
Public Hearing

before

ASSEMBLY TRANSPORTATION COMMITTEE

ASSEMBLY BILL No. 3350

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

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Trenton, New Jersey

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The Office of Legislative Services, Public Information Office,
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MEMBERS OF COMMITTEE PRESENT:

Assemblyman Alex DeCroce, Chairman
Assemblywoman Marion Crecco
Assemblywoman Connie Myers
Assemblyman Reed Gusciora

ALSO PRESENT:

H. W. "Rusty" Lachenauer
Office of Legislative Services
Committee Aide

Laura A. Neumann
Assembly Majority
Committee Aide

Patrick O'Connor
Assembly Democratic
Committee Aide

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ASSEMBLYMAN ALEX DeCROCE (Chairman): Good morning, everybody. I'm Assemblyman Alex DeCroce. We're here today to hold a hearing on Assembly Bill No.-- Well, we have a bill that we've dropped in, but what it is, is pertaining to the transportation enhancement districts. This is a reformed transportation development district type arrangement that we've come to that we've put into bill form, and frankly, inadvertently, I did drop it in. It's in the hopper, but I'm not ready to move the bill. We wanted to take some hearings.

We've been to northern Jersey and to southern Jersey, and frankly, we didn't have the amount of people out that we thought we would to testify in favor or against, or whatever, to help us with this bill. So we thought we'd come back here to Trenton. I'm not so sure how fast we're going to move along with this bill, because I think it needs some work, and we wanted to listen to a lot of people.

I wanted to -- from RITCSC -- recognize a few of the Commission members that helped put this bill together: former Mayor Millard Wilkinson from South Jersey -- How are you, Mayor? -- Donna Orbach from Bergen, Pippa Woods and Bill Beetle from DOT.

And right now I'm going to call upon John Carnegie to give us a summary of what we, through the Commission, attempted to accomplish.

John.

J O H N C A R N E G I E: Good morning, everyone. As Assemblyman DeCroce indicated, my name is John Carnegie. I am a Senior Project Manager for the Transportation Policy Institute at Rutgers University. We provided staff support to the Regional Intergovernmental Transportation Coordinating Study

Commission, which we affectionately call RITCSC, or some derivation of that.

RITCSC did a great deal of work in looking at the land use and transportation decision-making process here in New Jersey and looking at the implementation history of the Transportation Development District Act of 1989, and over the span of a year took testimony from a wide variety of folks -- public sector, private sector, nonprofit sector -- who have knowledge and experience with the Transportation Development District Act and land use transportation decision-making in New Jersey.

In October of last year, we developed a final report with a series of recommendations that fell into two categories: general recommendations that would call for changes in policy and administrative policies that would change the land use transportation decision-making process, and then a series of specific recommendations relative to the Transportation Development District Act.

The TDD recommendations fell into three broad categories, and essentially, the goals of those were to eliminate barriers to TDD implementation by correcting and deleting provisions in the existing Act that limited the flexibility and use of TDDs in a variety of land use settings in New Jersey. I'll clarify existing language in the TDD Act that was perceived to be unnecessarily complicated and, in a sense, thwarted the implementation process, and also to broaden the scope of the TDD approach to authorize the creation of what we call transportation enhancement districts, which would enable special benefit assessment on existing properties, as well as new development in a created district.

Over the course of the first couple months of this year and December of last year, we worked with the Office of Legislative Services and the Department of Transportation to try to amend the existing Transportation Development District Act and quickly found out that it was going to be difficult to mesh what we wanted to do with the existing language in the statute and decided the best thing to do in terms of moving forward was to keep the best parts of the TDD Act -- the things that we heard from testimony that were the things that worked -- and melded with that the new concepts that the Commission came up with.

The bill that we're here to talk about today is the sort of reflection of that work and is certainly a work in progress, and we're hoping to get testimony to help improve it over the next few weeks and months to get a bill that works and can move forward.

In general, the transportation enhancement district concept is intended to be voluntary and permissive in nature, broadening the capacity of county and local government to address travel needs and congestion problems related to both past development as well as future development in communities throughout the state. The TED concept expands the scope, as I said, of potential assessment options to include the assessment of new development, as well as existing development, in order to meet the transportation needs of a particular district.

The concept designates the county as the initiator of the TED application process, as well as the shepherd of the process as it moves forward into implementation. It is designed to foster cooperative planning through a process which is called the joint planning process, and that would include

representation by the county, affect the municipalities, private sector land owners, New Jersey Transit, metropolitan planning organizations, as well as others who have an interest in a particular district to develop a cooperative, forward-thinking transportation enhancement district plan that would be the basis for a series of improvements and services in that district to improve the mobility for both existing and new development.

The joint planning process ensures the private sector has an opportunity to participate in determining what the transportation improvements and services will be in the district, as well as helping to determine what the public and private shares of those improvement costs will be. They also help in determining what the amount, the schedule, and the process for collection of district fees in order to implement the plan.

If there's not agreement by the municipal county partners and the Department of Transportation on an appropriate fee structure and a comprehensive plan of improvements for transportation, the district planning process will not move forward, and a district cannot be formed.

As far as implementation and financing goes, as I said, the dual fee structure, which supports the allocation of fair proportions of the various improvement costs, including the public sector's share of the costs as well as the private sector's share of the cost-- The TED concept is designed to ensure that the public sector and the private sector each pay their share of the burdens created on the transportation system.

In addition, the TED permits the use of district revenues for the development of the planning that goes into creating the transportation enhancement district plan as well as engineering costs, right-of-way acquisition

costs, construction costs, and the costs of operating transit services in the district, if that's decided by the joint planning process as an appropriate improvement for the future.

In terms of long-term oversight and making sure that the priorities of the district and the implementation of the district plan stay on track, the TED establishes an ongoing and continuous process that includes the municipal and private sector involvement in what is called the oversight board. It is an advisory board that provides policy and prioritization input to the county over time as the plan goes through implementation and is updated from time to time in the future.

In essence, we think that the improvements that we have put forward embody those that were recommended by the Regional Intergovernmental Transportation Coordinating Study Commission and reflect the testimony that we've heard from those who have experience with implementing TDDs. We believe that the bill is a good step forward in terms of addressing the deficiencies of the previous TDD Act, and it will hopefully foster the use of these districts in the future throughout the state.

ASSEMBLYMAN DeCROCE: Thank you, John. Thanks, John.

The RITCSC commission came together under a piece of legislation that allowed them to try to put this bill together or at least a proposal together, in one year. We did it in a little more than a year and have sunsetted that we have unofficially kept the body together, because we wanted to gain whatever information we could through these public hearings to see if we could improve on the bill in any way and take into consideration some of the concerns that the public may have. So, despite the fact that the bill has been given a number, it's

in -- it's in the hopper, we're not ready to make a move on it at this time. I want to give everybody an opportunity to discuss the bill to the best of their ability.

I'd like to thank Assemblywoman Connie Myers for being here with us today and Assemblywoman Crecco and certainly Reed Gusciora, from the minority side. I appreciate your time.

I think at this point we're going to call upon the Assistant Commissioner of the DOT, Pippa Woods, for a statement.

Pippa.

The Assistant Commissioner is also on the RITCSC commission.

ASSISTANT COMMISSIONER PIPPA WOODS:

Good morning, Mr. Chairman, members of the Committee.

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

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

The Department of Transportation would also like to commend the public and private sector members who participated in RITCSC, and in particular the Transportation Policy Institute, for their hard work in bringing closure to difficult policy, technical, and controversial issues. The RITCSC report is the basis for the legislation under consideration today.

The Department was a full participant in RITCSC, and we value hearing others' views on how to improve upon the concept established in the Transportation Development District law created in 1989. We are before you today in full support of the transportation enhancement district concept and the process by which such districts could be created in New Jersey.

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

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

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

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

ASSEMBLYMAN DeCROCE: Thank you, Pippa. I appreciate your involvement.

Next, we have Peter Garino from New Jersey Transit.

PETER GARINO: Good morning, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Good morning.

MR. GARINO: My name is Peter Garino, and I am the Director of Strategic Policy Initiatives in New Jersey Transit's Office of Government and Community Relations. I thank the Committee for this opportunity to testify in support of A-3350.

Public transportation is one of the best tools for supporting local development and smart growth. Light-rail transit, in particular, has a proven track record of supporting economic growth in New Jersey. The Hudson-Bergen Light Rail, for example, is being constructed in the heart of what will be some 25 million square feet of new office development in Jersey City. By comparison, the city of Houston, Texas, has approximately 21.3 million square feet of Class A office space. When light-rail was first proposed in Jersey City, there was less than 1 million square feet of office space. By 2005, there will be over 16 million square feet of office space along the Hudson-Bergen Light Rail line. Clearly, public transportation serves as an incentive for regional development.

Similarly in Newark, office development is progressing along the route of the first phase of the Newark-Elizabeth rail link. Construction has started on the FBI building, which will have a light-rail stop directly across the street. We have also seen major office renovations in Newark, including such buildings as IDT, which will be served by a station of the light-rail extension of the Newark city subway.

A-3350 recognizes this important relationship between transportation and local development and puts voluntary and flexible mechanisms in place to provide for a symbiotic relationship between the concerns of public transportation and those of the community. Transportation enhancement districts provide a forum for fostering this important relationship which serves our needs as a provider of public transportation service and the needs of the community in which we are neighbors. Stronger relationships with local communities ensure that we can better meet the transit needs of those communities, thereby relieving congestion and improving the quality of life.

Public transportation provides a vehicle for growth. By encouraging effective public transportation, this legislation serves to foster regional economic development. Without effective public transportation, businesses are limited in how they can expand and meet the needs of their customers. Traffic congestion and parking needs cap the number of customers that come through the door. Public transportation provides a means to create an environment where businesses can flourish and residents can enjoy a high quality of life.

History has taught us of the importance of working with communities when implementing transportation improvements. The TED

process allows us to strengthen our bonds between the community and our agency when it comes to implementing new public transportation services.

New Jersey Transit supports this legislation and commends the Committee and the members of the Regional Intergovernmental Transportation Coordinating Study Commission for their efforts in bringing this legislation to fruition.

We encourage the Committee to favorably release A-3350, and thank you again for this opportunity to testify.

ASSEMBLYMAN DeCROCE: Thank you, Peter.

Anyone have any questions for Peter?

ASSEMBLYMAN GUSCIORA: I'm just curious how New Jersey Transit benefits under the TEDs -- how, specifically, this bill works with New Jersey Transit.

MR. GARINO: Well, if a TED is established, it provides a new funding source, essentially, for transit services, if a community decides that over and above what the State provides, the area needs more.

ASSEMBLYMAN GUSCIORA: Would that also include the Dinky service that's in Princeton that runs to West Windsor?

MR. GARINO: The Dinky service is currently funded by the regular capital fund of the State. But if Princeton wanted to expand that service and was looking for a funding source other than the State--

ASSEMBLYMAN GUSCIORA: Is that part of New Jersey Transit's future plans, expanding the Dinky service?

MR. GARINO: Right now, the expansion of the Dinky Service is not on our Vision 2020 map, but we are always open to listening to new ideas.

ASSEMBLYMAN GUSCIORA: Thank you.

Thank you, Mr. Chair.

ASSEMBLYMAN DeCROCE: Anyone else? (no response)

Thank you, Peter.

Art Maurice, New Jersey Business and Industry.

ARTHUR MAURICE: Good morning. Thank you, Assemblyman. I do have a statement. I won't read that. I'll just quickly summarize that for you.

The NJBIA and our 17,000 member businesses are certainly concerned with maintaining New Jersey's transportation infrastructure. We've supported TDDs in the past. We think that public-private partnerships make sense. When you have new developments, you have new businesses coming in, developers -- they should certainly bear the cost. That can be negotiated. The businesses have an option whether they want to go there or not. The costs are known up front, and they're known and quantifiable.

However, we oppose A-3350 because of the new type of fee, the special benefit fee, which would be assessed on existing businesses already in the transportation district. A lot has been said about you creating a voluntary inclusive process, and that's right. This is a voluntary process, and it certainly is an inclusive process. However, once the decision is made to create the TED under this legislation, the county votes the ordinance -- businesspeople aren't sitting at the table during that vote -- and a business and existing business would then be assessed a fee involuntarily.

Now, that fee will be calculated on the business's fair share impact on the transportation system. Assemblyman Gusciora mentioned the Dinky.

Well, imagine we're expanding that. We have one square mile of businesses in Princeton Borough. We have others outside. How do you determine their impact?

Now, if it's going to be voluntary for the existing businesses, that would be fine. If a business sees a benefit -- and it could be explained this is the benefit that will happen -- and by the way, this transportation improvement won't happen unless we have businesses stepping up -- then I think a businessperson would weigh that and decide whether or not they wanted to do that. But an involuntary system based on a fair share determined by a government at the end, we must oppose.

Finally, I'd ask you to think about these special benefit fees could be used to substitute for transportation funding. How do we know? I know it's not the intent of the sponsor, but how do we know that we may not have districts that, well, if the private sector is going to be forced involuntarily to contribute, then maybe the Transportation Trust Fund won't need to put that on its list of projects? I mean, I think there's a potential problem, again, certainly not the intent of the group, but something that may happen.

Thank you for your time, and I'll take any questions.

ASSEMBLYMAN DeCROCE: Thank you, Arthur.

Anybody have any questions for Art?

ASSEMBLYMAN GUSCIORA: Thank you, Mr. Maurice.

It is an interesting question about existing companies, assessing fees on them. However, take an example for an Assemblyman who may take a new area, such as Hopewell, where Merrill Lynch is coming up, and you may want to extend the Dinky service right into Hopewell or some kind of light-rail or the

West Trenton Railroad Station. Why isn't that not fair to assess Merrill Lynch some of the costs for expanding mass transit options to those companies, say, like Hopewell? And you do want our members to be responsive to these districts. Isn't it fair that we could assess Merrill Lynch for the cost of these mass transit options?

MR. MAURICE: Well, it's certainly fair to sit down with Merrill Lynch and talk about, you know, whether they would like a station nearby and their financial contribution. But again, the businesses -- these businesses have been paying taxes, property taxes, sales taxes, business taxes. They've lived with the transportation they've had. In many instances, some of these businesses targeted for the special benefit fee should be getting a refund of the taxes they've been paying, because they've been suffering -- suffering with transportation systems that they've been paying into and living with the traffic. So sure, voluntarily, I've got no problem with that, but it's a slippery slope when you try to assess the benefits somebody will get who's already there and who has been paying taxes.

ASSEMBLYMAN GUSCIORA: Thank you.

ASSEMBLYMAN DeCROCE: Anyone else? (no response)

Thank you, Art.

MR. MAURICE: Thank you.

ASSEMBLYMAN DeCROCE: The Director of the Somerset County Planning Board, Robert Bzik.

R O B E R T B Z I K: Good morning, Mr. Chairman and members of the Committee.

ASSEMBLYMAN DeCROCE: Good morning.

MR. BZIK: My name is Robert Bzik, Director of Planning for Somerset County. Let me first take this opportunity to congratulate Assemblyman and Assemblywoman representatives Alex DeCroce and Linda Greenstein, Senator Andrew Ciesla, and other members of the Regional Intergovernmental Transportation Coordinating Study Commission, which had the task of making recommendations to improve the TDD Act and intergovernmental transportation decision-making here in New Jersey. I think the process used by that Commission of listening to a wide range of local officials and other stakeholders and focusing on the strengths and weaknesses of TDD planning was very effective.

During the last decade, Somerset County was the fastest growing county in terms of percentage growth and the second fastest in employment growth in the state. Addressing traffic congestion on state and county roads has been an enormous challenge. We have taken a very proactive approach to this issue by taking the lead in establishing the county's transportation management association, RideWise of Raritan Valley, and pursuing a balanced approach to transportation investments in terms of highway, public transit, and alternative travel modes. Any proposed legislation should establish goals and investment priorities for all modes of transportation.

We also have a very long track record of establishing corridor management plans and transportation improvement districts relying upon the Municipal Land Use law and county enabling statute. Our largest assessment district, encompassing five towns in the regional center, was jointly established through a combination of state, county, and private sector funds. This, unfortunately, is being challenged legally due to deficiencies in the current TDD

Act and the County Enabling Act. Based on our experience with this large assessment district and other intermunicipal transportation planning initiatives that go back to 1994, we would like to offer the following comments and recommendations.

We agree that the first step in the process is the problem identification or evidence of existing or future transportation deficiencies which substantiate the need for a TED. This statement of need should also outline a general approach similar to the Northern New Jersey Congestion Management System, CMS, in order to allow for earlier recognition of the types of strategies to be evaluated in the joint planning process and greater consistency with the CMS process here in the state.

We also agree that the process of TED assessment or designation must be a voluntary one, with the county as the lead agency. Our concern with districts encompassing multiple municipalities is that it may not be feasible to obtain complete concurrence from each town, yet the access and mobility needs may be so great that an intermunicipal planning approach and assessment is warranted to protect public safety and mobility interests due to explosive growth in one town or another. Instead of having one town having what amounts to a veto power over a regional approach, it would be our recommendation to allow for the critical county or state portion of the district to move ahead and exclude the local network. This opting out by a town is most likely to occur after the joint planning process and the development of the financial plan. In order to discourage towns, perhaps, from arbitrarily reversing themselves on support of the TED process, the town could be liable for their proportionate share of the planning costs, if, in fact, they opt out.

As part of the joint planning process, the county would also like the current system performance and expected TED mobility solutions to be considered in terms of established performance measures similar to the regional transportation planning by the State's MPOs on a corridor basis. Examples would include transit ridership, VMT per capita, excess delay, incident frequency, access via transit, pedestrian mode share, or pedestrian accident rates. These types of performance measures will help ensure clearer TED goals, better monitoring, and greater success of implementation.

We are also pleased that the proposed legislation permits the assessment of the existing development to address current deficiencies similar to special improvement districts. This, in our opinion, broadens the scope of revenue options and mobility solutions. In pursuing this option, though, the proposed legislation should allow reasonable exemptions for existing land uses that have relatively minor impacts or special public benefits.

One of the other provisions of the bill that the county concurs with involves allowing existing and future development the opportunity to easily calculate the extent of the assessment. Within the Somerset County Regional Center Traffic Study, we use a method involving quick lookup tables that is organized around land use categories. Similar to the proposed TED, the county allows for appeals and more in-depth computer runs for individual projects. We feel that the costs associated with these separate computer runs, if required, should be borne by the applicant, and the proposed bill should provide for this.

The proposed bill also requires that the joint planning process be reconvened every five years, which seems reasonable. Counties should have the option, though, of updating the assessments on any annual basis, taking into

account ongoing administrative costs associated with modeling upgrades, monitoring system performance, financial tracking, and major land use changes.

The proposed TED Act also requires the establishment of a district oversight board, consisting of seven or more public and private sector representatives, to monitor the activities of the TED, which should meet at least on an annual basis. Operating transit agencies, which receive TED funds, should also be represented on the oversight board, as well as a role for the MPO.

One of the other proposed TED requirements relates to the establishment of project agreements for any transportation project or transit service funded, in whole or part, from the TED. Minor maintenance and safety upgrades should be exempted, and the agreement should indicate the lead agency for implementation, not necessarily the county in all cases.

In conclusion, the Somerset County Planning Board endorses the proposed modifications to the 1989 TDD Act and its replacement with a more flexible and improved transportation decision-making process based on strong public and private sector involvement. We would like to see greater coordination with the corridor management and CMS process at the MPO level and a recognition that a wide range of exemptions and/or reduced fees may be needed due to the tremendous variation of land use conditions around the state and the need to accommodate special situations from district to district.

We look forward to commenting further on this bill as it advances.

Thank you, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Thank you, Bob.

Bob, do we have a copy of your testimony?

MR. BZIK: Yes.

ASSEMBLYMAN DeCROCE: We do have it?

MR. BZIK: Yes. I distributed it.

ASSEMBLYMAN DeCROCE: Oh, I'm sorry. Okay.

Thank you very much.

Any questions of the planner? Anyone? (no response)

Thank you.

MR. BZIK: Thank you.

ASSEMBLYMAN DeCROCE: Next, on behalf of the Executive of Bergen, Donna Orbach, speaking for Pat Schuber. Donna was a member of the RITCSC commission.

D O N N A O R B A C H: Good morning, Mr. Chairman, members of the Committee. My name is Donna Orbach. I'm the Division Director for the Division of Planning and Economic Development of Bergen County.

I'm here today to offer testimony on behalf of William "Pat" Schuber, our County Executive.

"We are pleased to be here today to present our testimony in support of the New Jersey Transportation Enhancement and Congestion Relief Act. I also commend you, Assemblyman DeCroce, for taking the initiative to make transportation enhancement districts a viable tool for transportation planning in New Jersey. As you know, I served as a member of the committee that helped draft this important legislation, along with many others, and I am very pleased to see how the bill expands the earlier and somewhat more limited procedures available via transportation development districts.

“Assembly Bill No. 3350 now provides equal opportunity for all landscapes -- urbanized, suburban, and rural -- with an outstanding new tool that can greatly assist in the planning for and financing of existing transportation deficiencies and in meeting future transportation needs. Of extreme importance in this new legislation is the ability for the first time to use fees assessed within the transportation enhancement districts to help fund transit operations. Bergen County believes that the use of transportation enhancement districts will further several rail-related redevelopment nodes in our county, and result in the county, our private sector partners, and municipal leaders working together to create a strong transportation network. We envision a network that meshes together highway, rail, bus, feeder van, pedestrian and bicycle systems into a single, integrated transportation network to serve the fast-paced service economy of today.

“The TDD has not been formulated to do these things, making the TED a great step forward. Bergen County and its local municipal partners can now be a player and take advantage of the features contained within this act. We fully intend to do so.

“Thank you for the opportunity to testify before you today. I applaud the Committee’s efforts and success in preparing an excellent piece of legislation that will go a long way in meeting New Jersey’s transportation needs.

“Best regards, William ‘Pat’ Schuber.”

Thank you.

ASSEMBLYMAN DeCROCE: Thank you, Donna.

Does anyone have any questions of Donna? (no response)

Thank you, Donna.

MS. ORBACH: Thank you.

ASSEMBLYMAN DeCROCE: Mary Kay Murphy, Union County, Lisa Betz. How are you? Good morning.

MARY KAY MURPHY: Good morning. It's a pleasure to be back here.

ASSEMBLYMAN DeCROCE: Hit the button. (referring to PA microphone) Do you see a red light?

MS. MURPHY: Good morning. Okay.

I'd like to thank the Committee and Assemblyman for giving us another opportunity. We were at the Newark hearing on May 8th to address the Transportation Committee and offer our support on Assembly Bill No. 3350, the proposed New Jersey Transportation Enhancement and Congestion Relief Act. My name is Mary Kay Murphy, and I'm the Project Manager for the Union County Transportation Development District that's currently in the implementation phase.

Present today, I also have Lisa Betz, representing the Economic Development Department of the county. I'm very pleased to have Mauro Checchio here with us today. Mauro is the Special Assistant to the county manager. He's representing our county manager, Michael Lapolla. Mr. Checchio has been involved in the Union County TED since its inception. He even had the good sense to hire me to work on it, so I have always have appreciated that. And Mauro has been very influential in the overall direction and the success of the Union County's current economic resurgence. So I'm thrilled that he was able to join us here today.

As we testified at the first hearing held in Newark, we support the proposed legislation and commend Assemblyman DeCroce and all those who worked so diligently on the bill and the preceding Intergovernmental Transportation Coordinating Committee.

In addition to our comments submitted on May 8th, we have also prepared a list of technical questions that we are submitting in writing to the Committee today for your consideration. We have prepared this list of questions relative to our ongoing experience with the Union County TDD and hope they will be useful in finalizing the TED legislation and in the development of subsequent regulations.

We would also like to introduce one other issue for your consideration as you advance the legislation. We are somewhat concerned that in an attempt to streamline the planning process under the transportation enhancement district framework, there may be issues to be worked out between the county implementing the TED and the cooperating municipalities regarding off-site improvements. From a practical standpoint, we have some concerns as to how this would exactly work.

Off-site improvements required to handle traffic coming to or from a development could be relatively minor, such as an improved signal or a turning lane. Given the regional nature of the TED and the possibility that a TED could cover a large geographic area, this may place considerable burden on the TED to account for possibly hundreds of projects. In addition, it is possible that these smaller projects could be brought forward on a monthly basis each time a local planning board meets. If a project and the exact off-site

improvements required had not been completely anticipated in the TED planning process, we could be faced with monthly revisions of TED plans.

While there may be some degree of overreaction in this scenario, we do feel that the legislation and/or the regulations need to look at any potential complication of, or conflict with, the existing practices and statutes covering municipal jurisdiction over off-site traffic improvements. Specifically, if it is the intent that all off-site improvements relative to a new development regardless of the fact that the off-site improvement is serving only the new development, is basically a driveway to the new development, they are under the jurisdiction of the TED, that we need a streamlined review and amendment process that we would have to work out in order to make those two processes flow smoothly. As stated in our testimony on May 8th, the TED legislation needs to be kept as straightforward and simple as possible.

That's our only additional comments since May 8th. We thank you for the opportunity to speak with you today, and we look forward to working with you through the successful implementation of this critical piece of legislation. I have copies of this testimony and the -- what we keep calling the 20-questions memo that I've put together that Lisa will give to whoever is supposed to get it.

Thank you very much.

ASSEMBLYMAN DeCROCE: Thank you, Mary.

Would you clarify for me? What do you mean by development? Do you mean commercial development? Do you mean housing development? Do you mean multifamily development? What are you speaking about, or any development?

MS. MURPHY: Currently, any development that needed a site plan review, and the planning board required that something be done off site, even if it's adjacent to the property, a turning light or something, from my understanding, is that that would now come under the TED, because it was off the property. Now, if that's the case, and it's a Rite Aid and they need to put in a signal or a turning lane, given the complexity of what I envision in Union County with our three municipalities and our heavily urban area, I've got a really large number of projects that I have to anticipate when we put the project plan together that I may not have -- I might have missed that it's going to be a Rite Aid instead of a CVS or something, a different thing going in a small plot. So I'm just concerned about that.

ASSEMBLYMAN DeCROCE: Okay.

Anyone have a question? (no response)

Thank you very much.

Anyone else want to speak?

Mauro.

MS. MURPHY: Mauro.

MAURO CHECCHIO: Well, I'd just like to emphasize that we've been involved with this TTD process, and as you know, it was inadequate legislation, because it wasn't really clean legislation. Since Commissioner Wilson, who is the agent-- He is the one who suggested it to us.

We are in the middle of probably the greatest economic engine and the factors of airport, seaport, network of the Turnpike, Route 1 and 9. So this is very real to us, and the expediting of this process and this bill, I think, is a classic solution to problems to those of us who've been involved with

congestion, which is what New Jersey is all about. But we are super congested, where we are from. The legislation from Washington, the NJTPA have addressed all this, and I think I want to compliment the Committee for taking this on and hopefully getting it done as quickly as possible.

ASSEMBLYMAN DeCROCE: Thank you. The whole idea behind this is the fact that we are overly congested. There is a congestion task force plank in the Transportation Trust Fund. We wanted to help work with that. We think that we believe that this may be a possibility of overcoming some of the problems we've seen in the past. But before we go into it and really move the bill, we want to hear from everyone to get their ideas.

So thank you. Thank you all for coming. We appreciate it.

MS. MURPHY: Thank you very much.

ASSEMBLYMAN DeCROCE: How was your meeting with DOT?

MS. MURPHY: Good.

ASSEMBLYMAN DeCROCE: Good. Thanks.

I'm going to call on the Chairman of the original Regional Intergovernmental Transportation Coordinating Study Commission, the honorable Ray Zabihach, from Morris County, my home county. Thank you, Ray, for coming down.

RAYMOND ZABIHACH: Good morning.

ASSEMBLYMAN DeCROCE: Good morning.

MR. ZABIHACH: It's a pleasure to be here. I have to say that I began my journey at 8:30 this morning. I just arrived. So I was stuck in congestion.

ASSEMBLYMAN DeCROCE: I was late myself.

MR. ZABIHACH: How appropriate.

I have two statements. The first is from the New Jersey Association of Counties. The Board of Directors of the New Jersey Association of Counties voted to support A-3350 at its last board meeting on April 27th. Assembly Bill No. 3350 would provide the counties with the opportunity to work in collaboration with the municipalities and private developers to address existing transportation problems and to effectively plan for the future transportation needs. As such, NJAC commends Assemblyman DeCroce for his vision and leadership on sponsoring this important piece of legislation.

ASSEMBLYMAN DeCROCE: Thank you.

MR. ZABIHACH: And now I'd like to make a statement as Chairman of the RITCSC commission.

It was a pleasure working with the people that I worked with. We had a year. Our main charge was to look at the Transportation Development District Act and its implementation since its adoption in '89. One other charge that we had was to try to increase and improve intergovernmental transportation planning coordination. The effort was quite an undertaking. We wouldn't have been able to have accomplished everything if it wasn't for the help that we got from NJDOT and the Rutgers Voorhees Institute of Transportation. They were incredibly productive in terms of what they provided us, because we had to really deal with two important issues. One was why does TED not work, and secondly, a much larger scope is, try to improve transportation planning.

As Chairman, I am very happy to see that the first piece of legislation, as a result of our work as a commission, is now before you. I hope you consider it, and I hope that you do pass it through and it gets adopted.

I know that in the process there will be amendments and changes most likely -- that's the legislative process -- but there are three important points that the Commission considered that are in the bill right now, which I hope do not get misplaced or minimized in terms of what's in the bill.

ASSEMBLYMAN DeCROCE: Watered down?

MR. ZABIHACH: Watered down, I guess.

The first is intergovernmental transportation planning. The Commission spent a tremendous amount of time dealing with this issue. I was going to wait until the very end, but let me say it now.

I don't know if you had an opportunity to look at the Commission's executive report and the full detailed report. There's a lot more in these two reports than are just in the bill, and we hope that the Legislature -- you, as members of the Transportation Committee -- continue and follow through on several more pieces of legislation, because the legislation we have before us, the Congestion Act, the Transportation Enhancement and Congestion Act, is just the first major step. There's a lot more that needs to be done.

I'm sure you're well aware of the fact that congestion is a major, major problem throughout the state, and it's something that's a high political issue. Hopefully we can tackle it. But the Commission wanted to make sure that we come up with a system that provides ample opportunity to get as many levels of government together to do the transportation planning. Too much of what goes on in transportation planning is piecemeal, uncoordinated, and transportation is a far more regional problem. So that we're very happy to see that the bill does encourage that.

Secondly, the aspect of existing transportation problems and congestion: The TDD Act really only addressed future growth. And in the '80s, we were experiencing tremendous development, and it seemed like a very good tool at the time. That development boom have somewhat lowered. But when we looked at and had a large number of people coming before the Commission speaking about their experiences in even trying to create a TED or not being able to create a TED, one of the things that they mentioned over and over again was that their inability with the previous act of dealing with existing transportation conditions.

We felt as a Commission that it was important that any actions that the Legislature take to modify TDD would incorporate existing transportation congestion. That is in the bill. I know that it may be very problematic in some of the funding formulas that are allowed in the bill, but short of a tremendous amount of funds to try to deal with, just dealing with new development is not going to solve the problem. It's only like the straw and the camel's back. The camel is pretty big already.

And again, the problems are chronic throughout the whole state, and many areas are not experiencing major development or redevelopment. So it's important that we give the counties, the municipalities, and all the other transportation organizations the ability, the opportunity, to handle existing traffic problems, especially for our urban areas and areas that are trying to encourage brownfields. And we want that to be an inducement. We want to be able to say that this area is not congested with traffic. Most likely, these areas will have that problem.

Third area is permissiveness and flexibility. The bill is written in the manner that allows a lot of options. They are permissive. They are not required. We hope that any bill that results from the Legislature and is adopted remains permissive. We don't want to impose a particular formula. We don't want to impose a particular process that will require that particular process to be applicable everywhere in the state. The state is both rural, suburban, and urban in the kinds of traffic conditions that exist. The inclusion of mass transit into this bill are going to be unique in each area, and we want to have people who follow through on transportation enhancement districts to have the flexibility to apply this process according to the conditions that exist.

With that, I would like to say thank you. Thank you for considering this bill. I hope you move on it and that it does become reality. And secondly again, please read the Commission's report. A lot of time and effort was spent on it. There are a lot of great ideas, and hopefully, it will be a catalyst for future legislation.

Thank you.

ASSEMBLYMAN DeCROCE: Thank you, Ray.

Before you leave, anyone have any questions of Ray?

Connie Myers, Assemblywoman Myers.

ASSEMBLYWOMAN MYERS: Good morning.

MR. ZABIHACH: Good morning.

ASSEMBLYWOMAN MYERS: I have not read the report. I'd like to get a copy--

ASSEMBLYMAN DeCROCE: We'll get you a copy.

ASSEMBLYWOMAN MYERS: --so that I can be more up to speed on this. I'm a new member of the Committee. I was told that this was modeled after the special improvement districts. My understanding is, in that case, like 80 percent of the businesses have to agree to the plan before it can be implemented.

I was with Paul Sauerland this morning, actually, and I know he is a member of RITCSC, and he was telling me that it was his understanding that that was the case with this bill, but I couldn't find anything like that in the bill. So I wonder if you could tell me what your understanding is. It's not permissive or voluntary with respect to the participation of private entities within the district, and are there any restrictions or anything as the bill is currently drafted, or is this something we've got to look at?

MR. ZABIHACH: For the more technical aspects of that response, I'll turn it over to John Carnegie. We considered this particular aspect quite a bit at the Commission. We felt that in order to tackle existing transportation problems there are a number of sources for funding, and we believe as a Commission that those will continue to be utilized. But we felt, because of the conditions that may exist in a particular area, there may be a shortfall of funds. We felt that if -- because the bill would allow the new TED group that is formed to be able to bond, but they could receive money ahead of time, make a project implemented -- I shouldn't say make a project, implement a project -- thereby producing benefits that would be immediately realized by everyone in the area, it would have to be a judgment -- a political will judgment of those participating, all the governmental entities, whether they would want to go using

the track of utilizing a special benefit fee. But I think the bill makes it an option. It's not required.

You really have to look at the area, and we felt that why not provide that option if it's necessary. There are conditions we heard where existing properties -- and we're talking about the bigger, major traffic generators -- that because of resolving the transportation conditions in a favorable way will be something they'd be more than willing to contribute towards, especially if they're now benefiting from. That was really the intent of the Commission and the spirit in which we gave our recommendations.

John.

ASSEMBLYMAN DeCROCE: Do you want to add to that, John?

MR. CARNEGIE: In sort of direct response to your question about the -- some threshold of ratification from the business sector, there is not anything currently in the bill with that regard. That's why you didn't find it in there. I think in a revision process we can certainly consider that in terms of an appropriate inclusion. As far as that goes, I can look into the SID exactly how that 80 percent evolved or what have you.

MR. ZABIHACH: It may be necessary, as an editorial editing process in the bill, to try to deemphasize the fact about the fees, because it really wasn't the intent of the Commission, I don't think, of creating the bill to make it seem like that was the way that we wanted to go. It really is an option. It's an option that would probably be applicable in a few areas, but we did anticipate that the current funding mechanism went through our regional transportation organizations and the normal process.

When we discussed this, we really wanted to have a process by which everyone could coordinate transportation improvements. That's the municipalities, that's the county, that's DOT, and there are programs that they now participate in without utilizing these fees, necessarily. And we anticipated that that process will continue.

Our effort really was trying to make sure that there would be a plan for the whole area, for the whole region, to make sure that everyone was coordinating. The improvements being placed by the various levels of government would be coordinated one with the other so that there would be as close to immediate relief to these problems as possible. That was really the major intent. There may be some readjustment in the legislation to emphasize that aspect of it, because that's really what our intent was.

MR. CARNEGIE: One of the differences in terms of the SID is the scale at which these things are contemplated. That scale of an enhanced district, as imagined, would be significantly greater than the scale of an SID in terms of the number of businesses affected and the number of properties affected, an area of open land or redevelopment that may occur.

ASSEMBLYMAN DeCROCE: Explain to the general public what the SID is.

MR. CARNEGIE: SID is a special improvement district. It's essentially a mechanism for downtown areas of commercial development to get together to plan for improvements to that district to enhance the character of the district, and the general assumption being that property values will be enhanced once improvements are made and provides a mechanism for special benefit assessment on those businesses to make the program of improvements that

happen in that district. It's generally been more of streetscape type of improvements -- pavers and lighting and benches and furniture and things to enhance the downtown-type environment.

We thought that the framework of the SID was perhaps an appropriate framework for conceptualizing the transportation enhancement district concept, albeit on a much larger scale.

ASSEMBLYWOMAN MYERS: So there was discussion, and that's where Paul was coming from.

MR. CARNEGIE: Yes.

ASSEMBLYWOMAN MYERS: I'd like to clarify, Mr. Chairman, that I'm not suggesting that the SID model be added to this legislation. I would rather emphasize Mr. Zabihach's comments, that it is the intent that businesses in such a transportation district would want to participate in such a project and take the good parts of the existing TDD law, which is voluntary, and try to clean up the bad parts of it. I have no objection to the coordinated planning. I think everybody would support that. It's just a question about the mandatory funding.

MR. ZABIHACH: Where that particular aspect would not be mandatory would be in terms of initiating, but because of the elaborateness of the legislation in terms of creating a rather, I think, effective system of checks and balances to make sure that this kind of thing just doesn't happen and everyone is caught off guard. I think that one of the reasons why the bill is as long as it is, is that system of checks and balances, to provide as much input by everyone in order to make the appropriate decisions, because the document that's going to be produced is both an analysis of conditions, a suggestion of

what kinds of solutions would be necessary, and a complementary document that looks at the finances. That would be provided to the public and everyone to review to make sure that what solutions are being proposed seem realistic and are doable. And it is in that type of process and coordination and in creating a committee where there would be participation by the private sector to help make that decision, whether they would go that particular route.

So I think the bill does try to provide for that, for input all along up to the point when a decision is made, that for this particular project that kind of special benefit fee would be necessary. So I just wanted to make sure that you--

MR. CARNEGIE: I think that the operating assumption of the Commission was such that we imagined that the participation of the local government officials in the process, and generally, the political process would shake out where there was a significant amount of private sector opposition to moving forward with the district, in that through the participation of the counties and the municipalities who are in charge of sort of balancing a whole host of community needs, that the private sector would have the opportunity to, obviously, participate in that political process and could influence in some way through that process how this would move forward and that there wouldn't be a sort of voting by everyone affected by it.

ASSEMBLYWOMAN MYERS: But if the intent is to permit business to object through the process, then certainly that should be in the legislation.

ASSEMBLYMAN DeCROCE: That's the purpose of the hearings, to clarify some of these things--

ASSEMBLYWOMAN MYERS: Thank you.

ASSEMBLYMAN DeCROCE: --so that we can get everybody's ideas and possibly include them.

A question from Assemblyman Gusciora.

ASSEMBLYMAN GUSCIORA: Well, just a follow-up point, Mr. Chair. By way of example, you had a very good bill in on to remove the light at Nassau Park on Route 1, and that was to streamline traffic along Route 1. Once that light is removed, there is a shopping plaza that services Wal-Mart, Wegmans, Target, Home Depot, Best Buy, and a number of other big-chain department stores. There will be no direct access to Route 1 to that shopping center if that light is removed. Somebody is going to have to pay for an overpass, if you still want to streamline Route 1. If those businesses are able to object to a TDD proposal to pay for that overpass, then the taxpayers are going to have to pay for that overpass. But yet--

ASSEMBLYMAN DeCROCE: First of all, if I may, remember not only the county will be a partner in this TED, the State, and the different municipalities and the private sector -- there may be money in there already. We don't know where the planning is on that particular area yet, but there may be some consideration already being given to how much the State may be planning to put into an effort such as that in the first place, anyway. So it may not be something that is detrimental to the area, but it might be something that is very good for them.

ASSEMBLYMAN GUSCIORA: And that's why I would want the same flexibility in your TED proposal. So that when they build this overpass,

businesses will be able to be assessed to contribute, because they're going to benefit from that overpass.

ASSEMBLYMAN DeCROCE: That may happen, depending on how the district is put together.

Anybody have anything else they might want to question?

MR. O'CONNOR (Committee Aide): Can I ask a question, Mr. Chairman?

ASSEMBLYMAN DeCROCE: Sure.

MR. O'CONNOR: You had mentioned the TEDs would have the ability to bond for projects.

MR. ZABIHACH: Correct.

MR. O'CONNOR: Is there like a cap limit on that and who would be the responsible entity for those bonds and would those bonds go before the citizens to vote, or how would that operate now that you're having different levels of government involved -- municipal, county, State? How does that all function?

MR. ZABIHACH: Well, the responsible entity for any TED would be the county, and it would be all done through ordinances passed by the freeholders. And again, I can't recall the specific details, but there is a procedure that's outlined in the bill on how that process would be undertaken.

MR. O'CONNOR: So then the counties, or a joint county, they may split the cost of the project, or it would depend on how much of the district is within each county?

MR. ZABIHACH: Correct.

MR. O'CONNOR: Okay. Thank you. Thanks.

ASSEMBLYMAN DeCROCE: Any other questions?

MR. CARNEGIE: In further response to that, the assumption was that the bonding would be based on -- sort of secured by a future revenue stream from the district. At one point in time, there was some cap in there. I'm not sure if it remained. We'll have to double-check that.

ASSEMBLYMAN DeCROCE: Anyone else? (no response)

Thank you, Ray.

MR. ZABIHACH: Thank you very much for listening.

ASSEMBLYMAN DeCROCE: Don't leave, in case we have something later.

Thanks very much.

Next, Michael Egenton and Ken Afferton, representing the New Jersey Chamber of Commerce.

M I C H A E L E G E N T O N: Thank you, Mr. Chairman. Michael Egenton with the New Jersey State Chamber of Commerce. Here today is Ken Afferton, and he'll deliver our comments on this legislation. Thank you.

K E N N E T H A F F E R T O N: Mr. Chairman and esteemed members of the Transportation Committee, thank you for the opportunity to comment on this important legislation. I come before you as Chairman of the Transportation Committee of the New Jersey State Chamber of Commerce and representing the statewide interest of the business community as it relates to sustainable growth, mobility of employees, and the efficient delivery of goods and services in our state.

First, I'd like to compliment the Study Commission and the Committee on its efforts to address some of the obstacles that exist with the

1989 TDD Act which make implementation of the transportation development areas and districts very difficult to achieve. In my former role as Assistant Commissioner with the New Jersey DOT, I initiated a number of efforts to try to have TDDs go for them in various areas and was frustrated by the number of the problems that your legislation, indeed, tries to address. The elimination of growth thresholds, the allowance of TED funds to pay for the up-front TED planning work, and the requirement of the joint planning process involving all levels of government, as well as and importantly, business stakeholders, will go a long way toward making transportation enhancement districts a reality.

However, the business community does have significant concerns with the legislation being proposed. While it is understood the intent of the special benefit fees is to increase resources for handling the infrastructure needs of a district, the overall merits of imposing what amounts to another real estate tax on existing businesses within a district's boundaries is questioned. This is especially true now when the State's economy is in a downturn. The Committee must know that existing businesses within a district or a proposed district will oppose the added property tax, and depending on the magnitude of the tax, may actually look to leave the district, which is truly not what you'd like to achieve. This is obviously a counter to, indeed, the growth aspects that the setting of the district up is supposed to be supportive of.

As an alternative to the proposed special benefit assessments, shouldn't instead the State's Transportation Trust Fund be looked to for added funds to address this district's current traffic problems? Because in reality, you're trying to have the special benefits to address the issue of the current traffic problems. The Regional Intergovernmental Transportation Coordinating

Study Commission recommended the use of Trust Fund moneys to encourage the creation of TEDs, and the Chamber supports such an application as a means for eliminating, or at the very least, reducing the need for special benefit fees.

Also of concern is the potential for a business trying to develop a property to receive multiple assessments for transportation improvements, and accordingly, be discouraged from proceeding with their development. First, the language of the bill does not specifically require coordination with the regulatory processes of the Access Management Act. It would seem that a developer could be required by the New Jersey DOT to make significant State highway improvements to get access to a State road and then also be required to make additional contributions to a TED Fund if his property fell within the district's boundaries.

A similar multiple-assessment scenario also appears possible with regard to the development fees and the special benefit fees of the proposed legislation. It appears that a developer can get hit with both fees and thus possibly be dissuaded from going forward with his project. The concern in this matter is the fair share contribution. There needs to be language in a bill or in regulations that follow that clearly preclude a developer from having to make more than his fair share contribution to the district's infrastructure improvements. If this is not done, the economic growth that this bill is intended to support will not occur.

In summary, the Chamber is pleased with a number of provisions of the bill -- and I personally am pleased, based on the history, with some of those aspects -- but recommends that it be modified to better address the

concerns of the business community. Specifically, we recommend use of the Transportation Trust Fund to address the added funding needs of TEDs rather than imposing special benefit fees on existing businesses. Also, language changes are needed to prevent multiple transportation impact fees being imposed on developers, or in essence, to ensure that they are only asked to contribute their fair share when becoming part of a TED.

Thank you for your time and attention of the Chamber's concerns. I'll answer any questions you may have with regard to our concerns.

ASSEMBLYMAN DeCROCE: Anyone have any questions for Mr. Afferton? (no response)

Didn't you originally sit down with me when we were talking about revamping the original TDD bill?

MR. AFFERTON: Yes.

ASSEMBLYMAN DeCROCE: You, me, and Stan Rosenblum.

MR. AFFERTON: Yes. Two years ago.

ASSEMBLYMAN DeCROCE: Right.

MR. AFFERTON: Yes.

ASSEMBLYMAN DeCROCE: And you don't like this?

MR. AFFERTON: I don't like the aspects of the special benefit fees. I truly understand what's trying to be achieved.

ASSEMBLYMAN DeCROCE: Well, then you, as a former assistant commissioner, I would expect you would be able to come up with some really great ideas on how we can overcome this. (laughter)

MR. AFFERTON: It's called the Transportation Trust Fund.

ASSEMBLYMAN DeCROCE: Well, you know that's pretty well spelled out -- those dollars.

MR. AFFERTON: But you could-- There are other instances within the needs for transportation improvements where allocations have been provided, almost earmarkings within the Transportation Trust Fund, to address the issues. The issue of dealing with noise will -- mitigation for existing facilities-- Moneys were set aside at times, in a Transportation Trust Fund allocation included in the State's capital program, to deal with that. A similar allocation could be provided to deal with funding support to the transportation enhancement program.

ASSEMBLYMAN DeCROCE: Seems to me that-- Have you had an opportunity to read the RITCSC commission report?

MR. AFFERTON: Yes, I did.

ASSEMBLYMAN DeCROCE: You agree with that?

MR. AFFERTON: Well, the executive summary, not the whole report.

ASSEMBLYMAN DeCROCE: Oh, read the report. I really would appreciate your reading that report, then talk to me about this issue--

MR. AFFERTON: I will.

ASSEMBLYMAN DeCROCE: --because we're not going to move on this that fast. We're going to move it, but we're not going to move it all that fast. It's got a long way to go.

MR. AFFERTON: I will read it.

ASSEMBLYMAN DeCROCE: So please do that. I would appreciate it.

MR. AFFERTON: I will.

ASSEMBLYMAN DeCROCE: Does anyone have any questions?

(no response) Did I ask that?

Thank you very much, Ken. I appreciate it.

MR. AFFERTON: Thank you, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Thanks, Michael.

MR. EGENTON: Yes.

ASSEMBLYMAN DeCROCE: RITCSC commission member, Mayor Wilkinson, past president of the League of Municipalities. I appreciate your attendance on the RITCSC commission, your contribution.

MILLARD WILKINSON JR.: Well, I certainly appreciate having had the opportunity to participate with the Commission in trying to come up with some solutions to some of these problems that we have in transportation.

Good morning -- I guess it is still morning -- good morning, Mr. Chairman and members of the Committee. My name is Millard Wilkinson, and I am here today on behalf of the New Jersey State League of Municipalities to comment on A-3350, the Transportation Enhancement and Congestion Relief Act. I am a former president of the League, a former mayor of 20 years of Berlin Borough in Camden County. I also have participated with our MPO in our area in terms of trying to deal with some of the transportation problems on the Route 73 corridor.

I represented the League on the Commission, as it was said, and the proposed legislation that we are here today to discuss. I am pleased to say that the League generally supports this TED proposal, and we look forward to helping move it through the Legislature. We do have a few suggestions as to

how we think this bill might be more effective and fair, and I will get to those suggestions in a moment.

But first, the positives, and there are many. A-3350 aims to do nothing less than to improve the quality of life for all citizens of our state. It seeks to achieve this aim by providing tools to the municipal and county governments so that they can improve New Jersey's transportation system from the ground up. We strongly believe that this bill can and will encourage local governments to work together to achieve the mutually desirable goals of, one, improving transportation infrastructure at lower costs, and two, alleviating traffic on our congested roads. Transportation invariably connects the many facets of our lives. It connects our home lives to our work lives. It connects us to our families and to our loved ones. It connects us to our food sources. It connects us to our cultural resources. And it connects us to the many innumerable opportunities to lead the lives we are accustomed to leading.

We all -- every one of us -- spend a good portion of our lives being carried along our State's transportation system. And as I said before, this bill aims to improve that very significant portion of our lives by improving that system again from the ground up. We think that government often works best when the State gives local governments the tools to serve the people, and this bill provides just that approach to improving our transportation system.

A fundamental improvement of this bill over the current TDD Act is that it allows the assessment of fees on existing development as well as new development. As you know, the TDD Act, under which we are presently operating, only allows for the assessment of fees on new development.

The bill is permissive, and so meets an important test of the League: A municipality can join a TED, but only if it wants to do so. Given that the bill provides options for and not mandates on a municipality, we are very supportive of the intent of A-3350. It clearly represents positive opportunities for local governments.

We do, however, have suggestions, and I would now like to submit to you which we believe would improve this bill. We reviewed this proposal at two separate legislative committee meetings, as well as a special meeting of a subcommittee directed to look at just this bill. As a result of those meetings, we have come up with a list of suggestions, and I've been directed to share with you with the hope that you will incorporate them into the bill.

The following changes that would, in our opinion, improve A-3350 are, first, clarification that the individual municipalities within the TED can pay their share however they choose, whether it be through a special assessment or out of general funds. It was felt that if a municipality did not want to burden certain existing property owners for the cost of making transportation improvements, it ought to be able to contribute to the project from its general tax base.

Second, there should be some mechanism for a waiver of the obligations to commence construction within 10 years of time when fees are collected. If not a waiver, it was suggested that perhaps the clock ought to start from the time construction is scheduled to begin. The construction might be scheduled to begin eight years after the fees are collected, in which case that would leave only two years to get the project off the ground.

Third, clarification is needed in Sections 9 and 10. The necessity of a managing authority was debated, and while it was concluded the managing authority is a good idea, the addition of a contracting unit, we felt, was unnecessary. It was suggested that instead of having a contracting unit, there be only an oversight board with a staff appointed from and by the municipalities.

And finally, we think there ought to be a stipulation added, whereby if a municipality opts out of the TED after studies are started by the county, the withdrawing municipality should nonetheless be responsible for a fair share of the cost of the studies.

ASSEMBLYMAN DeCROCE: Good point.

MR. WILKINSON: Such a suggestion coming from the League might surprise some of you, but we feel that unless you do this, the cost would be thrust upon the remaining municipalities.

As I said at the beginning of my remarks, we certainly support this bill in concept and intent, and for the most part we endorse it substantively. Hopefully, our suggestions to improve the bill will be helpful to you as you try to craft and promote the best legislation possible.

This concludes my formal remarks, and I thank you for your attention to our concerns on this matter. Please let us know how the League can be of further service to you as you proceed to advance this important initiative.

Thank you very much.

ASSEMBLYMAN DeCROCE: Thank you, Mayor. I do appreciate your remarks, because they have some suggestions as to how to improve the bill. And you know, as a member of the RITCSC commission, that when we're through with these hearings, we are going to get together, as a Commission, to

review all the comments made by most people -- all of the people, frankly -- and see if we can improve it in some manner or form. You'll be notified.

MR. WILKINSON: Thank you very much, and I thank you, Assemblyman, for your efforts in spearheading this much-needed initiative.

ASSEMBLYMAN DeCROCE: Thank you.

MR. WILKINSON: Thank you.

ASSEMBLYMAN DeCROCE: Mr. James T. Raleigh, Colts Neck, New Jersey.

JAMES T. RALEIGH: I'm Jim Raleigh. I live in Colts Neck. I've worked with a number of organizations. I get confused with the League of Municipalities, because I'm also the President of the League of Historical Societies. But I've been involved in a number of public hearings on the process that we're going through and over the past few months, and I have a number of concerns.

The first one is, I'm not sure why the word congestion relief is in the title of this bill. I see nothing in the bill that guarantees eliminating congestion. What I see is more county control of county projects. Route 1 is a delightful example. The bottleneck on Route 1 is, yeah, a couple of traffic lights, but why don't you look at the bottleneck up in Middlesex County on Route 1 where it necks back down to two lanes? There's more than enough capacity on Route 1 in Mercer County, until you look at the total system. So the thing I find missing from this process is more regional planning, and we have other regional organizations.

I spent some time in discussing the Monmouth-Ocean-Middlesex study in the North Jersey Transportation 20-25 Plan, which is separate from the

New Jersey Transit 20-20 Plan, but these plans have to require coordination with the improvements in the tunnel and Penn Station and so on, which is another regional plan that isn't incorporated in the county plan or the Transportation Trust Fund or the congestion task force. What I see in this plan is fixing projects one development at a time, one highway intersection at a time, and not on a regional basis. No place in the testimony have I heard any discussion of how this plan, the Transportation Trust Fund, ties in with the State plan. We testified in the State plan that the State plan isn't big enough on the regional process.

In Morris County, they've got serious problems with Interstate 80 coming through, but they haven't considered how much of that traffic is coming from Pennsylvania to work in New Jersey or how much of it's going through New Jersey to work in New York. That ties in with the rail stuff in extending the North Jersey railroads into Pennsylvania.

So I don't see in this regional planning-- Middlesex has tried to opt out of the Monmouth-Ocean plan, but whatever set that up, they haven't been able to get out of it. I'm sure Jamesburg--

ASSEMBLYMAN DeCROCE: What plan is that, Mr. Raleigh? I don't know of any plan.

MR. RALEIGH: Well, it's one of the several projects that New Jersey Transit is--

ASSEMBLYMAN DeCROCE: Are you talking about the MOM project?

MR. RALEIGH: Yes.

ASSEMBLYMAN DeCROCE: That has nothing to do with these districts, though. It might be a part of it one day, but it has nothing to do with it right now.

MR. RALEIGH: Well--

ASSEMBLYMAN DeCROCE: There is no TED district in place at this time.

MR. RALEIGH: I understand. And there won't be with the kind of progress we've had on the MOM. But what I see instead, as I said, is trying to work little section by little section.

There is one good thing in this plan in which county -- township projects could get escalated as a TED to be included in DOT review, and that's, I think, a good thing. Because what I can find is lots of county projects working with a development that don't touch State highways, that then generate traffic that requires more lights, highway improvements, and so on. In particular in Monmouth County, we've had an East Freehold bypass on the county map for 25 or 30 years. It, this month, impacts the county planning for the Freehold or Matawan section of the MOM study. So here is a county plan that was not included in any of the State plans. It's one has been set on the books-- What happens in many cases is they get the money from an adjacent developer to make the on-site improvements and maybe a few small off-site improvements, but that is one of the other things about this plan.

I haven't heard anybody mention DEP in terms of protecting wetlands and historic districts and so on. In the State plan hearings, there were discussions about protecting the inner cities and the towns and historic districts, and we had encouraging growth. And they had never seen the examples where

a developer who wants to put in, essentially, a Burger King in downtown in one of three corners can pay for a passing lane or a left-turn lane and take out the trees and destroy the historic district for the other three things. So these districts can become one-quarter of a highway intersection, and that, I think, is a major concern.

In looking at the big picture, at one point I testified that the sprawl that we've got is from North Carolina to Maine. I've testified that Amtrak is trying to make a go of it from Washington to Boston, but Maine and New Hampshire are trying to tag onto that to expand. Virginia and North Carolina are trying to expand.

The thing I said earlier about -- I don't see that this bill does anything to guarantee congestion relief -- ties in with a political position that the governor of North Carolina took a year ago, which said it's time to start accepting congestion.

I think districts are a good idea, but they have to be included in bigger regional plans so we just don't move the problem from one town or one county line to the next.

Thank you.

ASSEMBLYMAN DeCROCE: Have you read the bill?

MR. RALEIGH: Yes.

ASSEMBLYMAN DeCROCE: Have you read the bill?

MR. RALEIGH: I've read the bill. The bill, as I say, sets up districts. It sets up ways to fund it. It sets up a review process for these districts to get reviewed to Department of Transportation, and I think that's all good.

ASSEMBLYMAN DeCROCE: It also talks about the State plan. It doesn't mandate that you follow the State plan. It makes it permissive, but it speaks of it.

MR. RALEIGH: I didn't see those words in there, but I'll check it again.

ASSEMBLYMAN DeCROCE: Oh. They're there.

MR. RALEIGH: I'll check it again. I'm sorry.

ASSEMBLYMAN DeCROCE: Thank you.

Anyone have a question of Mr. Raleigh? (no response)

MR. RALEIGH: I tried to be organized. I'm sorry.

ASSEMBLYMAN DeCROCE: That's all right.

MR. RALEIGH: I'll look for those words again.

ASSEMBLYMAN DeCROCE: Mr. Tony Pizzutillo, representing NAIOP. Tell us what NAIOP stands for, Tony. I'm not sure everybody understands.

A N T H O N Y P I Z Z U T I L L O: NAIOP stands for the National Association of Industrial and Office Properties, and in New Jersey, NAIOP represents about a half a billion square feet of commercial and industrial use. NAIOP has been a -- I want to consider a progressive trade association that is committed to utilizing the guidelines established by the State plan, as well as to look at urban revitalization and the rebuilding of our older communities as a means to further sustain growth in the state.

I'd like to take this opportunity to thank the Chairman, as well as the Committee members, for giving me this opportunity to represent NAIOP today on Assembly Bill No. 3350, which creates the transportation

enhancement districts. I've submitted my statement. I won't belabor a lot of what was already stated in which we support, but I would just like to touch on a few areas.

With regards to the creation of the districts, NAIOP certainly endorses any creative idea or cutting-edge approach towards regional planning, which is so sorely needed in this state. From what I hear over and over before these committees for all the years is that the real problem -- and again, we all know it's a political problem -- but it's home rule. We can't have our little fiefdoms continue to do what they do within their artificial borders in order to meet local parochial objectives without looking at, let alone a county picture-- A regional picture is what we need to look at.

NAIOP endorses a regional planning perspective, specifically through the County Enabling Act. But the counties, as they stand now -- and that's a weakness with this piece of legislation -- are not fitted to respond to the challenge that is put forth by this particular legislation. If this legislation is to go forth and to work successfully, the bureaucratic process has to be funded and resources have to be provided at the county level so that perspective and that challenge can be met.

As the other business-oriented trade associations have stated before you, there is serious concerns with regards to the imposition of special benefit fees. As you know, the members of NAIOP have, over the last, I guess, 26 years or so, under the municipal land use law, have put forth and paid for off-track improvements for transportation, and the imposition of a special benefits fee would not sit, I think, smartly for someone who has paid. And John, you know as well as I do, the Route 1 corridor and the exactions and the improvements

that were made once it was determined that that transportation corridor was going to be for that particular use. A reassessment based on what -- based on ambiguous data, as far as I'm concerned, right now, on background traffic and all other factors, unfortunately, in my mind, Mr. Chairman, would lead to litigation and other factors that would not allow you to fulfill the objectives that you want to accomplish under this plan.

So, therefore, we want to work with you. We want to work with you to create solutions that could not only benefit and supplement the Transportation Trust Fund, but also to develop creative ideas such as what we're seeing right now going through the Legislature with the creation of the revenue allocation districts, where funds are going to be -- are stripped from various types of revenue generators for infrastructure improvements in redevelopment areas, as we've seen under the Landfill Closure Act now being utilized under the Redevelopment Act. Maybe we can use funds there or we can identify funds for transportation specifically there.

It seems as though we may be also moving towards impact fee specific fees -- and what I'm trying to say is that the commercial and industrial community pays a major portion of the educational budget in this state. You can make an argument that in those particular communities the proportion of those funds are certainly not utilized to the extent that a developer of commercial and industrial property uses. Maybe there's a way to use some of those funds. If there's a greater impact on transportation by regional, commercial, and industrial development, then let's use it for infrastructure rather than education. I know it's controversial, but it's a thought.

And then, of course, there's the broad-based user fee matter and whether or not we can utilize user fees for those and especially capture the out-of-state traveler who uses our infrastructure. And then, of course, there are other fact issues. There are other generators, like the realty transfer fee, that we need to look at. But nevertheless, what we want to do is work with you so that, number one, a developer in this state continues to work with some type of predictability in their business decisions as they go forth.

Another issue that I want to raise is that one of the concerns with this legislation is that it's permissive, in my mind. And that if it's permissive, you're going to have growth districts, like Somerset and Mercer, and possibly imposing these kinds of special benefit fees, and other areas, like Warren and Sussex and Hunterdon, not, and what is that going to cost? That's going to cause, potentially, sprawl to occur in those counties that don't impose special benefit fees. And what we want to do is, we want to channel growth into our older communities and urban areas where there is existing infrastructure that needs to be improved in order to meet the needs of economic development.

Thank you, Mr. Chair.

ASSEMBLYMAN DeCROCE: Tony, let me just remark -- a couple of things. First of all, cities can put together these TEDs as well.

MR. PIZZUTILLO: Yes.

ASSEMBLYMAN DeCROCE: And frankly, TEDs could transcend county lines. People should understand that -- maybe regional in nature, obviously, because they have to be. There's nothing in the legislation that says that several communities that work with one county or another can't be involved in a TDD if they transcend county lines. It may not always be the

case, but it could be. Beyond that, I don't want you ever to think that we're going to do double taxation. We're really not anxious to do that.

But if there's a commercial development, let's say, in place, and because the community decides that -- feels that the roadway should be improved one way or another, whether it's a widening, a culvert improvement, or a bridge improvement, and if it's good for the developer, I would think that most developers are interested in making sure that the quality of life of their tenants are important to them and would, frankly, contribute in one way or another.

But on the other hand, though, if there had been, let's say, some new development in the area and another developer has given a reasonable amount of money to his municipality, there's nothing in the bill that says he can't give enough credit for the effort that he's put into whatever may happen with those dollars. So there's a lot of-- I don't know if you've read the RITCSC commission.

MR. PIZZUTILLO: No, I have not.

ASSEMBLYMAN DeCROCE: You should read it. Everybody should read the RITCSC commission report, because that is truly a very good document. Everybody gives me credit. They did it. I didn't do it. I'm only the catalyst. And I'm telling you, everybody should take a good hard look at it. People like Pippa Woods, Bill Beetle, John, Ray, the Mayor, people that you've heard here this morning testifying were people that worked on this more so than I did.

We think it's something that we should really look very deeply into. Everybody concerns themselves with transportation and congestion. Everyplace

you look in the State of New Jersey -- the northern part for sure and even in the southern part -- are growing. We're chewing up all over the place. We have to do something. So this may be one possibility. And that's why we want to explore all angles to see if there's any way to improve the bill in any way.

By the way, as I said, I don't want to hurt anybody. Nobody is here to hurt anybody. We just want to give everybody a better quality of life.

Thanks.

MR. PIZZUTILLO: Thank you.

ASSEMBLYMAN DeCROCE: Anybody? (no response)

Okay. Rich Van Wagner. Richard represents CSX--

RICHARD VAN WAGNER, ESQ.: Transportation. Yes, sir.

ASSEMBLYMAN DeCROCE: --Transportation railroad.

MR. VAN WAGNER: Thank you, Mr. Chairman, members of the Committee. I appreciate the time. We had submitted several copies of our testimony, so I won't run through it again. I'll highlight quickly our concern on behalf of CSX Railroad, which I know most of you realize is one of the two regional freight railroads that took over for Conrail in the last two years.

Our concern, simply put, is that it is unclear whether this bill may or may not apply to certain freight railroad facilities currently in existence and plan for the future, such that it could provide a disincentive for those facilities which really are designed to take traffic off of the roads.

And to give you an example, we have a facility in Elizabeth that is an intermodal-type facility that does provide -- or I should say, result in some increased local traffic, but regionally provides a great benefit to decreasing truck traffic. So I guess our recommendation would be one which would allow for an

exemption or for freight railroads -- one of the infrastructures that are designed to-- Well, the freight rails, which are one of the things that would improve congestion, obviously, but also to provide some authority for the commissioner to exempt these types of facilities, if it's shown that they, regionally, would benefit congestion problems. That's something we certainly look forward to working further with you on and members of your staff.

ASSEMBLYMAN DeCROCE: Thank you very much, Richard.

MR. VAN WAGNER: Okay.

ASSEMBLYMAN DeCROCE: Anyone have a question for Richard? (no response)

MR. VAN WAGNER: Thank you.

ASSEMBLYMAN DeCROCE: Thank you very much.

Your comments will be taken into consideration.

MR. VAN WAGNER: Thank you.

ASSEMBLYMAN DeCROCE: John Budzash. (no response) This is the guy that was involved with taxpayers at one time or another? My guy? He was the guy who almost--

Fred Brody, a member of the RITCSC commission, is he here? (no response) I didn't think I saw him.

New Jersey Association of Counties, John Donnadio. (no response)

Jacob Freedman, I remember him, from South Jersey.

J A C O B F R E E D M A N: Good morning.

I'll keep it brief. You have my testimony from last time. One of the things that I've picked up on today is essentially the standard governmental versus industry type of line. A suggestion to that which comes to mind would

probably be some sort of credit system in which, if they can prove a removal of transportation difficulties, either by some flexible scheduling or by shuttle services for their employees, that type of thing, would probably be an added benefit for them to participate.

From CSX and the railroads, I think it would probably be a mistake to remove any type of modal transportation because-- And any type of transportation, whether or not it's direct or indirect, there is some effect on transportation as a whole.

My main concern in regards to participation amongst the various governmental agencies is essentially, I guess you would say, a territorial type of restriction. I'm sure the various authorities and agencies who already have their own mandates and their own funding bases may feel automatically excluded, because if they have their own particular directives-- But it should be important for them to participate in their effects on local and regional traffic patterns.

In whole, I like the idea of A-3350, but again, I would like to reiterate that it -- the voluntary part of the bill may produce similar results that the original TDD did in 1989 by not requiring the various agencies participate, particularly the local governmental agencies, and should include some premise. I like the idea from the League of Municipalities that if they don't participate, that they still have to pay for their part of the planning funds. I also feel that they should. If they are not active participants, then their ability to abstain and block a plan should be considered as a possibility as an incentive for them to participate, basically saying that you may not choose to participate, but if you're not an active participant, you may not negate the work that is being done by the TED.

That's it. Thank you very much.

ASSEMBLYMAN DeCROCE: Thank you, Mr. Freedman.

Anybody have any questions for Mr. Freedman? (no response)

Thank you very much.

MR. FREEDMAN: You're welcome.

ASSEMBLYMAN DeCROCE: Does anyone else in the audience who may be interested in testifying before I close the hearing? (no response)

I've not made up my mind. We may have an additional public hearing. We may not. But regardless, all the comments we have today and the past two hearings we will present to the RITCSC commission for their digestion. And hopefully, they will come up with some recommendations to improve the bill.

Please understand there is no effort here on the part of the Commission or this Committee to impose any additional burden on the industrial or commercial community. But at the same time, each of you in your own way face the same problem everyone else faces with our quality of life, and that's congestion. That is what we're really all about, whether the people want to agree with us or not. We want to attempt to see if we can rectify some of the inequities that presently exist, and we want to make sure it's something that's fair and equitable to all.

So I would think that after the RITCSC commission meets, if there has to be any amendments to the bill, we'll do that at a later date before we move the bill.

So thank you all for coming, and until you hear from us again, thank you.

(HEARING CONCLUDED)