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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
HOUSE TRANSPORTATION COMMITTEE

IRVIS OFFICE BUILDING  
ROOM G-50  
HARRISBURG, PENNSYLVANIA

WEDNESDAY, MARCH 19, 2008  
8:30 A.M.

PUBLIC HEARING ON  
TRANSPORTATION FUNDING ISSUES

BEFORE:

- HONORABLE JOSEPH F. MARKOSEK, CHAIRMAN
- HONORABLE PAUL COSTA
- HONORABLE MICHAEL GERBER
- HONORABLE GARY HALUSKA
- HONORABLE DICK L. HESS
- HONORABLE MARK K. KELLER
- HONORABLE MARK LONGIETTI
- HONORABLE RON MARSICO
- HONORABLE RON MILLER
- HONORABLE JOSEPH A. PETRARCA

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(CONT'D)

HONORABLE JOHN P. SABATINA, JR.  
HONORABLE DANTE SANTONI, JR.  
HONORABLE MARIO M. SCAVELLO  
HONORABLE JOHN J. SIPTROTH  
HONORABLE THOMAS J. SOLOBAY  
HONORABLE KATHARINE M. WATSON

ALSO PRESENT:

STACIA RITTER, EXECUTIVE DIRECTOR (D)  
ERIC BUGAILE, EXECUTIVE DIRECTOR (R)  
MARK BUTERBAUGH, RESEARCH ANALYST  
AMANDA WOLFE, LEGISLATIVE ASSISTANT

BRENDA S. HAMILTON, RPR  
REPORTER - NOTARY PUBLIC

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## P R O C E E D I N G S

- - -

CHAIRMAN MARKOSEK: Good morning, everybody, and welcome to the Transportation Committee hearing this morning. And we're going to dispense with the roll call here because we have -- we have some members coming in -- in and out.

We have -- first of all, we had a birthday, one of our members, earlier this week, St. Patrick's Day, Representative Haluska. So in honor of his birthday, we're going to have him lead us in the pledge of allegiance.

(Pledge of allegiance.)

CHAIRMAN MARKOSEK: Okay. Thank you. And thank the members for a slightly earlier start time this morning.

We have some -- some of our folks testifying that need to get to other appointments later this morning, so we moved it up a bit and we will have members, I'm sure, dropping by as they get in.

Also I want to mention that Chairman Geist is not here today. I believe he's out

1 of town, out of the country even, and  
2 Representative Mark Keller is sitting in for  
3 him this morning.

4 With that, I would like to get the  
5 hearing started. And we're going to change  
6 the batting order slightly from the -- from  
7 the printed agenda.

8 I'm going to have Dr. Gary Gray, who  
9 is a visiting professor of finance from Penn  
10 State; Mr. John Foote, a senior fellow at  
11 Harvard, to come forward and --

12 MS. RITTER: The Commonwealth  
13 Foundation is first.

14 CHAIRMAN MARKOSEK: Oh.

15 MS. RITTER: Nate Benefield. But we  
16 have to deal with IT issues. So why don't you  
17 let Mr. Benefield go first?

18 CHAIRMAN MARKOSEK: Okay. I've been  
19 instructed by folks that really know what's  
20 going on here the staff that we are going to  
21 have -- Mr. Nathan Benefield will be our first  
22 person to testify. He's the Director of  
23 Policy Research for the Commonwealth  
24 Foundation.

25 And, Nathan, thank you very much for

1 your patience and sorry for the mix-up. And,  
2 sir, you may begin whenever you are ready.

3 MR. BENEFIELD: Good morning. My  
4 name is Nathan Benefield. I'm with  
5 Commonwealth Foundation. We are a  
6 free-market-based, research and policy  
7 organization based here in Harrisburg, and I  
8 want to thank the committee for -- for  
9 inviting us to speak on this important issue.

10 Ever since the idea of a turnpike  
11 lease was first floated, there were a lot of  
12 concerns raised about potential issues. Some  
13 of these are very -- distortions of what would  
14 actually happen under a turnpike lease but  
15 some of these are, in fact, real concerns that  
16 need to be addressed by the -- by the  
17 legislature as we go forward.

18 But most of these concerns can be  
19 taken care of in a turnpike lease or  
20 concession agreement, and the framers of such  
21 an agreement would be set forth by the  
22 legislature and by this committee.

23 Now, I brought with me a copy of a  
24 turnpike lease agreement or the Chicago Skyway  
25 lease agreement; and, as you can see, it's

1 pretty hefty. I didn't bring copies for  
2 everyone obviously; but if anybody wants to  
3 borrow our copy, we're welcome to loan that  
4 out.

5 But a lot of things are covered in  
6 these type of lease agreements. Everything  
7 from toll increases, to maintenance schedules,  
8 to the amount of time they have to clean up  
9 road kill off the road.

10 And I think these are things that we  
11 need to look at as a legislature and look  
12 at -- and we can make a turnpike lease  
13 agreement that is feasible for the residents  
14 of Pennsylvania, for the motorists and  
15 taxpayers.

16 And, in fact, many of these  
17 weaknesses that are pointed out or concerns  
18 can, in fact, be turned into strengths,  
19 especially when we compare our turnpike lease  
20 to Act 44 of 2007.

21 One of the first issues that has been  
22 raised is the issue of tolls and toll  
23 increases under a turnpike lease. But, in  
24 fact, under a toll turnpike lease agreement,  
25 tolls would probably be and should be capped.

1 Under current law, there is no limit  
2 on toll increases on the turnpike or on I-80  
3 under Act 44. The Turnpike Commission has  
4 complete autonomy to raise tolls and, in fact,  
5 have suggested that they will increase tolls  
6 by 25 percent on the turnpike in 2009 and 3  
7 percent each year thereafter and place similar  
8 tolls on Interstate 80.

9 Now, this proposed increase should  
10 give an idea of what parameters legislators  
11 should seek in a lease deal. A cap on tolls  
12 that is equal to or less than the Turnpike  
13 Commission's proposal, perhaps without the 25  
14 percent increase, but large increases down the  
15 road, would be something that would benefit  
16 motorists and taxpayers, and keeping in mind  
17 that the maximum toll increases under a lease  
18 agreement would not necessarily mandate that a  
19 concessionaire increase tolls to that level,  
20 and, of course, the turnpike lease would not  
21 include tolls on I-80.

22 A second major concern raises whether  
23 a private operator would maintain the turnpike  
24 as well as a government agency. Again, this  
25 can be addressed in a lease agreement.



1 Minimal levels for road conditions  
2 with financial penalties for the private  
3 operator, if these are not met, and minimum  
4 levels of capital expenditures on the turnpike  
5 itself can be required in the lease  
6 agreement.

7 In the examples of the Indiana Toll  
8 Road and Chicago Skywalk leases, private  
9 operators are already pouring millions into  
10 repairing and upgrading the facilities.

11 Another concern that was raised in  
12 one of the recent -- recent studies was that  
13 legislators -- and I know this doesn't include  
14 present company -- but that they may tempted  
15 to spend a up-front lease agreement on -- on  
16 non-transportation programs and those would,  
17 of course, detriment -- be detrimental to our  
18 long-term transportation needs.

19 If this concern is still possible  
20 under Act 44, as neither the new funding for  
21 highway maintenance, nor the mass transit fund  
22 is protected by the Constitution, now, we  
23 think that it is a good idea for the  
24 legislature to proceed and protect any kind of  
25 lease payment through a constitutional

1 amendment that would limit the use of funding  
2 much as the motor license fund is currently  
3 limited.

4 In addition to that, there's another  
5 way that we can get around this issue or deal  
6 with that issue, and that is to, instead of  
7 using the large, up-front lease option, to  
8 participate in revenue sharing under a  
9 turnpike lease.

10 And that would involve a  
11 concessionaire paying the state an annual  
12 payment based on their revenue on the  
13 turnpike.

14 This has been an option used in other  
15 toll roads, such as the Pocahontas Parkway in  
16 Virginia and State Route 125 in California  
17 where the state has an agreement to receive a  
18 payment over the life of the lease rather than  
19 immediate up-front payment.

20 And, of course, a third option would  
21 be a dual combination of the two and have a  
22 smaller, up-front lease payment and annual  
23 payments throughout the course of the lease.

24 Another claim that has been made is  
25 that financing by a public entity will be less

1 expensive than a private entity. This is not  
2 necessarily true. Private firms use equity  
3 funding, which can be less expensive than  
4 debt, given that there is no guaranteed rate  
5 of return. Private firms can also deduct  
6 interest paid and depreciation from their tax  
7 liability now which essentially reduces their  
8 cost of financing.

9           And even if the claim that financing  
10 by a public entity is less costly is true,  
11 this offers no benefits to taxpayers and  
12 motorists. Debt incurred by the Turnpike  
13 Commission is owed by taxpayers and toll  
14 payers. The debt of a private operator is  
15 not.

16           If I suggested, for instance, the  
17 Turnpike Commission should -- because they get  
18 lower interest rates on their bonds than I get  
19 on my credit cards, they should buy me a new  
20 suit, I might get some laughs. But that's  
21 exactly what this argument entails drop --  
22 taxpayers should incur more debt because they  
23 can get lower interest rates than a private  
24 firm or individual.

25           This premise also ignores the

1 operating efficiency of a private operator.  
2 This assumes that the Turnpike Commission cost  
3 of operations, maintenance, and capital  
4 expenditures will be equal.

5 As the Pennsylvania Turnpike  
6 Commission could tell you, this is not the  
7 case, which is why the current -- the Turnpike  
8 Commission is currently seeking bids from  
9 private firms to complete construction and  
10 operate the Mon-Fayette Expressway, bringing  
11 in private sector capital and efficiency.

12 In reality, a turnpike lease is much  
13 better for the taxpayers of this state.  
14 Instead of paying interest on Turnpike  
15 Commission debt, they would earn interest on a  
16 lease agreement.

17 Instead of facing higher tax -- gas  
18 taxes to pay off debt already being issued,  
19 which is a particular risk if I-80 tolling  
20 does not receive federal approval, taxes would  
21 transfer to the private operator and their  
22 investors.

23 Another concern that has been raised  
24 recently was the potential effect and cost of  
25 diversion to other roads from higher tolls.

1           But in this regard, the turnpike  
2           lease provides a better option than Act 44.  
3           While toll increases would result in more  
4           motorists choosing to -- choose free roads,  
5           which may increase the cost of maintaining  
6           those roads, there would be far greater  
7           diversion under Act 44 than a turnpike lease.

8           As I previously mentioned, a turnpike  
9           lease could keep turnpike tolls at or below  
10          what is expected under Act 44.

11          But far more traffic diversion will  
12          occur under the tolling of I-80, which is  
13          currently a free road.

14          The effect of Act 44 on residents and  
15          businesses in the I-80 corridor has never been  
16          assessed during the debate on that  
17          legislation. A 2005 study by the -- by  
18          PennDOT recommended against tolling I-80 in  
19          part because of the expected diversion to  
20          other roads.

21          But I-80 traffic diversion may be  
22          worse under Act 44 than the I-80 study,  
23          because the tolls required under Act 44 are  
24          primarily to be used for payments to PennDOT  
25          and not for reinvestment into the road

1       itself.

2               In fact, under Act 44, about 47  
3       percent of the estimated I-80 toll revenue  
4       would be used for payments to PennDOT, which  
5       is only about 36 percent on I-80 improvements  
6       and maintenance, and there's another 17  
7       percent that is considered surplus revenue.

8               And claims that no I-80 tolls would  
9       be used for mass transit is misleading, as Act  
10       44 provides between 3 and \$500 million  
11       annually for mass transit if I-80 tolling is  
12       approved, but only \$250 million annually for  
13       mass transit if I-80 tolling is rejected.

14               In other words, there's a -- mass  
15       transit is a far greater subsidy if there are  
16       tolls on I-80.

17               In essence, the tolls on I-80  
18       constit -- constitute not only a user fee,  
19       but -- as payment for use of the road, but a  
20       tax, as I-80 motorists would pay for more mass  
21       transit grants and funding for other roads and  
22       bridges than they would for improvements on  
23       I-80 itself.

24               Another concern that has been raised  
25       is the possibility of having a foreign company

1 managing the turnpike, but this fear is  
2 misplaced.

3 First, many potential bidders of the  
4 turnpike are better described as  
5 international. They're not owned by foreign  
6 governments, but are often publicly traded  
7 companies whose shareholders include  
8 Americans, often traded on American stock  
9 exchanges, and they partner with American  
10 investors, frequently including pension funds,  
11 to provide financing for infrastructure  
12 projects.

13 These international companies  
14 frequently dominate toll road lease  
15 discussions because private financing of toll  
16 roads has been occurring around the world for  
17 decades but it's relatively new to the United  
18 States. Thus, international firms have the  
19 most experience in the field.

20 Even so, many U.S.-based firms are  
21 getting involved in infrastructure deals and  
22 are potential bidders on the Pennsylvania  
23 turnpike.

24 A private operator cannot ship the  
25 turnpike overseas, nor would they be allowed

1 to shut down a turnpike on a whim. An  
2 international operator would not jeopardize  
3 national security and they would have strong  
4 financial interest in ensuring safety on the  
5 turnpike.

6 And a lease agreement can require a  
7 high level of policing on the road,  
8 surveillance systems, and vetting of  
9 employees, and they can even require the  
10 operator to pay the state for the cost of  
11 police patrols. And the Indiana deal does  
12 this.

13 Finally, all the talk about the U.S.  
14 firms outsourcing jobs, Pennsylvania should  
15 welcome companies interested in creating jobs  
16 and opportunities and investing billions into  
17 the state. Essentially the insourcing of  
18 private capital across the globe.

19 In addition to the lease fee paid to  
20 the state, the private operator would hire  
21 Pennsylvania workers, contract with  
22 Pennsylvania contractors, and pay Pennsylvania  
23 taxes.

24 A further concern is that -- the  
25 status of the current turnpike workers for



1 under a lease deal.

2 Now, in the case of the Indiana and  
3 Chicago lease deals, the state and the city  
4 set up an arrangement where the private  
5 operator would offer everyone a job. But if  
6 they chose not to take that job with the  
7 private firm, they would be offered a job with  
8 the city or the state.

9 In the Indiana deal, about 85 percent  
10 of Indiana Toll Road employees moved on to  
11 work with the private operator. The rest took  
12 jobs with the state.

13 In Chicago, most of them chose to  
14 work -- take jobs with the city rather than  
15 work with the private operator.

16 And Governor Rendell has already  
17 stated that a lease deal would require a  
18 private operator to honorate -- honor existing  
19 labor agreements. And I know the Governor's  
20 Office will be up later than me to talk more  
21 about this.

22 And then the final issue that is  
23 raised is whether a turnpike would generate  
24 enough revenue to fix our transportation  
25 needs.

1           Now, the Morgan Stanley estimate  
2 prepared for the Governor's Office estimated a  
3 50-year lease would generate 12 to 16 billion  
4 in an up-front lease payment.

5           And this is -- they acknowledge  
6 that's maybe underestimated because both the  
7 Indiana bids and the Chicago came in well  
8 above what the appraised value was.

9           The only way to know for sure is to  
10 allow for competitive bidding under set  
11 parameters.

12           A related concern related in the  
13 report authored by Dr. Gray and Mr. Foote, who  
14 are going to testify later, was that we  
15 wouldn't be able to get the return on the  
16 investment that Morgan Stanley projects and  
17 the Morgan Stanley rate suggested a seven to  
18 nine percent annual return. Dr. Gray and  
19 Dr. (sic) Foote think this is an inappropriate  
20 rate of return for public funds.

21           I would remind the legislators that  
22 our pension funds for state workers and school  
23 employees expect an 8.5 percent annual return  
24 each year and have had a return far greater  
25 than that in recent years. And no one is

1 suggesting that they should sort of pull out  
2 of these risky investments because, of course,  
3 to do so would massively increase the --  
4 either the cost to taxpayers or require a  
5 massive reduction in pension benefits to our  
6 state workers.

7 An up-front lease payment should be  
8 invested in a manner similar to our state  
9 pension funds.

10 The revenue generated from a turnpike  
11 lease, using a Morgan Stanley estimate, would  
12 generate about 6. -- 1.6 billion annually for  
13 transportation needs, which is close to an  
14 identified need of 1.7 billion in the  
15 Transportation Funding and Reform Commission's  
16 report.

17 In contrast, Act 44 generates only  
18 900 million annually for the next ten years  
19 and Act 44 payments will not reach 1.7 billion  
20 until 2036, by which time inflation will have  
21 eroded the value of that amount.

22 Furthermore, more than half of Act 44  
23 revenue depends on tolling of I-80. If the  
24 federal government rejects the tolling of  
25 I-80, Act 44 payments will be only \$450

1 million annually and will never increase.

2 Only about one-fourth of our transportation  
3 needs.

4 In other words, the revenue generated  
5 by the turnpike itself under Act 44 is one --  
6 one-third -- one-fourth of the estimated  
7 revenue of the turnpike lease.

8 Even if the federal government does  
9 approve tolling of I-80, and lawmakers feel  
10 that new tolls are prudent and necessary, then  
11 I-80 should also be competitively bid in order  
12 to maximize revenue to the state and minimize  
13 toll increases for motorists.

14 To sum up, competitive bidding is the  
15 only way to determine the best deal for  
16 taxpayers and motorists. If the Pennsylvania  
17 Turnpike Commission feels they can do the best  
18 job of keeping tolls down, providing the most  
19 revenue to the state, and providing the  
20 highest quality of service, then they should  
21 be allowed to bid with private operators.

22 Only when all the bids are on the  
23 table will we know who can offer the best deal  
24 to taxpayers and motorists, but the  
25 legislators need to take the action now to set

1 the parameters of what the lease deal would  
2 be -- would include and what would be  
3 acceptable and what would be unacceptable  
4 under a potential lease.

5 That concludes my testimony. I want  
6 to thank you for the opportunity to speak, and  
7 I'll take any questions you might have.

8 CHAIRMAN MARKOSEK: Okay. Thank you  
9 very much, Mr. Benefield.

10 I have a couple of questions first  
11 and then we'll open it up to the other  
12 members.

13 Yesterday, the Commonwealth  
14 Foundation released a news release indicating  
15 results of a poll that you conducted, and the  
16 title of the poll was Informed Voters Support  
17 Turnpike Lease, Pennsylvanians Prefer Lease to  
18 Higher Taxes, New Tolls, and More Bonded  
19 Debt.

20 I have some questions about that.  
21 The release that you sent states that the poll  
22 was conducted by the Susquehanna Polling and  
23 Research Group, spring 2008, statewide poll,  
24 conducted between March 5th and March 9th.

25 And I'd like to thank you, first of

1 all, for providing our office with a complete  
2 copy of that poll, which totals nearly 50  
3 pages.

4 While my personal experience on  
5 polls is somewhat limited, it appears such a  
6 document probably cost a significant amount of  
7 money. I believe on average, and certainly in  
8 the political realm, where I am a little more  
9 familiar with these costs, it's upward of  
10 \$20,000.

11 Could you please provide the  
12 committee with the approximate cost of your  
13 poll?

14 MR. BENEFIELD: Well, I don't have  
15 the information available with me today, but I  
16 can provide a follow-up to the committee on  
17 that.

18 CHAIRMAN MARKOSEK: Okay. So you can  
19 submit it to the staff so it can be  
20 distributed to the committee.

21 Is the poll related in any way to the  
22 poll on behalf of the Transportation  
23 Construction Industries by Susquehanna Polling  
24 and Research Group and the Triad  
25 Communications that was also fielded on March

1 5th to the 10th?

2 MR. BENEFIELD: I'm not aware -- sure  
3 of that question exactly. I can look into  
4 it.

5 CHAIRMAN MARKOSEK: Okay. The  
6 question one of the poll asks respondents, do  
7 you support or oppose leasing the turnpike to  
8 an experienced, qualified, privately-owned  
9 company for purposes of raising new funds for  
10 transportation projects?

11 According to the results in your news  
12 release, 401 people, 57 percent responded no.  
13 Yet the title of your announcement indicates  
14 that informed voters support the turnpike  
15 lease.

16 It would seem to me that this title  
17 is entirely misleading and the question failed  
18 on a substantial margin.

19 And I'd note that if one of the  
20 candidates won the primary by 50 percent -- 57  
21 percent of the vote on April 22nd, the press  
22 would call it a landslide.

23 Do you have a comment about that?

24 MR. BENEFIELD: Yeah. I think the --  
25 the point of our -- our news release on that

1 acknowledged that the -- the turnpike lease,  
2 when asked as a generic question, is --  
3 receives -- you know, is disfavorable in the  
4 public, this is -- you know, not a lot of  
5 public support for the turnpike lease when  
6 it's thrown out just as do you support a lease  
7 of the turnpike, which is what question one  
8 indicates.

9           When we have the follow-up questions  
10 that indicate would you be more supportive if  
11 a turnpike lease includes strict parameters  
12 about toll increases, requires an experienced  
13 operator, then there's much more support in  
14 that.

15           And the third question was whether  
16 you support a turnpike lease in lieu of other  
17 option -- options for funding transportation.  
18 When it's viewed as we need to come up with --  
19 more funding, then a turnpike lease is viewed  
20 more favorably than increasing tolls or  
21 taxes.

22           CHAIRMAN MARKOSEK: So, in other  
23 words, you didn't get the answer you wanted  
24 the first time, so we'll tweak it a little bit  
25 until we finally get the answer and then



1 that's the one we'll do the press release on?

2 MR. BENEFIELD: Well, I think the --  
3 the answer would be that if you said do you  
4 support the turnpike lease, the people would  
5 say no. Would you prefer Act 44? The answer  
6 is -- is no. They would prefer a turnpike  
7 lease to Act 44. If we told them we could  
8 fund transportation without leasing the  
9 turnpike or doing anything else, sure, they  
10 support a turnpike lease.

11 But I don't think that's an option  
12 the committee or legislators can really  
13 consider.

14 CHAIRMAN MARKOSEK: Okay. I -- I  
15 just think it's -- you know, the press release  
16 was very misleading because you did have a 57  
17 percent no response when you asked the  
18 question in its most basic form.

19 We all know, we've had enough -- I  
20 think everybody up here knows that we can  
21 tweak questions and make them kind of what we  
22 call push polls where you -- you know,  
23 depending on the question you asked, you can  
24 get the answer that you want.

25 And I'd like to refocus slightly on

1 an issue I hear frequently about the  
2 legislature, and that's open records, which I  
3 know the Commonwealth Foundation has been very  
4 supportive of, has actually been extremely  
5 supportive of in the last year, and it's one  
6 of the reasons that we have an open record law  
7 in state government today.

8 And I visited the Commonwealth  
9 Foundation website, reviewed the materials you  
10 have provided, and am interested in the cost  
11 of producing these materials and how those  
12 costs are paid by an organization such as  
13 yours.

14 MR. BENEFIELD: The cost of producing  
15 our -- our reports?

16 CHAIRMAN MARKOSEK: To your  
17 testimony, your reports, your polling.

18 MR. BENEFIELD: Well, we are a  
19 nonprofit organization. We receive funding  
20 from another -- a foundation, a number of  
21 individual contributors. I think our annual  
22 budget is around \$700,000 and most of that  
23 goes to -- to staffing obviously.

24 CHAIRMAN MARKOSEK: Is there  
25 somewhere I could go in the public domain to

1 get a list of the folks that donate money to  
2 your organization?

3 MR. BENEFIELD: Umm.

4 CHAIRMAN MARKOSEK: And I guess  
5 that --

6 MR. BENEFIELD: I know that our --  
7 our -- you know, our 990 is a tax -- as a 501  
8 (c), we have to file a 990. That's made  
9 publicly available on request with the IRS  
10 and, you know, like those sort of things.

11 CHAIRMAN MARKOSEK: May I request  
12 that from you?

13 MR. BENEFIELD: You can, yeah.

14 CHAIRMAN MARKOSEK: Okay. Would you  
15 provide that to our committee, please?

16 And just also, while we're on that,  
17 and perhaps you know this off the top of your  
18 head, does your organization -- has your  
19 organization received any contributions from  
20 some of the groups that have -- that are, in  
21 fact, applying as bidders for the turnpike?  
22 Goldman Sachs, Transurban, City  
23 Infrastructure, Cintra, Macquarie, do any of  
24 those provide any funds to your organization  
25 that may have been used for some of these

1 polls, et cetera?

2 MR. BENEFIELD: I'll have to look  
3 into that question. I don't know the answer.  
4 And I'm not that -- I don't deal with --

5 CHAIRMAN MARKOSEK: I think the  
6 committee would be very interested to see the  
7 answer to that.

8 Does your organization have a  
9 informal or formal relationship with the  
10 Reason Foundation?

11 MR. BENEFIELD: We have an informal  
12 relationship with Reason, yes.

13 CHAIRMAN MARKOSEK: In the past I've  
14 had conversations with your executive  
15 director, Matt Brouillette and also Geoff  
16 Segal, and that Mr. Segal -- am I correct that  
17 Mr. Segal previously worked for the Reason  
18 Foundation and is now employed by Macquarie  
19 Infrastructure, one of the firms recently  
20 rumored, along with their partner, Cintra, to  
21 be favored in the Pennsylvania turnpike  
22 lease?

23 MR. BENEFIELD: That's correct to my  
24 understanding.

25 CHAIRMAN MARKOSEK: Okay. So

1 that is -- this is true.

2 And just last, for me, I mentioned  
3 that Cintra -- I mentioned Cintra earlier, and  
4 would call your attention to Cintra's recent  
5 announcement that traffic flows on the Chicago  
6 Skyway, which, I believe, they were part of a  
7 concessionaire agreement there, are down 4.63  
8 percent from last year.

9 In this same statement, Cintra  
10 indicated that because of this reduction they  
11 will need to increase tolls this year by 9.4  
12 percent.

13 Given that your organization supports  
14 a similar privatization model in Pennsylvania,  
15 what are your thoughts on these dramatic and  
16 unanticipated increases?

17 MR. BENEFIELD: Well, I'm not sure  
18 that they were necessarily unanticipated. I  
19 know in the Chicago lease agreement they had a  
20 schedule of toll increases that was planned.

21 I'm not sure how this -- this toll  
22 increase compares to what was planned in the  
23 lease agreement.

24 But I think that Pennsylvania needs  
25 to look at having caps on the potential for --

1 for toll increases comparable to or less than  
2 what is proposed under Act 44, which would  
3 include a dramatic 25 percent increase on  
4 turnpike polls next year.

5 So I think trying to find something  
6 that is more affordable to motorists for  
7 Pennsylvania is something we should look at in  
8 terms of a lease agreement.

9 CHAIRMAN MARKOSEK: Well, I think the  
10 -- any concessionaire agreement would require  
11 an immediate increase in tolls also next year  
12 or certainly soon after.

13 But it's just, I think, very  
14 enlightening that -- I think what we're --  
15 what we're looking at here is a situation  
16 where the plan that you have proffered here  
17 today is -- also is flawed and, you know, I  
18 think that is important for folks to know  
19 that.

20 And I do applaud the fact that you're  
21 going to volunteer to us, you know, the  
22 so-called open records that you have, because  
23 I think the committee would be very interested  
24 to see who is funding some of the work that  
25 you do.

1           So with that I'd like to open it up  
2           to any other questions.

3           Representative Mark Keller?

4           REPRESENTATIVE KELLER: Thank you.  
5           Thank you so much for your testimony today.

6           A couple quick questions. And I  
7           don't know if you can answer them or not.

8           You stated in your testimony about  
9           the toll increase. If the fact that the  
10          turnpike doesn't receive the monies that  
11          they're anticipating from the Act 44 oversight  
12          or Act 44 legislation, the turnpike says like  
13          a three percent increase.

14          Do you think that's realistic or do  
15          you think it could possibly -- or when do you  
16          think something like -- if the money doesn't  
17          come?

18          MR. BENEFIELD: Well, I think it's  
19          predicated on -- partially on expected  
20          increases in -- in turnpike traffic. So I  
21          think that's a question mark which if they  
22          don't see those anticipated increases, then  
23          they'll have to increase tolls more than  
24          that.

25          The other question would be whether

1 or not they receive approval for I-80  
2 tolling. And under the Act 44, if they do not  
3 receive federal approval, or if it's denied,  
4 then their annual payments to PennDOT would  
5 drop to \$450 million per year.

6 But they have already issued bonds  
7 and spent, I believe, \$750 million this year,  
8 I guess it's -- is it \$800 million next year,  
9 that they're anticipated to pay to PennDOT?

10 They've already begun issuing bonds  
11 for those things and the cost of those, I'm  
12 not sure whether they can afford that if they  
13 don't receive approval for I-80. They would  
14 need to increase tolls much more rapidly than  
15 they've proposed.

16 REPRESENTATIVE KELLER: Okay. One of  
17 the other questions that I have, if I may,  
18 Mr. Chairman, is the fact that I noticed you  
19 didn't finish your prepared testimony that was  
20 provided to us.

21 Is there a reason for that?

22 MR. BENEFIELD: I didn't finish it?

23 REPRESENTATIVE KELLER: I didn't see  
24 anything here on the final analysis, and, you  
25 know, I think it was the last page, unless I



1 missed it.

2 MR. BENEFIELD: What would you like  
3 me to have covered that I did not?

4 REPRESENTATIVE KELLER: Am I missing  
5 something?

6 Oh, okay. It was a supplement that  
7 was submitted that you didn't -- didn't really  
8 talk about. It was the Act 44 transportation  
9 funding mechanism --

10 MR. BENEFIELD: Right.

11 REPRESENTATIVE KELLER: -- and how  
12 that all comes together. You know, I think  
13 the Chairman asked some -- some very good  
14 questions of you. But, you know, I think some  
15 of the questions is -- you know, that -- that  
16 needs to be brought out also is, you know,  
17 about second guessing what the turnpike lease  
18 would fetch --

19 MR. BENEFIELD: Right.

20 REPRESENTATIVE KELLER: -- you know,  
21 as your statement here, and, you know, about  
22 competitive bidding and -- and what the actual  
23 dollars would be --

24 MR. BENEFIELD: Right.

25 REPRESENTATIVE KELLER: -- versus the

1 study that was done, you know.

2 And I'm assuming it was done with  
3 taxpayers dollars? Yeah. That was done by  
4 the Democratic side of the --

5 MR. BENEFIELD: Right.

6 REPRESENTATIVE KELLER: So --

7 MR. BENEFIELD: Yeah. And that study  
8 is very much against what -- what -- what a  
9 bidding process would fetch, and I think the  
10 way to find out is to have competitive bidding  
11 and set the parameters for what is acceptable  
12 in terms of toll increases and maintenance  
13 and, you know, allow the Turnpike Commission  
14 to bid on that, if they think they can provide  
15 the best price under those parameters.

16 I think setting the playing field  
17 even and allowing competitive bidding is a way  
18 to address that and -- and would suggest a way  
19 to -- you know, we should bid studies on  
20 turnpike leases.

21 REPRESENTATIVE KELLER: Okay. Thank  
22 you very much.

23 Thank you, Mr. Chairman.

24 CHAIRMAN MARKOSEK: Representative  
25 Longietti.

1                   REPRESENTATIVE LONGIETTI: Thank you,  
2 Mr. Chairman.

3                   Thank you, Mr. Benefield, for your  
4 testimony.

5                   Recently in the news we've read and  
6 heard about what happened with Bear Stearns,  
7 one of the large investment banking firms in  
8 the country, how quickly they went from a  
9 company that looked pretty solid to, within a  
10 couple days, looking like they were going out  
11 of business and, without intervention by the  
12 Federal Reserve system and the federal  
13 government, may well have gone out of  
14 business.

15                   In these lease arrangements, is there  
16 any way that, you know, the taxpayers and the  
17 citizens are protected when a company like  
18 that could potentially go out of business  
19 or -- or have some dislocation, like we saw  
20 with Bear Stearns?

21                   MR. BENEFIELD: Well, I mean one  
22 aspect is -- is -- well, the answer is yes.  
23 But basically a lot of people have said we're  
24 selling the turnpike. We're not, in fact,  
25 selling the turnpike. It's -- it would be a

1 lease. The state would retain ownership of  
2 this.

3 And if a private operator were to go  
4 under and completely go out of business that  
5 would basically end the lease and the  
6 ownership would go back to the state and they  
7 would potentially put it out for bidding again  
8 with another lease, which, you know, is --  
9 it's kind of a reverse incentive, but it would  
10 actually benefit the state if they did, in  
11 fact, go out of business because they could  
12 generate more new revenue with another lease.

13 But, yes, there are protections for  
14 what would happen in the event a private  
15 company going into bankruptcy.

16 REPRESENTATIVE LONGIETTI: What, if  
17 any -- you know, I understand it would  
18 potentially revert back to the state.

19 But what, if any, problems do you see  
20 in a scenario like that playing itself out?  
21 You know, here's the state operating the  
22 turnpike for a number of years, employing the  
23 folks that work on the turnpike, now they're  
24 leasing it to a private company, and suddenly,  
25 like Bear Stearns -- it's certainly an eye

1 opening experience to see how quickly that  
2 firm went -- potentially went under.

3 What do you see as some of the, you  
4 know, issues or potential problems if  
5 something like that does happen? Even though  
6 the state can take it back over, would --  
7 would that not create some -- some  
8 difficulties?

9 MR. BENEFIELD: It would certainly  
10 create difficulties in transition. I think it  
11 would be -- but I think that would have to be  
12 fleshed out with the lease agreement.

13 I'm not intimately familiar with the  
14 details of how that would -- would transpire,  
15 but I think there would need to be  
16 arrangements for how -- how such a process  
17 would transition in the event that -- a  
18 private firm going under, how that would -- in  
19 that transition or, for instance, another  
20 alternative would be if a private firm is  
21 facing difficulty, they can then sell kind of  
22 their lease and their operations to another  
23 firm and whether that lease -- the lease will  
24 transfer over, if they are, in fact, selling  
25 their subentity or their, you know, smaller

1 corporation based on how they can transition  
2 if they are, in fact, facing debt and selling  
3 off their -- their operations.

4 REPRESENTATIVE LONGIETTI: Thank you,  
5 Mr. Chairman.

6 CHAIRMAN MARKOSEK: Representative  
7 Ron Miller.

8 REPRESENTATIVE MILLER: Thank you,  
9 Mr. Chairman.

10 While I appreciate the -- the data  
11 that you asked for, and I look forward to  
12 seeing what the Commonwealth Foundation  
13 provides us, on those questions you asked I  
14 have to make a comment.

15 Often we ask a second question on a  
16 survey to help clarify and actually gauge the  
17 mood of what the opinion is.

18 And as a comparison, I would point  
19 out that during the last election cycle, if  
20 you judged the mood of the electorate in  
21 Pennsylvania, probably none of us that are  
22 incumbents would be sitting here, but  
23 thankfully you were re-elected quite easily,  
24 Mr. Chairman.

25 So there's always a follow-up

1 question to truly judge what the intent of the  
2 people is. Thank you.

3 CHAIRMAN MARKOSEK: The Chair --the  
4 Chair thanks that wisdom, Representative.

5 Representative Solobay.

6 REPRESENTATIVE SOLOBAY: Thank you,  
7 Mr. Chairman.

8 And the questions, the line of  
9 question that I'm going to basically talk to  
10 all the presenters today because it's still  
11 kind of sketchy in my mind of how this thing  
12 could all work.

13 You know, right now, some of the  
14 questioning led into the area this morning,  
15 you know, we've been operating this system  
16 and -- and making X amount of dollars for the  
17 Commonwealth.

18 Putting another person, taking out a  
19 piece of the wedge of the pie, this -- other  
20 revenues on this roadway, and to have in the  
21 lease the consistency of road -- conditions of  
22 the road and the maintenance of the road, the  
23 level of employees' benefits and compensation  
24 that they would receive, the up-front money  
25 that this company that may or -- may be

1       successful in getting the lease would have to  
2       put up-front, keeping tolls down so that it,  
3       you know, doesn't upset the users, where else  
4       do they have options of making or recovering  
5       revenues to be able to make this a working  
6       possibility that we're not doing right now as  
7       a -- as a state?

8               MR. BENEFIELD: Well, I couldn't  
9       answer that question in totality. I don't  
10      know all of the -- all of the possible  
11      operation efficiencies that a private vendor  
12      could do.

13             I'm not -- obviously I haven't  
14      operated the turnpike and don't have that kind  
15      of expertise to tell you all of the answers.

16             But I think part of it is -- is the  
17      long-term of this. While we would, you know,  
18      guarantee employee -- employment for current  
19      employees -- a lot of the -- the long-term  
20      efficiencies over a 25-, 30-, 50-year lease  
21      would play out.

22             Another answer is, you know, some of  
23      the -- you know, corrupt practices of the  
24      Turnpike Commission I don't think a private  
25      operator would, for instance, hire a private



1 contractor to manage Vince Fumo's Harrisburg  
2 area farm, which he's indicted -- or his  
3 indictment is for.

4 Or perhaps, you know, the lobbying  
5 expenditures of over a billion dollars the  
6 Turnpike Commission spent lobbying the state  
7 legislature and Congress over the past year.  
8 I think that would be another area that a  
9 private operator would perhaps save -- save  
10 money on. There's just a handful of examples  
11 of -- of areas where private effort would  
12 bring in their expertise and find ways to be  
13 more cost effective.

14 I would also point out that the  
15 Turnpike Commission is not currently returning  
16 any revenue to the state. They are -- well,  
17 under Act 44 is the first time they will do  
18 that, which, so far, have been through  
19 borrowing, but would require as much as a 25  
20 percent increase on tolls than the three  
21 percent before, which the Turnpike Commission  
22 exercised giving back to the state and right  
23 now the state is helping subsidize the  
24 Turnpike Commission by paying for the cost  
25 of -- of State Police on the turnpike.

1           So, anyway, the turnpike is -- is --  
2           has been losing revenue up until the recent  
3           Act 44.

4           REPRESENTATIVE SOLOBAY: Do you  
5           still -- do you see any other means of -- of  
6           revenue generation that they would -- that a  
7           third-party leasing group would be able to  
8           gain on by -- by, you know, their partial  
9           ownership or -- of the turnpike?

10          MR. BENEFIELD: Well, there are some  
11          examples of efficiencies. For instance, in  
12          the Chicago Skyway, they're already -- they  
13          are beginning to do new construction to create  
14          reversible lanes that would go inbound into  
15          Chicago during rush hour and come outbound  
16          during the afternoon rush hour in order to  
17          maximum revenue and increase the -- reduce  
18          congestion during -- during rush hour traffic  
19          and that would, of course, increase their --  
20          their --

21          REPRESENTATIVE SOLOBAY: Efficiency?

22          MR. BENEFIELD: -- revenue. Or,  
23          yeah, efficiency and increase their revenue  
24          that the -- the public agency had not done.  
25          So I think there are examples like that that

1 can be found in -- if you look at toll roads  
2 that have been privatized across the country.

3 REPRESENTATIVE SOLOBAY: So that  
4 would be the only -- that would be the only  
5 mechanism of revenues, either through the  
6 tolls and/or efficiency of uses through  
7 operation?

8 MR. BENEFIELD: That -- I mean I  
9 don't know all of the -- those are two. I  
10 don't know if there are other ways.

11 REPRESENTATIVE SOLOBAY: Thank you.

12 CHAIRMAN MARKOSEK: Representative  
13 Kathy Watson.

14 REPRESENTATIVE WATSON: Thank you,  
15 Mr. Chairman.

16 Sorry. I really can do this. It's  
17 just a little early. Thank you.

18 I guess I'm just a little confused  
19 and I also have -- you supplied us with these  
20 policy points?

21 MR. BENEFIELD: Yes.

22 REPRESENTATIVE WATSON: And I've seen  
23 some of this before, because certainly you  
24 sent it to us.

25 When you were discussing lobbying,

1       though, perhaps it's just a matter of -- this  
2       is the last day of what I would -- personally  
3       I would say was a really bad week and so I may  
4       be a little edgy this morning.

5                But when I look at the back page, and  
6       we have a headline of patronage ridden  
7       Turnpike Commission and whatever, and I'm not  
8       privy to a lot of this stuff, but I just said  
9       to my colleague here, gee, I'm real tired  
10      of hearing about here's the money they spent  
11      to lobby legislators for this, and we turned  
12      and looked and went, I guess Mr. Marsico and I  
13      don't count. We weren't lobbied at all to  
14      spend money.

15               And I guess the perpetuation of --  
16      I'm real happy -- let us make a statement --  
17      I'm real happy when we talk ideas,  
18      philosophy.

19               I have to tell you I'd love to talk  
20      about the Susquehanna poll only because I know  
21      that the only phone calls I get, and  
22      letters -- in fact, I have one in my e-mail  
23      from yesterday that I'm going to answer -- is  
24      always don't you dare lease out that  
25      turnpike. And they are absolutely positive,

1 if there's even a hint of a foreign entity,  
2 they don't want any parts of it.

3 I come from the southeast. Okay?  
4 So -- so my polling, which is purely  
5 nonscientific, unlike Jimmy Lee's, is purely  
6 based on all the people that contact me, but,  
7 again, it's not even a issue, but I'm  
8 getting -- I've gotten it from the beginning.

9 So I would suggest to you that if you  
10 were to come into my district you might get a  
11 very different view. And I recognize that  
12 that's the nature of Pennsylvania.

13 But I would strongly suggest when you  
14 want to retreat to good arguments, please  
15 don't continue some of this about, you know,  
16 the bad people and the this and the that.

17 It's a personal thing with me, but I  
18 think in effect it besmirches all of us and  
19 the people I know here. I honestly don't know  
20 a lot of people at the turnpike. I don't have  
21 a relative who works for the turnpike.

22 Let me run through your list. I  
23 haven't been particularly lobbied. Nobody  
24 takes me to dinner. That could be because I'm  
25 basically disagreeable. I have no problem

1 with that.

2 But let's see. I -- I have -- I have  
3 seen the radio or television ad. I do get TV,  
4 see TV every now and then. I did see that.

5 But I would also suggest to you that  
6 with the wherewithal and, quite frankly, with  
7 all the stuff that you all send to us and do,  
8 that it's just that you have a different way  
9 of lobbying that you get directly to the  
10 legislators. They're lobbying, the regular  
11 people, by doing this. And if it was a  
12 foreign entity or anybody who leases the  
13 turnpike -- and obviously I have to use it. I  
14 can't get to Harrisburg in any kind of  
15 reasonable time in any other way, so I'm  
16 subject to everything they're currently doing,  
17 forever and a day on -- at Valley Forge and  
18 the long lines and the this and the that.

19 So I mean I'm not a real huge fan of  
20 the turnpike, but it's the way I have to get  
21 here.

22 But, in any event, I would suggest  
23 whoever leased or did that, when they wanted  
24 to raise the tolls for me, they'd be on TV  
25 telling me how it was really for my own good

1 and I should just open my wallet and enjoy it  
2 because it would be a great ride.

3 But this kind of stuff, I have to  
4 tell you, sir, I really think it's time for  
5 that to go away. Thank you.

6 MR. BENEFIELD: Can I respond to  
7 the -- the question about the polling? And I  
8 think that, you know, as Chairman Markosek  
9 pointed out, that the initial question was  
10 whether you support a turnpike lease and it  
11 was overwhelming disapproval for that idea.

12 But the purpose of our poll was to  
13 see if -- if voters are better educated, if  
14 they would be more supportive of that idea,  
15 and we indicated that if -- if they were to,  
16 in fact, get more information about potential  
17 restraints on a turnpike lease agreement or  
18 the potential of how -- you know, who is  
19 bidding and what -- and what kind of  
20 operations they can run, that there would be  
21 more support for it if there was a better job  
22 of educating the public on that issue.

23 REPRESENTATIVE WATSON: Well, let me  
24 assure you that, in return, they don't get --  
25 when you send me an e-mail, you don't get a

1 fast little e-mail back. You get a full  
2 letter. And we give you all of what we know  
3 so far.

4 I'm assuming you would even allow me  
5 then to reproduce what you left and send it to  
6 them and say this is what one group says, so I  
7 could do that when I send them what the other  
8 group, the turnpike folks, they send stuff, or  
9 all the things that have crossed my desk, I've  
10 put together a packet and say, here, take a  
11 look at it, and here, this is what we're  
12 taking a look and dealing with?

13 MR. BENEFIELD: Absolutely.

14 REPRESENTATIVE WATSON: Okay. Thank  
15 you.

16 CHAIRMAN MARKOSEK: Well said,  
17 Kathy. Thank you.

18 Representative Scavello.

19 REPRESENTATIVE SCAVELLO: Thank you,  
20 Mr. Chairman.

21 I can't top what Representative  
22 Watson said.

23 Thank you for your testimony,  
24 Mr. Benefield. A question.

25 Rather than look at leasing the



1 turnpike, did you look at -- did your  
2 organization look at a possibility of not  
3 raiding the motor vehicle fund dollars. For  
4 example, pulling out of there dollars that  
5 shouldn't be used -- shouldn't be used for  
6 other purposes but -- but -- but roads. If we  
7 collect gas tax money, it should be used to  
8 repair roads and nothing else.

9           There's a half a billion in there  
10 that we pull out for State Police. There's  
11 another 31 million between the state radio  
12 system and the Department of Revenue that gets  
13 funded. Plant weight -- maintenance, another  
14 3.9. Weights and Measures. The list goes  
15 on.

16           Rather than raid those dollars, leave  
17 them for what their intended purpose was and  
18 fund that stuff out of the general fund.

19           MR. BENEFIELD: No. We think that,  
20 in fact, should be the case, that the fund  
21 should be dedicated to -- to road and bridge  
22 repair and some of these other purposes.

23           So we're very supportive of that  
24 idea, and I'm not sure that it can come up  
25 with a full cost of the 1.7 billion estimated,

1 you know, needed under identified need, but I  
2 think that's a good way to start moving in  
3 that direction that we use the motor license  
4 fund for what it's supposed to be used for.

5 REPRESENTATIVE SCAVELLO: If we don't  
6 take -- touch the federal dollars that come to  
7 this state, we get a dollar -- what is it,  
8 \$1.14 or so for every dollar that's collected,  
9 and we leave them to fix our road rather than  
10 send them to Philly, number one. Those monies  
11 can go to do what they're supposed to do, fix  
12 the roads.

13 Secondly, if we take those dollars --  
14 and part of Act 44 was to raise the fares on  
15 the turnpike by the 25 percent and three  
16 percent a year and fund, and I believe the  
17 turnpike at a -- at a -- at Transportation --  
18 not Transportation -- in our Appropriations  
19 hearing said they would still be able to give  
20 about 450 million a year between mass transit  
21 and roads from -- if the tolling of I-80  
22 didn't occur.

23 MR. BENEFIELD: Right.

24 REPRESENTATIVE SCAVELLO: So you got  
25 450 million. You got another 600 million that

1 we should not be touching those dollars. We  
2 got over a billion already without having to  
3 put another toll anywhere else.

4 What's your -- what's your take on  
5 that?

6 MR. BENEFIELD: Well, I think you --  
7 I mean we would be supportive of using the  
8 motor license fund for that, but I also think  
9 that you can get better -- much better than  
10 the \$450 million through a turnpike lease and  
11 I assume that you want to -- to maximize your  
12 revenue for roads and bridges and I think you  
13 get a far greater value and get far closer to  
14 the 1.7 billion identified as needed.

15 You know, you can test whether we  
16 really need that 1.7, whether that figure is  
17 accurate or not, but assuming -- taking that  
18 as an assumption, I think a turnpike lease  
19 will get you far closer to -- to -- and far  
20 greater funding than Act 44 and the other  
21 funding mechanism.

22 REPRESENTATIVE SCAVELLO: Now, just a  
23 comment from me. It seems that we -- you  
24 know, we waited all this time. We give up our  
25 dollars for this other -- other things and we

1 create this problem and, all of a sudden, here  
2 it is, and what do we do? We throw up hands  
3 up in the air and say, well, we got to collate  
4 it, we got to do this, we got to do that, the  
5 options, and you know, and that's just, you  
6 know.

7 I have a problem with the I-80 thing  
8 because it cuts right through my district and,  
9 you know, I have probably more exits on I-80  
10 than any other legislator. Huge problem.

11 Thank you.

12 Thank you, Mr. Chairman.

13 CHAIRMAN MARKOSEK: Thank you.

14 Representative Donte Santoni.

15 REPRESENTATIVE SANTONI: Thank you,  
16 Mr. Chairman. I know we're behind schedule,  
17 so I will be brief.

18 Because I wasn't going to say  
19 anything but I just have just a couple  
20 comments and I do appreciate your questioning,  
21 Mr. Chairman, to find out where -- where the  
22 money will come from that's funding a lot of  
23 the stuff that we got, and I'll call it stuff  
24 to be nice.

25 And I do appreciate Representative

1 Watson's comments, and I agree with her  
2 wholeheartedly.

3 And I just wanted to point out one  
4 other thing from your -- from your testimony  
5 that I particularly don't like it. Comments,  
6 I guess it's a throw-away comment. I don't  
7 know.

8 But I'll read it. While I'm glad --  
9 while I am glad House Democrats are admitting  
10 our elected officials are poor -- poor  
11 stewards of public monies, as a House  
12 Democrat, Mr. Benefield, I think that's an  
13 ignorant statement and I -- and I do resent  
14 that. We do not feel that way.

15 So I just wanted to put that on the  
16 record.

17 Thank you very much, Mr. Chairman.

18 CHAIRMAN MARKOSEK: Okay. Thank  
19 you.

20 Mr. Benefield, thank you.

21 MR. BENEFIELD: Thank you.

22 CHAIRMAN MARKOSEK: Appreciate it.

23 And we will move on now. Okay. We -- do we  
24 -- we are going to the switch batting order a  
25 little bit here. We are going to have Gary

1 Gray, John Foote, and Pat Cusatis.

2 And I want to thank Roy Kienitz for  
3 waiting patiently. He'll be the clean-up  
4 hitter next. So thank you and sorry for the  
5 inconvenience.

6 And, gentlemen, you may proceed. I  
7 guess, Mr. Gray, you will be the  
8 spokesperson?

9 DR. GRAY: Initially just a quick  
10 introduction. I'm Gary Gray. I'm a professor  
11 of finance at Penn State University, a  
12 lifelong resident also of Pennsylvania,  
13 originally from the Levittown area, and I was  
14 an investment banker for 25 years. Used to do  
15 a lot of slicing and dicing in securities.

16 MR. FOOTE: Gary. Gary.

17 MS. RITTER: Speak into the mike.

18 DR. GRAY: Okay. And I was a  
19 managing director at Lehman Brothers and a  
20 senior vice president of E.F. Hutton.

21 John.

22 MR. FOOTE: My name is John Foote.  
23 I'm a senior fellow at the Kennedy School at  
24 Harvard University.

25 I've been a public finance banker

1 with Butcher and Singer in Philadelphia for  
2 approximately ten years before becoming a  
3 principal of the transportation engineering  
4 company based here in Pennsylvania by the name  
5 of TransCor. An acknowledgment to the  
6 Pittsburgh press, I was a founder of TransCor  
7 but sold my interest in the company -- my  
8 interest in the company several years ago and  
9 am no longer in the employ of TransCor and  
10 have no financial interest in the company.

11 Since leaving TransCor, I've been at  
12 Harvard doing work in transportation policy,  
13 particularly in the funding area with a  
14 specialty in public/private partnerships.

15 DR. GRAY: Pat.

16 DR. CUSATIS: And I'm Patrick  
17 Cusatis. I'm an assistant professor of  
18 finance at Penn State Harrisburg right down  
19 the road.

20 For many years I was an investment  
21 banker for Lehman Brothers. I worked for some  
22 other firms locally as well I worked for  
23 CoreStates Bank for a while, First Union, and  
24 Tucker Anthony in Lancaster, Pennsylvania.

25 So I'm going to begin today, if I

1 can, by running through an outline of the  
2 presentation.

3 CHAIRMAN MARKOSEK: Excuse me. We  
4 have -- we have slides on the screen in the  
5 back and I just wanted to alert the TV folks  
6 and folks here as well. So you can continue.

7 DR. CUSATIS: We're going to follow  
8 through by running through that presentation,  
9 a PowerPoint presentation that we provided,  
10 and I'm going to start with an outline of that  
11 presentation.

12 And if you take a look at the first  
13 slide, you'll see that really what we've done  
14 here is summarized, first of all, questions  
15 relating to the turnpike that we addressed in  
16 our study.

17 Three alternative financing  
18 structures that we looked at in our study.

19 Then a summary of the principal  
20 findings.

21 Summary of the financial findings.

22 A summary of strategic findings.

23 And then a summary of specific  
24 issues.

25 The questions we looked at



1 specifically are two. First of all,  
2 financially, does it make sense for the  
3 Commonwealth to lease the Pennsylvania  
4 turnpike for a profit to a corporate entity?

5 Secondly, strategically, does it make  
6 sense for the Commonwealth to lease the  
7 Pennsylvania turnpike to a corporate entity?

8 Looking at these questions, we looked  
9 at three alternatives. First, what we call  
10 Act 44 monetization, which is maybe thought of  
11 maybe as the status quo.

12 The second would be the long-term  
13 corporate lease, which we just heard  
14 discussed.

15 And the third alternative is a full  
16 public monetization of the Turnpike  
17 Commission.

18 Summarizing our principal findings,  
19 first of all, we find that cost of capital is  
20 the most significant value driver for the  
21 operator of the turnpike. The loss of  
22 capital, as it turns out, is extremely  
23 important, which we expect. Any time that we  
24 have a long set of cash flows to look at over  
25 a period of time.

1           Long-term corporate lease is likely  
2 the least efficient funding alternative we  
3 find.

4           We also find the present value of Act  
5 44 payments is 80 percent higher than the  
6 expected payment under a long-term lease.

7           We find a long-term corporate lease  
8 and full public monetization have greater  
9 risks than funding under Act 44.

10           We'll get into more detail on some of  
11 this in a minute.

12           There are important policy advantages  
13 to retaining government control of the  
14 turnpike as a strategic aspect.

15           Finally, we find that the  
16 Pennsylvania Turnpike Commission can issue tax  
17 exempt municipal bonds at a yield that is  
18 considerably lower than that of the  
19 concessionaire.

20           The present value of toll revenues is  
21 highest for the operator with the lowest cost  
22 of capital. Simple discounting.

23           And the present values under each of  
24 the alternatives that we discussed, first of  
25 all, under Act 44 is \$26.5 billion, under a

1 corporate lease is \$14.8 billion, and under a  
2 full public monetization is \$22.8 billion.

3 A corporate lease may require higher  
4 tolls than a full public monetization, other  
5 things equal.

6 And corporate lease entails  
7 reinvestment, redirection, and financial  
8 risks.

9 Strategically we find that a  
10 corporate lease structured to maximize  
11 up-front payment requires a longer lease term,  
12 an aggressive toll schedule, and operating  
13 latitude.

14 We find aggressive toll increases  
15 will place a greater burden of funding the  
16 Commonwealth's transportation needs solely on  
17 the users of the turnpike.

18 And, finally, under a corporate  
19 lease, the turnpike will be operated to  
20 maximize the bottom line, will cease to be an  
21 asset that can be used to promote economic  
22 development, and will no longer being part a  
23 larger coordinated transportation network.

24 The specific issues that we looked at  
25 in summary -- and we're going to go through

1 each of these quickly -- is the capital  
2 structure of the typical concessionaire.

3 Toll rate setting strategy for the  
4 concessionaire.

5 Major value drivers that determine  
6 the bid price.

7 Current conditions in the financial  
8 markets.

9 Relative cost of capital comparison.

10 Investment strategy and permitted  
11 investments of the concession payments.

12 The Morgan Stanley report for funding  
13 transportation.

14 A question about tolling interstate  
15 80.

16 The event of default by the  
17 concessionaire.

18 Discounting and monetizing the Act 44  
19 payment stream.

20 And public policy factors in the  
21 decision to lease the turnpike.

22 At this point I'd like to turn it  
23 over to John.

24 MR. FOOTE: In doing the analysis,  
25 the comparative analysis of the three funding

1 mechanisms, we needed to look at some historic  
2 precedents and with respect to the -- the  
3 lease transaction, as -- as I think you're all  
4 now well aware, there have been two  
5 transactions that have occurred in this  
6 country in the last three years that would  
7 resemble or which the turnpike lease, the  
8 Pennsylvania turnpike lease would resemble.

9           And those two transactions are the  
10 Chicago Skyway and the Indiana Toll Road  
11 leases.

12           Morgan Stanley, the transaction  
13 advisor for the Commonwealth for the  
14 Governor's Office, has used those two  
15 transactions as a starting point to look at  
16 what the valuation for a lease would be.

17           And, in fact, it is the appropriate  
18 starting point because those are really the  
19 only two things we -- we -- the only two  
20 precedents we have in this country.

21           In both those cases the -- the lease  
22 payment, up-front lease payment, was financed  
23 by the concessionaire by a combination of debt  
24 and equity. Debt as taxable bonds issued by  
25 the concessionaire and equity money that they

1 would, in fact, put up as their share of the  
2 ownership.

3 And these next two slides indicate  
4 the -- the capitalization of these leases.  
5 The second slide is -- the second slide with  
6 the numbers is the most important, because it  
7 indicates what the -- what we call permanent  
8 capitalization.

9 And as you can see, with the Skyway  
10 about a third of the deal was financed with  
11 equity with two-thirds as debt, and in the  
12 case of Indiana about 20 percent of the  
13 transaction was financed with equity and 80  
14 percent with debt.

15 That becomes important when we begin  
16 to talk about weighing cost of capital later  
17 on in the transaction -- or later on in the  
18 presentation.

19 But it's a -- it's -- it's important  
20 for you to appreciate that this is probably  
21 what the Pennsylvania turnpike lease would --  
22 what it would resemble if the Commonwealth  
23 decides it's going to proceed forward in this  
24 way.

25 It's clear that these leases derive

1 most of their value from the ability to raise  
2 tolls. And so we need to look at toll  
3 setting, in the toll setting principle with  
4 respect to both Act 44 and with a lease.

5 In Act 44, the -- the toll regulation  
6 or the toll formula that the Pennsylvania  
7 turnpike would be using would be to raise  
8 tolls or to set tolls at a level sufficient to  
9 cover -- operations and maintenance for the  
10 turnpike, plus the debt service on the bonds  
11 it has issued, plus the amount of money it has  
12 committed to pay to PennDOT over the course of  
13 the Act 44 legislation.

14 And so although there is no cap on  
15 the tolls that the Penn turnpike can charge,  
16 they will be setting tolls. Their -- their  
17 toll setting philosophy will be to set tolls  
18 at a level that will meet those particular  
19 payments.

20 Under a corporate lease, the  
21 concession, there will -- in all likelihood,  
22 we don't know this for sure, we're just  
23 surmising, but in all likelihood the  
24 concession agreement will set a cap -- a cap  
25 on tolls.

1           We don't know what that will be.  
2           Whether it's two percent or a change in CPI or  
3           five percent or what-have-you. That's all  
4           still invisible at this point to us.

5           But presumably there will be a cap,  
6           and the -- in all likelihood the  
7           concessionaire will raise tolls up to that  
8           cap.

9           The whole philosophy, the operating  
10          philosophy of -- for a private concessionaire  
11          will be to maximize net revenue to be  
12          generated on -- from that lease.

13          And the -- by the nature of the  
14          turnpike, that will be done by raising tolls  
15          up to the maximum level it can as set by the  
16          concession agreement.

17          In addition to tolls being a primary  
18          driver of value, that is what is going to  
19          allow -- would allow someone to raise 12 or  
20          \$15 billion in a lease, the other major terms  
21          or parameters are the term of the concession.  
22          Is it 50 years? 75 years? 99 years?  
23          Perpetuity? And we don't know. All these are  
24          possible. So the term of the concession.

25          The toll regulation, how far is the



1 cap on tolls itself? Whether or not there  
2 are, in fact, operating efficiencies that a  
3 private concessionaire could bring to the  
4 turnpike operations.

5 But I should caveat that and that is  
6 in our analysis the lowest or the least  
7 dramatic value driver, is the ability to  
8 inject operating efficiencies.

9 Even if you're able to cut the  
10 payroll significantly at the Penn turnpike,  
11 the ability to have that reflected in a much  
12 higher concession payment is -- is limited.

13 And that also goes to capital  
14 expenditures as well. There's an argument  
15 that a private operator can, in fact, make a  
16 particular set of capital improvements at a  
17 lower cost.

18 And that could very well be the case  
19 and certainly we all applaud operating  
20 efficient -- operating capital efficiencies.

21 But whether or not that, in fact, is  
22 a thing that would allow a concession payment  
23 to be 15 billion or 18 billion is really  
24 not -- it's not consequential.

25 Really the two things that are most

1 important when determining how big the  
2 concession payment will be is the term of the  
3 concession, how long it will be, and the toll  
4 setting policy in the concession agreement.

5 Gary.

6 DR. CUSATIS: Another thing we looked  
7 at, which is extremely important, and we had  
8 some discussion about it here already today,  
9 in talking about what happened with Bear  
10 Stearns, the current conditions in the  
11 financial markets.

12 Where the financial markets are  
13 greatly affects what the up-front payment  
14 would be under a lease. And right now  
15 financial markets are about as turbulent as  
16 they've been in recent years.

17 Subprime mortgage crisis has led to  
18 all kinds of uncertainty in the market. It's  
19 led to credit issues. It's led to -- cost of  
20 borrowing has caused them to increase  
21 considerably over the last year, couple  
22 years.

23 It's mostly because corporate credit  
24 spreads have widened. When we look at the  
25 corporate bond market and we talk about a

1 concessionaire, what matters is the relative  
2 value of -- between, say, the corporate market  
3 and the treasury market. That's important and  
4 that changes over time. There's been recent  
5 credit concerns with bond insurers.

6 And all these things together, if we  
7 look at the next slide, what we call Figure 1,  
8 it shows corporate credit spreads and how  
9 corporate credit spreads changed historically  
10 based on major market events.

11 Now, by corporate credit spreads,  
12 what we mean is the difference. These aren't  
13 interest rates. These are spreads. So it's  
14 the different between interest rates in a  
15 particular market and another market. It's a  
16 credit spread.

17 And we take, for example, the rate on  
18 AAA corporate bonds and we subtract from that  
19 the rate on the constant maturity treasury or  
20 -- and that is shown in the solid line.

21 In the dashed line is the difference  
22 between BAA, a lower rated corp -- corporate  
23 credit and treasuries.

24 And if you see historically, I've  
25 pointed out on here, and we did -- did this in

1 the study -- but in particular events that  
2 have lead to expanded spreads and -- and the  
3 most recent one is the subprime credit  
4 crisis. This runs up to the beginning of  
5 2008. It's gotten a bit worse.

6 And so, you know, what we end up with  
7 is different times in the market where it's  
8 not really advantageous for a corporation to  
9 access capital. This is one of those times.

10 And so it's -- you know, conditions  
11 in the financial markets are certainly worth  
12 noting right now.

13 Gary.

14 DR. GRAY: All those things being  
15 said, how do we analyze this approach? We  
16 took a look at three different alternatives.

17 One: Status quo. What you're  
18 currently doing today. In effect, it's a  
19 stage monetization of the Pennsylvania  
20 turnpike where the scheduled payments under  
21 Act 44 will be financed by a combination of  
22 revenues and bond issues over a period of  
23 time.

24 It's scheduled. It's known. Moody's  
25 knows about it. Standard and Poor's knows

1 about it. They still rate your bonds AA, AAA  
2 3. It's a very high investment grade rating,  
3 and the markets accepted that type of  
4 financing.

5 The other two alternatives that we've  
6 looked at is the corporate lease. We  
7 estimated what interest rates would be in the  
8 way of a corporate borrower and estimated what  
9 the cost of capital would be in the way of an  
10 equity lender associated with a corporate  
11 lease.

12 And that would be structured very  
13 similar to the Chicago stock -- Skyway or the  
14 Indiana Toll Road.

15 And the third -- third alternative we  
16 looked at is a full monetization. A full  
17 municipal monetization. Where the turnpike  
18 would go out and borrow a bunch of money and  
19 in effect pay that off over time but use  
20 higher tolls to pay that off.

21 And that's what we're going to look  
22 at now, what the cost of those are. We  
23 estimated the cost of proceeding as is, not  
24 changing anything, under the Act 44  
25 monetization was about four-and-a-half

1 percent.

2           We estimated that the cost of the  
3 corporate lease was about  
4 seven-and-three-quarters percent, which is  
5 about where the Indiana transaction was when  
6 that was done.

7           And the cost associated with the full  
8 public monetization was 5.23 percent.

9           Here's a graph that we show how to  
10 come up with the different rates, and the  
11 graph shows the difference between a Bloomberg  
12 BBB- interest rate, which is the lower  
13 interest rate, and a Moody's BAA corporate  
14 bond index, which is the higher interest  
15 rate.

16           Now, this study isn't about tolling  
17 Route I-80. That basically has very little to  
18 do with the study. What the study is about is  
19 relative costs of capital and differences in  
20 relative cost of capital.

21           That gets lost in the discussion.  
22 But that's what drives these differences,  
23 differences in relative costs of capital.

24           So please focus on that.

25           Okay. Let's push on.

1                   Now, we talked about investment  
2 strategies and in a corporate lease or public  
3 monetization you issue a bunch of bonds. You  
4 put the money into some type of lock box. I'm  
5 not sure that anything has ever been protected  
6 in a way that it hasn't or couldn't be raided,  
7 but you take the money. And Morgan Stanley  
8 had done a study that said, let's raise 12 to  
9 \$18 billion, let's invest that at seven, eight  
10 or nine percent, and we'll go about our merry  
11 way and just use the interest. So we want to  
12 address that.

13                   First of all, we've looked at rates  
14 of return over time associated with T Bills,  
15 treasury bonds, corporate bonds, large company  
16 stocks, small company stocks.

17                   And it's obvious that if you want to  
18 get the seven or eight or nine percent that  
19 you hoped to get from the investment of these  
20 monies you have to go into riskier  
21 securities. You have to go into common  
22 stock. You have to go into hedge funds. You  
23 have to go in other things that are very well  
24 suited to pension funds.

25                   Because pension funds are, you know,

1 our money that we're investing through PSERS  
2 or SERS, or however it's going, and we're  
3 taking the risks associated with that. Every  
4 investor knows that there are risks associated  
5 with that.

6 We view money from the sale of the  
7 Pennsylvania turnpike as Commonwealth money,  
8 and how is Commonwealth money typically  
9 invested? Well, not like a pension fund.  
10 There are certain limitations placed on those  
11 Commonwealth investments. That's the view we  
12 take of it.

13 But that being said, so we looked at  
14 the different asset classes. We also looked  
15 at what would happen today if you had taken  
16 this money at the very beginning of this  
17 century, December 31st, 1999, and invested the  
18 money in the S & P 500 index. Basically the  
19 500 large company stocks in the S & P 500.

20 What would have happened if you did  
21 go into this type of investment? This is what  
22 we found.

23 If you put up the money on December  
24 31st, 1999, the S & P index was 1469. Well,  
25 eight years later on December 31st, 2007 the S



1 & P index was 1468. Lost one point over eight  
2 years.

3 You would have gotten a dividend  
4 flow. That dividend flow would have been 1.6  
5 percent. Wouldn't have come anywhere near  
6 seven, eight or nine percent.

7 Okay. Let's say we did put the money  
8 with PSERS, and here's a slide that we just  
9 came up with.

10 And, Patrick, maybe you might want to  
11 talk about this. You talk directly about this  
12 slide.

13 DR. CUSATIS: Okay. What we did was  
14 we looked back historically, looking on their  
15 website, and we pulled off rates of return and  
16 their estimates, based on what we could find,  
17 and we were conservative when we estimated  
18 their rates of return.

19 So we have annual rates of return  
20 from 1998 to 2007 for PSERS, and those are  
21 shown in the third column.

22 Now, the important thing here is that  
23 even though these returns averaged 9.23  
24 percent, have a compound annual return of 8.78  
25 percent, because there are significant draws

1 expected on the turnpike fund.

2 Those significant draws, if there's  
3 any years, especially up-front, if there are  
4 any years where the return is negative, we're  
5 going to quickly have the balance of the  
6 turnpike fund go down and we dwindle it.

7 And the difference here -- there's  
8 been a lot of discussion about -- and we've  
9 seen a lot of discussion about how it would be  
10 a great thing to take this turnpike money and  
11 invest it like PSERS does. You know, it would  
12 be great and the returns -- PSERS has done a  
13 fabulous job in investing money.

14 But the money they invest is  
15 different, and the main thing is, is that it's  
16 invested at a rate or it has draws that are  
17 somewhere in the magnitude of three percent.

18 We're talking about draws from what  
19 we saw in the Morgan Stanley report, from what  
20 we based our reports on, on earlier  
21 information, of somewhere more like nine  
22 percent.

23 So if you were to move money at a  
24 rate of about nine percent, as we show in this  
25 graph or in this table, and we -- and we earn

1 the amount of money that PSERS earned over  
2 time, we start with as an example here a fund  
3 balance of 100. We take the yearly draw of  
4 nine percent. And we make 12.1 percent and we  
5 end up with \$102. Okay?

6 But then -- and we do that in 2000 as  
7 well. In 2001 though PSERS lost 7.2 percent.  
8 When you withdrew nine percent in addition,  
9 then you end up with \$88 instead of \$100. Now  
10 you're starting to cut into the fund. Okay?

11 And the following year now you're  
12 down to 75 and by the end of 2003 you're down  
13 to \$68. You started with \$100.

14 At the end of 2007 you're at 73.  
15 What happens is even though you made 22  
16 percent you've dwindled the principle amount  
17 down to the point where it's hard to get back  
18 to where you started.

19 It's very important that when we  
20 compare this investment strategy to that of  
21 PSERS or our retirement plan, which this is  
22 not retirement money, that we keep in mind  
23 that the draws expected on this fund are much  
24 more significant than the current draws from  
25 PSERS.

1 DR. GRAY: So even though PSERS  
2 earned more than nine percent on average over  
3 this period, the money still was depleted  
4 by -- from a hundred down to 73 percent.

5 So 27 percent of the corpus  
6 evaporated. It's gone. It's history. It's  
7 frittered away. And PSERS does a great job.  
8 So it's -- it's just the approach that we're  
9 looking at from the Morgan Stanley approach,  
10 just is risky. And I don't know if you're all  
11 prepared to take that risk or you would want  
12 to take that risk if you don't have to take  
13 that risk.

14 We also talked about redirection risk  
15 and talked about a couple of examples in the  
16 study of redirection risk, being -- with funds  
17 being raided. Notably the motor license fund  
18 was raided.

19 Then we took a look at the Morgan  
20 Stanley report and we criticized that. I  
21 don't want to criticize that to death, so  
22 let's just pass through that.

23 The question about tolling Route 80,  
24 well, tolling Route 80 and the corporate lease  
25 are two completely independent decisions.

1           Whatever tolling regime that the  
2           Governor comes up with and goes out to bid  
3           for, it can be capitalized at either a taxable  
4           level under a corporate level or a tax exempt  
5           level.

6           From that tax exempt level, it's much  
7           more efficient from the neighborhood of two to  
8           three percent and results in a much, much more  
9           efficient financing. Either lower financing  
10          for the buck or lower rate increase, all other  
11          things equal for the -- for the dollars. So  
12          tolling I-80, nothing really to do with this  
13          study.

14          Now, events of default. The  
15          previous -- and I'm sorry. I forget his  
16          name. But the previous gentleman was asked  
17          about what happens in the event of default in  
18          a concessionaire agreement.

19          Well, Section 17 and Section 18 of  
20          the Chicago Skyway and the Indiana Toll Road  
21          takes that into effect and lists a number of  
22          remedies that occurs for other corporate  
23          borrowers that have invested in this to  
24          effectively take over the turnpike or the  
25          Skyway and operate that. So in events of

1 default all of that is spelled out.

2 There's virtually no likelihood that  
3 the road would go back to the Commonwealth.  
4 The investors have paid too much money to just  
5 walk away from the transaction.

6 So they'd continue to keep the  
7 control of the -- of the transaction and it's  
8 spelled out in depth. We could get into that  
9 later.

10 Then we talk about discounting and  
11 monetizing the different payment streams, and  
12 we show the difference between monetizing the  
13 tax exempt rate and a taxable rate.

14 And if people really want to know  
15 what the relative value is, I recommend that  
16 they -- they effectively read the appendix  
17 because we go through why the differences are  
18 what they are.

19 We come up with our -- and we use the  
20 Act 44 payment simply as a toll regime  
21 schedule that's set in stone that we can make  
22 this analysis between a corporate lease and  
23 public monetization, full public and partial  
24 public monetization.

25 And that's our apples-to-apples

1 comparison, and we come up to a present value  
2 of the status quo Act 44, 50-year deal, of  
3 26.5 billion.

4 Using those same cash flows,  
5 corporate lease but discounting at a higher  
6 rate, 14.8 billion -- billion.

7 And a full public monetization at  
8 22.8 billion.

9 John.

10 MR. FOOTE: We've just spent the last  
11 15 or 20 minutes talking about a lot of  
12 numbers, a lot of big numbers. And, in fact,  
13 some of the people that have been large  
14 proponents in proceeding forward with the  
15 lease have said, you know, the only thing that  
16 matters in evaluating the right way to go is  
17 to -- is to look at the actual amount of what  
18 you can raise with the concession, regardless  
19 of how you get there.

20 And our view -- and this is really  
21 the final comment in our paper -- is that it  
22 makes all the difference in the world how you  
23 get there. That there are ways to structure a  
24 concession to maximize the amount of the  
25 concession payment. You can structure a lease

1 in perpetuity. You could cap tolls at ten  
2 percent a year increases.

3 Now, those are ridiculous things, but  
4 those would certainly allow you to raise the  
5 most money possible under a concession plan.

6 But those -- each of those things has  
7 significant trade-offs. Public interest  
8 trade-offs.

9 And this is -- in the last part of  
10 the paper we were asked to look at some of the  
11 strategic issues. And there are winners and  
12 losers in all of these transactions. There's  
13 winners and losers with respect to every  
14 decision that this body needs to make.

15 With respect to a concession  
16 agreement, we looked at who are the possible  
17 winners and losers, and we look at the --  
18 specifically the Commonwealth of Pennsylvania,  
19 more specifically the taxpayers, as well as  
20 the users of the turnpike. We looked at the  
21 employee -- employees of the turnpike who are  
22 also a stakeholder in a -- in a transaction  
23 and then we also looked at something called --  
24 what we call the neighbors of the turnpike.  
25 The people who live in proximity to the



1 turnpike which could very well see additional  
2 traffic as a result of increased tolls.

3 All of these people have an interest  
4 that is probably somewhat embedded with --  
5 with whether or not a concession is -- is used  
6 or not and how much money is raised.

7 But they are also paying for,  
8 quote/unquote, paying for this concession  
9 in -- in other ways other than just tolls.  
10 And we feel it's important for those  
11 considerations also to be -- to be put on the  
12 table.

13 CHAIRMAN MARKOSEK: Okay. Thank  
14 you. Thank you all. We do have some  
15 questions.

16 Representative Mark Keller.

17 REPRESENTATIVE KELLER: Thank you,  
18 Mr. Chairman.

19 And thank you very much, gentlemen,  
20 for your testimony this morning.

21 A couple quick questions. Your study  
22 here that was done assumes -- assumes that  
23 you're getting money from tolling I-80.  
24 Correct?

25 DR. GRAY: The study implicitly

1 assumes the payments of Act 44, required under  
2 Act 44. If I-80 isn't a part of it, it  
3 assumes there's another source of funds that  
4 are. Maybe a higher toll on the main line of  
5 the turnpike.

6 But it assumes that for all three  
7 alternatives, both the status quo, the  
8 corporate lease, or the full public  
9 monetization.

10 So, yes, it does assume that.  
11 Because it assumes the Act 44 payments. But  
12 it doesn't change for the different  
13 alternatives. They're all embedded in there.

14 REPRESENTATIVE KELLER: Who is going  
15 to pay for that if I-80 doesn't get tolled?

16 DR. GRAY: Well, as I mentioned,  
17 the -- the alternative is the main line of the  
18 turnpike, but that's just assuming that those  
19 cash flows are the cash flows that come out of  
20 the toll regime. And we don't know what that  
21 is yet. We had to make some assumption. And  
22 those are set in stone at the back of the  
23 study.

24 REPRESENTATIVE KELLER: So what we're  
25 assuming then is the fact that -- you know,

1 I -- I kind of try to be the devil's advocate  
2 a lot of times, and I like to look at both  
3 sides and make sure that, you know, we're --  
4 we're doing the right thing, you know.

5 And if -- if that doesn't happen,  
6 then we probably could assume that some monies  
7 already have been borrowed, which we all know  
8 that, that has to be paid back. There's no  
9 question about that.

10 The three percent that I think you  
11 indicated in your -- correct me if I'm  
12 wrong -- in your study here of increasing  
13 tolls could possibly be a lot higher than that  
14 if those dollars don't come in.

15 DR. GRAY: The -- the purpose of the  
16 study was really to compare a corporate lease  
17 with public alternatives, public financing  
18 alternatives.

19 We had to set some standard to which  
20 to discount the cash flows, and that's -- that  
21 was our goal.

22 Now, where these funds come from will  
23 ultimately be all of your decisions. That's  
24 not -- not ours. But what we said, here's  
25 the -- the schedule of funds that we're going

1 to discount. If we discount them for -- at  
2 50, which is the tax exempt rate, we can raise  
3 26 billion against it. If we discount them at  
4 7.75, which is the corporate weighted average  
5 cost of capital weight, we could only raise 14  
6 billion against it.

7 What's the difference? \$12 billion.  
8 That's a lot of money. That's wasted if it  
9 goes corporate lease versus a public  
10 financing. It just evaporates. It's taken  
11 away from -- from basically the toll payers of  
12 the turnpike. It just doesn't make sense.

13 REPRESENTATIVE KELLER: Okay. Thank  
14 you.

15 DR. GRAY: Okay.

16 CHAIRMAN MARKOSEK: Representative  
17 Ron Miller.

18 REPRESENTATIVE MILLER: Thank you,  
19 Mr. Chairman.

20 Gentlemen, what I'd like to get a  
21 feel for, I understand what you're saying  
22 about tolling the turnpike or privatizing the  
23 turnpike, turning over a lease to a private  
24 company.

25 As far as public/private partnerships

1 go, how do you -- is there a place for those?  
2 What is driving this to not be a good deal?  
3 Are there other deals that are good? Is it  
4 the market conditions today?

5 DR. GRAY: No.

6 REPRESENTATIVE MILLER: The way the  
7 market is today? Is it never a good idea to  
8 do a P 3?

9 DR. GRAY: No. We note in our study  
10 that it is a good idea to do it when there are  
11 different types of risks involved.

12 And we talked about Greenfield  
13 projects versus Brownfield. Greenfield being  
14 new. Brownfield being existing.

15 Now, all the risks associated with  
16 the Pennsylvania turnpike are minimal because  
17 it's operating. There's no new construction,  
18 there's no permitting needed. There's no, you  
19 know, radioactive hazards, anything. It's  
20 just simply a financial transaction that you  
21 can capitalize.

22 Taxable? Or tax exempt?

23 If you can borrow tax exempt, there's  
24 no reason to do a taxable lease financing. It  
25 just doesn't make sense financially. The

1 difference is huge.

2           REPRESENTATIVE MILLER: But then the  
3 risk is on the taxpayers, not the public  
4 participants. I guess -- the private  
5 participants. I'm sorry. It's -- it's on the  
6 taxpayers, the risk, when we do it with the  
7 turnpike backing, and the taxpayers ultimately  
8 backing that, as compared to a private entity  
9 or private investors. I'm just trying to get  
10 a feel for it.

11           It seems almost like we're saying  
12 that it's a good idea for new construction but  
13 not for something that exists. Is that what  
14 the bottom line is? I think as a general  
15 comment that is our view, that there the new  
16 construction, the new projects the public --  
17 the private sector has proven that it can  
18 evaluate risks better and manage risks better  
19 and do a project more efficiently.

20           With respect to a Brownfield project,  
21 the ones -- I don't want to use that word in a  
22 pejorative way -- but with an existing  
23 project, the risks are minimal.

24           And so the expertise that a private  
25 sector operator can bring really in our view

1 doesn't make -- does not tip the balance.

2 Now, if there were significant cost  
3 improvements, cost efficiencies that a private  
4 sector operator could bring to the  
5 Pennsylvania turnpike, then that might well be  
6 a consideration.

7 But in the case of the Indiana  
8 turnpike or Toll Road, which is, I admit, is  
9 different, if was -- the concessionaire said  
10 right up-front that there -- he expected no  
11 operating efficiencies in the operations of  
12 that road after he took control.

13 Now, again, that may be a completely  
14 different situation than the Penn turnpike.

15 But unless a private sector operator  
16 can bring something special to the party, we  
17 think that the -- the equation really tips in  
18 the -- or is determined by who is able to  
19 borrow most efficiently in the capital  
20 markets.

21 And that's why, again, as a very  
22 general comment a Brownfield project -- or we  
23 think Greenfield projects are much more  
24 appealing from a P 3 perspective than  
25 Brownfield projects.

1 DR. GRAY: Speaking about operator  
2 efficiency, the Morgan Stanley study has  
3 operating costs currently at about 42 percent  
4 but shows that operating cost, as percentage  
5 of total expenses, is going to decrease from  
6 that 42 percent to 6 percent over the next --  
7 to 2064.

8 So it goes to the -- the operating  
9 costs are insignificant in the -- in the  
10 scheme of things.

11 REPRESENTATIVE MILLER: I guess,  
12 Mr. Chairman, if I might, one follow-up  
13 question, and I know you gentlemen don't have  
14 a crystal ball any better than I do.

15 But do you have a feel -- do you have  
16 a feel as far as tolling of I-80? Is it going  
17 to be allowed? Where are we going with the  
18 government, with the federal government on  
19 this issue?

20 DR. GRAY: We have no idea.

21 MR. FOOTE: No idea.

22 REPRESENTATIVE MILLER: You're the  
23 same place I am.

24 MR. FOOTE: Yes, sir.

25 REPRESENTATIVE MILLER: Okay. Thank



1 you.

2 Thank you, Mr. Chairman.

3 CHAIRMAN MARKOSEK: Yes, thank you.

4 Representative Ron Marsico.

5 REPRESENTATIVE MARSICO: Thank you,  
6 Mr. Chair.

7 A couple of questions. In fact,  
8 Representative Miller asked some of the  
9 questions I had as well.

10 But just -- now let me get this  
11 straight. You're a professor at Penn State?

12 DR. GRAY: Yes, that's correct.

13 REPRESENTATIVE MARSICO: Professor at  
14 Penn State?

15 DR. CUSATIS: Yes.

16 REPRESENTATIVE MARSICO: A fellow at  
17 Harvard?

18 MR. FOOTE: Yes, sir.

19 REPRESENTATIVE MARSICO: Thanks for  
20 your expert testimony.

21 I've just got to ask you a question,  
22 though. I think it -- I know the answer for  
23 that. You're being paid for this study?

24 DR. GRAY: Yes.

25 REPRESENTATIVE MARSICO: By the --

1 whom?

2 DR. GRAY: The House Democratic --  
3 Democratic Caucus.

4 REPRESENTATIVE MARSICO: The House  
5 Democratic Caucus. Okay. That's what I  
6 thought.

7 Actually I find that quite  
8 interesting and amusing that we're paying you,  
9 the taxpayers are paying you for your  
10 services, and that, you know, we -- the last  
11 person that was here that testified was  
12 criticized, a nonprofit, a foundation, for  
13 providing information and polling information  
14 and some public policy recommendations and --  
15 and interpretation of this whole possible  
16 lease of the turnpike that, here we are using  
17 taxpayer dollars to do this, and it seems to  
18 me that this -- your report which is -- I got  
19 to tell you, I mean I think is very good.

20 DR. GRAY: Thank you.

21 REPRESENTATIVE MARSICO: But I don't  
22 think we need to have taxpayers pay for this  
23 kind of report that is tilted towards the  
24 Democrats' initiatives & policies with regard  
25 to their viewpoint on this whole issue.

1           So I just wanted to make that  
2 statement, Mr. Chairman. Thank you.

3           CHAIRMAN MARKOSEK: Okay. Thank  
4 you.

5           I'll just add to that, that in the  
6 light of full disclosure, you know, that we  
7 have announced that we did use taxpayer money  
8 to fund this early on when we first transacted  
9 with these gentlemen.

10           We did it for the intent, as we  
11 conceived from this hearing, that this is a  
12 very, very complex issue and we need to look  
13 at it from various other -- all -- all  
14 different angles.

15           And also I would also remind the  
16 gentleman and the rest of the committee that I  
17 believe last session there was a similarly  
18 taxpayer paid study of, I believe, SEPTA that  
19 this committee undertook which I think was a  
20 very good -- a good study and should have been  
21 taken.

22           So we have really done not a whole  
23 lot differently with this issue.

24           So with that, gentlemen, thank you.  
25 I know you --

1 DR. GRAY: Yeah.

2 CHAIRMAN MARKOSEK: Some of you have  
3 to get -- excuse me. One more question.

4 DR. GRAY: Sure.

5 CHAIRMAN MARKOSEK: Representative  
6 Gary Haluska.

7 REPRESENTATIVE HALUSKA: Okay. Thank  
8 you, Mr. Chairman.

9 Everybody that's testified is talking  
10 about capping rates if we do tolling if a  
11 private entity comes.

12 How can we possibly do that? The  
13 mess we're in now, we capped electrical rates  
14 and now you see the mess we're in some eight  
15 years later.

16 How can you artificially put a  
17 ceiling on tolls when you don't know six,  
18 eight, ten years out what the cost of anything  
19 is going to be?

20 I just would like a comment from  
21 you.

22 MR. GRAY: I'm going to turn -- John  
23 is our transportation guy.

24 REPRESENTATIVE HALUSKA: How can --  
25 how can we realistically say we're going to

1 artificially cap these rates at a certain  
2 point?

3 MR. FOOTE: Well, first, you draw the  
4 analogy with electrical utilities where the  
5 cost of those services are much more volatile  
6 than the cost of providing the use of the  
7 highway.

8 Now, certainly those -- those --  
9 there are uncertain costs in there in the  
10 future, but they -- it's on a relative scale.  
11 They're much more -- much more certain.

12 Without -- under a concession --  
13 under a concession arrangement, without  
14 capping -- without capping tolls at some  
15 maximum amount, then you are putting  
16 yourselves in the hands of the -- of the  
17 concessionaire to charge whatever he or she  
18 wants to.

19 And this is not under any PUC  
20 control. So it's not -- this is not a  
21 regulated utility.

22 And in -- in many respects these toll  
23 roads have a lot of characteristics of natural  
24 monopolies. So you really got the tax -- the  
25 toll payer over a barrel --

1           REPRESENTATIVE HALUSKA: But did  
2 you --

3           MR. FOOTE: -- unless you're able to  
4 cap it somehow.

5           REPRESENTATIVE HALUSKA: But if  
6 you've seen what concrete and asphalt, the  
7 building products have gone through just in  
8 the last three or four years, you know, and  
9 God only knows where that's going to go but --

10          MR. FOOTE: That's why the risk, in  
11 fact, is taken by a private concessionaire in  
12 these -- in these projects.

13          REPRESENTATIVE HALUSKA: Just a  
14 comment, Mr. Chairman?

15          CHAIRMAN MARKOSEK: The gentleman may  
16 proceed.

17          REPRESENTATIVE HALUSKA: I really  
18 have a problem. I'm a pretty simple thinking  
19 guy. We have a Pennsylvania turnpike that was  
20 the first of its kind in the nation. It's  
21 over a half century old now. As they informed  
22 me, the money was borrowed from the federal  
23 government to build it. That money was paid  
24 back. They've never had to come back to the  
25 state to be bailed out. They've run this

1       efficiently and they've run it well. They've  
2       modernized it. They've kept it up.

3               What in the world are we doing here?  
4       That's -- if it's not broken, why are we  
5       trying to fix it?

6               I just can't believe that we sit here  
7       today with an entity like the Pennsylvania  
8       turnpike and want to dismantle it. It just  
9       boggles my imagination that we would try to do  
10      that.

11              And obviously traveling to other  
12      states and seeing the tolls on roads and  
13      bridges, it just makes so much sense that our  
14      interstates -- that people want efficient  
15      modern highways and bridges, you know, user  
16      fees are the way to go and, you know, that's  
17      just my comment.

18              I just can't believe that we're doing  
19      this.

20              Thank you.

21              CHAIRMAN MARKOSEK: Thank you. That  
22      decision has to be made at a higher pay rate  
23      than all of us here.

24              But one last question by the acting  
25      chairman, Representative Mark Keller.

1                   REPRESENTATIVE KELLER: Thank you,  
2 Mr. Chairman.

3                   It's more or less a statement than  
4 a -- than a question. The fact is I just want  
5 to make something perfectly clear and, not  
6 contradicting you, Mr. Chairman, but I believe  
7 that there has never been a partisan study  
8 done by this committee. It's always been  
9 bipartisan. So I just want that for a  
10 statement.

11                   CHAIRMAN MARKOSEK: I thank you for  
12 that. I think -- I think the invite was --  
13 was proffered but...

14                   Okay. Thank you, gentlemen.

15                   DR. GRAY: Thank you very much.

16                   DR. CUSATIS: Thank you.

17                   CHAIRMAN MARKOSEK: Appreciate it.

18                   DR. GRAY: John will be around if --  
19 if --

20                   CHAIRMAN MARKOSEK: Thank you. Our  
21 next -- who has waited patiently in the  
22 bullpen, Roy Kienitz.

23                   Roy, would you come forward, please?

24                   DEPUTY CHIEF KIENITZ: If you don't  
25 mind, Mr. Chairman, I'd like to have



1 Mr. Collins from Morgan Stanley sit here with  
2 me.

3 CHAIRMAN MARKOSEK: Absolutely.

4 Roy Kienitz is the deputy chief of  
5 staff of the office of -- of the Governor's  
6 Office and, Roy, would you please introduce  
7 your partner.

8 DEPUTY CHIEF KIENITZ: Yes. Good  
9 morning, ladies and gentlemen. As the  
10 chairman said, I'm Roy Kienitz, deputy chief  
11 of staff to the Governor.

12 I'm here because I'm the person who  
13 for his administration has been coordinating  
14 all of the transportation sort of investment  
15 initiatives and discussions that we've had  
16 over the last many years.

17 So, you know, for better or for  
18 worse, I have -- have developed a fair amount  
19 of expertise in this.

20 This gentleman to my right is Rob  
21 Collins. He works for Morgan Stanley out of  
22 their Chicago office. He is the principal  
23 coordinator of our effort to develop a  
24 concession -- a draft concession plan for the  
25 turnpike.

1           He also has experience being --  
2           having been personally involved in both the  
3           Chicago and Indiana transactions, sort of from  
4           the inside, and that experience has been very  
5           valuable to us.

6           If you don't mind, I'll just begin.  
7           I'd -- I'd like to go into -- into some depth  
8           into the materials that have been presented by  
9           Mr. Foote and the other gentlemen who were the  
10          authors of the study.

11          But before doing that, I think I want  
12          to bring us back to the big picture a little  
13          bit and I think the best place to start is  
14          I-95.

15          As we sit here right now I-95 in  
16          Philadelphia is completely closed to traffic  
17          north of center city Philadelphia due to  
18          significant deter -- deterioration in one of  
19          the columns that's actually holding up this  
20          eight-lane freeway. There are massive traffic  
21          jams going both north and south.

22          That was discovered by virtue of the  
23          routine inspection process that PennDOT has,  
24          but it is symptomatic of the larger, but  
25          usually unseen, problem in Pennsylvania of

1 structurally deficient bridges, of which  
2 Pennsylvania has nearly 6,000 and which in  
3 terms of the total deck area of structurally  
4 deficient bridges Pennsylvania leads the  
5 nation.

6 That in and of itself is probably a  
7 six-plus billion dollar problem. And the  
8 context for this entire discussion about what  
9 role, if any, does the Pennsylvania turnpike  
10 or I-80 have in the future transportation  
11 finances of the state really comes down to the  
12 issue of: Is this problem, silent and mostly  
13 unseen, something we want to do something  
14 about or are we content to have it remain  
15 largely silent and unseen?

16 Now, this week it's not unseen. At  
17 least in the southeast. Two years ago when we  
18 had a bridge collapse over I-79 in the west,  
19 it was not unseen out there.

20 But unfortunately memories tend to be  
21 short. So that's really the motivation that  
22 brings us to all of this. And really to  
23 respond to the gentleman's question, the  
24 reason we're talking about the turnpike is  
25 because we believe that it is a substantial

1 source of financing to deal with every  
2 transportation issue in the Commonwealth.

3 It's not -- you know, the Governor  
4 did not propose this because of some inherent  
5 quality of the Turnpike Commission that he  
6 either liked or didn't like.

7 For us this is all about trying to  
8 solve a problem which has persisted in this  
9 state for 30 or 40 years without being solved  
10 and trying to have us here today be the people  
11 who actually solve an important problem on  
12 behalf of the people.

13 Now, I think it's entirely  
14 appropriate to do what we're doing here, which  
15 is to look at the alternatives for doing that,  
16 assess their pluses and minuses, where the  
17 risks exist, how much money you would think is  
18 produced. That's all a completely legitimate  
19 discussion but I would just respond to the --  
20 you know, to the questions about some of the  
21 polling that the gentlemen earlier who  
22 presented had done.

23 I mean I've been involved in  
24 transportation policy for 20 years and have  
25 seen many, many polls on the subject, and

1 basically every poll finds the same thing,  
2 which is: Would you like to do more to solve  
3 our transportation problems? An overwhelming  
4 yes. Would you approve of any method we could  
5 think of in which people actually pay to do  
6 this? And the answer is an overwhelming no.

7 So that's the bind that we are all  
8 in, is that everyone wants the problem solved  
9 but no one wants to pay for it.

10 Unfortunately, I think our view has  
11 been too often in the past and that has  
12 resulted in, well, then, the safest thing is  
13 to not do anything. And that's what we don't  
14 want.

15 Act 44 was a great and welcome  
16 departure from that, and the question really  
17 now for us is is there a way to provide even  
18 more funds than Act 44 provides under terms  
19 and conditions that are acceptable from a  
20 policy point of view?

21 So that is, sort of as a general  
22 preface, the way that the Governor came into  
23 this process. You know, I've spent a lot of  
24 time sitting with and speaking to people who  
25 are of different views about whether a public

1 transaction or public/private transaction --  
2 what are the advantages and disadvantages of  
3 each, the question the gentlemen raised about  
4 the cost of capital and discount rates over  
5 time, and all of that.

6           And my conclusion from that really is  
7 that there are good arguments on both sides of  
8 that question. The tax exempt market for  
9 doing public infrastructure in the United  
10 States is something that's not completely  
11 unique in the world, but is -- is much more  
12 efficient than most other places and has been  
13 a really good way to do a lot of  
14 infrastructure over time because it has  
15 inherent advantages.

16           Because other countries don't have a  
17 tax exempt market, they have worked very hard  
18 to perfect and make more efficient the ways in  
19 which the private sector can finance these  
20 things and have that be financially  
21 effective.

22           And so what we have determined is  
23 that to try to make a decision on this  
24 question of what the most efficient way to  
25 raise money is, based on the questions of

1 theory, that these gentlemen no doubt teach  
2 very effectively in the schools with which  
3 they work, is ultimately interesting, but not  
4 the point. That -- that going about it as a  
5 matter of theory tells us what the theory is.

6 What we really care about is not what  
7 the theory is, about what a program like Act  
8 44 could produce. What we care about is what  
9 Act 44 is actually going to produce.

10 And it turns out that that is a  
11 matter of significant risks associated with  
12 it. There is the risk of declining usage of  
13 facilities. There is the risk that even if  
14 tolls on Act 80 -- I-80 are approved, they  
15 will be not approved in time to generate  
16 enough funding to make the payment schedule  
17 that's contemplated in the Act. And there is  
18 a substantial risk, which I'll go into a  
19 little bit more later on, that the federal  
20 government won't approve those funds.

21 We all have a printout of what that  
22 schedule is, but I think we should all agree  
23 that that's not, you know, handed down from  
24 above, that that's something, just like every  
25 human endeavor, which has risks in the

1 future.

2           There are certainly risks associated  
3 with any payment schedule under a private  
4 concession, although one of the advantages of  
5 a private concession, for better or worse, you  
6 get the money up-front and so -- and the risk  
7 is taken on by the private operator and if  
8 that person and those lenders and those equity  
9 investors have difficulty over time, that can  
10 potentially create issues that we all have to  
11 deal with. But we've got the money in the  
12 bank.

13           So the nature of the financial risk  
14 is different in those two things. It's not  
15 that one is risky and the other is not, but  
16 the nature of the risks is different.

17           What the Governor ultimately decided  
18 is rather than decide this question as a  
19 matter of theory, let's decide it in  
20 practice. Let's develop a public sector  
21 option that is as best as both they're capable  
22 of and willing to do, and sometimes there's a  
23 gap between those two things; and let's  
24 develop a private sector option which we will  
25 push to be as large as it can be by virtue of



1 the competition, that is the hallmark of the  
2 private sector.

3 And, you know, the groups that are  
4 right now in the process of trying to sort of  
5 decide how much they're going to bid, they're  
6 doing all the calculations that the gentlemen  
7 described about what discount rates are and  
8 the cost of capital and how they borrow and  
9 return on investment.

10 And what they're also saying is, but  
11 I don't want that other guy to beat by one  
12 dollar.

13 So you have both the rational and the  
14 somewhat less rational equation going on in  
15 their head which is going to tend to drive  
16 their bids to a level which might not be what  
17 is dictated by the theory.

18 And at the end of the day, we can  
19 never sit down and sort of figure out what  
20 that number is.

21 The only way we can know what it is  
22 is to actually write a concession agreement,  
23 actually give it to the bidders, and say,  
24 here's the actual deadline, have your  
25 envelopes in by five o'clock on a certain

1 day. And when we get them and we open them  
2 and see what the number is, maybe we'll be  
3 underwhelmed and maybe we'll be overwhelmed,  
4 but at least we will now have real information  
5 that we can act on.

6 So that's what the Governor proposed  
7 to do last fall.

8 The study that Morgan Stanley did,  
9 that Rob was really involved in, was really  
10 done for the purposes of determining whether  
11 that entire effort would be likely to be a  
12 good use of our time and energy or likely to  
13 be a waste of time and energy.

14 We weren't trying to determine the  
15 number that we were going to get. And that's  
16 why we got this broad range of 12 to 19  
17 billion. We were really trying to determine  
18 is the time and energy invested in this  
19 project likely to have enough potential  
20 benefit for the Commonwealth to be worth  
21 doing.

22 And we determined that 18 billion  
23 would be better than 12 but 12 is a lot. So  
24 what that led us to do is to make a positive  
25 decision to move forward with it but not to

1 use those numbers to make a real decision.

2 So what happened then is that that --  
3 that really spurred a process of developing a  
4 public option, which, you know, that's not a  
5 bad thing, and the public option that came  
6 forward ended up being Act 44. As we know,  
7 it's a mixture of tolls on I-80 and higher  
8 tolls on the main line.

9 And so that is now the benchmark  
10 against which any private bid is going to be  
11 measured.

12 The issue I have with the reports  
13 that the gentlemen presented earlier is  
14 really -- I can understand them saying that as  
15 a matter of theory they would never propose to  
16 put money in a pension fund to invest for the  
17 purposes of transportation because that's not  
18 what we've done before.

19 But it's also true that you here  
20 actually do have the choice to actually do  
21 that and that the best guide for what that  
22 would produce is to look at what they have  
23 actually done, whether you look at SERS or  
24 PSERS or over ten or twenty years.

25 For the purposes of their study

1 Morgan Stanley assumed somewhere between seven  
2 and nine percent. The true annual rate of  
3 return of SERS over the last 20 years has been  
4 12 percent, and it was 17 point something last  
5 year, you know.

6 And they're like everyone else. They  
7 have good years and bad years. The bad years  
8 are painful. The good years are wonderful.

9 So, once again, you've got different  
10 risks associated with different strategies,  
11 but one of the benefits of a lease is the  
12 ability to get this very large up-front  
13 payment.

14 And as a government entity, the  
15 Commonwealth of Pennsylvania, we're in the odd  
16 position that someone in the corporate world  
17 is not in, which is our cost of borrowing is  
18 the tax exempt rate that we can earn through a  
19 pension fund at a corporate rate.

20 And so there's an inherent advantage  
21 to having a large amount of money for someone  
22 who has the unique legal powers we have that  
23 you really don't get out of a -- sort of an  
24 annuity payment structure over time.

25 And we, in fact, have worked with the

1 community of potential bidders to look at the  
2 question of rather than paying us cash  
3 up-front, what if you guys were to pay us over  
4 time in a way that's very similar to what the  
5 Turnpike Commission is doing?

6           And what we found is the analysis the  
7 gentlemen have made then comes into the --  
8 comes to the fore and then they're also --  
9 they're looking at what the long-term cost of  
10 capital is and they're looking at how much  
11 they can borrow in the market and how their  
12 arbitrage is going to work, and the net result  
13 is the effective interest rate that we would  
14 return on money they're not giving us ain't  
15 going to be seven or eight or nine or twelve  
16 percent. It's going to be some lesser  
17 amount. And the net result is -- our  
18 conclusion really at this point is that one of  
19 the great benefits of a lease deal is it  
20 allows you to take advantage in a perfectly  
21 legal way of this spread that the Commonwealth  
22 can do by having a very low cost of capital  
23 but being able to take advantage of a high  
24 rate of earning.

25           So we ended up last summer with Act

1 44. That has certain payment schedules laid  
2 out, and the Governor, I think, still feels  
3 that there's a possibility to get even more  
4 out of a lease bid.

5 That is something we're not going to  
6 come to you and assert as a matter of theory.  
7 We're going to come to you with a specific  
8 proposal that's based on specific terms and  
9 conditions regarding capital investment,  
10 regarding toll rates, regarding treatment of  
11 union workers, regarding, you know, insurance,  
12 environmental liability.

13 I mean, you know, the guy --  
14 gentleman earlier showed you the three-inch  
15 thick document. It takes awhile for us to  
16 work through what all that three-inch thick  
17 document needs to say in order to both work  
18 internally and hopefully be attractive --  
19 attract support here.

20 So we're still working through that.

21 If we were comparing the payments  
22 available over time to a lease of just the  
23 Pennsylvania turnpike with I-80 versus the  
24 money generated by Act 44 without I-80, I  
25 would posit that that's not even close. The

1 lease is by far advantageous.

2 Now, we are given a steeper challenge  
3 to climb, which is can we take the revenue  
4 from the main line of the turnpike and I-80  
5 and replace that with only revenue that's  
6 available on the main line of the turnpike,  
7 because I think it's been our supposition  
8 that, for better or worse, any bill approving  
9 the lease of the turnpike there would be a  
10 substantial core of the support of that bill  
11 who would -- which would consist of people who  
12 would only vote for it if it also removed  
13 tolls from I-80.

14 You know, I'm prepared to be educated  
15 that that's not correct, but I suspect it is.

16 So that's the challenge that we have  
17 set for ourselves. And we hope to come back  
18 to you in a relatively short period of time to  
19 be able, you know, to explain whether that's  
20 the case or not.

21 I'll address sort of two other  
22 issues, which is, you know, one of the main  
23 policy points, aside from the finances that  
24 the gentleman in the report made earlier, is  
25 that by keeping the Turnpike Commission in the

1 control of a public sector agency entirely  
2 allows it to make certain sort of public  
3 policy choices and contributions that are --  
4 are different under a lease scenario.

5           And I -- I would posit that really  
6 they're not that different. I believe what  
7 you're talking about in that case is, for  
8 whatever reason, it is decided that an  
9 interchange at a particular place costing \$25  
10 million would be in the public interests,  
11 regardless of the fact that it would never pay  
12 for itself in terms of the amount of traffic  
13 it will get on the roadway and that the  
14 Turnpike Commission has the power to simply  
15 say, well, notwithstanding the fact that it's  
16 sort of not economical in a strict sense,  
17 we're going to spend \$25 million to build this  
18 interchange.

19           The only thing that's different  
20 really is how that's paid for. Under -- under  
21 any lease scenario, that's exactly the type of  
22 negotiation between the government and the  
23 private lessor that is allowed for and even  
24 structured in an -- in an agreement. It's  
25 just that it's a business negotiation which



1 they say, well, we think it will cost \$25  
2 million. We think we can get back half of  
3 that in terms of the -- the ability to  
4 generate more revenue on the roadway. And so  
5 you all need to show us some source for the  
6 additional money, whether it's the ability to  
7 raise tolls a slight amount from where they  
8 are now or a payment from PennDOT or some such  
9 thing.

10 Under a public model, if we go to the  
11 turnpike and say please build this  
12 interchange, they can conceivably do it but  
13 what money are they using to do it?

14 They basically have two choices.  
15 They can raise tolls higher than they  
16 otherwise would and take it out of the pockets  
17 of toll payers, which is to say the exact same  
18 thing that would happen under a private lease,  
19 or they can pay for it out of retained  
20 earnings and with no apparent opportunity  
21 cost.

22 But then the question arises, so you  
23 mean the Turnpike Commission has \$25 million  
24 in retained earnings on which there is no call  
25 and which you are just holding and which you

1 had never had any intention of turning over to  
2 the Commonwealth for the purpose of improving  
3 transportation?

4 That ultimately is really the  
5 practical issue that we have seen around the  
6 country and the difference between doing a  
7 public model and a private model.

8 You can model on paper what the cost  
9 of capital of each of these two entities are,  
10 but the question really is, in either  
11 transaction, what do you actually get?

12 In the private market you get that  
13 calculation and you get competitive pressure  
14 pressing the bids higher.

15 In the public market what you tend to  
16 get is that calculation and the completely  
17 routine sort of I don't want to give  
18 everything I have sort of response out of  
19 public agencies that is true here and in most  
20 other states around the country.

21 So unfortunately I think what you  
22 tend to see is that the public finance models  
23 tend to underperform the model and that the  
24 private finance models tend to overperform the  
25 model.

1           Now, on the private side it's some --  
2           it's largely because of the tax benefits as  
3           well as the competitive pressure. There's  
4           other things going on there.

5           But ultimately I think we're willing  
6           to live with what the actual practical results  
7           are in the market of what -- of how these two  
8           things compare.

9           The -- I think the final thing that I  
10          would say is the gentleman earlier said that  
11          a -- a private -- public/private monetization  
12          for toll roads makes a lot more sense when  
13          you're talking about a, quote, Greenfield  
14          project, unquote, where you're doing  
15          construction of something new, rather than in  
16          the case of where you're doing -- simply  
17          changing the management of an existing  
18          roadway.

19          And I would posit to you that the  
20          Turnpike Commission project, as we conceive it  
21          now, is best understood as a mixture of those  
22          two things.

23          Yes, it's a very large existing toll  
24          road and indeed a historic one. The first in  
25          the country.

1           But also part of what the private  
2           concessionaire would take on is the  
3           four-and-a-half billion dollar capital  
4           construction program that the Turnpike  
5           Commission has laid out for itself going out  
6           over the next ten years.

7           And indeed that four-and-a-half  
8           billion dollars undertaken by the private  
9           sector would make a Pennsylvania turnpike  
10          lease not only the largest Brownfield-style  
11          lease of an existing roadway, but it would  
12          also make it the largest Greenfield  
13          public/private partnership.

14          Indeed, the Texas Route 121, I think,  
15          is the most recent example of a big, new  
16          construction project that has been -- in which  
17          there was a major move to operate it as a  
18          public/private partnership and I believe that  
19          was 3-point-something billion dollars and  
20          we're talking about something that's four  
21          billion dollars.

22          So one of the things that was debated  
23          earlier, which is to what degree does the  
24          private concessionaire have the ability to  
25          realize potential savings over the public

1 operator?

2 Well, the people we have been talking  
3 to about this, they believe that they can  
4 undertake that four-and-a-half billion dollar  
5 capital program more efficiently, both more  
6 efficiently in terms of how much it costs to  
7 run the program and more efficiently in terms  
8 of the amount of disruption to traffic on the  
9 roadway, which tends to reduce revenue.

10 They look at it from both sides of  
11 the equation, and how do I maximize revenue  
12 during construction and how do I minimize the  
13 cost of construction?

14 Whether they are able to do that or  
15 not, we don't know; but ultimately the risk is  
16 theirs. They will pay us up-front an amount  
17 of money which is predicated on their being  
18 able to achieve a certain savings there and  
19 whether they achieve it or not is --  
20 ultimately does not affect the amount of money  
21 we get because we've already gotten our  
22 money.

23 So ultimately what -- my conclusion  
24 really about the study that the gentlemen  
25 presented here is it's not that these

1 questions aren't interesting and it's not that  
2 they don't affect in major ways the dynamics  
3 of what we're looking at, of public versus  
4 public/private, ultimately it's not  
5 appropriate to make this kind of decision  
6 based on the sort of business school theory  
7 that has been brought to the analysis. That  
8 in the end the logical thing to do is actually  
9 go out and get the bids, compare it to what we  
10 actually have, look at the risks and rewards  
11 on each side of the equation, and -- and then  
12 make your conclusion.

13           And -- and we are reasonably  
14 confident that if we do that we will be able  
15 to bring you a proposal that is, you know, for  
16 all its risks, it's no more risky than the  
17 program we have now and it's attractive  
18 financially.

19           So thank you.

20           CHAIRMAN MARKOSEK: Okay. Thank  
21 you.

22           Is Mr. Collins just here for  
23 questions?

24           DEPUTY CHIEF KIENITZ: Yes. He's  
25 here -- he's here for questions. I think it's

1 probably most appropriate for me to answer the  
2 sort of policy questions, but he knows a lot  
3 of the numbers issues better than I do so...

4 CHAIRMAN MARKOSEK: Okay. Thank  
5 you. Roy, you and I have had many  
6 conversations on this.

7 DEPUTY CHIEF KIENITZ: Absolutely.

8 CHAIRMAN MARKOSEK: They're always  
9 interesting.

10 Representative Gary Haluska.

11 REPRESENTATIVE HALUSKA: Thank you,  
12 Mr. Chairman.

13 This is more of a comment, I guess,  
14 than an actual question. I guess in  
15 Pennsylvania then it's come down to this,  
16 that, you know, we're in such dire straits  
17 that we're looking at our assets that we have  
18 and we're willing to take those assets and  
19 turn them over to private concessionaires.

20 We have 117 state parks in the state  
21 which loses over \$50 million a year. So  
22 that's not a real good gig when we provide the  
23 state parks. Maybe we should look at putting  
24 private concessionaires in our state parks and  
25 actually making some money.

1           You know, maybe, you know, we've --

2           DEPUTY CHIEF KIENITZ: We have --

3           REPRESENTATIVE HALUSKA: -- for years  
4 looked at the liquor business. We looked at  
5 the liquor business for years, which is a cash  
6 cow for us basically. We've -- we tried to  
7 divest ourselves of that, which obviously  
8 hasn't been successful.

9           So, yeah, I just have a real  
10 problem. You know, what's next? The Liberty  
11 Bell and, you know, Independence Hall? Are we  
12 going to put it on the auction block, too?

13           I mean, you know, it just -- it just  
14 rubs me the wrong way that -- you know, that  
15 what we're doing here today, looking at the  
16 assets that the state has had for a long, long  
17 time and now we're going to cash them in and  
18 run.

19           So I just have a problem with that.

20           DEPUTY CHIEF KIENITZ: I totally  
21 understand your point of view on that, and I  
22 don't think it's an illogical one. I just  
23 think that has to be weighed against worst in  
24 the nation in deficient bridges.

25           REPRESENTATIVE HALUSKA: At the same



1 time, though, I don't hear any horror stories  
2 in the turnpike about their bridges. Actually  
3 they built a pretty nice, damn new bridge, you  
4 know. And so they're on top of their game  
5 and, you know, we're not.

6 But -- and I'm -- like I said before,  
7 I'm a big proponent of user fees. You know,  
8 if we want nice highways, we want safe  
9 bridges, we should stop and put the buck in  
10 the can, you know, when we go across them.

11 CHAIRMAN MARKOSEK: Thank you.

12 Representative Joe Petrarca.

13 REPRESENTATIVE PETRARCA: Thank you,  
14 Chairman.

15 Quick question. Are -- are -- is the  
16 administration looking at any other ways to  
17 raise revenue, transportation dollars? I mean  
18 are you -- are you looking at tolling any  
19 other roads, for instance?

20 DEPUTY CHIEF KIENITZ: We --

21 REPRESENTATIVE PETRARCA: A number of  
22 other roads in Pennsylvania could potentially  
23 be tolled also to raise revenue.

24 DEPUTY CHIEF KIENITZ: When -- when  
25 this entire process started last December, I

1 think, we actually spent quite a long time  
2 going through a reasonably exhaustive analysis  
3 of a great number of alternatives.

4 A public monetization of the  
5 turnpike. Adding tolls to one or more other  
6 major roadways in the state, or all of them.  
7 Various gambits involving borrowing against  
8 federal funds in future, gasoline tax  
9 increase, title and registration increase. I  
10 mean we created these gargantuan spreadsheets  
11 with all of these things on there.

12 Essentially what we found with regard  
13 to the tolling of interstate highways, the --  
14 the legal issues that you run into, which  
15 indeed we are running into now on I-80, are  
16 somewhat ameliorated for I-80 because there  
17 are three slots under a federal program which  
18 allow the tolling of a single interstate in a  
19 single state for a certain set of purposes  
20 under rules that are more lenient than is  
21 generally available and two of those slots are  
22 taken and we are now applying for the third  
23 one.

24 If you add I-95, I-81, I-79, you add  
25 all these other roads, then the only way we

1 can get approval for those is under the  
2 significantly less lenient federal approval  
3 process, which, if anything, looks a lot less  
4 likely to give approval for the type of thing  
5 we would need to do here to generate the  
6 amount of money we're talking about.

7 And so ultimately I think we decided  
8 that the feasibility problems of that were  
9 just gargantuan and unlikely to be overcome,  
10 and that's ultimately also why the Governor  
11 didn't propose tolling of I-80. Because we  
12 understood there are significant risks with  
13 regard to federal approval for that, and we  
14 wanted to propose something that we -- for  
15 better or worse, we had the legal authority to  
16 do should you all, you know, approve it.

17 REPRESENTATIVE PETRARCA: Is the  
18 administration looking at any cost cutting at  
19 PennDOT?

20 DEPUTY CHIEF KIENITZ: PennDOT  
21 operates on a sort of low cost margin. That's  
22 largely due to the size of their program being  
23 four-and-a-half billion every year.

24 So, you know, the cost they run at,  
25 in terms of what that means, in term of roads

1 and bridge construction, is relatively minor.

2 The big issue that has really hit us  
3 at PennDOT is construction cost inflation.  
4 Unfortunately, the position that's going to  
5 put us in, if indeed we do not succeed in  
6 gaining tolling approval for I-80 at the  
7 federal level, whether this year or next. I  
8 mean we don't -- that's another issue we  
9 don't -- have no idea really how long that  
10 will take.

11 As the gentleman referred to earlier,  
12 the payment schedule under Act 44 drops by  
13 more than 50 percent and we start getting  
14 about \$450 million a year.

15 Our estimation basically is that over  
16 the last five years construction cost  
17 inflation has reduced the purchasing power by  
18 our existing -- pre-existing revenues by about  
19 that amount.

20 So unfortunately if -- if federal  
21 approval is not granted, it's not like we're  
22 really \$450 million ahead. In one sense, we  
23 are, and in another sense we are kind of back  
24 to where we started. So...

25 REPRESENTATIVE PETRARCA: You're --

1 you're not saying that --that it's your  
2 assumption that federal approval will not  
3 come?

4 DEPUTY CHIEF KIENITZ: No, I'm not  
5 saying that at all. We believe that there's a  
6 strong case being made for it.

7 But I will refer you all, if you're  
8 interested, to a very long story that was in  
9 the Washington Post earlier this week  
10 profiling the policy making process at U.S.  
11 DOT and the people who seem to be driving that  
12 train.

13 And it tells the story of the -- a  
14 transit -- a proposal to add transit in  
15 Virginia out to Dulles airport, if any of you  
16 have ever flown out of there. There's -- it's  
17 a big multi-billion dollar proposal to do  
18 that.

19 And the allegation that is made in  
20 the story essentially is that the federal  
21 officials have said no to providing funds to  
22 the state of Virginia for that project because  
23 the state refused to include a private lease  
24 of the toll road that leads out to the airport  
25 as part of that deal. And they basically said

1 no to a \$4 billion reconstruction project that  
2 everyone in the state supports.

3 I have no idea whether that's true,  
4 but it certainly points to me that the  
5 possibility exists that these people will, at  
6 a political level rather than the sort of  
7 legal and substantive review that's going on  
8 right now, just might decide that they don't  
9 want to approve our I-80 project because they  
10 just don't like it.

11 So I think we all have to recognize  
12 that it's a real risk. I --I -- it may be  
13 awhile till we know the answer, but...

14 REPRESENTATIVE PETRARCA: You know,  
15 we can -- I think we can criticize, you know,  
16 certain aspects of -- of state government  
17 across the board and, you know, the turnpike,  
18 I'm sure, falls in that category also.

19 I -- I give them credit last year, as  
20 we were talking about potential gas tax  
21 increases and the like in Pennsylvania, that  
22 they -- they stepped forward with a lot of the  
23 information that led to -- eventually led to  
24 Act 44. I think they did a good job, good job  
25 when they did that.

1           I -- I guess what -- what I find very  
2 interesting is that a lot of us in the  
3 legislature look at the Turnpike Commission  
4 and the administration as the same, to a large  
5 extent, and -- and not really understand why  
6 the -- why the commission is over here and the  
7 administration is over here and this issue.

8           It doesn't -- it almost doesn't seem  
9 real to a lot of us.

10           DEPUTY CHIEF KIENITZ: I used to  
11 think that, too.

12           REPRESENTATIVE PETRARCA: Okay.  
13 Okay. Last thing, Mr. Chairman.

14           The make-up of the board of the  
15 turnpike, the make-up of the board, the  
16 commission, why doesn't the House -- why isn't  
17 the House not involved in that?

18           DEPUTY CHIEF KIENITZ: I will use the  
19 phrase of the gentleman from earlier, that I  
20 believe that's above my pay grade.

21           REPRESENTATIVE PETRARCA: Well, I --

22           DEPUTY CHIEF KIENITZ: I have nothing  
23 to do with that and that from time immemorial  
24 that's the way it's been and --

25           REPRESENTATIVE PETRARCA: If the

1 administration -- you personally -- if the  
2 administration has nothing to do with that,  
3 you know, who does? Who can change that?

4 DEPUTY CHIEF KIENITZ: That is a  
5 matter of law. And as I believe that the bill  
6 approved by the House earlier this year would  
7 have affected a change in that and added two  
8 members, I believe, one by the majority and  
9 one by the minority of the House, and, as I  
10 understand it, that was something that the  
11 Senate members negotiating the bill were --  
12 rather strongly objected to and it ultimately  
13 was not included in the final bill.

14 REPRESENTATIVE PETRARCA: Well, I  
15 would -- I would -- I would ask that the  
16 administration take a tougher stance to see  
17 that the House has a seat at that table, so to  
18 speak.

19 Thank you, Chairman.

20 CHAIRMAN MARKOSEK: Representative  
21 Siptroth.

22 REPRESENTATIVE SIPTROTH: Thank you,  
23 Mr. Chairman.

24 Good morning.

25 DEPUTY CHIEF KIENITZ: Good morning,



1 sir.

2 REPRESENTATIVE SIPTROTH: Just a  
3 couple questions. I agree a hundred percent  
4 with Representative Haluska. At some point  
5 maybe this Capitol could be leased to a  
6 foreign entity and, you know, we could derive  
7 funds to run the state.

8 And I really have very deep concerns  
9 about the long-term lease of the turnpike. I  
10 just wanted to know if you knew how much money  
11 was flexed from the federal highway trust fund  
12 to mass transit over the last ten years? Do  
13 you have any idea at all --

14 DEPUTY CHIEF KIENITZ: Oh.

15 REPRESENTATIVE SIPTROTH: -- and what  
16 kind of money on that?

17 DEPUTY CHIEF KIENITZ: I'm familiar  
18 with the action that was taken in 2004 moving  
19 into 2005, and I believe that was 451  
20 million. I'm not sure I have that exactly  
21 right.

22 There may -- if you're talking about  
23 the last ten years, I think that there were  
24 some actions that predated the Rendell  
25 administration --

1           REPRESENTATIVE SIPTROTH:  And  
2           also I'm not picking on the Rendell  
3           administration --

4           DEPUTY CHIEF KIENITZ:  -- and the  
5           funds were flexible.  I don't --

6           REPRESENTATIVE SIPTROTH:  -- by any  
7           means.  I'm just trying --

8           DEPUTY CHEF KIENITZ:  The number --  
9           total number of ten years may be more than  
10          that, but the part I know about is the 450  
11          that we did.

12          REPRESENTATIVE SIPTROTH:  Okay.  That  
13          was just a one time --

14          DEPUTY CHIEF KIENITZ:  It was --

15          REPRESENTATIVE SIPTROTH:  Wasn't it  
16          also the following year?

17          DEPUTY CHIEF KIENITZ:  It was single  
18          plan that executed over a period of years.

19          REPRESENTATIVE SIPTROTH:  Oh, okay.  
20          So the \$450 million.  That's -- that's the  
21          only question I had.  Thank you very much.

22          Thank you, Mr. Chairman.

23          CHAIRMAN MARKOSEK:  Thank you.

24          Representative Ron Marsico.

25          REPRESENTATIVE MARSICO:  Thank you,

1 Mr. Chairman.

2 Thanks for your testimony, sir.

3 DEPUTY CHIEF KIENITZ: Sir.

4 REPRESENTATIVE MARSICO: A couple of  
5 points here. I agree with Representative  
6 Petrarca on the one issue that he made about  
7 that the Governor can help get the House  
8 members involved with that bill, the Turnpike  
9 Commission. That would be great. So we  
10 certainly would like to see that. Please give  
11 my regards to the Governor on that.

12 DEPUTY CHIEF KIENITZ: I will do.

13 REPRESENTATIVE MARSICO: A question.  
14 This whole -- this is a major, major public  
15 policy transportation issue.

16 Has the -- your office, the  
17 administration, reached out to the  
18 transportation leaders in the Commonwealth, to  
19 transportation leaders of this committee, the  
20 experts, those that have been working with  
21 these types of public policy, very important  
22 transportation/highway issues?

23 Have you reached out to chairs?

24 DEPUTY CHIEF KIENITZ: I know that --  
25 excuse me. I know I personally have had many

1 a conversations with Mr. Markosek and with  
2 Mr. Geist, who is not here today, on this  
3 issue, and their staffs.

4 I have had many a conversation with  
5 Senator Madigan and with Senator Stout about  
6 all of this and, you know, have heard at great  
7 length their -- their views on the general  
8 topic.

9 I think our -- you know, our -- our  
10 plea really has mostly been, let's make the  
11 decision based on the particulars at the  
12 appropriate time rather than try to decide in  
13 advance based on what we think it might be.

14 That -- that's really our major point  
15 that I'm trying to make here today, which is,  
16 if, at the end of the day, you look at the  
17 actual size of the bid, the actual terms and  
18 conditions, what the risks are, how it  
19 compares to Act 44 and what those risks are,  
20 and you decide that you'd prefer not, you  
21 know, we may have a disagreement over that but  
22 at least it will be based on the pertinent  
23 facts at the time.

24 REPRESENTATIVE MARSICO: Oh, I think  
25 it was Representative Petrarca that asked

1 about the other revenue sources that is  
2 possible for funding --

3 DEPUTY CHIEF KIENITZ: Uh-huh.

4 REPRESENTATIVE MARSICO: -- of  
5 transportation projects. And you mentioned a  
6 few other items, tolling, et cetera.

7 DEPUTY CHIEF KIENITZ: Uh-huh.

8 REPRESENTATIVE MARSICO: Other  
9 sections of 80 or whatever it was. 95.

10 DEPUTY CHIEF KIENITZ: Uh-huh.

11 REPRESENTATIVE MARSICO: Have you  
12 thought about restructuring or reconfiguring  
13 the motor license fund, distribution of the  
14 monies? In other words, there's an awful lot  
15 of money that doesn't go towards highway and  
16 bridge repair and/or maintenance.

17 DEPUTY CHIEF KIENITZ: You're talking  
18 about State Police and Weights and Measures  
19 and that kind of stuff?

20 REPRESENTATIVE MARSICO: Yeah.

21 DEPUTY CHIEF KIENITZ: I think as a  
22 policy matter that's not an issue that we  
23 stand on principle on. It's really for us  
24 a -- a practical matter of if you take the  
25 State Police and these other things out of the

1 motor license fund --

2 REPRESENTATIVE MARSICO: Right.

3 DEPUTY CHIEF KIENITZ: -- the State  
4 Police and those other things still have to be  
5 paid for somehow. These are intricate and  
6 necessary functions of government.

7 REPRESENTATIVE MARSICO: Have you  
8 looked at any other kind of alternatives where  
9 some other fund would fund the State Police  
10 and those dollars would go to --

11 DEPUTY CHIEF KIENITZ: We have never  
12 been able to find any fund which is 500  
13 million every year to the positive that is  
14 somehow not allocated towards something.

15 I think the brutal reality of it is  
16 if you want to move \$500 million of expenses  
17 every year out of the motor license fund, you  
18 either have to raise \$500 million a year in  
19 revenue or cut \$500 million a year out of some  
20 other portion of government.

21 And each of us might be able to say  
22 individually, well, I have a plan to cut 500  
23 million or I know where to raise it. But the  
24 issue really is can the totality of everyone  
25 agree on a single plan to do those things and

1 that has really been where it has fallen short  
2 here.

3 REPRESENTATIVE MARSICO: Well,  
4 perhaps the administration could guide us  
5 in -- give us some direction in terms of  
6 taking a lead on maybe looking at a  
7 reconfiguration of that with some ideas and,  
8 you know, just throw some things out there  
9 that there -- because I think it's the  
10 administration's responsibility to do that.

11 DEPUTY CHIEF KIENITZ: I'm happy to  
12 have another look at it.

13 REPRESENTATIVE MARSICO: Some ideas.  
14 If you guys can take the lead. I think that  
15 was it.

16 Now, one more thing. With regard to  
17 if -- if this would go through, would there a  
18 competitive bidding process under your  
19 recommend -- recommendations here on the  
20 leasing?

21 DEPUTY CHIEF KIENITZ: The prog --  
22 process we're running right now is that, as  
23 probably most of you know, we put out a  
24 request for qualifications in the fall in  
25 which firms who believed that they were

1 qualified to participate in this transaction,  
2 which is to say that they actually have the  
3 financial wherewithal to do it and they have  
4 -- or is one of their affiliates a company  
5 which has, you know, substantial first class  
6 operating experience in operating toll roads  
7 somewhere and has a track record to express  
8 their interest.

9 We have since been working with those  
10 folks over the last many months to both  
11 investigate their qualifications, give them  
12 time to put together the financing packages  
13 necessary, and for us to really make all the  
14 decisions necessary to put together the  
15 gargantuan document that would be the terms  
16 and conditions under which the bid would be  
17 made.

18 At some point our goal is to lock  
19 down the draft and say, this is the final  
20 thing. Please give us bids on this contract,  
21 by this date.

22 And so that's the competitive process  
23 that's going on. And this is really following  
24 pretty exactly the process that went on in  
25 Indiana, for example.



1           And when that has been done, we will  
2           come forward and say, here's the amount of the  
3           high bid, here's the terms and conditions that  
4           led to that particular amount of bid, and now  
5           we want to present that to you all, a piece of  
6           legislation that would allow that bid to be  
7           accepted and implemented and then you all will  
8           presumably study that and come to your own  
9           conclusions about what you think of it or  
10          whether you think it's strong or weak, or  
11          whatever that is, but that the -- that the  
12          number that we unveil will have been the  
13          result of a competitive process that had  
14          occurred up until that point.

15                 REPRESENTATIVE MARSICO:   So in  
16                 essence once you determine who is qualified --

17                 DEPUTY CHIEF KIENITZ:   Uh-huh.

18                 REPRESENTATIVE MARSICO:   -- then it  
19                 will be competitive?

20                 DEPUTY CHIEF KIENITZ:   Right.  I  
21                 think we had originally intended -- we had  
22                 originally intended to say, well, this group  
23                 is qualified and these people are not  
24                 qualified.

25                 REPRESENTATIVE MARSICO:   Right.

1           DEPUTY CHIEF KIENITZ:  And as we got  
2           into it what we realized is that that's  
3           something honestly that really sorts itself  
4           out.  The people who can't -- you know, a  
5           number of people have sort of -- you know, I  
6           do not expect to get bids from all of the  
7           groups that we have worked with over that  
8           period of time.

9           The people who are really seriously  
10          working are the ones who are major global  
11          firms that everyone has heard of and that have  
12          major financial partners and major operating  
13          partners that are the top firms in the country  
14          and the world that do this.

15          So, you know, we had, you know, a  
16          very large group at beginning.  It's going to  
17          be a smaller group at the end.  But that, you  
18          know, that competitive process is --

19          REPRESENTATIVE MARSICO:  I'm not  
20          quite sure if I understand.

21          DEPUTY CHIEF KIENITZ:  Yes, sir.

22          REPRESENTATIVE MARSICO:  I was -- in  
23          a previous life I was a landscape contractor.

24          DEPUTY CHIEF KIENITZ:  Uh-huh.

25          REPRESENTATIVE MARSICO:  And I bid on

1 a number of projects in Pennsylvania. And, of  
2 course, I had to produce a bond and things  
3 like that, performance bonds and get qualified  
4 and all that.

5 CHIEF DEPUTY KIENITZ: Uh-huh.

6 REPRESENTATIVE MARSICO: But when I  
7 gave my bid for a project, it was a sealed,  
8 competitive -- it was a bid --

9 DEPUTY CHIEF KIENITZ: Uh-huh.

10 REPRESENTATIVE MARSICO: -- for the  
11 project.

12 DEPUTY CHIEF KIENITZ: Uh-huh.

13 REPRESENTATIVE MARSICO: You're --  
14 you're doing the same thing?

15 DEPUTY CHIEF KIENITZ: Absolutely.

16 REPRESENTATIVE MARSICO: Okay.

17 DEPUTY CHIEF KIENITZ: Sealed  
18 competitive bids.

19 REPRESENTATIVE MARSICO: Yeah.

20 DEPUTY CHIEF KIENITZ: With a bond  
21 posted and that if they give us a bid and we  
22 go to show up to sign the deal and they're not  
23 there, we keep their money and it's the same  
24 sort of --

25 REPRESENTATIVE MARSICO: All right.

1 Thank you, Mr. Chairman.

2 DEPUTY CHIEF KIENITZ: And it would  
3 be quite a bit of money we'd be able to keep  
4 so...

5 CHAIRMAN MARKOSEK: Okay. Thank you.  
6 Thank you.

7 Just before I recognize  
8 Representative Gerber and Mark Keller for some  
9 last comments, while we're on that, I'm glad  
10 that Chairman Marsico brought that up.

11 You know, we've requested, Roy, from  
12 you, information and really the Governor has  
13 signed the Open Records Act.

14 DEPUTY CHIEF KIENITZ: Uh-huh.

15 CHAIRMAN MARKOSEK: He's our  
16 Governor. We passed it. And we have  
17 requested. I know Chairman Madigan has  
18 requested information regarding these bids.

19 We do have a list of the people who  
20 you sent these -- or who have responded, but  
21 we don't have any other information about any  
22 of these bids. And it is the legislature, and  
23 primarily this committee first, that will have  
24 to deal and make the decision relative to  
25 whether we accept any of these bids on a

1 concessionaire agreement.

2           And yet we don't have information and  
3 we have -- every legislator up here has been  
4 subjected to the media, and rightfully so, for  
5 all of our records, our receipts for lunch  
6 from six months ago, but yet information  
7 dealing with the sale of a huge Pennsylvania  
8 asset, billions of dollars, and we can't get  
9 information out of your office relative to  
10 this, and we've asked for it. We've asked for  
11 it formally and so has the Senate.

12           So I think, you know, we heard  
13 earlier the Commonwealth Foundation has agreed  
14 to send us information, and I think every  
15 member of this committee would like to see  
16 that information from you as soon as possible,  
17 please.

18           DEPUTY CHIEF KIENITZ: I'll respond  
19 to that simply by saying we don't have any  
20 bids right now. What we have is a bunch of  
21 people on the list, that you have been given,  
22 with whom we are speaking on a daily basis  
23 about what they might bid, why they might bid,  
24 whether they might bid.

25           We don't know who is going to bid

1 because we haven't reached that date. We  
2 don't know what they're going to bid on  
3 because we have not finalized a document that  
4 we want them to bid on.

5 And I would liken it to the process  
6 that we go through every year with the  
7 presentation of the Governor's budget. The  
8 first week in February the Governor stands up,  
9 makes a presentation, we get the big fat  
10 books, we hand them out to everybody.

11 But I also get all sorts of calls in  
12 January, saying, well, what is the Governor  
13 doing? What's he going to propose? How much  
14 is going to be in there for this program? How  
15 much is going to be in there for that  
16 program?

17 And the answer is in the middle of  
18 January we're working on it. We can't give  
19 you the answer. We don't have the answer.  
20 And when we have the answer, that's when we  
21 give it to you.

22 And this is unfortunately a much more  
23 protracted period of uncertainty and, you  
24 know, certainly --

25 CHAIRMAN MARKOSEK: Maybe we --

1           DEPUTY CHIEF KIENITZ:    -- as painful  
2           for me as anyone else given the amount of time  
3           I have to spend on it.  But it is every  
4           intention of ours to release all of it once we  
5           have a thing that is the actual proposal that  
6           we're going to make.

7           Right now it's we don't have an  
8           actual proposal.

9           CHAIRMAN MARKOSEK:  May we see what  
10          you sent them?  May we see your requests?  
11          Your requests for information, your requests  
12          for quotes?  What are you asking them?

13          And, you know, we've heard through  
14          this committee that we're going to get that --  
15          at some point in time the winning bid, so to  
16          speak, and say, here, here's the one we  
17          selected, without necessarily showing us the  
18          others.

19          And I think -- you know, I think in  
20          the spirit of open records, Roy, and I'm not  
21          getting on -- I don't want to attack you  
22          personally here today.

23          DEPUTY CHIEF KIENITZ:  Right.

24          CHAIRMAN MARKOSEK:  It's not my -- my  
25          intent.  But I think this committee as a whole

1 and this legislature as a whole, and the  
2 public, in the spirit of open records, we need  
3 to see information, as much as you have on  
4 this right now, and would you, please, send it  
5 to the committee as soon as possible?

6 And with that I'll recognize  
7 Representative Gerber.

8 REPRESENTATIVE GERBER: Thank you  
9 Mr. Chairman.

10 This question is for Mr. Kienitz and  
11 also, Mr. Collins, if you want to chime in,  
12 please feel free.

13 But my understanding is there have  
14 been only two projects with existing  
15 infrastructure where a state or a public  
16 entity has leased them, one in Indiana and one  
17 in Chicago. Is that accurate?

18 DEPUTY CHIEF KIENITZ: In the U.S.

19 REPRESENTATIVE GERBER: In the U.S.  
20 Thank you.

21 DEPUTY CHIEF KIENITZ: Yeah.

22 REPRESENTATIVE GERBER: And there's  
23 some others where some other private  
24 partnerships have been used for new  
25 infrastructure, Texas, California, some other



1 states. Is that right?

2 MR. COLLINS: Uh-huh.

3 REPRESENTATIVE GERBER: Are there any  
4 other existing infrastructure projects where  
5 we have public/private partnerships other than  
6 Chicago and Indiana?

7 DEPUTY CHIEF KIENITZ: Not for  
8 roadways.

9 MR. COLLINS: Well, there are a  
10 couple, I mean just specifically to the -- to  
11 the question, as Mr. Kienitz described, for  
12 outside roadways the city of Chicago also did  
13 sign a 99-year concession lease on the Chicago  
14 parking garages for \$563 million.

15 They're supporting a process for  
16 Midway Airport right now. Other precedent  
17 toll road transactions that weren't identical  
18 to the Skywalk or Indiana Toll Road are the  
19 Pocahontas Parkway and the Northwest Parkway.

20 REPRESENTATIVE GERBER: Okay.  
21 Great. And both from an financial standpoint  
22 and an operational standpoint, can you just  
23 comment on the success of those projects, if  
24 it's not too early to?

25 DEPUTY CHIEF KIENITZ: I would say

1 from an operational point of view, it's been  
2 seamless. I mean I -- my in-laws live in  
3 Wisconsin, and so we drive out there. I drive  
4 on the Indiana Tollway. I drive on the  
5 Chicago Skyway and it is -- nothing has  
6 changed with regard to what the average person  
7 experiences on those roadways.

8 I was even shocked when I pulled up  
9 in front of the place to get my ticket on the  
10 Indiana Tollway, and there's a guy in a green  
11 vest standing there handing out tickets.

12 I know one of the things that  
13 Governor Daniels spoke at great length about  
14 is why is there a guy in a green vest standing  
15 there handing out tickets? You can't -- don't  
16 we have a machine to do that? Can't we reduce  
17 our costs?

18 So I suppose it's taken them a little  
19 while to sort of transition to whatever new  
20 management scheme they have.

21 But in terms of the financial  
22 performance of those roadways, there's some  
23 mention of -- of that was made earlier. You  
24 know, for -- for our purposes, the question of  
25 who finances the performance once the deal is

1 done, that's a risk that is borne entirely by  
2 the concessionaire and whatever goes well or  
3 poorly for them ultimately doesn't affect our  
4 ability to do what we want, which is take the  
5 proceeds and improve roads and bridges.

6 REPRESENTATIVE GERBER: Okay. Just  
7 going back to the operation. I appreciate the  
8 anecdotal comment. But in -- either of you  
9 can answer this, and maybe you're in the  
10 better position to do it in having analyzed  
11 these systems, I assume, as part of putting  
12 together the information you put together for  
13 the administration.

14 But are we hearing about maintenance  
15 breakdowns? Are we hearing about workforce  
16 issues with those two projects?

17 MR. COLLINS: No. I was involved for  
18 three years structuring the Chicago Skyway  
19 transaction. And, in fact, the operation and  
20 maintenance of that asset has been the same or  
21 better from the city's perspective.

22 And that's why they -- they saw how  
23 successful that transaction was not just from  
24 a financial perspective but as a true  
25 partnership by -- by actually having an

1 outside party be responsible for all the  
2 structure and maintenance and then they could  
3 apply reserve powers and -- and audit them to  
4 those requirements.

5 And that's the model they used for  
6 Chicago parking garages very shortly  
7 thereafter.

8 REPRESENTATIVE GERBER: And just  
9 going to the finances of the last, the city,  
10 not the state here or the city of Chicago, but  
11 with the private entities that took them over,  
12 financially is this playing out the way they  
13 anticipated?

14 And the reason I ask is because if  
15 it's not, then we get into concerns about  
16 maintenance, then we get into concerns about  
17 cutting workforce. Can you just comment on  
18 whether or not the lessees have had the  
19 financial experience they anticipated?

20 MR. COLLINS: It's a great question.  
21 And I think that there is always volatility in  
22 traffic flows that they anticipated in their  
23 models.

24 They are long-term investors. So  
25 they aren't trying to create a quick flip and

1 sell it in three or four years, like a private  
2 equity firm would.

3 And so they're really looking for the  
4 long term to serve the municipality and the  
5 citizens and the asset. So overall these  
6 assets have performed very well.

7 REPRESENTATIVE GERBER: So is it fair  
8 to summarize that -- that both from an  
9 operational standpoint and financial  
10 standpoint, both for the lessor and the  
11 lessee, the -- the -- at least the ones here  
12 in the United States that we're aware of have  
13 been working out satisfactorily?

14 MR. COLLINS: Yes.

15 REPRESENTATIVE GERBER: Have there  
16 ever been any -- are we aware of any other  
17 public/public partnerships, like the one that  
18 we've put together with Act 44, anywhere else  
19 in the United States?

20 DEPUTY CHIEF KIENITZ: I would say  
21 Texas 121 is perhaps the example, and that's  
22 really, you know, even newer than Act 44, I  
23 think, and so it's really hard.

24 I mean that was one of these very  
25 messy processes whereby the state went out to

1 do a public/private partnership to build this  
2 large new roadway. They didn't want to spend  
3 the cash to do it. They wanted these guys to  
4 come in and spend the cash and then they would  
5 pay them a certain amount per year over time.

6 That -- you know, a winner was  
7 picked. The legislation was passed. It was  
8 agreed to. And then a bunch of people got  
9 buyers from Morris (phonetics), and then there  
10 was a whole big messy thing that happened, and  
11 I guess now it's ultimately ended up in the  
12 hands of a public agency to do the project.

13 But I -- I would -- I don't think  
14 anyone's really in a position to say whether  
15 that's going well or not.

16 REPRESENTATIVE GERBER: Is that  
17 leasing an existing structure or is that for a  
18 new infrastructure project?

19 DEPUTY CHIEF KIENITZ: It was new.  
20 It's a new Greenfield project.

21 REPRESENTATIVE GERBER: All right.

22 MR. COLLINS: And the other only  
23 comparable Brownfield project is being  
24 proposed by Governor Corzine in New Jersey.  
25 So it's proposed toll increases of two percent

1 every four years or so.

2 DEPUTY CHIEF KIENITZ: I can -- I can  
3 assure you that we're not going to propose  
4 that.

5 REPRESENTATIVE GERBER: Thank you.  
6 That will conclude. Thank you.

7 CHAIRMAN MARKOSEK: Thank you.

8 Representative Mark Keller.

9 REPRESENTATIVE KELLER: Thank you,  
10 Mr. Chairman.

11 Thank you again for your testimony.

12 DEPUTY CHIEF KIENITZ: Yes, sir.

13 REPRESENTATIVE KELLER: I think that  
14 all the testimony this morning was absolutely  
15 very informative and will help us in our  
16 future decisions here with this.

17 As an elected official from the area  
18 that I come from, being very conservative  
19 people, I'm hearing -- and I'm using this  
20 forum for you to take something back to the  
21 Governor and I'd ask that you do this on  
22 behalf of my constituents, that the CEO of the  
23 turnpike, which is an appointment of the  
24 Governor, they don't feel that the turnpike  
25 needs to be doing ads on TV. Okay?

1           DEPUTY CHIEF KIENITZ: I think we can  
2 agree there.

3           REPRESENTATIVE KELLER: So just --  
4 just want to make that -- because they've  
5 elected me to be their voice in Harrisburg  
6 and, you know, I wanted you to be aware of  
7 that.

8           Thank you.

9           CHAIRMAN MARKOSEK: Okay. Thank you,  
10 Representative.

11           And just one brief question I  
12 have again --

13           DEPUTY CHIEF KIENITZ: Yes, sir.

14           CHAIRMAN MARKOSEK: -- Roy, is  
15 relative to the Mon-Fayette Expressway --

16           DEPUTY CHIEF KIENITZ: Yes, sir.

17           CHAIRMAN MARKOSEK: -- which is one  
18 of perhaps several side projects that the  
19 turnpike has been involved in over the years  
20 and legislatively has -- is under the auspices  
21 to work that project.

22           And it's very important to me, of  
23 course, in my area that I represent.

24           DEPUTY CHIEF KIENITZ: Uh-huh.

25           CHAIRMAN MARKOSEK: Under any of



1 the -- the bids has that been discussed, is  
2 that included, potential money for that, it  
3 would be a Greenfield project, you know, under  
4 any of the concessionaire situations that  
5 you've had -- had requested?

6 DEPUTY CHIEF KIENITZ: I would say  
7 that there's sort of a two -- that question  
8 can be answered sort of in two ways.

9 The first of which is what is our  
10 thinking about what the bounds of the lease  
11 would be for. Would we -- would the -- the  
12 actual mileage of the Mon Fayette Expressway  
13 as it currently exists and to be constructed  
14 be included in the package lease to the  
15 private concessionaire, and our concept at the  
16 moment is, no, it would be not be.

17 And most of that is because it's  
18 large -- obviously a large net negative in  
19 terms of the -- the cash position that puts us  
20 in because the construction remains and the  
21 construction costs are many billions of  
22 dollars.

23 The second question, which is would a  
24 lease put us in the position to do something  
25 about the hole in the budget for that project,

1 and that's really sort of unknown. What --  
2 what we would get is a lease of a roadway, a  
3 signed contract, money in the bank of a  
4 certain amount, and then the question occurs:  
5 How do we manage that money? Do we give it to  
6 SERS to invest over time and they charge a  
7 management fee and we pay that to PennDOT or  
8 -- and how is it allocated? What projects  
9 does it go to?

10 I would call that sort of a separate  
11 set of decisions which we just haven't really  
12 engaged in yet because, you know, the question  
13 has not yet been put.

14 CHAIRMAN MARKOSEK: Okay. I would  
15 just suggest that that is something that needs  
16 to be thought of.

17 DEPUTY CHIEF KIENITZ: Uh-huh.

18 CHAIRMAN MARKOSEK: And if we don't  
19 do it through a concession, we need to think  
20 of another way to perhaps come up with at  
21 least some of the public portion. And I  
22 understand it has to be a public/private  
23 partnership to get -- to even think about  
24 getting that project done.

25 But with that, Roy, Mr. Collins,

1 thank you very much. Great testimony.

2 DEPUTY CHIEF KIENITZ: Thank you,  
3 sir.

4 CHAIRMAN MARKOSEK: As for all the  
5 folks here today, I want to thank the members  
6 and all the guests who were here, and I will  
7 say our next Transportation meeting is a  
8 hearing on April 10th; Tuesday, April 10th,  
9 here in Room G-50, at 9:30 a.m. and the  
10 subject of that hearing will be diesel idling  
11 of the trucking industry and their diesel  
12 idling issues.

13 So with that, the meeting is  
14 adjourned. Thank you.

15 DEPUTY CHIEF KIENITZ: Thank you.

16 (The proceedings were concluded at  
17 11:03 a.m.)  
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I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

\_\_\_\_\_  
Brenda S. Hamilton, RPR  
Reporter - Notary Public