

BEFORE THE NEW YORK STATE SENATE
TASK FORCE ON GOVERNMENT EFFICIENCY

A Public Forum to Examine Spending
at the
NYS Department of Transportation

Hearing Room A
Legislative Office Bldg.
Albany, NY

May 5, 2010
1:05 p.m.

PRESIDING:

Senator Jeffrey D. Klein
Chair
Senate Task Force on Government Efficiency

PRESENT:

Senator Diane Savino
Senator Elizabeth O'C. Little
Senator Brian X. Foley
Senator David J. Valesky
Senator George D. Maziarz
Senator Craig M. Johnson
Senator Darrel J. Aubertine
Senator Andrea Stewart-Cousins

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1 CHAIRMAN KLEIN: Good afternoon,
2 everyone. I'm State Senator Jeff Klein, the
3 chair of the Task Force on Government
4 Efficiency. I'd like to introduce our task
5 force members.

6 First, Senator Diane Savino. We have
7 with us Jason, who's Tom Morahan's chief of
8 staff, sitting in for him today. Senator
9 Brian Foley. Senator David Valesky.
10 Senator Craig Johnson. Senator Betty
11 Little. And Senator George Maziarz.

12 I want to thank everyone for coming
13 today. This is the third hearing that the
14 task force has had. And the way it's worked
15 is we release a report and then contact the
16 specific agency who's the subject of the
17 investigation to sort of do more follow-up
18 work.

19 We added another I think very important
20 component to the task force, which is we now
21 have a website, which has been very, very
22 effective in the short period of time it's
23 been up and running, where we've already had
24 three very important hits which allowed us

1 to follow up and I think do meaningful
2 investigations which we're going to talk
3 about with the Commissioner of
4 Transportation today.

5 As I said, the purpose of this task
6 force is really to sort of change the
7 dynamics in the way we do our work here in
8 Albany. You know, we hear time and time
9 again "doing more with less." But I think
10 the goal of this task force is really doing
11 more with less and protecting the taxpayers'
12 money.

13 I think one of the things we find time
14 and time again is we really have to stop
15 giving state agencies a blank check.
16 There's a tremendous of amount of
17 overspending, a tremendous amount of waste
18 that we've been able to find in a very short
19 period of time, and I think we can do a
20 better job. And I know our state workers
21 around the State of New York work very hard
22 each and every day. But I think we really
23 need to change things where we can make
24 government more efficient and at the same

1 time give the taxpayer a better bang for
2 their buck.

3 So without any further waiting, I want
4 to move forward -- I'm sorry, we've also
5 been joined by Senator Darrel Aubertine and
6 Senator Andrea Stewart-Cousins.

7 The first individuals here to testify
8 today -- I know he brought some friends with
9 him -- Tom Comanzo, who's the vice president
10 of the Public Employees Federation.

11 Thank you for coming here today, Tom.

12 PEF V.P. COMANZO: You're welcome,
13 Jeff. Thank you.

14 First I want to thank the committee for
15 allowing us to speak today. As Jeff said,
16 my name is Tom Comanzo. I'm a vice
17 president of the 58,000-member New York
18 State Public Employees Federation. We
19 represent the professional, scientific, and
20 technical employees of New York State,
21 including 4,000 members of the Department of
22 Transportation.

23 And with me today is Lou Ferrone, who
24 is the labor/management chair for the

1 Department of Transportation, and Sue Stepp,
2 who's an executive board member of PEF for
3 the Department of Transportation.

4 Over the last 20 years we've seen the
5 writing on the wall regarding spending at
6 the Department of Transportation. Millions
7 of dollars are being wasted on an annual
8 basis. In fact, the number is more than
9 \$84 million. Most of the wasteful spending
10 is due to the excessive use of consultants
11 for engineering and construction inspection.
12 According to the Governor's Task Force on
13 Personal Services Contracting, DOT contracts
14 out about 60 percent of its engineering
15 work.

16 We have been pointing to the waste at
17 DOT for 20 years. And it's not just PEF's
18 opinion, these claims have been
19 substantiated by others. Two separate
20 studies by the Office of the State
21 Comptroller, one going back as far as
22 Republican Ned Regan and another under
23 Democrat Carl McCall, plus DOT's own
24 consulting study by the firm of KPMG, which

1 was originally commissioned to refute the
2 Comptroller audits, and our PEF studies,
3 based on information revealed under the
4 contract disclosure law, and now your Senate
5 task force study, all draw the same
6 conclusion: DOT wastes millions of dollars
7 on consultants.

8 We're pleased to see that the Task
9 Force on Government Efficiency has also
10 taken up this issue.

11 The key point here is this. Virtually
12 everyone who has seriously studied this
13 issue agrees that substantial savings could
14 be achieved. So why isn't this happening?
15 Other agencies have managed to reduce their
16 dependence on consultants. The Insurance
17 Department, for example, cut its consultant
18 spending by \$62 million in one year. OCFS
19 saved nearly \$40 million.

20 At DOT, consultant use has gone up.
21 The number of state engineers has gone down.
22 DOT has significantly reduced its number of
23 staff engineers. In 1994, there were 4,301
24 state engineers in DOT titles. Today DOT

1 has 1,073 fewer engineers. Meanwhile, the
2 Department hires consultants which cost up
3 to 85 percent more than similarly skilled
4 state engineers.

5 On average, DOT engineers, including
6 benefits, cost \$50.11 an hour. Comparable
7 private consultant engineers cost at least
8 \$82.10 an hour. That's a \$30 an hour
9 difference. We estimate that DOT can save
10 between \$55.6 million and \$84.3 million a
11 year by having state employees do between
12 50 percent and 90 percent of the work
13 currently done by more expensive
14 consultants.

15 The Senate Task Force report found that
16 if DOT only realized 30 percent of our
17 high-end savings estimate, they could save
18 \$24.1 million in engineering supervision
19 costs, \$10 million in construction
20 inspection costs, and \$3.4 million in bridge
21 inspector costs.

22 Yet in the face of all the research,
23 with a \$9.2 billion budget deficit and with
24 the Governor threatening to furlough our

1 members, and with the Governor suspending
2 work on transportation projects due to the
3 lack of funds, DOT continues to increase its
4 reliance on consultants. In fact, from
5 state fiscal year 2008-2009 to 2009-2010,
6 DOT increased its spending on consultants by
7 \$9.1 million. Why waste more when we could
8 save millions of dollars?

9 Mr. Chairman, we need to find a way to
10 convince DOT managers that the budget crisis
11 in this state is more urgent than they think
12 it is. As the last 20 years have shown us,
13 we can no longer leave it to chance that a
14 department such as DOT will have the
15 discipline to reduce wasteful contracting
16 out of work that can be done at a lower cost
17 by public employees.

18 I call on the Senate to pass
19 legislation that will require state agencies
20 to perform a cost/benefit analyses before
21 entering into any consultant contract valued
22 at more than \$500,000, require the Division
23 of Budget to set savings targets for each
24 state agency for consultant spending, and

1 require penalties for failure to file
2 reports under the consultant disclosure law.

3 When we have a budget deficit of almost
4 \$10 billion, we have to make sure we get the
5 greatest value from every cent the state
6 spends. We have the answers; we just need
7 the will. And if not now, then when?

8 Again, I thank you very much for the
9 opportunity to address you today. I would
10 be glad to answer any of your questions.

11 CHAIRMAN KLEIN: Thank you very much,
12 Tom. I really appreciate you testifying
13 here today.

14 I know you talked briefly about the
15 study that PEF put out as far as the ways we
16 can save money by not contracting out
17 government services, but actually have it
18 done by state employees. What would be the
19 cost savings to the state as far as the cost
20 savings, I guess, on a yearly basis?

21 PEF V.P. COMANZO: We also have a
22 study that shows if -- not just in DOT --
23 but if we reduced the use of consultants and
24 not eliminate them, but just reduce the use,

1 in three years \$700 million could be saved.

2 So, you know, we're talking about
3 serious money here. And especially in these
4 tough financial times, methods like that
5 make it very sensible to implement these
6 measures. And if you remember from our "Go
7 Public" campaign a few years ago, as we like
8 to say, we do it better and we do it
9 cheaper.

10 CHAIRMAN KLEIN: I guess to follow up
11 on that, one of the things that we found in
12 our most recent report on the Department of
13 Transportation -- and, you know, it's not a
14 major cost savings, but still -- is that the
15 State of New York presently contracts out
16 for the service of deer carcass removal. Is
17 there any idea why that service would be
18 contracted out and not done by a State DOT
19 worker with a pickup truck?

20 SENATOR AUBERTINE: I'm sorry, I
21 didn't hear that.

22 CHAIRMAN KLEIN: Deer carcass
23 removal. They contract out to about five or
24 six different companies that don't seem to

1 have any special expertise in the service of
2 deer carcass removal. But yet it's being
3 done, and we spend probably about a million
4 dollars a year on it.

5 MR. FERRONE: The people that did
6 that work for the Department of
7 Transportation in the past were CSEA
8 employees. And since their ranks have also
9 been decimated, they've been contracting out
10 to various agencies.

11 I know in our Syracuse region, Senator
12 Valesky, that many times when a citizen
13 calls for a carcass, deer carcass on the
14 side of the road, the firm that was handling
15 the contract in the Syracuse area was out of
16 Pennsylvania. So it would tend to take them
17 some time to come up from Pennsylvania to
18 remove the carcasses.

19 We would have, in the past, our CSEA
20 employees would be called at home, they
21 would come out, get a little bit of overtime
22 and move the carcass and dispose of it. It
23 is definitely more cost-effective to do that
24 in-house. And also a better service for the

1 public, instead of having the deer carcass
2 sit on the side of the road for four or five
3 days until a contractor comes and removes it
4 and then disposes of it.

5 CHAIRMAN KLEIN: To follow up, Tom, I
6 know, you know, the study that you put out
7 showed savings not only in DOT but, as you
8 said, in all state agencies. But in 2008
9 there was a report conducted by NYU
10 Polytechnic Institute that basically made
11 the claim that DOT's engineering work and
12 other things are a cost savings if indeed
13 the services are contracted out instead of
14 having state employees do it.

15 PEF V.P. COMANZO: We beg to differ,
16 obviously. We've got the financial data to
17 back it up. We've got the independent
18 reports from two comptrollers, one Democrat,
19 one Republican. We've got the KPMG study.
20 You know, we obviously beg to differ, and
21 we've got the facts to back that up.

22 CHAIRMAN KLEIN: Thank you.

23 Senator Savino.

24 SENATOR SAVINO: Thank you.

1 Thank you, Tom, for your testimony.

2 As I was listening to you, I noticed
3 that as you stated in your testimony in 1994
4 there were 4,301 state engineers in DOT
5 titles, and as of today the ranks of DOT
6 engineers has dropped by about 1,073. You
7 also indicate the difference in the salary,
8 which includes the benefits.

9 PEF V.P. COMANZO: Yes.

10 SENATOR SAVINO: Because oftentimes
11 when we raise the issue of doing things
12 cheaper in-house, the response is that it's
13 only cheaper if you don't count in the cost
14 of benefits, the health insurance benefits
15 that are provided to state employees as well
16 as pension benefits. But your analysis
17 shows that even with the benefits, there's
18 still a \$30 difference.

19 PEF V.P. COMANZO: Yes, we're still
20 quite a bit cheaper.

21 SENATOR SAVINO: The title of
22 engineer, is that a competitive class
23 position?

24 PEF V.P. COMANZO: Yes.

1 SENATOR SAVINO: Has there been any
2 attempt to hold an exam for that title in
3 recent years?

4 MR. FERRONE: I'll speak on that.

5 Most of our engineering people come
6 from four-year schools such as Clarkson.
7 Okay? And actually the DOT has recognized
8 most recently, as we, PEF has recognized
9 that there was a problem for recruitment and
10 retention for people with four-year degrees.
11 So there's movement on the Department to
12 upgrade that title to get more people to
13 come in.

14 So you've asked the question is there a
15 test. All tests have been stopped right now
16 for DOT for incoming engineering students.

17 SENATOR SAVINO: How did they
18 determine -- what led to the recruitment and
19 retention issue in the title?

20 MR. FERRONE: Recruitment and
21 retention, what led them to do that? Well,
22 they had difficulty hiring people. And at
23 that time also we started to hire people
24 with engineering degrees from other

1 countries, such as maybe Africa or the
2 Middle East, et cetera.

3 And therein lay a problem, because what
4 had to happen is when we did hire them,
5 their college, by the state education board,
6 had to be approved, and then they had to go
7 through and take the proper tests, et
8 cetera.

9 So that in fact shows that you couldn't
10 even hire people from our country because
11 the pay rates were not high enough and they
12 were going to consulting firms at that time.

13 SENATOR SAVINO: What's the starting
14 salary for an engineer?

15 MR. FERRONE: I would say, off the
16 top of my head, I think around \$35,000.

17 SENATOR SAVINO: Thirty-five
18 thousand. And after -- obviously there are
19 promotional opportunities that come with
20 grade increases?

21 MR. FERRONE: Yes. Yes.

22 One of the things with the junior
23 engineer, they would come in as what we call
24 a Grade 16, at say \$35,000. Then after a

1 year they're required to pass the first part
2 of their PE. And then if they achieve that
3 that first year, they would be upgraded to
4 Grade 20, which would be maybe \$10,000 more.
5 I don't know without having the salary scale
6 in front of me.

7 That's how the process worked in the
8 past. Right now, everything obviously is
9 stopped.

10 SENATOR SAVINO: And do you know, the
11 consultant engineers that are engaged by the
12 Department of Transportation, what do they
13 earn, on average?

14 MR. FERRONE: I don't have those
15 figures in front of me.

16 But I do know that I've seen people
17 come into the Department and progress
18 through the JE ranks, through the civil
19 engineer rank, which would be where they
20 would go after they've got the first part of
21 their PE, get their PE, and then leave the
22 Department because they were roadblocked at
23 that point and they couldn't progress any
24 further through promotions, so they would go

1 work for consulting firms there. So the
2 proof is in the pudding, I would say.

3 SENATOR SAVINO: Coming back to the
4 same agency just as a consultant?

5 MR. FERRONE: That's correct.

6 SENATOR SAVINO: Earning?

7 PEF V.P. COMANZO: Based on our
8 hourly rate comparisons, it's about
9 60 percent higher for consultants.

10 SENATOR SAVINO: Interesting.

11 Earlier this year we collaborated on
12 some legislation aimed at reducing the
13 number of consultants in the IT field. Have
14 you, in your capacity at PEF, have you seen
15 any increase in IT insourcing by any of the
16 agencies yet?

17 MR. FERRONE: Well, at our recent
18 labor-management meeting we asked that
19 question directly to management. I think
20 you're referring to the Comptroller's
21 agreement with PEF for some in IT titles.

22 DOT has not yet participated in there,
23 but they have been trying to move some of
24 the titles in-house, so they have been

1 progressing on that. And I think there was
2 a number in the main office here in Albany
3 of 19, if I remember correctly, that they
4 were trying to -- they were eliminating 19
5 maybe consultant positions and looking to
6 hire 19 or thereabouts in-house people.

7 PEF V.P. COMANZO: And other state
8 agencies, we are trying to make sure we're
9 all on the same page with the language.
10 Some of the things that we were sure were in
11 the language is not quite the same as what
12 the Division of the Budget is saying is in
13 the language. So we're working out the
14 specifics on that. We want to make sure
15 that if there are promotional opportunities
16 and our members meet the qualifications,
17 that they're eligible to participate and get
18 the promotions.

19 SENATOR SAVINO: Thank you.

20 CHAIRMAN KLEIN: Senator Johnson.

21 SENATOR CRAIG JOHNSON: Good
22 afternoon. Is there currently a hiring
23 freeze in place?

24 PEF V.P. COMANZO: Yes.

1 SENATOR CRAIG JOHNSON: Does that
2 hiring freeze apply to outside consultants?

3 PEF V.P. COMANZO: No. They're also
4 not being furloughed.

5 SENATOR CRAIG JOHNSON: That was my
6 next question.

7 Do you know how many outside
8 consultants been hired by the DOT since
9 Governor Paterson announced the imposition
10 of the hiring freeze, I think it was last
11 year?

12 PEF V.P. COMANZO: I know it has
13 increased by, as we said, \$9.1 million. I
14 don't know what that would equate to the
15 number of consultant staffers that come on
16 board.

17 SENATOR CRAIG JOHNSON: Thank you.

18 CHAIRMAN KLEIN: Senator Foley.

19 SENATOR FOLEY: Thank you,

20 Mr. Chairman.

21 Mr. Comanzo, I want to thank you for
22 your testimony. In listening to your
23 report, if you, particularly as it relates
24 to the overreliance on outside consulting

1 brings me back to a time when I was chair of
2 the Public Works Committee in Suffolk
3 County. In the Department of Public Works
4 we went through the same, let's say,
5 constructive review and critical review of
6 that particular department. And much of
7 what you said today here reflects the
8 problems that we had found in local
9 government.

10 And one of the remedies that we had
11 proposed and was in fact approved was one
12 that you've proposed for us to do at the
13 state level, which is requiring state
14 agencies to perform a cost-benefit analysis.
15 We have that now as part of the law in
16 Suffolk County. It was a very effective way
17 in which we gave our good county workers the
18 opportunity to, in essence, bid for the job
19 if they could show through cost-benefit
20 analysis that they could do the job more
21 cost-effectively than if it was contracted
22 out.

23 I can tell you on a number of occasions
24 we were able to keep that work in-house, and

1 the superb work was done by our county
2 workers. So having that same approach here
3 and the suggestion that you made to the
4 chair to pass similar legislation at the
5 state level is one that I'm sure other
6 members will eagerly review and want to put
7 forward.

8 Secondly, I think there's really a
9 connection between the increase in work and
10 the ability of the Department to recruit and
11 retain civil engineers. And when we had the
12 acting commissioner come before our
13 Transportation Committee, I know there's
14 been a challenge to try to recruit
15 engineers. And part of the problem has been
16 with civil service to give not only the
17 proper title but also the pay grade.

18 And again, learning from other levels
19 of civil service and other local
20 governments, one of the things that we've
21 been able to do in the past was to in fact
22 increase the grade level, number one, and
23 also allow some hirings of more seasoned
24 engineers who, in fact, wanted to leave the

1 private world and work for the public.

2 So there's plenty of precedent within
3 the world of civil service that these things
4 can be done. They've been done at other
5 levels of government, and certainly they
6 could be done here at the state level. If
7 there are civil engineers and professional
8 engineers who have a lot of experience but
9 wish to work for the public, they don't
10 start at the \$35,000 level. It could be at
11 a higher level. And in fact, those were
12 able to be worked out with the agreement of
13 the local unions as well.

14 So your thoughts are well taken, and
15 your testimony will in fact help us to meet
16 the goals of this task force and to get some
17 of this work moving forward.

18 PEF V.P. COMANZO: Thank you.

19 SENATOR FOLEY: Thank you,

20 Mr. Chairman.

21 CHAIRMAN KLEIN: Senator Aubertine,
22 and then Senator Maziarz.

23 SENATOR AUBERTINE: Thank you,

24 Mr. Chairman.

1 I listened to the testimony intently
2 here. And the idea of saving what I
3 consider a fairly fantastic amount of money
4 just by diminishing the number of
5 consultants we use, \$55 million to
6 \$84 million --

7 PEF V.P. COMANZO: And keep in mind
8 that's one state agency.

9 SENATOR AUBERTINE: I get it.

10 What drives this? I mean, is it this
11 prevailing attitude of use it or lose it,
12 year in, year out? Is that part of the
13 equation that's gotten us to this point?

14 PEF V.P. COMANZO: You mean regarding
15 the hiring of consultants?

16 SENATOR AUBERTINE: Yes.

17 PEF V.P. COMANZO: I think there's a
18 variety of reasons. First of all, I have
19 many years of state service and I've seen
20 many hiring freezes. I've never officially
21 seen one lifted. All of a sudden you'll
22 start seeing people come on.

23 So when there's a hiring freeze, it
24 makes it more difficult to replace staff,

1 number one. Number two, it's easier for
2 them to just bring consultants on board and
3 then oftentimes DOB and the Governor's
4 office -- and it goes back from well before
5 the current Governor -- they don't look at
6 the whole budget for a state agency.
7 They'll look at personal service and
8 non-personal service. And they'll be able
9 to say personal service is reduced by
10 12 percent -- but non-personal service, with
11 the other line that has the consultants, is
12 going through the roof.

13 So if you look at the whole state
14 agency budget, you're going to see ways to
15 effectuate savings and reduce the use of
16 consultants.

17 SENATOR AUBERTINE: Well, that really
18 leads well into my next question, then.
19 Where else should we be directing some
20 attention to find savings aside from, you
21 know, the things that you've obviously
22 pointed out?

23 PEF V.P. COMANZO: This is only a
24 two-hour hearing; right?

1 (Laughter.)

2 PEF V.P. COMANZO: Where else?

3 Obviously, we know that if the use of
4 high-priced consultants is reduced, and
5 preferably greatly reduced, we can save the
6 state hundreds of millions of dollars.
7 There are other efficiencies that can be
8 obtained, but that's the most obvious and
9 the easiest way to do that.

10 And, you know, if we can bring more on
11 board as state employees, first of all,
12 they'll be starting at a lower starting
13 salary. And then we have both their ability
14 to be state employees and perform the duties
15 in accordance with the agency's
16 requirements, and we'll also have more
17 accountability over them. Because
18 oftentimes, with the consultants, they are
19 pretty much -- they answer to no one.

20 SENATOR AUBERTINE: Well, in light of
21 the fact that we only have a couple of hours
22 here, if you could share with the entire
23 task force, I'm sure everyone would be very
24 interested in getting a more global picture

1 of where we could go in all of DOT to try to
2 extract savings, you know, from this
3 particular agency.

4 MR. FERRONE: Well, I think another
5 thing to understand with the consultant use,
6 for every consultant we have out there, we
7 also have to have staff in-house to monitor
8 the consultant work. Okay? So when they
9 design projects, all that work has to come
10 in-house, and that review is occupied by
11 people in-house. There is a savings in
12 itself right there.

13 Another thing is we talk about savings.
14 A lot of our money comes from the federal
15 government. So we're given a certain amount
16 of money to do this. And one of the things
17 to understand out there is if you use less
18 consultants, that would allow you to have
19 more money for more projects, which on an
20 economic development thing would be
21 employing work, private-sector contractors,
22 et cetera. These people buy cars, tires, et
23 cetera.

24 So you have to remember to add onto

1 this, too, there's a benefit of having more
2 projects out there if we do stuff in-house.
3 It would be a ripple effect that would
4 happen in the economy, too, especially
5 during these times.

6 The Department of Transportation does
7 not do work that's not necessary out there.
8 As everybody on this committee I'm sure is
9 aware of, our infrastructure is crumbling
10 away. And that's important to economic
11 development. So a lot of those are
12 intangible cost savings. It's hard to put a
13 number on it. And a lot of times people, if
14 they can't put a number on it, they push it
15 aside.

16 SENATOR AUBERTINE: But if you could
17 share those ideas with the task force, I'm
18 sure we'd all be very interested in
19 looking --

20 MR. FERRONE: We'd love that
21 opportunity. We've been sharing many of
22 those things with our management people in
23 DOT over the last several years, and we
24 sometimes wonder why we're not progressing

1 in a different fashion.

2 SENATOR AUBERTINE: Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRMAN KLEIN: Senator Maziarz.

5 SENATOR MAZIARZ: Thank you,
6 Mr. Chairman. Thank you, Mr. Comanzo, for
7 being here today.

8 I just have one -- regionally, the
9 DOT -- I represent the northwest border of
10 New York up in the Niagara region. But
11 regionally, this issue of consultants, is it
12 more prevalent in the more rural and
13 suburban regions, in downstate, upstate? Or
14 is it pretty much across the board?

15 MR. FERRONE: I think you see most of
16 your consultant use downstate, okay.
17 Specifically, in the New York City area. I
18 believe in New York City we use all
19 consultants to inspect the bridges. And
20 there's a variety of reasons there.

21 I mean, I'm not saying that we should
22 eliminate consultant use. Consultant use
23 should be used for the spikes in the program
24 or for work that is something specific or

1 specialty work that we don't have expertise
2 in the Department. So consultants are
3 needed. I'm not saying eliminate all the
4 consultants.

5 So to answer your question, most of the
6 stuff we see is downstate.

7 SENATOR MAZIARZ: Downstate?

8 MR. FERRONE: Yes.

9 SENATOR MAZIARZ: Thank you.

10 Thank you, Mr. Chairman.

11 CHAIRMAN KLEIN: Senator Little.

12 SENATOR LITTLE: Thank you.

13 Tom, a question when we talk about the
14 consultants and we look at the tree service
15 ones. We're talking about \$29 million on
16 what we have -- almost \$30 million being
17 what the contract amount is -- and the
18 contracts were for two years, which are up
19 next month, and there's \$26 million that
20 hasn't been spent yet.

21 So is it so large in case, you know,
22 every tree in the state needs to be cut or
23 trimmed or something? Or this doesn't get
24 used. So if there were in-house people, you

1 wouldn't replace them totally, would you?

2 PEF V.P. COMANZO: I'm sorry, could
3 you repeat that, Betty?

4 SENATOR LITTLE: Well, probably I
5 didn't word it very well. But they don't
6 spend all of that money. The contract is up
7 next month, and there's --

8 CHAIRMAN KLEIN: I think they only
9 spent \$5 million.

10 SENATOR LITTLE: Right. \$3,160,000,
11 yeah.

12 So when you're talking about doing this
13 in-house, if you hired these people and they
14 didn't have any work to do, they do other
15 work, I assume; right?

16 PEF V.P. COMANZO: Well, you know,
17 again, as Lou mentioned, we understand there
18 is a need for some consultants. We're not
19 recommending getting rid of all of them.

20 And when there are short-term projects,
21 obviously it would make sense to hire a
22 consultant rather than to bring on a
23 full-time state employee who would stay for
24 a career. But unfortunately, that's not the

1 norm.

2 SENATOR LITTLE: Okay. But this also
3 is pretty seasonal, so -- or, you know, only
4 on occasion when they need --

5 PEF V.P. COMANZO: Mm-hmm.

6 SENATOR LITTLE: Okay. Thank you.

7 CHAIRMAN KLEIN: Are there any other
8 questions?

9 Senator Stewart-Cousins.

10 SENATOR STEWART-COUSINS: Hi. I was
11 just looking at the report. And the reasons
12 that the opponents cite for hiring the
13 consultants are the schedule constraints,
14 the lack of adequate staffing and expertise,
15 better risk management.

16 And I was just wondering, in your
17 opinion, which of those really ring true?
18 Is it the lack of expertise? Is it the lack
19 of risk management? Or is it really mostly
20 the scheduling constraints?

21 MR. FERRONE: I would say, you know,
22 when you say the lack of expertise, it's
23 different than specialty. I think there's
24 specialty things that consultants need to be

1 used for. Okay, where we have a unique
2 situation where our staff is not used to
3 doing that type of work, where other --
4 maybe we have --

5 SENATOR STEWART-COUSINS: What
6 percentage of the time is it?

7 MR. FERRONE: I have no idea.

8 SENATOR STEWART-COUSINS: Okay.
9 Would you say 50 percent of the time?

10 MR. FERRONE: It varies, you know --

11 SENATOR STEWART-COUSINS: It varies.

12 MR. FERRONE: -- depending on the
13 type of the bridge, I mean, or whatever.

14 I mean, the Senator was referring to
15 tree removal or tree trimming. In fact,
16 many years ago we had staff in-house, in
17 maintenance, that would trim trees.
18 However, if we had a large project -- say
19 maybe Route 3 through the northern part of
20 New York they needed tree trimming --
21 because of the vast amount of work to be
22 done, you would hire a consultant. But you
23 would always have on staff to take care of
24 the smaller projects there.

1 We have a staff. We have expertise.
2 I've been with the Department 36 years and
3 worked in a variety of different areas. We
4 have expertise, we have employees that are
5 passionate about their work.

6 SENATOR STEWART-COUSINS: Do you have
7 ongoing training, or not really?

8 MR. FERRONE: No. I mean, pretty
9 much everything is stuck.

10 SENATOR STEWART-COUSINS: Would that
11 be helpful?

12 MR. FERRONE: I'll have to say this.
13 Initially we were in a position to hire,
14 before this all this economic downturn and
15 stuff, and we were hiring people and it did
16 generate a lot of interest in the
17 Department. The Department instituted
18 programs for internships where people that
19 were going to maybe a two-year technical
20 school in that field, or a four-year school,
21 they were coming out more with the hopes
22 that giving them a little bit of carrot to
23 encourage to come through the Department.

24 And all of a sudden -- I mean, we all

1 know the bottom dropped out of everything
2 now, so . . .

3 SENATOR STEWART-COUSINS: Thank you.

4 CHAIRMAN KLEIN: Senator Valesky.

5 SENATOR VALESKY: Just two quick
6 questions.

7 One to follow up on Senator Maziarz's
8 question with regard to the geographic usage
9 of consultants. Are DOT's regional
10 directors making the decisions of when to
11 use consultants and on which projects
12 consultants are used? Or are they being
13 given guidelines from the commissioner's
14 office? And maybe this is a question that's
15 more appropriately asked of the commissioner
16 later today. But from your perspective, how
17 are those decisions made?

18 MR. FERRONE: My perspective -- and
19 this is something that we had discussions
20 several weeks ago with our agency, and that
21 was one of my questions, was there seems to
22 be inconsistencies throughout the state.

23 We have 11 regions. My understanding
24 is many times it's handled within the

1 region, whether -- you know, I'm sure that
2 the regional director has to agree with
3 whatever -- we have different groups, like
4 the design group, construction group, et
5 cetera. Whatever decisions they make has to
6 be -- you know, the divisional director
7 would have to concur with that, agree with
8 it, or authorize it, whatever the proper
9 words are for that.

10 SENATOR VALESKY: Second question, a
11 number of transportation projects have been
12 funded, as we all know, through federal ARRA
13 monies. Do you have any information that
14 you could share with us in regard to the
15 percentage of consultant use on the federal
16 project or projection that are being funded
17 through the federal stimulus dollars versus
18 in-house?

19 MR. FERRONE: We could provide that.

20 SENATOR VALESKY: If you could get
21 that to the task force. Thank you.

22 CHAIRMAN KLEIN: Anyone else?

23 Well, thank you very much for
24 testifying today. We appreciate it.

1 PEF V.P. COMANZO: Thank you.

2 MR. FERRONE: Thank you.

3 CHAIRMAN KLEIN: I'd now like to call
4 up to testify Thomas Cote, director of
5 government relations, the American Council
6 of Engineering Companies.

7 MR. COTE: Good afternoon. Thanks
8 for having us today.

9 CHAIRMAN KLEIN: Thank you for
10 joining us.

11 MR. COTE: Next to me is Bill
12 McCarthy, from Bolton-St. Johns.

13 We're the American Council of
14 Engineering Companies of New York. We
15 represent 300 engineering and related
16 companies around the state and, around the
17 country, about 100,000 engineering company
18 employees.

19 We appreciate the opportunity to
20 provide testimony to examine spending at the
21 New York State Department of Transportation
22 with regards to engineering.

23 First let us say that we believe
24 overall that DOT has been put in the

1 unenviable position of having too few
2 resources to do the job that New York
3 deserves. Our inspection and construction
4 dollars are worth far less comparatively
5 than they were years ago, and that is
6 resulting in even more overstressed
7 infrastructure that will likely see more
8 closures and detours in the future as this
9 catches up with us.

10 We encourage efforts to make sure that
11 all agencies, including DOT, operate at the
12 most efficient levels. At a time when the
13 economy is weak and our state fiscal
14 situation is dire, it is even more important
15 today. Infrastructure spending, and in this
16 case transportation spending, cannot be
17 looked at in a vacuum. Many internal and
18 external factors will determine the best
19 investments and how they should be managed.

20 We have seen the aggressive approach by
21 the Public Employees Federation to eliminate
22 the use of outside professional engineers
23 and we're disappointed that they have chosen
24 to use outdated and biased studies that they

1 know are patently false. In fact, many of
2 their sources are from organizations that
3 have been established solely for the purpose
4 of promoting their own efforts.

5 The only independent report prepared in
6 more than a decade shows that the use of
7 private professional engineers is at least
8 14 percent more cost-effective and, with the
9 pension obligations changing, this savings
10 is likely more than 20 percent. This report
11 was prepared by the Polytechnic University
12 of NYU and used data from the New York State
13 Department of Transportation and private
14 firms to run this comparison.

15 Further confirmation is from the *Wall*
16 *Street Journal* that in March reported on a
17 United States Department of Labor report
18 that showed from 1998 to 2008, public
19 employee compensation grew by 28.6 percent
20 while private workers' compensation only
21 grew by 19.3 percent. The result is a
22 differential where public-sector wage and
23 benefits are 45 percent greater than the
24 comparable private-sector jobs.

1 The main reasons why public employees
2 cost more is the lucrative benefits, and in
3 particular a tax-free pension, along with
4 fewer hours worked. The study did not look
5 at today's challenging economy, and that
6 contrast is even starker. As construction
7 projects are shut down or delayed, the
8 related private-sector engineers go back to
9 their offices and don't get paid. The
10 corresponding in-house employees go back to
11 their office and get paid regardless if they
12 perform any work.

13 Some factors that could not be tracked
14 but would make the savings even greater is
15 that private firms that employ these
16 engineers and their staff pay a variety of
17 taxes -- income taxes to the state, property
18 taxes to local schools and towns, and sales
19 tax to both the state and local governments.
20 If all engineering were done in-house, these
21 firms would lay off employees and pay far
22 less in taxes. As noted before, state
23 pensions are exempt from the income tax, so
24 in the long run the state is collecting

1 millions of dollars less in income taxes
2 each year.

3 Private-sector engineers are also
4 better trained. New York State law requires
5 licensed engineers in the private sector to
6 take 36 hours of education every three
7 years, while PEF engineers at DOT are not
8 required to take any continuing education.

9 Currently, New York State Department of
10 Transportation outsources anywhere from 40
11 to 50 percent of their design and related
12 work to private companies. The only study
13 ever done by the Federal Highway
14 Administration pointed to the level of 70 to
15 75 percent outsourced for the most efficient
16 use of resources.

17 In looking at it from an economic cycle
18 perspective, if you assume that the need and
19 demand for engineers moderates above and
20 below an average line, any time you have
21 staffing above the lowest point of need, you
22 will overcapacity when that demand goes
23 below staffing.

24 Please note that we do not advocate for

1 the elimination of in-house design. There
2 needs to be some core competencies
3 maintained, and project managers need to
4 have the understanding and expertise to make
5 sure that private designers are meeting the
6 agency's needs. We do believe that a higher
7 level of outsourcing than is currently used
8 will result in a more efficient use of state
9 resources.

10 Finally, it should also be noted that
11 New York State uses qualifications-based
12 selection, or QBS, for the selection of
13 design professionals under State Finance Law
14 136A. This method allows agencies to select
15 the most qualified and best firm for the
16 particular job. A recent study by Georgia
17 Tech and Colorado State University showed
18 that using QBS saved overall project dollars
19 and resulted in a faster project completion.

20 Again, thank you for this opportunity.
21 We look forward to working with you. And
22 I'll take any questions that you may have.

23 CHAIRMAN KLEIN: I thank you for
24 testifying.

1 I guess my first question would be
2 given the state's budget crisis -- and you
3 probably heard the testimony from the
4 officials of PEF -- what are some of your
5 recommendations on saving money at DOT
6 specifically?

7 MR. COTE: Well, at DOT we always
8 will say that there needs to be a balance,
9 with outsource consultants as well as
10 in-house engineers. But when it comes to
11 cost savings, we think that when it comes to
12 inspections -- bridge inspections,
13 construction inspections -- when you
14 actually look at the need and how often that
15 it's needed to do those things, it makes
16 more sense to hire a consultant. You pay
17 them once, then you're done. You're not
18 paying their pension, you're not paying any
19 of their overhead, and it's a flat fee.
20 When they're no longer working, they're no
21 longer paid.

22 CHAIRMAN KLEIN: Anyone have any
23 questions?

24 SENATOR SAVINO: Yeah.

1 CHAIRMAN KLEIN: Senator Savino.

2 SENATOR SAVINO: Thank you, Senator
3 Klein.

4 I just want to go through your
5 testimony, because obviously there's some
6 discrepancy with what you determine is the
7 compensation rate for an engineer as opposed
8 to what the Public Employees Federation
9 says.

10 So an engineer, entry level, would
11 start at about \$35,000 and then go up a
12 grade or two. So let's assume the average
13 is about \$63 per hour. And throwing in the
14 pension benefits and the cost of public
15 employee health insurance, it adds up to
16 about \$90 per hour.

17 If you look at that compared to -- I
18 think in your testimony you quoted somewhere
19 around \$40 an hour for a consultant
20 engineer, or somewhere in that range. It
21 doesn't take into consideration the amount
22 of money that's paid to the firm, though.
23 So walk me through that. How much does the
24 firm get paid an hour as opposed to how much

1 does the engineer get an hour?

2 MR. McCARTHY: Sure. A firm is paid
3 by the contract, and the hourly rates are in
4 the contract. Okay? It's important, when
5 you're looking at private sector versus
6 public sector, in our contract, for all
7 costs -- our computers, our rent, our office
8 space -- are all included.

9 When you look at the studies that have
10 been done on the public sector, they don't
11 include any of those costs. All's they
12 include is the cost of salary, health care
13 and their pension. That's it. So it's not
14 an apples-to-apples comparison.

15 SENATOR SAVINO: Exactly. And so
16 that's why -- that's the point I'm trying to
17 make. So I think it's a little --

18 MR. McCARTHY: Our report -- have you
19 seen our report, Senator?

20 SENATOR SAVINO: Yes. But I just
21 think it's little disingenuous to just look
22 at the end result of how much that
23 individual engineer is going to earn; you
24 know, the consultant engineer as opposed to

1 the state engineer.

2 Because if you do a comparison, we pay
3 you -- just say we pay your consultant firm
4 X number of dollars overall. You then
5 determine the rate of compensation to that
6 consultant engineer, who may on paper appear
7 to earn less than the state's engineer, the
8 state employee engineer, but the truth is
9 we're still paying more for that service
10 than we would be if they were an in-house
11 engineer. Because you have to make a profit
12 off of this, don't you?

13 MR. MCCARTHY: We do make a profit.

14 SENATOR SAVINO: Of course. This is
15 America.

16 MR. MCCARTHY: And also, when we're
17 awarded the project, the project starts and
18 ends and that's it. There's no more added
19 costs.

20 And with regards to a hiring freeze at
21 DOT, I just want to let you know one of our
22 engineering firms got called last week, had
23 been working on a project for a year, and
24 they said, "We're probably going to take you

1 off the project because we have 20 engineers
2 in Binghamton that don't have anything to
3 do." So that contract is going to be taken
4 away from us. Okay?

5 And we're only paid when we work, start
6 to finish. However, as I just pointed out,
7 when there's people in offices with nothing
8 to do so, they have to pull our contracts.
9 Also, with the budget right now, the
10 contracts are not being let.

11 One thing I want to say, New York State
12 has the best engineering firms in the world.
13 A lot of them are headquartered in New York
14 City, and they have grown their businesses
15 throughout the world. Okay? And we have
16 the benefit of those firms. And there are
17 no problems with getting engineers in the
18 City of New York, because we've got Polytech
19 Manhattan.

20 Upstate is a problem. In upstate, we
21 are losing engineers to the public sector --
22 county, city, towns -- because we can't
23 afford to pay for those pensions and
24 healthcare. It's a problem. The upstate

1 business is a problem.

2 SENATOR SAVINO: I think we had heard
3 that earlier, that the use of consultant
4 contracts is far higher in the City of
5 New York than it is in the upstate region.

6 MR. MCCARTHY: Because the work is
7 done at night, it's tough work, difficult
8 bridges. Ninety percent of the work
9 downstate is done by consultants.

10 And also we have been told numerous
11 times by the chief engineer at DOT -- I'm
12 going to refute the staff that we heard from
13 earlier -- 50 percent of the work is done by
14 consultants at DOT, not 60. Okay? We've
15 been told -- because we want a better
16 percentage. We want a bigger piece of the
17 pie.

18 Our real goal is to get more money for
19 infrastructure in the State of New York, and
20 then everybody wins. And that's really the
21 real goal. I really don't think we should
22 be looking at cutting money at DOT when
23 you've got an infrastructure that needs
24 literally hundreds of millions of dollars in

1 investment and we're looking to cut at DOT.
2 That's not what we should be doing.

3 SENATOR SAVINO: Well, I don't think
4 any of us want to take money out of
5 infrastructure investment.

6 MR. MCCARTHY: Good. Good.

7 SENATOR SAVINO: I think what we're
8 trying to determine is whether we're getting
9 the most bang for our buck. Can we spend
10 our money more wisely? Can more of this
11 work be done in-house? As has been stated,
12 there is a role for consultants in this
13 department, there's no doubt about it. It's
14 whether that role has gotten too big and
15 whether we're actually getting our money's
16 worth on it.

17 And that's what the purpose of this is.
18 It's not to suggest for any one minute that
19 we could do all of the work of the State
20 Department of Transportation without some
21 consultant contracts. There's no doubt
22 about that. It's just how much we have to
23 spend and whether or not we're spending it
24 wisely.

1 And there's only one other point I want
2 to make, because in your testimony -- this
3 is a statistic that I hear regularly. And
4 as the chair of the Pension Committee, I
5 have to correct you. State pensions are not
6 exempt from income tax. You pay them -- you
7 are taxed on the contribution and on by the
8 State of New York. It's post-tax
9 contributions, and you must report that to
10 New York State Department of Taxation and
11 Finance, and state employees pay tax on it
12 then.

13 The federal government taxes the
14 benefit upon retirement. So it's taxed on
15 the way in, and it's taxed on the way out.

16 Thank you.

17 MR. MCCARTHY: Thank you.

18 CHAIRMAN KLEIN: Thank you for
19 testifying today.

20 MR. COTE: Thank you.

21 CHAIRMAN KLEIN: Next, we're very
22 happy to have with us today the Acting
23 Commissioner of the New York State
24 Department of Transportation, Stanley Gee.

1 ACTING COMMISSIONER GEE: Thank you,
2 Senator Klein and members of the Senate Task
3 Force on Government Efficiency, for this
4 opportunity to address the issues raised in
5 the task force report.

6 The efforts of the task force to define
7 cost savings in state agencies on behalf of
8 New York taxpayers as commendable,
9 especially in these fiscally challenging
10 times when so many of us, including those of
11 us at DOT, are trying to do more with less.

12 As we work together to try to achieve
13 savings for our taxpayers, it's all the more
14 important that we rely on factual and
15 accurate information. Unfortunately, the
16 task force investigation and report
17 regarding the Department of Transportation
18 contained many misleading and misguided
19 statements on how our Department operates,
20 which is contrary to this goal.

21 Further, the report fails to recognize
22 the complexities involved with safely moving
23 people and goods in a state with more than
24 113,000 miles of highway, some 17,400

1 bridges, a 4600-mile rail network, 485
2 public and private aviation facilities, and
3 more than 130 public transit operators.
4 Therefore, I am pleased to be able to set
5 the record straight.

6 Let me be perfectly clear. Safety is
7 the number-one priority of the Department,
8 and we will not compromise. As I testified
9 before the budget hearing last January, it
10 is the mission of our Department to ensure
11 that the traveling public, New Yorkers and
12 those who visit our great state, have a
13 safe, efficient, balanced and
14 environmentally sound transportation system.

15 We must be especially vigilant about
16 the safety of our children who have to rely
17 on adults to protect them from harm. The
18 services provided by DOT are comprehensive
19 and complex, and our spending is first and
20 foremost predicated on safety. It's a
21 simple phrase, "Safety First," but one that
22 we must be ever-vigilant is not undermined
23 by competing priorities.

24 Many of the task force report's

1 findings and recommendations bump up against
2 this very important issue: What price
3 should we put on safety? Senators, let me
4 ask you a question. Have you had to attend
5 a funeral of an employee who was killed by
6 just doing their job? I have. And that
7 experience has had a lasting effect on me.
8 In my short tenure with the Department, I
9 have done so twice. It is an experience my
10 employees and I work every day to make sure
11 I don't have the opportunity to experience
12 again.

13 It's not just Department employees that
14 we must work to keep safe, it is every
15 member of the traveling public. DOT has
16 serious concerns that many of the topics
17 portrayed in your report as potential cost
18 savings could, in fact, compromise the
19 safety of the millions of people living and
20 traveling in the State of New York.

21 The goal of the Department's highway
22 safety program is to save lives, prevent
23 crashes, reduce the severity of crashes when
24 they do occur, and to protect members of the

1 public exposed to transportation operations.
2 DOT is committed to a proactive safety and
3 health program to ensure minimal risk to its
4 employees and for the employees of
5 contractors and consultants.

6 New York State has long been a national
7 leader in the implementation of
8 ground-breaking legislation and programs to
9 improve highway safety. These ongoing
10 efforts have had a positive impact. Over
11 the 10-year period from 1999 to 2008, the
12 number of motor-vehicle fatal crashes and
13 the number of fatalities on New York State
14 roadways continued on a general downward
15 trend. Both fatal crashes and the number of
16 fatalities declined by more than 20 percent.
17 In 2008, there were 1224 fatalities in
18 motor-vehicle crashes in New York State.
19 Additionally, there were 12,900 serious
20 injuries in 2008. These statistics show
21 improvement, and the Department is proud of
22 the actions we have taken to reduce
23 fatalities and serious injuries.

24 But there is still more to be done, and

1 we are doing more. We are making our work
2 zones safer. Working with our public and
3 industry partners to increase public
4 awareness and education, enact stiffer
5 penalties, enhance police enforcement, and
6 apply engineering advances, we have reduced
7 work zone injuries and fatalities by
8 63 percent over the same 10-year period as
9 the other statistics I mentioned previously.

10 Though the Department and the State of
11 New York are struggling with fiscal
12 challenges, safety is not the area to
13 compromise. DOT remains firmly committing
14 to ensuring that the safety of the traveling
15 public, our workers and our contractors come
16 first. Safety first.

17 But safety has its costs. And in
18 certain circumstances and for certain
19 employee titles, such as motor vehicle
20 inspectors, bridge repair and highway
21 maintenance supervisors, overtime spending
22 to address safety issues is warranted. Use
23 of contractors for engineering inspections
24 and safety operations such as deer carcass

1 removal and hazardous tree removal is
2 appropriate when deploying Department staff
3 is a less effective means of ensuring these
4 safety-related tasks are performed.

5 The Department is always reviewing its
6 standards and procedures, and at times does
7 require its specifications when research and
8 the testing indicate that such changes will
9 provide a safer environment for the
10 traveling public, workers and contractors.
11 We take our mission seriously, and it is
12 reflected in our decisions and actions.

13 March 31, 2010, marked the successful
14 completion of DOT's 2005-2010 capital
15 program. This \$18 billion program provided
16 record levels of investment in highway,
17 bridge, aviation, rail, transit, port,
18 bicycle and pedestrian facilities throughout
19 the state. In addition to delivering the
20 \$18 billion 2005-2010 capital program, the
21 largest in the state's history, we have also
22 successfully delivered more than \$1.1
23 billion in federal economic recovery
24 funding. We have achieved these results

1 despite significantly reduced staffing
2 levels.

3 In addition, during 2009-2010, the
4 Department reduced its overall expenditure
5 of state funds by more than 13 percent.
6 This represents an actual reduction of
7 \$170 million in cash disbursements.
8 Examples of DOT actions to reduce expenses
9 include but are not limited to maximizing
10 our use of federal aid so our capital
11 program is delivered at lower cost to state
12 taxpayers; rigidly controlling operating
13 expenses such as supplies, travel and
14 equipment purchases, leading to a 25 percent
15 reduction in travel spending for
16 office-based staff since 2007; and
17 implementing a strict hiring freeze that has
18 reduced our staff by 240 positions over the
19 past year.

20 Now some specific responses to the
21 report recommendations.

22 Overtime spending. The task force
23 acknowledged DOT's 14 percent reduction in
24 overtime spending between 2008-2009 and

1 2009-2010. This decrease occurred across
2 the board in all of our principal
3 functions -- maintenance, construction
4 inspection, bus and truck inspection, and
5 signal repair.

6 More than 70 percent of DOT's overtime
7 is used for maintenance, mainly seasonal for
8 winter snow and ice control when we staff
9 two 12-hour shifts. Maintenance and
10 construction inspection combined account for
11 nearly 88 percent of the Department's
12 overtime. Virtually all the remaining
13 overtime is for field functions, including
14 bus inspection and bridge maintenance.

15 Our maintenance staffing is based on
16 ensuring safe roadways during the winter
17 snow season so we have enough staff to fully
18 deploy our plows during snowstorms. After
19 the winter, we lose our seasonal workers and
20 the remaining staff performs our highway
21 maintenance activities, including bridge and
22 pavement repairs, tree cutting, culvert
23 cleaning, and guide-rail repairs. As a
24 result, we have more workers when they are

1 needed but don't employ them year-round and
2 incur additional salary and benefit costs.

3 Because snowstorms can last days, we
4 found that the most cost-effective way to
5 deploy our state forces is to have two
6 12-hour shifts. This includes overtime to
7 clear the roads.

8 The task force report places particular
9 significance on school bus inspections. DOT
10 is committed to ensuring that all school
11 buses and other for-hire passenger vehicles
12 in New York State operate at the highest
13 safety levels. Our bus inspectors perform
14 more than 154,000 comprehensive bus safety
15 inspections and reinspections annually. To
16 accomplish this, the Department uses more
17 than 120 motor vehicle inspectors. A total
18 of nearly 60,000 buses, vans and ambulettes
19 are subject to the Department's safety
20 inspection review every six months, and more
21 than 400-safety related factors are reviewed
22 during each inspection.

23 To meet the legislative vehicle
24 inspection requirements, given current

1 staffing levels, authorized overtime is
2 essential to ensure that these vehicles are
3 inspected on the optimum schedule to ensure
4 the safety of our children traveling on
5 school buses, and adults and children
6 traveling in other vehicles requiring
7 inspection. Failure to perform inspections
8 on time would result in school districts
9 unable to transport children to school.

10 Ensuring the safety of our
11 infrastructure with minimum disruption to
12 the public is another reason for overtime
13 expenditures. Bridges are a prime example
14 of our state's aging infrastructure. New
15 York led the nation in building new freeways
16 more than 50 years ago at the beginning of
17 the Eisenhower interstate era. That
18 leadership means our infrastructure,
19 particularly bridges built during this
20 period, is among the first in the nation to
21 age to a point where major repair and
22 replacement is becoming increasingly
23 necessary.

24 In the last five years, New York State

1 has experienced an increase in red flags of
2 more than 200 percent on bridges. Many of
3 these flags required immediate action to
4 stabilize the situation, make temporary
5 repairs and/or make a permanent repair. In
6 high-traffic-volume locations it is not only
7 critical to make the bridge safe, but it
8 needs to be done quickly to reduce the
9 negative impacts of traffic.

10 To make these critical repairs quickly
11 and minimize disruption to the public, staff
12 will work early and late in addition to
13 their normal work hours and may also need
14 work on weekends.

15 A major factor in non-snow and ice
16 overtime spending is the inability to fill
17 positions. For example, the bus safety
18 inspections staffing requirement in the
19 New York City region is 30 positions.
20 However, between attrition, training
21 requirements mand the inability to fill
22 positions in a timely fashion, the region
23 averages a bus inspection staff of 25,
24 despite the waivers granted to fill these

1 critical positions.

2 DOT remains cognizant of the need to
3 reduce overtime, as demonstrated by our
4 success in reducing the use of overtime
5 department-wide. DOT will continue to look
6 for ways to minimize overtime spending, but
7 we will not compromise public safety.

8 Under the heading "Consultant Services
9 for Capital Projects and Information
10 Technology." DOT uses a balanced approach
11 to allocating resources between state forces
12 and consultants to design and inspect
13 construction projects as well as to perform
14 bridge inspection services. Special
15 expertise, workload leveling, availability
16 of staff and equipment, and cost are some of
17 the factors that go into this decision.

18 The comparison of costs between
19 consultants and public workers has been a
20 topic of study for many years. There are
21 studies by public agencies, public employee
22 unions, and industry advocates that try to
23 quantify this issue. In fact, this report
24 by the Senate references studies on both

1 sides of the discussion.

2 It is not clear that either method of
3 delivery is unequivocally less expensive
4 than the other. The most recent report by
5 NYU and Polytechnic Institute concludes that
6 the use of consultants is less expensive
7 than public workers. Conversely, the report
8 by PEF offers the opposite view. Having a
9 mix of state workers and private consultants
10 best meets our needs and those of the
11 taxpayers.

12 Today we do not have the resources to
13 produce and deliver the capital construction
14 program and to fulfill our other obligations
15 without supplementing the state workforce
16 with consultants. Increasing the state
17 workforce to the level necessary to
18 eliminate the use of engineering consultants
19 would require doubling the engineering
20 staff -- that is, adding approximately 2500
21 new employees to the Department and
22 requiring a significant amount of equipment
23 and supplies to properly utilize these
24 employees, not to mention the training

1 required before they can become fully
2 productive.

3 Clearly, this is not feasible in the
4 current budget climate, nor would it assure
5 a reduction in the cost of delivering the
6 services for which we are responsible. I
7 firmly believe in the need to retain a
8 strong state workforce to assure that
9 quality is maintained and that our costs are
10 contained by producing projects and managing
11 the consultants that work on Department
12 projects.

13 In the area of information technology,
14 the Governor's budget provides DOT 15
15 additional permanent staffing positions to
16 reduce outside consultants. This
17 in-sourcing of information technology
18 functions has resulted in the elimination of
19 IT contractors so far, worth an annual
20 savings of approximately \$600,000.

21 This is the topic of deer carcass
22 removal and tree pruning. The presence of
23 trees and/or large dead animals on roadways
24 is dangerous and can seriously compromise

1 the safety of the traveling public. Simply
2 put, they must be removed to prevent
3 accidents. Deer carcass and hazardous tree
4 removal and pruning are necessary
5 safety-related tasks that must be performed
6 in real time, as soon as reports are
7 received of their existence.

8 Quickly clearing deer carcasses, downed
9 trees and debris from the travel lanes and
10 roadsides improves safety and facilitates
11 the mobility of the traveling public. DOT
12 cuts or prunes dead or dangerous trees to
13 prevent falling limbs from injuring
14 motorists, motorcyclists, bicyclists or
15 hikers, to maintain roadside clear zones so
16 errant vehicles have room to recover, and to
17 remove sight obstructions to traffic signs.

18 The Department uses state forces for
19 deer carcass removal and hazardous tree
20 removal or pruning when it is most
21 efficient. In areas where there are
22 staffing constraints, such as in the
23 Rochester area, the Department assigns its
24 skilled, highly trained workforce to more

1 complex tasks such as drainage repaired,
2 sign work or guardrail repairs, and uses
3 contractors for deer removal and tree
4 services, which is more conducive to
5 contracting. The Department establishes
6 contracts based on anticipated needs and
7 exercises good contract management by making
8 appropriate adjustments.

9 Under the heading "Contract
10 Management -- Unfunded and Expired
11 Contracts." Failure to spend money does not
12 constitute waste. The fact is that the
13 funding was neither wasted nor lost to the
14 state. The suggestion that DOT "wasted"
15 \$147.5 million that was not spent in
16 existing contracts reflects a lack of
17 understanding of the state's transportation
18 programming process. It is irresponsible
19 for the task force to report publicly that
20 DOT is wasting money without properly
21 researching the facts.

22 Many of the contracts included in the
23 task force report with a current contract
24 value have never had any funds charged

1 against them. There are many reasons why
2 funds allocated to a contract may not be
3 spent. I'll go into some of these reasons.

4 Anticipated or forecast needs may not
5 occur. The report specifically cites
6 hazardous tree removal and tree pruning
7 services. As previously mentioned, DOT
8 cuts, prunes and removes dead or dangerous
9 trees for safety and operational purposes --
10 for example, clearing downed trees after an
11 ice storm. The usage and needs are not
12 constant and may --

13 CHAIRMAN KLEIN: Commissioner, could
14 I just interrupt for a second? You know, I
15 know you have very, very lengthy testimony.
16 Is there any way we can just kind of review
17 this? Because I'm sure there's going to be
18 questions on each and every one of the
19 points that we're taking up, you know, in
20 our report.

21 ACTING COMMISSIONER GEE: Okay.
22 Okay.

23 SENATOR SAVINO: We all have a copy
24 of it.

1 ACTING COMMISSIONER GEE: Okay.

2 Okay. Let me --

3 CHAIRMAN KLEIN: If you can just sum
4 it up. Because again, I think, you know,
5 each and every one of the points that were
6 contained in the report that you're
7 responding to are going to be the subject of
8 questions.

9 ACTING COMMISSIONER GEE: Sure.
10 Okay. I won't go into all the reasons for
11 unfunded and expired contracts.

12 The other areas that were cited made
13 recommendations regarding the DOT
14 specifications. Just let me say we touched
15 on temporary-construction concrete barriers.
16 The reason we upgraded the barriers is
17 because they were not functioning as
18 planned. There were defective welds; we
19 wanted to correct those defective welds.

20 With regard to orange construction
21 signs, these signs have a life of three
22 years on a construction, typically, because
23 of the wear and tear. They do not last the
24 12 years that were cited in the report;

1 those are normal traffic signs that are put
2 on the side of the roadways.

3 You raised some issues about night
4 work, savings through night work. We look
5 at a number of factors before we make a
6 decision to go to night work, and this is
7 made on a contract-by-contract basis, based
8 on engineering, cost, and environmental
9 factors such as worker safety, highway user
10 safety, congestion, productivity, quality of
11 work, nighttime construction noise and
12 lighting issues relative to adjacent
13 residential areas, and contractor
14 difficulties in staffing night projects and
15 delivering materials at night. So these
16 decisions are made and considered carefully.

17 And in New York City, there's the law
18 that requires us to consider nighttime
19 staffing. So in that particular issue, if
20 you think that the congestion impacts of
21 daytime construction are no longer a
22 problem, the Legislature can rescind that
23 law.

24 In conclusion, the Department has a

1 long and proud history of excellence in
2 delivering transportation services to the
3 state. We have put in place sound policies
4 and strategies that continue to guide our
5 infrastructure investments and ensure the
6 safety and welfare of the traveling public.
7 In cooperation with our partners and
8 stakeholders, we will continue to wisely
9 invest whatever level of funding is given to
10 us to support our state's transportation
11 infrastructure.

12 As I mentioned earlier, during fiscal
13 year 2009-2010 DOT reduced its overall
14 expenditures of state funds by more than
15 \$170 million. I believe that there are few
16 state agencies that achieved an actual
17 spending reduction of that magnitude over
18 the past year while delivering a significant
19 capital program and at the same time
20 delivering another \$1.1 billion in federal
21 economic recovery funding for
22 transportation.

23 As referenced in the task force report,
24 DOT has significantly reduced spending on

1 overtime, and we will continue to monitor
2 our staffing assignments to achieve the
3 highest productivity possible. We will
4 continue to look for new approaches to spend
5 public funds as efficiently and effectively
6 as possible. However, these techniques must
7 always preserve the public trust and the
8 safety of our state's infrastructure.

9 The Department of Transportation stands
10 ready and willing to work with the
11 Legislature and the Governor as we provide
12 our citizens with a safe and efficient
13 transportation system. Thank you for your
14 time today.

15 CHAIRMAN KLEIN: Thank you,
16 Commissioner, for your testimony. And I
17 want you to know by no means does this task
18 force want to jeopardize public safety or
19 worker safety. We're merely trying to save
20 the taxpayers money. And I think a lot of
21 the things we did put in our report would do
22 that.

23 The first thing I just want to talk
24 about is overtime. Granted, you were the

1 first state agency that we looked at thus
2 far that actually has seen a reduction in
3 overtime. I think it was a 12 percent
4 reduction in overtime. I think you said 14;
5 we've got 12 percent. But nonetheless, it's
6 always good to see a reduction.

7 However, I just want to refer to
8 Exhibit A. One of the things I guess I want
9 to tell you in the way of background, the
10 task force has put forth a website which has
11 been up and running for a couple of weeks
12 now, and it's been very, very successful in
13 having state employees go on anonymously and
14 give us I think some pretty good tips that
15 we turned around and investigated.

16 This was the subject of one of the
17 things that we found. This is somebody who,
18 as you see, had 12 hours of overtime. Can
19 you just kind of, I guess -- if you're able
20 to -- just walk us through this timesheet?
21 Because this was an individual who started
22 work over two hours before his shift began.
23 He started at 4:15 and then came in and out
24 of work and kept clocking in, clocking out,

1 sometimes at 15-minute intervals.

2 I guess my first question is, why would
3 he start two hours before his shift began?
4 And I guess why is a job like this, where
5 this person inspects state vehicles -- why
6 wouldn't he be able to work on a more
7 concrete time frame, let's say 9:00 to 5:00?

8 ACTING COMMISSIONER GEE: Well, I
9 can't really see it from here, but if it's
10 a --

11 CHAIRMAN KLEIN: Gwen, can you get
12 that closer to the Commissioner?

13 ACTING COMMISSIONER GEE: Is this a
14 bus inspector?

15 SENATOR SAVINO: He asked what the
16 position is.

17 CHAIRMAN KLEIN: That's a state motor
18 vehicle inspector.

19 ACTING COMMISSIONER GEE: Okay.
20 Well, let me talk about it in general. I
21 have a problem reading that.

22 But our bus inspection program -- you
23 cited New York City. As my testimony refers
24 to, we have -- even though those bus

1 inspector positions are critical,
2 particularly in school buses -- and we have
3 a lot of our student population in the
4 city -- that's one of the more difficult
5 areas to staff. Okay?

6 We have an exemption from the freeze,
7 because it's a safety position, so we're
8 trying to staff the full 30. But we average
9 25. And we have the most buses there. So
10 in order to get all the buses inspected, we
11 work overtime.

12 I can't comment on that specific
13 reason -- you know, he may be coming in to
14 get his -- get started early to go out to
15 the field. We go to the location. But he
16 might be loading up his truck to go out
17 there. And I don't know -- you know, they
18 keep track of all their times. So if he had
19 to run an errand or something like that, you
20 know, he has to account for that.

21 CHAIRMAN KLEIN: Well, this person,
22 by the way, was the highest-paid out of all
23 of the motor vehicle inspectors. He made
24 the largest number of overtime. Actually,

1 in 2009, this individual made \$44,193 in
2 overtime, which made his salary over
3 \$100,000 for 2009.

4 I guess my question, in the way of
5 background on the way DOT measures overtime,
6 you know, when something like this
7 happens -- and we'll refer you to some other
8 exhibits a little later on -- is there any
9 red flag that goes up? Is there somebody on
10 a managerial level that sees a large spike
11 like this and, I guess, looks at it more
12 closely or at least investigates why it's
13 happening and making sure that it doesn't
14 happen again?

15 ACTING COMMISSIONER GEE: Yeah.
16 Yeah. We have checks -- this person's
17 supervisor, the supervisor of the bus
18 inspection program, that's their
19 responsibility to look at our costs, make
20 sure our costs are indicative of that,
21 reflective of the costs of not excessive
22 use.

23 I would again say we have the most
24 number of student population, and we're

1 chronically understaffed there. And in
2 order to accomplish that, all the buses
3 inspected -- if we don't inspect the buses,
4 you know, they can't operate. They have to
5 have inspection stickers on them every six
6 months.

7 The other thing that we do, in New York
8 City and Long Island we have the
9 additional -- the bus inspectors do the
10 emissions testing. That is a requirement of
11 state law, in the nine counties in the
12 downstate area, that we do emissions testing
13 on buses. Diesel emissions testing, that's
14 included in their duties. And so that's an
15 extra component. The safety inspection as
16 well as the diesel emissions inspection are
17 accomplished by the same people.

18 CHAIRMAN KLEIN: If I can just refer
19 you, Commissioner, to Exhibit B. This is a
20 sample time sheet of the highest-earning
21 highway maintenance worker.

22 This one was very strange, because this
23 person made 24 hours in overtime.

24 Twenty-four hours in overtime, how does that

1 happen? I mean, I assume when they're a
2 highway maintenance worker they have to
3 sleep at some point.

4 ACTING COMMISSIONER GEE: Well, the
5 only way I can see this happening is if
6 there was a snowstorm, as I mentioned -- let
7 me just give you a little background. We
8 staff two 12-hour shifts during the snow
9 season when we have plowing operations.
10 Okay? That's our staffing pattern. We
11 found that's the most efficient way to do
12 it.

13 Rather than go to three shifts and hire
14 more people to staff that third shift, we go
15 with two 12-hour shifts. That involves
16 overtime, okay, of four hours on each shift;
17 that's eight hours total.

18 The only way -- I don't know that for
19 sure, and this is the first time I've seen
20 that. That could happen if we have a storm
21 and we're short of employees, we call back a
22 worker to do a double shift that day. We
23 normally don't do that, but that could be a
24 double shift during a snowstorm.

1 CHAIRMAN KLEIN: Well, a review of
2 this specific time sheet, Commissioner,
3 states that this person -- who, as I said
4 earlier, was the top overtime earner in
5 highway maintenance -- indicates a time when
6 he worked 33.5 hours straight, accruing 24
7 hours of overtime. In other instances, this
8 same employee worked 19.5-hour days,
9 followed by a 21-hour day and then a
10 15.5-hour day.

11 You mentioned earlier, you know, safety
12 is paramount at DOT. I certainly wouldn't
13 want somebody, you know, working that many
14 hours operating a heavy vehicle and, you
15 know, ringing up that kind of overtime at
16 the taxpayers' expense. How do you explain
17 that?

18 ACTING COMMISSIONER GEE: Well, I
19 can't explain that individual's -- you know,
20 I don't see what you just said on those
21 sheets. Is that the same -- what you cited,
22 is that out of that one time sheet?

23 CHAIRMAN KLEIN: Yes.

24 ACTING COMMISSIONER GEE: I can only

1 see --

2 CHAIRMAN KLEIN: If some of your
3 people who are with you can help you -- I'll
4 be honest, I have a hard time understanding
5 time sheets as well. So I'll give you some
6 time.

7 ACTING COMMISSIONER GEE: Yeah, we
8 are concerned and we have rest times if
9 they're operating large vehicles. I
10 can't -- if this is a -- most of our workers
11 are CDL-qualified, so they're driving
12 trucks, okay, even though they have a
13 highway maintenance worker title.

14 You know, I don't believe this person
15 was driving a truck all that time if he said
16 that he -- that's how he recorded his time.
17 We are concerned about safety, but we have
18 to have all --

19 CHAIRMAN KLEIN: He was certainly
20 working through that entire time period.

21 I'm going to come back to some other
22 questions. I just want to know if any of
23 the task force members have any questions
24 specifically on the overtime, Commissioner.

1 Senator Stewart-Cousins.

2 SENATOR STEWART-COUSINS: Yes, thank
3 you.

4 And congratulations on being the acting
5 commissioner. I've heard good things about
6 you.

7 And I always say, in times like this,
8 this is really an opportunity. I think
9 certainly for you, as you are leading this
10 department, sometimes it's good to see some
11 of these things because it gives a sense of
12 where you could direct your attention. And
13 I know you have a lot of places you could
14 direct it, but I think, you know, this would
15 be helpful.

16 I was just curious about the -- getting
17 back to the paragraph you had on the
18 non-snow and ice overtime spending and the
19 inability -- I believe that's on page 4, the
20 second paragraph -- the inability to fill
21 positions in a timely fashion. You cite
22 that you've gotten waivers to fill these
23 critical positions and yet you still aren't
24 able to do this.