BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON TRANSPORTATION

NEW YORK STATE SENATE PUBLIC HEARING

HOW NEW YORK STATE CAN UTILIZE PUBLIC-PRIVATE PARTNERSHIPS IN ORDER TO EXPEDITE AND BETTER FUND INFRASTRUCTURE PROJECTS THROUGHOUT THE STATE

Van Buren Hearing Room A
2nd Floor
Legislative Office Building
Albany, NY

May 16, 2011
10:00 a.m.

PRESIDING:

Senator Charles J. Fuschillo, Jr.
Chair

SENATE MEMBERS PRESENT:

Senator Martin Malavé Dilan (RM)

Senator Ruben Diaz

Senator Martin Golden

Senator Owen H. Johnson

Senator Timothy M. Kennedy

Senator William J. Larkin, Jr.

Senator Carl Marcellino

Senator William Perkins

Senator Michael H. Ranzenhofer

PRESENT, Continued:

Senator Malcolm A. Smith

Senator David J. Valesky

Senator Catharine Young

Senator Lee M. Zeldin

ASSEMBLY MEMBERS PRESENT:

Assemblyman David McDonough

SPEAKERS/LIST OF PARTICIPANTS	PAGE	QUESTIONS
Joan McDonald Commissioner NY State Department of Transportation	9	23
Peter Grannis First Deputy Comptroller Office of the NY State Comptroller	54	63
Hilary Ring Director of Government Affairs Jeff Rosen Director of Real Estate Metropolitan Transportation Authority	79	84
Norman MacMillan Delegate Minister Ministére des Transports du Québec	108	117
Jonathan Turnbull Managing Director Lazard Freres & Co., LLC	130	140
Edward Lucas Executive Board Member NY State Public Employees Federation	149	158
Samara Barend VP Strategic Development Director of Public-Private Partnerships AECOM	162	174
Tom Osborne Managing Director United Bank of Switzerland	177	179
D.J. Gribbin Managing Director Macquarie Capital Advisors	186	186
Dr. Joshua Schank President and CEO Eno Transportation Fund	197	198
Marc Herbst Executive Director Long Island Contractors' Association	202	204

SPEAKERS/LIST OF PARTICIPANTS	PAGE	QUESTIONS
Jay Simson, CAE President ACEC NY	208	212
Tom Minnick Director of Government Affairs Business Council of New York State	213	214
Jeff Frediani Legislative Analyst AAA New York State	217	219

* * * * *

CHAIRMAN FUSCHILLO: My name is Senator Charles Fuschillo, chairman of the Senate Transportation Committee. And today, myself and the members of the Transportation Committee in the Senate will be conducting a public hearing on public-private partnerships.

I want to thank my colleagues who have attended the hearing.

And, making his grand entrance is the ranking member, Senator Dilan.

Senator Dilan, thank you for being here.

And to my right, Senator Valesky, Senator Carl Marcellino, Senator Johnson, Senator Marty Golden, Senator Billy Larkin.

And to my left, Senator Lee Zeldin, Senator Malcolm Smith, and Senator Diaz.

Thank you very much, gentlemen, for being here today.

I just have a brief opening statement, and then we'll get started with the hearing.

We're here today to examine how New York State can use public-private partnerships, also known as "P3," to help expedite and fund transportation-improvement projects.

The state's transportation infrastructure is

a massive and vital economic artery which supports more than 130 billion vehicle-traveled miles every year. Our total highway and bridge system encompasses more than 113,000 miles of highway, the equivalent of driving from Albany to Los Angeles, and back, 20 times.

We are also home to one of the largest mass transit systems in the world, the MTA. However, our infrastructure is facing a very real crisis that requires immediate attention.

Consider that, New York State is ranked among the bottom ten states in the nation, in both highway and bridge conditions, according to the New York State DOT.

Our state should be replacing or rehabilitating more than 300 bridges, and 1,150 miles of highway lanes, each year. However, in 2009, only 121 bridges, and 661 lane miles, were replaced or rehabilitated.

Nearly half of the 17,400 state and local highway bridges in New York State are either deficient now or will become deficient within the next ten years. The number of corrective actions required to address critical structure components' issues have more than tripled over the last

five years.

Current funding sources alone are not enough to solve these problems. Project courses are getting more and more expensive, while traditional revenue sources are declining.

The DOT's two-year capital plan is currently in its final year.

The MTA's five-year capital plan faces a nearly $10 billion funding gap.

We cannot allow the system to crumble, which is why we must explore creative solutions, like P3s.

P3s have been utilized throughout the world. Here in the United States, 29 here in the U.S., 29 other states, and Puerto Rico, have enacted laws authorizing public-private partnerships for highway and bridge projects.

Given the private sector's vested interest in completing projects on time and under budget, P3s have helped to expedite projects and contain costs. P3s have been used successfully in New York State before.

The Strategic Asset Management, "SAM," report which was issued in 2009, noted that the JFK Airport Terminal 4, the JFK Airport AirTrain, and the rehabilitated Grand Central Terminal were all highly

successful projects financed by P3.

The same report encouraged New York State to explore P3s as a way to fund other improvement projects, and specifically identify several ideal P3 candidates.

We are fortunate today to be joined by a number of experts, from government agencies to private sector, non-profit organizations, and labor organizations. These individuals will offer their opinions on how New York State can most effectively use P3s to perform these desperately needed upgrades.

I want to thank all of you for taking the time to be here, and we look forward to your testimony.

I just want to state on the onset, that we have a lot of individuals that we have asked to testify, and they've all agreed. So, we're going to ask you to try to limit your comments to, maybe, 10; the most, 15 minutes.

Joan, you're looking at your watch already.

[Laughter.]

CHAIRMAN FUSCHILLO: And we'll be happy to ask questions, or take any questions that you may have of us.

TESTIMONY OF JOAN McDONALD

COMMISSIONER

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

CHAIRMAN FUSCHILLO: And, the first to testify is Joan McDonald, who is the commissioner of the New York State Department of Transportation.

Ms. McDonald, thank you very much for being here.

MS. McDONALD: Is this on?

Is it on now?

CHAIRMAN FUSCHILLO: It's on now.

MS. McDONALD: Thank you.

Chairman Fuschillo, Senator Dilan, members of the Senate Transportation Committee, thank you for inviting me to provide testimony today.

I am Joan McDonald, commissioner of the New York State Department of Transportation.

The subject of public-private partnerships as a tool to address financing for transportation infrastructure projects is important, and I appreciate the opportunity to provide New York State DOT's perspective.

As this committee is well aware, and as Chairman Fuschillo mentioned, the transportation system in New York State is vast. It encompasses

more than 240,000 miles of highway and more than 17,400 bridges. These support approximately 133 billion vehicle miles of travel annually.

There are more than 130 public transportation operators serving more than 8 million passengers each day.

There is an extensive 3,500-mile rail network over which more than 8.5 million passengers travel, and 70 million tons of equipment, raw material, manufactured goods, and produce are shipped each year.

Our state has 464 public and private aviation facilities, 4 port authorities, the Port of Buffalo, and numerous private ports, which handle more than 100 million tons of freight each year.

Our infrastructure, like the infrastructure in most of the northeast, is aging, and faces the realities of harsh winters. The demands on our transportation system, particularly as the economy recovers, are increasing.

Consistent with the findings of two federal commissions, and the American Association of State, Highway, and Transportation officials, New York State DOT has found that our infrastructure needs are far greater than the resources available to fund

such needs.

To address current and expected needs would require nearly a doubling of our current investment in transportation infrastructure annually.

Despite these challenges, Governor Cuomo remains strongly committed to ensuring that our transportation infrastructure remains safe, and supports the recovery of our state. The governor's continuing support is evidenced by his support for New York State DOT's fulfilling its commitment to the current two-year capital program.

New York's current and future transportation infrastructure needs traditionally have been addressed through a partnership of federal, state, and local government resources. The severe fiscal constraints at all levels of government have had an impact on the level of current investment, and present significant challenges moving forward.

Federal aid has, historically, comprised approximately 50 percent of the state's multi-year capital program. At the federal level, the Highway Trust Fund no longer remains solvent as a user-supported fund, and has required more than 34 billion in general-fund transfers since federal fiscal year 2008.

In addition, the most current -- the most recent, excuse me, federal surface transportation program, known as "SAFETEA LU," expired on September 30, 2009.

The nation's surface transportation program has been operating under seven extensions, with the current extension expiring on September 30, 2011.

To date, Congress has not discovered a way to sufficiently finance a long-term, multi-year transportation bill.

The House Transportation and Infrastructure Committee is developing a six-year surface transportation authorization bill that would significantly scale back funding levels, limiting them to only the funding levels supported by the trust fund receipts. This would provide states with 25 percent less than what currently is provided under SAFETEA LU.

The Senate Environment and Public Works Committee and Senate Banking Committee have also indicated that they are working on a multi-year reauthorization bill, but neither has released details of their proposals.

The President's federal fiscal year 2012 budget for transportation provided the conceptual

framework for the still-to-be-released, 6-year, $556 billion surface transportation reauthorization bill.

However, it should be noted, that adequate revenues to support the proposed funding levels have not been identified, and the proposal would require an additional $200 billion in new revenues to implement, this at a time when we are realizing the volatility of the federal gas tax.

It is fully expected that, absent any clear ability, the federal level to support states and maintaining existing transportation infrastructure, Congress will move away from direct funding, and will provide states with more flexibility to leverage the use of limited resources through innovative financing techniques.

As such, New York must position itself to leverage innovative financing efforts that Congress may avail, such as infrastructure banks and public-private partnerships.

New York State DOT, and our partners at the MTA and transit authorities throughout the state, will need all of the tools that are available to be able to leverage federal and state resources.

Design-build, and other forms of

public-private-partnerships, should be made available to New York State DOT.

P3s, which signify a sharing of risks, responsibilities, and funding between a government entity and one or more private-sector partners, encompass a range of relationships.

Traditionally, for a highway and bridge projects, New York State DOT uses a design-bid-build approach, where projects are designed, either by New York State DOT or consultants, are put out for bid and are constructed by private contractors. The facilities are then operated and maintained by New York State DOT.

Thus, in a sense, New York State DOT already uses a form of public-private partnerships to deliver its projects, but has retained most of the responsibilities and most of the risks associated with project delivery and operations.

P3s could range from the less-involved design-build project-delivery techniques, to arrangements where a private entity could design, build, finance, operate, and maintain a facility over an extended period of time.

We believe that P3s would be helpful tools to have available as we balance the needs of the

transportation system. They would allow for most more leveraging of private-sector expertise and finance.

However, it must be noted that these tools would not replace our traditional means of delivering projects, as only certain types of projects would be strong candidates, and appropriate, for P3s.

Projects that would lend themselves to P3s need to be able to attract private-sector interests while providing a benefit to the public.

Approximately 90 percent of our capital program is devoted to core infrastructure projects, required to maintain the system and a state of good repair.

Design-bid-build will continue to be used to deliver the vast majority of our projects, but we believe there is a place, and there are opportunities, for P3s.

New York State DOT is particularly interested in the ability to use the design-build project-delivery method. It allows project design and construction to occur under a single contract, and is a tool that has been used widely over the last decade. It is available to approximately

40 state departments of transportation around the country.

This tool is recognized by the Federal Highway Administration as one of 15 tools it will promote with state DOTs, to accelerate project delivery as part of Federal Highways' "Every Day Counts" initiative. That tool also is used today by the MTA and the Port Authority of New York and New Jersey, and can be expanded to include other forms of P3.

A particularly successful use of the design-build-operate-maintain model is the AirTrain/JFK project sponsored by the Port Authority of New York and New Jersey.

The AirTrain provided transit access to JFK, and the project broke new ground, both, for innovative financing, as well as for the contracting process. The agency won FAA approval to collect Passenger Facility Charges for this on-airport circulator, and dedicate that to the debt service that was issued.

AirTrain/JFK stands out, not only as an example of the flexibility of this approach, but it allowed for coordinating AirTrain's construction with other public works investment in the corridor.

New York State DOT and the Long Island Railroad contracted with the same contractor that the MTA used.

Bridges are another excellent example of our state's, and the nation's, aging infrastructure.

New York led the nation in building more freeways, more than 50 years ago, at the beginning of the Eisenhower Interstate era, making our infrastructure, particularly bridges built during this period, among the first in the nation to age to a point where replacement will become necessary.

We see an opportunity to use the design-build technique to address the backlog of bridge-improvement needs.

New York State DOT is exploring the possibility of addressing our growing needs for bridge improvements through an accelerated bridge program.

Currently, 35 percent of our bridges, nearly 6,200 of the state's 17,400 bridges, are rated as deficient. Safe, but not meeting design expectations. Of those bridges, about half are local bridges, 40 percent are state bridges, and 10 percent are the responsibility of other owners.

I should stress, before I go any further,

that the department continues to comply with all federal and state requirements for bridge inspections, and exceeds those requirements when a bridge's condition indicates the need for more frequent inspections.

New York State DOT defines a "deficient bridge" as, one with a state deficient rating less than 5. It does not mean that the bridge is unsafe.

The average age of a bridge in New York State today is 46 years. The average service life for many of the Interstate-era bridges was 50 years. New York State DOT recognizes that the bridge infrastructure needs are great, and will grow rapidly in the near future without significant investments.

Our objective is to reduce the number of deficient bridges by accelerating investment. This would improve bridge conditions across the state, and decrease the overall cost of maintaining the bridge system over time.

Addressing the wave of soon-to-be deficient bridges, and bringing those bridges into an ongoing asset management program, improves overall system conditions, and reduces the life-cycle costs of the bridges.

We have not determined how such a program would be structured, but other states have undertaken similar efforts to package groups of bridges to accelerate delivery.

For example:

Missouri's "Safe and Sound Program" is improving more than 800 bridges over a 5-year period, using a combination of design-build, a modified design-bid-build process, and its regular letting program;

Pennsylvania's "Accelerated Bridge Program" is rapidly addressing more than 1,000 bridges using design-build.

As a first step, DOT, in cooperation with the Empire State Development Corporation, will be hosting a workshop next week, to gain insights and ideas from those with experience in this type of project-delivery selection and finance.

New York State DOT also sees the potential in P3 techniques to address uniquely large and complex projects, as well as an opportunity to deploy new technology and innovation, in our transportation network.

Examples of large infrastructure projects include: The Tappan Zee Bridge replacement,

completion of the conversion of Route 17 to Interstate 86, and the Kosciusko Bridge.

The department is also undertaking a study, to look at managed-use-lane strategies in New York City, joining 23 U.S. metropolitan areas that are now operating or implementing managed lanes, considering managed-lanes proposals, or studying their feasibility.

Managed lane -- manage-use lanes apply modern technology and real-time traffic information to efficiently manage the movement of traffic. In its more advanced forms, technologies can be used on specific lanes to vary the cost of using the lane, based on the time of day or the number of vehicles in a lane. These are known as "high-occupancy toll," or "HOT," lanes, and can be very effective in allowing reliable travel options in a highly congested area.

HOT lanes are in operation in a number of locations throughout the country, including Seattle, Salt Lake City, Denver, and Minneapolis.

These strategies could be used in conjunction with high-occupancy vehicle lanes, where those traveling with more passengers in the car could avoid a toll; but, other drivers, valuing time,

could opt to pay a toll to use such lanes.

Technologies can be applied to vary the cost of the toll, depending on the amount of traffic using the lane.

Another possible opportunity could include the state's efforts to bring high-speed rail to the Empire Corridor, between New York City and Buffalo, and other passenger rail to the Empire Corridor, between New York City and Buffalo.

It may be possible to engage private-sector railroads and investors, to advance the development of rail improvements.

To conclude: P3s do offer possibilities to expand investment options available to New York State DOT, as it balances the many needs of its vast transportation system, with limited resources.

All options to maximize and leverage resources should be made available to us. This is particularly true, as Congress, in reauthorizing federal transportation legislation, is considering expanding opportunities to use P3.

We should be in a position to take advantage of all funding and financing opportunities. P3s cannot substitute for the need for ongoing, stable, predictable funding needed to maintain the core

transportation infrastructure. P3s are financing tools, and can be valuable options to leverage resources for certain types of projects.

Most of our needs will continue to be core infrastructure rehabilitation projects that require ongoing funding streams in a stable, dedicated highway-and-bridge trust fund.

We welcome the opportunity, and the expansion of the ability, to use P3 and design-build. But, regardless of the tools available to us, New York State DOT will continue to deliver the vast majority of its projects using the traditional design-bid-build approach.

Thank you for opportunity. And I'm happy to answer any questions.

CHAIRMAN FUSCHILLO: Thank you, Commissioner. And I appreciate your testimony.

And we've asked you to come first, because the P3s would greatly affect your department, the department of transportation. And as I outlined, and you did as well, the task ahead is enormous.

And your comments are critically important of support for P3s.

And, really, that's the goal; to provide the infrastructure in your department, and others, just

options, to fund these projects where funding is becoming quite scarce.

Do any members have any questions?

SENATOR MARCELLINO: Sure.

CHAIRMAN FUSCHILLO: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. Chairman.

Commissioner, welcome. A pleasure to be here to talk to you; to get a chance to talk to you.

Your process of design, bid, and build, that you claim is going be the predominant process, going forward, and you identified, I believe, four, either projects, or areas, where P3s might be used.

Could you review that again, please?

MS. McDONALD: Sure.

SENATOR MARCELLINO: I think it stays on.

MS. McDONALD: Okay, it stays on.

Yes, the areas that I identified, and it is, by no means, an inclusive list, I think the message that I'm trying to convey, is that, the use of P3s have to be done on a project-by-project basis.

The ones that I identified as examples, potential examples, are the Tappan Zee Bridge, the conversion of Route 17 to Interstate 86, and the Kosciusko Bridge in New York City.

I have -- there have been -- the use of public-private partnerships, over the last 20 years, have been used to different degrees of success around the country.

So, we have a lot of lessons learned. And I'm sure that the folks who follow me will illuminate some of those examples.

Some of the critical points to consider, in determining whether a project is a good candidate for public-private partnership, is: Looking at the size of the project. Identifying what the funding mechanism is, outside of the traditional realm of funding.

Some of these successful public-private partnerships have used a combination of, toll revenue, and what are called "availability payments."

And those availability payments can mean anything, from an allocation of federal funding dollars that come into the state, dedicated funds from the state's general fund, or a new revenue source.

So, each project has to be looked at, in an -- on a project-specific basis.

SENATOR MARCELLINO: Right. We're all

familiar with the idea of cost overruns, when it comes to construction projects.

Some years back, under a prior administration, there were penalties, and rewards, put in for, either, the project coming in over budget, there was a penalty, or the project coming in under budget, there was a reward, to the contractor.

Do you foresee that as part of the situation with P3s?

MS. McDONALD: I think it absolutely has to be. And that's -- my discussion about the ability to also use design-build project-delivery methods, guaranteed maximum price, have to have components of penalties for projects that go over; and, also, incentives for projects that come in ahead of schedule and under budget.

They absolutely have to be part of the equation.

SENATOR MARCELLINO: The projects that are to be selected, is size the predominant factor; in other words, the amount of money that the project will cost? Or is there regional significance, or some other aspect?

MS. McDONALD: Not necessarily.

You know, one of the projects that I personally worked on, when I was at New York City Economic Development Corporation, is the East 34th Street Heliport.

And I know someone from Macquarie is going to be testifying a little later.

And that was an agreement between the city of New York and Macquarie bank and the operator of the Heliport.

And the way we structured that, I believe it was about an $8 million project, where it was structured in such a way, that the revenues that come off of the Heliport pay for the investments that Macquarie was making. And when the revenues reached a certain threshold, the city of New York and Macquarie split the revenues after that.

So, the size is not important. It's, really, getting some creative minds to the table, and being able to look at what the different options are.

SENATOR MARCELLINO: This will be my last question, Mr. Chair.

"The bid process."

I live on Long Island, as you may know.

My district is, Nassau; Suffolk, North Shore. We have a project that has been ongoing; on Route

110, the northern part of it, which floods.

I'm sure you're familiar with it because you're in the courts with it right now.

MS. McDONALD: Yes.

SENATOR MARCELLINO: This project has been fraught with all kinds of difficulties because, in my mind, of the process.

Are you making any changes in the process of, putting out the bids; how the bids are awarded; the time allowed for the people who bid, to make sure that they have a bond, or are capable of putting up a bond?

This particular project was delayed by the Governor, during a budget dispute. And, the bond, the person who was the primary bidder, couldn't hold his bond, because he had to go out and get more work. And, by doing so, lost his ability to fulfill his bid.

And we're in the courts, now, for over a year and a half, waiting for this project to go forward.

Is there any process that you see, any changes in the process that you see, that would prevent something like this from occurring to a community, which is under, literally, water?

MS. McDONALD: Right.

You know, those are all issues that need to be addressed. And I think that --

SENATOR MARCELLINO: Well, I know they need to be.

Will they?

MS. McDONALD: Well, I hope so.

Many of them are statutory provisions that we need to follow. And they are -- some of the issues that you raised, are the issues that are part of the design-bid-build process.

We need to work with our partners in the industry, to accelerate that process, and to have some relief in that process.

And I am willing to make those changes, that we can do administratively, absent any statutory changes.

SENATOR MARCELLINO: Well, I'm hoping that you'll be working with Senator Fuschillo and this committee --

MS. McDONALD: Absolutely.

SENATOR MARCELLINO: -- of which I'm not a member. But, he's allowing me to be a guest here today, and I appreciate that.

I don't want to overuse my welcome; but, I'm hoping you'll work with us, so that, if you need any

legislative assistance, that you'll come to us early in the process, so that we can do this, because I really do believe the system has to be changed.

MS. McDONALD: It does.

SENATOR MARCELLINO: It isn't working well, in my mind, and it needs to be.

If you're going to make these public-private partnerships work -- and we all hope they do, because I think that is the way to go -- we need some changes in the process.

MS. McDONALD: You're absolutely correct.

And, unforeseen conditions that change when bid awards get delayed. The price of fuel is affecting contractors' prices.

And we need to be looking at ways to make sure that we're responsive to those. And we will.

SENATOR MARCELLINO: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FUSCHILLO: Thank you, Senator Marcellino.

We're also joined by Senator Kennedy and Senator Young.

Thank you very much for being here.

Senator Golden?

SENATOR GOLDEN: Thank you, Mr. Chairman.

And I want thank you for putting this forward, this meeting today, in investigating alternative fundings for projects across the state, whether they be public or private. We need to get people back to work, and we need to get this state rebuilt.

I know you're funded through, I guess, the end of next year, on your capital program.

And, how many P3s are you presently working on --

MS. McDONALD: Oh, we are not -- We're not working on any, because we don't have the legal authority to do so.

SENATOR GOLDEN: And the authority would have to be granted by legislation?

MS. McDONALD: That's correct.

SENATOR GOLDEN: Okay.

And, going forward, into a new capital program, which would be in a year and a half, the -- have you any ideas, as how we're going to fund that? And, what role P3s can play in that, what percentage?

CHAIRMAN FUSCHILLO: Take your time, because we're really curious about how you're going to answer this question.

[Laughter.]

MS. McDONALD: As I said in my testimony, and as I think, both, our New York congressional delegation, and the congressional -- the totality of Congress, is understanding that the needs for infrastructure investment are greater than the traditional funding sources, that have been outlined, will pay for.

So, part of that negotiation, which is a negotiation on the federal level between the President and the Congress, and on the state level between the Governor and the legislature, is:

What are the various revenue sources that go into a dedicated fund, here in New York State?

And, on the federal level, is it just the gas tax, or is it expanded?

And, then, what are the other project-delivery methods to help meet those program needs?

It's -- we're never, I don't believe, going to have sufficient revenues to, on a year-to-year basis, meet all the needs that we have. And we're going to have to make tough choices.

SENATOR GOLDEN: Commissioner, you're good, Commissioner.

You're very good, Commissioner.

[Laughter.]

MS. McDONALD: Thank you.

SENATOR GOLDEN: The Bayonne Bridge, what role are you playing in that? And, what's the time frame on that?

MS. McDONALD: The Bayonne Bridge is owned by the Port Authority of New York and New Jersey.

I actually had a preliminary conversation with Chris Ward, when I saw him last week. And we're going to sit down and look at what role New York State DOT plays in that.

SENATOR GOLDEN: And the Outerbridge?

MS. McDONALD: Outerbridge, I have not been as familiar with it. I know that's also owned by the Port Authority.

SENATOR GOLDEN: And, P3s; how could P3 play a role in the Kosciusko Bridge? And it can't be a steady stream, they've got a toll lab.

How do you work out a P3 on a bridge in such deterioration, as that bridge, that needs immediate rebuilding?

MS. McDONALD: Well, that's -- that's, I think, what we would explore as part of a conversation, with the legislature, with the

financial community, to see what the different revenue streams would be to pay for -- to help pay for it.

It would, you know -- and it's a little bit of a "chicken and egg" discussion, because it's, "Okay..."; and the discussions with financial community, it's, "Okay, what infusion of dollars can be put in at the front end?"

And, then: What's the -- and what's the cost of those dollars? Who can issue debt more cheaply?

And, then: What is the revenue stream to pay for it? Whether it be availability payments, whether it be different revenue streams.

Those are things that we're looking at right.

SENATOR GOLDEN: Last question Mr. Chairman.

The -- I know you're looking for a more steady stream of funding going into your projects.

P3, obviously, is not the best choice for you, but do work.

Again, if you could, what role do you think P3s will play into your new budget?

MS. McDONALD: You know, I think, as I said, traditionally, while the interstate was being built -- 50, 60, 70s, into the last -- right now,

into this century -- traditionally, the federal gas tax, and states, the funding stream has been sufficient.

But, now, that revenue stream is no longer sufficient, so we need to have every available tool in our toolbox to pay for projects. And that includes, design-build, guaranteed maximum price. It includes the ability to structure P3s, however they're structured.

And there are different models throughout the country, that have been used, so we can get, as many of you said, people back to work, and as we can make those investments in our infrastructure.

We believe alternate project-delivery methods will account for, somewhere between, 10 to 20 percent of our total project needs.

SENATOR GOLDEN: Because you would be -- just to back up.

Because you would have access, obviously, to funding, even, probably at a lower interest rate, if the money were direct. But P3s, obviously, are going to play a significant --

MS. McDONALD: Exactly. Exactly.

SENATOR GOLDEN: -- because you don't have the availability for that.

Thank you very much.

MS. McDONALD: Thanks.

CHAIRMAN FUSCHILLO: Thank you very much, Senator Golden.

Senator Diaz?

SENATOR DIAZ: Thank you, Mr. President.

And, good morning.

MS. McDONALD: Good morning.

SENATOR DIAZ: I just have one question. It's regarding a project in the Bronx.

For many years, we've have had a story, after story, after story, a group here, and a group there.

Can you tell me what the status of the project on the Sheridan Expressway in the Bronx?

MS. McDONALD: Yes.

There, the Sheridan-Bruckner Expressway has a very interesting history, and will have some -- has some issues, going forward.

You know, it's a major feeder. And to the Hunts Point's -- Hunts Point market, it is a very-much-used route within our interstate system. It needs significant repairs.

I believe that it is an interstate system that is required to continue, that traffic, and to make the city of New York viable.

Right now, the city of New York is undertaking a study, to look at what the land use around the Bruckner-Sheridan should be. And we are participating in that study.

It's not an easy answer, because it's a highly residential area, the Hunts Point area. There are significant infrastructure facilities there, in addition to the Bruckner-Sheridan, and they all have to be looked at cohesively.

But, right now, we are continuing to make the investments, to make sure the infrastructure is safe.

SENATOR DIAZ: I believe that so many studies have been made; have -- has been done.

And now they have $7 million from the federal government, and I go: Why is it that, after so many studies?

And I know that you're having the city of New York get the $7 million to do another study, when so many studies have been done.

And I think more than seven studies already have been done on this issue.

So, we're spending another 7 million to do another study, to do, what, exactly?

MS. McDONALD: The city of New York wants to

very closely look at, whether the land-use patterns should be changed, and what those land-use patterns would do to both the residential community, the business community, and the highway infrastructure that we have there.

We, as you know, have undertaken environmental reviews. It is, very much, a hot-button issue because of the demanding -- the competing demands for parkland, for a community that does not have significant parklands. But, also, the Bruckner-Sheridan is a significant artery and feeder to the interstate system.

SENATOR DIAZ: So, you are not washing your hands out of the project?

MS. McDONALD: No, not at all.

SENATOR DIAZ: You're still a full partner on this? You're still fully involved?

MS. McDONALD: Oh, absolutely. I'm still fully involved.

SENATOR DIAZ: Is the community groups and elected officials being consulted?

MS. McDONALD: I do not believe -- I'm not exactly sure where the city is, in kicking off its study. But I will --

SENATOR DIAZ: I thought you just said that

you are fully involved on it?

MS. McDONALD: Well, our department is fully involved.

SENATOR DIAZ: But I'm asking you, as the commissioner --

MS. McDONALD: I have --

SENATOR DIAZ: -- have the community groups and the elected officials have been consulted --

MS. McDONALD: -- not by me --not by me personally. But I will double-check with Phil Lang, my Region 11 director.

And I'm happy to meet with the community groups.

SENATOR DIAZ: Thank you.

CHAIRMAN FUSCHILLO: Senator Dilan?

SENATOR DILAN: Yes, good morning, Commissioner.

MS. McDONALD: Good morning, Senator.

SENATOR DILAN: I believe Senator Golden may have asked this question, in reference to the Kosciusko Bridge, but I feel I would be remiss if I don't follow up.

I know I have been here in the senate for nine years, and we've been talking about some form of reconstruction of this bridge for at least --

prior to those nine years.

I just want to know, you know:

What incentives would there be for a private entity to get involved with the Kosciusko Bridge, without the state giving away the asset, and a final result of not increasing any costs to the consumers that go over that bridge daily?

And, in terms of the legislation, how do we prime-start this, and just move forward?

So, if you could be a little more specific, with reference to this project.

MS. McDONALD: You know, one of the things that has to be looked at, and which is why I mentioned that, when you make a decision -- when government -- executive branch, legislative branch -- make a decision to undertake a public-private partnership, it must be done on a case-by-case basis.

You know, right now, we have a very preliminary estimate of what the Kosciusko Bridge would take to rehabilitate and replace it. And given the fiscal constraints of our capital program, we would have to break that project up into, somewhere between, four and seven projects to get it completed.

Now, when you break a big-dollar project into smaller projects, they take more time. And time is money.

So, one of the things that we would have to do, a cost comparison, is: Okay, if you do that, what would be the additional cost of doing that? -- number one.

Number two: If you did it, and you couldn't do it just as a public-private partnership, you would have to do it as a design-build, or at a guaranteed maximum price.

One of the incentives for the private sector is, if it's structured in a way that it is an availability payment, they get a steady stream of revenue over, whether it's a 99-year concession agreement; whatever the term of the agreement is.

So, there are various incentives and disincentives that would have to be looked at, from a public-policy standpoint, to make a decision if this is the right way to go.

SENATOR DILAN: So, at this point, it really behooves us to move at a quicker pace to get some of these projects undergoing because, as time goes by, you have increased costs of material and labor.

So, how do we get this going?

MS. McDONALD: Well, I think that's what we're doing here today.

And in the construction -- in the construction business, particularly, the heavy civil/public works, speed is always of the essence, which is why, in addition to the financing methods that I spoke about today, that the project delivery and design-build is critically important, because that moves some of the risk from the public sector to the contractors. But, contractors, by their nature, take on risk, and they would get the projects done more quickly, particularly with the right incentives/disincentives.

SENATOR DILAN: Thank you.

CHAIRMAN FUSCHILLO: Thank you very much, Senator Dilan.

Senator Young?

SENATOR YOUNG: Thank you, Mr. Chairman.

Good morning, Commissioner.

MS. McDONALD: Good morning, Senator.

SENATOR YOUNG: Thank you for coming today.

First of all, I want to commend you for your openness to exploring public-private partnerships. I think we do need solutions to the current situation. And as you said, we'll never have enough

money unless we start to do things differently.

I just want to draw to your attention again, I sent you a letter recently, about the condition of Interstate 86 in Cattaraugus County. And we're very glad that there is a portion of the road that's being reconstructed this year.

But, I have to tell you, that I get calls every single day from people who travel on that stretch of highway, that is along the reservation. And people are getting damage to their cars. There's chunks of concrete flying up. People are getting flat tires. And, it's really very dangerous.

So, I was hoping, at some point, you could come out and visit us, and maybe take a drive and, you know, to see, firsthand, what we're dealing with, because people are very, very concerned in my district.

And, actually, people are concerned as they travel across the Southern Tier for tourism opportunities and other travel experiences this year.

MS. McDONALD: Yes, I am happy to do that.

I haven't been out to Buffalo yet, and the Southern Tier, but I will put that on my list, and

be out there quickly.

SENATOR YOUNG: That would be great. Thank you so much.

MS. McDONALD: Thank you.

SENATOR YOUNG: The other thing that I wanted to mention, briefly -- and I'll give you a call on it too -- but, you may know that, a lot of our small rural towns have parades every single year, on state roads, because the state roads goes through the towns. And there seems to be a new requirement put in place by DOT, that requires them to purchase $5 million insurance policies; umbrella policies. And I think a lot of the smaller towns are unable to do it.

So, I have, for example, one coming up, Memorial Day Parade, where they want to honor our veterans. And I would love to discuss it with you more, because it seems like a little bit of an excessive requirement by DOT. And it's, really, I think, could cause some issues this year.

So, I'm hoping that we can discuss it, and come up with some kind of resolution on it.

MS. McDONALD: Yes, we will absolutely take a look at that, because, you know, I think, as you're well aware, you know, Governor Cuomo has made

mandate relief, along with all of you in the legislature, a top priority. So, we don't want to add a burdensome mandate at the same time as we're working on eliminating others.

So, we're happy to take a look at that.

SENATOR YOUNG: Thank you, Commissioner. I really appreciate it.

CHAIRMAN FUSCHILLO: Commissioner, thank you.

Thank you, Senator Young.

Senator Smith?

SENATOR SMITH: Thank you very much, Mr. Chairman.

Good morning to my colleagues.

Good morning to those of you in the audience who are going through a very important hearing on the future of financing our infrastructure.

Commissioner, it's good to see you.

Commissioner Gee, also good to see you.

Commissioner, when you were in Connecticut, were there any P3 projects that you were involved with or had any experience in?

MS. McDONALD: Not on the direct transportation level. I was not the commissioner of transportation. I was the commissioner of economic and community development.

But, one of the things that we did -- housing, was also in my portfolio -- was work with the cities and towns, and did a public-private partnership in sustainable communities.

And one that quickly comes to mind was in the city of New Haven, where the state invested funding in brownfields remediation and streetscape improvements.

A public entity -- a private entity/a business that wanted to expand, made an investment, and the city of New Haven and Yale University made an investment, to add 130 jobs to a base of 100 jobs, and provide low- and mixed-income housing.

So, you know, public-private partnerships can be done in a number of different ways. I think they are particularly relevant, when you look at development around train stations, when you can use a TIFIA-model tax-increment finance.

That, was done.

We did another one, again, in New Haven, 360 State Street, which was a LEED-certified building. And it was an -- and the major investor was the -- was Ontario, Canada, their teacher's pension fund. And pension funds are now getting into the business of making infrastructure

investments, and participating in that.

So, there are many different models, depending on the individual project.

SENATOR SMITH: All right.

In the project that you -- that you were involved with, what would you consider the number one challenge, from the perspective of the legislative branch being involved with the process?

MS. McDONALD: The ones that I was involved in, because it was a combination of private business, was getting -- was getting public acceptance from legislators, that those types of investments should be made to the private sector.

But, when they result in job creation, when they result in mixed-use housing, when they result in investments in the infrastructure, I firmly believe that that's the way to go.

And it just takes people a little bit of getting a comfort level.

SENATOR SMITH: Uh-huh. Uh-huh.

And, in your opinion, was the legislative branch an inhibitor to the acceleration of the process? Did it add an unnecessary level of bureaucracy to --

MS. McDONALD: Oh, no, not at all. They were

very much in support of it.

SENATOR SMITH: Uh-huh.

So, the financing of the project, was this done through a P3, or through an infrastructure bank?

MS. McDONALD: It was done through -- it wasn't done through an infrastructure bank. It was done through a P3, that entailed, what we called in Connecticut, you know, "an assistance agreement," which was an agreement between the department of economic and community development, the private parties, the city of New Haven.

So, it was an assistance agreement that went through the process.

SENATOR SMITH: Okay.

Okay, just to shift a little bit: The current reauthorization that's being negotiated now in Washington, are we involved in any way with that reauthorization? Have we provided them with some recommendations, as we look forward to becoming part of this initiative?

MS. McDONALD: Yes, we have.

In March, I testified in Cortland, New York, when Congressman Mica had his -- March, or early April, when Congressman Mica had his Listening Tour,

to gain input from localities around the country as to what was important.

I personally have been down in D.C., three or four times. My staff has been down there; DOT staff. We have met with our congressional delegation, Congressman Mica's staff, Senator Boxer's staff, to share information on streamlining the process.

SENATOR SMITH: And what is -- I mean, obviously, you can't summarize all of your testimony, but what is the two leading areas of your testimony towards how they can better streamline the reauthorization?

MS. McDONALD: The way we can better streamline the reauthorization, is consolidating all of the environmental reviews under one review.

Right now, within USDOT, the federal highway has its process for environmental review, Federal Transit Administration has its process for review, and Federal Railway Administration and FAA have their individual processes.

So, one process for environmental review is significant.

And some of the other areas that we're looking at are, combining the various discretionary

programs that USDOT administers into -- there are 55, down into 6 or 7, so that we can then generate more funding.

SENATOR SMITH: The difference between P3 and infrastructure bank, could you help me understand which would be better for transportation? Or, one better for commercial economic development?

MS. McDONALD: You know, I think -- I think they are both necessary.

SENATOR SMITH: Uh-huh.

MS. McDONALD: And I think we would be happy to have both of them.

SENATOR SMITH: Uh-huh.

Just a few couple others, Mr. Chairman.

In your testimony, just to summarize, page 2, you talked about traditional highway projects.

MS. McDONALD: Uh-huh.

SENATOR SMITH: And that these are operated by the DOT.

Plus, "Already uses a form of public-private partnership to deliver projects, but retains most of the responsibility and risks associated with the project delivery and operation."

So, by that statement, are you saying that, assuming DOT is authorized to do P3s, one of the

better benefits of it would be, that you wouldn't have to maintain the risk of the project thereafter, and worry about operation delivery, being that the private sector might do it better?

MS. McDONALD: No. It's really a sharing of the risk.

SENATOR SMITH: Uh-huh.

MS. McDONALD: Right now, in the traditional design-bid-build, basically, what happens is, a project gets to 100 percent design, and then we go out to bid with that project. We award it to the low bidder.

As Senator Marcellino pointed out, things happen, where projects don't get awarded, and then unforeseen conditions come up, the price of fuel changes.

And we don't have the latitude to do things any differently.

And by having P3, by having design-build, we would shift some of that risk that falls directly on our shoulders, to the contractors.

Only in those specific projects, where we enter into an agreement with a private-sector entity, to do design, build, operate, and maintain, would the responsibility for operating and

maintaining go from State DOT to another entity.

We would still maintain all of our responsibility for operating and maintaining the infrastructure in this state.

SENATOR SMITH: And, obviously, you are expecting the question about high-speed rail from me.

MS. McDONALD: Of course.

SENATOR SMITH: So, I will -- I don't want to disappoint you.

Could you, just briefly, if you have already thought about it:

When will the high-speed rail, the financing thereof, understanding the costs -- understanding the potential cost of it, whether or not it would be better financed through a P3 or an infrastructure bank?

And, then, is it better operated with a separate entity?

And, obviously, that's with the understanding of the Sage Commission and government efficiency and consolidation; but, a separate entity, or a sub-entity to the DOT?

MS. McDONALD: Well, as you know, because you were there last week, last Monday, New York was the

beneficiary of over 350 million in federal dollars from the reallocated Florida money. And we were the -- the state, we got the highest amount of funding in that $2 billion that was reallocated.

You know, I think in the area of rail, whether it's inner city or commuter, different models have to be looked at.

I mean, Amtrak was traditionally set up to not have any subsidies involved. And that has not been the case.

So, I think we're looking at different models to see what would work.

I don't think that there is a model yet in this country, where there is an operation of rail -- commuter, high-speed, inner city -- that hasn't come without a subsidy of some sort. But I think the goal is to minimize the subsidy, to the extent possible, on the operation.

SENATOR SMITH: All right, thank you, Mr. Chairman.

Thank you very much, Commissioner.

Thank you.

CHAIRMAN FUSCHILLO: Thank you, Senator.

And let me just follow up on a comment that you had made, and Senator Dilan, about the process.

One of the things I believe that's critically important, as we move forward, is to make New York State attractive; if we're going to do P3s, design-build, or infrastructure bank.

And that's what I took out of a panel that I recently sat on, with the New York City Building Congress, that Dick Anderson heads up. And Sam Baron was there, and Mary Peters, as well as others.

And the individuals in the audience, their comments, and even during the roundtable, and after, stated, "It has to be attractive."

And we're not going to invest if there's any -- and to follow up with what you had said, any impediments for us to invest and do business here.

And one of the things, that I think is critical, Senator Smith, as we move forward, is that, we don't provide any impediment to do business here, as far as the legislature, and make sure the process goes as smoothly as possible.

And Senator Dilan had talked about an expedited process.

I'm hopeful the senate will pass legislation before we conclude the session this year, and give you what's necessary, whether it's, P3s,

design-build, and however you phrase design-build, and the infrastructure bank, just to give you options.

MS. McDONALD: Uh-huh.

CHAIRMAN FUSCHILLO: Because, as we laid out, and you laid out in your testimony, the challenges are enormous. And these economic conditions are dictating that you have these options through P3s, and other available sources, to make sure that our infrastructure is maintained in a safe and reliable manner.

So, I want to thank you.

And I also want to introduce, and thank, Stan Gee for being here, to your right.

I appreciate, Stan, your hard work as well.

Commissioner, thank you very much.

MS. McDONALD: Thank you so much, Senator.

TESTIMONY OF PETER GRANNIS
FIRST DEPUTY COMPTROLLER
OFFICE OF THE NEW YORK STATE COMPTROLLER

CHAIRMAN FUSCHILLO: Our next speaker is our former colleague, Assemblyman Pete Grannis, who is the first deputy comptroller of the comptroller's office.

Good morning, Pete. And, thank you very much

for being here.

MR. GRANNIS: Thanks, Senator.

CHAIRMAN FUSCHILLO: Michael?

Thank you.

[Pause in proceeding.]

CHAIRMAN FUSCHILLO: Pete, this is not your testimony, is it, this book?

MR. GRANNIS: No, it is not.

It's a report --

[Laughter.]

CHAIRMAN FUSCHILLO: Okay. Remember, you used to sit up here.

MR. GRANNIS: I do remember, Senator.

And I'm very mindful of the time pressures, and boring recitations from people that say they're going to be contemporaneous in their speech, and then make it longer than they --

CHAIRMAN FUSCHILLO: Well, that took up another minute of your ten minutes.

[Laughter.]

CHAIRMAN FUSCHILLO: I want to thank you for being here on behalf of our state comptroller, Tom DiNapoli. Your input is critically important to this hearing.

So, thank you very much.

MR. GRANNIS: Thank you very much, Senator. And I'm pleased to be here, obviously, on behalf of the comptroller.

And, obviously, you are well aware, we have extraordinarily difficult financial problems in the state, a massive backlog of unmet infrastructure and capital needs, and limited funds to pay for them.

I just want to make sure you know, I'm joined by Tom Letito, who's the deputy comptroller; and, Steve Elliot, who actually was the principal author of the report that you have before you.

In large measure, New York's growing gulf between available funding and infrastructure and capital needs is the result of the state's heavy use of debt for non-capital purposes, as well as to finance its capital program.

As of March 31, 2011, New York is projected to have more than $9 billion in outstanding debt -- state-funded debt -- that was issued for non-capital purposes. The cost of that to the taxpayers, in this year's budget, is over a billion dollars in interest payments.

Even though the Debt Reform Act of 2000 restricted the use of state-supported debt for capital purposes, over $7 1/2 million -- billion has

been issued for non-capital needs since the law's enactment.

As the state's debt has grown, so too have New York's capital needs. You're well aware of those.

We projected, over the next 20 years, for just three areas of transportation, which you're focusing on today, waste water -- municipal waste water, and clean water, the capital needs are, roughly, $250 billion. A daunting figure in any circumstance.

Given the state's limited capacity for meeting its capital needs, it's not surprising that the Governor and you are considering public-private partnerships, where government allows the private sector to weigh in with their resources and business acumen, to address our many, many capital needs.

The concern we have is, in the haste to move forward, there may be a tendency for government decision-makers to view P3s as a magic bullet. And they're certainly not that.

There is experience across the country, and around the world, with P3s, where there have been problems. And, obviously, the focus on those problems is the subject of the report that we

presented to you.

While P3 agreements have the potential to be attractive alternative means of constructing and maintaining facilities, and providing services, there are many important questions that need to be answered, and risks associated with public-private financing structures, that must be taken into consideration before New York turns to P3 arrangements to fill the gap in its infrastructure needs.

While the private-sector entities may shoulder a share of the costs and risks associated with the project of service, the introduction of private profit motive into the public's cost equation requires the state to proceed with caution, and foresight, when considering P3s.

In January, the comptroller issued a report on this issue -- which I provided you a copy of -- which examined, both, the opportunities presented with public-private partnerships, and the underlining financial risks associated with forming those partnerships.

The report focused on the importance of creating an effective framework and structure to review P3s -- potential 3 -- P3 projects, to help

policymakers avoid some of the mistakes that we have identified, here in this country, and elsewhere in the world.

There are four primary financial risks associated with the P3 model.

First, there's been the failure to identify the full value of public property. P3 agreements may underestimate the value of public assets.

It's a very complicated issue, the value of public assets, and making a determination whether a P3 arrangement is the appropriate way to go forward, and what the financial arrangements are to be associated with that.

They have been -- particularly, since many of the functions that the P3 will be undertaking, are, historically, done by not-for-profit basis, or government which there hasn't been a profit motive.

Obviously, the value of the public asset has to be a key component of any decision-making process.

Unfavorable pricing mechanisms are another risk, a very serious risk, that -- where there are contractually guaranteed commitments, an increase on user fees.

And one of the examples we have in the report

is, the Illinois Tollway, which locks in fee increases, toll increases.

Had those increases been locked in to the Thruway Authority, when we built the thruway, our fee increases would have been many multiples of what's available to the drivers of -- what's going to be facing the drivers of Illinois.

So, obviously, building in, and having a full realization of what the pricing mechanisms are, and what that means for the consumers, that they're going to be using the resources, as projects are put under the auspices of the P3 arrangements.

There are, also, unrealistic expectations, and poorly drafted agreements, that have led to problems in the past.

Obviously, there is a very critical need to outline the private-partner's obligations, very clearly, and adequately, with full appreciation of what they mean to the taxpayers of New York.

And, finally, there's a concern about budget gimmicks.

Obviously, in some instances in the past, P3 arrangements have been used to generate past cash -- up-front cash, which has been used to close budget gaps, on the short-term basis, rather than a full

appreciation of the lifetime -- or, many, many decade commitments some of these projects may entail.

So, the important -- the comptroller's report recommended four essential principles that New York must adopt before entering into P3 partnerships, to mitigate the inherent financial risks.

It has to be:

An identification and use of best practices for the valuation of the public assets, to ensure that the public receives the full fair value of the use of its property.

Reasonable pricing. We have to keep the private-sector profits within reason.

I know there's a built-in incentive, because you're going to get the private sector involved. They're going to need to make a profit.

But, those profits have to be clearly understood, and locked in, because, by contractual arrangements, at least in some instances, these increases are automatic. They're beyond the reach of the legislature or the Governor. And, obviously, you can have very, very major impacts on the consumers that rely on these projects, as they go forward.

They have to be realistic agreements, and publicly vetted agreements, as they are developed. And that's almost a given today.

And there has to be responsible budgeting; because, obviously, when you get done with this exercise, there has to be a comprehensive reform of the state's debt-and-capital financing practices, which the comptroller has called for in the report that he issued last year. And it's the subject of a bill that we submitted as a comptroller's program bill to you for this year's session.

So, again, before authorizing P3s, the Governor and the legislature, at the comptroller's suggestion, must strongly recommend the adoption of policies, and a framework, for P3s; rather than a review of projects on an ad hoc basis.

There has to be a plan, going forward, on how these are going to be factored into the state's budget.

And, the decision-making process is, obviously, very, very essential.

So, we actually call on you to adopt a comprehensive plan for the integration of public-private partnerships into New York's budget, capital financing, infrastructure-planning

procedures.

Obviously, that will go a long way towards solving some of the problems we've identified in the report that we submitted.

Again, P3s are attractive alternatives. They provide resources that are not available today for meeting the state's needs.

There's nothing magic about P3s. They're not a silver bullet. They won't necessarily solve all problems.

And to, clearly, well-thought-out -- a well-thought-out, comprehensive approach to looking at P3s, generically, before you move ahead into the individual project design, build; however they choose to go ahead, it will be critical, for making sure they work to the public's advantage in New York.

With that, Senator, thank you very much.

CHAIRMAN FUSCHILLO: Okay, thank you very much.

And your testimony is very important.

And I agree with you; I think it's our job to set the framework for P3s, rather than be project-specific.

So, I appreciate your comments on the risks

that are involved with this.

But, that's our goal; to set an overall framework, rather than drive specific projects. And, hopefully, we'll attain that goal as we move in the legislative process.

Senator Marcellino, you have some questions?

SENATOR MARCELLINO: Yes. Thank you, Senator.

Pete, welcome. Good to see you in a slightly different role; but, good to see you again.

MR. GRANNIS: Thank you.

SENATOR MARCELLINO: On the basis of the testimony, and what I've quickly gleaned from reading the -- you know, just the blurb, I'm ready to rename the comptroller's office, Cassandra's office.

What are the good parts? What does the comptroller see as the potential?

I mean, you've listed -- and that's good; I'm glad you did -- pointing out what the risks are, and what you recommend that the legislature should look at.

But, what do you foresee; what does the comptroller's office foresee, as the positives to public-private partnerships?

MR. GRANNIS: Well, I think some of those were described by the transportation commissioner.

Some of them have been --

SENATOR MARCELLINO: Well, I want to know what you see.

MR. GRANNIS: -- referenced by the Governor.

Obviously, there's a benefit toward tapping the availability of resources, that we don't have in New York State, for doing things that are critically important for the state's future.

And, so, if the public -- if the private entities are interested, and willing to participate with government on a partnership basis, clearly, there's a positive aspect of that, that provides, again, an opportunity to do things that we, in our best days, are not going of be able to do in the -- at least for decades ahead.

So, bringing in public -- the private-sector business, entrepreneurship, using the profit motive, using their incentives and their business acumen, to do projects that are important to us, under guidance that we provide, I think is a very positive step. And the comptroller, you know, understands that.

And, really, in the testimony today, Senator, and the report, it wasn't meant to play the role of

Cassandra. It was really to set out the concerns that have been identified in public-private partnerships. And even with some of the investment/infrastructure bank issues that have been talked about in the past.

But, in no way, is meant to throw cold water on the availability of public-private partnerships, should that be the direction that you and the Governor choose to go in.

SENATOR MARCELLINO: If you had your druthers, and could point your finger at a particular piece of advice, or role, or piece of legislation, that might move the process forward in a more direct, or better way, what would it be?

MR. GRANNIS: Again, it's -- I would -- I guess, from the comptroller's perspective, would be, not to focus on a project-by-project approach; which is, I know there are great big projects that are moving ahead quickly, and that are on the drawing board today. But, to try to use the next few weeks, to fashion a framework for how that process is actually going to work, and the risks associated with hasty decisions.

And I would just point you to the infrastructure bank-financed project of the

Fast Ferry in Rochester, which turned out to be less than valuable to the taxpayers. In fact, we ended up owning the Fast Ferry, by default, after pumping a lot of money into the project. That was an infrastructure bank-type project, with federal money.

Again, I think, in hindsight -- hindsight is always very helpful here -- it was not a well-conceived and well-thought-out project.

So, the framework of how you decide to move ahead, I think, is going to be more important, at least from the comptroller's perspective, than the actual process on a project-by-project review.

SENATOR MARCELLINO: So, if I could, and my last point would be: If you were -- I don't want to put words in the comptroller's mouth, but, Tom would never let me do it anyway.

But, your recommendation to this committee, and to the legislature, would be: Take your time, and do it right? Make sure that you have got -- you have covered all of your bases?

MR. GRANNIS: I think, whatever time it takes, Senator. I know you have the capacity to move quickly. It's, just, to make sure that it's right.

SENATOR MARCELLINO: Got you. Thank you.

CHAIRMAN FUSCHILLO: Thank you.

Senator Zeldin?

SENATOR ZELDIN: Thank you, Mr. Chairman.

I actually had some questions, that I'll get to in a second.

But, Senator Marcellino's question, just, I guess I have to follow up on.

I mean, he's asking if the comptroller's office has any ideas with regards to how to utilize public-private partnerships, to save the state money, and close these deficit needs, as we go forward.

I'm not sure if -- if it was the way Senator Marcellino asked; but, are -- does the comptroller's office have any specific ideas on how to use public-private partnerships to save money?

Because, it sounded like the answer might have been no.

MR. GRANNIS: Again, Senator, I guess it's -- it wasn't meant to be a -- sort of a hard no. But, our role, historically, has been to -- to provide guidance, and not necessarily to lead on these types of issues.

Obviously, we understand, and are engaged, as

we showed with the report, that we understand these issues, that we have studied them carefully.

Steve actually spent a great deal of time putting together this report. But, I'm not sure that we have recommendations on, specifically, how to go forward.

We have, obviously, have laid out the framework for the areas that need to be addressed, and are prepared to work with the legislature, to see whether or not, what you're working on, and what we are worried about, coincide.

SENATOR ZELDIN: And I certainly appreciate the concern, and thought, that's been put into this, and in the presentation that you provided us, actually, dated back to January.

I think that the state, in many ways, needs that leadership. And if there are any good ideas -- I mean, you reference, that, you know, for example, Commissioner McDonald has some good ideas with regards to the -- with regards to DOT, during her presentation.

You are privy to so much information on specific projects, all throughout New York State. And if you do see good opportunities, I think it is important to get behind them. I think the state

needs that leadership.

MR. GRANNIS: I will just comment, Senator, very briefly: From my prior role, one of active areas of, what comes close to a public-private partnership, is the work of private entities, to pay for waste-water and public drinking-water facilities in communities. Those are fairly small.

Obviously, they're not of the magnitude of anything that I think Commissioner McDonald talked about, but those smaller partnerships have been in existence for, in some cases, decades. They do have their problems, when the partners -- when the entity decides to raise the water rates or the sewage-treatment rates in a community where there is no public input on what those rates are.

So, that's where the sensitivity is, on how these are put together.

SENATOR ZELDIN: Okay. So, that was -- Senator Marcellino's questions kind of distracted me, in a good way, to ask you about that.

Now, I actually sent a letter to the comptroller's office this morning, as you were coming here, and I was coming downstairs.

And it primarily relates to the MTA.

And we had a hearing, Senator Marcellino,

through the Investigations and Government Operations Committee at SUNY Old Westbury. And what -- Mr. Bleiwas from your office, came and did a great presentation.

And I, in many ways, commend the comptroller's office on the audits that have taken place over at the MTA. And you've been able to identify a number of efficiencies, to save money, to cut costs.

The purpose of the letter was to, I guess, generally ask, with regards to doing a -- to broaden the scope of the audit.

You've done several audits to -- to do, you know, just a, thorough, top-down forensic audit. I know it comes with costs, and it uses -- utilizes resources of the comptroller's office.

But, that's the main objective of the letter, and to talk about different ways that, maybe, the MTA can save money.

But, I'm just -- I'm curious: Have any of the audits that you have conducted, have any of them addressed public-private partnership opportunities?

MR. GRANNIS: I'm -- I'm not aware of any, Senator.

I -- you know, the -- our audits, as you

described, and as Ken testified last week, are -- have been fairly targeted.

We are doing an agency-wide forensic audit. It's a huge undertaking. And, actually, we've gotten chided, in some cases, by the chair of the transit authority, for having auditors on site as often as they are.

We understand there's an interference with normal work responsibilities, but we believe that that engagement is important.

So -- but, we are -- I'm not aware of any public-private partnership.

But -- because, I will just point out, it's interesting, when you look at the history of the MTA and the Long Island Railroad, the Long Island Railroad used to be privately owned, until that private entity was no longer able to function in a way that served the public, and became part of the MTA system.

SENATOR ZELDIN: And, now, there are some that are rating it as the least-efficient railroad in the country.

MR. GRANNIS: Which is coming out of bankruptcy.

SENATOR ZELDIN: The -- now, I guess, it kind

of goes back to my earlier question, piggybacking on what Senator Marcellino asked; but, has the comptroller's office been able to identify any specific opportunities for public-private partnerships within the MTA?

My first question was more generally, but --

MR. GRANNIS: I'm not aware of any, Senator.

SENATOR ZELDIN: Okay.

Now, I do know that one of the audits that the -- that you have conducted of the MTA, related to the real estate portfolio. And I know that we have a couple of representatives from the MTA that will follow up on that.

And, that was a good audit.

And, like I said, you have done some good work with regards to these audits.

I'm just curious; you know, with the consolidated balance sheets of the MTA, they're valuing their capital assets at over $50 billion right now.

Do you know how that $50 billion is valuated?

Because, one of the things that -- I believe it might have been in your testimony, with regards to the how to evaluate assets, I think it was one of the four concerns -- actually, maybe your first

concern, with regards to the P3s.

Can you relate that first concern to the way the assets of the MTA are being evaluated?

MR. GRANNIS: The best I can do, Senator, is, obviously, the MTA has its own, very extensive real estate department that makes valuations, based on fair market value of what they view the asset to be worth.

There are, also, outside auditors that come in and audit. Not us. But, you know, independent auditors, that certify their accounting practices.

Again, it's -- I'm not -- you know, other than standard real-estate-valuation practices, I'm not aware of anything that is unique about their determination of the size of their capital assets.

SENATOR ZELDIN: Okay. And I guess what I'll do is, I'll ask the MTA's representatives when they come.

But, I just ask, if you wouldn't mind taking a look at the letter that our office sent to the comptroller this morning?

MR. GRANNIS: Right, Senator.

SENATOR ZELDIN: It's, I think, really important for us.

The senate, actually, on March 15th, when we

did our one-house budget resolution, called for a, thorough, top-down forensic audit within 60 days of the budget being adopted.

Unfortunately, it didn't make its way into the final budget agreement.

And I do understand that it would take additional resources of the comptroller's office. And I would look forward to the opportunity to advocate, on behalf of the comptroller's office, within the legislature, to make sure that did you have those resources to do it; because, when you -- when the comptroller's office, Comptroller DiNapoli, has been doing audits, he has been able to save money, I'm sure, way beyond the costs of doing the audits.

So, I think it's just very important for, not only those who live in the 12-county MTA region, but all across New York State, for you to be able to broaden that scope. And I would be happy to advocate on your behalf.

MR. GRANNIS: Thank you, Senator.

We'll get back you to on your letter as quickly as we can.

CHAIRMAN FUSCHILLO: Thank you very much, Pete. Appreciate it.

Do you have some questions?

Senator Smith. I'm sorry.

SENATOR SMITH: I don't have that much.

Thank you, Mr. Chairman.

Commissioner, good to see you.

MR. GRANNIS: Hi, Senator.

SENATOR SMITH: Your colleagues as well.

Do you take the position, that an overall plan for P3 projects are better than specifically examining each one?

MR. GRANNIS: It's the comptroller's position that a plan ought to be in place, that looks at this comprehensively, and generically, about how we proceed in determining P3 projects, and those that make the sense to have a private partner involved, and the protections that might be necessary when -- in those kinds of arrangements.

So, we do suggest, strongly, Senator, that a comprehensive plan ought to be in place before, ad hoc, one-by -- one-off projects are brought before you for consideration.

SENATOR SMITH: And the reason that I -- I'm a little intrigued by the consistent concern about the valuation of a public asset.

Understanding the process of valuation of any

asset, whether it's a company being resold, or whatever, what is your -- I mean, how do we better do that?

I mean, in some instances, if you're talking about an asset that's based on the value of its revenues and tolls, how do you value that; versus, you know, a project that doesn't have tolls, or revenue of that nature, based on fees?

I'm just --

MR. GRANNIS: Senator, it goes right to the heart of what Senator Zeldin was asking about, which is, there's a very -- there's a fundamental difference in valuating a public -- a private asset, versus a public asset.

SENATOR SMITH: Uh-huh?

MR. GRANNIS: So, you could take a building that the MTA has, and they're in an office building, and figure out what the value of that is; because, that's -- how do you value, let's say, a park?

SENATOR SMITH: Uh-huh?

MR. GRANNIS: And how do you put a value on, you know, something that has, traditionally, been open and available to the public, for the public's use, that might have a value that is dramatically different than what might be viewed as a best use of

that particular property, if it were turned into a train station, or some other -- or a, you know, a branch or an exit for a thruway?

So, its an -- it's a very difficult process. It's a process that I think can be done. It has been done in the past. But, it's not as easy as valuating the assets, for instance, of the MTA.

SENATOR SMITH: Uh-huh.

Okay. And, just finally: Do we do this, or not?

MR. GRANNIS: I think it is almost inevitable that we have to do it, Senator.

SENATOR SMITH: Okay.

MR. GRANNIS: I think that this has to get done. And it's, just, our caution is, that -- and hope is, that it's done right for, not just our tenures -- you know, yours as a senator, and mine at the comptroller's office, but for the generations that these projects often will be in place, after they're built, and they're being run by private entities in partnership with government.

SENATOR SMITH: Thank you, Commissioner.

Thank you, Mr. Chairman.

CHAIRMAN FUSCHILLO: Thank you, Senator.

Any further questions?

Mr. Grannis, thank you very much.

It's nice to see you, Pete.

MR. GRANNIS: Thank you.

CHAIRMAN FUSCHILLO: Thank you.

Hilary Ring and Jeff Rosen?

METROPOLITAN TRANSPORTATION AUTHORITY

TESTIMONY OF

HILARY RING

DIRECTOR OF GOVERNMENT AFFAIRS

JEFF ROSEN

DIRECTOR OF REAL ESTATE

CHAIRMAN FUSCHILLO: State your names and titles and affiliation for the record, please.

MR. RING: Good morning, Senators.

My name is Hilary Ring, and I'm the director of government affairs for the MTA.

I'm joined by Jeff Rosen, MTA's director of real estate.

First, I'd like to thank you for holding this hearing on public-private partnerships, or "PPPs."

As you know, the last three years, the MTA's 2010-14 capital program remained unfunded. And I appreciate this opportunity to explore the role that PPPs can play in meeting our infrastructure needs.

Innovative financing, and working with the

private sector, have been the hallmark of the MTA's capital financing plans for the past 30 years. We've found many ways to creatively harness the expertise and resources of profit-making firms in order to lower our costs, facilitate financing, and approve our infrastructure.

To cite some important examples, as you mentioned in your opening statement,

Senator Fuschillo:

We enlisted private firms to help us create a world-class retail center over at Grand Central Terminal, which enabled us to generate significant new revenues, now in excess of $25 million a year. Without these revenues, we would not have been able to afford to redevelop the Terminal as the great public space it is today.

As we speak, a private developer is building a new rail yard for the Long Island Railroad, and improving a subway station for the New York City Transit, in partial payment for the development rights associated with our Atlantic Yards property;

And, the No. 7 Line is being extended, with financing made possible by the creation and marketing of development rights associated with our West Side Yards properties;

We generate some $120 million each year of advertising revenue, through PPPs, with advertising companies. Building on this base, we are incentivizing these partners to introduce a variety of digital advertising platforms that will allow us to, both, increase that revenue, and to better communicate with our customers.

PPP is our method of choice for enhancing telecom service for our passengers.

We've already contracted with telecom companies that are investing their own capital to bring Wi-Fi and improved cellular service to underground subway stations and the Grand Central Terminal train shed.

And, we are currently negotiating with others, to install and provide Wi-Fi service on our commuter trains.

While not precisely a PPP, MTA has also partnered with the private sector to more efficiently deliver capital projects.

We employ design-build contracts in appropriate cases, harnessing the collaborative benefits of the contractor's design/builder team to get projects finished faster and on budget.

These sorts of PPPs are successful because

they present relatively stand-alone, commercially viable profit-making opportunities, while also providing a benefit to the MTA and its customers.

These partnerships present clearly defined obligations for the private sector, and require private investors to absorb risks that they can control, and are well understood by them because they're part of their core business.

These projects traditionally generate their own dedicated revenue streams, and can, and will be, operated independently, rather than as integral parts of the larger transit system.

However, the typical work of our capital program is part and parcel of the existing system, not the type of stand-alone projects amenable to such public-private partnership models.

We are repairing old equipment, fixing up 100-year-old stations, or extending subway or rail lines to add new capacity to a very crowded system, all of which present untold, unknown risks.

And the risk inherent in such work is magnified when one overlays the challenges of operating year-round, 24/7, in the New York subway and transit commuter-railroad environment.

In these situations, the risk is high for the

private sector, increasing the rate of return they would want on their invested capital; and, therefore, the overall costs to the public sector.

Moving forward, we've identified those elements of our capital program that fit the PPP model.

We envision employing public-private partnerships to provide for the fitting out, maintenance, and operation of the Fulton Street Transit Center, we're building in Lower Manhattan at the new East Side Access Concourse, we're building near Grand Central Terminal, as those facilities will lend themselves to stand-alone operations.

And, we will continue to pursue opportunities, generate money for our capital plan, through the development of our real estate, as by enabling a private developer to erect a new tower on land we intend to make available, by vacating our office buildings at 341-347 Madison Avenue.

In sum: Innovation clearly has its place in the MTA capital program, and we look forward to more discussions of PPPs, and other innovative partnership techniques.

But, we must recognize that, while we intend include such arrows in our quiver as we seek to fund

the out-years of our approved capital program, they will not present the full solution.

Public-private partnerships should be viewed as measures to supplement, not substitute, the funding of our capital program.

Thank you again for the opportunity to testify. And Jeff and I are happy to answer any questions that you may have.

CHAIRMAN FUSCHILLO: Hilary, I'm going to take away that last statement you made, and just ask you a -- first of all, thank you for being here.

And, Jeff, thanks for being here as well.

You know, the MTA is facing a $10 billion gap, but -- as we know.

For the remainder of the capital program, do you see P3s playing a part to fund part of that gap?

MR. RING: I think we see P3s as playing a part in some isolated projects.

I think that the overall place where you need the investment, in terms of, finishing the mega projects, fixing up existing stations, fixing signal systems, sort of the bread-and-butter of the capital program, we don't think is that amenable to P3s because of the inherent risks involved.

CHAIRMAN FUSCHILLO: Right.

I know Senator Zeldin has some questions.

Senator Zeldin?

SENATOR ZELDIN: The first is: Do you have any specific opportunities that you've identified for P3 opportunities, going forward?

MR. RING: Well, I mentioned a couple in our testimony.

One would be, the Fulton Street Transit Center.

Here, we're building a -- essentially, a new massive station, downtown, that is going to connect a lot of different subway stations, and provide retail opportunity.

And, we are looking, to figure out how to bring some private-sector expertise into that situation, and actually manage it as a stand-alone private-sector type of environment, to benefit the customers and the region.

SENATOR ZELDIN: How much do you think the MTA can save, as far as that $10 billion figure that everyone is talking about with regards to the capital deficit? How much can you anticipate potentially saving, to cut that deficit, as far as P3 opportunities?

MR. RING: I think that the amount of savings

from a P3 opportunity would be minimal.

I think that the places where we would look to use P3s would allow us to do things better; to do things, maybe, quicker.

But, I think that, in general, the $10 billion was for doing things which the PP3 [sic] type of framework, I don't think would have a great deal of savings.

SENATOR ZELDIN: The -- when we had the hearing, as a reference with the last speaker from the comptroller's office, we did the hearings, you know, on the Westbury, a week or two ago. And Chairman Walder was there, and he testified as to a number of ideas that he had, that could reduce the $10 billion deficit.

And, you know, now we're here, talking about another topic: public-private partnerships.

And I'm glad that we are.

And, you know, I think, we, as a legislature, have a responsibility to the taxpayers, to account for all of the money that they are, forced, and asked, to pay, to subsidize an entity, like the MTA.

So, at this point, after the last few months since I've been in office, for me to go back to a taxpayer, let's say, in the 3rd Senate District,

or Suffolk County on Long Island, and, at this point, I guess:

Maybe reference all of the ideas that Chairman Walder testified to during that hearing, to think about the opportunities that may be available with public-private partnerships;

Thinking back to a prior transportation committee meeting, I think in February, where Chairman Walder was present, talking with reference to the $475 million in new MTA efficiencies that are factored into the multi-year budget, and you're trying to fast-track;

And, to look at, over $400 million in overtime costs, over $50 billion in capital assets, the outside litigation costs, the cash flow that you sit on, including the unrestricted investments;

The fact that there are 66,000 employees, and over 10,000 of those are managers and supervisors;

The contracts which are coming up in 2012, that Chairman Walder referenced in the prior hearing;

The forensic audits that have been conducted by the comptroller's office, to identify additional ways to save money, as well as the potential for what would happen if there were additional -- an

additional broader-scope audit that it would take place;

I think it's impossible, at this point, for any senator or assemblyman to look at their constituents, especially for those that live in the 3rd Senate District -- I mean, I'm sure, within the 12-county MTA region, and for myself, living in 3rd Senate District, that these numbers that we hear of, $10 billion, is substantially higher than what it really should be, if we do everything that is in our power to save money.

And I think it's a shared responsibility, or a responsibility of the MTA, to figure out how to close that $10 billion deficit. And I'm pretty confident that the MTA knows how to bring that number much lower than 10 billion.

And I think it's the responsibility here, of the legislature, to hold the MTA accountable, and to ask these questions.

So, I just -- I ask to you take into thought the -- all of the different topics that I just brought up, and maybe figure out how to alter what you're saying to the public, going forward.

And I don't buy the argument that, if, for example, you lost the revenue stream of the MTA

payroll tax, that there would have to be drastic cuts in services and increases in fares.

I think it's a knee-jerk reaction, quite honestly, to scare our constituents into not wanting the MTA tax to be repealed, especially those that use the services.

Regarding the $50 billion in capital assets, one of the questions I asked to the first deputy comptroller was, how it's evaluated.

Because, one of the risks that he identified in public-private partnerships, they say, "Full and fair value, to identify and use the best practices for the valuation of public assets, to ensure that the public receives the full fair value for the use of its property."

Can you -- maybe Mr. Rosen, can you explain exactly how these assets are valuated?

MR. ROSEN: Well, I think they're --

Can you hear me?

SENATOR ZELDIN: Yep.

MR. ROSEN: Okay, thanks.

I think they are two separate questions.

As the CFO explained, when we met on Long Island a few weeks ago, the valuation that -- provided in the financial statement, is a matter of

accounting convention, which is based on historical costs and depreciation.

And it encompasses a wide range of assets, not just the sorts of assets that we were discussing the other day. The sorts of assets that are under the control of my department, like office buildings. But -- you know, bridges and tunnels, and railroad stations.

SENATOR ZELDIN: Actually, I'll tell you what I could do. Let me ask the question a little bit better.

The "New York Times" story, for example, that talked about selling the headquarters and two buildings, it referenced that the MTA's looking at 26 other properties.

Can you, maybe, explain the valuation of those 26 properties?

MR. ROSEN: Well, again, that was with reference to our office portfolio. And that portfolio consists of a few properties that we own. Some that we have underground leases, but the majority of which are under small-space leases.

And the way they get valued is, as anyone does it in the marketplace, you go out and you obtain property, or you try to dispose of it, under

competitive circumstances.

I think, you know, the thing that needs to be noted about public-private partnerships, or any kind of transaction between the public and private sector, is that, it's incumbent upon us to create conditions of competition that allow us to determine what the value of these assets is in the marketplace, and not just in our own imagination.

SENATOR ZELDIN: So, I guess, as it relates to the office space, the valuation that is put on these properties, is an estimate of what you'd get for these properties if you sold it in the marketplace?

MR. ROSEN: Well, again, in the financial statements of the MTA, the properties of all kinds are valued, based on historical cost; which really doesn't go to the essence of what you're trying to determine --

SENATOR ZELDIN: So, it doesn't then?

MR. ROSEN: I'm sorry?

SENATOR ZELDIN: I'm sorry.

Then, it's the opposite of what I was just asking then?

MR. ROSEN: Well, what I'm saying is, that when we have an opportunity to go out into the

marketplace, and to try to do better, to make use of our assets, to leverage them effectively, we needed that time, to go out and test the market.

When it comes to selling a property, we do what the legislature has wisely required us to do, which is, to obtain contemporaneous appraisals, which are based on market value, not historic costs.

And we do that in the normal course, as any private owner would, by engaging independent appraisers.

SENATOR ZELDIN: And the valuation is based on historical costs?

MR. ROSEN: No. Based on -- in that instance, based on market cost.

SENATOR ZELDIN: So, that "$50 billion" number, for example, in capital assets, on the --

MR. ROSEN: It has nothing to do with market value.

It wouldn't be practicable for us to go out and obtain, you know, valuations of all of our property, all the time, updated six months. It costs us thousand of dollars to obtain an appraisal of any one property.

As Mr. Grannis noted, the vast majority of our assets don't have a market value, for the

precise reason, that they're not the kinds of assets that are commonly traded in the marketplace.

SENATOR ZELDIN: Yeah, I guess I would just like to learn more about those assets. And I see this staggering figure of, over $50 billion, for the capital assets.

And I just want to know exactly what makes that up; how it's valuated. And I think that there's a lot more that we can learn about it.

I appreciate, Hilary, you brought to my office, a list of what makes up those $50 billion in capital assets.

I think that there's additional information that I would like; you know, for some of the office space, for example.

You know: What's the addresses of these properties? What's the history? What were they purchased at?

And I know that might be a little uncomfortable, to start -- you know, to have someone in the legislature starting to get into the weeds, to that extent. But, I would appreciate it, if you could, maybe, go into a little bit more detail on a future printout.

Uhm, I was asked to --

Mr. Chairman, if you don't mind me asking one other question?

CHAIRMAN FUSCHILLO: No, that's fine.

SENATOR ZELDIN: -- the -- who pays for the -- and this kind of completely changing the subject; but, you know, I had some constituents that wanted me to ask.

The -- now, in the city, I believe there was issue couple years ago, where the students have -- they have free rides on the subway system.

Who pays for that? Is that the MTA, or is that the state?

MR. RING: It's a combination of MTA, state, and city.

SENATOR ZELDIN: Okay. And it's a combination, I guess you're saying, between the MTA and state?

MR. RING: And the city.

MR. ROSEN: And the city.

SENATOR ZELDIN: And the city? Okay.

Has there ever been any discussion about rides for those students that use the other transportation assets of the MTA; like, for example, the Long Island Railroad?

MR. RING: Not that I'm aware of.

I believe that New York City school children, commuting on Long Island Railroad, get some small discount that the city also pays for. But, I'm not familiar with any other discussions. It hasn't come up, really.

SENATOR ZELDIN: Okay.

And, with risk of asking a question I know the answer to: What's the approximate contribution between -- like, how much does the MTA contribute towards those rides, versus the city and the state?

I just -- is there like a rough breakdown you might be able to approximate?

MR. RING: I don't recall it off the top of my head. It was an issue about a year ago, when I would have known the answer.

But, I can get back to you with the breakdown of that.

SENATOR ZELDIN: Okay. I just wanted to be able to answer it for them, so...

MR. RING: Sure.

SENATOR ZELDIN: Thank you.

CHAIRMAN FUSCHILLO: Senator Perkins?

SENATOR PERKINS: Thank you, Mr. Chairman.

And I want to commend you for this timely hearing, and very informative. I believe it would

be very useful for us, as we move forward.

Good to see you, Mr. Ring, and Mr. Rosen.

I have two, I guess, concerns.

Have you had the chance to hear from Pete Grannis, in terms of some of the concerns that the comptroller's office has raised with regard to P3s?

MR. RING: Well, he just testified, Senator. Yeah.

SENATOR PERKINS: Yes.

So, do you have any reaction to some of what he shared?

And it was somewhat of a critical analysis. Not a killer analysis; but, nevertheless, some serious warning signs about going down this road, and the potential problems that might occur.

And, what is your experience, in light of some of what he had to say?

MR. RING: I didn't think that Deputy Comptroller Grannis was being critical, as much as realistic, in terms of, making sure that --

SENATOR PERKINS: First, the words.

[Laughter.]

MR. RING: -- making sure that, when the government makes arrangements like this, that are

long-term arrangements, that everyone has to keep his eyes open.

That, the government -- the private sector, essentially, is taking a risk, and is going to want to be compensated for that risk. And, in doing so, they're looking for surety.

And the government is, essentially, guaranteeing that surety. And whether that surety is in terms of, future revenue increases -- for example, like Mr. Grannis pointed out, with poles going up regularly -- you know, the government knew that going in.

And, you know, people shouldn't be surprised that, continuing, that's one of the effects.

But I think that, that in situations where that the risks could be quantified, and the risks could be understood and controlled for, and people are comfortable with the operational aspects of it, then I think that P3s makes sense.

I don't -- I think that it was just -- I thought -- I didn't take it in a negative.

SENATOR PERKINS: Okay.

The government is taking risks as well.

MR. RING: Uh-huh.

SENATOR PERKINS: The public is taking the

greater risk, I would say, since it -- these are, essentially, public assets that are being, more or less, turned over.

I think he was sort of alerting us to that aspect of it.

Have you had any experiences that, more or less, support some of the concerns that he raised?

MR. ROSEN: You want me to give it a shot?

MR. RING: Yeah, go ahead.

MR. ROSEN: Look, I think, in structuring any P3, the single most --

SENATOR PERKINS: I can't hear you.

MR. ROSEN: I'm sorry.

Can you hear me now?

SENATOR PERKINS: Yes.

MR. ROSEN: I think, in structuring any PPP, the single most important thing is, to try to align the interests and motivations of the parties.

If, at the end of the day, the private concessionaire is simply awaiting payment, and doesn't have a stake in the quality of the service, you haven't really achieved the full benefits of a PPP, as it's, you know, often described.

We have instances, for example, where, you know, escalators, and other elements of

transportation, have been provided on the edges of our stations, through zoning incentives, and otherwise.

And, at a time when the payoff to the developer, if you will, is early on, and there isn't as strong a motivation as you'd like for them to maintain the elevator well, in the end, and then we're the ones who, and our customers are the ones who, suffer, when it becomes an enforcement action.

So, again, as I say, ideally, these things are set up so that the concessionaire/the developer is motivated throughout the process to do the right thing.

SENATOR PERKINS: So, in that regard, what do we -- what have we put in place, or what do we put in place, to catch that as soon as possible, and maybe, even avoid that from happening at all?

Based on the experiences that you have had, where you have seen this kind of situation; what lessons do we learn, to avoid that?

MR. ROSEN: Well, I think you -- as Hilary was saying, you have to be careful that you do it in the right cases; do it for the right projects.

You know, in instances where, for example, there is ongoing revenue for the private

concessionaire, which is only in some kinds of PPPs, the motivation is, that the -- is that the concessionaire and its lender knows they're not going to get the money if they don't provide a good service.

In other cases, that -- the sorts of things that we've done, you know, if you're creating a development with retail-revenue potential, it's in the interest of the private developer to remain a strong revenue-producing environment.

And, again, what you're trying to do is, harness their expertise and their self-interests, to get you where you're trying to go.

SENATOR PERKINS: Two other quick questions.

The one, I guess I'm also concerned about, like, I guess, the P3s, in terms of MWBEs, and their ability, or willingness, to comply with that value, that policy, that we have so much regard for.

And I guess, related to that, is the second question, in terms of, just, transparency and accountability; assuring the public that their assets, which you are managing, and which they are developing on our behalf -- on the public's behalf, are actually -- you know, it's actually taking place.

And how do we -- how does the public get informed about, not just when there's a successful ribbon-cutting, but maybe when there are these concerns that -- where they fall short, so that they don't always feel, sometimes, that they're in the dark?

MR. ROSEN: Uh-huh.

Well, first, with respect to MWBE, I think the answer is, that the method of delivery ought to be neutral.

In other words: Contractually, should be able to provide for those requirements to be met, regardless of whether it's a PPP or more conventional delivery method.

But, obviously, you know, that needs to be provided for in the contracts, and in the legislation.

With respect to transparency, you know, I think, as things stand now, we examine the quality of the designs we received from private designers, we examine the quality of the service we get -- of the work that we get from contractors.

There's no reason, inherently, why you can't, you know, provide the same sorts of safeguards, the same sort of reporting, for the long-run.

SENATOR PERKINS: All right, thank you.

CHAIRMAN FUSCHILLO: Thank you, Senator.

Senator Golden?

SENATOR GOLDEN: Thank you, Mr. Chairman.

The -- I guess, the discussion here for the P3s is very simple.

P3s, it's about putting projects back online, and completing those projects, getting through your capital program the next two years.

Putting people back to work is probably the biggest issue that we need here in the state of New York. About 750,000 people still in the unemployment lines. That's besides the people that gave up looking.

I think it's important that we look to the private-public partnerships, not just here in the MTA, but on our roads.

And, have we invested, and have the ability to invest, in places like, Atlantic Yards, the World Trade Center, Moynihan Station, Jacob Javitz Center, Second Avenue Line, we would have the ability to put a tremendous amount of people back to work, and get this economy working here in the state of New York, and be the state that leads this recovery instead of the state that will tail this recovery.

P3s, I find to be intriguing. And there are, obviously, concerns, but, I do believe they work, and I believe it is a good mix, working with the right partners.

P3s, you know, going forward; what part of the P3s do you think will play in the -- and we're presuming it's the $10 billion. We're presuming that the other 4 billion is going to be made up by the federal government.

Let's say, it's 3 billion now -- it's $10 billion now, as we have to do it.

What percentage do you think the P3s will play in that? Or could play in that?

MR. RING: I think that, when you look at the types of projects that are in that 10 billion, I think that the ability for PPP to be a large part of that $10 billion, I think is difficult, when you are thinking of a private operator coming in and designing, building, and operating a portion of the system. And I think that's, generally, the construct.

I don't think that -- you know, I think that, we use -- we're using P -- you know, a P3, like a design-build, for a huge new bus depot that we're building.

You know, we're doing things like that, to reduce the costs. And those will have a major benefit.

We've already reduced the costs of the capital program by $2 billion, by doing things like that.

Better design and better approval process, so that things don't get started before they are thoroughly thought out and costed.

But, I don't think that, aside from the types of things that we talked about, like the Fulton Street Transit Center, or the East Side access terminal, which are very large projects, but they're not -- you know, they're not billions and billions of dollars' worth of the capital-program gap, but they would have a potential to, potentially, save us some money.

And, more importantly, I think, is to provide customer benefit, which is currently lacking.

And I think that's one of the places where P3s can really help. I mean, Grand Central Terminal looks like Grand Central Terminal because it's being managed by, you know, a private company. And it's held to a different type of standard, in the way that that property is maintained, and

different types of, you know, tenants are attracted to it.

And all that generates revenue for us.

So, I think that's the way we're looking at it.

SENATOR GOLDEN: So, the P3 is being a quiver -- one arrow in that quiver.

What revenue streams, if any, do you see for the P3s, or for the balance that would be due on the capital program, going forward? Do you see any?

MR. RING: What revenue streams. would we see supporting -- excuse me?

SENATOR GOLDEN: Setting -- correct.

MR. RING: Uhm, I think, lease revenues.

I think, that, general operating revenues.

I think, that, you know, some asset sales. Like we mentioned, the redevelopment of Madison Avenue Property.

You know, we're looking to see whether there have been instances, where property that's owned by New York City and -- where the underlying leases, owned by New York City, and the uses of the MTAs, where we've been able to develop those kind of properties to benefit both the city and the MTA.

Time Warner Center, for example, and the

Upper West Side, there, in Central Park, was built on property that was jointly owned by the MTA and New York City. And both the MTA and New York City got benefit from it.

And we are currently involved in the process of looking at the rest of our properties of a similar nature, and see whether there's benefits, like, you know, properties throughout the city.

SENATOR GOLDEN: Do you see a possible vision of a -- the State Municipal Bond Bank Agency as an additional backing of private-public partnership projects? And -- actually, do you foresee existing operations?

MR. RING: I think a bond bank, or an infrastructure bank, clearly, could be a source, that, you know, allows us to, you know, recycle the money, and to, you know, have assets to use.

But, the end of the day, one will still need to come up with revenue to capitalize it.

SENATOR GOLDEN: And another area of concern, that could probably work, is the banking institution, along the model of Immigrant Bank, which, seated with the MTA and other transportation-worker resources, could invest in these projects and public-private partnerships of

MTA-related projects.

Is that a vision that could also happen here as well?

MR. RING: We'd be very interested in learning about that.

SENATOR GOLDEN: And expanded, of course, design-build opportunities, to attract more private interests, obviously, is another area of major concern; correct?

MR. RING: Yeah, we've had a lot of success with design-build.

I know DOT is looking to get that authority. But, we already have that, and we've have been using it.

And, again, it's -- it works really well, where, you hire a contractor who is experienced, and this is what he does and this is his core business. And, he can bring his private-sector expertise, and leverage that, for lower costs and faster projects.

We just did that with the Atlantic Viaduct, which is elevated structure where the 7 Line runs on -- or, the Long Island Railroad runs on, in Queens.

And this was a design-build. The contractor, this was his core business. He was able to do it

relatively cheaply and very quickly for us.

So, it's -- we've had a lot of success using design-build.

SENATOR GOLDEN: Thank you, Hilary.

I have to excuse myself. I have to greet the deputy mayor.

The R train was late this morning.

Can you do anything about that?

MR. RING: Uhm, I'm sorry, Senator, no.

SENATOR GOLDEN: Thank you. Have a good day.

CHAIRMAN FUSCHILLO: Thank you.

And we're also joined by Senator Ranzenhofer. And, also, another ranking member of the assembly, Assemblyman Dave McDonough.

Mr. Ring, Mr. Rosen, thank you very much for your testimony.

TESTIMONY OF NORMAN MacMILLAN

DELEGATE MINISTER

MINISTÉRE DES TRANSPORTS DU QUÉBEC

CHAIRMAN FUSCHILLO: Norman MacMillan, delegate minister of Québec Ministry of Transportation.

I'd say good morning; but now I'll say, good afternoon.

And thank you for taking the time to be here.

MR. MacMILLAN: It's my pleasure.

Mr. Chairman, members of the Senate Transportation Committee, my name is Norm MacMillan. I'm kind of a junior minister of transport, a colleague of Sam Hamad, that sends his greetings to you, Senator.

It's my pleasure to represent the Québec government before this committee, and I thank the chairman for his invitation.

My presence is a continuity with the mission carried out, here in Albany, on March 15th by my colleague, the minister of transport, Sam Hamad, to discuss issues of common interests of transportation.

Accompanying with me today is:

My chief of staff, Danny Abah (ph.).

Madam Sandra Sultana, director of public-private partnership office; Martin Breaux (ph.), head of the rail transportation division; both, representative of my department.

And, Jean-Phillippe Arseneau is representative of the Québec General Delegation, New York, since they're present here in the States since 1940.

It is, thus, as a long-standing partner,

neighbor, and friend that I have come here, on behalf of the Québec government, to present our experience of the Ministére des Transport du Québec with public-private partnership, known at "P3s."

The MTQ has been involved in P3s for a little over ten years now.

We adopted the act respecting transport infrastructure partnership, in December 2000, which gave us the legal power to resort to this project performance mode.

Why this interest in P3s?

In the conventional build mode, the minister awards and managed many contracts to carry out projects, contracts, and design, for design, construction, and maintenance, winter maintenance, drainage maintenance, lightening, as well as operating, and rehabilitation, contracts over projects' entire life cycle.

The minister defines the precise means he wants to be implemented, plans, and specification, to carry out the projects, and specify these means of each stage.

In P3s, all these activities -- design, construction, operation, maintenance, rehabilitation, and even financing -- are combined

in the same contract, which is awarded to just one supplier, the private partner, for a longer term to then-conventional contracts: 20, 30, or 40 years, or more.

The partnership's agreement specifies the results the government wants to achieve. The means for achieving these results are the private-partner's responsibility.

The objective of building a project in P3s is to obtain the best social and economic benefits in exchange for the cost incurred by the project; particularly, thanks to vigorous competition among a combination of companies made of builders, operators, financiers, engineers, and various national and international suppliers.

The opportunity to proceed as a P3, or in the conventional mode, to build the major projects is determined by the means of business case, which compares the costs between building, in P3s, and the conventional mode.

The P3s' approach is not an absolute. It is not our government's intent to apply its system. It's, semantically, wall-to-wall.

It also applies where there are benefits for the taxpayer. Otherwise, another build mode is

used.

Performance of projects in P3 remains an interesting approach in relation with the advantages that can be derived from it.

One of the most important advantages, is that this mode allows transfer of a considerable portion of the risk to private partner. The risks it is most able to manage efficiently, such as, those related to design, construction, maintenance, and operation of a road infrastructure, are assigned to the private partner.

The MTQ can, thus, focus on its essential mission; namely, to ensure transportation safety, mobility of passengers and freight, and the development and the update of the designs, construction, and maintenance standards.

The MTQ thus seeks to obtain the best value-for-money for the project, and reduce the government's financial contribution.

The other advantage of P3s are, actuation or expediting project construction, introduction of a life-cycle concept, and promotion of innovation.

I was telling you that the MTQ committed to PPPs about ten years ago. Based on a pre-visibility study, the MTQ identified three projects that seemed

to be suitable:

Two carry-out P3s;

Two new infrastructures: Autoroutes 25 and 30 in Montreal metropolitan region;

And, the construction of new, modern service areas.

The MTQ produced the business cases for these projects, to evaluate the expectancy of building them as P3s.

The objective of business case is to perform a detailed financial analysis of the projects, by comparing the costs according to, performance in traditional mode, and performance in 3Ps -- P3s' mode.

The financial analysis takes into account our costs, including the risks, and the maintenance of operating costs. Based on this analysis, the most appropriate mode is chosen.

Based on the business case, Autoroute 25, and 30, and the service areas' project, were selected to be built as P3s. The projects were defined, and the procurement process was implemented.

A three-stage project -- process -- request for the expression of interests, a request for qualification, and request for proposal -- was

adopted for these projects.

35-years' partnership agreements were signed; in September 2007 for Autoroute 25, and September 2008 for Autoroute 30.

A 30-year agreement was signed in September 2008 for service areas.

Autoroute 25 is the first project implemented as a P3. This is an electronic-toll autoroute, 7.2 kilometers long, including a 1.2 bridge -- kilometer bridge.

The cost of the project is 220 million, at the 2007 net present value.

The infrastructure will be open to traffic at the end of this week, on May the 20th. The autoroute is being delivered four months in advance in relation to an initial schedule, and within budget.

Autoroute 30 is also a toll autoroute project. 42Ks of new autoroute lanes are being built and maintained by the private partner.

An additional 35K is built in traditional mode. It will also be maintained by the private partner.

The cost of the project is 1.5 billion, at 2008 net present value.

It is projected that the autoroute will be commissioned in December of 2012.

In this case, as well, the project conforms to the initial schedule and budget.

For the service area, the cost of the project was 44.5 million, in 2008 net present value, for the seventh site stipulated in the agreement.

Five sites are currently in service, and two will be in service this fall.

The private partner complied with its deadlines for this project as well.

The MTQ is currently analyzing the feasibility of Phase 2 of the service areas' projects, with 11 new sites under consideration.

Apart from the projects in the transportation field, the Québec government also implemented projects performed in P3s, in hospitals, museum, concert hall, justice, detention centers, and the education fields.

We've learned some lessons from the P3s projects.

Each project must be analyzed on its own, on a case-by-case basis. It is not possible to generalize about the build mode for it to be implemented. It is appropriate to produce business

case that considers all the factors that must be analyzed.

It's also important to apply a rigorous approach regarding the procurement process. This ensures fairness, transparency, integrated in the process.

Excuse my English. I'm losing it a little bit right there.

A process auditor hired by the government, assured the government authorities, and to invite candidates, that the selection process was rigorous.

State support is extremely important. And so is management leadership in the organization, both in the public-partner and in the private-partner's team.

Optimizing risk allocation makes it possible to maximize efficiency.

Finally, p3s propose a new business relationship that involves two partners: a public partner and a private partner.

This business model is very different from traditional projects, in which the MTQ manages the project and its construction and maintenance.

In P3s: The private partner manages the project. The public partner manages the partnership

agreement, and ensures that the requirements of the agreement are met.

An independent engineer is also hired, to ensure compliance of design and construction with the partnership-agreement requirements.

In conclusion: We are very satisfied with the results of our first experiments with P3s.

I would like to conclude, by wishing you a productive discussion on this subject.

We are, of course, available to answer your questions, provide with you some additional information, if you consider it.

I have two experts with me here this morning.

Thank you very much for your attention.

CHAIRMAN FUSCHILLO: No, I appreciate you taking the time to be here.

When I met with the minister earlier this year, I was extremely impressed with some of the projects, that you just mentioned.

And I'm glad to see that, later this week, that one of those projects will be completed, and the public will take fuller advantage of it.

I just wanted to ask you -- and please send him my best.

I just want to ask you a question about the

procedure, and how it's -- your government has laid out.

Is there a board that approves the P3s?

MS. SULTANA: There is a framework that is set up for government, to authorize projects; so, we honor, on a case-by-case. So, there's a framework that looks at all of the business cases.

We evaluate each project on a business-case basis.

Government does take government on, with the board. Infrastructure of Québec, which is our P3 body, that takes -- that looks into infrastructure, into all modes of infrastructure implementation.

Their board needs to authorize a project. And then it's taken to the council of ministers, to authorize the project, on individual basis.

CHAIRMAN FUSCHILLO: Who comprises that board?

MS. SULTANA: Both public and -- public representatives from government and private sector representatives.

The council of ministers is, of course, only public.

So, it's a government decision.

CHAIRMAN FUSCHILLO: Right.

Have you estimated, during this decade-long period of time, how much your government has saved by engaging in P3s?

MS. SULTANA: For both of the projects, Autoroute 25 and Autoroute 30, we did do base -- value from many reports --

CHAIRMAN FUSCHILLO: Right.

MS. SULTANA: -- which does a comparison between, if the project were done in the conventional mode, if it was done as a P3 approach.

On Autoroute 25, we evaluated a $200 million, uhm --

CHAIRMAN FUSCHILLO: Savings?

MS. SULTANA: -- savings.

On Autoroute 30, which is $1.5 billion project, we evaluated it to be a 700 million savings.

CHAIRMAN FUSCHILLO: Will the other project, as well as the success you've had with this one, opened this week, will it come under budget and/or ahead of time?

MS. SULTANA: Yes, it will.

CHAIRMAN FUSCHILLO: Yes, it will.

MS. SULTANA: Four months early.

CHAIRMAN FUSCHILLO: Incentives; are there

incentives built into an agreement like that?

MS. SULTANA: Obviously, the route sharing is part of the incentive.

There are incentives, yes.

And there's incentives that are built in between the partners, in the private partner. There's the, builders, the designers. And, they, within themselves --

CHAIRMAN FUSCHILLO: Create incentives?

MS. SULTANA: -- create those incentives.

So, yes, there is an incentive to the builder to deliver early.

CHAIRMAN FUSCHILLO: And based on my conversations with the minister, and your testimony today, it appears, you're not giving up any of the assets?

MR. ARSENEAU: No.

CHAIRMAN FUSCHILLO: Right?

MR. ARSENEAU: It's just government owned --

CHAIRMAN FUSCHILLO: Government owned.

MR. ARSENEAU: -- up to a certain -- 30 years, or --

CHAIRMAN FUSCHILLO: For 30-year agreements, or lower.

MS. SULTANA: Actually, the property is

always the government's. So, it's managing the infrastructure that is delegated to the private sector.

CHAIRMAN FUSCHILLO: Right.

Thank you.

I really appreciate you taking the time to be here.

Senator Smith?

SENATOR SMITH: Good morning.

MR. MacMILLAN: Good morning, Senator.

SENATOR SMITH: My regards to the minister.

Good to see each and every one of you, again.

I just want to ask one question.

How do you propose -- what is the best means by which to finance high-speed rail coming through here, to Québec, and then, back down to New York?

CHAIRMAN FUSCHILLO: Just press it once.

Try it now.

MR. MacMILLAN: Sorry.

Does that work?

SENATOR SMITH: Yeah.

MR. MacMILLAN: Okay.

Thank you, Senator, for your question.

I might probably speak about, as you are aware, the Quebec-Windsor pre-feasibility study.

That study has been -- the report has been tabled to both Québec government and the Ontario government, as well as the federal government.

In that study, obviously, it's been under consideration by all governments so I will not be able to get into the specifics.

But one of the things that has been looked at, is whether or not there would be a role for the private sector if governments were to decide to move ahead with that type of project.

So, that is part of the pre-feasibility, just laying out some options that wouldn't need to be looked at further down the line on that project.

With regard to high-speed rails with the U.S., I mean, obviously, we're not there yet.

As you know, right now, I think it was on May 9th, that the -- Secretary LaHood announced some -- for the funding, for, I think it was close to $1 billion in the northeast for different projects.

I mean, our attention right now is focusing on the issue of improving the Adirondack, that runs from New York to Montreal. And especially with a focus on the issue of preclearance; U.S. preclearance and prescreening, as well as

Canadian Customs customs screening.

So, that is really what we're focusing right now.

It takes about an hour thirty minutes, right now, to cross the border. And we believe that, if we were able, collectively working with NYSDOT, with Amtraks, and other partners, we were to improve that time by doing preclearance in Montreal, that would significantly improve the time.

So, that's, essentially, where we are at this point.

SENATOR SMITH: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FUSCHILLO: I wanted to just follow up a question with you.

Thank you.

Have you estimated, over this decade period of time, what the savings has been with respect to debt, if you were to bonded out these projects?

MS. SULTANA: When we're looking at --

CHAIRMAN FUSCHILLO: Of debt would you have incurred.

MS. SULTANA: Yeah.

Obviously, financing a public-private partnership, the finance cost is greater for the

private sector than for the public sector.

CHAIRMAN FUSCHILLO: Right.

MS. SULTANA: We evaluated a 2 percent, about, difference between the two.

We haven't evaluated it specifically, because, when we do do our -- I've forgotten the term again -- value-for-money analysis, we do it on a basis of all of the costs that are incurred.

So, we do look at risk. We do look at risk-sharing -- sharing risks for revenue, for example.

CHAIRMAN FUSCHILLO: Right.

MS. SULTANA: We do look at the finance aspect.

But, we take it as a lump sum, and we look at all of the efficiencies that can be brought on by a public-private partnership.

CHAIRMAN FUSCHILLO: What led you, back in 2002, to start engaging in P3s?

MR. ARSENEAU: That's a good question.

It's -- we've been -- since 2003. And it was in our plan, to look at the privatization, or P3s, or partnership, with that.

It was a decision, in 2000, I don't, really -- who started it, I don't remember at all.

Maybe Ms. Sandra can answer that.

MS. SULTANA: We looked at what was being done internationally.

The U.K. is very --

MR. ARSENEAU: The U.K., yeah.

CHAIRMAN FUSCHILLO: Very progressive.

MS. SULTANA: -- within P3s.

Our western province, British Columbia, was also -- had started off implementing a few projects.

So, we're looking at what international and national experiences was bringing forth. And through that, we identified a few projects that sounded like they may have a good potential.

We put those forward. We did the business-case analysis. The opportunities did come out, in terms of savings. And, we implemented the project.

But, we went through the procurement process, and signed on the projects in, 2007, 2008.

CHAIRMAN FUSCHILLO: Do you have the availability of an infrastructure bank as well?

MS. SULTANA: Pardon me?

CHAIRMAN FUSCHILLO: Do you have availability of an infrastructure bank?

MS. SULTANA: Availability of an

infrastructure...?

CHAIRMAN FUSCHILLO: ...infrastructure bank.

Does Québec have an infrastructure bank?

No?

MS. SULTANA: Oh, in our projects?

On the 25, it is Macquarie Capital Investments.

In the A-30, it's 14 banks that are investing.

CHAIRMAN FUSCHILLO: Okay. Okay.

Artie, any questions?

SENATOR DILAN: Yeah.

CHAIRMAN FUSCHILLO: Senator Dilan?

SENATOR DILAN: I'm concerned to know what exactly were the incentives for the private partner, since they're assuming risks here, over the course of the ten years.

And, also, if you can give me what has been the reaction of your community or the public to this type of project, over the ten years.

MS. SULTANA: I'll go with the reaction; the public reaction. And, there are two answers to that, because they are -- their infrastructures that are being built in a metropolitan area.

We all know that metropolitan areas have

become -- and this is a new infrastructure -- it's becoming more and more difficult to implement new infrastructure.

So, there was a lot of resistance from environmental groups, and such.

There was resistance for -- in terms of -- I'm blanking here, on -- urban sprawl. Urban-sprawl considerations, and such.

So, there was resistance to the project itself.

We went through all of the environmental authorization process. And we did promote the project, and defend the project, and justify the project, on the needs, in terms. And, environmentally also.

And the second one was on the P3 process.

SENATOR DILAN: With the public, that was the initial reaction.

MS. SULTANA: That was the initial --

SENATOR DILAN: What is the reaction, now that you're coming to a conclusion on the project? Is there --

MS. SULTANA: Currently, there's very good acceptance. Very, very good acceptance.

The private partner -- this is a tolled

infrastructure. The private partner started selling their transponders three months ahead of time. And there's been a very good response to that.

CHAIRMAN FUSCHILLO: Senator Smith, you have a follow-up?

SENATOR SMITH: Yeah, I'm sorry, Mr. Chairman. Just one other question.

Have you had any foreign companies involved which are P3s? And, if so, what did you put in place to assure their performance was what they agreed to? And how that was dollar-exchange transaction worked out?

MS. SULTANA: Yes, we do have foreign companies, international companies, that are being -- that are being -- that are implicated in the project.

All our partnership agreements precisely specify, what are the requirements that the private partner must meet.

So, whether it's national or international firms that are being represented, they all have a specific -- all of the requirements are very well detailed in the partnership agreement.

All of the requirements, all of the risks, transfers, are specifically integrated in the

partnership agreement.

SENATOR SMITH: Is there any -- I'm sorry, Mr. Chairman. Just one last question.

Is there a -- a difference, if you will, in the formula for risk, or return, as it relates to a foreign company versus a domestic one?

MS. SULTANA: No, there isn't.

SENATOR SMITH: Or the same?

Okay.

CHAIRMAN FUSCHILLO: Thank you very much.

One of the reasons why I asked to you come testify, is my previous meeting with the minister and your staff. And I thought it was critically important that the members of the transportation committee hear your successes.

And this is exactly, obviously, what we want to achieve here in New York State as well, and give the department of transportation, and other transportation agencies, the options, in an economy where there are very few, with dollars out there.

So, I appreciate you coming to New York. I appreciate the time you've taken, and your testimony as well.

So, thank you very much.

MR. MacMILLAN: Thank you very much.

MS. SULTANA: Thank you.

MR. ARSENEAU: Thank you.

CHAIRMAN FUSCHILLO: We have a long list of speakers. And out of respect for your time, and the legislative schedule that we have coming up shortly, with conferences in session, I'm going to ask, if you have lengthy testimony, to submit it to us, and give us a brief of your comments.

TESTIMONY OF JONATHAN TURNBULL

MANAGING DIRECTOR

LAZARD FRERES & CO., LLC

CHAIRMAN FUSCHILLO: Our next speaker is Jonathan Turnbull.

Good afternoon.

MR. TURNBULL: Good afternoon.

So, you want me to shorten it up?

CHAIRMAN FUSCHILLO: Well, if you can do it within under ten minutes, we'd appreciate it, Mr. Turnbull. Thank you.

MR. TURNBULL: I'll move it along quickly.

Thank you. Good afternoon.

My name is Jonathan Turnbull. I'm a managing director at Lazard Freres, a 162-year-old global financial independent advisory and asset management company, based out of New York, and listed on the

New York Stock Exchange.

The firm has advised governments for many decades, on topics, ranging from privatizations to restructurings.

As a firm, we are an advisory firm only. We are not investors in projects. We do not provide financing for projects. We are purely advice-givers.

I appreciate the opportunity to testify at this hearing regarding the use of public-private partnerships, or "P3s," in New York State.

My comments are based on years of advisory experience from assignments all over the world.

I believe my comments will echo many statements made by my peers; mainly, that P3s are commonplace in most of the developed countries of the world? And that New York State should learn from these foreign and selected domestic experiences, to develop a P3 program that can accelerate its infrastructure investment, and help drive economic growth for the benefit of New York State and its residents.

I would also like to take a few minutes to talk about a few other P3 initiatives, that may not be front and center to this discussion, but we view

to be very important in executing a successful P3 program for the state.

Items such as, the development of a statewide master plan for its P3 program, as well as the development of a financing strategy to support possible P3s. Within that, we would include a state infrastructure bank.

We believe both of these initiatives will be important for the state as it thinks through using P3s effectively.

On the history of P3s, I'm sure many of you are familiar now, with the statistics on P3 usage around the world.

One of the biggest users of P3s, the United Kingdom, had closed over 700 projects since 1992, with a total value in excess of $120 billion.

To put that statistic in the context of New York State, the GDP of the U.K. is approximately twice that of New York State.

That would imply an equivalent P3 spending of over $60 billion in New York State if it had been executing in a similar manner over the last 20 years.

Such capital spending over the last 20 years, grossed up to current dollars, would make a

substantial dent in a future 20-year infrastructure funding gap of $80 billion outlined in the 2009 report from the office of the state comptroller.

P3 projects around the world have ranged from, building and rebuilding highways, waste management, recycling programs for municipalities, new high-speed rail lines, electric transmission lines for offshore wind, new hospitals, and new schools.

The list of projects is endless.

P3s are now commonplace in most developed countries around the world, including France, Germany, Spain, Italy, Australia. And as we just heard, Canada, which has been executing P3s since the early 1990s.

The use of P3s is also spreading into merging economies, such as India, Brazil, and China.

The United States is new to the P3 world, but may have the greatest potential to attract capital to help pursue P3s over the next 20 years.

Infrastructure investment in the U.S. is underweighted relative to its global peers. And focus and interest exists amongst the largest global infrastructure investors to put more capital to work in the United States.

Harnessing that pent-up demand, and getting the most from it, is going to be an important element to any P3 execution strategy for New York State.

The terms and conditions of P3s have varied and evolved over the past two decades.

P3s have matured. P3 programs around the world have learned from prior mistakes, and have also adopted -- adapted to various financial market conditions.

There is no "one size fits all" mentality in the global P3 market, as structures are now tailored to the specific project that is being pursued.

P3 advisory specialists can figure out the best structure available for different projects in the state.

Such recommendation would be based off the state's objectives, the underlying asset characteristics, and perhaps, equally, if not more importantly, current market conditions.

I believe New York State needs to increase its utilization of P3s to advance its infrastructure capital spending and maintenance program.

It needs to consider P3s in two contexts:

One, to help the new projects get executed.

And, two, consider P3s on established and older assets, to help raise funds, to then put to work in new economic building projects.

The sooner many of these new projects can be completed, the quicker the state can drive economic, or top-line growth, and help reduce its heavy deficits.

One of the key lessons learned over the years with P3s, is that they provide more than just capital to fund infrastructure projects.

Other benefits include, as we've heard from the representatives from Québec, providing attractive value-for-money, and alternatives to the typical public procurement process.

Given the speed to market, and cost benefits to the private sector, the cost to the state, on certain projects, may be cheaper with a P3 than the typical procurement process.

Many government-sponsored reports around the world have confirmed this value advantage, just like the P3s.

We just heard our friends from Québec highlight two examples of over 200 and 700 million dollars of value savings to this province, relative

to the typical process.

Leveraging credit-sector expertise to the benefit of the state is another thing, be it use of latest technology, or other cost-cutting methods.

Transferring significant execution and operating lists go away from the state to the private sector. Obviously, another important element.

But one perfect example of that would be, the "Big Dig" in Boston, and the costs associated, the added costs, almost 100 percent above the original budget estimates absorbed by the state, which they continue to pay for today with over a billion dollars, per annum, of financing costs.

Accelerating speed to market is also an incredibly important element.

In Florida, with I-595, they were able to bring that to the marketplace 15 years ahead of a typical process, driving economic growth, and lowering costs to the state.

But one of the most important elements, or components, to a successful program, based off of our experiences around the world, is the development of a central plan, and a team to execute on your program.

Many other countries or regional governments have turned to advisors and internal groups to help oversee and coordinate their entire P3 program.

The creation of a master plan and an oversight group will help the state prioritize its P3 projects, based off a project's economic growth and development implications, the state's aggregate goals and objectives, and a complete stakeholders' analysis.

These groups will not only help prioritize the various projects that need to be considered for a P3, but they will also manage the entire P3 procurement process, and help orchestrate the required P3 funding, to maximize the value realization by the state.

An organized P3 program will help manage the process, and will help generate greater interests and support from the global investment community.

Such a process will bring appropriately structured transactions to the marketplace; manage the timing of projects, based off of market interest and appetite; ensure that projects are financeable in the current market environment; and build a successful track record of negotiations and execution certainty.

This will result in greater and best, or belief, in any new project reaching financial close; and, therefore, create a preference to work with New York State over other less-organized states when completion risks are -- might be higher.

A master plan needs to consider all possible projects across a spectrum of categories.

I know we are here today talking about transportation, but we need to consider, in the context of transportation, energy, social communications; all aspects of infrastructure for the state.

One last thing that I would recommend the state consider alongside its master P3 plan, is the development of a targeted financing strategy that includes the creation of a state infrastructure bank to help drive P3 execution over the next 20 years.

Financing of P3s has become more important to execution success for any individual P3 than the underlying transaction's structure and terms.

The global capital market's correction in '08 has forced U.S. infrastructure projects to rely on new capital sources and/or multiple government agencies for the capital needed to ensure launch and completion.

The state needs to develop a multi-prong strategy to help deliver the needed capital for its P3 projects.

Possible financing alternatives the state should consider include traditional revenue bonds, and the like. However, the state needs to also consider new sources of capital, such as the IPO market and/or the creation of a robust state infrastructure bank.

A state infrastructure bank could be an attractive alternative for New York State, to help ensure execution success of planned P3s.

A state infra bank will allow the state to control its own capital sources, and not rely upon programs or grants from Washington, to get deals done quickly and effectively.

Federal programs, such as TIFIA, have become a key source of debt capital to new transportation infrastructure projects.

New York State should not have to rely on TIFIA to get P3 projects moving forward. A state infrastructure bank can work with TIFIA, and similar initiatives, but can also replace TIFIA debt on projects if needed.

A properly structured state infrastructure

bank will help prioritize projects, garner focus and attention from global investors, and generate a return to the state beyond the economic growth of the completed projects.

P3s are used successfully around the world, and it's important that New York State embrace this mature and developed technology to advance its own infrastructure agenda.

Investment in its infrastructure is critical to long-term economic growth. The key to maximizing the success of any P3 program is not just hidden in the details of each possible P3, but more importantly, in the development and -- of an overall plan of action that prioritizes transactions, and helps source-needed financing.

Thank you.

CHAIRMAN FUSCHILLO: Mr. Turnbull, thank you very much for being here. And, obviously, your patience.

You know, one of the key factors -- and the components you laid out are essential to a successful program, if we're going to do it here in New York State -- what I've also seen in other states, and other areas around the world, less involvement by the government makes it more

attractive.

Have you seen any -- I mean, what has been your experience of other states, where the legislature's been involved, or they haven't been involved, in the decision-making process?

MR. TURNBULL: Well, I mean, essentially, the government and legislative process has to actually facilitate the initial steps to make something happen.

CHAIRMAN FUSCHILLO: Right.

And, then, after that?

MR. TURNBULL: After that, the best success stories you can point towards are P3 programs that are managed by individual organizations.

Best examples would be: An infrastructure Québec, or a Partnerships BC, or other types of entities, whose sole mandate is to actually move forward with different P3s.

CHAIRMAN FUSCHILLO: All right. Have you seen, in many states, where, once a board is created, the legislature's not involved with that board in the decision-making process?

My concern, going forward, is the political football games, and the parochialness, and the nimbyism. And, then, you'll have nothing done.

MR. TURNBULL: Correct. I mean, it has to be one of the biggest concerns you have, as it relates to actually getting things done. But, also, prioritizing within your capital spending.

At the end of the day, P3s are a form of capital spending.

CHAIRMAN FUSCHILLO: Right.

MR. TURNBULL: It is a form of financing, but it's capital that's being deployed by the state.

If it's overrun by different agendas, separate agendas, and other items, you know, fundamentally, there's going to be value leakage, just as a theoretical point of view.

CHAIRMAN FUSCHILLO: Your testimony lays out something that I believed, and I know my colleagues do: We're not reinventing the wheel here?

MR. TURNBULL: No.

CHAIRMAN FUSCHILLO: I mean, the success rate in so many parts of this world has been tremendous. And it's just an option we need to make available, to keep our infrastructure improving and rebuilding here in New York State.

It's critically important.

So, I thank you.

I don't know if any of my colleagues have any

comments?

SENATOR SMITH: Yes.

CHAIRMAN FUSCHILLO: Senator Smith?

SENATOR SMITH: Yes, thank you very much, Mr. Chairman.

Mr. Turnbull, thank you for your testimony.

You talked about executing a master plan for P3. Then I believe, there was some part of your testimony that talked about specific projects, in terms of how you assess the value of using P3 on them.

So, I'm just a little -- I'm trying to get clear about the master plan, related to, versus the individual assessment of each.

MR. TURNBULL: No, it's a great question.

Every single P3, or possible P3, needs to be considered on an individual basis.

It needs to be assessed on an individual basis because, based off of the characteristics of the underlying assets; the market environment, what buyers and sellers are willing to do at that point in time; all those factors need to be considered, to develop a singular strategy for an individual P3.

SENATOR SMITH: Uh-huh.

MR. TURNBULL: But the state itself needs

strategy up above that.

We've heard today, five or six different potential transportation-related P3s, be it the Tappan Zee Bridge, many other bridges within New York State, other potential projects which may come up, each of them needs to be assessed on an individual basis. Develop a strategy on what makes sense for it.

But, then, you can't say: I'm just going to go out and do everything.

SENATOR SMITH: Right.

MR. TURNBULL: Because the reality is, the human capital of the state can attach to get things done, as well as the capital that can be attached to get things done, is difficult to assess.

And, so, what you then need to do is, go above all those individual projects.

Take each of them on an individual basis. And, then, above that, develop a strategy that says: I'm going to do this one first.

Why? Because it drives the greatest economic benefit for the state of New York.

And, then: I'm going to do this one second.

Why? Because it drives tremendous economic value for the state of New York. But, also, because

that's a structure that, today, is heavily desired by the marketplace.

There is a tremendous amount of interest to put capital to work in the United States, in infrastructure. But, it has to be in the right deal.

SENATOR SMITH: All right.

MR. TURNBULL: There are certain states who have failed around different P3s.

Why? Because they brought a structure which was not appropriate, at that point in time, for the marketplace.

And, then, when they launched the deal, there was nobody there to step up and say, I'll do it.

So, it has to be all those factors.

So, look at it on an individual basis; but, then, bring it all up top, and try to think about how to assess it on an aggregate basis.

SENATOR SMITH: All right.

The comptroller -- Deputy Comptroller Grannis offered some, concerns, if you will. Some I think are warranted, some are not.

But, the question of valuation of the asset, private versus public; do have you any thoughts on that?

MR. TURNBULL: Well, it is hard to differentiate the value between an asset in a public-market context versus a private-market context; because, on the public-market context, a road -- for example, an un-tolled road is worth a lot because it drives economic value by moving goods and services and people, and those types of things, from here to there.

It's hard to assess that value on an individual-road basis.

I do think, though, that when you frame a concession, a certain-term concession -- 30-, 40-year concession -- where you layout, specifically, the guidelines of what that individual investor is going to keep, and what they have to pay for.

That's a value that can be well defined.

And that's not selling an asset.

What we've always talked about is, that the state would continue to loan the underlying assets, the most often used, as the longer-term concession.

SENATOR SMITH: Uh-huh.

MR. TURNBULL: And those types of parameters, you know, can be well defined, and well valued.

It's hard to go outside of that when you talk

about aggregate economic, and do a relative comparison.

SENATOR SMITH: Uh-huh.

MR. TURNBULL: I think there are many scenarios, where you can point to states that have executed P3s, and crystalized value above and beyond the value that people thought was in the underlying concession. Not the asset, but the concession.

SENATOR SMITH: Uh-huh.

MR. TURNBULL: There are scenarios, where you can point to deals that were done a few years ago in the height of the market.

Indiana, for example, with a value received by the state, has now funded, ten years, their transportation budget.

The value of their -- to bring that asset to market today, would be much less than what they realized at that point in time.

But, again, it's not the asset that was sold. It was a concession, and a contract.

SENATOR SMITH: All right, just one last question.

On the infrastructure bank; California's infrastructure bank, I guess, is primarily capitalized through public money, and backed by the

full faith and credit of the California Treasury.

Do you have any thoughts on an infrastructure bank that could be capitalized through public- or private-pension money? And, have you heard of such a formula?

MR. TURNBULL: We actually have, at Lazard, a very detailed view -- opinion, as to how an infrastructure bank could be set up for the state of New York.

First, and foremost, it would not be with full faith and credit of the state. That it can set up as a separate entity altogether.

It has to be properly capitalized in the investments that it makes.

In providing loans, it would need to be properly structured against, new projects, and old projects, that generate revenues.

But we do think that there are examples out there, globally, as well as state infrastructure banks in the United States, that do not have full faith and credit of the underlying government institution.

So, there are examples out there, outside of the one that you provided, that I think would be more appropriate, perhaps, from this state's

standpoint, as far as finding a new funding source that doesn't come on to full faith and credit.

SENATOR SMITH: Thank you.

Thank you, Mr. Chairman.

CHAIRMAN FUSCHILLO: Thank you, Mr. Turnbull. Appreciate your testimony.

Ed Lucas?

TESTIMONY OF EDWARD LUCAS

EXECUTIVE BOARD MEMBER

NEW YORK STATE PUBLIC EMPLOYEES FEDERATION

CHAIRMAN FUSCHILLO: Good afternoon.

MR. LUCAS: Good afternoon.

CHAIRMAN FUSCHILLO: Thank you very much for taking the time, and your patience, to be here.

MR. LUCAS: Oh, that's okay.

I'm quite happy to be here.

Since I've been working for the department of transportation since 1978 --

CHAIRMAN FUSCHILLO: Thanks, Ed.

MR. LUCAS: -- I've spoken to several of you individuals before.

Very nice to meet you, sir, Mr. Chairman, and other Senators.

CHAIRMAN FUSCHILLO: We have your testimony. If you can summarize it, we would be grateful, if

you can.

MR. LUCAS: It's a little difficult to summarize. I will attempt to do the solvent points.

CHAIRMAN FUSCHILLO: Thank you.

MR. LUCAS: Basically, I must say, that I am a representative for DOT statewide labor/management.

I do work for the New York State Public Employees Federation, represented by. And we have 56,000 workers, with 4,500 of them in DOT.

It's tempting to believe that public-private partnerships produce massive new funds for infrastructure construction. But, this is a false promise.

There is no such thing as free money. In the end, someone has to pay.

And when there are private investors or corporations, it also means the need for monetary return on their investment.

You can use nice words to describe it, but the fact remains: The source of revenue for transportation projects will always be, either taxes or tolls.

The buzz word being "partnership"; warm, fuzzy feelings. It seems like it's a win-win.

The reality is very different.

History shows us, time after time, public-private toll-road projects mean higher costs to all the taxpaying public, especially those who rely on the roads for their livelihood.

There's basically three important dangers.

"The potential to default."

Senator Smith was just referencing, what, full and backing?

Well, in essence, we would be -- "we," New York State, would be held in the bad when they default.

"Noncompetitive clauses."

There are horrendous examples about, you cannot improve any other infrastructure adjacent to the one, because would you have to pay fees to them.

Basically, these investors want a monopoly.

And, in this, DOT, we always are referring, currently, to our corridors, and moving of economics. And I'm going completely off the script, just from what I know.

And the reality is, non-competitive clauses will not perform well for us at all.

The aspect of a non-competitive clause is saying: Okay, you have one infrastructure that's being done by a P3. You can't even maintain the

adjacent one without paying that financial entity, a penalty.

There are common parts of P3s, and of great concern, if you want to realize all risks.

There's a lot of information in my report in regards to a global study of thousands of P3s around the world. And we're talking about a value of a half a trillion dollars, not billion. And, you know, some of the failures that have gone on.

The author of the publication of "A Global Auction of Public Assets" says: "There's now a significant evidence base to show that most PPP projects have little or no democratic control or transparency, are costly, provide poor value, lack innovation and flexibility, reduce employment" --

Which, is something that hasn't been discussed here today.

-- "and erode public-service values."

Like I say, there's references to failures.

But, basically, the main failure that's highlighted, is that, 75 percent of them have been based upon the original projections not being met. And, subsequently, people ended up going into default.

As an example: There was one down in

South Carolina that, basically, had half the traffic that was projected. It went into default.

And, then, the entity that was created did not have the revenue to reimburse South Carolina DOT for the anticipated maintenance or repairs.

Accumulated deficits of the Connector were 163 million. And they're being added to, about 14 percent a year; according to Peter Samuel, who is involved with "TOLLROADSnews."

He's a great proponent to tolls roads; but, yet, he's telling you this.

California made reference to the South Bay Expressway in San Diego. It went bankrupt in 2010. Would not support the debt.

And I think California ended up picking a $73 million loss on the restructuring of the loans alone.

Just the restructuring of the loans was $73 million; that, we would be held responsible.

Now, here's the point: In both of these cases, it appears, the only parties that benefited were the financial advisor and investment firms that were paid at the front end of those deals.

Think about that. It makes a lot of sense, doesn't it?

They set it all up. They propose it. They make it look all very nice. They collect their fees.

And, when they default, go bankrupt, fail to maintain all these different aspects; or, increase tolls exponentially.

And the reason being, that most of these cases of failure was due to widely optimistic predictions for the use of toll roads.

But, as far as the taxpayer is concerned --

Which, you know, we all represent. I'm a public servant; I represent taxpayers.

I consider getting my money's worth to myself every day, because I am a taxpayer.

-- debt restruction isn't the answer to the pain of a toll road.

The Dulles Greenway, a 14-mile, 350 million, defaulted on its loan in '96.

2005, an Australian firm bought the Greenway, and raised the average toll, from $2 to, roughly, 3.50. A 75 percent hike.

Well, who does that hurt? It hurts everyone.

It hurts the state's economic circles, taxpayers, representatives. It hurts everyone.

There's a horrendous example about the

Chicago parking meters, where they sold, for 1.15 billion, the rights for parking in Chicago. And it's projected that the investors will receive 11.6 billion, in parking fees, over the 75-year life.

Who bought the parking franchise? By a partnership made up of the investment bank Morgan Stanley.

"Business Week" called it, "A Windfall for Investors, and a Loss for Chicago."

I'd like you esteemed gentlemen to consider whether or not you want to have a loss for New York.

Think about these level of risks that we're speaking of.

"The deal illustrates how Wall Street banks, recipients of more than $300 billion in bailouts" -- "bailouts," excuse me -- "bailouts in the worse financial meltdown since the Great Depression, are profiting, by selling bonds, and leasing public and private properties," according to "Business Week."

I really don't call that a free-market solution.

There's more and more examples, as I say. But "free market" says, you know, it's because of the non-competitive clauses and the monopolies that

are generated by these things, it is no longer a free market.

Summarize. Summarizing is difficult when you have the whole thing memorized.

[Laughter.]

MR. LUCAS: One second.

Oh, and you know, more reference is made to being able to work on your existing roads; roads that are assets, that are in line next to them.

You know, being -- end up with a roadblock to working on your own highway system because of an agreement that you entered into for, maybe, up to a century? That's not a realistic approach.

The private operator is there to make a profit, usually by charging higher tolls.

The sole goal of a PPP is profit, not public service, what I do, every day.

I suppose it's pretty clear, that the P3s will result in the greater use of private engineering consultants for design and construction.

Obviously, all of you that have been involved in transportation issues over a long period of time, realize that, numerous study, engineering; that DOT engineering forces can do the work, from 50 percent to 75 percent more cost-effectively than consultants

can.

We calculate, of course, that DOT would save between 55 million and 83 million per year by reducing its use on consultants.

And I just got to summarize: As I said before, it's tempting to believe that public-private partnership would produce massive new funds for infrastructure construction -- infrastructure construction.

But this is a false promise. There's no such thing as free money.

Everybody in the room should hear that: "There's no such thing as free money."

The underlying source of revenue is the same; either tolls or taxes.

Public financing, public design, will produce better results at a lower cost.

And I'd like to add a personal opinion to this matter.

The generations that came before me -- my grandfather, and the people before them -- they invested in the interstate system, when times were better.

And they said, "For the good of the state, and the good of the nation," they made these

investments.

They made them, thinking that we were going to be good stewards for them. Forever.

They didn't make them for us to sell them to a private entity.

I thank you very much for your time.

I'd be perfectly willing to entertain any questions you may have.

CHAIRMAN FUSCHILLO: I appreciate your testimony.

And, you lay out a course of caution, and potential risks. And I think the comptroller's office stated that as well.

Senator Smith?

SENATOR SMITH: Just -- yes, thank you, Mr. Chairman.

And, again, thank you for the testimony on the public-benefit side, and being cautious.

I just want to go to something -- go back to your testimony. You cited -- and this is a question just about, P3s, and conditions of whether it works or not.

You cited one example, on the Southern Connector, which I guess, the asset didn't perform. There was a bankruptcy. They couldn't

handle the debt.

MR. LUCAS: Right.

SENATOR SMITH: Then you talked about Chicago, where Morgan Stanley made a sound investment, and it looked like they were going to raise $10 billion over 10 years.

So, I guess my question is: Is the absence of, one working, and not working, just basic economic market conditions, or is it because of P3?

MR. LUCAS: Well, they're not the same type of example.

Now, I've been working in labor/management process at DOT for many years. And we've been involved in valuation, like the first type of things, like design-build, which we are also against. And -- because of costs, and public-private partnerships.

The idea with the Chicago one is pretty simple.

They sold the right for parking in an area where people are always going to park, for 75 years. And they got the money up-front.

So, it was kind of like what the comptroller was saying: Be cautious of, getting some money now, and paying for it forever.

And the people that are going to be paying in Chicago, to the tune of ten times what they receive, is the increases in the revenue for the parking.

So, every time a person goes into Chicago, and parks, Morgan Stanley and their investors are profiting exponentially, in my opinion.

Now, the other example is, where the -- that I made reference to, was where they predicted, in the optimistic viewpoint, that they were going to get 16 -- or, 3,300 cars a day. And they're only getting 1,600 cars a day, or whatever it is -- 1,000. Excuse me.

And, so, those people went bankrupt.

And the state of South Carolina, the DOT, tried to go after them on their clauses, you know, that were in the contract. And, basically, they didn't have the money.

So, they -- there wasn't sufficient funds, so all of the risks ended up being absorbed by the state, you know.

So, the examples are many. And if you'll read further into my testimony, you'll see a few more different types of examples.

But, to sell an asset, when the sole reason is to generate profit, there's very few instances

where the risk won't fall back on us.

Because, I heard a lot of you Senators, this morning, asking questions about, whether we would retain the asset.

You know, just like examples from the Ministry of Québec, they turned around and they said: Well, we've had this for ten years, but we've only been using it for a few -- as far as I can tell.

I'm not quite sure how it took them so long to get started; but, they established a toll road.

So, I would assume that, probably, it wasn't a toll before. But people are so -- there's so much congestion.

But I would be a little bit more concerned, to look into the bottom line of that thing; is whether or not the local roads are able to be improved, to create competition? Or you would -- do you have to play clauses back in; non-competitive clauses.

Very scary aspect. Risks involved.

So, it's not as simple as it seems. It will always be, taxes or tolls.

SENATOR SMITH: Uh-huh.

MR. LUCAS: So, it's the aspect that we're

trying to drive: It's not free money.

If we're not -- if we're not planning for in the capital budget of DOT, or the budget for MTA, you're paying for it by increasing tolls.

You know, you're paying for it over a long period of time, as opposed to, by (untelligible) --

Does that answer your question?

SENATOR SMITH: Yes. Yes, it does.

Thank you.

MR. LUCAS: Anything else?

CHAIRMAN FUSCHILLO: Okay, thank you very much.

MR. LUCAS: Okay. Thank you.

CHAIRMAN FUSCHILLO: Sam Barend?

TESTIMONY OF SAMARA BAREND
VICE PRESIDENT OF STRATEGIC DEVELOPMENT
DIRECTOR OF PUBLIC-PRIVATE PARTNERSHIPS
AECOM

CHAIRMAN FUSCHILLO: Good afternoon.

MS. BAREND: Hi. How are you doing?

Thank you very much for having me.

Chairman Fuschillo, Senator Dilan, Senator Smith, thank you for staying.

It's a real pleasure to be here. And I very much appreciate that you all are generating a

dialogue on public-private partnerships, here.

It is, you know, much overdue in the state.

I am Sam Barend, and I am the director of public-private partnerships for AECOM, which is a global construction, architectural, engineering, company.

And we have done, you know, projects all over the world for private-public partnerships. 19 of the top 25 projects in North America for transportation.

And, then, you know, we've also done projects -- this is a transportation/public-private partnership hearing, but we have also done schools, we've done courthouses. We have done a wide range of public-private partnerships.

Most significantly, the first social infrastructure project ever, you know, created -- finished in this country, that's reached financial close, which is the Long Beach Courthouse.

And today, I come before you with a dual PPP prospective, as having served as executive director of the State Asset Maximization Commission; and, also, you know, now being in the private sector.

And that commission, as you all know, you know, is charged with trying to find a path forward

for how New York State could undertake public-private partnerships. And, you know, given all of the diverse stakeholder concerns that we have, what would be the best approach, you know, given labor issues, given everything.

And, so, what we recognized, is that, you know, as folks have talked about here, that 30 states, along with numerous nations, are saving billions of taxpayer dollars, but -- and are undertaking more projects, in less time, with greater accountability, by using public-private partnerships to deliver critical infrastructure.

But, unfortunately, despite our best efforts, you know, New York State just isn't one of them.

And what the problem is, has been that, you know, time after time --

And a few of you who are left here, may have the balance to prove it.

Maybe Senator Smith does, because I know you have been trying to push this issue for a while.

And, hopefully, Senator Fuschillo will not have these battle wounds, in this go-around.

-- but, for nearly two decades, we've tried to pass legislation; P3 legislation. There have been a number of misconceptions that have been put

forward. And, each time, it's consistently failed.

In each instance, you know, broad legislation was introduced, that, you know, labor said: It didn't address their concerns. It offered, you know, an unclear process for project oversight. Provided little rationale for, when, and why, such projects should or should not be advanced.

And labor unions generally viewed these projects, as we've heard, as a means to bring the state cost savings at their expense.

You know, to reduce the use of in-house engineers, and to scale back their hard-and-fought wage protections.

And, worse, legislators have viewed PPP legislation as giving blanket authority to create -- to DOT, to create windfalls for the private sector.

You know, some of these concerns have legitimacy, and others are just simply unfounded.

And what we have seen through the years, as P3 projects have matured in this country, that, you know, there are best practices that have been developed. And that, you know, for every concern that is being putted forward, there is, you know, an argument to back it up.

You know, every state has gone through

growing pains. And, I guess, the benefit that we have here in New York, coming to the game late, is that we can learn from all of the, you know, trials and tribulations.

In 2008, you know, it was becoming very clear, the state had to do more with less.

You know, the SAM Commission was created to curtail these widespread misperceptions, and to create a path forward on PPP, by approaching P3s in this collaborative nature; bringing labor to the table, bringing the private sector.

And what we found through that process was that -- you know, that the real message that resonated, was not talking about using public-private partnerships to close a budget gap, not talking about monetizing assets, but really talking about performance-based infrastructure delivery, using public-private partnerships to get things done faster, to stretch our taxpayer dollars.

And what we found, is that we had, you know, the support of 20 organizations. And labor, actually, was very willing to listen, and to work with us.

And, you know, our willingness to work with them proved to be very beneficial.

And through this commission report, you know, there were 27 specific projects, that I think will form a roadmap for the future legislation that is put forward, and that is passed.

And, you know, these projects represent 30 billion in investment.

But the main recommendation that the commission put forward, that I think is significant, to talk about here today, and that we should really think about it, it was mentioned before by the -- you know, the folks from Québec government, is the creation of an entity through which to advance public-private partnership projects.

And what we have seen in this country is a -- really, a piecemeal approach to addressing public-private partnerships.

And, you know, agencies, say, DOT will put forward, one project here, and one project there. And, you know, some of the concerns that path has put forward are founded, but a lot of them are founded because public-private partnerships were not advanced in a systematic way, and in a vehicle that had oversight, that could screen, prioritize, and assess projects, for value, for money.

If you had those controls in place, what you

have seen in Canada, and the U.K., you can garner a whole lot of benefit for your state, for your area.

And, you know, globally, the governments that have proven most successfully, on an ongoing basis, they've created these entities.

And, you know, a whole -- another reason that -- for creating these entities, is that, you know, it's true; these public-private partnership projects are very complex. These are not easy projects to undertake. And they shouldn't be undertaken for -- you know, for most projects.

But, for -- as, you know, the commissioner of transportation mentioned, for about 10 to 12 percent of the projects, they do make sense, for -- you know, for, tricky, sticky projects. For projects that, you know, need to be accelerated.

And we have almost 6,000 deficient bridges. And a public-private partner, we don't really have another option but public-private partnerships.

So, it's imperative that, whatever authority that we create to oversee, it have the adequate resources. If we're going to do this, we have to do it right.

So, whatever entity is created, must have the resources to hire and retain legal advisors,

financial advisors, technical advisors. And, also, some sort of nimble full-time staff.

Otherwise, we might as well just not do this.

You know, as I was mentioning, you know, the public-private partnerships, there is a -- universal projects that makes sense, and it has been discussed today.

General rule of thumb, is that: Projects over $200 million, in terms of construction costs, do make suitable projects for P3s.

In Canada, they have a process, where, in British Columbia, every project that is more than -- that is 200 million or more, has to be looked at, for whether or not it's suitable to go forward as a public-private partnership.

And, you know, we have mentioned, Tappan Zee.

You know, I really think that Tappan Zee could be a perfect project for a public-private partnership. But, it would make sense to start with some other smaller projects.

And, you know, you just heard from -- you know, from Ed Lucas, and I'm sure you'll hear from others, who are going to talk about some of the concerns of public-private partnerships.

And there are concerns. And they will talk

about some of the myths out there, about, you know, why it may not make sense to do public-private partnerships.

But, I do want you to be aware, if you hear that the cost of private capital does not justify undertaking a public-private partnership, because that notion is simply untrue.

To start, there are federal financing programs to support public-private partnerships, such as, TIFIA, and private activity bonds, which have resulted in very comparable costs of debt, with typical tax-exempt financing.

In addition, experience has proven that the benefits of transferring project delivery and long-term maintenance costs to the private sector can result in significant cost savings.

In a traditional design-bid-build approach, as you all know, the public sector maintains all of risks. So, they take on the schedule risks, they take on the delivery risks; they take on everything.

So, basically, there's no incentive in a design-bid-build to deliver the project on time, let alone, consider the long-term performance of the asset.

And, for instance: Had the state employed a

public-private partnership on the I-287 project, it would have saved at least 67 million in cost overruns. And, the project would have been delivered much sooner.

A public-private partnership also allows a state to harness tremendous innovations in design. And, the private sector is incentivized to look at the project for the long term, over 35 years.

And a recent example of this approach, is Port of Miami Tunnel, which was a, 35-year, long-term contract, to design, build, finance, and operate, maintain, three miles of tunnel.

The final bid of the winning consortium proved to be $500 million less than the preliminary cost estimate, prepared by the state's technical advisor, for undertaking the project through the traditional means.

Now, in closing, I just wanted to touch on a few of the issues that were spoken about on -- the previous speaker. He had mentioned a couple of projects that had failed.

He mentioned the Southern Connector. And he also mentioned -- I think he mentioned the Dulles Tollway.

A couple of the projects that he had

mentioned, you know, are what's called "the 63/20 structures."

And, you know, there are a lot of different definitions for "public-private partnerships."

And just I think it's really important, as you're moving forward, and you're listening to people and you're hearing concerns, you understand the different definitions.

There are certain structures or projects that people define as "a public-private partnership," which really aren't; where there's really no skin in the game for the private sector to stay in the project all the way through.

In some public-private partnerships, people will say, well, what -- you know: This project has gone bad. It's terrible. You know, and, this toll road, they -- you know, the traffic revenues weren't projected right.

Well, the benefit, in a real public-private partnership agreement, if it's structured well, is that, it's all about the contract, and all of the risks are really shifted; that the right risks are shifted to the private sector, so they have skin in the game for the long term.

So, if something goes wrong, it's really the

private sector that's on the hook. So, the public sector gets the asset back.

So, I think a lot of those things have to be taken into account.

With regard into the Chicago parking meter, there is a lot of validity into what was said previously. That was a very poorly structured deal, in terms of, the public sector did not understand what its priorities were up-front.

So, it's really critical, when we're looking at legislation, and when we're creating, whether it be a public-private partnership entity, or a process, the public sector goals are understood up-front.

And what -- all they knew, is that they wanted to get the most money out of that asset. And they didn't realize that they were actually sacrificing their long-term, you know, values, and their ability to develop in the city, because of the way that it was structured.

So, just, with that said, with closing: I really have a lot of confidence that, with Senator Fuschillo's leadership, and with the rest of the committee, that history won't repeat itself.

You all will get P3 legislation passed.

So, thank you very much.

CHAIRMAN FUSCHILLO: Thank you, Sam.

Senator Smith, that's a lot of pressure on me, wouldn't you say?

SENATOR SMITH: That's a lot of pressure on you, yes.

CHAIRMAN FUSCHILLO: Sam, and I appreciate it.

And, you and I had the pleasure of meeting, where we sat on the same panel with the New York City Building Congress, recently.

And you have been a great source for my office.

And, I think we do have an advantage; that we will learn from other states with mistakes -- with their mistakes, and not repeat the same.

You know, one of the things, and you've mentioned it to me, and you stated in your testimony, of caution, really, is to give blanket authority to the DOT.

We're looking at setting up a framework, rather than just give blanket authority. But, nobody's testified to be project-specific.

That's something that you feel strongly about as well, don't you?

MS. BAREND: I do. I mean, I think it would be -- the best thing would be, if we could give broad P3 legislation, that created a process, through some sort of P3 entity.

CHAIRMAN FUSCHILLO: Right.

MS. BAREND: And if you don't have to specify the projects, that's fine. But, given some of the political realities of the past, I think it might be more acceptable to the assembly, to --

CHAIRMAN FUSCHILLO: And I understand that. And you and I have discussed this. And I'm sure my colleagues would feel the same way: The political realities are my greatest concern, going forward, too, because you really don't want to have a project tied into politics or nimbyism.

And I stated that before. I don't know if you were here.

You know, one of the things, when we sat on the panel, that was very important, is to make New York attractive for individuals to invest with their dollars. Whether it's an infrastructure bank -- and you and I have talked about that -- or a P3, or a design-build, we want to make an incentive to come here and invest.

And you -- and the commissioner even

testified too -- I don't know if you've heard her -- something that you stated also; that it's, really, for 10 or 15 percent of the overall scope of projects, unless you bundle them.

And we talked about that with the short-span bridges as well.

The key is, to make it attractive.

And, as we go forward, and how we achieve that goal, is really going to be the negotiations, and with the second floor, and also the assembly as well. But, I feel confident that we'll get there. And I think economic times are driving that as well.

MS. BAREND: One key thing, I just want to mention, in terms of private-sector interests, is, in California, they really made a mistake, in terms of the structuring of their legislation.

There's some -- a number of points, in terms of sign-off, when you have to get approval.

So, that, the point at which, whether it's the DO -- the agency, or some sort of infrastructure entity, signs off on the project, is really important.

CHAIRMAN FUSCHILLO: Right.

Okay.

MS. BAREND: So...

CHAIRMAN FUSCHILLO: Thank you, Sam.

MS. BAREND: Thank you very much.

CHAIRMAN FUSCHILLO: I appreciate you taking the time, and testifying. Thanks.

MS. BAREND: Thanks.

CHAIRMAN FUSCHILLO: Tom Osborne?

TESTIMONY OF TOM OSBORNE

MANAGING DIRECTOR

UNITED BANK OF SWITZERLAND

CHAIRMAN FUSCHILLO: Good afternoon, Tom.

MR. OSBORNE: Thanks, Senator.

CHAIRMAN FUSCHILLO: Thanks for being here.

And, this is no direct directive to you, but we do have seven speakers left, and I think we have until 2:00 to get everybody in.

MR. OSBORNE: Okay?

CHAIRMAN FUSCHILLO: So, I'll emphasize my comments, by saying: First of all, thanks to everybody for their patience. The hearing has gotten a lot longer. It's a very important topic.

There's very few of us left here. I'm sticking it out, with Senator Dilan, and we're not leaving.

SENATOR DILAN: No, we're staying.

CHAIRMAN FUSCHILLO: Good. Thank you.

Just your name and affiliation for the record.

MR. OSBORNE: Sure.

My name is Tom osborne. I'm a managing director with UBS Investment Bank in New York. I head our America's infrastructure advisory practice.

Grateful for the opportunity, Senators, to testify today.

By way of background, I have 24 years of experience as an infrastructure investment banker, serving the utilities and infrastructure industries.

Five years ago, UBS established a New York-based infrastructure advisory practice, which I co-headed before becoming sole head of that group in 2008.

Globally, I'm part of an infrastructure advisory team that has advised on over 100 successful P3 transactions, to date.

There are two important messages that I would like to convey today, quickly.

The first is, that there is a huge amount of private-sector capital looking for a home in public infrastructure; but, really, a derth of U.S. P3 opportunities, to put it to work.

The same could be said of private-sector

development, construction, and operating expertise.

Now, given the current fiscal strain at every level of government in the state of New York; given the legacy of underinvestment in transportation and other infrastructure, and undercharging, relative to the true cost of service; given the need for, greater, and more efficient, infrastructure investment; and given the fact that the federal government can no longer be relied upon to bridge the growing infrastructure funding gap; it's vital that the New York State legislature pass, and the Governor sign, legislation, enabling true public-private partnerships as an alternative to traditional public procurement.

CHAIRMAN FUSCHILLO: Tom, let me interrupt you for a minute. And, you and I have met previously. And, we do have your testimony here.

What makes one state more attractive than another, in your -- I'm just -- I'm not asking you for your broad, worldwide experience; but, let's stay here in the United States.

What makes one state more attractive than another?

MR. OSBORNE: I think there's -- if I had to sum it up in one word, I would say "clarity."

Clarity around the opportunities.

I mean, one of my key messages is: It's really important to craft legislation that creates a viable P3 framework, and that will properly balance the interests of the state and the private sector.

The legislature has to give consideration to a number of issues around that.

So, rational, objective, detailed cost-benefit analysis, that properly considers the transfer of risks, from the state to the private sector.

I would say, in terms of clarity, having a straightforward and transparent approval process, so that private-sector proponents will be encouraged to spend considerable time and resources that are needed to put forward thoughtful and well-crafted proposals.

CHAIRMAN FUSCHILLO: Do you find most states, when they engage in P3s, have a separate infrastructure board to -- for the approval process?

MR. OSBORNE: There are some --

CHAIRMAN FUSCHILLO: Whatever they call it. But, you know, essentially --

MR. OSBORNE: There are some that do.

And I would say, the most advanced -- it's

not a state; but, the most-advanced territory in the U.S., in terms of putting forward an approval's process, the type that you're alluding to, is probably the commonwealth of Puerto Rico, where there is in place, a PRP3 authority, that was established through legislation.

There is, beneath that, partnership committees, that are project-specific, and address issues relating to assets that might be put forward as public-private partnerships.

CHAIRMAN FUSCHILLO: Do you find the financial resources, that you mentioned when you first opened up -- did you use the word "abundance"?

MR. OSBORNE: Did I use...?

CHAIRMAN FUSCHILLO: ...the word "abundance"?

MR. OSBORNE: "Abundance"?

CHAIRMAN FUSCHILLO: "Abundance of dollars"?

MR. OSBORNE: I said, there is a lot.

CHAIRMAN FUSCHILLO: Go ahead.

Do you find most states go into, P3s? design-builds? infrastructure banks?

Where is it most attractive for the investment dollars?

MR. OSBORNE: So, the investment dollars are looking for the kind of clarity that I alluded to

before. And there's over 150 billion of equity capital in the private sector, that has been raised, focused on infrastructure.

The concern that we have, is that, even as, we'll call it, $75 billion of that, is still uninvested, a lot of that is being attracted offshore, because there just have not been the opportunities here in the U.S. to put that P3 money to work.

So, in addition to that private-sector equity capital, there is a substantial amount of private-sector capital that would be interested in buying the bonds that would accompany any public-private partnership transaction. So...

CHAIRMAN FUSCHILLO: Uh-huh. That's interesting.

Thank you, Tom.

MR. OSBORNE: Uhm --

CHAIRMAN FUSCHILLO: We have your testimony. If you want to summarize, that's fine.

MR. OSBORNE: Sure.

The other things that I would say, is: It is important, in addition to the clarity that I was alluding to, to demonstrate flexibility, and adjusting the level of private-sector control,

across each project. And that's going to be crucial for structuring financeable deals.

And, lastly, I would say: It's crucial to use the P3 proceeds carefully; preferably, to fund capital requirements, and not to plug operating deficits.

There were a number of comments that were made. And Sam Barend, I think, did a good job of addressing those. I would like to take a shot at it as well.

You know, there were three points that were made by Mr. Lucas, around the dangers, quote/unquote, of P3s: The risk of default, non-competitive clauses, and projections not being met.

As for the risk of default, I would argue that the risk is lower when operating standards are codified, as they are in a public-private partnership transaction, where you have super monitoring, where you have lender step-in rights, and all of that is incorporated into the contracts, into the lease agreements, that are put in place.

As for non-compete clauses, sometimes they need to be put in place, but not always. You can't generalize.

If any concessionaire is ever given a monopoly, then there needs be the appropriate regulatory monitoring. And, potentially, even price controls put in place to compensate for that.

All of these contracts are tradeoffs between control, risk, and value. And you have to balance those three.

As for the projections not being met, he cited a couple of examples.

And I think, perhaps a better example for you to consider, is the South Bay Expressway in California. That, I think is a terrific example of shifting risks away from the public sector, and into the private sector.

That's a P3 project in Southern California. It capitalized in 2003. Had a combination of 340 million of senior debt, in the form of project loans, 10 banks, 140 million of sub-debt through the government's TIFIA program, and 130 million of private-sector equity.

In March 2010, because of the economic crisis that resulted in lower-than-expected traffic and revenues, that road was forced to file for bankruptcy.

The private-sector equity was wiped out

entirely. 130 million, gone; thus, taking the first loss on the project.

But, the taxpayer-funded TIFIA debt was elevated to the same priority as the senior debt because of the springing-lien feature built into that. And as part of the restructuring, the overall quantum of debt was reduced, from 530 million before bankruptcy, to 288 million.

And the TIFIA creditors given a pro rata equity stake on the board of directors, and a vote on the board of directors.

Now, had that been financed through traditional state and federal grants, and municipal debt, the taxpayers and the municipal bondholders would not have been cushioned from any of the losses in the bankruptcy, as they were by virtue of having 130 million of private-sector equity in there.

So, with that, I thank you very much for the opportunity.

I would be happy to answer any other questions that you may have.

CHAIRMAN FUSCHILLO: Okay? We're good.

Tom, thank you very much.

MR. OSBORNE: Thank you.

CHAIRMAN FUSCHILLO: I appreciate your

testimony.

TESTIMONY OF D.J. GRIBBIN

MANAGING DIRECTOR

MACQUARIE CAPITAL ADVISORS

CHAIRMAN FUSCHILLO: D.J. Gribbin?

Hi, D.J. How you are?

MR. GRIBBIN: Mr. Chairman.

CHAIRMAN FUSCHILLO: Thank you very much for being here.

MR. GRIBBIN: Thank you for having me.

CHAIRMAN FUSCHILLO: We do have your testimony as well.

MR. GRIBBIN: My goal is to be your shortest witness of the day.

CHAIRMAN FUSCHILLO: Let me ask you a question.

In your testimony, you talked about --

We're joined, again, with Senator Golden.

-- about the two basic types of P3s: The user pays, and a fixed payment.

What is -- is there a norm? Or are those the options that are available, that --

MR. GRIBBIN: Those are the options.

CHAIRMAN FUSCHILLO: -- that attract an investor?

MR. GRIBBIN: Yeah, I mean, you have a range, obviously. If you can have the government make a -- well, you could have user pays, which is the toll road or the parking that was talked about.

CHAIRMAN FUSCHILLO: Right?

MR. GRIBBIN: You could have availability payments, which are usually done for social infrastructures. Schools, that type of thing, where you're not charging kids.

CHAIRMAN FUSCHILLO: Do you see a scenario, like in New York State, where you have many short-span bridges that need to be repaired or rebuilt, where they could be bundled? And would an investor -- without tolls, that would have to be a fixed pay -- would find something like that attractive?

MR. GRIBBIN: Well, Missouri did that.

CHAIRMAN FUSCHILLO: Missouri did that?

MR. GRIBBIN: Yeah, absolutely.

And the way they structured it, it didn't really have private sector. It wasn't a P3 per se. They did it as more of a design-build approach.

But you could --

CHAIRMAN FUSCHILLO: Right.

Was it a design, build, and maintain?

MR. GRIBBIN: Yes, it was a design, build, and O&M; but there was no finance component to it.

But what you could do is, you could look at your bridge program over the next 20 years.

So, you're going to spend X dollars a year on that program. Figure out what it would cost; how much scope you would get accomplished for that annual payment.

And, then, go to the private sector and say: Okay, now what can you guys do?

And this goes back to what the Canadians --

CHAIRMAN FUSCHILLO: That would be their value analysis that they would have to do?

MR. GRIBBIN: Correct.

CHAIRMAN FUSCHILLO: Right?

MR. GRIBBIN: Correct, public-sector compare.

But, I mean, in terms of making New York attractive, I would recommend a number of things.

One: Reassure your colleagues, this is not new. Americans have had P3s since 1989.

Bill Reinhardt, with "Public Works Finance," which is kind of the magazine of record for the P3 community, has an article that's about to be published, that points out, that, since 1989, there have been 96 transportation P3s, for $54 billion

in this country.

So, I would say, yes, as Tom mentioned.

Puerto Rico is probably doing this the best.

We actually were hired to advise the government of Puerto Rico, to set up their P3 program.

I'm a former chief counsel for the highways, and general counsel at USDOT. Have been working at P3s for about 14 years.

If you're going to do just transportation, I would not recommend, that you don't need a whole separate entity to prove those programs.

But, if you broaden out beyond transportation, it's extremely helpful to have a Partnerships BC/Infrastructure Québec type of entity.

And I would say, take this whole debate.

What the opponents of this will say, is -- they'll point to an asset, and say: It doesn't make sense, in terms of that asset.

P3s are not asset-specific. It's a procurement approach.

All it is, is: How can the government procure infrastructure, faster, more cost-effectively, and at significantly lower risk,

than it does traditionally?

So, if you have the opportunity, legislatively -- and I have not been intimately following the politics of New York -- I would embed this concept in your procurement approach.

Do a rigorous public-sector analysis, or a value-for-money analysis, which essentially says: Here's why we think that this project makes sense to do as a P3 in this global reform that we're doing in government procurement.

And, then, if it makes sense, change that.

But, I would also -- it's not infrequent for legislatures to just dump on the executive branch.

"You now have legal to authority to do this. Go."

As a former member of the executive branch, that's not particularly helpful.

So, it's helpful to set up a system.

So, give them, not only a legal authority, but then give them the practical means they need to execute on that legal authority.

And, again, you've seen this in Partnerships BC, you've seen his in U.K. You see this in Australia. And, most recently, you see it in the United States, in Puerto Rico.

CHAIRMAN FUSCHILLO: What was the period of time, where you stated, $54 billion in P3s?

MR. GRIBBIN: I'm sorry?

CHAIRMAN FUSCHILLO: What was the period of time, where you stated there were $54 billion, of 96 projects?

MR. GRIBBIN: So, the first P3 in the U.S. was 1989.

CHAIRMAN FUSCHILLO: Okay.

MR. GRIBBIN: And since 1989, to today, there has been $54 billion worth of projects done in the U.S., as P3s.

CHAIRMAN FUSCHILLO: But not in New York?

MR. GRIBBIN: Not in New York. You don't have legal authority, unfortunately, in New York to do that.

CHAIRMAN FUSCHILLO: Right. And, hopefully, we'll get there.

Any questions, Senator Golden?

SENATOR GOLDEN: I have a quick question.

The states that did you the P3s, what were the outcomes?

MR. GRIBBIN: The outcomes ranged pretty widely. And it kind of depends on who's vantage point you're looking from. Right?

So, the outcome for the drivers, usually they get the facility they've been using before, in better condition than it's been in the past.

The outcome for the state, is that, they get infrastructure constructed at a cost significantly lower than it would cost them to do it. And, that they ultimately own it.

And, more importantly, as was mentioned before, any potential cost overruns, future maintenance obligations; all that gets passed away from the state.

The private-sector investment outcome has been a little more mixed. Has been talked about.

Some of these have been very, very successful, from an investor's standpoint. Some less so.

But, remember, in each one of those, that financial loss that the private sector took, outside of the P3 context, would have been borne by the public, by the taxpayers.

SENATOR GOLDEN: And how many states are you still currently working in?

MR. GRIBBIN: Right now, there are, about, 27, 28 states, that have P3 authority. There are about eight of those that have really aggressively

utilized them.

And Macquarie has been active in all of those. We've done every P3 in the U.S. in the last four years, with the exception of one that's closed. And that was Presidio Parkway in California.

SENATOR GOLDEN: And how many losses did you have --

MR. GRIBBIN: I'm sorry?

SENATOR GOLDEN: How many losses did you have?

MR. GRIBBIN: I mean -- well, we were the equity investor in South Bay Expressway, that Tom talked about earlier. So, that project did not turn out as well as the investors had hoped.

There was a global financial crisis. It was based on real estate. There were a number of factors that were built in there.

But, at the end of the day, California got an $800 million facility, that drivers are using as we speak.

SENATOR GOLDEN: Now, you're talking about pursuing public partnerships here -- public-private partnerships, with going into private entities.

You're talking about doing public properties here.

Do you also get involved with doing, like, Atlantic Yards, or -- which is private money, and we're going in with public and private dollars to get the loan organizations -- those for-profit organizations' dollars that keep their projects going?

MR. GRIBBIN: Yeah, I'm sorry, Senator. I'm having a hard time hearing you.

What was the question?

SENATOR GOLDEN: The projects that are going on right now -- we have some projects going on at Atlantic Yards, we have some project going on at the World Trade Center. We have some projects that have not yet gotten underway, over at the Jacob Javitz Center -- these are projects that just stalled out.

Would you go into a public partnership with those entities?

MR. GRIBBIN: Most of what we do is, we invest just in infrastructure, not commercial real estate.

And, so, our investors are, pension funds, including trade-union pension funds, and others. They're looking for a long-dated stable return.

So, we're looking for, you know, roads, trains, ports; things that are infrastructure-like

in their character.

The things like, commercial real estate, stadium development, that type of thing, Macquarie wouldn't typically invest in something like that.

SENATOR GOLDEN: They found those streams of revenues to be able to pay, right, for the -- for this private-public partnership?

MR. GRIBBIN: Yes.

SENATOR GOLDEN: Did the states, that you were already in, have they re-upped, and done another series of public-private partnerships as well?

MR. GRIBBIN: Yes, with a bit of a mixed record.

Texas jumped out early, about four years ago, with very aggressive P3 legislation.

The Governor championed it. Really, sort of sped a number of projects through. Got a backlash. And, then, that legislative authority was stripped away.

But, if you think of, Virginia, has been doing projects since before 1995.

Florida has done a number of them.

Texas has done a number of them.

California has done some -- a few. And,

then, public employees expressed concerns, so they backed away a little bit.

And, then, Puerto Rico has just gotten started. So...

SENATOR GOLDEN: Thank you very much.

MR. GRIBBIN: You're very welcome.

CHAIRMAN FUSCHILLO: Senator Dilan?

SENATOR DILAN: Yes.

In your testimony on the project execution, you mentioned that, with the exception of Puerto Rico and Virginia, that most states utilizing P3 have passed legislation.

How did Puerto Rico and Virginia do this without legislation?

MR. GRIBBIN: Oh, they have legislation.

What Puerto Rico did, and Virginia did, that was unique.

Virginia, just this year, set up an office inside of VIDOT, that focused just on P3s.

So, in the past, they had staffers that were spread across a dozen projects, also trying to do this very complicated and sophisticated procurement.

They did them, but it took years and years and years.

So, the suggestion is: Go ahead. And,

again, give the executive branch the legal authority, and the tools, they need to execute these projects.

SENATOR DILAN: Okay. Thank you.

CHAIRMAN FUSCHILLO: Mr. Gribbin, thank you very much. And I appreciate your patience, as well as the other expected speakers.

Dr. Joshua Schank?

TESTIMONY OF DR. JOSHUA SCHANK
PRESIDENT AND CEO
ENO TRANSPORTATION FUND

CHAIRMAN FUSCHILLO: How are you, Doctor?

DR. SCHANK: Hi.

CHAIRMAN FUSCHILLO: As you know, we have copies of your testimony.

DR. SCHANK: Yeah, I'll summarize real quick.

CHAIRMAN FUSCHILLO: I appreciate your patience, as well as the remaining speakers, as well.

DR. SCHANK: Sure.

Well, thanks for having me here.

Just so you know, I'm the president and CEO of the Eno Transportation Foundation. It's a 90-year-old transportation organization, founded by a traffic pioneer, William P. Eno.

And, what we do is, we are a neutral voice on key transportation policy issues. So, I have no horse in this race. We're just a, pure, analytical organization. And I think that you will hear kind of a balanced perspective, or you've seen a kind of a balanced perspective in the testimony.

There are, really, three basic points of the testimony, one of which has already been said several times, which is, that P3s are not a substitute for funding. So, don't think of them that way.

Number two is: That they can provide substantial benefits to the public, if they are done correctly.

And, three is: That the success or failure really hinges on the contract.

CHAIRMAN FUSCHILLO: Let me ask you a question.

DR. SCHANK: Go ahead.

CHAIRMAN FUSCHILLO: Sorry to interrupt you.

What makes New York attractive for P3s?

I mean, I understand the framework. And we have heard testimony since 10 a.m. this morning, about how we frame this.

But, what makes New York attractive?

DR. SCHANK: I would say that the question is not so much, what makes New York attractive, as it is, how can New York maximize the benefits from being attractive?

So, you don't want to be attractive just because you would like to attract private investment. You want to attract private investment because you think it's a better way of delivering public benefits. Right?

CHAIRMAN FUSCHILLO: True.

DR. SCHANK: So, it's not so much, attracting public -- private-investor and private-investment sake. It's setting up a structure for P3s that ensures a good return to the public out there, for the taxpayer.

CHAIRMAN FUSCHILLO: Right. It's a good return for the public.

And also on the private side, for investor as well.

DR. SCHANK: Well, yeah, the private sector is not going to invest unless they see a good return.

But, what you don't want to do is, set up a situation, where the private sector comes in and takes advantage, because you have made it very

attractive for them, but you haven't necessarily put in place the right regulations.

CHAIRMAN FUSCHILLO: And we agree with that.

DR. SCHANK: Yeah.

So -- and the bottom line is, is that, the key factor in that, is getting employees, who are going to be negotiating these contracts, the skills to do it.

I mean, if you look at the number one reason why the contracts are poorly negotiated, it's because the private sector comes in with a lot of advantages in negotiating those contracts.

The public sector has less experience, and they're scared to walk away because they don't want to not deliver the project. And, it puts them in a very difficult situation.

If you want to do something, it's getting the public sector to the skills necessary to negotiate these agreements effectively.

CHAIRMAN FUSCHILLO: We agree.

No, I have no questions.

I have looked at your testimony. And I -- you know, it's critically important; that, this has been going on too long here in New York State, the discussion of this, for many years, if not decades.

And we need to make sure that the framework is workable, number one.

But, also, that there are options for alternative funding because -- I'll take the Tappan Zee Bridge, for an example.

It's been estimated, up to $16 million. We just don't have the money for that, and that needs to be done.

DR. SCHANK: Right. And the Tappan Zee is a great example. There's a place where you already have tolls in place.

CHAIRMAN FUSCHILLO: Right.

DR. SCHANK: So, it's not like you're introducing tolls out of the blue.

And if you're able to get a private-sector party that will take on the financial risk, as well as the political risk, frankly, of raising those tolls, then that could be an opportunity to make an investment were you might not otherwise be able to make one.

That's very different than taking an existing asset, and leasing it out for a price.

CHAIRMAN FUSCHILLO: Right.

DR. SCHANK: Those are two different things.

CHAIRMAN FUSCHILLO: There is a fixed revenue

stream there as well.

DR. SCHANK: There's a fixed revenue stream. And, it's in desperate need of renovation. So, you're going to get something that you had to deliver anyway, but you don't have the funds to do.

And that's the place where you would want to make it attractive for the private sector.

CHAIRMAN FUSCHILLO: Thank you very much.

Senator?

SENATOR DILAN: No.

CHAIRMAN FUSCHILLO: No?

SENATOR DILAN: No. Thank you.

CHAIRMAN FUSCHILLO: Okay, thank you very much.

I appreciate the testimony that you submitted to us.

Marc Herbst?

TESTIMONY OF MARC HERBST
EXECUTIVE DIRECTOR
LONG ISLAND CONTRACTORS' ASSOCIATION

CHAIRMAN FUSCHILLO: Hi, Marc.

MR. HERBST: Good afternoon.

CHAIRMAN FUSCHILLO: Welcome.

As I've stated to the previous speakers, thank you for your patience.

MR. HERBST: Thank you, Senator.

Senators, good afternoon. Thank you for allowing us to testify.

My name is Marc Herbst. I'm the executive director of the Long Island Contractors' Association.

I know you have your testimony, and you want to get through this quick.

D.J. Gribbin said he would be the shortest speaker. I love a challenge.

So, I will simply say, thank you.

Senator, we have talked, at great length, over the PPPs. And we are encouraging you to move forward with this process. And, we thank you for this hearing.

As you know, New York State is no longer capable of building or sustaining the current infrastructure. We used to lead this nation as the economic engine. We're no longer there.

The money that's necessary to keep this state going is not available. And you are faced with the difficult choice of having to raise taxes, gas fees, tolls, whatever, in order to sustain the infrastructure that needs to take place.

That's a very difficult situation to be in,

politically, to make those decisions, because you will be retired. So, the only opportunity is, to look at all alternatives.

PPPs are something that we have advocated for, as well as design-build, and the infrastructure bank that the previous speaker spoke of.

The commissioner did an excellent job of outlining the whole process that DOT could do.

And, Sam Barend has been someone we've worked with throughout the years.

Her testimony, I will simply affirm, and conclude, saying, that we support those views.

To build this economy, we have to put men and women to work.

And, that's what we're willing to do to help you.

CHAIRMAN FUSCHILLO: And I appreciate it. You have been outspoken on this for a long time. And I've had the pleasure of participating in your roundtable discussion, with Jay Walder, and Commissioner McDonald, when she was first approved by the senate.

One of the key factors -- and you state here in your testimony, and I'll be parochial in this sense -- that, you remind us that, in Long Island

alone, the heavy-construction industry contributes nearly $4 billion to the local economy. And that's a significant part here.

And one of the consensus among all of my colleagues that are here now, remaining, and those that were here before, is that, this is getting New York State, literally, back on the right track.

And the unemployment in the construction industry is staggering. The numbers hit by the trades as well.

And you and I have talked about that.

You know, Marc, one of my focuses has been, and I have repeatedly said this, is that, we need to provide all options for transportation needs here, because the state, its economic condition, just doesn't, simply, have the money.

And I appreciate the support that you have given me on this because, if we don't do this, we're going to go down the same path we are going to keep going down.

And the previous speaker talked about, we brought up the Tappan Zee Bridge. I think, this year, it's going to cost $130 million alone, just to maintain it. And it's about time we properly maintain it, but build a new one as well.

MR. HERBST: Well, I hope that process with the Tappan Zee moves forward.

I served as the executive project manager many years ago. And I think that the need was known, and recognized, at that time, but the decision process has not moved forward.

And this will be an extra tool, if you have the ability to fund it, because I think that's the biggest deterrent in advancing what's desperately needed.

CHAIRMAN FUSCHILLO: I think that's key.

And we've also heard from many speakers as well, about proceeding with caution too, to not make the same mistakes that other states have done as well.

But, the strategic asset management plan that Sam Barend had talked about, when she was the executive director under the Paterson Administration, really lays out the issues, the problems, we face. Obviously, specific bridges.

But, as I have stated to you before, that there are short-span bridges in need of repair as well. And I would like to see them not put on the back burner. In certain areas of the state, they are critically important.

And we've seen projects on Long Island, Moose Creek and other bridges, that have taken forever to be completed.

Our infrastructure is sick, and it needs a doctor soon. And I think P3s are, not necessarily the end be-all of the answer, but it's going to provide the options that we need here in New York State.

MR. HERBST: Certainly. It's an extra tool in the toolbox to do what has to be done for this state.

And, you know, coupling all the bridges, the short-span bridges, I think is an excellent concept, because most of the bridges that are in deficient conditions are the smaller ones. And they're neglected.

They're looking at the big ones; the Tappan Zee.

CHAIRMAN FUSCHILLO: Right.

MR. HERBST: But there's others. And there's more serious issues in the local communities that need to be addressed.

CHAIRMAN FUSCHILLO: Any questions?

SENATOR DILAN: No.

CHAIRMAN FUSCHILLO: Marc, thank you very

much.

MR. ROSEN: Thank you, Senators.

And I appreciate your time.

Jay Simpson.

TESTIMONY OF JAY SIMSON, CAE

PRESIDENT

ACEC NY

CHAIRMAN FUSCHILLO: Jay, thank you for your patience.

MR. SIMSON: Thank you.

Mr. Chairman, Senators, thank you for the opportunity to be here.

You've got my testimony.

I did want to highlight just a couple of things.

You mentioned that our infrastructure system is sick. And I equate it to the circulatory system, or the skeletal system, of a 90-year-old, and we're competing against 20-year-olds in the economic world.

And, other states are investing, and other countries are investing. And if we don't do that, all of the jobs, and all of the opportunities, are going to go somewhere else.

It goes beyond business. It also goes to our

quality of life.

P3s will allow us to reinvigorate our system with less investment; the investments and the opportunities that we don't have right now in the state.

With company profits and cash flows on the line, on projects, they come online more quickly, which means, we can use these assets more sooner -- or, sooner.

One of the things that was mentioned is, the investment, and how things are done.

If somebody's got a 35-year project, and they're going to be responsible for it, they're not going to put a thin layer of pavement the first time they build this project.

They've got an interest in making sure that they don't have to send investment crews out every three weeks; or, even every three years. They want to make sure that this thing is built to the highest standards so that they can maintain their asset at the least cost.

So, people are going to get better investments.

People in traffic will gladly pay a little bit of extra money not to wait in traffic.

There's a -- one of the California roads cut down the commute by 40 minutes, each way.

If you're driving to work every day on that road, you now have the equivalent of 50 eight-hour days left every year, to spend with your family, or do things. And think of the productivity, that that affects companies.

One of the main reasons that public-private partnerships work so well is because you're using the ingenuity and the creativity of the private sector.

The private sector is more efficient.

And I point to, from when I took economics years ago, but it still works today: 100 years ago, it cost a penny to mail a letter in the U.S. It cost over a dollar to make a phone call.

Today, the cost, 1/20th of the amount to make a phone call, run by the private sector. It costs 44 times to mail it -- to mail; a stamp.

We are behind the curve.

Other states --

CHAIRMAN FUSCHILLO: And they're still -- and, Jay, they're still losing $2 billion a year.

MR. SIMSON: Even further making my point: We're behind the curve.

You heard the number; 20-some-odd states that are doing it. And there are a number of states looking at being able to put on public-private partnerships.

And, there are projects waiting for funds, that we need to do.

And there are companies, as you heard the experts from two key companies mention, that they have got money on the sidelines right now, waiting to come in.

We need to be able to bring those tools online.

One last thing that was -- I wanted to reference a comment made by Senator Young, when she was here. It seems like yesterday, but --

[Laughter.]

MR. SIMSON: -- the damage -- and the people were having flat tires, and massive damage to cars.

The amount of money that people are spending on the inadequate infrastructure that we've got is staggering.

And it's money that comes out of our pockets every day, and we need to look at that.

The other thing is, a lot of people have spoken about transportation. But, I think we need

to look at, you know, the water and energy and waste water as well, because those are other project opportunities that are being done throughout the world.

CHAIRMAN FUSCHILLO: I agree with you, Jay. And you can see, on roads, wherever we travel throughout the state, potholes, repairs, minor repairs, surface repairs.

We need to rebuild. And that's the bottom line.

I really appreciate your patience, and the time that you took spend here.

It does seem like yesterday when Senator Young had asked that question.

Any questions?

SENATOR DILAN: No.

Thank you very much.

CHAIRMAN FUSCHILLO: Thank you very much, Marc.

We have your testimony, and I appreciate it.

MR. SIMSON: Yes.

CHAIRMAN FUSCHILLO: Tom Minnick.

TESTIMONY OF TOM MINNICK
DIRECTOR OF GOVERNMENT AFFAIRS
BUSINESS COUNCIL OF NEW YORK STATE

CHAIRMAN FUSCHILLO: Hi, Tom.

Good afternoon.

MR. MINNICK: Thank you very much, Senator Fuschillo, Senator Dilan, and Senator Golden, for the opportunity of testifying today.

My name is Tom Minnick. I'm the director of government affairs at the Business Council of New York State.

I'm testifying on behalf of Heather Briccetti, our acting president and CEO at the Business Council.

Council represents over 2,500 businesses in New York State, and our companies employ more than a million employees; and, New Yorkers.

Our members are very interested in the opportunities presented by public-private partnerships, or "P3s."

The nation, and New York State, face daunting infrastructure needs; from educational facilities, to water and wastewater facilities, public safety centers, information technology infrastructure, to

IT services and transportation needs.

P3s offer a means for New York State to address these needs in a way that helps further community economic objectives.

Infrastructure needs much more than just roads and bridges, and P3s should be thought of in the broadest sense of infrastructure.

CHAIRMAN FUSCHILLO: Tom, let me interrupt you for a second.

Economically, the state not having this, has the Council ever done any estimates on the impact that we have, economically, to the state?

MR. MINNICK: Not specifically, no.

CHAIRMAN FUSCHILLO: Yeah, I would be curious.

Do they -- your support is very important; because, as you heard from Marc Herbst, from Long Island Contractors' Association, the economic impact, just to the Long Island region, is -- from the contractors, is nearly $4 billion.

And us getting people back to work is critically important here in the state.

And I'm sure, obviously, Business Council supports that.

MR. MacMILLAN: Well, we do.

And I guess a number we normally use is, we need to employ, or get back to work, half a million people in New York State --

CHAIRMAN FUSCHILLO: Right.

MR. MacMILLAN: -- to get back to pre- -- to get back to the employment levels prior to 2007.

CHAIRMAN FUSCHILLO: Yeah, because just there's too many people unemployed in this state.

The -- has the Business Council done an economic analysis of what this would mean, as far as reducing debt to New York State as well?

MR. MacMILLAN: No, we haven't.

CHAIRMAN FUSCHILLO: I would be curious to see if they could provide that. That would help us out tremendously with the debt payments, you know, that we pay on an annual basis as well.

We have your testimony. And I apologize for cutting you off, but we're only here for a few more minutes, and we still have another speaker.

If you want to just summarize, that would be great.

MR. MacMILLAN: Why, sure.

CHAIRMAN FUSCHILLO: Thank you.

MR. MacMILLAN: Of course, much P3 research has already been done.

You know, we look back at the June 1, 2009, report from the New York State Commission of the State Asset Maximization.

That commission supported the advancing of public-private partnerships. And I know you're, you know, familiar with the results of that study.

As far as the Business Council is concerned, you know, we can't continue to rely on Washington to get our fair share of funding back to New York. And P3s would help to supplement these important infrastructure needs.

The growing use of P3s for transportation and other projects in the United States, and across the globe, demonstrates a sensible alternative to traditional funding and procurement.

Carefully crafted P3s would help avoid additional taxes, reduce the state's reliance on borrowing, green the environment, adopt to a changing global economy, and create jobs.

Thank you very much for this opportunity to testify.

CHAIRMAN FUSCHILLO: Tom, thank you very much, and I appreciate your testimony.

Thank you.

Jeff --

Let me see if I can get this right, Jeff, before you come down here.

-- Frediani?

MR. FREDIANI: Close enough.

CHAIRMAN FUSCHILLO: Really?

TESTIMONY OF JEFF FREDIANI
LEGISLATIVE ANALYST
AAA NEW YORK STATE

CHAIRMAN FUSCHILLO: Jeff, we've saved -- I don't want to say that there's still speakers here. I can't say, "We saved the best for last"; but, we saved the one, critically important, for last as well.

And, I appreciate your patience.

Can you pronounce your name for the record.

MR. FREDIANI: I'm Jeffrey Frediani. I'm the legislative analyst with AAA New York State.

CHAIRMAN FUSCHILLO: "Frediani."

I didn't do such a good job on that.

MR. FREDIANI: That's all right. I'm used it to by now.

CHAIRMAN FUSCHILLO: I'm going to ask you to summarize your testimony. We would really appreciate that.

MR. FREDIANI: Sure.

Just a quick couple of points.

I'm here to say, that: AAA believes that public-private partnerships have a role to play when addressing the transportation challenges that face New York State.

Just a couple of things we want to make sure, that we believe, are included in any potential deal, is that:

We want to make sure that the public-private partner really adds value;

That, they also provide a better customer service, in return for potential higher tolls that drivers will be required to pay;

And, that they balance the interests of all stakeholders.

There are, pretty much, two basic principles that will guide us when we lend support to particular P3s.

One is: That, public-private partnerships must be structured to ensure that fees paid by motorists are not diverted to non-transportation issues.

And, secondly: That, transportation revenues collected from motorists, fairly represent the cost of using the system.

And, then, like I said, real quick, let me conclude, just by saying, that there are two line-in-the-sand issues for us, with respect to P3s.

One is: That, if the motivation for a P3 is to generate up-front cash that can be used to solve statewide budget problems, or finance other expenditures not related to transportation, we would oppose that deal.

And, two: P3s must be open to a forthright and deliberate process that allows time for public input and debate.

And, hopefully, we feel that we are, hopefully, past the initial hype of the first generation of P3s that cause, and that we can go forward, and engage in an open and considerate debate.

And, we look forward to being a productive voice in those discussions.

CHAIRMAN FUSCHILLO: And I hope so as well, with that last point that you made.

And I appreciate the advocacy of AAA. It's been very important to this committee as well.

And, I thank you for your testimony.

We have it. We'll put it in the record.

And as I've stated to the previous speakers, I thank you for your patience, and understanding.

The hearing did go a lot longer.

And I want to thank my colleagues, the ranking member of the transportation committee, Senator Marty Dilan, on my right; and on my left, Senator Golden; and, to the capital board member, for staying with us today.

This hearing is very important to us in the future of transportation needs, here in New York State.

And I want to thank all of those who have testified. And, I wish everybody a good day.

Thank you very much.

That concludes the hearing.

* * * * *

(Whereupon, at 3:53 p.m., the Senate Transportation Committee hearing was concluded.)