
Public Hearing

before

ASSEMBLY TRANSPORTATION COMMITTEE

ASSEMBLY BILL No. 3350

(The "New Jersey Transportation Enhancement and Congestion Relief Act")

LOCATION: North Jersey Transportation
Planning Authority
Newark, New Jersey

DATE: May 8, 2001

10:
00
a.m

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Alex DeCroce, Chairman
Assemblyman Richard A. Merkt
Assemblywoman Connie Myers
Assemblyman John S. Wisniewski



ALSO PRESENT:

Hearing Recorded and Transcribed by
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H. W. "Rusty" Lachenauer
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Assembly Democratic
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ASSEMBLYMAN ALEX DeCROCE (Chairman): Good morning, everyone.

This is a New Jersey General Assembly Transportation hearing. We are here today to listen to your comments on the fact that we are trying to prepare a bill which would create what we believe to be an answer to the old transportation development districts. We are calling it the transportation enhancement districts. And frankly, today we are going to hear from several of you.

As I say, it's a hearing. We're here to listen, because we're going to go to three sections of the state -- the northern, central, and southern part of the state -- to get everybody's views on this bill before we actually drop it in for consideration, because we may want to do things to improve it, and we need some time to talk with all of you and to have OLS work with us to do whatever is necessary to tweak the bill.

I'd like to introduce this morning people who are with us: Assemblywoman Connie Myers, who is a new member of the Transportation Committee here in the State and been working with all of us; along with Assemblyman Merkt; and Laura Neumann, who works with us in our staff; Rusty Lachenauer, who is from OLS and has been working with us; the Honorable John Wisniewski, member of the minority, who enjoys it, by the way (laughter); and Pat O'Connor, who is with his staff.

Pat, introduce your people.

MR. O'CONNOR (Democratic Committee Aide): This is John Fuller, who is also on the Assembly staff, and this is Jeff, who works for Assemblyman Gusciora.

ASSEMBLYMAN DeCROCE: Hi, Jeff. Great improvement, Jeff. (laughter) We're only teasing, Jeff.

So with that, I'm going to entertain the first person, George Ververides, who wants to speak, from the Middlesex Department of Planning.

Good morning.

GEORGE M. VERVERIDES: Good morning. I have 10 copies -- I give to whom? Rusty Lachenauer?

ASSEMBLYMAN DeCROCE: Pass them out if you want.
(referring to statements)

MR. VERVERIDES: Good morning, ladies and gentlemen. My name is George Ververides. I'm Director of County Planning with the Middlesex County Department of Planning, and I just have brief comments to make to the Committee from the department staff review of the--

ASSEMBLYMAN DeCROCE: Excuse me, are these mikes on?
(referring to PA microphones)

MR. VERVERIDES: No, apparently not.

Testing, 1, 2, 3.

ASSEMBLYMAN DeCROCE: Okay, that's on. Just bring it up close to you.

MR. VERVERIDES: Testing.

ASSEMBLYMAN DeCROCE: That's better.

MR. VERVERIDES: I'll start all over again. My name is George Ververides. I'm with the Middlesex County Department of Planning, and the comments I have this morning are a review of the proposed bill by the department's staff. We understand that the transportation enhancement district concept would replace the transportation planning and financing network that was set up under the New Jersey Development Act of 1989, which set up the transportation development district. TEDs are intended to simplify and expand the transportation planning and revenue generating tools that the State, county,

and municipal government can use. The TED concept expands the scope of potential assessment options that could provide new revenues for transportation needs generated by future development and also addresses needs created from existing transportation deficiencies.

We also note that counties and municipalities, in partnership with the New Jersey Department of Transportation and the private sector, would participate in the decisions on how to deal with traffic congestion and other transportation problems based on a local generated plan. The management, implementation, and development of ongoing policy and budget priorities of the TED plan is overseen by a Transportation Enhancement District Oversight Board, which includes both public and private sector representatives. We ask: Who appoints the members of the Transportation Enhancement District Oversight Board?

Under the TEDs, fees could be assessed on existing traffic generating properties to correct existing transportation problems and on future development to ensure that adequate transportation infrastructure is in place. The success of a TED is contingent on having agreement by the county, municipal, and NJDOT partners on what is an appropriate fee structure and an overall district transportation plan.

How would existing facilities and properties that generate traffic be assessed? Would there be any distinction on the levels of assessment for facilities/properties based on the amount of time that they have been in existence in the TDD area? Also, how would facilities/properties be treated that are located in areas outside of the TED boundaries but that generate off-site traffic affecting the TED district in question? These, we feel, have to be answered within the bill.

The TED will ensure that the public sector and the private sector each pay their fair share of the costs associated with needed roadway improvements and transit services that are included in the district plan. Under certain circumstances, there can be exemptions, waivers of development, and/or special benefit fees. TED revenues may be applied to development of the TED plan to include engineering, transit operating costs, and administration of the district. Again, we ask a question: What are the provisions for requesting waivers to TED related assessments?

Existing traffic generating properties and future development within a designated TED are not required to participate, as we see in the present law. This is purely a voluntary program. If a key development within a TED chooses not to participate, the burden then falls on the remaining designated properties.

Concerns are raised regarding available resources among county governments to develop a comprehensive transportation advancement plan and to oversee the engineering and administrative costs, which may include legal and court costs which the plans may generate and be contested. Presently, county budgets and staff are strapped by existing requirements and obligations, and outside funding sources need to be made available so that the counties and the municipalities, in partnership with NJDOT, can develop any TED plan.

We have just heard in the past day that a change in the Assembly Bill No. 3350 states, “that the draft district transportation enhancement plan may be in accordance with the State transportation master plan, the county master plan, consistent with the applicable regional transportation plan or plans,” and also, “that it may be in conformity with the State Development and Redevelopment Plan adopted under the State Planning Act.”

We strongly disagree with the word may -- provision -- and recommend that this language be changed such that the draft district

transportation enhancement plan shall be in accordance with the State transportation master plan, the county master plan, consistent with the metropolitan planning organization's regional transportation plan or plans, and that it shall be in conformity with the State Development and Redevelopment Plan adopted under the State Planning Act. We feel that these provisions are essential to making the district transportation enhancement program meaningful.

The counties, the municipalities just recently went through a long process of cross acceptance with the State plan, and we feel that this whole process would be greatly weakened if a TDD is basically a voluntary project and just may conform to these plans, and there's no requirement that it shall conform to these plans.

We thank you for the opportunity to offer our comments this morning, and we hope that these questions will help in the process of further review by the Committee of this particular Assembly bill.

Thank you, again.

ASSEMBLYMAN DeCROCE: Mr. Ververides, do you think there would be an interest on the part of Middlesex County to be involved with the program once changes may be made or may not be made?

MR. VERVERIDES: I think, based on the changes, we would be, yes. In fact, there are some municipalities we tried-- There is one municipality that is in the process of putting together a transportation development district. I don't know if they are adhering strictly to the present legislation, but they are in the process of putting a district together. And then in the southern part of the county, we've worked with a municipality and a major developer of that municipality and set up a transportation improvement program, whereby we are collaborating our capital improvement program with the municipality's and with the developer in seeing that improvements are made as that development occurs.

It's not strictly or it's not specifically a TED or TDD, but it's certainly a concept thereof.

ASSEMBLYMAN DeCROCE: Well, the purpose for going into something like this, frankly, is because the old TDD formulas just simply don't work.

MR. VERVERIDES: We understand that, and I think that's one of the reasons why Middlesex County hasn't been participating actively, because of the complications of that past bill.

ASSEMBLYMAN DeCROCE: Okay.

MR. VERVERIDES: But we still have questions regarding the revisions.

ASSEMBLYMAN DeCROCE: Anyone here have a question of Mr. Ververides? (no response)

Thank you very much, Mr. Ververides.

MR. VERVERIDES: Thank you.

ASSEMBLYMAN DeCROCE: Mr. William Wright, New Jersey Association of Railroad Passengers.

WILLIAM R. WRIGHT: Good morning, and thank you for the opportunity to make a testimony here today. I'm Secretary of New Jersey Association of Railroad Passengers. We are a statewide rail passenger, light-rail, and bus feeder advocacy group.

The object of mobility is to move people, not vehicles. For too long, rail extensions and restorations have languished while road capacity has increased manyfold. This disenfranchises the one in four Jerseyans who cannot or will not drive due to age, health, economic status, or simple fear of growing road rage. This bodes poorly for our future--

ASSEMBLYMAN DeCROCE: Bill, will you get closer to that mike, please? (referring to PA microphone)

MR. WRIGHT: Surely. This bodes poorly for our future mobility, as energy considerations must be at the forefront of future transportation planning. Not only is the encouragement of total auto dependence bad for air quality, it also produces excessive oil and salt runoff into dwindling freshwater reserves. The bankrupt philosophy of, if you don't drive, you don't count, is unacceptable, and future transport spending has to be skewed to both rail extensions and increased operating funds as well. Operating funds are essential to offset the huge subsidy to roads, most of which comes from too high real estate taxes.

The past overallocation of funds to road expansion, too often into open space, where it has been proven auto subsidy is the prime cause of sprawl, must be reversed. Thus, the full force of future investment must be directed to restore the Susquehanna, the Cutoff, service to Phillipsburg and beyond via both the M-and-E and the Raritan Valley, West Trenton, Monmouth-Ocean-Middlesex, or MOM, as well as the various light-rail projects being spearheaded by Assemblywoman Heck's Light Rail Panel, and certain southern New Jersey lines as well. Note, these are all restorations bringing back rail service along already established corridors with a viable market in place. Such rail restorations will also enhance the ability to actually make the State Land Use Plan by allowing transit villages to be clustered around rail stations. Bus feeders can be set up, too.

It is imperative now-dormant rail corridors be preserved and indicated on planning maps for future rail use so encroachments will not happen. The State will need these rights-of-way in the future, so their preservation is an investment in mobility. This is the crossroads -- either invest

money in rail for all residents or squander money on more roads, pollution, more energy waste, and social injustice by disenfranchising more citizens.

Thank you very much.

ASSEMBLYMAN DeCROCE: Thank you very much, Mr. Wright.

Any questions of Mr. Wright? Anyone? (no response)

Thank you.

The Assistant Commissioner of Planning, Research, and Local Government Services, Pippa Woods.

Good morning, Pippa.

ASSISTANT COMMISSIONER PIPPA WOODS:

Good morning, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Thank you for coming.

ASSISTANT COMMISSIONER WOODS: Good morning, Mr. Chairman, members of the Committee. I am Pippa Woods, Assistant Commissioner for Planning, Research, and Local Government Services at the New Jersey Department of Transportation. The Department is pleased to go on record in full support of A-3350, sponsored by Chairman DeCroce.

The Department would first of all like to commend Assemblyman for first sponsoring the law to create the Regional Intergovernmental Transportation Coordinating Study Commission, more commonly referred to as RITCSC by the members of the Commission, and secondly, for sponsoring the legislation under consideration today, A-3350, the New Jersey Transportation Enhancement and Congestion Relief Act. Third, it was the Assemblyman's initiative to hold three regional hearings on the proposed legislation to enable that a full and complete discussion of the issues -- some of which we have already heard today.

The Department of Transportation would also like to commend the public and private sector members who participated in RITCSC, and in particular, the Transportation Policy Institute for their hard work to come to closure on difficult policy, technical, and controversial issues. The RITCSC report is the basis for the legislation under consideration today and was undertaken over a full year of presentations by many interested parties.

The Department was a full participant in RITCSC, and we valued others' views, particularly on how to improve the concept of the transportation development district, which was created in 1989. We are here before you today in full support of the transportation enhancement district concept and the process by which such districts could be created in New Jersey.

The TED process seeks to place decisions about how to deal with congestion and other transportation deficiencies in the hands of county and municipal leaders in full partnership with the private sector and our department and also other transportation agencies. The TED is a totally voluntary process. It encourages good planning and provides incentives for local entities to solve local traffic congestion problems and to enhance their overall transportation system.

The TED process gives local leaders one more tool in their tool kit to help finance needed transportation improvements and services according to a locally generated plan. This is a great step forward for New Jersey communities who wrestle daily with the issues of traffic congestion. It enables the Department of Transportation to participate in a local transportation planning process and to be supportive and involved in that locally generated decision-making.

In summary, the Department enthusiastically supports the enactment of A-3350 and will be working with all interested constituents towards accomplishment of that goal.

Chairman DeCroce, thank you for the opportunity to provide a statement to the Committee today on this most important piece of legislation. Thank you.

ASSEMBLYMAN DeCROCE: Thank you, Commissioner, and let me thank you for participating with the RITCSC commission.

I should -- frankly, it's my fault -- but I should introduce members that are here. Chairman of that Commission, my good friend -- alongside of him, Fred Brody. Ray Zabihach, I'm sorry. Ray Zabihach, Fred Brody. I see Freeholder Paul Sauerland back there. Let's see, who else? Pippa. Carnegie from the Transportation Institute. We appreciate his work. He worked very hard on this, along with Pippa. Where's Donna? There's Donna. I'm sorry, Donna Orbach. And Cliff Sobel from the Northern MPO. Anybody representing the southern MPO here this morning? (no response) We'll see them in Cherry Hill is right, yeah. Thank you very much. Thanks, everybody, for coming.

Next to testify would be James Daley, County of Union, along with Mary Kay Murphy. I guess she's here.

Good morning.

JAMES DALEY: Good morning.

MARY KAY MURPHY: Good morning.

MR. DALEY: Mr. Chairman, thank you for providing us with an opportunity to make some comments on this legislation. I'm here with Mary Kay Murphy, who is our Project Manager for the existing transportation development district project in the county. I'd like to offer some comments and

make a few recommendations and a few questions regarding Assembly Bill No. 3350, the proposed New Jersey Transportation and Enhancement Congestion Relief Act. My name is Jim Daley. I'm here with my-- I'm Director of Policy and Planning for the county. And as I said, I'm here with Mary Kay Murphy.

First of all, I would like to commend Assemblyman DeCroce and Senator Ciesla and the Chairman of the Regional Intergovernmental Transportation Coordinating Committee, Ray Zabihach, for bringing forth an excellent piece of legislation. The draft legislation clearly shows that the Committee, along with the New Jersey Department of Transportation, is serious about making transportation districts work in New Jersey. You have been listening and working diligently to address the concerns and issues many of us have discussed with you over the past few months.

As you may already know, Union County is currently in the implementation phase of a transportation development district along the Route 1 and 9 corridor, including the municipalities of Elizabeth, Linden, and Rahway, under the New Jersey Transportation Development Act of 1989. The county has worked diligently over the past two years to define the transportation needs of the district and to put together a financial strategy that will support the development of the critical transportation improvements needed to continue the ongoing economic improvements and the resurgence of these densely traveled urban centers in the eastern part of Union County.

In the process of establishing the Route 1 and 9 TDD, we have encountered numerous obstacles in working within the existing State statute, which was crafted more to address development pressures in rural and suburban areas where rapid development of farmland and open space threatened to overpower local transportation infrastructure. Needless to say, the issues

surrounding the implementation of the transportation development district in eastern Union County are quite different. The challenges of applying the TDD legislation to an urban corridor have been at best complex, as we have encountered, at times impossible.

Given the background, we want to reiterate our support for the initial direction and intent implied by the recently released transportation enhancement legislation. The newly developed legislation addresses many of the key concerns we have expressed regarding the cumbersome nature of the existing TDD legislation. We are optimistic that with a few additional areas added or more fully emphasized in the legislation and subsequent regulations, that we'll see a number of TEDs develop across the state in the very immediate future.

Overall, we are very pleased to see that several of the barriers to the TDD implementation have been removed and that overall a more flexible approach to the TDD process has been recommended. Key issues addressed in the new TED legislation of which we are very supportive include: the removal of the growth thresholds; the expansion of financial plans to include existing developments in the plans; a realistic approach to the modeling process; an ability to use TED funds to pay for TED administration; a limitation on how long preliminary approvals hold relative to the TED; elimination of the build-out concept to be replaced with a reasonable expectation of growth; and an inclusion of transit capital and operating projects in the eligible project mix.

These and other significant changes put forth in the proposed legislation will make the TED concept far superior to the existing TDD construct. We would also like to generally frame out a few areas where we believe the TED legislation can be enhanced to ensure it is a tool that is technically doable, as well as sufficiently palatable to the numerous stakeholders who will be active participants in the process. The TED represents a unique

opportunity for the public and private sectors to partner in a common goal that will result in the transportation infrastructure needed to support existing and future economic development.

Now that I've had an opportunity to give my initial comments, I'd like to turn over the discussion to Ms. Mary Kay Murphy, Project Manager for the Union County Transportation Development District, who will lay out some specific recommendations.

MS. MURPHY: Thank you, Jim.

ASSEMBLYMAN DeCROCE: Good morning.

MS. MURPHY: Good morning.

ASSEMBLYMAN DeCROCE: No, the middle one. (referring to PA microphone) Both of them you need.

MS. MURPHY: The middle. All right.

Jim has laid out the background for you, and I'd like to frame out basically a set of recommendations that we'd like to see the Committee take back for consideration during the development of the final legislation. I'd like you to please keep in mind that there has not been a great deal of information exchanged to date regarding the intent and the interpretation of what is presented in the legislation. And I apologize in advance if we have misinterpreted your intent in these areas and look forward to working one-on-one with the State and the legislative body to better understand and refine the language behind this legislation.

In fact, we do have several detailed questions that we would like to discuss regarding issues such as in-kind credits, fair share standards, time frames for the Commissioner's approval of a TED, the assessment fees being banked or credits being bought and sold, as well as several issues concerning the core

areas, which we think are a very good idea and would work, but we'd like to understand better what the intent is behind that.

We did not think that this was the place to raise these very kind of specific issues, and, in fact, would like to ask or recommend that there be a more informal meeting held -- perhaps a workshop held before the final legislative hearing where we could interact with the appropriate staff, exchange ideas, and seek clarification of some of these more mundane, although for those of us trying to implement a TED, nonetheless important issues. So that's our first recommendation we'd like to put on the table.

As the core of our testimony today, we would like to put forward for your consideration three general themes that we believe should be expanded upon in the final legislation as you look to the future development of the TED regulations.

The first one would be to simplify, very simply put. First, we would like to address the very basic issue of simplicity. While the legislation does, in fact, direct all parties involved to arrive at formulas and projects that best fulfill their own needs, we do believe that the complexity of the bill may still be overwhelming to many and that serious consideration should be given to areas where consolidation or streamlining of the TED process might still be possible.

To offer a couple of examples, while it may be quite beneficial for the dual fee structure to be in place so that a district can, if desired, differentiate between new and existing development, it might be much simpler to have a single district assessment structure that applies to both new and existing development. In particular, Section 2(h) describes a situation wherein existing transportation deficiencies cannot be fixed using fees from new development. This division between new and existing system deficiencies will be extremely complicated to disentangle. In congested urban areas, most of the

transportation improvement is bound to address some of an existing problem, as well as create transportation system improvements needed for the new development. As both new and existing developments will benefit, why create the burden to separate their impacts?

In addition, a single assessment strategy would also eliminate the possible ambiguity of deciding when and how a new development becomes an existing development in the case where ongoing contributions are made for transit operations or other allowable uses. So there could be some hope for simplicity in that area.

The other area where there may be room for a more simplified approach to the TED construct is in the area of out-site improvements. There are clearly improvements that a developer is required to do for the sole benefit of their project that should not be part of the TED project mix. While we commend the apparent intention -- and we can discuss this at this workshop hopefully -- behind Section 11 that, "No separate assessment of off-site transportation improvements within the districts shall be made by the State, a county, or a municipality except as provided in this act," we are concerned that a TED will be required to take on the role of a municipal site plan review here.

While there needs to be a clear understanding between the municipal and the TED administration regarding review of impacts from proposed developments in the district, we should be careful not to complicate that relationship. Off-site improvements near or adjacent to a development that are solely for the benefit of a single development should be left out of the TED project mix. This would keep the focus on the regional nature of the TED and prevent interference with the municipal planning authority. That was number one, simplify.

Number 2, the second theme, prioritize. The second area we'd like to see modified would be the inclusion of project prioritization and incentives for projects that are part of an approved TED transportation plan. Incentives should include both project prioritization, as well as the ability to tap into unique funding sources for planning, engineering, and capital or operational costs associated with the establishment and implementation of a TED.

The TED legislation as presented does not adequately address TED project prioritization. Given the way the TED legislation is currently drafted, it appears that projects in an approved TED that have been part of a comprehensive planning process and project analysis, if they're lucky, would be only at the very beginning of the NJDOT's pipeline. In other words, even though a TED was advancing planning in a regional context with the partnerships of numerous public and private sector partners, an individual, single-purpose project that was put forth by a municipality or a county could move along in the pipeline while we're doing all the regional planning and actually pay a penalty in a project time frame for being part of a TED.

We recommend that the legislation should clearly state that projects in an approved TED are, indeed, priority projects, and as such, the responsible government bodies are required to move the projects as outlined in the project's agreements outlined for each project.

For example, if an approved project plan for a particular TED project stated that it would be built in five years, then the State and the responsible MPO would also be committed to advancing that particular project in that five-year time frame. At the very least, the TED planning process should count for something. It should be sufficient to move projects into the NJDOT's pipeline past the concept development phase and, perhaps, past the feasibility assessment phase. Ideally, we would like to recommend that projects in an

approved TED plan gain automatic entrée onto the transportation improvement program. All food for thought in terms of project prioritization.

Overall, we believe that projects that have emerged from the TED process should have some significant status in the eyes of both NJDOT and the MPO responsible for the region. After all, these agencies will have been active participants in the TED process, and they should have helped to ensure that all of the necessary technical data has been completed and that these projects, indeed, are worthy of moving forward. Knowing that projects will be built -- and this comes from a particular experience with my joint planning committee for the existing TDD projects -- that the projects will be built within the time frames outlined in the TED plan will go a long way with the private sector, who's working on reinvesting today in the regional economy.

Another way TED projects can be given priority is through financial incentive. One incentive that should be considered is the development of a special funding pool, such as the State Infrastructure Bank or other mechanism, to advance TED planning and project implementation. The use of the State Infrastructure Bank to fund TEDs presents a unique opportunity for this State to push forward critical transportation planning analysis that will be spearheaded at the local level in partnership with all other agencies. (fire alarm sounds)

ASSEMBLYMAN DeCROCE: Hold it, everybody.

MS. MURPHY: This is hot testimony. (laughter)

ASSEMBLYMAN DeCROCE: You did that, Mary.

MS. MURPHY: I feel Pippa burning a little over here, I feel Fred burning a little over there. (laughter)

ASSEMBLYMAN DeCROCE: Continue on, Mary.

MS. MURPHY: Okay. We're talking about the State Infrastructure Bank and the TED. The State Infrastructure Bank could be made available to fund up-front TED planning costs, move critical projects into engineering, and to invest in the transportation infrastructure. The ability of the TED to borrow funds from the State Infrastructure Bank would provide the funds needed to get TED planning off the ground, as well as to advance engineering for key projects, and in some cases, we believe, provide funding for all or part of a proposed capital project or transit operation. That was number two, prioritize.

And I am getting to number three, and it's shorter. That's flexibility. This third theme is-- We feel that the bill has integrated a lot of flexible issues, but this theme would be more in terms of financial flexibility. The proposed act goes a long way in providing the overall flexibility needed to adapt a TED to the unique characteristics of every individual district. However, it is unclear as to how far-reaching that flexibility is when it comes to the development of financial formulas in the TED. We would recommend that this area have the ultimate flexibility. We would recommend that each district be allowed to decide for themselves which financial formula or mechanism would work best for their individual district. It is important to open the door as wide as possible on this and to allow each district to employ any financial mechanism currently legal, as well as those that become legal in the future in the State of New Jersey, within a TED.

This financial flexibility would permit the administrative body of the TED to determine how the fees are collected and to determine how these fees can be made most palatable to the development community. It is important that the TED legislation does not preclude the inclusion of funding

tools that can help to create the best financial program that makes sense for the individual districts.

So, in conclusion, there are three areas that we think should be addressed further in this piece of legislation: that we should simplify, keep the TED as streamlined and straightforward as possible; prioritize, give TED projects the status and priority they deserve; and financial flexibility that keeps the door open for appropriate financial strategies.

These were our ideas. I'm going to turn it back over to Jim for a few more compliments. He got to do the compliments. I got to do the text. Now, he has a few more compliments he'd like to offer the Committee.

MR. DALEY: Yes, we'd like to thank you for the opportunity to present our thoughts for what we feel is a critical piece of legislation. I can tell you that without the changes you are proposing in this TED legislation, Union County TDD is designated to go the same route as other brave and valiant efforts undertaken or considered in numerous counties. We very much want to work with you to find out a way to make this work. We welcome the opportunity to work with the DOT and RITCSC as they conduct their workshops required as part of the development of the TED regulations.

As mentioned earlier in our comments, we would also like to recommend that a workshop meeting be convened to discuss the detailed questions many of us might have on the legislation. As part of our testimony today, we have laid out three broad areas that we see that TED legislation needs to address, but we do have other questions. And we'd like an opportunity to have that dialogue with the DOT as soon as possible to informally discuss questions and exchange insights on how the TED legislation is envisioned to work. We'd like to request that a legislative workshop be held before the final

hearing on the legislation, giving us an opportunity to better articulate any other concerns or compliments we would like to share with the Committee.

As you all know, Union County is a strong supporter of the TDD concept, and we want to work with you and see that important legislation is reformed and put into place quickly so that we can get on with the work needed to build it and implement the next generation of transportation projects and programs that allow our region and state to prosper.

Again, we thank you for the opportunity to meet today, and we look forward to working with you and bring Assemblyman DeCroce's vision to fruition. Again, thanks very much, and we're here for any questions.

ASSEMBLYMAN DeCROCE: Jim and Mary, let me thank you again for not only supporting us. You've been a supporter right throughout the whole program with the RITCSC and now at these hearings. We fully intend to do the three hearings and probably at that time, after we're through, we probably will take all the information we received -- probably I will ask the chairman of the RITCSC to convene another meeting so we can get together to decipher all of this information and see if we can enhance the bill in any way or take some things out, include some things in, and then before we actually present it to the Assembly Transportation Committee. So that is something we're planning to do.

You mentioned, though, you wanted that meeting prior to the last hearing, did you say, or do you mean before my Transportation hearing?

MR. DALEY: Well, the intent of our comment here was to make sure we fully understand. If we can give you other advice and direction on some things we may not be exactly clear, and we didn't really want to take the Committee's time at this hearing to get into some minutiae here.

ASSEMBLYMAN DeCROCE: Well, when the chairman pulls together his Committee, I'm sure we'll have you on our list to come in and to discuss your concerns. I'd like a copy of your questions, so we can get them around to everybody.

MS. MURPHY: I have the required 10 copies. (laughter)

ASSEMBLYMAN DeCROCE: Thank you very much. We appreciate that.

MR. DALEY: Thank you. Thank you very much.

ASSEMBLYMAN DeCROCE: Both yours and Jim's?

MR. DALEY: Yes.

MS. MURPHY: It's all together.

ASSEMBLYMAN DeCROCE: Maybe Laura can pass them out.

Anyone have questions of Mary or Jim, by the way? Anyone here?

(no response)

Thank you both for coming. I appreciate that.

MR. DALEY: Thank you.

MS. MURPHY: Thank you.

ASSEMBLYMAN DeCROCE: Janine Bauer, Tri-State. We appreciate your coming, Janine.

JANINE BAUER: How are you, Mr. Chairman?

ASSEMBLYMAN DeCROCE: Janine worked very closely with me on the Transportation Trust Fund, and we always appreciate her comments.

MS. BAUER: Mr. Chairman and honored members of the Assembly and staff, we have not prepared written comments this morning, largely because this was the first hearing, and I frankly wanted to hear what other people said. So we will submit written comments, and when would the deadline be for that? Would it be the date of the last hearing?

ASSEMBLYMAN DeCROCE: Whenever you want, Janine.

MS. BAUER: Okay. It will probably come in around the date of the last hearing--

ASSEMBLYMAN DeCROCE: That's fine.

MS. BAUER: --or very shortly thereafter.

So I've read through this bill several times at this point, and I also attended at transaction the workshop that John Carnegie and Martin Robins and others ran and obviously took notes and so on and so forth. So I'm just going to go through what I feel are my initial reactions to this bill.

Obviously, we support this bill, and we will support this bill. This is, I think, a great step forward in stripping out a lot of requirements that were probably both unnecessary, although they seemed necessary at the time, and unique to situations that, as Mr. Daley and Mary Kay Murphy pointed out, are not applicable to many other areas of this state.

An overall reaction I do have is that it would be-- The bill does seem somewhat daunting. If there's a way to simplify it-- I know that it's really just a process bill for the most part, and therefore, it's important to lay out these procedures. But simplification-- I probably wasn't going to say that before I read Mr. Gerry Cardinale's testimony, but then I decided to sort of pile on.

Okay, going to the bill itself, in Section 4(a), it begins by saying, "The governing body of any county may, by ordinance, resolution," so on and so forth. In this Section 4(a), Subsection (4), the county is supposed to certify that there is, in effect -- "shall certify that there is, in effect, for the county, a current county master plan -- that the creation of the district would be in conformity of the county master plan and the State Development and Redevelopment Plan." Whereas later in the bill, as our previous speakers have

pointed out, it's ultimately, "they may show," so that seemed like an inconsistency.

I really haven't come to a conclusion as to whether I think may or shall is a better idea. If I were more pleased with all the policies and objectives in the State plan and the map were more meaningful as opposed to a policy map, which is how OSP describes it, and I don't know what that means -- and I never really have understood what a policy map means -- I would be more enthusiastic about saying shall, but nevertheless, the bill does have an inconsistency.

Further, in Section 5(e) of the bill, it says, "The draft district transportation enhancement plan may be in accordance with the State transportation master plan," and it goes on to recite again the county master plan. Certainly, it seems to me that shall is appropriate for the State transportation master plan and the county transportation master plan. Whether you get into the State plan or not, obviously, is a political and legislative decision that you all will make down the road. But if we don't have consistency just among the transportation plans, I see that as a problem.

I think Mary Kay Murphy well pointed out, although it was in the prioritization context rather than just the more simple planning context, there's got to be consistency among these things, and it needs to count for something. I would also strengthen the phrase, later in that same paragraph, 5(e), it says, "coordinated with local zoning ordinances and master plans adopted pursuant to the 'Municipal Land Use Law.'" It seems to me that that's probably one of the most important areas where shall is necessary, because frankly, if the county is planning a transportation project that the municipality in which it's sited or partly sited doesn't want it or doesn't have it on its zoning, you know what's going to happen down the road. It's just setting up a NIMBY procedure. So I

would strengthen-- I would make shall for the transportation plan, the county master plan, and even the local zoning.

I also want to -- having been at my own planning board meeting for a long time last night -- reinforce what Ms. Murphy said about not getting into a situation where it almost seems like a site plan review has to be done. I asked at the transaction review conference whether this would replace Section 42 of the MLUL, where a town has adopted a plan that's upheld court review, if there has been a challenge for off-site improvements for new developments.

And Mr. Carnegie informed me that it would replace those off-site impact fees. I question whether that's a good idea. I think making them consistent will fold that in, but otherwise you don't want to tie down the TED with the parking, the lighting that-- Oh, my God, it's-- You know how it is. It goes on endlessly.

Another point that we had, and this is repeated twice because of the procedural nature of the bill -- the first one is in Section 7(f), Subsection (5). It says, "a reduced rate of development fees for developers submitting a peak-hour auto trip reduction plan approved by the Commissioner under standards adopted by the Commissioner." I would suggest that you might want to lay out some standards for the Commissioner in this bill. They don't have to be very specific, but they might want to be more specific.

Frankly, some of the ones in here seem kind of weak to me. "Physical design for improved transit." Gee, it seems like that's a minimum. That shouldn't gain them much credit, for instance. "Ride sharing and pedestrian access." These are all very good things, but since it's a voluntary plan and we're not repeating employer trip reduction or something, you may want to try to put a standard in, like reduce trips by *X* percent over some years, or give the Commissioner some guidance so it doesn't turn into a totally voluntary--

ASSEMBLYMAN DeCROCE: Similar to the plank in the TDD, transportation trust?

MS. BAUER: Yes, very similar.

ASSEMBLYMAN DeCROCE: Okay.

MS. BAUER: I mean, that's on an overall--

ASSEMBLYMAN DeCROCE: Yes. Okay.

MS. BAUER: Yeah, rather than a core area or something, or maybe do it in a core area. But, you know, I would like to see that strengthened.

The other place where that same language occurs is in 8(f), Sub (4), "a reduced rate of special benefit fees for property owners submitting peak-hour auto trip reduction." Okay.

And I think my final comment is that-- I noticed that there is essentially an exemption for projects developed under the Fair Housing Act. It seems to me that the only exemption that the Committee should consider providing is for the actual low-income units. I'm not sure how the developer would apportion that -- in other words, whether everybody would wind up paying anyway -- but the goal would be not to charge the low-income units. But where there's 200 units and 20 low-income units, why isn't he charged a fee for the other 180? There are obviously trip-generating properties, and since, except for nonprofits, most of the Fair Housing Act developments that I'm familiar with, in fact, are done on that one-to-whatever ratio, it seems appropriate.

And I guess one of the standards that I would recommend for the trip reduction, I would say something about parking fees or parking generation, because we're heavily pushing, with employers and municipalities, cash-out parking, a model ordinance for cash-out parking, and we think that that's got a lot of appeal and will be an effective way to reduce trips. So, if that could be included, we would very much appreciate it.

Otherwise I think you've done an excellent job. Everybody did an excellent job, and we appreciate your tackling this. We hope that-- It seems like it's one of the first steps in what everybody says has to happen, and that is putting transportation and land use planning together. So thank you for doing it.

ASSEMBLYMAN DeCROCE: Thank you. Thank you for coming, Janine. We appreciate it.

Anybody have any questions of Janine? (no response)

Thank you very much.

MS. BAUER: Thank you.

ASSEMBLYMAN DeCROCE: You're going to provide us with written comments at a later date?

MS. BAUER: I shall.

ASSEMBLYMAN DeCROCE: Okay.

Albert Cafiero, representing Senator Cardinale.

ALBERT F. CAFIERO: First, I want to thank you, not for letting me speak, but for coming up here to let us speak. I wish you people in Trenton would come over to the people instead of waiting down in Trenton all the time. Thank you very much for that.

ASSEMBLYMAN DeCROCE: You're welcome.

MR. CAFIERO: Also, I'm speaking -- I'm wearing two hats today. On one, I'm a Transportation Advisory Aide to Senator Cardinale, and the other is, I'm the Chairman of the Transit Committee here in Bergen County. The first part I have clear with Senator Cardinale, and he agrees with me. The second part, I haven't had a chance to discuss with him and go over it, so it's my opinion and the Transit Committee opinion, not Senator Cardinale.

Although I agree with the intent of this bill, I believe you could simplify the administration of special benefit fees. An alternative that reflects road transportation infrastructure utilization should be added to this bill.

Enabling counties to impose annual fees on parking spaces is a means of collecting revenues based directly on road usage generated by an entity. A parking space fee that directly reflects how much traffic is generated by each enterprise is fair and can be administrated without creating a new bureaucracy.

These fees could be based on either the number of parking spaces or the total square footage of an entire parking area. Provisions could be set exempting parking for areas below a minimum size and for those used for residential or commuter purposes.

A parking space fee would fall less heavily on commercial entities near transit services. Such fees would not only provide revenue, but would serve to encourage development where convenient access to transit facilities is available. It would become a built-in deterrent to sprawl.

This concludes my -- Senator Cardinale's part.

Today's newspaper, *The Record*, has something about the cost of traffic congestion. As Chair of the Transit Committee of Bergen County, I would like to suggest including a TED special benefit fee that is fair and could provide considerable revenue for congestion relief projects.

It is unlikely that the Legislature can pass a gas tax increase soon. However, that does not mean that this would necessarily hold true at the county level. Bill A-3350 could provide the means for the Legislature to permit counties to impose motor vehicle fuel fees. The fee itself would be imposed later if they pass it on the local level.

The Transit Committee of Bergen County therefore suggests that you enable the counties to impose a sales tax on motor fuel purchases.

Although opposition to an increase of the motor fuel tax at the State level has occurred, a locally imposed tax could gather support. The public has a much greater control of spending at the county seat level than in Trenton, where political considerations sometimes override the taxpayers' needs. For example, consider the Atlantic City tunnel and the current situation where the DOT is ignoring its promises by using the Transportation Trust Fund to increase road capacity instead of repairing bridges.

Some of the extra revenue could be used for transportation improvements that local taxes are currently financing. Some counties could view this as a means to provide a small reduction in the property tax rate.

Once imposed, motor fuel taxes should remain unobtrusive and almost invisible to the public. This is not true of most taxes. Taxpayers make out checks and fill forms to pay their real estate and income taxes. When a taxable purchase is made, they list the amount of sales tax on the receipt. Everyone is immediately aware and reminded of how much tax they are paying. On the other hand, few people know how much tax is on a gallon of gasoline. They do not list the tax separately from the total price per gallon. Moreover, the price of gasoline is so volatile that they could blame the few cents higher in price on the oil companies and OPEC just as well as upon the local governments.

By using the structure of A-3350 as an enabling tool for a new motor vehicle fuel fee, members of the Legislature can escape responsibility for imposing the tax. That responsibility rests with the freeholders. It is a county sales tax and not a State sales tax.

ASSEMBLYMAN DeCROCE: Thank you very much, Mr. Cafiero. I appreciate the fact that you came, your comments, as well as Senator Cardinale's.

Anyone have any questions of Mr. Cafiero? (no response)

MR. CAFIERO: Thank you.

ASSEMBLYMAN DeCROCE: Is there anyone else who would like to testify on A-3350? (no response)

That being the case, I will adjourn the meeting, but I want you all to know we're going to, as I said, hold two more. We will hold two more meetings. We will then ask the RITCSC commission to get together to review all the comments and before we submit the bill to the Legislature for their consideration. I want everybody to know that we appreciate the time that you've all taken, specifically those working with the MPOs and with the RITCSC group, to come here today. I know it's time out of your schedules.

But we will next be going to--

ASSEMBLYMAN MERKT: Cherry Hill.

ASSEMBLYMAN DeCROCE: --Cherry Hill, which is Friday. And from there, we'll come back into Trenton sometime next week.

The Committee will again meet at Cherry Hill at 10:00 a.m., I believe it is -- 10:30 -- 10:30 in the morning. We'll be looking forward to working with all of you.

So let me adjourn the meeting for today, and we'll look forward to seeing you on Friday.

(HEARING CONCLUDED)