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# *Commission Meeting*

of

## NEW JERSEY COMMISSION ON CAPITAL BUDGETING AND PLANNING

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**LOCATION:** Committee Room 11  
State House Annex  
Trenton, New Jersey

**DATE:** September 30, 2005  
10:00 a.m.

**MEMBERS OF COMMISSION PRESENT:**

B. Carol Molnar, Chair  
Anthony F. Annese, Vice Chair  
Assemblyman Joseph Cryan  
Assemblyman Guy R. Gregg  
Gary Brune  
Robert A. Roth  
A.J. Sabath

**ALSO PRESENT:**

George LeBlanc  
(Representing Senator Wayne R. Bryant)  
Rosemary Pramuk  
(Representing Senator Robert E. Littell)  
David Rousseau  
(Representing John E. McCormac)

Michael Lihvarcik, Acting Executive Director  
New Jersey Commission on Capital Budgeting and Planning



*Meeting Recorded and Transcribed by*  
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Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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MS. MOLNAR: I'd like to call the meeting to order.

In accordance with the Open Public Meeting Law, the Commission has provided adequate public notice of this meeting by giving written notice of time, date, and location. The notice of the meeting has been filed at least 48 hours in advance by mail and/or fax to the *Trenton Times*, and the *Star-Ledger*, and filed with the Office of the Secretary of State.

We will now take a roll call.

MR. LIHVARCHIK (Acting Executive Director): Ms. Pramuk, for Senator Littell.

MS. PRAMUK: Here.

MR. LIHVARCHIK: Mr. LeBlanc, for Senator Bryant.

MR. LeBLANC: Here.

MR. LIHVARCHIK: Assemblyman Cryan. (no response)  
Assemblyman Gregg.

ASSEMBLYMAN GREGG: Here.

MR. LIHVARCHIK: Mr. Rousseau.

MR. ROUSSEAU: Here.

MR. LIHVARCHIK: Mr. Sabath.

MR. SABATH: Here.

MR. LIHVARCHIK: Mr. Brune.

MR. BRUNE: Here.

MR. LIHVARCHIK: Mr. Roth.

MR. ROTH: Here.

MR. LIHVARCHIK: Mr. Annese.

MR. ANNESE: Here.

MR. LIHVARCHIK: Ms. Molnar.

MS. MOLNAR: Here.

MR. LIHVARCHIK: Madam Chair, you have a quorum.

MS. MOLNAR: Thank you.

The next item is the election of Chair and Vice Chair.

MR. LIHVARCHIK: Does anybody want to make a motion for the Chair position?

MR. ROUSSEAU: I will nominate Carol Molnar to continue as Chair of the Commission.

MR. LIHVARCHIK: Is there a second?

MR. ANNESE: Second.

MS. MOLNAR: Any discussion? (no response)

Take a roll.

MR. LIHVARCHIK: Ms. Pramuk.

ASSEMBLYMAN GREGG: I'll say aye for her.

MR. LIHVARCHIK: Mr. LeBlanc.

MR. LeBLANC: Yes.

MR. LIHVARCHIK: Assemblyman Gregg.

ASSEMBLYMAN GREGG: Yes.

MR. LIHVARCHIK: Mr. Rousseau.

MR. ROUSSEAU: Yes.

MR. LIHVARCHIK: Mr. Brune.

MR. BRUNE: Yes.

MR. LIHVARCHIK: Mr. Roth.

MR. ROTH: Yes.

MR. LIHVARCHIK: Mr. Annese.

MR. ANNESE: Yes.

MR. LIHVARCHIK: Ms. Molnar.

MS. MOLNAR: Yes.

MR. LIHVARCHIK: Congratulations.

**B. CAROL MOLNAR (Chair):** Thank you.

Do I hear a motion for Vice Chair?

MR. ROTH: I would move Anthony Annese for Vice Chair.

MS. MOLNAR: Okay, is there a second?

MR. ROUSSEAU: I'll second that.

MS. MOLNAR: Thank you.

Any discussion? (no response)

If not, we'll take a vote.

MR. LIHVARCHIK: Ms. Pramuk.

MS. PRAMUK: Yes.

MR. LIHVARCHIK: Mr. LeBlanc.

MR. LeBLANC: Yes.

MR. LIHVARCHIK: Assemblyman Gregg.

ASSEMBLYMAN GREGG: Yes.

MR. LIHVARCHIK: Mr. Rousseau.

MR. ROUSSEAU: Yes.

MR. LIHVARCHIK: Mr. Sabath.

MR. SABBATH: Yes.

MR. LIHVARCHIK: Mr. Brune.

MR. BRUNE: Yes.

MR. LIHVARCHIK: Mr. Roth.

MR. ROTH: Yes.

MR. LIHVARCHIK: Mr. Annese.

MR. ANNESE: Yes.

MR. LIHVARCHIK: Ms. Molnar.

MS. MOLNAR: Yes.

MR. LIHVARCHIK: Madam Chair, the vote carries.

MS. MOLNAR: Thank you very much.

Our first order of business is approval of the December 10, 2004 meeting.

Do I hear a motion to approve? I believe it was in your packets.

MR. ANNESE: So moved.

MS. MOLNAR: And second?

MR. BRUNE: Second.

MS. MOLNAR: Any discussion? (no response)

If not, vote.

MR. LIHVARCHIK: Ms. Pramuk.

MS. PRAMUK: Yes.

MR. LIHVARCHIK: Mr. LeBlanc.

MR. LeBLANC: Yes.

MR. LIHVARCHIK: Assemblyman Cryan.

ASSEMBLYMAN CRYAN: I'll tell you what. Since I don't know what we're voting on, I'll pass.

MS. MOLNAR: The minutes of December 10.

ASSEMBLYMAN CRYAN: I read those. Yes.

MR. LIHVARCHIK: Assemblyman Gregg.

ASSEMBLYMAN GREGG: Yes.

MR. LIHVARCHIK: Mr. Rousseau.

MR. ROUSSEAU: Yes.

MR. LIHVARCHIK: Mr. Sabath.

MR. SABBATH: Yes.

MR. LIHVARCHIK: Mr. Brune.

MR. BRUNE: Yes.

MR. LIHVARCHIK: Mr. Roth.

MR. ROTH: Yes.

MR. LIHVARCHIK: Mr. Annese.

MR. ANNESE: Yes.

MR. LIHVARCHIK: Ms. Molnar.

MS. MOLNAR: Yes.

MR. LIHVARCHIK: Motion carries.

MS. MOLNAR: Thank you.

The next item is our Executive Director's report.

Michael.

MR. LIHVARCHIK: Madam Chair, members of the Commission, I would like to welcome you back for this next capital planning and budgeting cycle that will ultimately result in a statewide capital funding recommendation for Fiscal 2007.

We look forward to working with staff from the Office of Management and Budget and the various departments to develop this annual capital plan.

Looking back at Fiscal 2006, the Commission's funding recommendation of \$1.05 billion was \$10 million more, or 1 percent different, than the actual appropriation of \$1.04 billion. The Fiscal 2006

capital appropriation continued to fund projects in the areas of transportation, open space, hazardous waste remediation, shore protection, and flood control. The appropriation also funded critical fire, life, and health safety projects within the Departments of Corrections, Education, Human Services, Law and Public Safety, Juvenile Justice, Military and Veterans' Affairs, and Treasury. Finally, funding was continued for statewide hazardous materials removal, statewide security projects, and compliance with the Americans with Disabilities Act.

Madam Chair, this concludes my report.

MS. MOLNAR: Thank you.

Any questions or comments? (no response)

If not, we'll move on to the next item.

We are changing the agenda slightly. We will do the Department of State first.

I would like to welcome our Secretary of State, Regena Thomas.

Good morning. Could you introduce your staff for the stenographer?

**SECRETARY REGENA L. THOMAS:** Yes, ma'am.

To my immediate right, my Assistant Secretary, Kathy Kisko; to my far right, the Director of DARM; to my left, the Director of the Museum.

MS. MOLNAR: Thank you.

SECRETARY THOMAS: And they will be here to answer some of the particular questions, if you have any.

Thank you for this opportunity to be before you again, as I present the Department of State's capital budget requests for the Fiscal Year '07.

In Fiscal Year '07, I am requesting \$319,000 to fund the Department of State's three capital budgetary priorities. One is to renovate the sound and lighting system in the State Museum, for \$135,000; to reconstruct the State Museum kitchen as part of ongoing renovations, for \$84,000; and to begin a study on the feasibilities of completing the State Archives exhibit gallery to feature important historical documents, at \$100,000.

There is no greater or more vivid example of New Jersey, its history, culture, and people than the State Museum. In one year, the Museum has welcomed more than 300,000 visitors through its doors, including tens of thousands of children from every county.

As the State Museum moves forward in presenting these treasures to the public, the structural integrity of the facility is being preserved through the ongoing progress of its first major infrastructure upgrade since the building opened in 1964.

The renovations include replacing the heating, ventilation, and air conditioning systems, as well as the installation of new lights and ceilings in the main building. I am proud to report that the new seats and carpet were installed in the auditorium just in time for the second annual Newark Black Film Festival at Trenton, held this past June. There was an unprecedented excitement in the air on West State Street, as patrons ventured into Trenton after 5:00 p.m. to engage in a night of cinematic stimulation and dialogue with actors, film directors, and producers.

While the replacement of the seating and carpet is a vital initial improvement, the opportunity to renovate the sound and lighting system is the critical last upgrade needed to provide a new and improved experience for the tens of thousands of people who visit each year.

The auditorium space allows the State Museum to showcase a variety of educational and entertaining programs for New Jersey's families. Over the course of a year, the auditorium is used for hosting events for children, such as the Kaleidoscope Kids Summer Camp and Summer Science Weekend, now in its 25th year, which draws more than 4,000 patrons from New Jersey and Pennsylvania.

Additionally, the auditorium is used for Museum lectures, exhibits, meetings, and performances. The State Auditorium serves as an additional venue, not only for the city of Trenton, but it complements the State House Complex. The ability to rent the auditorium to the outside community allows us to attract more individuals to the Museum who might not otherwise know about this cultural gift in the state. Having an upgraded sound and lighting system will enable us to present the highest quality programming to the growing public.

For our second priority, as part of the ongoing renovations, the Museum will expand the existing bathrooms on the first floor of the main building to make them handicapped-accessible. However, in order to meet the State and Federal ADA requirements for these restrooms, the existing kitchen must be torn down to provide room for the necessary expansion. A kitchen is an integral part of the Museum's services, particularly after 5:00 p.m.

Not only does a kitchen permit the Museum to offer food services for its visitors, and for corporations and organizations renting our treasure, but it additionally serves as an added incentive for those who wish to host their next special event at the Museum, especially on weekends when there are no businesses opened downtown to service these needs.

Designing and building a code-compliant kitchen would require preparing the new location for plumbing, upgrading the electricity to accommodate appliances for refrigerating, heating food, and providing the proper ventilation. Therefore, I would like to make a request for \$219,000, to cover the cost of upgrading the sound and lighting systems in the auditorium and reconstructing a kitchen area in the main building as part of the Museum's ongoing renovation.

These investments are necessary to maximize the benefits of the State Museum. It is the right investment to make for the Museum and the people of this state, not just for Fiscal Year '07, but for future generations to come.

Just as completing the Museum's renovations are a top capital priority for the Department of State, so is the need to complete the State Archives' exhibit gallery. The State Archives' exhibition gallery was never fully completed by the building renovation contractors in FY 2000. Improper lighting, unfinished display surfaces, and inadequate climate controls within the exhibit cases have made it impossible for the Archives to mount changing displays of the State's manuscript heritage for visiting school groups, tourists, and the general public.

As a result, many of New Jersey's most historic treasures have never been publicly exhibited to the citizens of New Jersey. A thorough and

professional feasibility study of the Archives exhibit gallery must be conducted to determine the specifications and cost of completing this project. As a part of the Department of State's capital request for Fiscal Year '07, I am requesting \$100,000 to move this project forward.

This past Tuesday, the State Archives unveiled an 11-item collection of original manuscripts, maps, and books that were purchased in June at Christie's in New York. The collection included unique, 17th-century historical documents and maps originally belonging to Robert Barclay, proprietary governor of the Province of East New Jersey from 1682 to 1690. These documentary treasures allow historians, genealogists, archaeologists, history buffs, families, and students a rare glimpse into New Jersey's early colonial days. The collection is currently on display at the Morven Museum and Garden, and will be through October. However, it is our hope that, in the future, the State Archives would be able to display important acquisitions relevant to New Jersey's history in their own exhibition space.

I am proud to lead the Department of State and serve the citizens of New Jersey. I firmly believe that these requests I make before you today are in the long-term interest of not only this Department, but more importantly, the long-term interest -- and best interests of the citizens and the State of New Jersey.

Thank you for your time.

MS. MOLNAR: Thank you, Secretary.

I had one question. Our write-up from the staff says that the Department received \$1.7 million to replace windows and doors at the

Museum. The funds were provided through non-State funding sources. I was just curious. What was the source of those funds?

SECRETARY THOMAS: Homeland Security.

HELEN M. SHANNON, Ph.D.: Actually, to be honest, I don't quite know what the source was. I know it did not come from State funds. But that was done through--

SECRETARY THOMAS: It was actually-- As they evaluated the whole State Complex, Homeland Security acquisitions-- And the kitchen did not fall within the purviews of our request for such funds.

MR. LIHVARCHIK: Madam Chair.

MS. MOLNAR: Yes.

MR. LIHVARCHIK: I think the question that you're asking is-- The fact that the \$1.7 million was not a direct appropriation -- that it came from off-budget sources from an indirect account.

SECRETARY THOMAS: Right.

MR. LIHVARCHIK: Basically, there's two pots available. There is a direct State appropriation for capital projects, and then there's a central fund that is funded via these indirect cost recoveries. All of it is used to fund the annual capital programs.

MS. MOLNAR: So this--

MR. LIHVARCHIK: And that's where that money would have come from.

MS. MOLNAR: From the central fund. Thank you.

MR. LIHVARCHIK: Yes.

MS. MOLNAR: Any other questions or comments?

Assemblyman Cryan.

ASSEMBLYMAN CRYAN: I know Guy does, too.

Let's go over the kitchen -- this kitchen thing. What's the deal with the restrooms?

SECRETARY THOMAS: They had to be in compliance with ADA. And in the compliance, they expanded it and took the space that was then the kitchen, because there had to be an expansion for ADA. And the kitchen was in between.

ASSEMBLYMAN CRYAN: Okay. So the restrooms took the kitchen space? Is that--

SECRETARY THOMAS: Yes.

DR. SHANNON: The kitchen was right next to the restroom. So when the restrooms had to be expanded to have more space for, say, someone in a wheelchair, that space was immediately next to it. And so it was expanded into that space.

ASSEMBLYMAN CRYAN: Okay. So it took part of the kitchen.

DR. SHANNON: Right. It took the entire kitchen.

ASSEMBLYMAN CRYAN: And the kitchen, while it doesn't cook, is used for events.

DR. SHANNON: Right, it's used for warming events. We don't cook within our building for fire reasons, and because we don't want smells to go through the building. So if a caterer were to come in, a caterer would still need a kitchen to warm up food, but not prepare it from scratch.

ASSEMBLYMAN CRYAN: And there is space, obviously, somewhere to eat, to dine.

DR. SHANNON: I'm sorry, I didn't hear you.

ASSEMBLYMAN CRYAN: You use some special area to dine in at the Museum.

DR. SHANNON: Right. And one of the things we're doing with our renovation is, we're creating spaces for people to hold social events. So you would be able to hold a reception or a dinner within the Museum, which is space we haven't really had before.

ASSEMBLYMAN CRYAN: Though when we planned the space, we thought we were going to have a kitchen, and then it got taken later.

SECRETARY THOMAS: Yes, sir.

DR. SHANNON: Right.

ASSEMBLYMAN CRYAN: Okay.

I know he's going to ask about why the project wasn't finished in 2000, so I won't ask.

ASSEMBLYMAN GREGG: You can ask. We're a good team, Joe.

ASSEMBLYMAN CRYAN: Why wasn't the--

I've got two other things. The documents that were purchased -- are you saying we can't put those documents on display in the State Museum today, in its present condition?

SECRETARY THOMAS: Not in the State Museum. You can't put them in the department of Archives.

The building originally was built for the Department of Education, for office buildings. And so it never was in compliance for what we have. So we moved into the facility when the Department of Education did not use the building.

ASSEMBLYMAN CRYAN: So when we buy documents of any historical value, and manuscripts, we don't have a place to, essentially, put them here, in the State House Complex?

SECRETARY THOMAS: They are housed in the department of Archives, and there is storage for them, but not display storage for them to be publicly used, seen.

ASSEMBLYMAN CRYAN: Okay. And since I know it's going to come up-- The renovations in 2000 -- the State Archives' exhibit gallery was not fully renovated. Why not?

SECRETARY THOMAS: It wasn't-- The building originally was for the Department of Education.

ASSEMBLYMAN CRYAN: Right.

SECRETARY THOMAS: And so it was an office building only.

ASSEMBLYMAN CRYAN: I get that. But there was a renovation in 2000, a mere five years--

SECRETARY THOMAS: And it was still renovated for an office building. Never was it renovated with the Archives in mind.

ASSEMBLYMAN CRYAN: Okay. So it wasn't part of the plan in 2000.

SECRETARY THOMAS: Right, it was not part of the plan.

ASSEMBLYMAN CRYAN: How often do people use that auditorium?

DR. SHANNON: The auditorium is now used for our school programs, it's used by the public, it's used by State agencies, it's been used by the Governor's Office, it's been used by quite a few--

ASSEMBLYMAN CRYAN: How often?

DR. SHANNON: How often? At the moment, the auditorium, because of its poor condition, is not used very often, because it was not someplace people wanted to present programs. So I would say it was used, maybe, once a week or so, or two or three times a month.

But we've already had a great interest in people renting it, because it is a much better space. You may remember, many of the seats were broken, they weren't usable, it wasn't presentable. And we planned to market it directly to both State agencies -- so they know it's been renovated -- as well as to community groups.

ASSEMBLYMAN CRYAN: And if we do the sound -- your first priority -- you expect that this will enhance, and take two or three times a month to a more-- Do you have any idea as to how many more times we'd actually use the thing?

SECRETARY THOMAS: Currently-- Since we have made the Patriot Museum a renter's museum, we're finding an interest in it. But it is so large, it seats 2,200. So we believe, with the proper sound and lighting, that the Patriot Museum could send over -- rather than lose the business -- is that we can partnership even with the State Museum, because it is a smaller facility.

ASSEMBLYMAN CRYAN: For this auditorium.

SECRETARY THOMAS: Yes.

ASSEMBLYMAN CRYAN: What's the seating capacity in this -- in the Museum auditorium?

DR. SHANNON: The seating capacity is now 384 brand-new seats. And so we are -- we're a space that has a particular audience that, as

Madam Secretary says, is different from the War Memorial, which is a much larger theater.

ASSEMBLYMAN CRYAN: Do people pay rent, or pay anything to use this museum auditorium?

DR. SHANNON: Yes, they do. We have a fee scale for State agencies, for non-State governmental agencies -- the city of Trenton uses it, for instance -- for a nonprofit organization and for for-profit organizations. So we see it, also, as a modest but steady revenue stream for the Museum. And we can use the revenues from the rentals to pay for small and minor upgrades.

ASSEMBLYMAN CRYAN: So in evaluating the request, we use it now two to three times a month. We've upgraded it. This additional request will enhance the upgrade. And without having a projection, we know, just from interest and calls, and the partnership with the Patriots Theater, as well, that we'll be able to send smaller groups over and enhance its usage. Do I pretty much have that?

DR. SHANNON: We've already had someone who is interested in using the auditorium during the holiday season for a Christmas show that would run for almost a week. So there's already a pent-up interest in using an auditorium of this size.

ASSEMBLYMAN CRYAN: Thank you.

MS. MOLNAR: Any questions?

Assemblyman Gregg.

ASSEMBLYMAN GREGG: Thank you, Madam Chair.

First, I'd like to go back to a question that you brought up, which had to do with the money that was off-budget.

I don't have that document in front of me, but I'm not sure I got a clear answer -- that your question was -- the money was off-budget and not governmental money.

Did I hear you correctly, Madam Chair?

MS. MOLNAR: That's the way this reads. It says "through non-State funding." But then Mr. Lihvarcik said it was through the central fund account.

ASSEMBLYMAN GREGG: Well, I want to be very, very, very, very, very clear, because there's a difference between State funding and non-State funding. And if someone on this committee is making a statement that it is State funding, then we should know why the document you have says *not* State funding.

So I guess the question, again, is -- either to the Secretary of State or to our staff -- what exactly is it, and where exactly did it come from?

MS. MOLNAR: I believe it's possible this document--

MR. ROUSSEAU: I'll take it.

MS. MOLNAR: Yes.

MR. ROUSSEAU: Clearly, I think there were at least two years where there's been language in the budget that basically allows our indirect cost recoveries to cover some capital costs, because of the tight budget times and other issues. And we knew we needed some capital funds, but we just couldn't budget them. I think it was, like, \$18 million each year or whatever.

I think what it is-- I would agree with you that, I, in my-- Now, from a technical term, from an OMB stand, maybe the indirect costs

-- they call it *non-State*. I think it's a State. I would say that they're State funds. It's just that they're off-budget State funds. It's not like it's Federal funds or anything like that. These are indirect cost recoveries that we get from the departments for overhead and things like that. They come back into OMB and are used as a central pot. And for-- There was language in the budget, actually, that authorized this for at least two years or so. So I would say that--

Like I said, in OMB speak, maybe they're non-State funds. But for our general knowledge, they are money that comes from other State agencies back into an OMB account, and then went back out to the departments for capital needs.

ASSEMBLYMAN GREGG: And I want to be clear in understanding the fungibility of the State of New Jersey's fiscal policy. There was a statement made by the Secretary of State or staff that this was Homeland Security money. And if it was Homeland Security money coming from the Federal government, going into the State of New Jersey -- into an account, and then moved from that account to pay this-- That, to me, would be a non-State government revenue source.

MR. ROUSSEAU: That is not what this-- I'm checking with OMB. But that is not what this account was -- that it was -- that funded that.

ASSEMBLYMAN GREGG: And can I go back to the Secretary of State?

Why was your response that it was Homeland Security money?

SECRETARY THOMAS: I don't think it was necessarily Homeland-- But as a review of Homeland Security -- when the whole State

Complex was being reviewed for Homeland Security, it was considered that the windows in the building fit within whatever those funds were. And that's why we were able -- eligible to receive moneys for the windows.

ASSEMBLYMAN GREGG: So you did get money for Homeland Security.

SECRETARY THOMAS: I actually don't know where it came from. It was, as the -- as Homeland Security assessed what the needs were of the whole State Capitol Complex -- the review was -- is that this money -- we were eligible for.

MR. ROUSSEAU: What I will do is, I will have OMB or somebody put together a memo that explains how this fund worked, where the money came from, where the money went.

ASSEMBLYMAN GREGG: I think that would be very helpful. Thank you.

MR. ROUSSEAU: I agree. It would be helpful to me, too.

MS. MOLNAR: Good. Thank you.

ASSEMBLYMAN GREGG: Continuing along, kitchen renovation, here.

I think I, kind of, understand this renovation project, where you determined that the ADA restroom trumps the kitchen, so that the kitchen has been eliminated.

But as a person -- along with my colleague to my right -- having a little experience with kitchens -- that I can't imagine, with all due respect, why we would make a facility for a caterer. Virtually, if you're going to be having your events there, and you're going to be bringing in professional caterers, whether-- I assume they would be private caterers, for the most

part, unless we went to the cafeteria here -- that they are very well qualified to produce hot food on their own. And they are not going to charge you less because you're giving them a warmer or a stainless steel table. It just seems that, at this point at your facility -- as you've described -- you do not wish to have smells, you do not wish to have heat and that type of scenario happening -- having -- spending \$84,000 to have a -- what we would call a *prep kitchen* concept in the private sector -- just seems like it would be a waste of space and, quite frankly, eliminate flexibility, because when you bring private caterers in -- that they may want to use that for something else at another time.

SECRETARY THOMAS: I think the one thing -- particularly on the weekends there's -- some of it would be used. In the Museum, there are definitely artifacts and the like that we don't want exposed to whatever a caterer might bring in. And so you want it as controlled an environment as possible. And so as this is not a full kitchen -- but allow them just to heat up and/or refrigerate if, in fact, they want to bring it in on Thursday night before a Friday morning event. And so it's literally a controlled environment -- small units that allow us to protect what is, in fact, in the Museum.

DR. SHANNON: Can I just respond? I use caterer as an example, but the kitchen serves two functions. It serves our visitors, and it also serves the State workers who live in this area. I mean, typically museums don't have an audience other than their visitors. But we actually have quite a few people who use our café in the morning for breakfast, as well as for lunch. So we actually have a very large market of people who are using the Museum café, both visitors and State employees.

And then I used catered events in the evening as an example. Kitchens are really essential in museums, because you want to offer amenities to the visitors. You don't want to have to have your visitors come, and then have to go a few blocks away to have something to eat. So it really is essential that we have the kitchen there.

It has to be code compliant, so that's not just simply warming up the food. The code -- health code requires that it have a three-base sink, that it have a hand sink, that it have ventilators. And so these are materials beyond just, say, warming up in a microwave or something of that nature. We have to follow the city and State health codes. And so that's the reason for the costs that were included in the budget.

ASSEMBLYMAN GREGG: I've designed a few kitchens in my 27 years. And that's exactly my point. You're making my argument that we have a cafeteria in the State House, we have a small, little, baby cafeteria in the State House that wasn't there when your little kitchen was there. I certainly would understand if you wanted to sell snacks and things of that nature. That may make sense. To spend \$84,000 for the requirements that you have to do, to not be a kitchen -- which is what you're doing -- then you're making my argument for me. You're spending \$84,000 not to build a kitchen, which I don't know makes a lot of sense.

If you're going to have sandwiches available for folks, we've got wonderful private businesses in Trenton that box them all up for you and can easily be accessible to folks, if that's your scenario. If it is just to have a person slicing cold cuts and making a handful of sandwiches -- or egg salad. I wonder if that is purposeful, competing against the wonderful cafeteria that we have here.

SECRETARY THOMAS: But the cafeteria is not open when we-- I mean, we're spending \$11 million to redo the entire Museum. And so we're trying to bring folks into the Museum and allow them to stay and enjoy, in fact, what they're having. And so it very well might be where there are social events that we can display our artifacts, and people can see them, and stay downtown. The cafeteria in this building closes at 3:00. And so anything that we would have in the afternoon--

ASSEMBLYMAN GREGG: Good point.

SECRETARY THOMAS: And then weekends. You have to understand, we are the only thing that is opened. And as we begin, we don't want to be in the situation where we spend a lot of money on the War Memorial, and couldn't even present anything in the War Memorial until we changed the legislation. And now we have the great demand for it. We want these facilities to have great demand in the state. We are spending a lot of money to renovate them, we're putting great artifacts in them, and we want to be able to compete against Philadelphia, New York in what we do, because we believe that our artifacts deserve that attention.

ASSEMBLYMAN GREGG: Can you tell me the square footage of the kitchen?

DR. SHANNON: The square footage-- I would imagine it might be about 300 square feet.

Let me also point out that, as Madam Secretary says, we have wonderful cafeterias here in our State buildings. They're not available on the weekends. And, of course, one of the things we want to do is to attract a large audience on the weekends.

I would also say that I would hope once we are set up for catering, that you might have your own social events at the State Museum. And we would-- It would not simply be, as you said, preparing sandwiches. We're not cooking from scratch. But if you're having a catered dinner, the caterer still has to pull different ingredients together to make a wonderful dinner. So I would welcome all of you to, eventually, use our State Museum for special events when it's finished.

ASSEMBLYMAN GREGG: I'm not going to take much more time on this issue.

I see, in everything I read -- and this committee doesn't meet very often -- but it does appear that 90 percent of everything we do in the State of New Jersey is always half done all the time. And at some point we have to wake up and stop it, because in the real world, you complete projects or you don't complete projects. You actually look forward. You don't build, and renovate, and knock out a bathroom, and come back later and say, "I need a kitchen," when you had a kitchen. You don't do that. People would be fired in the private sector for that. They would have had the kitchen designed the first time. And I'm saying, if you believe what you're saying, you should be coming to us and saying you want \$250,000 for a real kitchen that you can actually do something with, because you'll need ovens if you want to do things. And that's what a caterer would want.

If you could help me at all -- because I was a caterer and owned restaurants all my life -- so that if you're going to give me something, give me something that works for me. Other than that, I'm still going to have to do what I normally do and bring what I need to bring. The point is, if you want to attract people, you want to have a little baby restaurant, you want

to produce more than just cold cuts, you're going to need a ventilation system with hoods, and ovens, and other things, which is going to cost more than \$84,000, in my view. And I think Joe would agree.

So I guess my concern is not the \$84,000, it's are we just continuing to do a half a job? And that's what government tends to do all the time. Because it does get me through this day and not to tomorrow's day. And as we get deeper into this discussion, we'll go to other areas that are probably bigger and more money. But that's the point of my debate.

SECRETARY THOMAS: Assemblyman, I agree with you. And I think when we initially came before the committee, we asked for a lot of money. We received \$11 million. We were able to go and get \$3.5 million from somewhere else. And the remainder of the total cost of this project -- which is somewhere around \$15 million -- we only need \$84,000. And so the fact that we were able to get approximately \$4 million somewhere else -- but the kitchen was not -- could not be put into the other finances that we received. I mean, security, windows, and doors-- We requested windows and doors here, which we believed was a necessity in order to renovate a new building -- you said no. And so patching comes based upon our existing funds, not because we did not, in fact, do our homework and provide a whole project. You did not fund the whole project, and so we went out, received \$3.5 million. The only thing left in order to complete all of our requirements and desires of the Museum is \$84,000.

DR. SHANNON: Could I--

I also point -- it's not that we've chosen to do a catering kitchen as opposed to a full kitchen. Because of health and safety reasons, we don't want to cook from scratch in the building. It's typical in many museums

that you have food brought in because you don't want to have to deal with the possibility of pests from food.

ASSEMBLYMAN GREGG: You can't have half a kitchen.

DR. SHANNON: Pardon?

ASSEMBLYMAN GREGG: You can't have half a kitchen.

I don't know what you did all your life, but I've spent 27 years on tile and stainless. And there's no half a kitchen. Little animals come in, in a half a kitchen. They're going to come in, in a big kitchen. An oven isn't going to change it. It's got to do with how well you clean and sanitize. If you don't want food smells, don't have a kitchen. If you want food smells, have a kitchen. And those caterers are going to come in, and they're going to bring their Lexan boxes in, they're going to bring their warmers in, they're going to bring their propane stoves, they're going to be in the back cooking. That's the way they do things.

SECRETARY THOMAS: But, Assemblyman, I think--

ASSEMBLYMAN GREGG: I don't want to waste anymore time on this, Madam Chair. I want to get my last question in, which has to do with the archives and records management -- the \$100,000.

This is \$100,000 for a study?

SECRETARY THOMAS: Yes, it's actually for--

ASSEMBLYMAN GREGG: We're going to study on how to find display cases for this?

SECRETARY THOMAS: No, it's not to study -- it's actually for architecture -- engineer.

ASSEMBLYMAN GREGG: This was just--

My comments say -- and maybe I can defer to the experts here -- the 2000 renovations for that building was for State Archives' exhibit gallery. That's the term that's used in my document here by staff. I'm assuming if they meant to say office space, staff would have said office space. This was determined to be a gallery in 2000 and was not completed.

Now, I can understand if we in government don't give you enough money, and it doesn't get completed or you have cost overruns. But I have no idea why, after we don't complete a project for a gallery, why we would put \$100,000 to study it more. If you're coming back and saying, "I need display cases," or "I need more -- better design," or something like that, I would understand. But this seems to be -- we're going back again, saying we're going to hire somebody. Who are we going to hire for \$100,000? Do you know?

**KARL J. NIEDERER:** Madam Chair, if I may respond to the Assemblyman's question.

MS. MOLNAR: Yes.

MR. NIEDERER: Assemblyman Gregg, my name is Karl Niederer. I'm the Director of the Division of Archives and Records Management, which includes the State Archives.

Let me clarify, before I answer the point of your question, that the State Archives comprises largest tenant of the Department of State building at 225 West Street. We occupy about two-and-a-half floors of that building. The entire building was renovated in the late 1990s, completed in 2000. And most of the space that the Archives occupies is public research areas, storage vaults where the State Archives' 30,000 cubic foot collection of original manuscripts, records, books, and so forth are stored.

One component of the 1990s renovation of the building was the exhibit gallery on the first floor. It's approximately 25 percent of the first floor of 225 West State Street. That particular gallery was designed by the architects of that project in a vacuum. The State Archives provided meticulous specifications for climate controls, lighting controls, security, etc., that's necessary for the display of original documents and records in the building.

The climate controls, and security, and lighting are no less stringent in an exhibit area than they are in the storage vaults. Regrettably, the architect went from a rudimentary, conceptual design for the layout of the space to finished construction drawings, shop drawings, etc., for construction, without once consulting the professional staff of the Archives to see if it was being designed to the specifications.

In fact, we did not have an opportunity to see what kind of product we were going to get in the gallery until construction was under way. We detected numerous and significant defects in the infrastructure of the Archives' exhibit gallery as construction proceeded, both in terms of the lighting installation, the climate control system, and the security system. And these defects were recorded to the project management, and through the project management to the architects. But the defects were not addressed, and the project was brought to conclusion in a totally unsatisfactory condition.

I cannot, as a professional archivist responsible for the preservation of original documents -- I cannot, in good conscience, place 300-year-old manuscripts, or the New Jersey copy of the Bill of Rights, or our State constitutions on public display when I know that the lights are

going to burn them, if I know that the climate controls are going to cause the parchment to curl. And that is what we're seeking to address. We need to hire an architecture, an engineering service, or a consulting service who specializes in the design of the infrastructure of exhibit cases to come in and analyze the existing facility and tell us what we need to do in order to correct these serious defects.

ASSEMBLYMAN GREGG: Through the Chair.

MS. MOLNAR: Yes, Assemblyman.

ASSEMBLYMAN GREGG: Thank you for your honesty. That takes a lot of guts to come up and tell us how incompetent we are. And I hope everybody's listening really hard to what he just said.

I want to know who the architect was. I'd like this committee to find out who the architect was. I'd like to know why we have not recaptured that. I'd like to know who authorized payment for that.

In the real world, if that occurred-- You told me, throughout the process, you knew that there were some concerns. I'm not blaming you. But someone in government knew that this was not going to be a completed project to the standards that you needed it to be. Did we fully pay these people? I can tell you, in my world, I don't fully pay somebody. If I want a three-car garage, and they build me a two-car garage, I don't pay it. So, I mean, I think there's some really serious issues here that are far beyond the \$100,000 for the study. You know what you want. You know the standards, at least. You may not know how to build it personally, but you know what your standards are.

MR. NIEDERER: Yes, we knew--

That is correct, Assemblyman. We did know the standards that we were seeking to meet in the final product. I am not an architect or an engineer, and I am not experienced in designing the infrastructure of exhibit galleries. But I do know that lighting levels have to be within a certain tolerance. I do know that climate controls need to enable me to keep temperatures in relative humidity within a certain level of tolerance. And I do know what kind of security we need. And that information was provided at the outset of the project. It was not followed in the implementation of the project.

ASSEMBLYMAN GREGG: Well, I would certainly hope that we do, as a purposeful committee here, find out what happened there before we authorize any money. I would like to know--

And the last question I have for you is, \$100,000 for the study-- What is your expectation of what the final project costs might be to get the facility or the space we're talking about up to the standards needed so you can display these documents?

MR. NIEDERER: I think you just asked me two questions.

ASSEMBLYMAN GREGG: I'm a politician, I ask lots of questions. (laughter)

MR. NIEDERER: Let me answer the last one. I don't know what the ultimate cost of this would be. In fact, one of the reasons we want to hire a qualified A and E consultant who specializes in exhibits is to give us those numbers and to write those specifications.

And, frankly, Assemblyman, I do not know if the existing infrastructure of the gallery can be corrected. It's possible. I am not an expert, so I cannot say. We have a beautiful shell of a gallery. If you

looked at the gallery as it presently exists, you'd say it looks very nice. I hope that it can be preserved and that the infrastructure for climate control, and lighting, and security can be upgraded to the place where the treasures of New Jersey's documentary history can be placed on display, but I don't know if that's the case. So I can't answer your question about the ultimate costs. I couldn't even give you a range.

ASSEMBLYMAN GREGG: Do you want to take some now?

ASSEMBLYMAN CRYAN: No. Let's face it, that's disgusting.

(laughter)

ASSEMBLYMAN GREGG: We have a long agenda.

MS. MOLNAR: Any other questions?

Mr. Brune.

MR. BRUNE: Madam Secretary, just two quick questions on the auditorium.

The Department indicated that it no longer -- the lighting no longer follows current safety code requirements. Has the Department been cited for a code violation, or is it just not quite up to snuff from another standpoint?

SECRETARY THOMAS: Just not up to snuff.

MR. BRUNE: Okay.

The other question is, the fee that you were mentioning before-- Could you tell me how much you charge, and when was the last raise, to rent the auditorium?

DR. SHANNON: The fees we charge-- For a for-profit organization, it would be \$250 for a half day, that is up to four hours; \$500 for a full day; evening rates, \$750; a nonprofit organization, \$200 for four

hours, \$400 for eight hours, \$650 for after hours; a government rate, \$125 up to four hours, \$250 up to eight hours, and \$500 after hours.

MR. BRUNE: And they were last raised -- do you know?

DR. SHANNON: I'm sorry?

MR. BRUNE: Were they last raised a while ago?

DR. SHANNON: We just raised these.

MR. BRUNE: Just raised them.

DR. SHANNON: We raised them, and we also lowered them in some ways. We did not have a half-day rate, and so someone who only wanted to rent for two hours still had to pay the full rate. So we're trying to make it a rate that would be amenable to, say, a community organization that might want to use it.

MR. BRUNE: And just one last question. Have you done any kind of a study of how long it would take to pay back the \$135,000, given that you have some sense that you would have more demand for the facility -- how much money you might generate in the--

DR. SHANNON: I haven't figured out how long it would take for it to be recovered. I'm sorry, I take that back, I have. It would take-- Well, in rental fees, I'm projecting -- if we had -- if we tripled our attendance now, the rental fees for -- taking an average -- would be about \$40,000 a year. But there might be more. That would be, like, one event. But an event might be-- For instance, this organization that wants to do a holiday show wants to rent it for four or five days.

MR. BRUNE: Just so I understand you, if you tripled the usage, you would raise an additional \$40,000 a year in revenue? Is that what your saying?

DR. SHANNON: No, it would be \$40,000 revenue.

MR. BRUNE: Oh, I'm asking you how much of an increase in revenue you would generate if you tripled your usage. Something like a third of that?

DR. SHANNON: More than that, because at the moment-- I think, in our best year, we were only getting about \$10,000 in rent.

MR. BRUNE: Okay.

DR. SHANNON: But, again, we weren't marketing it. It would quadruple, actually.

MR. BRUNE: Okay. Thank you.

MS. MOLNAR: Any other questions or comments? (no response)

If not, I want to thank the Secretary and your staff.

SECRETARY THOMAS: Thank you.

MS. MOLNAR: Our next department is the Department of Agriculture. I'd like to welcome Secretary Charles Kuperus.

Good morning. Thank you for your patience.

Could you introduce your staff for the stenographer?

**S E C R E T A R Y C H A R L E S M. K U P E R U S:** Absolutely.

For committee members that may not know our staff--

By the way, thanks for inviting us.

And congratulations to A.J. Sabath. It's good to see a colleague on the other side of the table here.

On the end, to my right, is Carl Schulze. Carl Schulze is the Director of Plant Industry. If you've heard of the Asian Longhorn Beetle in

New Jersey, he's the man that's in charge of that eradication program, and has done a very, very good job at administering that.

To my right is the State Veterinarian, Dr. Nancy Halpern. Dr. Nancy Halpern administers our Division of Animal Health. And if you've heard of avian influenza, and those issues associated with that, and numerous other things, Dr. Halpern is the go-to person. In fact, she's known for canine flu, as of yesterday, in many ways.

And to my left here is Lou Bruni. Lou Bruni handles the administrative functions of the Department.

I have some testimony -- if you don't mind -- I can read. And I'd be happy to answer any questions. For the committee's sake, I have -- we have lengthy testimony here. I'm going to shorten it so I'm not reading to you, and would be happy to answer questions after I'm done.

In recognition of current economic times, our Fiscal Year 2007 capital request omits several key areas of need. Rather, we're submitting requests for capital funding that are more related to health and safety issues. And protecting our food and agricultural resources are what we're focused on here.

The first request is for \$250,000, for the 2007 year, for chromatograph diagnostic equipment. The committee needs to know the day -- the year I became Secretary of Agriculture, I came to this very committee asking for \$250,000 for a chromatograph, which I -- is something at the time I couldn't even pronounce. I've learned even how to pronounce it by now, and haven't seen any funding for that. This is, kind of, critical past stuff, and small potatoes in terms of real budget request, but something that I believe is time to fund.

The second request is for \$75,000 for GIS. And what we really want to do is, do some studies associated with GIS. We have GIS in the Department of Agriculture now that our Farmland Preservation program uses, as well as our Agriculture and Natural Resources Division. But we want to lift it up a couple of levels with respect to dealing with food issues and security issues. Really key -- small request, but at the same time, very, very important when we're dealing with food security and protecting our agricultural resources.

The next request is for \$50,000 for 2007, and \$75,000 for 2008, for research needs, equipment and construction of a BSL-2 laboratory room. This acronym BSL stands for biosafety level. The levels range from one to four, one being of least consequence to human and animal life. level four is associated with high consequence or impact to human and animal health, for which there are no known treatments or prevention. The agent's usually of foreign -- and usually fatal.

The BSL-2 room will be a separate room removed from the laboratory rooms used for daily operation. The room will require added features for a BSL-3 facility, with environment and ventilation controls critical for necessary certification. This laboratory room will be necessary to perform work involving viruses, such as avian influenza, and bacterium, such as psittacosis, which are agricultural diseases with the potential of becoming a human health threat. With much increased concern about agro-terrorism and the recognition of increasing probability of introduction of dangerous foreign animal diseases in our state, we feel the addition of a BSL-2 room is absolutely necessary.

Our fourth request is for \$75,000 for a second well at the Horse Park of New Jersey. We need the second well because we need water. But what's interesting -- in the wake of Hurricane Katrina -- and we see how many animals were displaced as part of the two hurricanes that impacted the Gulf Coast. In fact, we're going to be host to some of those animals in the not-too-distant future. It gives you an indication of how important it is to have a facility that we can put animals in for an interim time for quarantine purposes or for other purposes. And the Horse Park is a critical piece of infrastructure for that.

The fifth request is for \$175,000 to build an extension onto our accessory building at the Philip Alampi Beneficial Insect Laboratory in West Trenton. Operations and functions at the insect lab have expanded greatly over the years, and the accessory building is filled to capacity. And we're filling up lab space and wasting space with respect -- wasting space that could be used to grow insects beneficial to both our agricultural resources and our natural resources.

The next request on our agenda -- I mean on my testimony here -- are \$100,000 for architectural studies and construction of a shed row/viewing area for the Horse Park; \$350,000 to construct a second access road. One access road into the Horse Park leaves a whole chain of cars out in the road there, and it's very, very -- just sometimes treacherous to travel around that line of cars if you're going to or from the Horse Park, the relocation of a trailer.

And for the committee here, I really hope that the Department of Agriculture's request will be heard and some of these requests will be funded. Because, frankly, we haven't had a good track record. And I'm

hoping that, at minimum, a gastro chromatograph -- I mean, a chromatograph will be funded. But these other issues are critical to dealing with security issues. And Dr. Halpern is always reminding me that -- "You know, this infrastructure is important to us."

The food and agriculture industry in New Jersey -- just for everybody's information -- is a \$64 billion a year industry -- significant. Agriculture is a small component of that. But if we take a look at security needs for our State, and we look at the food systems that our citizenry relies on -- and, frankly, the citizenry of this region relies on. Metro New York, in many ways, relies on much of the food that's transported through New Jersey. These are critical requests that really need attention from this committee.

Madam Chair, thanks for the invitation to come and speak. And we're so honored. And we'll be honored to answer any questions that you may have.

MS. MOLNAR: Thank you.

Any questions or comments?

Mr. Brune.

MR. BRUNE: A quick question, Secretary, about the GIS request. I was mentioning to Lou Bruni, before the meeting, there were two ideas that came to mind. I was just curious about whether you have considered pursuing either one of them.

OIT has a GIS effort in place that-- I preliminarily described what you were trying to do. They seem to think that they could help with your request from the standpoint of-- In both of these instances, avoiding the hardware and software costs of what you're trying to do.

The other one would be in the world of State Police and Law and Public Safety-- They are in the midst of what's called the EPINet system, which is a fancy word for a large data warehouse of everything from death certificates to, in some cases, DEP information. They might even be interested in the food source information you're trying to get, I would imagine. They seem to think that they might be of help.

So the point in both cases is that you would shave off the major chunk of your request for servers -- hardware, software -- and limit it to the (indiscernible) of the data.

In the case of Law and Public, they would be able to partition it so you could have access to it. So it's just a thought -- whether you considered that approach, either one.

SECRETARY KUPERUS: This is not the only approach this Department is going to utilize in order to seek funding for these major initiatives. And you can be assured that we're going to be working with our colleagues in other agencies to get to where we need to be with respect to that. We are members of the New Jersey Domestic Security Task Force. Nancy -- Dr. Halpern, I'm sorry -- and I attend those meetings regularly. And we are going to utilize as much of the resources that we can from the agencies that you mentioned.

MR. BRUNE: Thank you.

MS. MOLNAR: Any other questions or comments?

Mr. Annese.

MR. ANNESE: Mr. Secretary, you mentioned in your presentation something that's been hitting the news quite a bit in the past couple of days, and that's avian flu. Could you bring us up to speed with

respect to the status of your Department, and with respect to the equipment you have, with respect to the request you're making, and with respect to the coordination to do with the Department of Health with avian flu.

SECRETARY KUPERUS: Well, I'm going to let our State Veterinarian speak that issue. But to give you some of the -- the lay of the land, in terms of how important that issue is to us.

We have 2.5 million land hens in New Jersey, which is a relatively good size industry. Avian influenza -- our first line, in many ways, is the live bird markets in New Jersey. We have 33 places where someone can go in, buy a live bird, have it dressed for supper tonight. And those are places that we're working with on a continual basis, through our Division of Animal Health.

Dr. Halpern.

**N A N C Y E. H A L P E R N, DVM:** Is this on? (referring to PA microphone)

ASSEMBLYMAN GREGG: Red light is on.

DR. HALPERN: Can you hear me?

We have a lot of experience with avian influenza in New Jersey. In 1983, there was an outbreak in the chicken population in Pennsylvania and New Jersey with a high-path form, which is the one that we would be concerned about.

The avian influenza that we now have is not at all related to the high-path form that you see in Asia. But because of our ongoing concern and identification of this low-path form -- that often doesn't even affect chickens. We have ongoing plans, ongoing surveillance that we're doing not

only with our own Department of Health, DEP, but other states nationally to make sure that we can identify and eradicate it immediately. So we do have emergency plans in place, in concert with the Department of Health, to deal with avian influenza.

The request is, obviously, a great need of ours. We don't know, when we have a sick animal -- before we do a diagnosis -- what the animal has. Therefore, you have to exercise caution. If there is any concern at the outset, if there are signs that we can see, then we have to perform those procedures -- necropsies, autopsies -- using the specialized equipment or room. And that's why the need is so great not only for avian influenza, but all the other emerging diseases that might pose a health threat to the people doing those evaluations.

Did I answer your question sufficiently?

MR. ANNESE: Just as a follow-up, are you saying that the reports we're hearing in the general news are a bit overstated?

DR. HALPERN: Well, the reports out of Asia are, perhaps, overstated. There's clearly people dying from a high-path form of avian influenza. In that area, people that are dealing directly, for the most part, with sick birds--

Historically, the pandemic flus had not involved that particular type of the virus. But that doesn't mean that we are not concerned. If anybody that reads history is concerned about when the next pandemic flu will occur-- We know it will occur. It's a matter of continually surveilling for it, eradicating anything that even comes close immediately, as these viruses tend to shift and change.

MR. ANNESE: Thank you.

SECRETARY KUPERUS: If I can add one thing. What's important is, we arm ourselves, or we equip ourselves with the necessary infrastructure to deal with these issues. And that's what we're here for today.

In 1918, this country experienced the pandemic -- the worldwide pandemic. And I believe Dr. Halpern, and everybody, believes that there's a potential for it to happen again. And in many ways, decisions that we make today help equip departments to deal with that when those situations do occur.

And for this committee, we do work very closely with our colleagues in other agencies in order to get this done. Health, especially with respect to avian influenza, is a very, very key partner for us in that regard.

MS. MOLNAR: Assemblyman Gregg.

ASSEMBLYMAN GREGG: Just quickly, through the Chair, I note in my notes here that it states that a Category-3 facility -- wouldn't have the space for it.

Could you very briefly perhaps, doctor, explain the difference between a two and a three. Just going back to my original theme of the day -- if we're going to do things, we should do them right the first time. And if the real desire is to have something maybe a little bigger -- is this going to be an upgrade that will be valuable to us for five, 10, 20 years, or are we going to be back here again in a few years?

DR. HALPERN: Actually, the BSL-3 facility is part of the plan for the new laboratory, which will, hopefully, be opened in 2009 -- is what I've heard. And somebody can correct me if I'm wrong on that date.

It's my information that there have been -- there has been research into our particular laboratory building -- that a BSL-3 is not possible when the Department of Health was looking into expanding the facility, as well. So I don't believe that's possible. At the same time, emerging diseases happen every day. Canine influenza, although it does not affect people, is a prime example. Here's a brand-new disease that we're dealing with right now in our laboratory on a daily basis. So we have to do something now to protect the people and still provide those diagnostic services while we wait for the new laboratory that will have the BSL-3 capability.

MS. MOLNAR: Any other questions or comments? (no response)

If not, I want to thank you, Secretary, and your staff.

SECRETARY KUPERUS: Thank you very much for listening.

MS. MOLNAR: You're welcome.

Our next department is the Department of Health and Senior Services. I'd like to welcome Assistant Commissioner Dennis Flynn.

**A S S T. C O M M I S S I O N E R D E N N I S F L Y N N:** Good morning.

MS. MOLNAR: Good morning.

Could you introduce your staff for the stenographer?

ASSISTANT COMMISSIONER FLYNN: Yes, I will.

Madam Chair and Commission members, good morning and thanks for the opportunity to present the Department of Health and Senior Services' capital needs for Fiscal Year '07 to you this morning.

My name is Dennis Flynn. I'm the Assistant Commissioner for Public Health and Environmental Laboratories. I'm here today representing Dr. Fred Jacobs, who is the Commissioner of Health.

With me today, on my left, is Mr. David Gruber, the Assistant Commissioner for Emergency Preparedness and Response. And to my right are members of my staff, as well as John Fasanella, the Director of the Budget Office; Mauro Focarelli, my Administrative and Fiscal Director; Mr. Steve Jenniss, the Director of Environmental Chemistry; and Mr. Allen Bergum, who is the Program Chief for Newborn Screening.

I would first like to update you on what should be everybody's priority today in relation to a laboratory request, which is the status of the new laboratory. This laboratory will replace our current, 40-year-old-plus facility, which is in deteriorating condition, and which Commission members are more than familiar with in past presentations.

This is a truly unique and exciting time for the Department of Health and Senior Services, as well as the Department of Agriculture, and for myself personally. I have been involved in departmental efforts to develop a new laboratory for more than 15 years myself.

As any Commission members that have heard presentations before are fully aware, the request for a new laboratory and the feasibility studies that were conducted in 2001 and 2003 thoroughly documented this need and developed a program document which will now serve as the blueprint for the new laboratory.

In 2004, the State Legislature passed a concurrent resolution authorizing the project. And through the New Jersey State Building Authority, this initiative has been funded, and bids have been awarded for

both the architecture and design, as well as the construction management, of a state-of-the-art laboratory, which will cost approximately \$139 million, and place New Jersey at the forefront of biological and chemical terrorism preparedness; while concurrently providing the best technical facility available for the hundreds and thousands of public health laboratory analyses that we do on a daily basis, such as AIDS, HIV/AIDS, newborn screening, TB, West Nile, Lyme Disease, environmental water testing, and many other tests.

Design plans are currently in process for this facility, which will be constructed on approximately 16 acres within the secure site of the New Jersey State Police complex up on Route 29, in Ewing Township. To pick up on what Dr. Halpern said about the timing of that, the projected schedule for the completion of that project is late calendar year 2009 or early calendar year 2010. So, basically, the process is about four years in total. It is underway and has begun. We are currently working in design meetings with the architects as we speak. We just finished a session this week.

The request--

Everyone in State government who has played a role in bringing this important project to fruition should be commended for the vision to place the public health of New Jersey's citizens in a priority status, even in difficult fiscal times.

The request you see before you today for \$2.3 million represents the initial year funding path in this four-year period of time between now and when this new lab is completed, which is required to

maintain safe and accurate laboratory services during that period of design and construction.

In keeping with the Commission's request, through Executive Director Lihvarcik, to fully prioritize these needs, I will highlight for you the request in front of you, and then we'll be glad to answer any questions that you might have.

I must preface these remarks by indicating that after a number of years of significant Capital Commission support, which this Department and my laboratory have enjoyed over the years, the Department of Health and Senior Services' laboratory has received no capital funding in Fiscal Year '05 or '06.

The nature of the current request has always been twofold. There's two basic parts to it. One is to provide the agency with funding that is necessary to maintain a safe laboratory with the appropriate health and safety systems necessary to protect my 200-plus laboratorians. And the second part of the request is always geared to the replacement of complex and outdated or obsolete laboratory instrumentation that is not covered or cannot be accessed by other fund sources. These instrumentation systems, which generally have a lifespan of approximately five to eight years -- and we can elaborate on some of them if you would like some more information -- are basically the lifeblood of the testing that we do. We have to maintain current technologies in order to be an effective laboratory. We are the primary and the only certified laboratory reporting network lab in the State of New Jersey, the only public health BSL-3 functioning laboratory in New Jersey. So it's a highly important function.

And, as I said, historically, the Commission has been able to more or less keep us current in terms of instrumentation so that what you're looking at annually, other than a base number for facility -- keeping the facility safe -- is a revolving number that allows us to replace the most obsolete and critically deficient instrumentation systems, a lot of which are in environmental chemistry. And these are critical to the testing that we do.

The inability of any State capital funds for these purposes places the burden on the diminishing State operational budget, as well as the revenue that we produce and the diminishing Federal base of funds. Or, the other option is, it leaves us with no ability to update our current technology or replace facility-based systems that break down, which in our facility happen rather routinely.

Within the State Fiscal '07 request of \$2.3 million, the priorities that I've listed -- the number one priority is the replacement of our automation system in newborn screening. Allen Bergum is here to describe that in more detail if you would like. But basically -- as everyone probably is familiar -- we test all newborns in New Jersey for a number of neonatal metabolic disorders, all of which are extremely important to the health of that newborn, some of which can be fatal and damaging in many respects, and all of which are very time-sensitive. This is a highly complex testing area, which again if I go back historically -- I'll reference the fact that this Commission and the State of New Jersey funded the upgrade of our technology in this sensitive area, where we were able to develop what's called *tandem mass spec testing* -- multiple mass specs, which is basically state of the art for that kind of testing. And we grew our program from four

metabolic disorders to 20 mandated disorders currently. And we track for an additional 13. So, basically, we're tracking for 33 disorders with an automation computer system that basically was designed in 1993.

Allen, is that correct?

**A L L E N B E R G U M:** That's correct.

**ASSISTANT COMMISSIONER FLYNN:** And it's completely outdated. It's a DOS-based system that really requires our program people to manually input most of the disorders, which is very much a detriment to the operation.

In addition to that, we've actually had to have the IT people -- what Allen refers to as *jury-rig* our system -- disconnect some of our capacity for storing data, those databases, in order to give us current capacity. And that's a very dangerous position for us to be in, because all of that data is critical to those testing results, and needs to be maintained until those children grow to adulthood because of the potential damage, and lawsuits, and liability that's related to them.

So that's my number one priority on the public health side -- is an effort to, basically, replace that whole system. It would have tremendous benefits to this testing area, in terms of our need to go to a Web-based environment; our ability to possibly link to a project that is going to identify, through an electronic basis, all births in New Jersey. We could link to that. And, in addition, we could eliminate this manual process that is highly suspect, and it's also prone to errors on the part of transcription. If our laboratorians are required to manually enter that data and they're wrong, the impact of that is very, very serious. So that's my number one priority there.

The second priority is approximately a million dollars -- a little bit under a million dollars on the environmental side. And this is basically needed to replace and update environmental and chemical instrumentation systems that are used to maintain safe drinking water, blood lead levels, and approve -- improve the automation and efficiency of radiological testing.

Again, this is an ongoing program, and it's something that if we are to maintain a viable and a top-grade State laboratory, you need to replace these instrumentation systems in the environmental area, as well as newborn screening, on a periodic basis, in order to remain current technologically and to be accurate in your testing. So it is a very important area.

The final piece I have listed is \$250,000 in facility safety-based funds. Basically, that's what I refer to as a *placeholder* type of an amount. From a budget standpoint, it's used only as needed to maintain this facility which, again, is a deteriorating one, and one in which we have to replace deficient vacuum pump systems, deficient water pump systems, anything that goes, basically, so to speak. So the number of \$250,000 in that category is somewhat arbitrary. It would not be used unless it was absolutely necessary. But when it is necessary, from a health and safety standpoint, it is critical.

We have-- Just to give you an example in that area, we have a project of, I think, about \$65,000 going on in Allen's area of newborn screening, in which we had to accommodate the facility deficiencies in temperature and humidity, because those deficiencies -- meaning excessive in both areas -- were causing incorrect results, again, in newborn screening, which is critical. So we have a facility project going on that was bid out

through Treasury and whatnot, to stabilize that cooling system. And we do it just as a matter of keeping that environment safe and keeping the testing viable for a period of time until we can get through this three- to four-year period in which we're going to develop and move into a new laboratory.

As the Department of Health and Senior Services prepares for the future through the design and construction of a new State laboratory, it is essential to safely maintain our current facility and its diagnostic competency in an era of increased threats from both biological and chemical terrorism, as well as diseases and pathogens of unknown origins.

I think that will do it for my prepared remarks. Myself and my staff will be glad to answer any questions that you might have.

MS. MOLNAR: Any questions or comments?

Assemblyman Cryan.

ASSEMBLYMAN CRYAN: Thanks for your comments.

I had some questions on timing. And in no particular order-- Priority two -- like, the new equipment for the environmental stuff. How long is the lead time to purchase that equipment? I'm assuming this isn't shelf stuff, is it?

ASSISTANT COMMISSIONER FLYNN: Steve.

STEPHEN W. JENNIS S: Lead time, you're really talking in the order of getting it through the purchasing process, and then the manufacturer providing it -- on the order of, like, four to five months, six months tops. Even for the larger equipment, six months.

ASSISTANT COMMISSIONER FLYNN: If we get fortunate, and the equipment happens to be on State contract, it's much quicker. If we don't, it's four to five months at least.

ASSEMBLYMAN CRYAN: So five to six months.

In your remarks, you're talking about a hold-over time to 2009. I just want to go through timing.

This Commission ends when? Even if we granted it, it wouldn't be until December, right? And then you have to go through the--

So it's a year -- it's nine months to a year for you to see something. I'm going through it, in terms of the comparison of trying to finish--

You talk about-- In your comments you talk about the fact the new lab is up in 2009. Is this stuff used in the new lab, as well?

ASSISTANT COMMISSIONER FLYNN: Oh, yes. All this is portable and will be transferred to the new laboratory. So that's four years. So we're talking about a plan of replacing critical--

ASSEMBLYMAN CRYAN: I should have asked that question first. All of this that we talk about is applicable with the new lab.

ASSISTANT COMMISSIONER FLYNN: Yes.

ASSEMBLYMAN CRYAN: Okay.

And the -- is it LIMS?

ASSISTANT COMMISSIONER FLYNN: Right, for the newborn screening.

ASSEMBLYMAN CRYAN: That's DOS-based? In 2005, that's DOS-based?

ASSISTANT COMMISSIONER FLYNN: Allen, do you want to describe a little bit more of the impact on that?

It's actually the original system that was designed in '93.

MR. BERGUM: Yes, it is an old system. We have two DOS-based servers, and then some things that are running on Novell. The DOS-based servers are, for example, a phone dialing system for physicians to get results. A better way to do it now -- with physicians needing records on their charts -- there's, of course, Web-based. They don't want to dial in and out.

You have to go through 10,000 numbers -- you know what it means. When you dial into a place-- And it provides a fax of the results to them. This type of system can't interface with our equipment. They don't speak the same languages with the new Windows-based equipment. So we are manually entering positive results. Normal results don't get entered at all. We're doing hundreds and hundreds of infants every day. They just go out as within normal limits. The system cannot handle it. It was designed for four tests, which is what was being done in 1993, and we're up to 33 now, and expecting that to expand as a Federal panel is meeting and recommending more tests.

ASSEMBLYMAN CRYAN: That's amazing.

I'll tell you what, rather than go into -- which I probably will anyway. Tell me about how the new system has the capacity to upgrade. If it was four tests in 1993, and it's up to 40 now, and you mentioned expansion, what is the life availability of this system? It's a million bucks. It's not a small piece of change. How long does it take to implement? What's the life expectancy, in terms of what you know now? And how much expansion is there needed? And what is the ability for the system to expand so that we don't not manually enter in -- or that we don't manually enter things in 10 years? Do you follow me?

MR. BERGUM: I think we'll be able to handle that. Today's computers have so much more memory and so much more-- I couldn't predict, but perhaps everything could be done by cell phone 10 years from now. But any of the new systems could handle most of the data we're doing now. We have the--

ASSEMBLYMAN CRYAN: What's the expandability of the system? How is that? Why don't you explain to me?

MR. BERGUM: Our current system or the new one?

ASSISTANT COMMISSIONER FLYNN: No, we're at capacity. We're beyond capacity.

MR. BERGUM: The current one, we--

ASSEMBLYMAN CRYAN: No, the one you want to buy. You want to buy one for a million bucks, right?

MR. BERGUM: That is modular. We can expand it at any time, adding different sections, different portions. Our instrumentation now -- we no longer do one test for one disorder, we're multiplexing. So one instrument can-- These tandem mass spectrometers that cost so much money can screen for 20 different disorders at a time.

ASSEMBLYMAN CRYAN: And the way it works now is, if it's screened-- You do 40 tests now on a system that's designed for four. And, today, you either don't input anything on these children's records--

MR. BERGUM: We input--

ASSEMBLYMAN CRYAN: --if there's no problem, right? Then it's fine?

MR. BERGUM: Right, if there's no problem, the record -- the computer automatically just spews out (indiscernible) within acceptable

limits, within normal limits -- result on the infant -- no values, no numbers. However, if it is abnormal, it does get a value and a number, because we are connected with Family Health Services, who brings these children to a medical home, make sure they get diagnostic testing and treatment.

ASSEMBLYMAN CRYAN: And the kind of test you're talking about here-- Is this, like, to see whether a kid is developmentally disabled?

MR. BERGUM: It's disorders of -- probably you've heard of PKU, congenital hypothyroidism, things like this that are-- Parent groups are out there pushing for many disorders right now. But PKU, for example, was the very first test, starting about 1965. It has no visible symptoms. It produces mental retardation. And it's just that they cannot digest one amino acid. So a physician would not pick it up since there are no symptoms. But by age 5, the infant would, perhaps, have an IQ of 65 and have to be institutionalized for the rest of his life.

ASSEMBLYMAN CRYAN: So this-- So the physician does the test and sends it to you for evaluation?

MR. BERGUM: The hospitals actually collect the blood. If any of you have had children, and they come home with a little band-aid on the heel, that's what the test was for.

ASSEMBLYMAN CRYAN: And then-- In this day in age, that test is done. And if there's a problem or anything abnormal -- for lack of a better way to put it -- then a human being enters it back into the system?

MR. BERGUM: We enter the abnormal results into the system, which are then transferred to our follow-up group in Family Health, which then contacts a specialist, contacts the pediatrician of the family, and

they get the infant tested to make sure -- where there are screening programs. They do diagnostic testing.

ASSEMBLYMAN CRYAN: And how many-- Roughly, on a volume basis, yearly--

MR. BERGUM: Volume? We had 111,500 births last year. The number of tests -- and, of course, we're doing 20 mandated tests on each infant -- 33 actually. We do some non-mandated ones we've picked up.

ASSEMBLYMAN CRYAN: Do you have any sense as to how many come out -- abnormal sounds terrible, but -- out-of-range and, therefore, require manual input?

MR. BERGUM: About one out of 4,000 infants. It's depending. We also check for things like sickle cell anemia now, in the black population. That's closer to one out of 400. But these disorders, if present, cost quite a bit to take care of. Like I said, institutionalizing one infant for a year is going to cost you over \$50,000. And if we're talking about -- with all of these disorders -- one out of every 3,000 infants, that's one of these problems.

ASSEMBLYMAN CRYAN: Which we're able to highlight and treat earlier, obviously, at the very early stages of life.

MR. BERGUM: If you can treat -- detect and treat them early, they may have a perfectly normal life. The ones that the -- the early first cases of PKU detected -- instead of being institutionalized now, they are now being screened, just monitoring their levels of the amino acid they can't handle, and having their own children.

ASSEMBLYMAN CRYAN: And in the new lab, this is all designed as part of -- and will be completely complementary with the new lab?

ASSISTANT COMMISSIONER FLYNN: Oh, absolutely.

MR. BERGUM: Yes.

ASSISTANT COMMISSIONER FLYNN: It's critical. It will be designed right into the new lab.

ASSEMBLYMAN CRYAN: You're DOS-based in 2005?

MR. BERGUM: Believe it or not, yes. We've been using the funds to make sure we have the instrumentation right now to do all these -- the new tests.

ASSEMBLYMAN CRYAN: Thank you.

MS. MOLNAR: Any other questions or comments?

Mr. Lihvarcik.

MR. LIHVARIK: Good morning.

The request for the new system, is that both hardware and software?

MR. BERGUM: Yes, it's both hardware and software.

MR. LIHVARIK: And have you-- Is it an off-the-shelf system? Is it something that has to be designed?

MR. BERGUM: It has to be designed, essentially. Off-the-shelf, you can buy the servers and all of that. But with the programming itself, that has to be designed.

MR. LIHVARIK: Is OIT going to be involved in this in any way?

MR. BERGUM: Just a slight bit. Generally, we'll put it out for an RFP. There aren't many software developers. With 50 states doing newborn screening, you only have 50 clients. And the system has to be designed to interface with our treatment groups, and Family Health, special child services, and so on.

ASSISTANT COMMISSIONER FLYNN: OIT will help us overview and then develop the RFP, and so on, and so forth.

MR. BERGUM: Right. As for the software itself, we'll see who can meet our needs. We want to interface with a few other areas, such as immunizations and with the birth registry, to make sure we are actually getting every infant in the state.

MR. LIHVARIK: And the system would be transferable to the new lab?

MR. BERGUM: Oh, yes. Absolutely.

MR. LIHVARIK: Thank you, Madam Chair.

MS. MOLNAR: Mr. Brune.

MR. BRUNE: A couple of fiscal questions, some of which are similar to last year. And maybe we can work this out between now and the time we make our final determinations.

Sort of without casting judgement on the relevant need here-- I guess the difference I can see in your department and some others is that you may, at least, have some choices versus funding from the Commission that you can turn to. I'll just give you a for instance. And, admittedly, this is difficult to do from a distance.

But in the newborn screening area, there's a fee that's attached to that program. It seems to have carried forward about a million dollars

into this year. Just to go down the list: vital statistics has a fee that seems to be coming in much more rapidly than in the past. And we all know, I think, that's there's Federal balances in the Homeland Security area to the degree that any of this is Homeland Security related. So I'm sure we don't have to work this out today. We tend to come at this from the standpoint of -- we need to understand why those sources couldn't be used for some of the need.

ASSISTANT COMMISSIONER FLYNN: I'll give you a little bit in my-- I'll start.

Basically, we do support our own operations through a significant amount of revenue. Over half our budget is basically revenue-generated. The fee for the newborn screening is built into a five-year cycle. So that's projected out. In order to maintain a stable cost to the hospitals, it's built on a system that-- That carryforward that you're referencing would show in years one and two -- correct me if I'm wrong here -- in years one and two. It's projected out for five years. So the third year would be basically about even; the fourth year it would start to decrease, in terms of showing us a deficit; and the fifth year would be a more significant deficit. That's all projected and built into that fee. So every cent of it, basically, is projected for use. So, no, there's no flex in that at all.

The Federal funds are basically two things. Number one, they're diminishing because of competing Federal needs at all levels. And number two, the Federal funds that we receive -- keep in mind this is laboratories only. Vital statistics is not part of this application nor part of our purview there. So I can't address those funds. Maybe John can.

But on the Federal side, those funds are geared-- And we use -- I think it's around 16 or 17 percent of our budget is Federal. And they support us for the specific instrumentation that's geared to either biochemical or biological preparedness -- some heavy-duty systems and what not. But the application that you see in front of you today is the public health side. So it's not eligible for any funding on the Federal BT side at all.

**J O H N F A S A N E L L A:** John Fasanella with the Budget Office.

Also, in addition, Gary, we looked at the revolving fund to determine what it would need. And we found the \$550,000 surplus. And, in fact, that was put in as part of our efficiency plan, which OMB accepted. So 550 did come out of those carried forward balances and were used as part of the efficiency plan.

On the issue of vital statistics, that increase in the revenue was part of the '06 budget, and was laid out in the '06 budget. And we were using that money to expand the death records system currently -- the electronic death record that's going in place for the funeral directors, so that they can submit a lot of their information electronically instead of having to shop around the death record and get the signatures on it, at a time when it's very difficult to find. And it's really-- At that time, you don't want to burden people with having to shop around for a record. And that's where we're using a lot of that money.

In fact, that fee has not gone into effect yet. We expected it to be in place July 1. We're now looking more likely November or December. But we're still processing with the program.

And, really, vital statistics is not appropriate. We try to raise a fee only for the purposes that the fee is for. We try not to raise fees and supplement other areas. We try to operate under the principle that if you raise a fee, you get something for that fee.

MR. BRUNE: I guess I was under the impression that some of this was related to vital statistics, some of your request. None of it is?

ASSISTANT COMMISSIONER FLYNN: Zero.

MR. BRUNE: Okay.

MR. FASANELLA: What you may be looking at is-- We had asked -- used med-prep fundings as an issue with security, to make sure that we secured some of our birth records so that people couldn't use birth certificates to get phony IDs, as a security issue. And some money from med-prep is actually being used for vital statistics to help improve that, in terms of going to an electronic birth record.

MR. BRUNE: I guess I'll just leave you with this thought. If we can maybe understand a little better, on the -- going forward on the Federal side, where there seems to be some sizable balances -- admittedly the Federal grants have dropped, but the balances remain -- why that money is not eligible for this cause.

As I said, you don't necessarily have to do it today.

MR. FASANELLA: Gary, I'd love to have a-- I'll work through the committee -- however you'd like it. But the bottom line is, whenever-- First of all, the balances that you're talking about are in the epidemiology area, not the laboratory, if there are balances.

If funds are unexpended, you have to submit a plan to the Federal government that says how you plan to spend those funds. And the

Federal government has ultimate authority on how you're going to spend those funds. The Feds don't look very likely to use their money to supplant what you'd be using for Federal--

ASSISTANT COMMISSIONER FLYNN: It's not eligible.

MR. FASANELLA: It's not eligible.

But even if it was eligible, they don't like the idea that you supported something, and suddenly you're not going to support it, and you've used their Federal funds. If there are situations where we can use Federal funds, we have. For example, last year, they purchased a \$1.5 million bio-level 3 portable lab that we have sitting in the back of our building. And we had to come up with \$1.5 million State funds for the siting and other things.

We try to do our best, whenever possible, to utilize Federal funds. But, again, I'd be glad to have that conversation with you outside the committee room, however you would like.

MR. BRUNE: I guess, just through the Chair, to close, we would just urge, as we did last year -- in this Department and some others that have at least some possible choices -- that we pursue these lines of questioning before we come to any determination later on in the process.

MS. MOLNAR: Thank you, Gary.

MR. BRUNE: Thank you.

MS. MOLNAR: Any other questions?

Mr. Annese.

MR. ANNESE: Earlier this morning, we heard some unsettling testimony about a facility that this Commission had recommended be built -- turned out to be woefully inadequate. And I would hope-- This is more

of a comment than a question. I would hope, going forward with your facility, that it does fit the needs that you foresee. And it especially needs your attention because it's a facility that you're doing in coordination with another department. And it's very easy, when different departments get together for something, to be unanticipated. So if you could just keep that in mind.

ASSISTANT COMMISSIONER FLYNN: Sure.

Just in perspective, in response to that, I would just say that as I mentioned before, my involvement has been historical, in terms of the feasibility studies in all aspects of the development of that proposal. It is now direct involvement, and that's what I was thinking of when Agriculture was testifying.

We, as a Department -- me specifically, and all of our team -- contributed to the RFP that specified what we need in that laboratory. That job doesn't end with that RFP or that award. It's an ongoing process. As I said, we're involved directly -- right now, as we speak -- in meetings with the architect and engineering team to fine-tune those needs, to make sure that they are designing a facility that meets them and will comply with all specifications. And it's a very tight sort of process, because there are CDC requirements, and BSL-3 requirements, and all kinds of technical requirements that those people know. And the evaluation process, prior to the award of those RFPs, I might say, was very stringent. Treasury was involved in a committee review of people that submitted for that project.

But what I would say to you as a Commission is, be assured that, from a State laboratory standpoint, we will be involved in every aspect of building the new laboratory.

MR. ANNESE: Thank you.

MS. MOLNAR: Thank you.

Any other questions or comments? (no response)

If not, I want to thank you and your staff for coming today.

ASSISTANT COMMISSIONER FLYNN: Thank you.

MS. MOLNAR: Our last department is the Department of Treasury, interdepartmental accounts.

I'd like to welcome Edmund Jenkins, Director of the Division of Property Management and Construction.

Good morning. Could you introduce your staff please?

**EDMUND F. JENKINS:** Sure.

To my left is John Geniesse. He is the Assistant Deputy Director of Property Management. And to my right is Jenifer Osborn. She is the Chief of the Office of Building Management and Operations.

Good morning, Madam Chair.

Oh, and David. David Millstein. I didn't know he joined. He's our ADA guru.

Good morning, Madam Chair and Commission members. Thank you for the opportunity to present the Department of Treasury's Fiscal Year 2007 interdepartmental capital budget requests -- the interdepartmental requests, submitted by the Division of Property Management and Construction, on behalf of the Department of the Treasury and State agencies in the Capitol Complex.

The Fiscal Year 2007 interdepartmental capital budget requests a total of \$598.9 million to fund projects through Fiscal Year 2013. Of that total, \$143.7 million is requested in Fiscal Year 2007. Excluding the \$98

million constitutional dedication of State sales tax revenue for open space preservation, approximately \$46 million is requested to address the most urgent capital needs of the State-owned facilities managed by Treasury.

As you are aware, the DPMC is statutorily responsible for the operation and maintenance of 41 buildings ranging in age from 20 years to 213 years, with an estimated replacement value of \$1.6 billion. This year, as in years past, the Division has focused the top priority projects to fund the repair or replacement of critical building systems and equipment in these State-owned facilities.

These priority requests represent our best prediction of those conditions that must be addressed in order to keep the facilities operating. Please keep in mind that they are just that, our best prediction. Given the age and deferred maintenance of these facilities, unforeseen events that create emergency situations may force lower priority projects to the forefront.

Please also know that the project cost estimates provided are based on scheduling repairs at times that are cost-effective for labor, materials, and staff productivity. Continued deferral of these projects often results in emergency repairs and employee relocations that radically increase costs and inhibit performance.

These projects identified as our top five priorities address the replacement core building systems such as HVAC systems, roofs, and chiller units. As more specific details of these projects are presented, they may sound familiar, as many have been part of previous capital budgets submitted by the DPMC that were subsequently deferred due to scarce available dollars. While we recognize the State's limited capital budget

funding, the continued deterioration of the buildings exposes the State to more far-reaching projects as one system's failure has a domino effect on another. The risk of environmental hazards cannot be overlooked either. Failing building systems significantly increase the chance of mold and other airborne contaminants. PEOSHA-mandated remediation of these conditions has proven to be all-encompassing and very expensive.

In March 2005, the Department of Community Affairs conducted the annual fire inspection of the State House Complex. The inspection revealed numerous violations, most of which involved the working Executive State House. Several of the violations involved life safety code requirements that mandate the installation of a fire suppression system and 30-minute fire barriers on open areas and stairwells.

As you know, the State House basement serves as office space for many employees. However, due to the age of the facility, there is limited ingress and egress, posing great risk to the staff in the event of a fire. Funding requested in Fiscal Year '07 will be used to equip the basement with a fire suppression system.

Remaining Fiscal Year '07 funds will be used to conduct a study and develop a design for a 30-minute fire barrier at the open exterior stairwell between the Executive State House and the Legislative State House. At this time, the stairwell has archways open to both sides of the Rotunda on all three floors. Should a fire occur, employees and visitors would be placed in grave damage -- in grave danger, I should say. The installation of a 30-minute fire barrier would delay the spread of fire, providing much-needed additional time to evacuate the facility. Funding requested in Fiscal Year '08 would be used to complete the construction of

the fire barrier. Again, these funds are necessary to meet State-mandated code requirements ensuring life safety for employees and visitors alike.

The Document Control Center serves as the main warehouse for the Division of Taxation, containing over 42,000 boxes of tax records that, by law, must be maintained for no less than seven years. The DPMC has also identified this facility as the cornerstone of its warehouse consolidation initiative that will result in approximately \$1 million in annual savings to the Central Rent Account. To date, the Division has already closed two other leased warehouse facilities at a savings of approximately \$500,000 in rent payments.

The Document Control Center does more than just store records. Its in-house staff of 40 employees provide records retrieval, scanning, and imaging services. And the center is used as local area access for auditors who must review the stored documents.

In past capital budgets, the DPMC requested, but did not receive, funds to repair the center's roof and relocate its antiquated HVAC system to the ground level. To date, the center continues to experience problems with insufficient air conditioning and major roof leaks, damaging the documents as a result of moisture and exposing the facility to the potential for mold development.

The funds requested in Fiscal Year '07 will be used for the removal and replacement of eight HVAC units and five exhaust fans from the roof with an upgraded, energy-efficient system on the ground. At the same time, the roof will be repaired. Additional funding is requested in Fiscal Year '08 for a full roof replacement.

Again, the cost estimate provided assumes repair of the HVAC system and roof under optimal conditions. Emergency repairs and/or mold remediation will significantly increase project costs and could result in the need to relocate the entire operation to expensive leased space, nullifying any savings achieved throughout consolidation efforts.

For several years, the Division has requested funding to replace the 880 pumps that supply heating and air conditioning to the DEP building. The pumps are well past their life -- their useful life, at 20 years old, and in-kind replacements and parts are no longer available. In order to maintain acceptable temperatures in the building, our in-house staff work with contracted vendors to rebuild the units at a cost of approximately \$200,000 annually. Until a full energy upgrade is completed, we have no other option but to annually request funds in order to rebuild and maintain this equipment.

The DPMC has submitted a separate capital request for funding to implement full energy upgrades at the DEP building and Labor building, which were identified in preliminary utility audits recently commissioned by Treasury. These upgrades would result in total project savings in energy costs of \$1 million annually, with an average payback of investment of seven years for the DEP building, and four years for the Labor building.

The State office building located at 135 West Hanover Street houses the State Governmental Security Bureau, a State Police operations station that is active 24/7 and includes the canine unit. In addition, it will soon be home to the Central Monitoring Station that uses sophisticated computer equipment to check intrusion and fire alarms, and closed-circuit

TV system to monitor the safe streets walkways and parking facilities in the Capitol Complex. These security operations require consistent temperatures, particularly during the cooling season, to safeguard sensitive computer equipment.

The chiller units have continued to deteriorate, failing numerous times this summer, resulting in the early dismissal of staff due to excessive temperatures. Only emergency repairs can be completed as the units are well past their useful life and replacement parts are not readily available. Funding requested in Fiscal Year '07 would be used to replace the chiller units at the State office building.

A consultant's report, dated June 2000, recommended roof replacements at many of our facilities: DEP, Distribution Support Services, Document Control Center, Trenton Office Complex, and the William Ashby Building, to name a few. Unfortunately, a lack of capital funding prohibited any roof replacement projects, with only minor exceptions.

Deferral of these roof maintenance projects has cost the State significant dollars in emergency roof repairs and interior work resulting from water infiltration. Continued deferral of these projects will ultimately cost the State much more when old, untouched, or patched roofs fail, resulting in moisture exposed interior work spaces that require extensive repairs and possible mold remediation.

Funding requested in Fiscal Year '07 will be allocated for the design and roof replacement at the DEP building, and Fiscal Year '08 moneys will be used for the roof replacement at the Document Control Center.

These priority projects, and those remaining that I did not detail, speak to the emergent conditions of many of the buildings managed by the DPMC. As described, these projects involve core building systems that are necessary to continue the safe operation of the facilities.

We can no longer go forward on a hope and a prayer that these systems will continue to hold without catastrophic failure. Nor can we pretend that deteriorated conditions are not potentially exposing employees and visitors to unhealthy environments with far-reaching effects.

Finally, the interdepartmental request contains the statewide accounts that are funded centrally by OMB in order to prioritize requests submitted by all agencies. These include Capital Complex Security, Americans with Disabilities, and Hazardous Waste Removal. This year's request also includes a new statewide account, Risk Management Compliance and Preservation, to address safety issues that pose potential risks to employees. These funds would be used as recommended by the newly established Statewide Safety Committee for projects such as the installation of additional security lighting, repairing of heaving concrete walkways, and the replacement of a worn carpet. Addressing these potentially dangerous conditions would reduce the State's vulnerability to costly sick leave injury claims that typically exceed \$15 million annually.

The remaining unranked requests represent agency initiatives put forth by the DPMC on behalf of other State agencies. While not included in the limited list of priority projects, these requests address key issues that require resolution and the identification of a funding source.

In closing, I would like to thank the Commission for its consideration of this year's capital budget and past support. Approval of

these priority requests will fund critical building infrastructure projects that require immediate attention. I ask that you carefully consider these projects not only to address health and life safety concerns, but to proactively address long-overdue mechanical and building system issues before we must react to expensive emergency shutdowns and repairs.

Again, I thank you, Madam Chair and members of the Commission, for the opportunity to present this year's request.

I would also like to thank Michael Lihvarcik and the Commission staff for their ongoing assistance.

We are available, if need be, for questions.

MS. MOLNAR: Thank you.

I have a few questions.

There were some nice photographs in our package here. One says State House Rotunda openings needing fire doors. And the other one was, State House staircase needing fire doors, as per DCA.

Now, the one question I had-- Are historic buildings grandfathered from some of these strict code requirements? I mean, I don't want to put our employees at risk, but it does change the whole--

MR. ROUSSEAU: Gary and I were joking that -- when we talked about the offices in the basement. We need the fire suppression systems. He leaned over to me and said, "I guess you support that one since your office is above those offices." (laughter)

MS. MOLNAR: I was just wondering, it changes the whole structure of the Rotunda. Is there any grandfathering allowed?

J E N I F E R O S B O R N: We did speak with DCA. In fact, we specifically had a meeting with DCA, who performs the inspections, and the

State Historical Preservation Office, because we were concerned that we have a historic building, and although we've been inspected in the past, these are items that they've talked about, but they've never actually given us a violation and required that we actually do work to abate the violation.

And that's what we had said, "Aren't we grandfathered in?" They basically said that, no, that's not the case. And although the State Historical Preservation Office was also concerned, our difficulty is that the violation is there, they're telling us we have to do it. And if we don't do it, we will eventually be fined. So we're trying to move forward.

We picked the basement because it is an area that was of the greatest concern, because the front area-- It actually is, in some cases, totally underground, in some cases three-quarters, and in other cases -- even if there are windows, there are decorative metal bars on the windows. They also requested that the entire building be sprinklered which, again-- We would love to see that happen, but it's hard to do that with an occupied building. So we took the other end, of saying -- "Well, how about if we look to put these barriers?" Actually, there are existing barriers in the legislative staff building that -- the building, all the way to the back. There are two archways up in that atrium. And you can't even see them. But in a fire, they will open up and, like a grate, will come down and close off that area. So we were thinking of something along that line. But, again, it would be best to do this at the time of the renovation because of asbestos, lead paint. But we're really limited.

MS. MOLNAR: The way this is written, it doesn't sound like it's a barrier that would come down. It sounds like-- I was wondering, what material are you envisioning, metal or glass? What is this barrier made of?

MS. OSBORN: Typically, it's like a metal-- It's a roll gate. And it's a metal roll gate that will roll down. And that's, basically, attached to the ceiling right before that area.

MS. MOLNAR: So these archways would have some metal hanging from the top of the archway that would come down?

MS. OSBORN: It would actually be like a box of, probably, drywall. So you wouldn't-- Looking at it-- When you got under it and looked up, you would see that there's a metal gate in there. And it's just a very large box that would then roll down.

MS. MOLNAR: So it would be open. The archway would still have the look of an archway, but there would be something built in the top of this archway that would come down during a fire.

MS. OSBORN: And actually on this side of archway, so it would not be in the area that was just completed -- not in the finished area, but on the unfinished -- or I should say, unrenovated area.

MS. MOLNAR: What about the staircase? It says staircase needing fire doors. What would be there?

MS. OSBORN: That's going to be a design challenge for someone.

MS. MOLNAR: You would fill in-- The staircase would be filled in? It wouldn't look like this anymore.

MS. OSBORN: Well, again, there are also stairwells elsewhere where there is actually metal doors that close windows. And this is an area where we would need a designer to come in to help us to meet the fire code. Because this would be very difficult because it is a large, open stairwell from the third floor down.

MS. MOLNAR: Are you saying the stairwell will be closed in eventually?

MS. OSBORN: It would have to be. And, again, it would have to be some type of a device that would close it off totally so that-- And, again, because it's open for all the floors, this would be a very difficult--

MR. JENKINS: In the event of a fire.

MS. OSBORN: Yes, it would only be in the event of a fire.

MS. MOLNAR: Assemblyman Gregg.

ASSEMBLYMAN GREGG: My blood pressure is going up.

MS. MOLNAR: Mine too.

ASSEMBLYMAN GREGG: Well, I mean, I'm not just the Hair Club president, I'm a client.

For those of you who don't know my business, in the past it was restaurants. My last final restaurant was an 1810 building, 35,000 square feet. It's one of the oldest three-story brick buildings in the country. It was an old inn. There was a beautiful staircase that goes up to the inn rooms. And the department of -- I won't even call them what they are -- the DCA came in one year and just decided about three or four years ago that we should do that.

I'd like to ask you to take a guess on whether or not my building has anything in it right now. No. And it passed, yes. Why? Because it was nuts. There was no way the flavor of the building was going to be lost on this. I'll tell you how they have to fix it. You've all been to your schools in the old days. And the stairwells in the schools with the glass with the little wire in it -- the safety glass. That's how you do it. Can you imagine going up those stairs in the Rotunda with glass enclosing it?

That's what they were recommending for my establishment. I said, "No, I'm not doing it. I'm not going there." And, ultimately, that's where we've got to be here.

I mean, safety is a good thing. But we're not going to be putting glass around the Capitol Building in Washington, and all of the stairwells that go up there -- built into the marble and the history of this great state. There's a point where government says no. These folks have to realize there's other ways to do it.

Let me close by saying there are other ways to do it. What we did is go backwards in the building and negotiated a compromise on where we would put a fire door that wasn't near the historic stairwell that would still provide some protection. Now, you may or may not be able to do that in this building, depending on what the standard is. But I just cannot imagine that--

And you can see by your request-- I mean, you're not requesting us to do it. You're requesting us to spend hundreds of thousands of dollars to just study how to do it, after we spent millions to make it look like it did years and years ago, so the people who visit it could see history as it should be.

Somebody has to get back to DCA on this and get them straightened out -- that there are exceptions that we make for historic buildings. The Chairwoman is completely correct. We do it, we negotiate, we try to bring safety in with history. It's not either/or. There can be-- It can be done both ways.

When I read this yesterday, I just went off the deep end because I've been there, done that. And it took three or four months, and it

still cost some money. But it was okay. We put a door someplace else. It's the stupidest door in the world, but we put it there. And, in this case, it may be putting those magic doors farther back so they don't necessarily infringe on the beauty of the Rotunda. We lose a little bit of safety but, for the most part, provide that block of the heat that they're worried about that will travel quickly in a fire.

But I'm done. And I thank you for that indulgence. But this is not something we should even be talking about funding, let alone-- We should be at another level of talking about why are we here, talking about it.

MR. JENKINS: To your point, we have to balance, certainly-- To your point, we have to balance the safety versus the integrity, the historical integrity. I agree with you.

ASSEMBLYMAN GREGG: Well, this is government chasing down government again.

MR. JENKINS: Yes.

ASSEMBLYMAN GREGG: I mean, this is us. We're doing it to ourselves here. And it's humorous. Usually we're doing it to the persecuted individuals like me. And I have to work my way up the ladder. Now we're persecuting ourselves. I mean, we spend millions to make the most beautiful statehouse in the country. And I think it is. I think we're all very proud of it. I'm proud every time I sit in my desk. And to sit there and take the beautiful museum piece we've just done and undo it-- There's a better way to do this.

MS. MOLNAR: Thank you. I had the same concerns.

Any other questions or comments?

Gary Brune.

MR. BRUNE: Just a quick question, Ed, about DEP.

MR. JENKINS: DEP, yes.

MR. BRUNE: You referenced-- Was that the Federal money that we're waiting to hear on, that might be another source of funding that project? The Federal Department of Energy? Is that right?

MR. JENKINS: The chillers we're talking about?

MR. BRUNE: Yes, the pumps -- the 880 individual pumps.

MS. OSBORN: Actually, we did do a preliminary audit in order to find out if we can do an energy efficient way of replacing the equipment, as well as having energy savings.

What we're currently doing is just maintaining the obsolete equipment that continues to break. What we're looking for here is just to -- money to continue. And we're also just presenting that we would like to be able to do these audits -- move forward with these audits on DEP, as well as Labor. But the costs of them are quite high. So we are in the process of trying to get firmer numbers so that we hope to be able to, maybe, present them to the Building Authority, as a process.

MR. BRUNE: Oh, so the reference is to-- So that's going to the Building Authority. I thought-- I got some sense it was the Federal money you were after.

MS. OSBORN: No, there's two issues. One is to maintain the 200,000 we need a year just to keep the building up and running. And on the other side, we want to pursue doing these audits, because we believe we can save a million dollars -- it will take about seven to 10 years, but we

could save the State a million dollars a year in energy savings, as well as have brand new equipment in two buildings. One which has--

MR. BRUNE: Can I just go a little slower?

You're saying save a million dollars from this project, or more generally?

MS. OSBORN: These two.

MR. BRUNE: All right.

MS. OSBORN: In seven to 10 years, if we can do these projects -- based on this preliminary audit, they say we will have a million dollars a year savings. And at that point, we would have also replaced -- in some cases replaced equipment, and in other places augmented equipment and lighting in order to gain those savings.

MR. BRUNE: Let me just ask one other question.

As I understand it, we're spending about \$200,000 a year at DEP to just repair, keeping -- limping along, right?

MS. OSBORN: Yes.

MR. BRUNE: And we want \$200,000 as a capital request to replace some of those pumps.

MS. OSBORN: It's pretty much to continue limping along.

What they are is-- There are 800-and-something units. So whether it's compressors, control valves-- And it costs over \$100,000 just for the labor to do this during the year.

MR. JENKINS: This has to happen just about every year, just to continually--

MR. BRUNE: I guess what I'm missing is, is that already budgeted, or what is the new request that you're trying-- You're not trying to replace the pumps?

MS. OSBORN: Well, the new request is to continue the \$200,000 we need until such time that we can get the money that we're looking for; again, hopefully to present something to the Building Authority. And we assume it would take at least two years to get this project designed and implemented.

MR. JENKINS: And remember, at any given time, with 880 pumps -- many are in disrepair. It's just a process of continuing those and--

MR. BRUNE: We can talk about it off-line. I don't want to hold you up.

**JOHN GENIESSE:** Through you, Madam Chair.

Gary, just to elaborate a little bit more. Typically, these types of energy audit improvements are funded through some kind of -- we said the Building Authority, but it could be some kind of debt instrument -- where the annual savings, which we're talking about a million dollars a year, basically equal or exceed the debt service payment. So that's one of the financing mechanisms, which normally is used for these types of--

MR. BRUNE: It doesn't seem to be a bad idea. I think we just have to -- or I just have to understand it a little better.

Thank you.

MR. GENIESSE: But I think we're also saying we need the \$200,000 just to maintain, as we have.

MR. BRUNE: Okay.

ASSEMBLYMAN GREGG: Madam Chair.

MS. MOLNAR: Assemblyman Gregg.

ASSEMBLYMAN GREGG: Just a--

I mean, I'm kind of new to this Commission. This clearly seems to be an obvious need. I understand you have to-- This is an operating cost. And we're a capital projects group here. And you're spending 40 hours a weeks with an individual who is repairing pumps that need to be repaired because that's what you have to do. But it's not a capital expense. No one would let the business community capitalize that kind of an expense.

MR. ROUSSEAU: I agree with you.

I think that's just what Gary was trying to get at. Some of this is-- This has already got--

ASSEMBLYMAN GREGG: Well, we're on the same page.

MR. ROUSSEAU: Yes. If we're spending \$200,000 a year already on this, this is in somebody's operating budget already. Whether it's in DEP's operating budget, or DPMC's operating budget-- If we're spending \$200,000-- If we spent it last year, this year, or the year before, it's in somebody's budget already. That's not what-- This isn't the appropriate place for that. That's a discussion about continuing that \$200,000 in the operating budgets for whoever -- wherever it is.

Gary, we can talk more about where that money actually is right now.

As the Assemblyman said, this is not a -- shouldn't be a -- this isn't, really, a capital request.

MR. ROTH: Madam Chair.

MS. MOLNAR: Yes.

MR. ROTH: We've been discussing this for as long as I've been on the committee. It's a question of deferred maintenance. You defer it to some point where it's going to cost you 10 times as much to have to go out and sell bonds to pay debt service, and so on, and so forth, than it would to spend a regular amount each year.

And this was, indeed, a subject I raised last year. As a matter of fact, it's even in the minutes of our last meeting, December 10, on Page 15. I had been asking, at that point in time, for a report which would show us, over the last 10 years, essentially, what was budgeted in the operating budget for building maintenance, versus what were the costs associated with the debt we had to incur to pay those bills down the road. And, so far, I haven't seen that report. I hope it will be forthcoming.

MS. MOLNAR: Thank you.

Any other questions or comments?

Mr. Lihvarcik.

MR. LIHVARCHIK: Good morning, Ed.

MR. JENKINS: Good morning.

MR. LIHVARCHIK: Regarding the roof replacement request, you're saying that they're various locations.

MR. JENKINS: Yes.

MR. LIHVARCHIK: Would it be possible, through the Chair, to get a breakdown of what they are and what their annual maintenance costs are?

MR. JENKINS: Absolutely.

MR. LIHVARCHIK: And could you do the same thing with the water infiltration?

MR. JENKINS: What buildings where we've had water infiltration because of--

MR. LIHVARCHIK: Yes, and what it's costing per year to stick the band-aid on them.

MR. JENKINS: Okay. So it would be the same facilities you're saying. Okay.

We're having big problems at the TOC right now, as we speak, with both of those issues. So, yes, we will get something to you, through the Chair.

MR. LIHVARCHIK: Thank you.

MR. JENKINS: You're welcome.

MS. MOLNAR: Thank you.

Any other questions or comments? (no response)

If not, I want to thank you for your presentation.

MR. JENKINS: Thank you very much. And congratulations on your reappointment.

MS. MOLNAR: Thank you.

MR. JENKINS: You're welcome.

MS. MOLNAR: Now, under other business -- old business.

It was for a 10-year period? I forget what it was.

MR. ROTH: Yes, I had asked for a study, going back 10 years, of operating budgeted maintenance costs versus the cost of bonding for deferred maintenance.

MS. MOLNAR: Do we have--

MR. ROTH: And we're not just talking about the amount of the bonds, we're talking about the debt service that we've had to incur.

MS. MOLNAR: Oh, okay. Not just the bonds, the debt service.

Do we have any update on that?

MR. LIHVARCHIK: Yes.

I don't have it with me today, but we'll provide it to Mr. Roth.

MS. MOLNAR: Okay. It will be provided shortly.

Our next meeting is October 21, in this room. The 28th, this room is being used. I'm trying to get a different location, because Room 12 is very small. We're always, like, sitting in crowded conditions. So next time, on October 21, we will meet in here.

Any other business? (no response)

If not, meeting adjourned.

**(MEETING CONCLUDED)**