with some of these numbers.

MR. PRENDERGAST: Or we can get you an

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

answer. I mean, what's the question? I'm sorry.

SENATOR RIVERA: Well, as a followup to what Senator Fuschillo was saying, we are having -- and, actually, as Assemblyman DenDekker as well, asking about what was spent on a yearly basis and kind of the breakdown of what your expenses are since we -- you know, as Assemblymember DenDekker pointed out, hundreds of millions of dollars went to the MTA and, yet, there were service cuts. And, obviously, I understand that there's financial difficulties in every State agency, but I wanted to see if -- in particular as it relates to debt service, on what is the, you know, annual in the last couple of budget cycles, if you will, or at least this one.

MR. PRENDERGAST: \$2.2 billion in debt service in 2013.

SENATOR RIVERA: And that accounts as a percentage how much for the --

MR. PRENDERGAST: Seventeen percent.

SENATOR RIVERA: Is that -- you know Mr. Foran can come down if he wants. He's right there.

The percentage, that 17 percent, is that an average -- is that about average or is that more or less?

MR. PRENDERGAST: Well, there are systems in the country that are above that, there are systems maybe that are below, if that's the question you're asking; I'm not sure.

SENATOR RIVERA: The question I'm asking is about our own on a year-to-year basis. I mean, 17 percent, this refers

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

to what budget cycle?

MR. PRENDERGAST: Yes.

SENATOR RIVERA: The one that we're currently in that's going to end or the one that we're --

MR. PRENDERGAST: 2013?

MR. ROBERT FORAN: Seventeen percent through the 2016 period.

MR. PRENDERGAST: Seventeen percent through the 2016 period.

SENATOR RIVERA: Through the 2016 period --

MR. PRENDERGAST: Yes.

SENATOR RIVERA: -- on the average basis of --

MR. FORAN: More or less.

SENATOR RIVERA: More or less, all right. Again, you could just come down. Okay. I'm good for the moment.

Thank you, Mr. Chairman.

MR. PRENDERGAST: Thank you, sir.

CHAIRMAN FARRELL: Thank you.

Assemblywoman Glick.

ASSEMBLYWOMAN GLICK: Thank you. Just a quick question on the safety issue. I think there are -- I personally don't believe that there are the required investment and the difficulty -- I would not -- I don't personally believe that there is a physical structural fix on that. The cost versus the kinds of incidents that occur, I just don't think, considering the other needs of the system, that

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

that's appropriate. It does seem to me that, in view of the more recent incidences, that there have been better messages over the loud speakers, and I think that's great. The fact that they're -- I'm not sure who somebody would report to, so if there is one thing that could be done, it's the emergency -- expanding, and rapidly expanding, the emergency button system which is in some places but not everywhere.

MR. PRENDERGAST: Right.

ASSEMBLYWOMAN GLICK: Because there are no toll booths and so forth. So that, I think, would be the one thing that would -- for a lot of different kinds of safety-related issues.

The one thing that, you know, people sometimes stupidly drop something and then go down to try to get it. I mean, you know, you can't legislate common sense, but the one thing that I heard that made sense that I don't think the -- that came from somebody else but not the MTA and perhaps is something you could put out as, in some way, messages. You do a lot of very good messaging on the subways, on the placards, reminding people that if, for some reason, they do find themselves in the track, that they should go to the opposite end, down the center of the track, the opposite end of the platform which, A, trains would stop before that and to give anybody a chance who's driving the train to -- more lead time, but there are also stairs at the end of the platform. So, I think it would be helpful. It wasn't an MTA message, it was a discussion on some news program. I think those things would be helpful in terms of reminding, informing the public, giving them some suggestions that they if they find

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

themselves in those circumstances, that that is an option and probably a better option than trying to haul yourself up on that platform.

MR. PRENDERGAST: We'll take a look at it. There is a specific cart card that talks about -- going back to your first comment -- if you drop something on the track, let it lay, seek station assistance. We struggle, and I mean this in a constructive way, with the issue of what level of messaging once they find themselves on the track way. There are a number of hazards they're going to be exposed to, one of which is getting struck by a train, the other is if they trip and fall and bridge the distance between the third rail and the running rail, they'll most likely die.

And then the other issue is because some people say, *Aren't there places where they can go underneath the platform edge to clear up?* Some yes, some no. The bigger you are, like me, you know, there's no place. If you're smaller of frame you can sometimes lay in the trough between the rails. So we struggle with the issue is there a simple message we could give people so that it would direct them to a place of safe haven, and there isn't, but we will take a look at that issue.

The most important thing is to try to keep people off the track way as much as possible and then, if they do, what kind of advanced warning can we give the train operators in the area, but your point's well taken.

ASSEMBLYWOMAN GLICK: One last thing. There has been some restorations on bus service. We have not a lot in

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

crosstown in lower Manhattan and it's -- for somebody who is able bodied it's not that hard and, in fact, I can usually beat the M 8 when it's going crosstown, but it doesn't exist on the weekends, that was one of the service cuts. I wouldn't ask for a full restoration but, perhaps, a thought that, perhaps, seasonally, it is the one way you could get to the lower part of the Hudson River Park, and if people are going with children, small children in particular, getting them to walk totally across town is a schlep. And so, I would ask that, perhaps, in -- for seasonal, warm weather, particularly when the kids are out of school, to provide that on weekends so that the youngsters who are availing themselves of athletic, recreational activities over there, might have an option.

MR. PRENDERGAST: We'll look at that. I mean, one of the struggles we have, the systems were very laid out for north/south but not crosstown, with the exception of 14th Street and 42nd Street and we're looking at ways where we can stimulate bus ridership and better bus service delivery on some of the crosstown routes, but we'll take a look at this one.

ASSEMBLYWOMAN GLICK: Well, you know, that -- because people who can, will walk faster than the bus gets there. I mean, the bus comes once every half hour so you can make that, but if you are elderly, disabled or have one or two young children in tow, it really is a schlep.

MR. PRENDERGAST: Thank you.

CHAIRMAN FARRELL: Thank you.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Senator? Any Senators? No. Thank you.

Assemblyman McDonough.

ASSEMBLYMAN MCDONOUGH: Thank you, Chairman. And I would hope we would say "good morning," but I have to say good afternoon, so I will be as brief as I can.

It's been discussed twice about the safety and you mentioned the word about what's feasible. The glass enclosures that close, and all of that, I think they are currently in use in some parts of the world, like in Hong Kong they have that totally. And the sensor system that you describe, now, just off the top of your head, since you don't have good figures, the glass thing would be extremely more expensive, I would think, than the sensor system.

MR. PRENDERGAST: Absolutely. You're right.

ASSEMBLYMAN MCDONOUGH: Okay. But the sensor system means somebody's already on the tracks.

MR. PRENDERGAST: I'm sorry?

ASSEMBLYMAN MCDONOUGH: With the sensor system, somebody is already on the tracks.

MR. PRENDERGAST: No, you could design the sensor system any one of a number of ways. With laser technology you can pinpoint the application of the laser, so you could put the laser at the edge of the platform, which would mean they would be on the track way, or you could put it 18 to 24 inches toward the platform. I ran a system in Vancouver and a few got close to the platform edge, there were sensors that let people know in the control center that you

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

were there, so that's one of the things we would like to take a look at.

Now, if you have so many activations that people kind of disregard the fact that they're -- they're going in there, it would be fruitless, but you can fine tune where the sensor gets activated.

ASSEMBLYMAN MCDONOUGH: In enough advance so that the train would be able to stop? I mean, I had the feeling that if somebody would --

MR. PRENDERGAST: The idea would be if you could make sure that you could not have spurious activations, but enough in advance with some type of audible or visual warning system that maybe somebody was on the track way, and that's the advantage of having a train operator in the front of the train, so they can see and take effective action.

ASSEMBLYMAN MCDONOUGH: So, would you guesstimate that the difference between the cost of it, erecting these glass things, the construction, all of that, and the sensor is something like five to one?

MR. PRENDERGAST: It's too -- I know the order of magnitude cost for the platform screen doors is over a billion. I don't have a number for the intrusion detection; it's too new a technology.

ASSEMBLYMAN MCDONOUGH: Okay. And the only other thing I wanted to note, since the President did sign the bill, do you have any idea on what portion you may get of the Sandy relief money?

MR. PRENDERGAST: We've got identified needs

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

for the MTA of \$4.772- for recovery and then we have another \$4.1 million for mitigation, but that's against \$10.9 billion -- billion, billion -- for the region, and the region has been very well working together because it's not just New York's needs, it's Connecticut's, it's New Jersey's, it's the Port Authority, it's New Jersey Transit. But that's the size of the list of asks that we have now and we're coordinating with the State to make sure that we have a comprehensive list to have that covered.

ASSEMBLYMAN MCDONOUGH: Okay. Thank you very much. See you soon.

CHAIRMAN FARRELL: Thank you very much. Assemblyman Sam Roberts. Did you want to ask a question? All right.

Well, that brings us back to closing. I just have a couple of words and then I'll go to Mr. Brennan to close.

First thing I wanted to say, I don't know if you were there the Friday when you were putting together the program, you know, like the number -- in Midtown Manhattan, the subway system. Were you there at that meeting?

MR. PRENDERGAST: I'm trying to -- which meeting was that?

CHAIRMAN FARRELL: I'm sorry. The meeting prior to Sandy, the Friday when you --

MR. PRENDERGAST: Oh, in the City?

CHAIRMAN FARRELL: Yes.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. PRENDERGAST: I attended the first meeting in the City that the Mayor had, yes.

CHAIRMAN FARRELL: No, the one that was held in the building on the Midtown subway.

MR. PRENDERGAST: No, I was not at that meeting.

CHAIRMAN FARRELL: I was down there because I love subways. Since a kid I've been -- when it was a nickel you could go everywhere and I used it and I even remember going across the Second Avenue Bridge. I must have been about six years old doing that, instead of on the upper level.

But what I wanted to say was you did a fantastic job of protecting the system because, I must say, when I heard that you were closing down on Sunday, I said, *Good*, because usually people were saying, *Why the heck are they shutting down on Sunday? It's not even going to be that rainy*, because they were beginning to say it wasn't going to be that bad and everything else and, of course, when you pulled all the trains out of those stations that are below water, I happen to have one of them on 148th Street. We had a swimming pool there. I mean, it was beautiful. No, you did a fantastic job and people don't realize you did that because had you not pulled those trains out, we would still be trying to catch up and restore and, from what I've been told, most of the trains would not be useable if they had gotten flooded. So, I just wanted to point out --

MR. PRENDERGAST: Thank you.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

CHAIRMAN FARRELL: -- that you did do a fantastic job and were able to come right back on the subway. You lost the tunnels and everything, but you were still able to move around and get people running.

It does bother me to hear you're closing on Saturdays and Sundays. You know, you get up on a Saturday and you turn on the radio -- and I have a station in Manhattan, you've got New York 1 -- and then immediately you read the 20 places you're closing. And I'm thinking, well, it's not the world it was in 1930 when nobody had a car and everybody needed it but, on the other hand, we have a lot of people in the City that rely on the trains and when that system goes down, even though it's for repairs, as you say, it's really not good and if you can find a way -- even though it seems like you're catching in the middle of the winter, which maybe you don't get as many riders at that time. But if we can keep from turning that off, that would be very good.

Then finally, I have a bill in. You are not collecting tolls anymore and I'm putting a bill in that says you can't do that. I went through the Henry Hudson when you did that originally. I am still waiting to get my bill. I called the people down there. They still can't find when I went through and, I must tell you, it's my fault. I have a couple of cars, so I don't remember exactly which one I was driving when I went through, but I figured three burly guys are going to come one day, pick my car and me up and arrest us because I haven't paid it. And I keep calling and they still can't find it.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

I believe you've got to keep at least one toll open. That's ridiculous. I don't even know how you catch somebody from California who drives in and goes through. I mean, that's -- I mean, so I really think that -- it only has to be one, you know, but you have one because for the people that are not there. Matter of fact, today because I've got to be down in the City and I go down the Taconic and I end up dropping in and coming on the Henry Hudson down the West Side Highway. I'm going to have to go through it again without paying and that will be the second time. I'll see if they charge me this time and I'm going to keep track of which car I'm driving so I can follow it up.

So I just wanted to say thank you for the good job you did and I hope you can do something about changing that EZ-Pass situation.

And now Mr. Brennan to close.

ASSEMBLYMAN BRENNAN: Okay. Just a couple more minutes.

MR. PRENDERGAST: Sure.

ASSEMBLYMAN BRENNAN: I know that you are refinancing a lot of your debt in order to try to take advantage of lower interest rates. It's benefitting your operating budget in terms of reduced debt service, although debt service is still rising, but in your previous refinancing, major refinancing in 2002-2003, the agency realized, I think, over a billion dollars in cash to reinvest in the system. Can you tell me if you are realizing any cash out of your

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

refinancings in this current cycle?

MR. FORAN: Yes, the refinancings that we did this past year generated about \$950 million (inaudible) that we have identified as being available for the '15 to '19 capital program so we would not have to sell that amount of debt. So we're trying to take the debt service --

CHAIRMAN FARRELL: The TV is not getting that.

ASSEMBLYMAN BRENNAN: Okay. In other words, they're going to do the pay-as-you-go for the '15-19?

MR. FORAN: That money would be available.

MR. PRENDERGAST: \$915- for pay-as-you-go for the '15-19 program.

ASSEMBLYMAN BRENNAN: Okay. So, that's how you intend to --

MR. PRENDERGAST: Realize the savings.

ASSEMBLYMAN BRENNAN: -- deal with that. Okay. You've heard many members of the Assembly and Senate express dismay about rising fares and you have a scheduled fare hike for 2015, correct?

MR. PRENDERGAST: Yes.

ASSEMBLYMAN BRENNAN: And the reason we don't see a fare hike for 2017, because you're doing this every other year, is because the financial plan only extends out to 2016, so there is no forecast for anything beyond that.

MR. PRENDERGAST: Yes.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN BRENNAN: But, you know, when I take a look at your revenues and expenses, I take note of the fact that the ridership levels and the dedicated taxes that form your revenues from non-governmental sources, or from non- -- from the fare itself are rising about a billion dollars a -- over the financial plan period, but your non-discretionary expenses, debt service, pension, health and welfare, energy, et cetera, are rising by almost \$2 billion over the same period and that is what is necessitating the fare and toll hikes; is that correct?

MR. PRENDERGAST: That's correct.

ASSEMBLYMAN BRENNAN: And so, if that trend line continues, in which, obviously, the debt service relates to you borrowing money to keep the system in a state of good repair, and that's why it's rising, and I think the policy is that it would be a mistake to let the system deteriorate and that's why you're doing it and I agree with that, but would it be fair to say that in the absence of any increased governmental support from the State government and its partners in Federal and City that the trend line will continue and continued fare hikes are likely in the absence of increased governmental support?

MR. PRENDERGAST: We'll have to come to the issue of how we generate the revenues to balance it, that's for sure. You know, whether it's a fare hike or some other means, I don't know. And you accurately portrayed it. We've got a financial plan that takes us through a date. We have another fare increase scheduled for 2015,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

but it's too early to tell what the remainder -- the next financial plan would be. But at the end of the day, we've got to have revenues that match what expenses are that cover our capital program costs and cover our operating costs.

ASSEMBLYMAN BRENNAN: Okay. Thank you.

CHAIRMAN FARRELL: Thank you very much.

MR. PRENDERGAST: Thank you, sir.

CHAIRMAN FARRELL: New York State
Department of Motor Vehicles, Barbara Fiala, Commissioner.

This is the 12 o'clock.

CHAIRMAN DEFRANCISCO: All set.

COMMISSIONER BARBARA FIALA: Good
afternoon.

CHAIRMAN FARRELL: Good afternoon.

COMMISSIONER FIALA: It said here "good
morning," so...

CHAIRMAN DEFRANCISCO: Could you just slide
your microphone closer to you? Great, thank you.

COMMISSIONER FIALA: Thank you. Good
afternoon. Thank you, Chairperson DeFrancisco, Chairperson Farrell,
Senator Fuschillo, Assemblyman Gantt and committee members for
having me here today. My name is Barbara Fiala and I'm the
Commissioner of the Department of Motor Vehicles. I am pleased to
have the opportunity to address you and answer any questions you
might have regarding the Department of Motor Vehicles for the fiscal

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

year 2013-14 Executive Budget as it applies to our agency.

As you know, last week Governor Cuomo outlined his Executive Budget plan which was built on the progress of the past two years. The Governor provides \$350 million for DMV in his Executive Budget, including funding necessary to introduce initiatives that will transform DMV customer service resulting in DMV becoming a model of how all agencies will serve the public. The projected revenue collections for all transactions total more than \$1.8 billion. We will perform over 28 million transactions this fiscal year, including more than 4 million internet transactions, including almost 500,000 that will be completed through MyDMV, DMV's personalized web portal.

Improving our customer service is important because for many people, DMV represents the face of State government. Unfortunately, DMV customers have often encountered average wait times of over 60 minutes when visiting a State DMV office. They also face limited office hours, extended hold times on calls and service delivery methods that have -- are not in step with today's high-tech savvy customer. This is simply not acceptable. We must improve our customer service.

At Governor Cuomo's direction, DMV has established a comprehensive set of customer service initiatives that reflect our commitment to place the customer first. DMV's principal objective will be to reduce office wait time at State DMV offices for more than 60 minutes to 30 minutes or less by March of 2014. In

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

addition, we will be seeking to achieve 90 percent customer satisfaction by those who use a State DMV office. In order to reduce office wait times, we must make more routine transactions available to customers through self-service means. To that end, we will continue to develop customer-convenient alternative service methods, including kiosks, additional web transactions and our popular MyDMV services. Over the next two to three years, DMV intends to increase the number of alternative service transactions from the current 32 percent to 50 percent.

Through the expanded use of technology, DMV will provide premiere customer service through call center improvements, including the implementation of new technology, will permit efficient call routing so that we can efficiently respond to the 4.2 million calls DMV receives annually. Virtual-hold technology will also provide our callers the choice to wait or receive a call back when they call to receive a customer service representative. This new technology will ensure that customers are not waiting on hold for extended periods of time and help DMV to achieve our objective to answer 80 percent of all calls within five minutes or provide a call back within 15 minutes by March of 2014.

A new queueing system will be installed to provide a virtual wait experience, meaning that customers will have the option to go online and make a reservation at a State DMV office and then show up at a scheduled time. Establishing convenient office hours in State DMV offices, DMV will soon pilot expanded hours in three

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

State DMV offices that will include early morning and evening hours. Article VII legislation would enable us to consider the use of Saturday hours in certain State DMV locations. All of these measures are designed to better meet the needs of our customers.

Improved office services will also include the use of floating customer service representatives or greeters to answer questions, review paperwork and direct customers to the most expedient means of service delivery. Soon these mobile representatives will have -- soon these mobile representatives will have smart tablets so that they can process simple transactions and further improve customer service by streamlining the transaction process. Partnering with private industry to create a vision registry that would allow customers the convenience of performing a license renewal transaction online any time by permitting mandatory vision tests to be performed outside a DMV office, not only by eye care professionals, but also by registered pharmacies and Downstate AAA offices.

Through the Governor's Traffic Safety Committee, DMV will continue its outstanding traffic safety initiatives that have made New York roadways among the safest in the nation. DMV will receive approximately \$39 million in Federal funding. This year, Article VII legislation is proposed to bring New York into compliance with the Federal Motor Carrier Safety Administration's requirement to impose sanctions for violations of cell phone and texting laws by commercial motor vehicle operators.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

In addition, we will continue activity designed to crack down on impaired drivers, the enforcement of laws against texting and cell phone use, as well as continuing to promote seatbelt and car seat usage. DMV will continue all these activities while heeding the Governor's call to perform more efficiently and better protect taxpayer money. It remains our core mission to provide quality customer service, promote traffic safety and protect customers for the benefit of the citizens of New York. Under Governor Cuomo's leadership, we will continue to do so this year while striving to further innovate and improve these deliveries.

Once again, I want to thank you for this opportunity. I welcome any questions that you might have about DMV and our plans for serving the people of New York.

CHAIRMAN FARRELL: Thank you very much.
First to question, Assemblyman DenDekker.

ASSEMBLYMAN DENDEKKER: Thank you, Commissioner. I appreciate you coming here to answer some of our questions. I'm a big fan of the Department of Motor Vehicles and have been for some time; you know that. We've had this discussion before. When I was growing up, the Department of Motor Vehicles was one of the worst places to ever go to to get any type of service and now I don't want to say it's a pleasure, but it's a much better experience for the customer when they come in to do their business.

The issue that I'll bring out to you again is the issue I've spoken to you about before that has to do with titling and liens. I

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

still believe that we have a very bad situation with banks that are putting liens on titles and then the difficulty it is for the customer to get the lien off the title, usually because the bank has sold the lien to another bank. I believe the State is also losing significant revenue because, as it's currently outlined in the Motor Vehicle rules and regulations, as soon as a bank has no more interest in a vehicle, they're supposed to, quote, "immediately generate a lien release," and then the next lender that purchases that lien is supposed to go to Motor Vehicles, pay a fee and then a new title should be issued with the new lienholder. I still don't believe we've gotten to that point yet. We've been in negotiation with some of the banks to change the language because of the way they sell these liens in a bulk format on a daily basis at times, but that's still not going to satisfy the end user or the customer. I still think it's horrible that we have to wait weeks to get titles when we want to sell a vehicle from one person to another. I ask that you please continue to look at that and try to find a more efficient way for the banks, because I know it's not Motor Vehicles, but for the banking industry to be held accountable to the customer as well as to the State because I believe we're losing revenue on them not refiling those liens.

Do you have any information on where we're going with that? Has there been any progress there?

COMMISSIONER FIALA: Well, we have a bill where we are going to -- and we've worked with the automobile dealers and have talked to them where they will be able to get a clear

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

title within 15 days. So we're working on that. I agree with you. It certainly has come to my desk several times, so I understand the situation and we continue to look at it.

ASSEMBLYMAN DENDEKKER: The bill that you're talking about, will that just be for dealers or will it be for members of the public?

COMMISSIONER FIALA: Oh, you mean the public --

ASSEMBLYMAN DENDEKKER: Because you said dealers would be able to get a clear title within 15 days.

COMMISSIONER FIALA: For their provisional titles?

ASSEMBLYMAN DENDEKKER: How about a member of the public?

COMMISSIONER FIALA: No, I don't know. I can't tell you right now what our turnaround time is for the titles, but if they come with a clear title and -- which is what we are looking at doing, then they should be able to have a title as soon as possible. I don't know what the turnover time is now and I certainly would be happy to find it for you.

ASSEMBLYMAN DENDEKKER: Well, if we could because that's like one of the main issues that has been coming up and I've been working on this issue since I've gotten here in four years and it doesn't seem like we're getting that much closer, other than helping the dealers, which is very important, don't get me wrong,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

for the dealers to have that turnaround, but it's not going to help the average, so to speak, Joe in the area that's trying to buy a car from someone that has a lien and they can't get the lien released because the bank doesn't have a lien anymore on the car and they never issued the lien release properly.

COMMISSIONER FIALA: I will certainly look at what the turnaround time is now, but I know that's always something that the DMV has tried to work on and improve upon.

ASSEMBLYMAN DENDEKKER: The only other suggestion I would make, I notice when I visit your offices, is that it's great how we get a number to go wait until our number's called to get called to the appropriate window, but a lot of times everybody is waiting on the same line to get the number. So, although we have all the windows doing, you know, multiple different types of tasks, I think it's ironic that we all wait on one line to first get the number to then go sit down. And I think it might be better served if all of those windows that are taking customers, that should be the first point of when people come in. To go from one line to another line is the aspect that I think would help move things along.

COMMISSIONER FIALA: Well, one of our customer service initiatives is to have greeters out there so that they will be able to gear them and soon they will be equipped with smart phones. So, if someone comes into the office and has a transaction that can be done quickly, the greeter can do it as they come in, we will have the greeters, but also be able to direct them where -- the right

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

line to go. And also with the new queuing system, that will also alleviate customers coming. They virtually can make an appointment and come and not have to have a long wait time.

ASSEMBLYMAN DENDEKKER: And finally, the one last thing I'll just mention is the self-service kiosk I heard you talking about. Will they be able to do any transactions at those kiosks? For example, will you be able to turn in license plates rather than wait on line?

COMMISSIONER FIALA: Right now we have 15 that can do registration renewals, registration duplicates and we're looking and very soon being able to add on and do more transactions.

ASSEMBLYMAN DENDEKKER: Good. Thank you so much. I appreciate it and thanks for being here.

CHAIRMAN FARRELL: Thank you very much.
Senator.

CHAIRMAN DEFRANCISCO: Senator Fuschillo.

SENATOR FUSCHILLO: Commissioner, how are you today? Great to see you.

You answered a lot of our questions with your opening statement, and I appreciate it. You certainly get it. When I was a kid growing up in Westbury on Privado Road, when we went there we packed a lunch and sometimes a late snack because we always had to camp out there all day long, but there have been dramatic changes, but you still recognize the perils and the challenges that you face as a Commissioner. And the outline you gave us, is that

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

the extent of the \$4.5 million in the customer service initiative of the all the changes that you're implementing?

COMMISSIONER FIALA: I'm sorry, the echo sometimes bothers me. What?

Yes, Senator, I'm sorry, the \$4.5- -- this room sometimes causes a little difficulty.

SENATOR FUSCHILLO: Okay.

COMMISSIONER FIALA: Back there I heard okay, so can I move back?

(Laughter)

SENATOR FUSCHILLO: You can move back.

COMMISSIONER FIALA: Yes, the \$4.5- is --

SENATOR FUSCHILLO: Is what you outlined?

COMMISSIONER FIALA: -- towards the initiatives and it's broken down, the queuing system, versus the queuing system as a big step. Also our web redesign is something that is in there. Part of that package is antiquated and we need to look at how we are making it more user friendly.

SENATOR FUSCHILLO: Okay. The issue of opening some of your offices on Saturday, what would be the criteria on which areas or location, which offices you would consider opening?

COMMISSIONER FIALA: Well, right now, the extended hours are for three offices. We're talking about the three offices presently that are going to be open extended hours. Saturday

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

hours we haven't looked at locations. The three offices that were picked were picked for geographic reasons, full-service offices so that we could -- it's going to be a three-month pilot. After the three months we will take another look at it and see if it should be expanded, changed or adjusted in any way.

SENATOR FUSCHILLO: Which offices were they?

COMMISSIONER FIALA: What office?

Massapequa, Yonkers and Herald Square.

SENATOR FUSCHILLO: Okay. Commissioner, I have no further questions. Thank you very much for being here.

CHAIRMAN FARRELL: Thank you.

Assemblyman Cusick.

ASSEMBLYMAN CUSICK: Thank you, Mr. Chair. Thank you, Commissioner. Commissioner, I just want to thank you. During the Superstorm Sandy, the DMV office in my district was shut down there for a while and got flooded and your folks were on the phone with me and we were able to set up some temporary spots for folks.

This is more of a request that we've made with colleagues earlier this week to the Governor that I just want to put on your radar screen for this budget process and with the money that's coming in from the Feds. Assemblyman Colton from Brooklyn led a coalition this week to ask the Governor to waive registration fees for those folks who lost their cars because of Superstorm Sandy. I think it's the right thing to do. These folks -- they didn't -- they have to

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

reregister. They're going to have to pay the registration fee and it's really no fault of their own; Mother Nature took their car and destroyed it. So, we are asking that the Administration, and that's why I want to make you aware of it, we're asking that registration fees are waived for those who lost their cars in the storm, in Sandy.

COMMISSIONER FIALA: I don't know if you're aware but, in essence, they're not paying double. If they're going to put another car on the road they do get credit for whatever was left on their registration. We do have, still open, two disaster recovery centers down there to help the people, answer questions, free duplicate titles, registrations, duplicate registrations and license, but they will get credit if they have a registration that's not expired and they transfer that to another vehicle, they do get credit for the balance that is there.

ASSEMBLYMAN CUSICK: Okay. I mean, we're concerned about folks who are going to have to buy new cars and if they have to start up a new registration, that's going to be the issue, I think.

COMMISSIONER FIALA:: If it is brand-new, then there's a cost factor.

ASSEMBLYMAN CUSICK: And that's what we're trying to address. Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FARRELL: Thank you.

Senator.

CHAIRMAN DEFRANCISCO: Commissioner, at

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

one time there was some movement to try to have a special type of registration for vehicles that were collector's items, a quicker process to get registrations. Is anything going on along those lines?

COMMISSIONER FIALA: Not that I'm aware of.

CHAIRMAN DEFRANCISCO: And are the fees the same for registering a collector's vehicle as any other car?

COMMISSIONER FIALA: Classic vehicle?

CHAIRMAN DEFRANCISCO: Yes, classic.

COMMISSIONER FIALA: Not that I'm aware of, Senator.

CHAIRMAN DEFRANCISCO: Okay.

COMMISSIONER FIALA: But I would be glad to look at it and see if there is something, but not that I'm aware of.

CHAIRMAN DEFRANCISCO: Okay. All right. Secondly, I just want to compliment you. The Motor Vehicle Departments are definitely much more efficient. I mean, there's always someone who has some complaint. The only people that don't get criticized are -- have complaints against them are those who don't do a damn thing. I've learned that over my political career. So, whatever complaints you may be getting, you can quote me as saying the system is running a heck of a lot better than it's ever run and we really appreciate your work and it shows that people our size can really affect things.

(Laughter)

COMMISSIONER FIALA: Thank you very much.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Thank you.

CHAIRMAN FARRELL: What are you doing, picking on tall people?

COMMISSIONER FIALA: Small but mighty, I like to say.

CHAIRMAN DEFRANCISCO: Absolutely. Absolutely. It's another point. Right.

CHAIRMAN FARRELL: Assemblyman McDonough.

ASSEMBLYMAN MCDONOUGH: Thank you, Mr. Chairman, and good afternoon.

You just identified the three locations and I think I understood correctly that the new -- that the offices would have expanded hours, I think you said Yonkers, Massapequa and someplace else.

COMMISSIONER FIALA: Oh, I'm sorry, Massapequa, Yonkers and Herald Square.

ASSEMBLYMAN MCDONOUGH: Herald Square, okay. And in your testimony you mentioned that you would also be considering the use of Saturday hours in certain locations. Are they the same locations you're talking about just now?

COMMISSIONER FIALA: That hasn't been determined. Well, this Article VII would allow us the opportunity to open up Saturday hours. I would like to add that over 31 years ago that was my assignment as motor vehicle supervisor, to open Saturday

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

hours and it's very successful, very popular and it is all customer service to give them the opportunity -- you know, everybody is very busy, works and this would give them another opportunity to do their business that they need to do with the extended hours.

ASSEMBLYMAN MCDONOUGH: Okay.

COMMISSIONER FIALA: Saturday hours are still very popular in Broome County.

ASSEMBLYMAN MCDONOUGH: Saturday hours, you said?

COMMISSIONER FIALA: And the extended hours, yes.

ASSEMBLYMAN MCDONOUGH: Of course. Okay. To accomplish these two steps, the additional hours and possible Saturday locations, does that mean that DMV is going to be hiring additional employees?

COMMISSIONER FIALA: No, not at all, no.

ASSEMBLYMAN MCDONOUGH: You're going to just rotate? Because I know we have sort of a hiring freeze on right now.

COMMISSIONER FIALA: Yes, there's no -- there's no budget additions added to that for additional employees.

ASSEMBLYMAN MCDONOUGH: Just by rotating other people?

COMMISSIONER FIALA: Mm-hmm.

ASSEMBLYMAN MCDONOUGH: Okay. Well,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

thank you very much.

Thank you, Chairman.

CHAIRMAN FARRELL: Thank you.

Assemblyman Oaks to close.

ASSEMBLYMAN OAKS: Yes, Commissioner,
thank you very much.

Just a couple of things. Again, I appreciate your leadership and your willingness to work. I know you came out of the side of the counties and I know there's the State entity and then working with the agents in the various counties really expand and allow this service to be in the areas throughout the State and not just in the State offices.

One of the efforts, I notice also, is considering kiosks that you might do. Could you tell us where you are with that and then, also, if we get to that point, or when we're at that, those revenues that come from the kiosks, will that be treated like internet dollars or will that be its own stream of money?

COMMISSIONER FIALA: Well, right now we have 15 kiosks, mostly in the metro area, and we will add our -- add 20 more and right now the -- of that -- the revenue retained from that is State revenue. It's -- the transactions right now that can be done are registration renewals and duplicates, but also we're going to add on into the -- in the future we're going to add on to the number of transactions. All kiosks are in State offices, not county offices and the areas in the county where we have district offices.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN OAKS: So, they're in offices now, not out in --

COMMISSIONER FIALA: No, no, no, no. They're in offices.

ASSEMBLYMAN OAKS: Okay. But is the future view of possibly being at --

COMMISSIONER FIALA: We haven't -- our future is to expand what we have in the offices and expand the transactions that can be done in the offices.

ASSEMBLYMAN OAKS: The last thing that I just have is in recognition that there's that balance between keeping county offices viable so that they're not losing dollars at the same time of working with the State and providing those services to our people is just, you know, the encouragement to keep that recognition as we go forward. I appreciate the effort of looking at any agreements made this past year, I believe, in sharing the revenue with the internet and, as we go forward, certainly, the viability at the county level is certainly a concern.

COMMISSIONER FIALA: Absolutely. We appreciate the close relationship we have with the county clerks. I was a county clerk, county executive, so I know how important that is and we will work with them and that's why the revenue stream, we did make the changes so that they will be able to get additional revenue with that 4 percent.

ASSEMBLYMAN OAKS: Thank you very much.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

CHAIRMAN DEFRANCISCO: Thank you very much.

CHAIRMAN FARRELL: Thank you.

CHAIRMAN DEFRANCISCO: We're all set.

COMMISSIONER FIALA: That's it?

CHAIRMAN DEFRANCISCO: That's it. That's it.

COMMISSIONER FIALA: Thank you very much.

CHAIRMAN FARRELL: Thank you. New York State Public Transit, Carm Basile, President. It's 12:45; we caught up.

MR. CARM BASILE: Good afternoon. Hopefully I can keep you on time, given that that's what transit does. We run on time. I have my fingers crossed.

Thank you, Chairman DeFrancisco, Chairman Farrell, Chairman Fuschillo and Chairman Gantt and members of the Committee for giving me the opportunity to talk about the progress and the success of transit systems here in the Capital Region and across the State. My name is Carm Basile. I'm the Chief Executive Officer for the Capital District Transportation Authority here in Albany. CDTA provides services for more than 55,000 people every day here in the Capital Region. Many of our boardings take place right outside this building, connecting people to jobs. I'm also the President of the New York Public Transit Association, a not-for-profit association that represents public transit agencies throughout the State. Our members include service providers. We also have members that are private-sector manufacturers, suppliers and community advocates.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

They range from the largest system in the country, the MTA, to the smallest in Watertown.

To highlight the size and the importance of what we do, if all of our transit systems outside of the MTA were combined, they would comprise the seventh-largest transit system in the country. Our members support the State's economy by providing access to safe and reliable mobility. New York transit systems provide over two billion rides on buses and rail annually, connecting the dots of our State's workforce.

Transit ridership is growing all across the State. Westchester County, for example has ridership increases of 4 percent. In Ithaca ridership is up 5 percent. Here in the Capital Region I'm proud to tell you that our ridership is up 6 percent and has been up for 22 consecutive months. The good news for us is that there are increases in customer boarding, but also in customer revenue. The downside is that agencies are dealing with multi-million-dollar deficits even in the face of success. Unfortunately, except for the MTA customer revenue accounts for less than one-third of our operating budgets, leaving gaps that are very, very difficult for us to fill. For many of us the gaps are filled by using our capital moneys, our capital funds, clearly a move that borrows from tomorrow to pay for today and certainly is not sustainable in the long run.

Mobility is critical to the State's economic vitality. Every day, millions of our customers use buses and trains to get to work, to get to businesses and shops, to get to schools and to medical

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

appointments. At CDTA we have developed cooperative arrangements with colleges and universities to give students and staff easy access to our services. Our fare collection technology allows us to recognize student ID cards, to track boardings and to bill the schools, relieving them of the need to provide the service themselves. This is thinking smarter, not harder. Smarter thinking is opening the door of possibilities for all of us.

Our investments support hundreds of transit manufacturing jobs and supplier jobs across the State. These suppliers provide thousands of jobs and generate investments from other states that buy New York transit products. You know all this, but buses are manufactured in Plattsburgh, subway and rail cars are built in Hornell and Yonkers, transit system software is developed in Plainview and Johnson City, and vehicle air conditioning systems are manufactured in Syracuse.

Unfortunately, our infrastructure requires continual capital investments to provide safe and reliable service. We need to replace over-aged buses, modernize maintenance facilities and we need to add more technology. That's what our customers are asking for. At CDTA we are ready to procure an upgrade to that fare collection system I talked about earlier, which will provide smart cards for college students. It will help us to expand this innovative program to major employers, perhaps even to State workers right here in this building or in the dozens of agency buildings in Albany, Schenectady and Troy. This cooperative work comes directly from

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

the Governor's challenge to eliminate outdated systems, to be innovative and to value partnerships. Transit systems across the State have listened, and they're focusing on efficiency and effectiveness, minimizing the need for government support.

At CDTA we've spent the better part of the last two years right-sizing our operation. We have reduced employee head counts by 10 percent with no layoffs and we have accompanied this with an innovative contract with labor, Amalgamated Transit Union, Local 1321, that ties wage increases to funding sources. Our employees are the backbone of our company, without which we could do nothing.

On the street it's about giving customers what they want and improving the riding experience while meeting increasing demands. We recently rolled out here in Albany the first bus rapid transit system in Upstate New York and have created innovative partnerships and service access arrangements with others that are providing a much-needed boost. This work is changing the image of transit Upstate and it is providing continued support to agencies like CDTA. Our signature BRT service provides the Capital Region with rail-like service delivery. This investment includes customer-driven features like stations and realtime information that have transformed what we look like to our public. Ridership on Bus Plus has increased by more than 20 percent in the first year of operation, with total corridor boardings now exceeding \$4 million. This has led us to fast track BRT development between Albany and Troy and between

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Albany and the Harriman Office Campus. These are high-volume, high-density corridors, making them prime for BRT service. Like many businesses, we need seed money to develop and make these ideas real tomorrow.

We support Governor Cuomo's Executive Budget, which proposes a 7.2 percent increase in transit operating assistance. The budget provides additional funding to fulfill State commitments to the MTA and appropriates available revenues to Downstate transit systems. However, the lack of growth in revenue flowing to Upstate transit accounts results in our systems not being able to share in increased funding. This funding formula requires our collective attention. Better mobility and improved infrastructure systems are Statewide issues, and we need to work collaboratively to ensure that transit riders in every region of the State see improvements.

The lack of revenue growth and diversity in the Upstate account will continue to constrain the ability to fund Upstate systems. These constraints have been addressed in previous budgets through the dedication of a portion of the Statewide Corporate Utilities Tax, along with the appropriation of capital resources in the Dedicated Mass Transportation Trust Fund to supplement Upstate operating aid. The Executive Budget proposes legislation to make the Statewide allocation of the Corporate and Utilities Tax permanent, and we strongly support this action. This tax is collected Statewide and should be distributed equitably.

Transit service came to a halt in the aftermath of

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Superstorm Sandy, highlighting the importance of a well-functioning infrastructure. The State's suburban and Upstate transit systems are critical to the economies of their regions. Our infrastructure requires maintenance and routine replacement to maintain a state of good repair while continuing to provide that safe and reliable service I spoke of earlier. We need to look at how we can fund Upstate transit systems to ensure that we continue to develop these services and meet customer demand.

NYPTA supports capital program appropriations of \$18.5 million for two capital purposes: The omnibus matching program and the non-MTA capital program also known as the State Dedicated Fund. These are the same appropriations as last year; however, to date, SDF capital monies have not been distributed, slowing infrastructure investments that could improve the condition of our vehicles and our facilities. These funds are needed more than ever, as federal transit funding has remained flat while discretionary programs to address our capital needs no longer exist. Investments in transit systems across the State will allow organizations like mine to enhance frequency, to enhance spans of service, to develop more BRT lines and to further develop contract agreements that offer efficiencies for our systems and the companies we do business with. We are also working with local school districts to reduce duplicative transportation efforts and to save money for them. Our goal is to improve our bottom line and maximize productivity and efficiency. Transit systems throughout New York State are as productive and as efficient

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

as any in the country, and it's time for us to capitalize on our success and build an even stronger transit foundation.

I want to thank Governor Cuomo and each and every one of you for supporting a stronger and better transit network throughout our State. We support the Governor's Executive Budget request for transit and are committed to working alongside the Governor and all of you to ensure economic revitalization throughout New York State.

Thank you for giving me the opportunity to be here today and I welcome any questions.

CHAIRMAN FARRELL: Thank you very much.

Mr. McDonough.

ASSEMBLYMAN MCDONOUGH: Thank you, Mr. Chairman, and good afternoon. You mentioned the Bus Rapids, or BRT, right?

MR. BASIL: Yes, sir.

ASSEMBLYMAN MCDONOUGH: How old is that? When did you start it?

MR. BASIL: April of 2011, so it's fairly new. About a year-and-a-half.

ASSEMBLYMAN MCDONOUGH: Okay. Because I'm on Long Island and they're looking for something like that they haven't done yet. And in your system that is a bus on certain routes. Give me an example in Albany.

MR. BASILE: Well, it's right outside the door,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

actually. It runs right up Washington Avenue, it's Route 5 between here and Schenectady. It's a limited-stop service. Some cities have dedicated lanes. But it's limited stop. There's only 18 stops for 17 miles. The stations resemble rail stations. They're not little typical shelters. It's a lot of technology, realtime information, and we have cut travel time by 20 percent.

ASSEMBLYMAN MCDONOUGH: They bypass the regular stops?

MR. BASILE: They bypass the regular stops.

ASSEMBLYMAN MCDONOUGH: Those buses are marked, I think, too.

MR. BASILE: And they're marked differently. They look differently. The stations look different. It's been transformational for us.

ASSEMBLYMAN MCDONOUGH: And the fares are the same?

MR. BASILE: The fares are a little higher, and people gladly pay it for the convenience.

ASSEMBLYMAN MCDONOUGH: Even if they're not going as far a distance as they would on the regular bus at a lower fare?

MR. BASILE: It's amazing. Get them there quicker and they'll pay a little bit more.

ASSEMBLYMAN MCDONOUGH: Give me a rough idea what the fare would jump to. What's your basic fare,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

\$2.25?

MR. BASILE: It's very, very -- \$1.50 to \$2.00. It's only a 50-cent differential and, in fact, it's worked so well we're thinking of increasing the differential.

ASSEMBLYMAN MCDONOUGH: Okay. And your ridership, your customer base is up in the last year, you said in the beginning of your testimony?

MR. BASILE: It's been up for 22 consecutive months, sir. We're up 6 percent year to date and, frankly, it's the same in Syracuse, Rochester and Buffalo, throughout the State.

ASSEMBLYMAN MCDONOUGH: Okay. All right. Thank you very much. I appreciate it.

CHAIRMAN FARRELL: Thank you very much.
Senator.

CHAIRMAN DEFRANCISCO: Yes. I'm interested in the question about equitable funding. You make a statement in your prepared remarks that it's not equitable at this time. What can you show me that shows -- and I'm not disputing you, I just need some evidence of this. How can you show me that, well, it's per capita or whatever it may be, that Upstate public transit is not getting their fair share?

MR. BASILE: Well, for example, my system in the EBR has no increase in State operating assistance and others Downstate have 6, 7, 8, 9 percent increase in State operating assistance because the funding, the taxing mechanism provides more

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

money Downstate. We understand that, we get that. We don't have the tax system to support what we need here in Upstate. We've been flat for two years.

CHAIRMAN DEFRANCISCO: What's the tax system Downstate that they rely on?

MR. BASILE: It's basically the petroleum business tax and other associated tax, corporate tax.

CHAIRMAN DEFRANCISCO: But that's a Statewide tax, isn't it?

MR. BASILE: But they have two different accounts. There's an Upstate account and a Downstate account.

CHAIRMAN DEFRANCISCO: All right. This is news to me, quite honestly.

MR. BASILE: Real technical stuff, yes.

CHAIRMAN DEFRANCISCO: This is news to me, quite honestly. I didn't realize this. Could you give me some more information on that?

MR. BASILE: We sure can. I don't have it with us.

CHAIRMAN DEFRANCISCO: No, I wouldn't expect you to. But I just want to -- if it's -- the pot is based upon where it is collected?

MR. BASILE: Yes.

CHAIRMAN DEFRANCISCO: Oh, that how it works. Okay.

MR. BASILE: We will get you more technical

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

information.

CHAIRMAN DEFRANCISCO: Get me some more detail because I think that's definitely worth exploring. I would appreciate that information.

MR. BASILE: Will do.

CHAIRMAN DEFRANCISCO: Okay. Thank you.

CHAIRMAN FARRELL: Thank you. Have a good afternoon.

CHAIRMAN DEFRANCISCO: Thank you.

CHAIRMAN FARRELL: New York State County Highway Superintendents Association, William Wright, President. New York State Association of Town Superintendents of Highways, Richard Kuku --

MR. RICHARD KUKUK: Kukuk.

CHAIRMAN FARRELL: Kukuk. Thank you.

CHAIRMAN DEFRANCISCO: It's not cuckoo.

(Laughter)

We may be going cuckoo, but...

CHAIRMAN FARRELL: Superintendent, Clifton Park.

MR. WILLIAM WRIGHT: Good afternoon, Chairman DeFrancisco, Chairman Farrell and members of the Joint Legislative Committee. I'm Bill Wright. I'm President of the New York State County Highway Superintendents Association and also Commissioner of Public Works in Ontario County, New York, the

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Finger Lakes region. And with me today -- go ahead and introduce yourself.

MR. KUKUK: My name is Richard Kukuk, Superintendent of Highways, Town of Clifton Park, here in Saratoga County.

MR. WRIGHT: And we're going to -- I have prepared remarks; I may go off those a little bit in the interest of time. But, as you know, the condition of our local roads, bridges and our transportation infrastructure continues to deteriorate despite the extraordinary efforts of people like Rich and myself who are trying to use the available funds that we have that are going down, to keep our road systems from going into major disrepair.

It's important that we start off with an understanding what our road system is. As local county and town highway superintendents, the local governments own 87 percent of our roads and half of the bridges in this State, and 48 percent of the vehicle miles traveled are on local roads. So, local roads matter and should matter in any State budget. And we know that they matter to you. We have been in your offices before, we have worked with you to try to keep CHIPS and other funding programs intact, and we're here to talk about what our needs are and what some of those funding sources need to be. We're not quite sure there's a good balance between the taxes that are raised and the amount of money that is given to the local road system.

For the last few decades, county highway

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

superintendents have focused on cost-effective preventative maintenance and hoping to extend the life of our roads because we know when we spend \$1 on preventive maintenance, we avoid \$4 to \$14 of expensive major reconstruction. So, preventative maintenance is important. But, our dwindling funding sources and rising costs have really made it difficult to maintain our battle in the preservation battle. Today we treat only a fraction of the amount of roads that we have done in the past. In my own county we should be doing about 40 to 50 miles of road each year, and we're down to about 20 to 25. Costs have gone up amazingly; 190 percent for fuel, 200-and-some-odd for sand and asphalt and, yet, our resources have stayed the same or gone down, which we'll talk about.

Our major source of funding is the CHIPS program. CHIPS has been frozen now for five consecutive State budgets at a level far below what is needed. We're now at \$363 million for CHIPS and about \$40 million for Marchiselli money, which is used to finance the local share of our Federal moneys that we get for transportation. So, that funding has not changed since 2008, and in the budget that's proposed there will be no increase in CHIPS for at least the next five years. So, that means ten years, potentially, of no increase in CHIPS funding. And, as I mentioned, the costs have gone up. One statistic I didn't mention was over 60 percent of the material costs, they have gone up that much. And that kind of goes along with what the State Comptroller has indicated in his report, that in the next 20 years we're going to have a deficit of \$89 billion in unmet infrastructure needs.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

So, what we're looking for, one of the things we're looking for, is back in 2009 the New York State DOT recommended that we have a \$250 million State aid to local bridge, and we would like to see that program instituted. I think DOT clearly understood, basically, what the Comptroller has supported and that we need money to keep our infrastructure moving.

Well, the problem with the CHIPS has been -- is also a problem that is going on on the Federal level. MAP-21 was a game changer. We testified last year that we were really concerned that the Federal transportation bill was going to push a lot more emphasis on the national highway system and that's exactly what happened. They pushed a lot of money towards that way at the expense of the local systems. We estimate that we will have 40 to 50 percent less available money for us to use on our Federal transportation system. So, what does that mean? Well, for my county I usually have one to three Federal aid projects a year. We're just doing the new tip round. For the next four years I will be lucky to have one project. So, MAP-21, while it did some good things -- in fact, I was involved in writing a section of the new law, new transportation bill. The way they have structured the funding has been very detrimental to the counties and to the towns, and also to the State DOT because most of the roads that the State has are not on the national highway system and, yet, that's where all the money is. So, the other thing I think we have to work together on is when that bill comes up for reauthorization we're going to have to work together with DOT, with yourselves, in trying to make

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

sure our Congressmen understand that we have to change the funding formula in the new transportation law.

One opportunity we may have, and we were glad to see in the Governor's budget he called in the New York Works Fund for \$300 million in part to be directed to maintain, repair and replace critical highway bridge and transportation infrastructure. I think here's an opportunity for all of us to look at that money and say that some of that money should go into the local system for the towns and for the counties. Last year, over \$1 billion was under the New York Works Program that replaced over 100 bridges and worked on 100 bridges and 2,000 miles of road, but remember this: Not one dollar of New York Works money went to the local road system, and remember, we own 87 percent of the roads in the State.

So, I think in closing here and in examining where we need to go from here, I hope that we are going to have to examine how the motor fuel taxes and fees are currently being distributed. You, as the State, and the Feds are the only ones that raise the gas tax, so we have to be in partnership together. We know that no one cares who owns the road. We want a seamless infrastructure system, and that's what we're looking to partner with you guys to have that happen, and with DOT. And we think with the New York Works Program there's an opportunity for you to ensure that the local system gets a good chunk of that because the State has had an opportunity with the \$1 billion New York Works fund that was in place last year that you have had an opportunity to do on your State roads and now I think it's

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

time to take some of that \$300 million and put it into the local road system.

I understand -- one thing also on MAP-21 I want to talk about a little bit, I understand the DOT Commissioner was indicating per a question that came up about whether the locals got the same amount of money under MAP-21 as they did in the prior transportation bills. Well, the answer is no, we did not. As I explained to you, most of the money went to the National Highway System. And to give you a little bit of an idea, in Region 4 where I am in the Rochester region, we normally have between \$40- and \$50 million a year that we had access to for our local highway and bridge work. This year it's down to \$28 million, and that also is going to be made available to the State because, like I said, MAP-21 focuses on the National Highway System, which a lot of the State roads do not -- they don't apply for. So, they're going to have to also compete for that \$28 million.

So, I think -- I'm encouraged to hear that the DOT Commissioner wants to work with us to make us whole. In order to do that in Region 4, we need 22 million extra dollars. So, it's going to be a challenge, but I don't want you to be left here thinking that MAP-21, as it's structured today, will make the local highway system whole. That is not the case.

So, in conclusion, I would like to urge the Legislature to seek ways in which to make available more State funding and resources that adequately reflect the critical needs of local roads and

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

bridges. In previous years, even in tough economic times, the Legislature has responded to the dire conditions of the State transportation system and augmented CHIPS and other local transportation funding. For this, you know, we and the traveling public are grateful. You have been our partners in this and we need to continue that effort, but we're being squeezed in CHIPS being potentially the same level for ten years and the Federal Government pulling back some of the Federal transportation funds. So, we need your help as a partner. We look forward to working with you and we're available for any questions you might have.

CHAIRMAN FARRELL: Thank you very much.
First to question, Mr. McDonough.

ASSEMBLYMAN MCDONOUGH: Thank you, Chairman. Good afternoon, Mr. Wright. I just want to clear up one thing. In one of your paragraphs, I'm going to read it, "The State budget for this fiscal year includes over \$1 billion under the New York Works Program that is credited with improving more than 100 bridges and 2,000 miles," et cetera. "It is important to note that none of this \$1 billion was spent on the local system." Are you talking about -- when you say the State budget for this fiscal year, the one we're in right this minute or are you talking about --

MR. WRIGHT: 2012-2013.

ASSEMBLYMAN MCDONOUGH: Okay, the one we're in now.

MR. WRIGHT: Yes.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN MCDONOUGH: Okay. That's what I wondered. So, there was nothing now but in this New York Works Program -- I think it's under the Works program that the Governor is proposing -- there will be that \$300-

MR. WRIGHT: In the proposal, yes.

ASSEMBLYMAN MCDONOUGH: Okay. And what you're asking us to influence is make sure that that does go to local roads?

MR. WRIGHT: That is correct.

ASSEMBLYMAN MCDONOUGH: DOT was here this morning and they mentioned how they have been working on so many bridges but none of those were so-called "your" bridges, the local bridges, right?

MR. WRIGHT: Correct.

ASSEMBLYMAN MCDONOUGH: So, the little ones in the hamlets and stuff that don't come under the State highway system or something, they weren't doing those.

MR. WRIGHT: None on county or town roads. And I have some bridges that are well over 150 feet long, so I have some pretty big bridges, too.

ASSEMBLYMAN MCDONOUGH: We've got 17,000 bridges, I think it is, in the State of New York, right, and a lot of them are local bridges which would not come under DOT.

MR. WRIGHT: Over 50 percent of them are local bridges.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

ASSEMBLYMAN MCDONOUGH: Okay, so that means that -- what you said about this budget this year is you didn't get any money to do those bridges.

MR. WRIGHT: The only money -- not from the New York Works Program, none.

ASSEMBLYMAN MCDONOUGH: Okay, so none of that billion in the budget that we're just coming up to the end of now was given to you for local bridges?

MR. WRIGHT: That is correct. None of it was.

ASSEMBLYMAN MCDONOUGH: And now the Executive Budget includes \$300 million for infrastructure and you want us to try and ensure that the bulk of that or a very good portion of it goes to this very purpose?

MR. WRIGHT: That is correct.

ASSEMBLYMAN MCDONOUGH: And the State and the Governor's office or the Budget Office has received an inventory, I'm sure, of what needs to be done? I mean, some sort of a listing. You know, you've got a lot of bridges.

MR. WRIGHT: All bridges are rated, and so the ratings and the priorities of those that need fixing is well established.

ASSEMBLYMAN MCDONOUGH: Is that rating system the 1 to 7 that I have heard about?

MR. WRIGHT: That is correct, yes.

ASSEMBLYMAN MCDONOUGH: One to 7. And what do you find 7 being, the worst or the best?

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. WRIGHT: No, 7 is the best and 1 is the worst.

ASSEMBLYMAN MCDONOUGH: Where do you find the threshold, 4, where you say we've got to do something real quick?

MR. WRIGHT: Roughly, anything below 4 needs work, but there could be a bridge that is rated 5 or 6 that has an element that needs some work. So, there's overall ratings and when an overall -- when a bridge is in that 3 to 4 time, you know, that rating, that needs to be worked on. But even some bridges that are rated overall well may have elements that need work.

ASSEMBLYMAN MCDONOUGH: But at some point the safety is such if it ever gets that critical you've got to shut that bridge, basically, right?

MR. WRIGHT: I think one thing you can be very comfortable with as a public safety issue, if a bridge needs to be closed, it's closed.

ASSEMBLYMAN MCDONOUGH: Right.

MR. WRIGHT: We will close it. We don't -- even though a bridge may be rated 3.5, 4, if it's a danger we will close it.

ASSEMBLYMAN MCDONOUGH: Okay. Even if it's temporarily?

MR. WRIGHT: Even if it's temporarily, yes.

ASSEMBLYMAN MCDONOUGH: All right. Because we had one or two bridges that went down in the State over the past several years, right?

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. WRIGHT: There's been some concerns with some of the bridges. I think one bridge right here in Albany had some issues, and that was element-specific to that bridge.

ASSEMBLYMAN MCDONOUGH: So, I thank you. You want us to see what we can do to make sure some of that funding goes to local bridges.

MR. WRIGHT: I think that would be very helpful to the local road system.

ASSEMBLYMAN MCDONOUGH: Okay. Thank you for clearing that up. Thank you very much.

CHAIRMAN FARRELL: Thank you.

Senator.

CHAIRMAN DEFRANCISCO: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Chairman DeFrancisco, and good afternoon, gentlemen. The first speaker today -- and I'm not going to ask you any questions but I'm going to just make a comment because I just briefed your testimony. The first speaker today, and I don't know if you were here, was Commissioner McDonald and I had asked the specific questions about that and stated that the CHIPS funding has been frozen for the last five years and also the \$300 million, \$200 million for New York Works and \$100 million for the regional councils, really discretionary funding, non-itemized funding, non-detailed, no project-specific. I concur with you that the Legislature this year and should have in previous years needs to seriously look at increasing the CHIPS funding and that pot of money

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

has to be given serious consideration for that. In my travels throughout the State, meeting with many local supervisors and county supervisors and town supervisors, the amount of roadways that you take care of are enormous throughout this State and to not have an increase is just not right. It's not justified of this Legislature not doing it. I will say to you, as Chairman of the Senate Transportation Committee, we will take a hard look at that money and see how we can increase the CHIPS funding this year.

MR. WRIGHT: Thank you very much. We would appreciate it.

SENATOR FUSCHILLO: Thank you.

CHAIRMAN DEFRANCISCO: Ditto.

CHAIRMAN FARRELL: Thank you.

Mr. Oaks.

ASSEMBLYMAN OAKS: Yes, thank you very much. Bill, just going back to your comments about the MAP-21, because the Commissioner was here earlier today and I got some sense that things were at least going to be -- it was flat from the Federal money, but also an indication that dollars would be flowing to the county level, you were just talking about a gap, definitely, from where we are now to what is being proposed in the -- I know you had mentioned \$42 million versus \$28-. Could you just give some clarity again, though --

MR. WRIGHT: Sure.

ASSEMBLYMAN OAKS: -- or restating of kind of

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

how it's working so that when we're advocating we can...

MR. WRIGHT: Sure. It's complicated. It took me probably about six hours to try to figure this out. I was working with my MPO director on trying to wade through this. But, essentially, what MAP-21 did was the amount of money told to the State is about the same, about \$1 billion, \$1.2-, somewhere in there. It's how that money was distributed and made available to various classes of road. Their emphasis was on the National Highway System, which is all of the interstates, the big roads. In the old programs there was a set-aside for bridges. It was huge. It was, I think, almost \$500 million or somewhere in that neck of the woods, but there was a major piece that was for bridges. They took that away under MAP-21 and pushed that money up into the National Highway System. Part of it went there, part of it went in another group of money but, overall, the locals have no National Highway System roads. We have no interstate roads. So, the only pot of money in the new MAP-21 that we can go after is what's called STF. Oh, it's actually STP. That amount of money has risen, but not enough to take care of that bridge money that we had. So, it kind of compressed -- I know I'm probably not explaining this very well -- it just compressed the money more towards the interstates.

So when I said in our region, in Region 4, which you know quite a bit about, we had \$50 million over the past decade that was available to us. Most of that was bridge money that -- for most of our local system, we take care of our roads and we do maintenance. When we want Federal money we need to replace something. So, that

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

money was there. Based on the way it is now, we only have \$28 million and we're going to compete with the State on that, too, because, like I said, not all their roads are National Highway System roads. They're in a pickle, too, on this. So, it's probably something that -- it's better to be seen on paper. I have a memo on it that explains it quite well. If you're interested in receiving that I can have our association make sure that the whole committee gets it.

ASSEMBLYMAN OAKS: Please do.

MR. WRIGHT: I think it will explain it a lot better than I probably did, but we're 40 to 50 percent less.

ASSEMBLYMAN OAKS: Thank you.

MR. WRIGHT: That's available to us.

CHAIRMAN FARRELL: Thank you. Further questions? Thank you very much.

MR. WRIGHT: Thank you very much for having us.

CHAIRMAN FARRELL: Bill Carpenter, CEO, Rochester-Genesee Regional Transportation Authority.

MR. BILL CARPENTER: I'll abridge my remarks. You have the written testimony in front of you. Chairman DeFrancisco, Chairman Farrell, Chairman Fuschillo and Chairman Gantt and the members of the Committee, my name is Bill Carpenter. I'm the Chief Executive Officer of the Rochester-Genesee Regional Transportation Authority. I'm here today with our Chief Financial Officer, Scott Adair. Thank you for giving me this opportunity to share on behalf of the RGRTA Board of Commissioners and our 832

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

employees, our progress in achieving our vision to become the preferred transportation choice for the residents of Monroe, Genesee, Livingston, Orleans, Seneca, Wayne and Wyoming Counties.

Together, the people of RGRTA share a commitment and passion to provide on-time, safe and affordable transit and para-transit service so that our customers can access jobs, health care, education, retail and cultural activities.

First, I want to thank Governor Cuomo and Lieutenant Governor Duffy for their hard work on this Executive Budget. We appreciate that the 2013-14 Mass Transportation Operating Assistance appropriation for Upstate transit authorities has been maintained. In addition, we applaud the equitable distribution of the funding across the Upstate transit authorities.

We have achieved seven consecutive years of financial stability. In March when I present the budget to our board I will recommend to our Commissioners that the dollar fare we instituted in 2008 be continued for another three years. This way, transit-dependent customers can affordably get to their destinations and keep the economy moving. Guided by a disciplined private-sector mindset with a performance-focused culture, we're driving forward to achieve sustainable growth in a fiscally responsible way. Our vision to be the preferred transportation choice can only be achieved by continually improving in areas that are key to our success: Financial performance, on-time performance, a reliability our customers depend on, customer satisfaction and employee engagement.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

One area I want to highlight is our ongoing technology investment to drive service excellence. We have harnessed GPS technology and solved for our customers a mystery of, *Where's my bus? When is it coming?* Digital signs at our 15 busiest stops in downtown and around Rochester provide realtime arrival information. Text, voice and e-mail messages now notify customers at any of our 3,800 stops when the next three buses are due, replacing anxiety -- *Did I miss a bus? When is it coming?* -- with peace of mind, knowing how much time they have, when it will arrive. Usage of these innovative transit tools continues to grow at a rapid pace and now exceed 100,000 inquiries every month. Just recently we placed a bus locator technology on our website so that customers can use their smartphone apps to see realtime the bus driving to their location.

Our private-sector mindset drives us to find solutions to deliver our successes in a fiscally-constrained manner. Frankly, there is more demand to be met should additional funding be made available. I would encourage focus on the STOA funding formula that this year includes a 7.2 percent overall increase, yet due to the funding formula created long ago results in flat funding for Upstate transit operating aid.

Two final points. The Executive Budget includes two items that I would urge your support. First, the inclusion of \$18.5 million into the non-MTA capital program, also known as the State Dedicated Fund, to support capital asset purchases necessary to help ensure our system remains in a state of good repair. And, second, a

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

change to the Article VII Transportation and Economic and Development bill, Part B, makes permanent the redistribution of Statewide collected transmission tax between the Upstate and Downstate transit accounts to be done in an equitable manner.

On behalf of the Board of Commissioners, the employees and the communities served by RGRTA, I want to thank Governor Cuomo for his Executive Budget and the legislative Bodies for your ongoing support for transit. We effectively use your funding to improve quality of life in our area. You have my commitment to successfully serve our communities as we drive forward to be the preferred transportation choice.

I would be glad to answer any questions.

CHAIRMAN FARRELL: Thank you. Assemblyman Oaks.

ASSEMBLYMAN OAKS: Thank you, Chairman. Welcome. And to Mr. Adair, congratulations on your new position. Just a question. I appreciate the way that RGRTA has expanded and become more customer-friendly in your service over the years. You mentioned some of the 100,000 a month inquiries you're up to on technology. Do you have any sense what percentage of your ridership is technology savvy to the point that -- you know, I know if you're waiting with others you can hit the guy next to you and ask, *Do you know when the bus is coming?* But, do you have any sense in that, you know, surveying your ridership?

MR. CARPENTER: We have a third party survey

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

our ridership on a quarterly basis, and the last quarterly survey, 51 percent of our customers were using these transit tools at least once a month.

ASSEMBLYMAN OAKS: I noticed when the Capital Region presented earlier on behalf of the State talked about ridership being up. Your specific ridership I missed. Again, your percentage last year to this year?

MR. CARPENTER: In the last full year we were up 4 percent.

ASSEMBLYMAN OAKS: Thank you. Thank you very much.

CHAIRMAN FARRELL: Thank you.

Senator.

CHAIRMAN DEFRANCISCO: No questions on this side.

CHAIRMAN FARRELL: Thank you.

MR. CARPENTER: Thank you very much.

CHAIRMAN FARRELL: Ann Crook, President, New York Aviation Management Association.

MS. ANN CROOK: Good afternoon, Chairman DeFrancisco, Chairman Farrell and members of the Joint Committee.

CHAIRMAN FARRELL: Pull in the microphone a little closer.

MS. CROOK: I'm sorry about that. Thank you for inviting me here to testify this afternoon. My name is Ann Crook. I'm

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

the Director of the Elmira-Corning Regional Airport in Chemung County and the President of the New York Aviation Management Association and I'm happy to be giving you the opportunity to think about aviation for a little bit today. I do want to let you know that I will be speaking to my written testimony but I won't be reading it. So, if you're trying to follow along it will be challenging.

CHAIRMAN FARRELL: Just one thing for the people in the booth. It's C-R-O-O-K, C-R, not C-O.

MS. CROOK: Thank you, Chairman. There was a typo on the agenda.

CHAIRMAN FARRELL: Yes, there was a typo.

MS. CROOK: I am a Crook, yes. The New York Aviation Management Association, NYAMA, represents 100 airports Statewide from the largest airports, JFK and LaGuardia, to small ones like Elmira-Corning Regional and the even smaller than that from Buffalo to Watertown to Plattsburgh. We represent your airports throughout the State and the other companies that do business in support of those airports -- fixed-based operators, aviation fuel distributors, aviation mechanics, attorneys, engineers, planners. So, we represent the aviation industry in New York.

Aviation is economic development for New York State. In 2010 the NYSDOT released a study of the economic impact of aviation in New York State and the numbers were astounding. Every year, \$50 billion of economic activity is a result of aviation in the State of New York. That accounts for -- almost 400,000 State

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

residents work in aviation, and that leads to \$4.5 billion in State and local tax revenue. So, that gives you an idea that we really consider that aviation is more than transportation but it is economic development for our communities. As a matter of fact, in that report that I just mentioned, Commissioner McDonald, who spoke this morning, said -- and this is a quote that I am reading -- "Continued strategic investment in New York State's aviation industry will help rebuild the economy by attracting and retaining businesses that depend on aviation for shipping and receiving goods while also providing business and recreational travelers with safe, fast and reliable service." So, against that background of the economic importance of our airports we have some concerns about the State funding of these very important facilities. Throughout the first decade of this century, in the 2000's, we had the Air 99 program which provided funding for airport infrastructure improvements that was funded through the State Bond Act. That expired in fiscal year 2009-2010, so since that time there has been no dedicated State funding for aviation infrastructure improvements. So, that's one thing and think about that for a little bit. There is a stream of funding that we rely on which comes from the Federal government, through the FAA, and that is called the Airport Improvement Program, AIP, for short. For years the FAA grants under that program had been 95 percent. So, the State had provided half of the local match which was two-and-a-half percent then local match of those State grants -- or of the Federal grants. Last year Congress changed that match, and so

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

beginning last year the Federal grants changed from 95 percent to 90 percent which means that the State match then became 5 percent instead of two-and-a-half percent to split that local match. Last year's budget we were not able to make those adjustments because Congress kind of surprised us with that change in match. In this year's budget we were hoping to see that State portion of that, the AIP match, double to make up for that reduction in the State funding, but we didn't see that happen. So, in this budget proposal it maintains \$4 million for that AIP match, which is half of what we expect the needs will be. So, those are two areas that I wanted to address.

In this budget proposal you have talked a bit today about the New York Works Fund and the million dollars of multi-modal infrastructure money that will be allocated through the regional commissions. We would like to see a portion of that actually allocated to aviation, part of it to make up that remaining \$4 million for the AIP match and then an additional \$15 million, which is what we had received in years prior through the Air 99 Program. The way it stands right now it's not clear that any of that money will go to aviation and, furthermore, without having it allocated directly to aviation we are concerned about our ability to come up with infrastructure projects that can be competitive in -- through the regional task force process. Again, when we're talking about infrastructure it's hard to relate the impact of infrastructure directly to jobs, though as that study shows, there is a very definite economic impact.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

And the last thing, and this is one of our issues that we have talked about for a couple of years, it's a proposal that we call the Aviation Jobs Act and it's a proposal to eliminate sales tax on sales of general aviation aircraft, which is non-airline aircraft, the idea being that aircraft by their nature are a very fluid asset that can easily be located somewhere else where they get a better tax treatment. As a matter of fact, the State of Connecticut is advertising that. They want people to bring their business jets there because they have a much, much better tax treatment there. So, what happens is people use the aircraft in New York State but they base them there and then all of these jobs and the maintenance on the aircraft and the fuel sales and all those things that we could be gaining the revenue from instead go to our neighboring states where the aircraft go where they don't have to pay the sales tax.

So, the three things that I wanted to leave you with today then is making sure that we have adequate match to leverage the Federal dollars that are available to us through that AIP program. The other one is allocating a revenue source to aviation, which right now there is no specific aviation money. And then the -- our Aviation Jobs Act, which would be the exemption of sales tax on aircraft.

And those are my comments. I'm open for any questions or comments. Thank you.

CHAIRMAN FARRELL: Questions? Senators?
Thank you very much.

SENATOR KRUEGER: I'm sorry, we have --

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

CHAIRMAN FARRELL: I'm sorry.

CHAIRMAN DEFRANCISCO: Senator Fuschillo.

SENATOR FUSCHILLO: Good afternoon. Thank you very much for your testimony. Have you quantified what, if any, revenue the State is losing as a result of the State of Connecticut not having sales tax on aviation?

MS. CROOK: We haven't quantified the revenue that we're losing. We do have some numbers on the aircraft that have left the State since we have been charging the sales tax. I'm sorry I don't have those with me, but I can share them.

SENATOR FUSCHILLO: I would appreciate it if you could provide that to us.

MS. CROOK: Absolutely.

SENATOR FUSCHILLO: And if any dollars associated that have gone with those aircrafts to Connecticut. Is it just Connecticut as the surrounding state that --

MS. CROOK: No. Actually, Connecticut, Vermont, New Hampshire, to a certain extent Pennsylvania and Massachusetts. So, yes, there's lots of opportunities. Connecticut is the one who made a specific policy decision to exempt the sales tax there in order to attract the aircraft and they're marketing it very aggressively as such.

SENATOR FUSCHILLO: Ann, if you could provide me with that information I would appreciate that. And you're looking for a \$4 million increase in the AIP program?

MS. CROOK: Correct.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

SENATOR FUSCHILLO: Okay. From \$4 million to \$8 million?

MS. CROOK: That's correct. Thanks, Mr. Chairman.

SENATOR FUSCHILLO: Thank you very much.

CHAIRMAN FARRELL: Thank you.

CHAIRMAN DEFRANCISCO: Senator Kennedy.

SENATOR KENNEDY: Thank you very much. Just to follow up on Senator Fuschillo's comments, I think what would be helpful to us as well would be a demonstration statistically of the jobs that are associated with these aircraft being located and built, quite frankly, in some of the other states. I know that we have advanced legislation looking to give folks in the aerospace industry that are willing to build those airplanes here in New York State the tax incentives to make it worth their while to do that right here in New York. So, if you can compile a list of jobs, statistically speaking, that would benefit New York State were we to advance the type of legislation that you're discussing.

MS. CROOK: Senator, I can tell you that in the Economic Impact of Aviation report that I discussed, that did do an analysis that came out with, on average, every business jet creates five jobs and \$1 million of revenue per year. So, is that the kind of number you were looking for? You want a list of the jobs?

SENATOR KENNEDY: It's exactly what we're looking for, but along with what Senator Fuschillo had asked for, if

you could put that together for us as well.

MS. CROOK: That would be my pleasure.

SENATOR KENNEDY: And then as far as economic development goes, I'm the Ranker on Economic Development and I would like to engage you in some of the conversations we have within the Economic Development Committee and find ways -- I have the Buffalo-Niagara International Airport in my district. It has been undergoing an expansion, an extraordinary expansion over the course of the last -- especially the last five to ten years, but if you go back from where the airport was 20 years ago it's night and day. I understand clearly what you are speaking about, the economic impact, because Buffalo and Western New York and the Town of Cheektowaga, quite frankly, has seen that direct impact. And we're in a very unique place in the world geographically. We are right on the border of Canada, and so what's transpired is that Canadians have to go through Customs, and so instead of while flying into the United States, say Florida or Hawaii or wherever it is that they're going to go, instead of flying out of the airport in Canada, Toronto, which would be the closest airport, and doing the customs where it is going to take them hours on end while they're waiting in line on their vacation, they come to Buffalo early. They stay overnight in the hotels. They shop at our malls. They shop in our small businesses and they really add an incredible multiplying factor to economic development per person coming over from Canada. Five-and-a-half million people fly out of the Buffalo-Niagara

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

International Airport every single year. It is my understanding that 40 percent of those folks that fly out of the Buffalo-Niagara International Airport are from Canada. It is an incredible economic driver in Western New York. We want to enhance it, and if we can find a way to work with your organization and you personally to make that happen, I would appreciate it.

MS. CROOK: Senator, thank you very much for your comments. You are absolutely right and you did a fantastic job of describing the situation at Buffalo-Niagara, but I would like the Committee to know that every community has a similar but different story to tell. At Elmira-Corning we are on the border with Pennsylvania, so we have always had very, very strong business use from companies like Corning, Incorporated, but have also seen a tremendous jump in our traffic as a result of the natural gas industry in northern Pennsylvania. Plattsburgh, on the other side of the State from you, is having a similar impact from Canadians using the airport. So, I think airports all over the State are helping support economic development goals. Thank you.

CHAIRMAN FARRELL: Thank you very much.

CHAIRMAN DEFRANCISCO: Real quick.

CHAIRMAN FARRELL: I'm sorry.

CHAIRMAN DEFRANCISCO: So, on the AIP the match now that's required is twice what it used to be and the amount of funds available is half of what it was from the State?

MS. CROOK: The Federal funds are --

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

SENATOR DEFRANCISCO: I'm talking about the State.

MS. CROOK: The State funds are half of what are required to match the Federal, but it's equal to what it has been.

CHAIRMAN DEFRANCISCO: Okay. All right. That clarified that. And then secondly on this -- I'm a little bit confused. Do you have to actually manufacture the plane and then sell it in New York? What sales tax are you saving?

MS. CROOK: The sales tax is for people who purchase their aircraft and base it in New York. So, it doesn't have to be purchased here, it just has to be based here. That's what we're seeing is people are -- New York entities, people, are basing those aircraft in neighboring states.

SENATOR DEFRANCISCO: All right. So, it's paid on the sale. So, if the sale doesn't take place in New York State there's a sales tax someplace, but when it's based then there's another sales tax? I don't get it.

MS. CROOK: I think the best way I could describe it is, once again, I live in Elmira-Corning, on the boarder with Pennsylvania. If I drive across the State line into Pennsylvania and buy a car, I still have to pay New York State sales tax on that car. But if I drove across the boarder and bought a car and bought a garage and kept my car in Pennsylvania in the garage, then I wouldn't have to pay that sales tax. And that's what people are doing.

CHAIRMAN DEFRANCISCO: Okay. I understand.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Thank you very much.

MS. CROOK: Thank you for your time. I appreciate it.

CHAIRMAN FARRELL: Thank you very much.

Now we go to the railroads. From planes to trains to automobiles. Scott Wigger, Executive Director, Railroads of New York.

MR. SCOTT WIGGER: They need more railroads in that movie.

CHAIRMAN FARRELL: Too easy, huh?

MR. WIGGER: Good afternoon, everybody. My name is Scott Wigger. I am the Executive Director for Railroads of New York, a Statewide association that represents the rail freight industry here in New York State.

RONY represents four Class I railroads and 33 short line and regional railroads that directly employ over 3,700 individuals in New York State. RONY's member railroads provide access to the nation's 140,000-mile freight rail network, enabling many of New York's industrial, manufacturing and agricultural businesses to reach markets across the country and to realize a substantial competitive advantage over other businesses that lack access to the rail network. In addition to providing considerable economic benefits to the New York-based customers our railroad members provide service to, freight rail also offers many environmental benefits including reduced pollution, increased fuel efficiency and reduced highway congestion.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

RONY wishes to express its support for the infrastructure capital funding levels that are included in the Governor's Executive Budget proposal, including the \$10 million in funding that is proposed to be appropriated to New York State DOT for freight and passenger rail projects. In the past three State fiscal years, this funding source has been directed exclusively towards passenger and high-speed rail projects, leaving freight rail with no Statewide funding. Unlike in previous years, in a positive step this year's Executive Budget proposal separates out the Amtrak operating subsidy from this funding source. Given the lack of a Statewide funding program for freight rail for the past three years, RONY respectfully requests your support in committing this \$10 million in funding exclusively for freight rail projects.

In addition, RONY is also supportive of the \$100 million NYSDOT capital appropriation that is proposed for transportation infrastructure projects. We request your support in committing a portion of this \$100 million appropriation for freight rail projects as well. For your reference, attached is a 2009 NYSDOT rail freight assessment on the rail freight infrastructure needs in the State. We include this so you can see the magnitude of the need in the State's rail network.

Because of the current lack of a Statewide infrastructure funding program for freight rail, freight rail infrastructure projects have been directed through the regional economic development council process which analyzes and scores

projects on a regional basis. Given the interconnectedness of the State's rail network, evaluating freight rail projects on a regional basis fails to give proper consideration to the impacts any one particular project would have on the entire network. In addition, the regional councils' matching funds and jobs requirements often prove too high a threshold for many New York State railroads, especially the short line railroads. For example, unlike more traditional economic development projects, freight rail infrastructure projects often support industrial-sector job retention as opposed to the creation of new jobs.

For freight rail infrastructure projects to effectively compete for State funding from these two NYSDOT transportation infrastructure funding opportunities, RONY believes it is important that NYSDOT be primarily responsible for evaluating and scoring these projects. NYSDOT is better able to take into account the Statewide nature of the rail network and how the economic benefits of one particular project may be realized across the entire Statewide system and not just locally. Their scoring metrics, based on years of experience appropriating rail freight infrastructure funding, also include established matching funds and job requirements that are more suitable for infrastructure projects which, in turn, will enable our railroad members to effectively compete for this Statewide funding.

A majority of freight rail infrastructure projects are essential in order to enhance existing infrastructure assets into a state of good repair and to allow continued rail service to the customers located along the lines. In addition, other projects represent

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

improvement to freight rail infrastructure which are important to allow railroad companies to expand their customer base and support local economic development efforts. Related to this, our State's freight railroads are also prepared to help assist in current State efforts designed to promote New York-made products by offering local manufacturers and agricultural businesses with efficient, cost-effective access to expanding markets via the State's rail network.

While rail services is not typically the reason a new factory or expanded distribution center is built, access to rail service is often the reason a specific site is selected. Across a very wide range of commodities and products, manufacturers and distributors often demand access to U.S. rail freight services to ensure their ability to access their suppliers and customers in the most competitive manner possible.

As one example of an economic development project that benefitted from the presence of freight rail services, in 2007 Barilla Pasta, the world's largest pasta maker, established a \$100 million manufacturing plant in Avon, Livingston County. When Barilla company officials were scouting different locations in the northeast United States they said that one of their siting requirements was the presence of a rail freight line that would be able to accommodate the 286,000-pound rail freight cars have now become the industry standard. Thanks to rail freight capital grants issued by New York State to upgrade this particular rail line a few years prior, the railroad was able to accommodate this request. Without these

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

upgrades, the freight rail infrastructure would not have been able to handle these heavier freight cars and Barilla would not have located its manufacturing plant in New York State.

In addition to Barilla, the presence of the railroad has resulted in further direct economic development in the Hudson region. With customers like Kraft Foods, Archer Daniels Midland, Cargill and Perdue, the railroad helped hatch a "food corridor" in the region that has employed hundreds of individuals over the years. By offering high-volume shipping advantages to these businesses, the railroad has proven to be a significant economic catalyst for this region.

Without State assistance, many of our State's railroad companies, especially the short lines, may be unable to upgrade their rail infrastructure to meet modern standards, which could jeopardize their ability to serve their customers. RONY respectfully requests the support of the Legislature in keeping these transportation infrastructure capital funds in the final enacted budget and in committing funding for essential freight rail infrastructure projects in New York State. In addition, if freight rail funding is kept separate from other competing demands for funding and projects are evaluated and scored by NYSDOT, many essential rail freight infrastructure projects will be able to be completed to the benefit of the State's entire rail network.

RONY is not opposed to working with the regional councils and, in fact, we welcome the opportunity to work with them. They have a very important role in making State capital investment

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

decisions more responsive and efficient. However, it is our position that it is important that NYSDOT be directly involved in the evaluation and scoring process for the projects that will come from the \$10 million rail infrastructure appropriation and the \$100 million transportation infrastructure appropriation included in the Executive Budget. This is not unlike other State agencies and authorities when incentives and program funding are reviewed through the regional council process. This will allow our railroad members to continue to provide rail service to their customers and to help support State and local economic development efforts across the State.

Thank you for the opportunity to testify.

CHAIRMAN FARRELL: Questions?

CHAIRMAN DEFRANCISCO: Thank you very much.

CHAIRMAN FARRELL: Thank you.

Next, Nadine Lemmon, Legislative Advocate, Tri-State Transportation Campaign. And would Mr. Brian Kehoe, Executive Director, come down and get closer? And Joshua Reap and Alan Pero.

MS. NADINE LEMMON: If you don't mind, Brian and I could present together.

CHAIRMAN FARRELL: Oh, yes. Come on down.

CHAIRMAN DEFRANCISCO: Excellent idea.

MS. LEMMON: It will save you some time. And I'll even let Brian go first.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

CHAIRMAN DEFRANCISCO: Isn't that great?

CHAIRMAN FARRELL: Good afternoon.

MS. LEMMON: Good afternoon.

MR. BRIAN KEHOE: For the record, it's Brian Kehoe. Thank you for the opportunity to testify today.

My name is Brian Kehoe and I'm the Executive Director of the New York Bicycling Coalition. NYBC advocates for the rights of all bicyclists and pedestrians throughout New York State by supporting safety, education and access for road and trail users. I'm also proud to speak on behalf of New Yorkers for Active Transportation, which is a large, new and broadly representative coalition that works with stakeholders to assure equitable funding for non-motorized transportation.

In New York, more and more people are realizing the benefits of walking and bicycling for transportation, exercise and fun. Improved pedestrian and bicycle infrastructure can help make our roads safer, while encouraging New Yorkers to choose healthier transportation options.

We must ensure that people can travel safely to destinations. New York continues to have one of the highest bicycle and pedestrian fatality rates in the nation. Significantly, last year New York State was ranked Number 42 out of 50 in bike friendliness by the League of American Bicyclists.

Improvements to bicycle and pedestrian infrastructure help everyone. The money gets spent locally, improves the safety of

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

our roads and sidewalks, which we all use, and makes our communities better places to live. With leadership from the Department of Transportation and utilization of available funding, New York can meet the safety needs of all road users.

In 2011, with the leadership of Senator Fuschillo and Assemblyman Gantt, New York passed a Complete Streets Law. The intention of the law was to assure that our roads will be built for all users, not just those who drive cars. Nearly a year after the law went into effect, New Yorkers are still awaiting policies and procedures by which the law will be implemented. Since passage of the law, funding options to implement Complete Streets have become increasingly threatened, and I'm just going to illustrate two ways by which that's the case. Number one, Federal moneys in the form of three core programs have for the last 20 years funded most bicycle and pedestrian projects. Unfortunately, these funds, which are already a tiny percentage of all Federal transportation dollars, have shrunk by nearly 33 percent under MAP-21. States now also have the option of diverting half of these funds to non-bicycle and pedestrian projects.

The second threat that I'm going to highlight for bicycle and pedestrian funding is the Marchiselli Program, which this year the Department of Transportation has changed the criteria which used to provide key State dollars for Federal aid projects. Now it is unlikely that new pedestrian and bicycle infrastructure will be eligible for these crucial State funds. This leave municipalities and counties responsible for 20 percent of the cost of their projects and,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

consequently, increases the likelihood that Federal dollars will be left on the table.

Today we ask that the Legislature commit to maintaining a modest but crucially important level of funding so that communities will still have the option to build sidewalks, bike lanes and trails if they wish to. This commitment can be achieved by adding a line to the budget dedicated to pedestrian and bicycling infrastructure. However, if the Legislature would prefer to work within the parameters of the proposed Executive Budget, we urge you to add Article VII language that would assure some portion of the \$300 million proposed for the New York Works Fund be dedicated to non-motorized transportation infrastructure. Last year, New York Works spent \$1 billion for transportation projects, almost none of that money went to pedestrian and bicycling facilities.

New York Works Funds aim to foster economic development. Strengthening villages, towns and cities with high-quality pedestrian and bicycling facilities is a very effective and efficient path to that goal. Indeed, each \$1 million of spending on pedestrian and bicycling infrastructure creates at least 9.6 jobs while road-only projects create just 7.8 jobs.

Finally, we ask that the Senate and Assembly work with the New York State Department of Transportation to ensure that available Federal funds are spent expeditiously, as communities of all sizes have large backlogs of walking and bicycling projects waiting to be built which are eagerly awaited by the public.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Thank you for the opportunity to provide this testimony.

MS. LEMMON: Thank you. My name is Nadine Lemmon. I'm the Albany Legislative Advocate for Tri-State Transportation Campaign. I would like to second the testimony just given by Brian Kehoe, and I also, in the interest of time, won't read my testimony concerning the transit portion because I think that was well covered by the transit agencies today. I second many of their asks.

I would like to say that we are concerned that this budget sets a bad precedent. Debt service for State-issued MTA service contract bonds previously paid for by New York State General Funds is now being put back on the agency. It's not the dollar amount that we're necessarily concerned about, it is the precedent. If all State promises to pay service contract bonds were put back on to the MTA it would have serious consequences for the future operations and capital plans of the agency. Ultimately, to stop these kind of last-minute maneuvers we need to find new revenue sources. Tri-State does support Assemblyman Brennan's bond act as part of a total funding package that includes new revenue sources, and we really we need to start having this conversation quicker.

Another ask that we are interested in for this particular budget is the Speed Camera Demonstration program for New York City. The New York City Department of Transportation has embarked on significant initiatives to reduce spending in the City,

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

including reduced speed zones around schools and neighborhoods, traffic-common projects and an ad campaign highlighting the importance of obeying the 30-mile-per-hour speed limit.

Unfortunately, motorists continue to break the law and each year over 70,000 summonses are issued for speeding violations.

Speeding kills. I won't read my stats that I have here in the testimony, but there is a low-cost solution to fixing this problem. We urge you to include Article VII legislation in the budget that authorizes a Speed Camera Demonstration program in New York City. Assemblywoman Glick has in or is about to introduce some new language that we support. There is a precedent for this type of language being introduced in the budget. The expansion of red light camera demonstration programs in Nassau County and Suffolk County and Long Island, they went through the budget last year and then the first year that I was here working in Tri-State in 2010, a Bus Camera Demonstration program also was put into the budget and passed. In order to achieve the goal of Complete Streets, we really need to give the City more tools to enforce their laws.

So, thank you very much for your time today. Let me know if you have any questions.

CHAIRMAN DEFRANCISCO: Thank you very much.

CHAIRMAN FARRELL: Thank you.

MR. KEHOE: Thank you.

CHAIRMAN FARRELL: Joshua Reap, Director of

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Government Affairs, Associated Builders & Contractors, ABC. And next is Alan Pero to close.

MR. JOSHUA REAP: Good afternoon. Thank you, Chairman Farrell. Senator DeFrancisco, nice to see you. Good afternoon to the other members of the board today.

My name is Joshua Reap. I am the Director of Government Affairs for Associated Builders & Contractors, the Empire State Chapter. We're a group of contractors that believe in the merit shop philosophy, and they range from Montauk to Buffalo, New York. The one thing we all share in common is we believe that on public works there should be fair and open competitive bidding on all work to encourage competition.

Here in New York State we face a very serious financial strain on budgets which threaten our ability to fund roadway projects. It's no secret that many of our bridges and roadways are structurally deficient, and that our State budget is very strained to provide resources to adequately meet those needs. So, we feel the best way to accomplish the task of repairing our roadways would be to incorporate measures within this budget that would encourage competition among all qualified contractors. Something the agency has long fought for is a fair competitive bidding process for all New York State contracts; however, sometimes the State chooses to require certain anti- -- what we feel are anti-competitive mandates which deter competition and drive up costs among the construction industry.

There's an increasing use of project labor agreements

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

here in New York State. There's a pretext that they are devices that save money. I would like to share with you briefly an example where I don't think that they do. But, a little background. Government-mandated project labor agreements are typically done between public owners and local labor unions which construction contractors must -- which have a stipulation that a construction worker -- construction companies must hire exclusively almost up to 80 or sometimes 90 percent of workers through a local labor hall. In effect, this deters many merit shop contractors from bidding on public works. In New York State we have, I believe it's around 75 percent of the workforce is open shop and choose to have a direct relationship with their employer. PLAs tend to deter such contractors from bidding on public works. However, should a merit shop contractor decide to bid on a State job that has a PLA mandate, the agreement requires the contractor to sever a relationship with their own employees, many of whom work right here in New York State, live in our communities and provide an economic benefit to our towns. Rather than give up their own workforce, many merit shop contractors simply choose not to bid on the public works projects that are mandated with a PLA on them. Given this fact, PLAs have the effect of deterring competition, producing less-responsive bids than it otherwise would be -- otherwise that you would see.

In New York, like I said, there's a long-standing misimpression that project labor agreements save money. There's a recent experience with a New York State Department of

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Transportation bid, Exit 122 in Orange County, the upgrade to Interstate 86. With this bid, DOT imposed a PLA on an already-existing procurement. The PLA was issued via a contract amendment more than one month after the bid was initially advertised. The bids were due just 13 days after the PLA was imposed. The low bid, submitted by a reputable and long-time heavy highway contractor who has done much work with the State, Lancaster Development, who happens to also be an ABC member, did not factor in a PLA in their bid and was nearly \$4.5 million below the next lowest bid which had to compensate for the PLA. Lancaster's bid also had an almost 16 percent of project work reserved for disadvantaged business enterprises -- or DBEs, as we say in the business -- even though the PLA called for just 9 percent on the project to be reserved for such firms. Despite having the lowest bid and greater DBE participation, DOT rejected Lancaster's bid because the foreman did not agree to sign a union-only project labor agreement. In effect, the State told Lancaster Development and its nearly 250 employees that they were to be discriminated against even though they were the low bidder simply because they were not part of the unionized workforce.

If we're to put more New Yorkers back to work and maximize our finite tax dollars, ABC encourages you to incorporate some fair and competitive approach to public works contracting. I would like to cite for you the Public Construction Savings Act, which is carried by Senator Ranzenhofer in the Senate and Mr. Schimminger in the Assembly. I do have copies here that I'll leave behind for you

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

as well. The Public Construction Savings Act would allow for contractors to submit responsive bids on public works projects whether or not the PLA is required by the contracting agency. The agency would then be required to award the contract to the lowest responsible bidder in accordance with existing State and municipal law. If a contractor submits a bid that is subject to PLA and that bid is the lowest bid, it should be awarded the contract. Likewise, if the lowest bid does not have a PLA it would be awarded the public works contract. It is the only fair and objective way to ensure that taxpayer interests are protected in public contracting. If this approach had already been law, the State would have seen a nearly \$4.5 million savings which could have gone towards something else -- another bridge, roadway, more teachers in our schools. Simply put, leave it up to the contractor to determine which is the best way, how to utilize and negotiate with their workforce and how to get the job done.

I would be happy to take any questions.

CHAIRMAN DEFRANCISCO: Any questions?

Thank you for being here. I understand your zeal and your approach and, unfortunately, there doesn't seem to be a lot of support for your position at this point but things change over a lifetime and hopefully something positive will happen.

MR. REAP: Thank you.

CHAIRMAN DEFRANCISCO: Thank you very much.

CHAIRMAN FARRELL: Thank you.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

CHAIRMAN DEFRANCISCO: Yes, the featured speaker, the last speaker of the day, Alan Pero, President, Fair Apportionment of Infrastructure Revenue.

How long has your organization been in existence?

MR. ALAN PERO: Over 30 years, sir.

CHAIRMAN DEFRANCISCO: Thirty years?

MR. PERO: Yes.

CHAIRMAN DEFRANCISCO: Okay. Thank you.

MR. PERO: Thank you. And, again, thank you, distinguished members of the panel. I thank you for the opportunity to present our issue today. Again, my name is Alan Pero. I'm the President of FAIR. The FAIR Committee, the Fair Apportionment of Infrastructure Revenue, operating in Western New York, is a broad coalition of labor organizations, engineers and consultants, contractors, material producers, suppliers, truckers and equipment dealers interested in the improvement and maintenance of a safe and efficient transportation infrastructure and economic development.

There is a systemic problem with the New York State Department of Transportation that has stopped critical infrastructure projects from being completed which has resulted in record-high unemployment -- exceeding 20 percent this past construction season -- amongst construction workers, construction firms and engineering consultants in Western New York.

Please recall, at the completion of the 2012-2013 budget we were informed we had achieved the unthinkable. If you

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

could, there were two handouts given to you; one of my testimony and one of a packet of letters. And a letter dated March 30, 2012 from Senator Ranzenhofer states, "As you know, in fiscal year 2008-2009 Region 5 suffered drastic aid reductions which cost our region an estimated \$167 million. Over the last 30 years, DOT Region 5 has averaged 10 percent of total transportation funds, and in fiscal year 2008-2009, due to this error Region 5 only received 4.4 percent of Statewide funds. Under the agreement, referring to the recently completed budget of 2012-2013, DOT Region 5 will receive approximately 10 percent of all aid as well as an additional \$143 million included in the New York Works Funding, which is specifically designated for transportation projects to help offset the previous losses."

If you can turn to the third page of the handout, why the need of 10 percent. In the pictorial of the 40,000 State lane miles, 4,800 lane models are within Region 5; 12 percent of the 7,600 State bridges, 890 of those, lie within Region 5, 11.71 percent. Of the 9,800 local and authority bridges 1,220 in Region 5, 12.45 percent. Of the 200,000 local and authority lane miles, 20,000 are in Region 5 and/or 10 percent.

Sadly, by June of 2012 we began to learn that the commitments were not going to be fulfilled. When it became apparent to FAIR in June that the funding commitments were in doubt, FAIR engaged in a number of actions which included numerous correspondence with the New York State Department of

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

Transportation Commissioner, Ms. Joan McDonald, and three conference calls with the Director of State Finance Committee, Robert Mujica. In each of these conference calls we were assured by Mr. Mujica the money promised was in the budget and that New York State Department of Transportation projects were to be let forthcoming. In addition, on two occasions FAIR met in Albany with the Governor's representative, Mr. Barry Sample, along with representatives from the New York State DOT and Budget and Finance. It was at this particular meeting that we were told by the New York State Department of Transportation that the lost construction season of 2012 was a result of the perfect storm of screw-ups by the New York State Department of Transportation involving design, bidding and letting functions. Mr. Sample also committed to us that he would expect additional funding from the New York State DOT and the New York Works Program to be let during the current fiscal year. If you could flip ahead in your packet you will see a letter from the Executive Chamber dated October 23, 2012 from Mr. Sample. In this letter he states, "For State-administered projects, approximately \$200 million in new commitments, barring unforeseen site conditions and/or other circumstances, is programmed and scheduled to be let in Western New York during the current fiscal year." Interesting; when we received the letter, it's dated October 23rd. Those of us in Buffalo realized at that point the season's over. Our hope then was could there be a possibility that the money would begin to be let by his commitment, which was fiscal year end, March

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

31st? We haven't seen it. The bids are not being advertised. More importantly, the contractors have nothing to bid on. And I'm sad to say that by March 31st, I do not see these bids being awarded and/or notice to proceed.

If you'll review on the spreadsheet behind Mr. Sample's letter you will see in Region 5, to date \$72.5 million has been let, representing 6.1 percent of the Statewide core program. Interestingly enough, \$30 million of the \$72- was a job where the contractor received the notice to proceed mid-September. Again, late in the season. He was able to do some traffic control and that was it. So, from our perspective we've really had an opportunity for employment in the construction industry of approximately \$42 million in the construction year of 2012.

FAIR respectfully requests a strategy from the Senate Transportation Committee to make sure that when final budget negotiations begin with the Governor, the Legislature, Senate and Assembly leaders understand and advocate for Region 5 to receive 10.3 percent of the New York State DOT core program and additional restoration funds to compensate for the perfect storm of screw-ups.

Again, if you'll look at the spreadsheet that's titled, "Letting Totals for New York State," I don't see a perfect storm of screw-ups for Region 1, which is Albany. I don't see a perfect storm of screw-ups for Region 8, which is the Hudson Valley region. Why was there one for Buffalo, Region 5? To make Region 5 whole in consideration for the four years that have been lost it would take

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

approximately \$390 million additional dollars. When I look at the impact that that has had to the community, one must consider the compounding effect of a construction dollar in a community. At the recent Williamsville Toll Barrier study it suggested that \$1 represented \$4 in a community. So, in the past four seasons Region 5 has been impacted by a loss of \$1.6 billion -- that's with a "B" -- dollars.

During these Senate Transportation Committee hearings I request that the New York State Department of Transportation uncover all of the details of the design, bidding and letting functions behind the 2012 construction season in Region 5 and to secure a remediation plan from the New York State Department of Transportation officials to ensure that these problems are fixed and cannot occur again.

I understand, in closing, that earlier today Commissioner McDonald testified and committed that the remaining \$90 million to be let would be done so by March 31st of 2013. My confidence isn't there, gentlemen. I had that same commitment from Mr. Sample out of the Executive Chamber October 23rd of 2012. In that letter Mr. Sample referred to in a spreadsheet a project that we look at called "5 & 20." It's an interchange along the lakefront. There's a roundabout to be installed. That project was to be bid in January. It was never advertised. In fact, it slipped. It initially slipped until February. It slipped again. I understand now it's not due to be advertised until March 28th. So, while Ms. McDonald presents

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

to you that these jobs will be let by the end of fiscal year, I don't have that same confidence.

I thank you again for the opportunity.

CHAIRMAN FARRELL: Thank you very much.

Any questions?

CHAIRMAN DEFRANCISCO: Senator Kennedy.

SENATOR KENNEDY: Thank you very much, Mr. Pero. Mr. Noone, thank you for being here. Thank you for your leadership on this issue. We've been discussing this for a number of years because of your leadership and the leadership of FAIR. And I think it's important to note, too, because in describing FAIR has been around 30 years, in fact, back in the early 1980s, and has been focused on making sure that across the board there is an equitable distribution of funding. In this case, in Region 5 there has not been that equitable distribution over the years. So, it's important to note, though, that these are not just union organizations. A part of this -- these are non-union organizations. This is, to me, the perfect example of democracy in action, the FAIR Committee. It's a whole host of various levels of the industry that have come together and put their differences aside to focus strictly on making sure that the infrastructure dollars are dealt with in an equitable fashion. So, your leadership, I thank you.

To your point, the economic impact that this has had. I had mentioned in our earlier conversation with the Commissioner the impact this has had on the workforce in Region 5. Can you talk to

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

that? It is my understanding that the numbers of unemployment were above 20 percent during peak season. Is that accurate?

MR. PERO: That is very accurate, Senator.

SENATOR KENNEDY: Can you talk more about that?

MR. PERO: Yes. Within our own -- within the membership, the basic trades. And the basic trades on a highway project would be the carpenters, the operating engineers, the laborers, the ironworkers, in some form working together. Our construction firms, our engineering firms, our consultants, every one of them have been impacted to the tune of 20 to 25 percent of unemployment. It's devastating. And, again, I must say it's not just 2012. This has gone on since 2009. The past four years have been very, very difficult for our community. So, when we received the commitment at last year's budget, again, we thought we had achieved the unbelievable, that we finally were going to have a good season of employment, not just for us that perform the work, but the trickle-down effect that that has on our community.

SENATOR KENNEDY: Thank you. You know, we plan on holding the Commissioner to her word that they're going to work to move this funding. There are a couple of months left here. It is a large amount of money that we're talking about being let. Can you talk about some of the projects that you're aware of, if you are aware of any, that may be expedited through this funding process, this bidding process in the next couple of months?

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. PERO: Well, again, the biggest project or the project of magnitude is the 5 and 20, Senator. That project is valued at about \$20 million with the construction estimate. There are numerous other \$4- to \$5 million projects that could potentially be of significance.

SENATOR KENNEDY: And from your perspective, what can the State do in order to expedite this process, the bidding process, the New York Works process, the letting process in general?

MR. PERO: Can you repeat that?

SENATOR KENNEDY: Yes. What is your assessment of the New York Works Program? How can it be improved and how has that had an impact on your membership and, quite frankly, on these projects out in Western New York?

MR. PERO: With all due respect to the panel, we look at it as the New York Works didn't work in Region 5. We saw approximately \$13 million of bids come from the New York Works Program. They were two major paving projects. One must keep in mind that when you're looking at paving it's very product heavy, so the bulk of the valuation relative to the bid is in product. It does not put a great deal of individuals to work. It does put construction workers out there -- please don't get me wrong -- but it's not of the magnitude of a major construction development such as the 5 and 20.

CHAIRMAN FARRELL: Thank you.

Mr. Gabryszak.

ASSEMBLYMAN GABRYSZAK: Thank you. I

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

just want to thank you for the fine work that you and your organization has done in terms of bringing this to the attention of the Western New York delegation. I know you have -- the delegation is working on your behalf, trying to rectify as was described as the "perfect storm of screw-ups," trying to bring back the resources and the projects back to the Western New York area. I don't want to just reiterate everything that my colleague, Senator Kennedy, mentioned, but I look forward to working with not only the Western New York delegation but also with Chairman Gantt of Transportation and also in the Assembly with Assemblymember Farrell in Ways and Means in making sure that the commitments that were made here today to this panel and in writing, that those commitments are followed through.

MR. PERO: Assemblyman, I thank you.

CHAIRMAN FARRELL: Thank you.

Further questions? Senator.

CHAIRMAN DEFRANCISCO: Just a comment. I know I have heard about this over the last few months from Senators Ranzenhofer and Maziarz. It's very difficult for us as legislators. We saw the inequity, we supported the Governor's plan to reallocate more funds to Western New York, but since we don't bid these things and we don't put the projects into action we can complain, as you're complaining here, and we will continue to pass that message, as will they and Senators here today, to the Administration.

MR. PERO: Thank you very much.

CHAIRMAN DEFRANCISCO: Thank you.

BUDGET HEARING-TRANSPORTATION JANUARY 31, 2013

MR. PERO: Yes, sir.

CHAIRMAN FARRELL: Thank you.

That's it. We adjourn.

(Whereupon, the budget hearing was adjourned at

2:42 p.m.)