



## State of New Jersey

OFFICE OF THE GOVERNOR  
P.O. Box 001  
TRENTON, NJ 08625-0001

PHILIP D. MURPHY  
Governor

March 4, 2024

### VIA CERTIFIED MAIL AND EMAIL

Paul L. Friman  
General Counsel & Corporate Secretary,  
Triborough Bridge and Tunnel Authority,  
2 Broadway, 24th Floor  
New York, New York 10004  
pfriman@mtatb.org

CBD Tolling Program  
2 Broadway, 23rd Floor  
New York, New York 10004  
Cbdtf.feedback@mtatb.org

**Re: Comments from Governor Murphy Regarding the Metropolitan Transportation Authority ("MTA") Central Business District ("CBD") Tolling Program**

Dear Mr. Friman and CBD Tolling Program:

The State of New Jersey ("New Jersey") submits this letter to the Triborough Bridge and Tunnel Authority ("TBTA") to notify it of the severe flaws inherent in its abbreviated rulemaking process regarding the toll structure of the MTA CBD Tolling Program (the "tolling scheme"). In the rush to implement a first-in-the-nation congestion pricing scheme, the TBTA and the MTA have failed to engage in an adequate rulemaking process in violation of the New York State Administrative Procedure Act ("SAPA") and the MTA Reform and Traffic Mobility Act ("TMA"). Moreover, the tolling recommendations being considered by the TBTA raise significant concerns that the adopted tolling scheme will be contrary to state law, as well as arbitrary and capricious and unconstitutional. Finally, as explained in New Jersey's briefs in *New Jersey v. Dep't of Transp. et al.*, Case No. 2:23-cv-03885 (D.N.J.), the tolling structure recommended by the Traffic Mobility Review Board ("TMRB") is the result of a failed environmental analysis that violates the National Environmental Policy Act ("NEPA") and the Clean Air Act ("CAA") and therefore must be revised to ensure that it complies with state and federal law.

#### **I. The TBTA Must Engage in a More Robust Rulemaking Process.**

In its proposed rulemaking announcement, the TBTA stated that the tolling scheme is "within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act." New York State Register, Vol. XLV, Issue 52, Dec. 27, 2023, at 48. If true, that would enable the TBTA to avoid various procedural requirements. But, this is an erroneous application of the SAPA definition of a "Rule" and yet another thinly-veiled attempt to evade the analyses required under the law. This is the latest attempt by the TBTA to implement its scheme quickly and without proper evaluation.

SAPA Section 102 defines “Rule” to include two types of rules. Section 102(2)(a)(i) defines a “Rule” to include any agency statement, regulation or code that “*implements or applies law*” or “prescribes *a fee charged by or paid to* any agency.” *Id.* (emphasis added). That is exactly what the tolling scheme is—an implementation of the TMA and the setting of a new fee charged by and paid to the MTA and the TBTA. Indeed, the TMA expressly vests the TBTA with the authority to “*make rules and regulations* for the *establishment* and collection of central business district tolls, *fees*, and other charges.” TMA § 1704-a (emphasis added). The tolling scheme thus squarely fits into the definition under Section 102(2)(a)(i).

In contrast, Section 102(2)(a)(ii) defines a “Rule” as “the amendment, suspension, repeal, approval, or prescription for the future of rates, wages, security authorizations, corporate or financial structures or reorganization thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs or accounting, or practices bearing on any of the foregoing whether of general or particular applicability.” *Id.* This type of Rule typically applies to situations where agencies propose to adopt measures impacting existing frameworks related to changes in rates, franchise rate changes, utility payments, facilities, or modifications of an existing structure of a rule.<sup>1</sup> The tolling scheme at issue here does not fall within the definition of a Rule under Section 102(2)(a)(ii) because it is a completely new rule, implementing a new law, which itself creates a first-in-the-nation congestion pricing scheme.

This distinction between a Section 102(2)(a)(i) Rule and a Section 102(2)(a)(ii) Rule matters. For example, a Section 102(2)(a)(i) Rule requires an agency to issue the following reports and analyses:

- (1) Regulatory Impact Statement (SAPA § 202-A(2));
- (2) Job Impact Statement (SAPA § 201-A(2)(b));<sup>2</sup>
- (3) Regulatory Flexibility Analysis for Small Businesses (SAPA § 201-B(1));<sup>3</sup> and

---

<sup>1</sup> Compare *In re Schwartzfigure v. Hartnett*, 632 N.E.2d 434, 436 (N.Y. 1994) (Section 102(2)(a)(i) applied to rule implementing 50% set-off policy for disability payments because “a rigid, numerical policy invariably applied across-the-board to all claimants without regard to individualized circumstances . . . falls plainly within the definition” of Section 102(2)(a)(i)), and *In re Car Barn Flats Residents’ Ass’n v. N.Y. State Div. of Hous. & Cmty. Renewal*, 708 N.Y.S.2d 556 (N.Y. Sup. Ct. 2000) (Section 102(2)(a)(i) applied to rule altering rent reductions for certain buildings), with *Matter of Eligibility Criteria for Energy Serv. Cos.*, 2020 WL 5732650 (N.Y. P.S.C. Sept. 18, 2020) (Section 102(2)(a)(ii) applied to a rule adopting changes to the retail energy market, including enhancing eligibility criteria, improving transparency of pricing, and prohibiting certain offerings), and *In re Hudson River Sloop Clearwater, Inc. v. N.Y. State Pub. Serv. Comm’n*, 119 N.Y.S.3d 390 (N.Y. Sup. Ct. 2019) (Section 102(a)(ii) applicable to a rule that would increase utility payments), and *In re Retail Access Bus. Rules.*, 2019 WL 4726084, at \*1 (N.Y. P.S.C. Sept. 23, 2019) (Section 102(2)(a)(ii) applied to a rule modifying business practices and price structure for energy service companies), and 1997 Op. N.Y. Att’y Gen. 7, 1977 WL 28934 (Jan. 13, 1977) (Section 102(2)(a)(ii) applied to a rule approving rate amendments for cable television franchises); *In re Vill. of Greenburgh*, 2005 WL 834307 (N.Y. P.S.C. Apr. 7, 2005) (Section 102(2)(a)(ii) applied to waiver requests for cable television franchising rules).

<sup>2</sup> The tolling scheme clearly impacts jobs and employment opportunities. The implementation of a fee for entering the CBD adversely impacts those traveling for or seeking work within the CBD, as well as all transportation professionals who regularly enter and exit the CBD (such as for-hire vehicle drivers).

<sup>3</sup> Likewise, small businesses will clearly be impacted by the tolling scheme. For example, New Yorkers Against Congestion Pricing Tax (an organization representing individuals and businesses), several New York residents, and small business owners are currently litigating the negative impacts the tolling scheme will have on their businesses, including increased cost of business, loss of consumers, and increased health risks. See *New Yorkers Against Congestion Pricing Tax et al. v. U.S. Dep’t of Transp., et al.*, Case No. 1:24-CV-00367 (S.D.N.Y. Jan. 18, 2024). Other small business owners have raised their concerns with the tolling scheme to the press, emphasizing the loss of customers that will result. See, e.g., Samantha Liebman, *Some Small Businesses Fear Congestion Pricing*, SPECTRUM NEWS (Dec. 4, 2023), <https://ny1.com/nyc/all-boroughs/transit/2023/12/04/some-small-businesses-fear-congestion-pricing>.

(4) Rural Area Flexibility Analysis (SAPA § 201-BB(2)(b)).

In contrast, a Section 102(2)(a)(ii) Rule is exempted from each of these requirements. In fact, SAPA § 202(5)(b) exempts agencies promulgating Section 102(a)(ii) Rules from the requirement to provide an assessment of public comments made in response to the proposed rule—including an analysis of all issues raised and significant alternatives suggested. *See id.* § 202(5)(b). Section 102(2)(a)(i) Rules are not exempt from that requirement, and agencies promulgating such rules are required to “publish and make available to the public an assessment of public comment.” *Id.* By categorizing the rule as one falling under Section 102(a)(ii), the TBTA seeks to evade this demand.

The TBTA’s classification of the tolling scheme is a clear attempt to circumvent these statutorily mandated requirements and deny the public meaningful comment on a tolling scheme that was never considered as part of congestion pricing’s (insufficient) NEPA analysis. The decision to categorize the tolling scheme as one not requiring these analyses will render the ultimate tolling scheme procedurally defective, arbitrary and capricious, and contrary to law. *In re Med. Soc’y of State of N.Y., Inc. v. Levin*, 712 N.Y.S.2d 745, 752–53 (2000), *aff’d* 723 N.Y.S.2d. 133 (App. Div. 2001) (inadequate Regulatory Impact Statement and absence of Regulatory Flexibility Analysis found as failure to substantially comply with SAPA, rendering new regulations “null and void as contrary to law and lawful procedure”). New Jersey urges the TBTA to classify the tolling scheme as a Section 102(1)(a)(i) Rule and undertake the fulsome review demanded by law.

**II. The TMRB Recommendation Is Inconsistent with the TMA, Which Requires Tolling of Vehicles Remaining in the CBD.**

The TMA requires the TBTA to establish and charge tolls for vehicles “entering or *remaining in*” the CBD. TMA § 1701 (emphasis added); *see also id.* §§ 1703(3), 1704-a(1).

Even the MTA and the TBTA previously recognized that this statutory language requires a different approach than the one reflected in the TMRB recommendation. In its Final Environmental Assessment (“Final EA”), the Federal Highway Administration (“FHWA”), along with the MTA and the TBTA, envisioned that this requirement would be fulfilled by monitoring vehicles as they enter *and exit* the CBD, with a toll extracted both on the day the vehicle enters the CBD and the day the vehicle exits the CBD. *See* Final EA at 2-10 (“If a passenger vehicle enters the Manhattan CBD on Monday and is parked until it leaves on Wednesday, it would be charged upon entering on Monday and for remaining when it drove through the Manhattan CBD on Wednesday to leave.”). The TMRB recommendation being considered by the TBTA, however, only tolls vehicles when they *enter* the CBD. In turn, the recommendation allows vehicles to “remain in” and operate throughout the CBD without any additional toll.

While the approach reflected in the Final EA itself fell short of the statute’s requirement, the current approach is a clear abdication of both the plain language of the TMA and the legislative intent behind it. The failure of the TMRB or the TBTA to provide any explanation as to why they did not abide by the express statutory language of the TMA is plainly unlawful and arbitrary and capricious. The TMA expressly provides that a toll be levied on vehicles “entering or remaining in” the CBD. The legislature’s use of this phrasing was no mistake, and appears throughout the TMA. *See, e.g.*, TMA §§ 1701, 1703(3), 1704-a(1). Moreover, the terms “entering” and “remaining” are not synonymous, and must each be accorded their own meaning.<sup>4</sup> That is, the TBTA must impose a toll when a vehicle

---

<sup>4</sup> *See, e.g., Rocovich v. Consol. Edison Co.*, 583 N.E.2d 932, 935 (N.Y. 1991) (“It is an accepted rule that all parts of a statute are intended to be given effect and that a statutory construction which renders one part meaningless should be avoided”). Indeed, courts have ascribed two separate meanings to the words “enter” and “remain” when

enters the CBD *and* when it remains in the CBD. By tolling vehicles only upon entry into the CBD, the TMRB recommendation improperly reads out of existence the legislature’s intent of tolling vehicles remaining within the CBD.<sup>5</sup>

This intent is clearly evinced not just by the TMA’s clear language, but by the very purpose of the tolling scheme—to *decrease* congestion within the CBD. TMA § 1701. The TMRB recommendation thwarts this purpose by failing to toll drivers who remain in and drive within the CBD. Indeed, under its recommendation, residents of the CBD would be able to drive and contribute to congestion within the CBD every single day without *ever* incurring a tolling charge, so long as they do not exit and reenter the CBD. This aspect of the TMRB recommendation is thus directly at odds with the purpose of the TMA.

Neither the TMRB nor the MTA offers any explanation for why they do not recommend tolling vehicles “remaining in” the CBD, as required by the TMA. Indeed, there is no technological barrier to tolling within the CBD, and doing so will more fairly allocate the tolling costs by charging vehicles based on how much congestion they actually contribute to the CBD. Notably, London’s Congestion Charge system charges drivers a daily fee for driving *within* the charging zone, not just for entering. London installed cameras within its Congestion Charging Zone—not just at the perimeter—and those cameras read license plate numbers as vehicles enter, leave, or drive within the charging zone.<sup>6</sup> A similar system, which would comport with the TMA, should be employed in the CBD to ensure that the toll burden is more equitably distributed among drivers based on the extent of their operations in the CBD. New Jersey urges the MTA and the TBTA to consider tolling vehicles based on how long they stay in the CBD and contribute to congestion—as the TMA requires.

### **III. The TMRB Recommendation Is the Result of a Failed Process, and Revisions Are Necessary to Ensure it Complies with Federal Law.**

New Jersey reiterates and incorporates the allegations made in its lawsuit against the Department of Transportation and the FHWA, among others, regarding the FHWA’s abandonment of its duties to properly evaluate the tolling scheme under NEPA and CAA. *See New Jersey v. U.S. Dep’t of Transp.*, Case No. 2:23-cv-03885 (D.N.J.) at Dkt. 86. The MTA and the TBTA intervened in that lawsuit in October 2023. *Id.* at Dkt. 33.

Most prominently, New Jersey’s lawsuit challenges the failure of the FHWA, as well as the MTA and the TBTA (as Project Sponsors), to account for and rectify the myriad ways in which the tolling scheme adversely affects New Jersey residents and communities. Collectively they have, among other things, failed to properly evaluate how increases in traffic diversions, noise, and air pollution will affect New Jersey communities outside of New York.<sup>7</sup> And as the TBTA itself has

---

interpreting the phrase “enter or remain” in other statutes. *See, e.g., People v. Licata*, 268 N.E.2d 787, 789 (N.Y. 1971).

<sup>5</sup> For a more detailed analysis of the statutory text, see the Final EA, App’x 18-C at 1962–63.

<sup>6</sup> By the end of last year, the MTA had already installed 60% of the tolling infrastructure—only around the CBD perimeter—and stated it would continue construction during the public review process. *See* MTA Press Release, MTA Board Votes to Begin Public Review Process for Central Business District Tolling Rate Schedule (Dec. 6, 2023), <https://new.mta.info/press-release/mta-board-votes-begin-public-review-process-central-business-district-tolling-rate>.

<sup>7</sup> As one example, the FHWA failed to adequately analyze how the tolling scheme will exacerbate preexisting pollutant and chronic disease burdens in communities with environmental justice concerns, including in New Jersey, where the

admitted, the tolling scheme now proposed—which includes longer peak-hour pricing than ever considered and a mixed bag of crossing credits sure to invite toll shopping—was not evaluated at all during the flawed NEPA analysis and will require re-evaluation. Thus, no one actually knows the air quality impacts or consequences that communities with environmental justice concerns will have to bear as a result of this proposed tolling scheme. This blatant NEPA violation undermines any credible claim that the FHWA or the Project Sponsors actually considered the tolling scheme’s environmental impacts.

As you are aware, New Jersey moved for summary judgment on its NEPA and CAA claims, seeking vacatur of the FHWA’s Final EA and Finding of No Significant Impact. The MTA, and the TBTA cross-moved for summary judgment. The parties’ motions are fully briefed and await decision. Nonetheless, the TBTA has plowed ahead with its rulemaking under SAPA without permitting the Court to first make its decision.

#### **IV. The TMRB Recommendation and the Proposed Rulemaking Will Discriminate Against New Jerseyans.**

The TMRB recommendation and the proposed rulemaking, if enacted, will likely discriminate against New Jerseyans—especially low-income New Jersey drivers who are not eligible for a low-income tax credit (unlike low-income drivers residing in the CBD)—and the tolling scheme will not fairly approximate use of the CBD by New Jersey residents and CBD residents. Further, the recommendation and proposed rulemaking confirm that only the Lincoln and Holland Tunnels will be eligible for a crossing credit, and the George Washington Bridge (“GWB”) will not—a decision that further discriminates against New Jersey drivers. These aspects of the tolling scheme, if not revised, may give rise to dormant Commerce Clause, Privileges & Immunities Clause, and Privileges or Immunities Clause claims against the MTA and TBTA.<sup>8</sup>

#### **V. New Jersey’s Recommendations for the Proposed Rulemaking.**

New Jersey will continue to pursue its legal challenges to the proposed tolling scheme. However, given the undue speed with which the MTA and the TBTA are seeking to implement congestion pricing, New Jersey is compelled to submit this comment letter in advance of its claims being fully adjudicated. New Jersey strongly urges the TBTA to implement the following measures that would help address the unfair and disproportionate economic and environmental burdens the tolling scheme will place on New Jersey, its residents, and its communities.

---

FHWA identified multiple communities in the 90th percentile for chronic disease burdens, including asthma, cancer, and hypertension. *See* Final EA, App’x 17, App’x to App’x 17D at 23–24. As another example, the FHWA failed to require the MTA/TBTA to commit to any mitigation measures in New Jersey, despite acknowledging, among other things, that sites in New Jersey around the GWB “demonstrated the highest [Annual Average Daily Traffic] and the highest increase in heavy-duty diesel trucks” of *any* area under *any* tolling scenario evaluated by the Final EA. Final EA, Chapter 10 at 10-47.

<sup>8</sup> New Jersey sought leave to amend its Complaint in *New Jersey v. U.S. Dep’t of Transp.*, Case No. 2:23-cv-03885 (D.N.J.), to, among other things, include these constitutional law claims against the MTA and TBTA. *Id.* at Dkt. 87. The Court denied leave to amend “without prejudice so that [New Jersey] may renew the request after the court adjudicates the existing claims.” *Id.* at Dkt. 112 at 3.

Recommendation No. 1: Provide crossing credits for those who use the GWB.

While the TMRB recommendation provides a \$5 crossing credit against the peak CBD toll rate for drivers entering the CBD from the Lincoln and Holland Tunnels, the recommendation fails to provide any crossing credit for drivers crossing the GWB and entering the CBD from north of 60<sup>th</sup> Street. Any credit system should treat all New Jersey-New York crossings equally. If only the tunnel crossings receive a credit, drivers will toll shop by avoiding crossing at the GWB and instead crossing at the Lincoln and Holland Tunnels. This would likely divert traffic to already overburdened communities near the tunnels, including Union City, Weehawken Township, North Bergen Township, Secaucus, and Jersey City. Granting credits of \$5 or more to all New Jersey crossings where drivers already pay a toll avoids this result.<sup>9</sup>

Recommendation No. 2: Increase the crossing credits for all New Jersey crossings.

As explained above, the TMRB recommendation provides only a \$5 crossing credit to vehicles entering the Lincoln and Holland Tunnels, accounting for just one-third of the CBD toll during peak-hour pricing (\$15).<sup>10</sup> New Jerseyans already pay a toll of \$15.38 to enter New York from the Lincoln and Holland Tunnels and the GWB, meaning that drivers will be required to pay \$25.38 *daily* (or \$30.38 if no crossing credit is approved for the GWB) simply to reach their destination or place of employment within the CBD. N.Y. Public Authorities Law Section 553-k requires the TBTA to consider “hardships” and “public impact” when implementing a pricing plan. Granting a higher credit, such as a full credit of the amount already paid, or alternatively, no less than \$10, to those who cross from New Jersey to the CBD ensures that (i) lower- and middle-income New Jerseyans (many of whom will not qualify for the TMRB’s proposed low-income discount) are not overburdened by this double tolling, and (ii) New Jerseyans are not improperly forced to pay a substantially higher amount (at least 1.25 times more) to enter the CBD than similarly-situated New York residents.

Indeed, the MTA and TBTA have acknowledged similar “hardships” to those individuals who live in the Bronx and Queens. While the TMRB recommendation does not provide a crossing credit for vehicles crossing into Manhattan over bridges that do not directly go into the CBD (such as the Henry Hudson Bridge and GWB), the MTA recently announced—within *hours* of voting to advance the rulemaking for its tolling scheme—that it will provide a *full rebate* for crossings on the Henry Hudson Bridge and Cross Bay Bridge, bridges primarily used by residents of the Bronx and Queens.<sup>11</sup> This new rebate—applying only to New Yorkers and New York-based crossings and ignoring similarly-situated New Jersey crossings like the GWB—is an implicit acknowledgment of the financial

---

<sup>9</sup> A credit for GWB drivers who enter the CBD within a reasonable time can be achieved by installing electronic toll equipment that would measure entry time into the CBD from the GWB.

<sup>10</sup> Any potential “lost profits” for the MTA resulting from increased crossing credits could be mitigated by the implementation of a toll for vehicles remaining in the CBD, as required by the TMA and explained above. Such a measure may not even be necessary due to the current projected revenues of the tolling scheme. As New Jersey Congressman Josh Gottheimer has reported, data shows that the MTA and the TBTA would easily meet their \$1 billion annual revenue goal under the TMRB recommendation without implementing *any* additional congestion pricing toll on New Jersey crossings. See *The Impact of MTA’s Congestion Tax on NJ Families*, <https://d12t4t5x3vyizu.cloudfront.net/gottheimer.house.gov/uploads/2024/01/Congestion-Tax-Report-The-Impact-of-MTAs-Congestion-Tax-on-NJ-Families-Gottheimer.pdf>. To date, the MTA has not released documentation regarding its calculation of projected revenues.

<sup>11</sup> MTA Press Release, ICYMI: Governor Hochul Announces Toll Rebates Coming to Bronx Resident Users of the Henry Hudson Bridge and Queens Resident Users of the Cross Bay Bridge (updated Dec. 7, 2023), <https://new.mta.info/press-release/icymi-governor-hochul-announces-toll-rebates-coming-bronx-resident-users-of-henry>.

hardships of the tolling scheme without additional credits. Funding for this rebate will come from the MTA-controlled Outer Borough Transportation Account, and the rebate has already been approved and is not being considered as part of the TBTA's toll setting rulemaking. By offering this credit through a side program and not through the tolling scheme itself, the MTA is again sidestepping the requirements of SAPA, and in doing so, engaging in arbitrary line-drawing of which groups receive additional credits and which do not. *See e.g. Metro. Taxicab Bd. of Trade v. N.Y.C. Tax & Limousine Comm'n*, 18 N.Y.3d 329, 334 (2011) (regulation was "arbitrary and capricious" where it constituted a contrived result to transfer money to particular groups). On top of that, by funding this rebate through a separate account, the MTA and TBTA arbitrarily exclude toll discounts that will adversely impact the MTA's billion-dollar revenue requirement.

Recommendation No. 3: Revise peak-hour pricing times.

The TMRB recommended peak-hour pricing from 5:00 a.m. through 9:00 p.m. This is a significant expansion from the hours of 6:00 a.m. through 8:00 p.m. contemplated in the Final EA and analyzed and approved by the FHWA. This extension of peak-hour pricing by an additional two hours every day will divert more traffic, over a longer period of time out of the CBD and into New Jersey than the amount the FHWA predicted (and ignored) in its Final EA. To prevent even greater environmental burdens on New Jersey communities than those identified by the FHWA, the TBTA should revert back to peak-hour pricing only for the hours of 6:00 a.m. through 8:00 p.m.—a time period that was at least analyzed as part of the Final EA.

Recommendation No. 4: No tolls during off-peak hours.

The primary goal of the tolling scheme is purportedly to reduce traffic in the CBD. Traffic is, of course, worst during rush hours and other peak travel hours. As traffic dwindles during off-peak hours, congestion is no longer a significant concern, and tolling is no longer an efficient or appropriate means of traffic reduction. Moreover, public transportation operates less frequently during off-peak hours, and commuters—for example, nurses headed to overnight shifts—may feel less safe travelling using public transit late at night. Eliminating CBD tolls during off-peak hours supports these commuters, while not adversely impacting traffic reduction goals. Indeed, congestion pricing schemes in other major cities—including London—only charge congestion fees during peak commuting hours.

Recommendation No. 5: Clarify that the low-income toll credit and crossing credits apply jointly.

New Jersey strongly supports the TMRB's recommendation that low-income drivers receive a 50% discount off the peak-hour toll after their first ten trips made to the CBD in a calendar month. New Jersey requests that the TBTA clarify that this toll credit applies in conjunction with any applicable crossing credit. When, for instance, a low-income driver enters the CBD from the Lincoln Tunnel for the eleventh time in a calendar month, that driver should be tolled only \$2.50—the total after deducting both the \$7.50 low-income credit *and* the \$5 crossing credit. Applying these two credits in conjunction best ensures that low-income drivers are not unduly burdened by the tolling scheme.

Recommendation No. 6: Provide additional credits or refunds to *all* low-income drivers so that they have parity with low-income drivers residing in the CBD.

The TMA contemplates a tax credit for individuals living in the CBD with an adjusted gross income of less than \$60,000, which the TMRB has recommended. *See* N.Y. Tax Law § 606(jjj). By its very nature, this tax credit provides no benefit to individuals that live outside the CBD, including low-income New Jerseyans, who will be similarly burdened by the recommended toll structure. To ensure that the tolling scheme does not place a unique and undue hardship on such individuals (as

instructed by N.Y. Public Authorities Law § 553-k), the TBTA should account for this inequality in the tolling scheme by offering an additional credit or refund for *all* individuals, including New Jerseyans, with an adjusted gross income of less than \$60,000.

\* \* \*

Given the significant public stakes involved in this first-in-the-nation congestion pricing scheme, the TBTA must ensure that it complies with all applicable state procedures, conducts an appropriately robust rulemaking process, and sets a final tolling scheme that treats drivers from both sides of the Hudson River fairly and equally.

Thank you for your review and consideration.

Respectfully,

  
Philip D. Murphy  
Governor