

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

HOUSE STATE GOVERNMENT COMMITTEE
SENATE STATE GOVERNMENT COMMITTEE
JOINT PUBLIC HEARING

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HARRISBURG, PENNSYLVANIA

TUESDAY, SEPTEMBER 10, 2019
10:00 A.M.

PRESENTATION ON
REAL ESTATE MODERNIZATION

BEFORE:

HONORABLE MICHAEL FOLMER, SENATE MAJORITY CHAIRMAN
HONORABLE GARTH D. EVERETT, HOUSE MAJORITY CHAIRMAN
HONORABLE KEVIN BOYLE, HOUSE MINORITY CHAIRMAN
HONORABLE RUSS DIAMOND
HONORABLE MATTHEW DOWLING
HONORABLE CRIS DUSH
HONORABLE MATTHEW GABLER
HONORABLE SETH M. GROVE
HONORABLE DAWN KEEFER
HONORABLE ANDREW LEWIS
HONORABLE BRETT MILLER
HONORABLE FRANCIS RYAN
HONORABLE MICHAEL REGAN
HONORABLE FRANCIS RYAN
HONORABLE JEFF WHEELAND
HONORABLE JOSEPH CIRESI
HONORABLE PAMELA DELISSIO
HONORABLE JOSEPH HOHENSTEIN
HONORABLE JOSEPH WEBSTER
HONORABLE JOHN GORDNER
HONORABLE KATIE MUTH
HONORABLE KRISTIN PHILLIPS-HILL
HONORABLE JUDY WARD

HOUSE COMMITTEE STAFF PRESENT:

SUSAN BOYLE
MAJORITY EXECUTIVE DIRECTOR
CHANIN ZWING
MAJORITY LEGISLATIVE ADMINISTRATIVE ASSISTANT
MATT RINDFUSS
MAJORITY RESEARCH ANALYST
MELANIE DONNELLY
MAJORITY RESEARCH ANALYST
NICK HIMEBAUGH
DEMOCRATIC EXECUTIVE DIRECTOR
KATHY SEIDL
DEMOCRATIC RESEARCH ANALYST
MATT HURLBURT
DEMOCRATIC RESEARCH ANALYST
JEFF STUBY
DEMOCRATIC RESEARCH ANALYST

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*Pennsylvania House Of Representatives
Commonwealth of Pennsylvania*

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SUBMITTED WRITTEN TESTIMONY

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(See submitted written testimony and handouts online.)

P R O C E E D I N G S

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SENATE MAJORITY CHAIRMAN FOLMER: Well, good morning, and welcome to today's hearing.

When I first became chair of the Senate State Government Committee, I learned that one of the areas the Committee had oversight was known to me as land conveyances, which I assumed was basically various types of exchanges of Commonwealth property that had been all worked out, and that the General Assembly sign off through the legislation, was nothing more than the last step in the process.

As I'm now midway in my third term as chair of the Committee, I have come to realize that the process can be a bit more complicated than that. We have seen challenges as minor as delays in the passage of legislation to as major as exchanges falling through altogether.

The Department of General Services has suggested many times to me that what they refer to as real estate modernization is the key to avoiding many of these difficulties from happening in the future.

My goal here today, and our goal here today, is to gain better understanding of just what this entails, and I'm looking forward to the discussion.

I'm also pleased that the House State Government

1 Committee wanted to make this a joint hearing in order that
2 they too may have a better picture of this concept. I want
3 to take this opportunity to thank Chairman Everett and his
4 staff for working with me and my staff to coordinate this
5 hearing.

6 We very much appreciate your cooperation, sir.

7 With that, I'm going to turn it over to Chairman
8 Everett for some remarks.

9 Chairman Everett.

10 HOUSE MAJORITY CHAIRMAN EVERETT: Very brief
11 remarks. I want to thank the folks from DGS for coming in
12 today to educate us on the land conveyance process and
13 maybe what we can do to make it work better.

14 It is a little cumbersome at this point. So,
15 yeah, look forward to hearing from you.

16 And I want to thank Chairman Folmer and his staff
17 for putting us together in what I think will be very
18 productive for us.

19 Thank you, Chairman Folmer.

20 SENATE MAJORITY CHAIRMAN FOLMER: I thought it
21 was on.

22 Secretary Topper, would you please introduce
23 those at the table with you and then provide us with some
24 brief remarks.

25 SECRETARY CURT TOPPER: Thank you, Chairman

1 Folmer, Chairman Williams, Chairman Everett, and Chairman
2 Boyle for the opportunity to be here today.

3 I am joined at the table by Marc Ferraro from the
4 Pennsylvania State Police -- wow, all Marcs with a C, how
5 about that?

6 Colonel Mark Ferraro from the Pennsylvania State
7 Police; Marc Infantino, also from Pennsylvania State
8 Police; and Major Edward Hoke -- oh, I'm sorry. Marc
9 Ferraro from Military and Veterans Affairs.

10 I'm a little nervous. Forgive me.

11 Anyway, PSP and DMVA both wanted to be here today
12 so that they could share a customer's perspective on the
13 real estate process around real estate disposition as well
14 as challenges that we've had associated with the leasing
15 process. And so I'm grateful to them for being here.

16 I have submitted formal written testimony that I
17 won't bother to read. But I wanted to just share a couple
18 of additional thoughts in addition to the testimony.

19 First, I want to say thank you to all of you for
20 being here today because this isn't an especially sexy
21 topic, right? It's not the kind of thing that's likely to
22 capture the imagination of the general public.

23 It's a set of processes and procedures that I
24 think is largely taken for granted by our constituents.
25 And if our constituents only knew what was involved in the

1 state's process in order to put a lease in place, or in
2 order to sell a piece of property, they might be astounded.

3 I think our constituents tend to take for granted
4 that we do things a lot more efficiently than we tend to
5 do. I think our constituents tend -- might be a bit
6 dismayed to learn that this general set of rules that we
7 follow, as established by statute, had been in place for 90
8 years.

9 So I'm grateful to all of you for taking an
10 interest in this topic even though it's not particularly
11 high profile. It's really important, and it's really
12 important because of the scale.

13 Pennsylvania either owns or leases more than 15
14 million square feet of primarily office space, but office
15 space, warehouse space, LCB stores, that sort of thing, to
16 the tune of hundreds of millions of dollars in capital
17 improvement costs, in lease costs. And the market for
18 commercial real estate, both as a buyer, as a lessor, or as
19 a seller, has changed very dramatically over the last 90
20 years. I think we could all agree.

21 Secondly, the changes that we would propose --
22 and they are really comprehensive. The changes that we
23 would propose are really important because of culture.

24 So we've been working at DGS to try to create and
25 sustain a workplace culture that is focused on continuous

1 improvement. It's focused on lean transformation; that's
2 really focused on trying to make government work in a way
3 that's as efficient as we can make it. And I think that
4 taken by themselves any of the changes that we would
5 propose, you know, might be dismissed as really not worth
6 the effort, right? You might conclude that it's just --
7 these are small bureaucratic inconveniences, right?

8 So we're required to advertise every real estate
9 sale in the newspaper, even though no one advertises real
10 estate sales in the newspaper.

11 All right. Well, so what. Well, you know, big
12 deal. But it matters for the people who do the work,
13 right? The people who do the work know that best practice
14 isn't to advertise your real estate in the newspaper.

15 And so, these requirements are dispiriting for
16 the people who do the work. These requirements undermine
17 the kind of culture that we're trying to build and make it
18 harder for us to build a culture that is continuously
19 focused on continuous improvement.

20 Another example is the Board for -- the Board of
21 Commissioners for Public Grounds and Buildings, which is a
22 board that consists of the Department of General Services,
23 the Office of the Budget, and the Treasurer --
24 representatives of the Treasurer.

25 The Board meets across the hall in a hearing room

1 here in this building every three weeks, and they review
2 lease transactions, procurement sole source transactions,
3 vehicle purchases, things of that nature. It was
4 established in 1929.

5 As I sit here today, I can tell you without a
6 doubt that every function of the Board is 100 percent
7 redundant with otherwise available, much more efficient
8 control processes that are available to us for every other
9 type of contract that we put in place.

10 I'd propose that you all take seriously the
11 prospect of perhaps eliminating that Board and allowing us
12 to move forward in a manner that's dramatically more
13 efficient. Again, because the people who do the work
14 recognize that when we're up against these kinds of
15 procedures and these kinds of statutory requirements, they
16 make the work harder.

17 So I'm here -- I'm grateful for your interest and
18 grateful for your offer to help, and I'm anxious to work
19 with you to develop language that gets us to where we want
20 to go.

21 Thank you.

22 SENATE MAJORITY CHAIRMAN FOLMER: Well, again,
23 thank you, Mr. Secretary, for being here today.

24 I'm going to open with a few questions, and I
25 will pass it off to other members of -- that are sitting up

1 here today.

2 Would you explain the current procedures for the
3 exchange and/or sale of Commonwealth property as it is my
4 understanding there are several different processes that
5 can apply.

6 Would you please explain?

7 SECRETARY CURT TOPPER: Sure.

8 So currently, in order to sell a piece of
9 property once an agency has declared it surplus, it
10 requires an act of the General Assembly. The original
11 statute required that the Department submit an annual
12 disposition plan that assembled all of the potential
13 parcels for sale on an annual basis, and we were to present
14 that to the General Assembly.

15 We have largely abandoned that process at around
16 the start of the administration largely because it added
17 significant delay because basically nothing could move
18 until it was on the disposition plan.

19 So alternatively within the statute we have the
20 ability to present individual parcels as individual pieces
21 of legislation, and we've gone that route ever since the
22 beginning of the administration because waiting until an
23 annual plan gets put together meant basically waiting as
24 much as a year before we could move forward on the sale of
25 a property.

1 So the process is the agency determines they no
2 longer need the parcel or the building. The agency informs
3 DGS, and then we begin a process involving the General
4 Assembly to draft a piece of legislation that authorizes us
5 to execute the sale. And depending on how long that piece
6 of legislation can take, we typically are in a holding
7 pattern.

8 The statute requires that we get the property
9 assessed. It requires that we sell the property to the
10 highest bidder at a number north of the -- or rather,
11 forgive me, appraisal -- at a number north of the
12 appraisal.

13 All of these factors can delay the sale. If by
14 chance we do a public bid and we don't get bids that are
15 north of the appraisal, we are unable to sell it. We have
16 to go back out to market and rebid it.

17 And that as I mentioned in my written testimony,
18 one of the things we've discovered over the last few years
19 is that the real pain in this process is due to time. So
20 as it turns out, our carrying costs for Commonwealth
21 properties take -- you know, the Harrisburg annex property,
22 the state hospital property here, or SCI Cresson, or fill
23 in the blank, any property that we might have surplussed
24 over the last ten years.

25 The real challenge is the length of time that it

1 takes to get it sold and off the books because during that
2 time we will likely spend more than the property is worth
3 to maintain the property while it's pending sale. So cycle
4 time here really matters.

5 And so one of the things we would propose is to
6 allow the General -- or rather to allow the Department of
7 General Services to proceed with property sales in a
8 process that still involves the General Assembly but rather
9 doesn't require a specific piece of legislation for every
10 single parcel.

11 Specifically what we would propose is something
12 akin to what we're planning to do based on a piece of
13 legislation passed a few months ago sponsored by Senator
14 Brown for Allentown State Hospital.

15 Specifically we would propose the ability to do a
16 best value sale and involve the members of the General
17 Assembly who are closest to the property in the
18 determination of which proposal constitutes best value.

19 I don't know if that's helpful but --

20 SENATE MAJORITY CHAIRMAN FOLMER: It was. I was
21 going to -- you kind of answered my second question.

22 SECRETARY CURT TOPPER: Sorry.

23 SENATE MAJORITY CHAIRMAN FOLMER: Because I was
24 going to have you explain to me, and explain to us, what
25 real estate modernization as opposed -- what you would like

1 to see as opposed to what is presently happening.

2 SECRETARY CURT TOPPER: Uh-huh.

3 SENATE MAJORITY CHAIRMAN FOLMER: And you kind of
4 touched on those items.

5 Is there anything else you would like to further
6 on that?

7 SECRETARY CURT TOPPER: No -- well, I think
8 there's a fairly succinct list in the written testimony.

9 SENATE MAJORITY CHAIRMAN FOLMER: Okay.

10 SECRETARY CURT TOPPER: But primarily it's a
11 streamlined process to get approval to get properties sold.
12 It's the ability to sell property on a best value basis.
13 It's basically giving us the authority to handle easements
14 and other routine real estate transactions that are
15 associated with Commonwealth-owned property independently
16 of the General Assembly because these are things that run
17 through the General Assembly.

18 And frankly, they're -- you guys never say no.
19 They are fairly routine and they come up all the time in
20 the context of managing a very large real estate portfolio.

21 So what we'd like to do is just be engaged in a
22 conversation about where it makes sense for us to have
23 independent authority to do very, very routine things.

24 SENATE MAJORITY CHAIRMAN FOLMER: Okay. Thank
25 you.

1 I'm going to fine tune this a little bit and then
2 I'm going to open up to other members for questions.

3 What if a member of the General Assembly would
4 disagree with DGS assessment of the best value, what would
5 that member do?

6 SECRETARY CURT TOPPER: So the process that we
7 would propose, and that was outlined in the bill
8 specifically associated with Allentown State Hospital,
9 would include participation in the evaluation committee by
10 the senator or his designee who is -- you know, where
11 the -- who is -- who represents the area where the property
12 resides and also by the member of the General -- or by the
13 member of the House.

14 It is most typically those who are closest to the
15 property who have the most concern about how the property
16 is ultimately disposed of. And in my experience in the
17 five years I've been here, members have tended to defer to
18 each other with respect to the disposition of properties in
19 their districts. So what we'd like to do is involve folks
20 directly in the best value process.

21 If someone were to object, I think that's a great
22 question and I'm willing to -- I think we should work
23 together on a process that could allow that objection to --
24 you know, to have a role in the process.

25 SENATE MAJORITY CHAIRMAN FOLMER: Okay. Well,

1 thank you.

2 Chairman Everett.

3 HOUSE MAJORITY CHAIRMAN EVERETT: So how would
4 you ensure in this best value process openness and
5 transparency so that there's not a feeling that somehow
6 it's an inside deal to a particular entity, what -- would
7 you put RFPs out?

8 I mean, how would -- I mean, I'm not saying you
9 have to advertise in newspapers, that's kind of antiquated.
10 But how would we ensure that there was knowledge that the
11 property was being sold, and openness and transparency in
12 the process?

13 SECRETARY CURT TOPPER: Yeah. And thank you,
14 Chairman. That's a great question.

15 We would propose a process that is just like the
16 RFP process that we use on the procurement side of the
17 House all the time.

18 So there would be evaluation criteria. There
19 would be a scoring process. The -- and just as with the
20 award of contracts, when we award contracts on a best value
21 basis, there would be a record.

22 We would make certain that there are no conflicts
23 of interest between folks who sit on an evaluation
24 committee and, you know -- and potential proposers or
25 potential buyers. And it -- the process would be as

1 transparent as our current processes are on the RFP side.

2 And certainly folks who, in the event that there
3 were a protest or in the event that someone felt aggrieved
4 by the decision, we would create a protest process in much
5 of the same way that we have one on the procurement side.
6 So there would be room for an appeal, and we would have to
7 stay the sale until that appeal was adjudicated.

8 But I'm very, very comfortable with the way we do
9 best value on the procurement side for the award of
10 contracts. I think we have a very robust system to ensure
11 that there are no conflicts, and I think we could apply the
12 same standards here.

13 HOUSE MAJORITY CHAIRMAN EVERETT: Thank you.

14 SENATE MAJORITY CHAIRMAN FOLMER: Representative
15 Ryan.

16 REPRESENTATIVE RYAN: Gentlemen, thank you very
17 much for today and appreciate your time.

18 Real estate is -- as you so aptly indicated, is
19 probably not one of the hotter topics that come up, but yet
20 they are critically important. And the holding cost of
21 property, as an example, is typically, for government,
22 about 17 percent of the total cost. And you mentioned that
23 we have 15 million square feet rented or owned in the
24 Commonwealth.

25 The question I have though goes back to what

1 generated all of these types of controls, and since I'm
2 relatively new in government, not new in life but new in
3 government, the sale leaseback of the farm show complex is
4 probably an example, where that generated a tremendous
5 amount of angst in the legislature.

6 So how would that type of issue occur under the
7 system that you envision so that the transparency exists to
8 make sure that a valuable state asset is not inadvertently
9 transferred at below-market rates or what might be normal
10 market rates when we don't know because we didn't find out
11 about it until after the fact.

12 SECRETARY CURT TOPPER: Thank you for your
13 question.

14 The farm show lease leaseback contract was not
15 technically speaking a real estate transaction. There was
16 no transfer of real estate. It was a financial
17 transaction.

18 And so, the -- what we are proposing here to
19 manage the portfolio of real estate and the way that we
20 handle that -- all the transactions associated with the
21 portfolio of real estate is for the most part a separate
22 issue. I don't know that what we're proposing would have
23 any impact at all on the lease leaseback.

24 REPRESENTATIVE RYAN: If I could just respond to
25 that?

1 And then, Mr. Chairman, I'm finished.

2 The comment I would make to you though is in --
3 as a CPA.

4 SECRETARY CURT TOPPER: Right.

5 REPRESENTATIVE RYAN: We have an accounting for
6 leases and operations like that, that we no longer view
7 leases under the lease accounting standards as being
8 financial transactions or operating leases. They are
9 viewed as what they technically are, and I can guarantee
10 the person who in fact acquired the asset on the other side
11 has to account it for this way and it's a sale.

12 And so what we try to do, and what I worry about
13 in government, is we shouldn't, in the legislature, have to
14 have the kind of knowledge that I have as a CPA in order to
15 be a legislator.

16 SECRETARY CURT TOPPER: Uh-huh.

17 REPRESENTATIVE RYAN: And when those kinds of
18 things occur, it creates these redundant boards. It
19 creates this redundancy because people are trying to deal
20 with issues in ways that might not be prudent normally.

21 And so, my concern is that when we use something
22 that is a financing vehicle under the guise of it not being
23 a sale leaseback, when in fact in the commercial world we
24 have to treat it that way, we are inadvertently creating an
25 environment in which people don't trust government anymore.

1 And then we start getting these redundant controls that may
2 or may not add any value to the process.

3 SENATE MAJORITY CHAIRMAN FOLMER: Okay. Thank
4 you.

5 Before I go to the other folks, I just have a
6 quick follow up.

7 Major Hoke, I was struck by the comment in your
8 written testimony that says the PSP is supportive of the
9 DGS initiative to execute a lease-to-own agreement with
10 landlords.

11 I'm curious as to the level of your support. On
12 a scale of one to ten, one being low, ten being high,
13 what's the level of your support, and why you see the
14 proposed changes being beneficial to the state policy -- to
15 the state police, excuse me?

16 MAJOR EDWARD HOKE: Good morning, first and
17 foremost, Mr. Chairman, and to the members of this
18 Committee.

19 Let me begin by saying this, Secretary Topper
20 described the PSP as a customer of DGS services. And he
21 could not be more accurate in that characterization.

22 For 32 years I have been an operational commander
23 of the Pennsylvania State Police, and I've been the
24 beneficiary of the works of DGS by -- through their good
25 efforts. We've been provided with facilities, both for

1 operational needs and for training needs.

2 That being said, for the last year-and-a-half
3 I've been serving as the Acting Deputy Commissioner of
4 Staff for PSP. It's been a learning experience for me, and
5 the reason I say that to this Committee is because, much
6 like Representative Ryan, I'm new to that role, but I'm not
7 new to the role of the PSP and what our needs are.

8 I am seeing the business side of the operation of
9 PSP at this point, and I can tell you with -- it has been
10 an eye-opening experience for me to engage in that process.

11 Secretary Topper had mentioned some issues with
12 regard to timeliness of process if you will. I can tell
13 you that there is room for improvement in that area. The
14 way that the current regulations and rules provide for
15 things to be accomplished could probably be improved upon.

16 Again, many times, time turns into money. And
17 being faced with a -- our current operating budget, which
18 is at \$1.3 billion, every dollar is important to the
19 operational need that we have.

20 Over the last ten years, from 2008 through fiscal
21 year 2018, the cost for the Pennsylvania State Police to
22 lease properties at our facilities has more -- has almost
23 doubled, from 10 million to almost \$20 million. That cost
24 is significant to us because it comes out of our operating
25 budget.

1 So to answer your direct question, sir, I would
2 be a strong -- highly in favor of -- the PSP would be
3 highly in favor of seeing lease-to-own legislation put into
4 place. I believe we would be the beneficiary of that at
5 some point.

6 SENATE MAJORITY CHAIRMAN FOLMER: Well, thank you
7 for that direct answer and I really appreciate you, sir.
8 Again, thank you for being here.

9 HOUSE MAJORITY CHAIRMAN EVERETT: Representative
10 Ciresi.

11 REPRESENTATIVE CIRESI: Thank you very much.

12 Mr. Secretary, I have a quick question for you.
13 When we talk about selling state properties, one of the
14 issues we see in the southeast is developers come in and
15 buy it, which puts a burden on our school districts, our
16 municipalities, our boroughs.

17 So the question is what's the recommendation from
18 DGS because I don't know how big Allentown's property is,
19 but like the Norristown Hospital, that's a huge swath of
20 land that we're looking at. And the -- if that were to
21 sell to someone that would put in 1,000 or 500 homes, the
22 school district would have to build another building, which
23 automatically raises the taxes. We'd have to hire more
24 administrators, teachers.

25 Do we have guidelines on properties that we do

1 not sell to certain individuals or that the local
2 municipalities and school districts have an opportunity to
3 weigh in on this?

4 SECRETARY CURT TOPPER: Yeah. Thanks for your
5 question, Representative.

6 In the current system we're required to sell to
7 the highest bidder without limitation, unless the
8 authorization to sell that comes from the General Assembly
9 includes covenants that would restrict potential buyers.

10 And I think what you've outlined is exactly why I
11 think we need best value. Because with a best value
12 process in place, it would enable us to work with the
13 members of the General Assembly, with local constituents.

14 It would enable us to use the approach similar to
15 what we did in the context of the Harrisburg Annex, when we
16 funded a planning study that incorporated input from local
17 stakeholders, local governments, that helped us formulate
18 the plan for the ultimate disposition for that -- for the
19 annex.

20 It would enable us to do that routinely for every
21 major property that we sell and would eliminate the risk
22 that we would be selling to the highest bidder to a
23 developer who then would be free to do whatever they wanted
24 with the property, perhaps, you know, over the objections
25 of local constituents.

1 We want a process that enables us to take into
2 account all of those concerns at the time of sale.

3 SENATE MAJORITY CHAIRMAN FOLMER: Sure.

4 Senator Gordner.

5 SENATOR GORDNER: Thank you.

6 First question is going to be to Colonel Ferraro
7 with maybe an assist from Secretary Topper.

8 My most recent experiences were with a couple of
9 armories. One was in Berwick, and the second was just
10 outside of Sunbury. And my recollection with both of those
11 was that there was an appraised value, and you put it out
12 if anyone was willing to pay the appraised value.

13 But there was also another condition, if I
14 recall, on both of those where they -- the initial process
15 was they had to keep the integrity of the building for a
16 certain amount of time.

17 And I don't recall if that was historic or museum
18 commission or where that was, but am I correct in regard to
19 that, maintaining the integrity of the building?

20 COLONEL MARC FERRARO: Yes, sir. Most of our
21 facilities in DMVA, because of when they were built, have
22 the historical covenant attached to that, which then
23 requires them to maintain the integrity, the architectural
24 integrity of that facility. Anything over 50 years old
25 normally. Which then reduces the price that we would

1 actually sell the property for.

2 SENATOR GORDNER: Okay. Where does that covenant
3 come from, that's in the deed or that just comes with it
4 being a state property that's 50 years old or longer?

5 COLONEL MARC FERRARO: The SHPO's office; the
6 State Preservation and Historical Office. We work with
7 them on all of our historical facilities.

8 World War II wood. If I wanted to knock down a
9 World War II wooden barracks at Fort Indiantown Gap, I have
10 to work with the SHPO's office to do that.

11 SENATOR GORDNER: Okay.

12 COLONEL MARC FERRARO: So all that is covered
13 through that side.

14 SENATOR GORDNER: That's true with your armories
15 as well?

16 COLONEL MARC FERRARO: If they are considered
17 historical and traditionally anything over 50 years old.
18 The average age of our armories is about 52 years old.

19 SENATOR GORDNER: Okay. Because in those two
20 cases, I -- I mean, I'm a Berwick boy, so grew up not too
21 far; our office was a block away from the Berwick, when I
22 didn't see anything historically significant about that,
23 but it did create issues --

24 COLONEL MARC FERRARO: Yes, sir.

25 SENATOR GORNDER: -- in regard to potential

1 buyers for that property. Once there were no buyers for
2 either one of them, which there wasn't, then you could
3 ultimately go to a --

4 COLONEL MARC FERRARO: That is correct.

5 SENATOR GORDNER: -- highest bidder process.

6 COLONEL MARC FERRARO: Yes, sir.

7 SENATOR GORDNER: And that's, I think, what
8 ultimately sold both of those.

9 COLONEL MARC FERRARO: Yes, that's correct.

10 SENATOR GORDNER: So is there any -- as part of
11 this whole modernization process, is there anything --
12 again in regard to those two examples, would you look for
13 the best value process or what's your position?

14 COLONEL MARC FERRARO: I'll defer to Secretary
15 Topper on that. I still believe we would have to go
16 through that process with the historical covenant.

17 SENATOR GORDNER: Secretary Topper.

18 SECRETARY CURT TOPPER: So honestly, Senator, I
19 don't know off the top of my head what I'm -- what we're
20 required to do with respect to PHMC and these historic
21 properties. I'd have to do the research.

22 SENATOR GORDNER: Okay. All right. Thank you.

23 In regard to the state police, again, I assume
24 most of your -- and maybe why you're interested in the
25 lease to own, is that I assume most of your situations are

1 leased properties.

2 And I'm going to -- and I'm not going to imagine
3 that you necessarily know each of your barracks. But when
4 I drive by the barracks in Salem Township in Luzerne
5 County, I see a former state police barracks next to a
6 former state police barracks across the street from the
7 current state police barracks. They are all within a
8 quarter mile of each other.

9 My recollection-- and I've only started
10 representing Salem Township since 2012, but my recollection
11 was, at least with the former ones, there is like a
12 five-year lease with another five-year lease, and after ten
13 years they ended up vacating that, and a new property was
14 built literally less than a quarter mile away, and a
15 five-year lease with a five-year lease and then they moved
16 across the road. And the good news is, is at least since
17 2012 or before, they have consistently been in the property
18 across the road.

19 But when you see a former next to a former across
20 the street from a current, your head scratches a little bit
21 and you wonder why they just weren't in the one over here
22 and make improvements to it.

23 So is the purpose of the lease to own so that
24 you're getting some value from those lease payments, and if
25 it makes sense for you to continue to stay where you are

1 but just need to make some improvements to it that you
2 could do it?

3 MAJOR EDWARD HOKE: Senator, the scenario that
4 you've just described there is replicated many times across
5 the Commonwealth. That is not a unique situation. As you
6 pointed out here, most of our stations are leased
7 facilities.

8 Typically when a lease is put into place and it
9 comes time for that lease to -- they are typically built in
10 either ten or fifteen years with the option to renew.

11 If that facility meets our current needs for
12 complement and for resources, we look to maybe work with
13 the landlord to modify that facility in some way if they're
14 capable of doing that. If not, then we're forced to look
15 for another parcel of property somewhere generally
16 within -- what happens when we look -- when a lease is
17 coming due for expiration, our research and development
18 bureau within the state police will do a study of the
19 workload at that station where basically -- where does that
20 station need to be placed to best position our troopers to
21 respond to incidents within that geographic area.

22 And generally what we find is that it's typically
23 within a few miles of where we're currently located. It
24 doesn't often shift too far from where we're currently at.

25 So with that said then, then the search begins

1 for a parcel of property. And once we're able to procure
2 that then we start down the road of building a new
3 facility.

4 With regard to the former Swiftwater, now
5 Stroudsburg, Station, that facility has grown tremendously
6 through time, so there was a need to increase the physical
7 footprint and the overall size of this station to
8 accommodate the number of personnel assigned there.

9 But I'll let Marc Infantino speak to some of the
10 more details of how the lease process works and how we deal
11 with it within PSP.

12 MARC INFANTINO: Yeah, basically the reason those
13 facilities are next to each other is -- we'd love to stay
14 in them but they are not conducive when you have your
15 footprint gets larger, when -- meaning your complement is
16 increased. Our evidence rooms have increased.

17 We're typically staying in these buildings 25
18 years, so you get a fifteen-year lease with five-year
19 options.

20 The -- we usually -- that's the importance of
21 this lease to own is because we are staying in the same
22 area. The footprint is pretty much in a five-mile radius
23 for the most part; five to ten is what we advertise based
24 on the geographic area that we need to serve or the
25 incidents.

1 So you're kind of starting to find that the state
2 police is always going to have a presence in these areas.
3 It doesn't make sense to keep leasing. Even if I renew a
4 lease, I've already paid for that lease the first 15 years.
5 So if I'm there 25 years, I have to do something. I keep
6 leasing, right.

7 So it doesn't make a lot of sense just to keep
8 having money go out the door when the Commonwealth could
9 own that piece of property. And if we had to build we
10 would build in that general vicinity, just like you're
11 saying, there's three state police facilities in the area.

12 So --

13 SENATOR GORDNER: Okay. Just the final question
14 then, you've done the math then so that -- is 15 year the
15 breaking point or when's the break-even point?

16 MARC INFANTINO: Well, usually that -- I think
17 it's less than the 15 years for the landlords to make their
18 money back and then usually we end up renewing two
19 five-year terms. So that's why we get to the 25 years,
20 assuming the facility is constructed the right way upfront
21 and it's still functioning to our needs.

22 A lot of times there's nothing wrong with the
23 facility if it's repaired, it's just we don't have enough
24 space inside the facility that forces us to move. I mean,
25 since 9/11, our complement has increased at least -- I

1 think it's around upwards of almost 400 members have been
2 increased, but you got to put them somewhere. And a lot of
3 our members are in the field.

4 So Carlisle is a perfect example of how bad that
5 was. It was just -- we were having people park in the
6 grass. We had to get out of there. What happens around,
7 you know, and then buildings start -- people build up those
8 areas, and then the land's not as readily available. So in
9 that case we were lucky we had the land available to have
10 three state police facilities in the history of that area.

11 So --

12 SENATOR GORDNER: Thank you.

13 SENATE MAJORITY CHAIRMAN FOLMER: As a quick
14 follow up to Senator Gordner's question, Secretary Topper,
15 did you work with the Historical Museum Commission to
16 develop real estate modernization?

17 SECRETARY CURT TOPPER: We've had some
18 conversations leading up to this, specifically around
19 processes and procedures having to do with demolition. But
20 I don't believe that what we've proposed has any direct
21 impact on the PHMC's statutory framework. That was a new
22 one for me this morning.

23 So I think it's probably worthwhile for us to
24 have more conversations.

25 SENATE MAJORITY CHAIRMAN FOLMER: So you're

1 looking forward to other conversations on that process?

2 SECRETARY CURT TOPPER: Absolutely. I think
3 our -- we have language that we would propose, but what we
4 are very anxious to do is to work with the General Assembly
5 to come up with a better system. It doesn't have to be the
6 system that we propose. We're just looking for a way to do
7 this more efficiently.

8 And we have a set of specific changes that we'd
9 like to propose for the statute, but we really are open to
10 a dialogue about how we get to a more efficient system and
11 if that involves the historic and museum commission and if
12 that's -- you know, if that's a big challenge that we
13 missed thus far, let -- I'd want to learn more about it,
14 and I'd want to see if we can incorporate it in the
15 solution.

16 SENATE MAJORITY CHAIRMAN FOLMER: Senator Hill.

17 SENATOR HILL: Thank you, Mr. Chairman.

18 Secretary Topper, gentlemen, thank you for being
19 here today.

20 Secretary Topper, in your written testimony you
21 wrote that there was a need for commercial flexibility and
22 proposed authority for DGS to be more effective.

23 SECRETARY CURT TOPPER: Uh-huh.

24 SENATOR HILL: And then the first point that you
25 made said that you would like to be able to enable DGS to

1 grant a public service line agreement.

2 Can you explain what this type of agreement is
3 and why it's necessary for DGS to be able to execute such
4 agreements?

5 When I read the testimony and saw the term, you
6 know, it could mean a host of different things. Is it a
7 gas line? Is it a public sewer line? Is it a water line?
8 Electric? In speaking to staff they indicated it could
9 potentially be a fiberoptic line.

10 So can you talk about what it is and why you need
11 to be able to grant such an agreement?

12 SECRETARY CURT TOPPER: Thank you, Senator.

13 I think it could be all of the above that you
14 just mentioned. I would have to consult staff to get the
15 details for you. I'm not as steeped in the specific
16 transactions here that we're looking for the authority to
17 grant.

18 But my understanding is that it's every time we
19 have a power line that needs to run through a state
20 property, a gas line, could be fiberoptic cable.

21 SENATOR HILL: So when you go back and you talk
22 to your staff, if you could also inquire as to these public
23 service line agreements going for fiberoptic cable.

24 Will they be used to assist in the further
25 deployment of high-speed internet across the Commonwealth,

1 do you have any thoughts on that currently?

2 SECRETARY CURT TOPPER: I think that we have
3 recently executed a contract for the purpose of managing
4 Commonwealth assets in order to make those assets available
5 to wireless providers, and to leverage Commonwealth assets,
6 Commonwealth land, Commonwealth buildings, in an effort to
7 generate income by making Commonwealth area available for
8 the Verizons and the AT&Ts of the world. And there are two
9 aspects of what we propose that are relevant here.

10 One is, you know, absolutely we would use that
11 authority in order to facilitate the success of that
12 contract. So to the extent that we needed -- to the extent
13 that we identified a location where erecting a wireless
14 tower was beneficial, where there was sufficient revenue
15 coming from the potential lease, we would absolutely want
16 to be able to run the cable that made that tower feasible.

17 The second piece is on the -- is on leasing
18 authority. So we have the ability to enter into license
19 agreements that would enable the avail -- that would enable
20 us to make Commonwealth property available to the wireless
21 providers, but not the ability to enter into lease
22 agreements when we're leasing our own property to third
23 parties for a term longer than five years. That's by
24 statute. That's one of the things we're looking to change.

25 If we could enter into longer term leases for

1 Commonwealth property, that would clarify the law with
2 respect to us being able to make wireless assets available.

3 SENATOR HILL: So if you can help walk me through
4 this.

5 SECRETARY CURT TOPPER: Yeah.

6 SENATOR HILL: The first answer to the question
7 was that you weren't really certain. The second answer to
8 the question is DGS has already executed a contract that
9 says that you can do this, but you can only do this for up
10 to five years because you don't have authority beyond the
11 five years to execute that contract.

12 Is that correct?

13 SECRETARY CURT TOPPER: That's the -- we have
14 executed a contract for the purpose of marketing
15 Commonwealth property to make it available so that we can
16 make a dent in --

17 SENATOR HILL: So you're marketing property that
18 you say you don't have the authority to lease?

19 SECRETARY CURT TOPPER: We have the authority.
20 Again, according to legal counsel, Office of General
21 Counsel, I have the authority to enter into license
22 agreements to make these properties available to the
23 wireless providers. We would love to have clearer
24 statutory authority with respect to leases.

25 SENATOR HILL: Mr. Secretary, I am perplexed at

1 this testimony that you're providing here today. Because
2 my understanding is that the Department of General
3 Services, that is your job. That is your responsibility.
4 That is your mission and your purpose.

5 And you're now telling me that you are now using
6 a company to do what the General Assembly funds you to do
7 with regard to these state-owned assets for further
8 deploying internet assets.

9 Is that correct?

10 SECRETARY CURT TOPPER: We've entered into a
11 contract for the purpose of managing the portfolio of
12 assets and making them available to third-party wireless
13 providers.

14 SENATOR HILL: So what does the Department of
15 General Services do?

16 SECRETARY CURT TOPPER: The con -- we're going to
17 manage the contract. We don't have the technical expertise
18 in house at DGS to be able to go directly to Verizon and
19 AT&T and say, you know -- and help them, and help
20 facilitate the transactions that are necessary in order for
21 them to build cell towers.

22 Cell towers are not a core area of expertise for
23 DGS, they never have been.

24 SENATOR HILL: Mr. Chairman, if I may, an
25 additional question.

1 Mr. Secretary, I have Senate Bill 470.
2 Representative Pam Snyder has House Bill 305 that would
3 require DGS to conduct an inventory of all state-owned
4 assets to see what could be used in deployment of broadband
5 internet.

6 It sounds to me like this is something you've
7 already embarked on?

8 SECRETARY CURT TOPPER: Yes.

9 SENATOR HILL: Mr. Secretary, I think that you
10 and I need to sit down and have an additional conversation
11 after this hearing.

12 SECRETARY CURT TOPPER: Okay. I'd be happy to.

13 SENATOR HILL: Thank you.

14 Thank you, Mr. Chairman.

15 SENATE MAJORITY CHAIRMAN FOLMER: Chairman
16 Everett.

17 HOUSE MAJORITY CHAIRMAN EVERETT: Yep.

18 Representative Delissio.

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

21 A couple of questions, Mr. Secretary. Thank you.

22 In reference to the best value, would that also
23 provide opportunities for conversations that could cover
24 things like environmental concerns, infrastructure, storm
25 water management, traffic concerns?

1 I represent an area in the southeastern part of
2 the state. We are fairly population dense and see a lot
3 of, you know, current development. So some of the parcels
4 that are state owned are not smaller pieces of property and
5 could really impact areas and neighborhoods.

6 So would the best value discussions also give
7 some weight to those types of issues?

8 SECRETARY CURT TOPPER: In a word, yes.

9 REPRESENTATIVE DELISSIO: There is no -- all of
10 that could factor into a best value discussion?

11 SECRETARY CURT TOPPER: It could.

12 The intent here would be to incorporate the
13 priorities of the local community and members of the
14 General Assembly into the criteria that would then be used
15 in order to make a best value determination.

16 REPRESENTATIVE DELISSIO: And that would be
17 before assets are disposed of. There was a fairly large
18 parcel in my district that was obviously disposed of under
19 the current method.

20 SECRETARY CURT TOPPER: Right.

21 REPRESENTATIVE DELISSIO: And, you know, I get to
22 deal with -- I'm like obviously not the only representative
23 of that immediate area. There's, you know, also a state
24 senator, but I got to have to interface with a lot of those
25 civic folks who were very concerned about the impact, and

1 they would have probably appreciated an opportunity to be
2 in on the front end of the discussion and not the back end.

3 SECRETARY CURT TOPPER: That's the objective.

4 I think too often in the current system, once we
5 have an authorization to sell, we're required to sell to
6 the highest bidder. Frequently without restrictions.

7 And so, whoever the buyer ends up being may or
8 may not be -- may or may not have a plan for the property
9 that's commensurate at all with what the local community
10 would like.

11 REPRESENTATIVE DELISSIO: Okay. And in reference
12 to those restrictions, and a little bit of a follow up on
13 the brand -- of the broadband discussion, I've had a smidge
14 of experience with technology, wireless, things like that.
15 It is a very complicated industry. There is a little bit
16 to it.

17 And, but as it pertains to any asset that the
18 Commonwealth may own, that they may in fact lease to help
19 facilitate rural broadband, if that asset were subsequently
20 sold in order not to interrupt that broadband, is the
21 Department contemplating restrictions that would keep that
22 particular aspect of that in place regardless of who the
23 buyer was?

24 I'm just concerned that in the longer term there
25 could be an asset that's used in this particular

1 situation --

2 SECRETARY CURT TOPPER: Uh-huh.

3 REPRESENTATIVE DELISSIO: -- to facilitate
4 broadband. If for some reason that asset, not anticipated
5 to be sold now, but could be in ten or fifteen years, what
6 would happen to that, you know, link, if you will, in the
7 broadband deployment?

8 SECRETARY CURT TOPPER: Yeah, thank you
9 Representative. That's a great question.

10 I think it would -- we would consider it in the
11 same manner that we'd consider any property sale where we
12 have ongoing obligations that attend to the properties.

13 So, for example, when we have a state hospital
14 property that may be going up for sale, it's not uncommon
15 for us to have sublease agreements in place that perhaps
16 THS might have made with Gaudenzia, for example, here at
17 the Harrisburg property. So we have ongoing obligations
18 associated with those properties that have to be
19 contemplated at the time we prepare for sale.

20 So if we had, for example, an agreement in place
21 for a wireless asset on state property and then in turn we
22 went to sell that state property, we would have to account
23 for that, you know, via -- at the time of the sale, as a
24 condition of sale.

25 You know, probably we'd have to contract for the

1 ongoing maintenance or we'd have to -- I'm not sure exactly
2 how we would handle it, but we'd have to somehow carve
3 out --

4 REPRESENTATIVE DELISSIO: It would be a
5 consideration.

6 SECRETARY CURT TOPPER: -- yeah, in order to
7 maintain the asset.

8 REPRESENTATIVE DELISSIO: All right. Thank you.
9 Thank you, Mr. Chairman.

10 SENATE MAJORITY CHAIRMAN FOLMER: Representative
11 Grove.

12 REPRESENTATIVE GROVE: Thank you, Mr. Chairman.

13 Off over here to your left. I was sitting alone,
14 so thank you for joining me.

15 First, before we get into the leasing, but
16 state-owned properties, there's a current capital
17 improvement plan or program within the Commonwealth to do
18 deferred maintenance, correct?

19 SECRETARY CURT TOPPER: Yes.

20 REPRESENTATIVE GROVE: Formally known as private
21 capital budget, correct?

22 SECRETARY CURT TOPPER: Yes.

23 REPRESENTATIVE GROVE: Is that statutorily
24 governed or is that an executive order or executively
25 created?

1 SECRETARY CURT TOPPER: The capital plan?

2 REPRESENTATIVE GROVE: Yeah.

3 SECRETARY CURT TOPPER: Well, it's a combination.
4 There's a capital bill that runs, hopefully every two years
5 or so, that creates authorization for us to spend capital
6 money on various improvements.

7 The agencies prepare for us a three-year look
8 ahead. We have a three-year capital plan. That's new
9 since about five years ago. And we -- then the Office of
10 the Budget and the Governor's office set a maximum level of
11 capital expenditures because frequently the authorizations
12 that come from the General Assembly are well in excess of
13 what we can actually afford to borrow and spend.

14 REPRESENTATIVE GROVE: Absolutely.

15 SECRETARY CURT TOPPER: So it's up to the
16 administration to --

17 REPRESENTATIVE GROVE: Uh-huh.

18 SECRETARY CURT TOPPER: -- to make the
19 determination about what the priorities are, what our
20 borrowing capacity is, and then we take -- and then the
21 Governor's office makes a decision about what to spend
22 where, based on feedback from the agencies, and, again,
23 that three-year look ahead in terms of the planning --

24 REPRESENTATIVE GROVE: Gotcha.

25 SECRETARY CURT TOPPER: -- that's how it works.

1 REPRESENTATIVE GROVE: So we at least have a --
2 so to speak a deferred maintenance look schedule at least
3 three years out?

4 SECRETARY CURT TOPPER: We do.

5 REPRESENTATIVE GROVE: Okay.

6 SECRETARY CURT TOPPER: It's typically more than
7 we can afford, but yes.

8 REPRESENTATIVE GROVE: What is that current
9 amount, do you know off the top of your head, or can you at
10 least supply the --

11 SECRETARY CURT TOPPER: I can supply for you the
12 full, across all agencies under the Governor's
13 jurisdiction, what that three-year capital plan looks like.

14 REPRESENTATIVE GROVE: Gotcha.

15 SECRETARY CURT TOPPER: There is -- in addition
16 to that, we have estimates of deferred maintenance that are
17 in excess of what's in the plan.

18 REPRESENTATIVE GROVE: That would be great. The
19 more information we have on that would be terrific because
20 we can get a full perspective of actual cost of government
21 owned assets --

22 SECRETARY CURT TOPPER: Sure

23 REPRESENTATIVE GROVE: -- in totality.

24 When you discuss lease or own, is there any
25 discussion as far as the impact to tax base of the local

1 governments?

2 When we lease, obviously it's something we're
3 leasing it from the private sector, which still pays
4 property taxes. When we do a purchase, it's now state
5 owned; property taxes are not paid on that property.

6 SECRETARY CURT TOPPER: Uh-huh.

7 REPRESENTATIVE GROVE: I had two local townships
8 that bought golf courses, obviously two huge swaths of land
9 that provide large contributions into the local tax base,
10 both for the county local government and school district.
11 They are not taxable anymore which created some holes for,
12 in particular, the school district.

13 SECRETARY CURT TOPPER: Uh-huh.

14 REPRESENTATIVE GROVE: Is there a discussion
15 around that when weighing these options?

16 SECRETARY CURT TOPPER: Not typically in the
17 current process.

18 I know that historically administrations have
19 made -- have been very explicit about that, particularly
20 here in Harrisburg, which is how we've ended up in
21 long-term lease agreements for the various buildings here
22 that surround the capitol complex.

23 REPRESENTATIVE GROVE: Okay. Thank you,
24 Mr. Chairman.

25 Thank you.

1 SENATE MAJORITY CHAIRMAN EVERETT: Representative
2 Diamond.

3 REPRESENTATIVE DIAMOND: Thank you, Mr. Chairman.
4 Thank you, Secretary Topper, gentlemen, for
5 coming today.

6 I'm kind of taking more of a 30,000-foot view of
7 this than, you know, the details. And I saw a couple --
8 heard a couple of remarks about the efficiency of what you
9 guys are tasked to do and it could be way more efficient,
10 and I certainly understand that. I'm an efficiency guy,
11 that's what I do.

12 However, we have to balance that with the fact
13 that we're government. That's a business of public trust.
14 It's not a business of profit, maximizing income for the
15 owner to go build a beach house in Daytona. We're in the
16 business of public trust. Part of the public trust is
17 institutional permanency and oversight.

18 So what I'm hearing a lot here, just -- and,
19 again, this is just a 30,000-foot view, is that you want
20 more autonomy and perhaps that means less oversight by the
21 General Assembly if you want to eliminate the -- you know,
22 that board, that sort of thing.

23 But I kind of hearken back to, maybe you've been
24 around here in June, when we go through all sort of
25 rigamarole to figure out how we're going to appropriate

1 money, and that's how all this property was gotten. And we
2 go back and we answer to our constituents every two years,
3 senators go back and answer every four years, and we're
4 held accountable for those decisions.

5 So I certainly, going forward -- and I don't see
6 any kind of legislation in front of us, but you said there
7 is some language you've developed. I would be certainly
8 interested in hearing about that legislation, discussing
9 that further --

10 SECRETARY CURT TOPPER: Uh-huh.

11 REPRESENTATIVE DIAMOND: -- because I do believe
12 things have changed since 1929.

13 But I am way more interested in making sure that
14 the public trust is upheld, that -- and let me just give
15 you the most extreme example that immediately popped into
16 my head when we started talking about this today.

17 You get a rogue administration, a rogue senator,
18 and a rogue representative, who figures that capital is
19 surplus and we're just going to sell it. Very extreme, and
20 I know it's not going to happen. But you see what I'm
21 getting at here.

22 There is a matter of public trust that requires
23 oversight by the General Assembly and the lack -- a lack
24 of -- a certain lack of autonomy by an administration in
25 order to just -- so as we go forward, and maybe you can

1 comment now on how we're going to maintain that multiple
2 brand -- branch of government oversight, strike the
3 balance, so that we can maintain a public trust so that
4 some folks say in Jonestown don't find out through the
5 newspaper that Fort Indiantown Gap has been sold and
6 they're building 18,000 houses back there and we're going
7 to have to build a new school, run new sewer lines, hire a
8 lot more police officers, that sort of thing.

9 So give me a little confidence that we're not
10 going to undermine the public trust by offering you the
11 availability of more efficiency and a little more autonomy.

12 SECRETARY CURT TOPPER: Sure, Representative. I
13 think it's a great question.

14 I honestly think that our interests are aligned
15 here. I'm not sitting here looking to reduce the General
16 Assembly's prerogative here to provide oversight.

17 What I'm here advocating for is finding a way
18 that the General Assembly can exercise that oversight and
19 perhaps allow us to move more quickly to get properties off
20 the books and save us potentially millions of dollars in
21 carrying costs. That's my objective.

22 I have no interest at all in taking away any of
23 the oversight authority that the Treasurer has or the
24 oversight authority that the General Assembly has with
25 respect to these real estate transactions.

1 We -- I think that there is an array of changes
2 that we're looking for that range from the routine, you
3 know, easements and such, to, you know, the sale of a state
4 hospital property.

5 And that I would suggest to you that the -- you
6 know, as the risks get greater, as the properties get
7 larger, right?

8 And with respect to the large properties, the way
9 we manage those risks that you've outlined today is about
10 as inefficient as I can imagine. And I'm just hoping that
11 we can find a way to manage those risks in a more efficient
12 manner.

13 Once we are authorized to make a sale by the
14 General Assembly, under the current statute, none of the --
15 there are no controls, you know, such that you outlined.

16 The way we tend to manage community concern about
17 what the ultimate disposition of a state property is going
18 to look like, the way that gets done today is much less
19 formally, right?

20 REPRESENTATIVE DIAMOND: Uh-huh.

21 SECRETARY CURT TOPPER: It has an impact on how
22 quickly a piece of legislation actually moves through the
23 General Assembly. And, as you know, that can take some
24 time.

25 REPRESENTATIVE DIAMOND: Uh-huh.

1 SECRETARY CURT TOPPER: And all we're looking for
2 is a way to establish controls, maintain oversight, but
3 hopefully move a little quicker.

4 REPRESENTATIVE DIAMOND: Okay. Well, I
5 appreciate your response, and I appreciate your outlook
6 that you are not trying to eliminate --

7 SECRETARY CURT TOPPER: No.

8 REPRESENTATIVE DIAMOND: -- you know, our
9 cooperation between branches of government.

10 And I do look forward to seeing your proposed
11 legislation and reviewing it and discussing it in committee
12 and as this process moves forward.

13 I'm more than open minded on making things easier
14 for everybody. I just don't want to lose that element of
15 public trust that comes from the cooperation of the
16 branches.

17 Although I do think it's ironic that here we are
18 talking about some of the same kind of unnecessary red tape
19 that people in the private sector have to go through every
20 day when they try to do something.

21 So thank you very much, Mr. Chairman.

22 SENATE MAJORITY CHAIRMAN FOLMER: Chairman
23 Everett, I'd just like to do a quick follow up to Senator
24 Diamond's question.

25 A quote that is attributed to President Ronald

1 Reagan summarizes where I would like us to be, and that is
2 "trust but verify."

3 SECRETARY CURT TOPPER: Yeah.

4 SENATE MAJORITY CHAIRMAN FOLMER: Here's my
5 question, my worry is despite our best efforts, there will
6 be issues in the future that will upset the balance we're
7 talking about as some future secretary or agency will use a
8 provision of the statute to take an action the General
9 Assembly does not agree with.

10 With that in mind, what recourse would the
11 General Assembly have under a real estate modernization if
12 a secretary or agency ignores the legislature?

13 SECRETARY CURT TOPPER: Senator, I don't have an
14 answer. But I think we can work together to find a
15 solution for that problem.

16 SENATE MAJORITY CHAIRMAN FOLMER: I do believe
17 we're going to have to have some further discussion, sir,
18 going forward.

19 But I want to open it up to other folks that have
20 questions here because I -- this is very important.

21 SECRETARY CURT TOPPER: Yeah.

22 SENATE MAJORITY CHAIRMAN FOLMER: And we do have
23 a duty, as a General Assembly, an elected duty, a
24 constitutional duty, and that cannot be avoided.

25 So I'll be looking forward to having that

1 discussion with you, sir, on this very important issue,
2 okay.

3 HOUSE MAJORITY CHAIRMAN EVERETT: Representative
4 Gabler.

5 REPRESENTATIVE GABLER: Thank you, Mr. Chairman.

6 And, gentlemen, I appreciate the opportunity to
7 have this discussion today.

8 I wanted to return to the discussion of leases a
9 little bit because in my own mind I'd like to try to
10 reconcile some of the ideas we're discussing today.

11 On one hand, we're talking about -- and I guess
12 it gets to the whole idea of inefficiency. We have the
13 extreme cost to carry of excess properties which the state
14 owns, and then we have also discussed during this testimony
15 the extreme cost that state agencies are bearing when it
16 comes to continuing to lease properties that are active.
17 And so I'm trying to reconcile these things.

18 But I guess the first question I would have is
19 why do we currently rely so heavily upon leases?

20 To me, my understanding from a 30,000-foot level,
21 the reason that leasing would be a tool that would be
22 useful would be for an entity that can't come up with a sum
23 of money, and so it's really a financing tool so that you
24 don't have to come up with a sum of money up front to
25 purchase a property and then the lessor, the holder of the

1 property that's leasing that property, is going to make a
2 profit by providing convenience to the customer, in this
3 case the state. But we're the Commonwealth of
4 Pennsylvania. We manage billions of dollars every year.

5 Is it really effective to the taxpayers for us to
6 rely as heavily on leases as we do?

7 And then furthermore, as we go forward and look
8 at things like build-to-suit and lease-to-own, is that
9 really going to be more cost effective than simply
10 acquiring a piece of property and doing construction?

11 Could you discuss a little bit, and -- you know,
12 I'll leave it to the discretion of the panel who might be
13 best suited to provide that input.

14 MAJOR EDWARD HOKE: Do you want to go first and
15 then I'll --

16 (Panel witnesses confer.)

17 SECRETARY CURT TOPPER: So I think you're exactly
18 right, that generally speaking, it is more cost effective
19 over the long term for us to build. And I think that our
20 agency customers are looking for some flexibility with
21 respect to how they manage their operational needs.

22 So do they need to be in a facility for longer
23 than five years, ten years, fifteen years? How long do
24 they plan to be there? How much -- how easy is it for them
25 to project what their facilities' requirements are going to

1 be because they can expand or contract over time? So
2 there's some advantage to being in a lease from that
3 perspective.

4 Quite honestly, part of the challenge has been
5 the availability of capital money and the cycle time that
6 historically has attended to public works. So, you know,
7 as I sit here today it can take an upwards of three, four
8 years for us to go from the time when an agency decides
9 they -- you know, they have the -- from the time when we
10 identify the funding and we decide we're going to go
11 forward and build, we can be three to four years out before
12 we're actually able to move into a facility. And as much
13 as I wish it were different, the private sector can move
14 much more quickly than that.

15 And so, I think that the combination of
16 limitations on capital money, unpredictability of where
17 agencies need to be in the long term, and -- you know, and
18 the need to move quickly, all of those things have tended
19 to push more agencies in the direction of using operating
20 funds to lease property as opposed to build it.

21 I think that's been the narrative. I think that
22 as we work to contract the cycle time for public works and
23 we get better and faster at building, I think that that
24 equation is going to change.

25 But in the meantime, I know from talking to state

1 police and DMVA and other agencies that although it may not
2 be my first choice given the operational reality that we
3 have today, having that ability, that flexibility, to make
4 a decision to, you know, at least maintain the option to
5 buy at the end of a lease as opposed to having to go
6 through another leasing cycle could be very valuable.

7 MAJOR EDWARD HOKE: Sir, and just to follow up on
8 that. Within PSP are 15 troop headquarters are state-owned
9 facilities, and most of those facilities have been in
10 existence in their current locations for 20-plus years.

11 So there is a commitment there to that county.
12 There is a commitment there to that municipality in which
13 that facility is located, unlike the stations which are
14 typically lease facilities.

15 But one of the things that I had mentioned early
16 on here was that many times when a lease comes to the end
17 of its expiration and we're forced because we can't come to
18 an agreement with that current landlord to modify that
19 facility and/or we can't come to an agreement on cost
20 because costs rise every year for the landlord as well, it
21 forces us into that dilemma again of searching out new
22 property in a new location.

23 And typically what we find is that those
24 facilities are being built within a five-mile radius of
25 where we're currently located.

1 The PSP doesn't have any plans in the future to
2 close any facilities, so we do have long term commitments
3 to the counties and to the municipalities that we currently
4 serve. So we feel that it would be beneficial for us to
5 actually have at some point the ability to -- for the
6 Commonwealth to own that structure.

7 And then, you know, a lot of the costs that are
8 associated with a move and the relocation of a barracks to
9 another municipality or another township would be -- you
10 know, would not be necessary.

11 REPRESENTATIVE GABLER: Thank you.

12 And, Mr. Chairman, if I might make one follow up.

13 Pertaining to the discussion of cost to carry of
14 properties, one of the things that I know that we've had a
15 long history of trying to discuss and hit the right sweet
16 spot when we're talking about disposition of properties and
17 when we're talking about sale price.

18 We've got the cost to carry, does it make sense
19 to try to sell something quickly because time is money as
20 you said in your testimony, Mr. Secretary. But on the flip
21 side then that leaves us essentially selling a property
22 below retail or below market rate.

23 So I guess my question is in introducing the
24 concept of lease to own, do you believe that the risk would
25 be low, that we would be creating additional excess

1 properties for the state to have to manage and carry and
2 pay that cost of if we're introducing this lease-to-own
3 tool as a part of your tools to manage properties?

4 SECRETARY CURT TOPPER: I believe the risk is
5 relatively low. I don't think that lease to own is going
6 to be our first choice.

7 I think it's about adding the option, in the case
8 where state police, for example, comes to the end of a
9 lease and they are effectively stuck. They have to go
10 through another leasing cycle. And that has all the
11 additional cost and uncertainty that attends to it.

12 But I don't believe that we're talking about
13 adding lease-to-own clauses to -- you know, to everything
14 that we lease. I wouldn't advocate for that approach at
15 all for the very reason that you mentioned.

16 REPRESENTATIVE GABLER: Thank you.

17 That concludes my questions.

18 I appreciate the testimony, gentlemen.

19 HOUSE MAJORITY CHAIRMAN EVERETT: Representative
20 Dush.

21 REPRESENTATIVE DUSH: Thank you, Chairman.

22 And, Secretary Topper, I'd like to touch first
23 and say thank you for instituting lean. It sounds like
24 you're starting down that road in a way, and taking a look
25 at these things, and bringing these to the legislature. I

1 think it's a good step, and I appreciate it.

2 Quickly, do you -- how many facilities pay the
3 PILT, the payment-in-lieu-of-taxes, to local government?

4 Do -- I mean I know the state parks, that sort of
5 thing, but do anything within DGS -- do you make those
6 types of payments?

7 SECRETARY CURT TOPPER: I don't know off the top
8 of my head. The one I'm most familiar with is the one that
9 appears in our budget every year here for Harrisburg, but I
10 would have to do some research to find out if there are
11 others.

12 REPRESENTATIVE DUSH: You wouldn't mind -- and
13 because it was brought up in a different question, and just
14 something that I wanted to ask. If you can get the
15 information to me, I'd appreciate it

16 SECRETARY CURT TOPPER: Sure.

17 REPRESENTATIVE DUSH: Major, you brought up about
18 the troop headquarters being owned. That was one of the
19 questions I was going to ask because I know that Troop C is
20 in my district.

21 And I know that facility has been around for a
22 very long time, and I look at facilities like the Army
23 Reserve Center in Brookville, my hometown, which has been
24 there since I was walking to school in elementary school a
25 half century ago. It's still being utilized very

1 effectively.

2 And as we look at these leases and the lease
3 situations, I'm wondering why we are not doing more of that
4 with the troop barracks.

5 You had mentioned about the expansions that are
6 necessary. I know you've got increased in evidentiary
7 storage and that sort of thing.

8 But are we not doing long term planning to where
9 we know this area has to have service? And if that's the
10 case, it's an easy justification to go ahead and buy a
11 facility and build a facility that meets the needs and
12 would also possibly account for some sort of expansion.

13 Are we not doing those types of long term
14 projections?

15 MARC INFANTINO: Actually we are doing those
16 projections. The problem, like the Secretary mentioned, is
17 there's not enough capital monies to be distributed across
18 to all 38 agencies. So Punxsutawney.

19 A lot of our older facilities of -- were post
20 World War II buildings. That's when we still housed horses
21 out in the field, although those days are done.

22 We do look at other state property. Like, we're
23 looking at the Hamburg property that's state owned,
24 eventually hoping to build a building there. So we do look
25 at resources.

1 In Greensburg D&A, we're using a piece of the ten
2 acres we carved out of the prison. So we are trying to
3 reutilize other sites.

4 The problem with us occupying an add -- at a site
5 that's already built, is our facilities are built a little
6 different than the normal doctor's office. We have
7 hardened lobbies. They still have to be conducive to
8 public service, but we still have to have the security
9 because we have evidence in there, all kinds of
10 investigations, what -- you name it.

11 REPRESENTATIVE DUSH: Weapons lockers.

12 MARC INFANTINO: Yeah, weapons lockers.

13 So it's always a balancing act on looking at
14 properties that we could occupy.

15 Now, sometimes if you're not talking about a
16 station, you're talking about undercover operations, you
17 can do that type of thing because they are more office
18 environments. Plus we don't advertise those.

19 So we do try to project out. We actually have a
20 plan that -- next 30 years I know what I want to do.
21 Punxsutawney unfortunately, at least in this example, is
22 not one of those problem childs (sic) that have risen to
23 the top because there's only so much money. So we're
24 trying to address the critical needs where we have health
25 and safety issues.

1 Like Wyoming is one of our babies that I can't
2 fix that building anymore, but that's a state-owned
3 building. We don't have enough capital monies because
4 we're investing in a new academy in Hershey; that's our
5 priority. Everything is a priority. I can't -- but I
6 still have to take care of my guys in Wyoming. So that was
7 our best case, to go out to lease that facility and then
8 combine it with the northeast training center.

9 The problem is we're just jacking up the lease
10 costs going forward. There's certain buildings that make
11 sense to own. The Wyoming we would love to own again. But
12 I can't wait for a capital process that may be 10, 20 years
13 out.

14 I've got to address the needs now. So that lease
15 unfortunately gives us the opportunity to do that, but the
16 hazard is it jacks up your costs and your operating. So --

17 REPRESENTATIVE DUSH: In the short term, I can
18 understand what you're going -- the way you're going about
19 it. But perhaps since DGS is already in the process of
20 trying to figure a way to solve that problem, perhaps we
21 could start projecting now.

22 And if you're giving the information to DGS and
23 to the legislature as to what your needs are coming down
24 the road, we can start working towards getting that
25 budgetary language and the things that are necessary so we

1 can start doing things where we own facilities. We build
2 them solidly.

3 I'm about to celebrate the 150th anniversary of
4 the building, the Jefferson County Courthouse, and my son
5 was at Westminster College. That things been on --
6 buildings there are over a hundred years.

7 Those types of -- we need solid construction and
8 let's pay for the quality up front so that the taxpayers of
9 the future, our children and grandchildren, aren't on the
10 hook for shoddy workmanship in the first place or more
11 leases that are beneficial to somebody else.

12 As Secretary -- I mean, Russ Diamond said, we
13 have -- we're responsible, and it's the legislature that's
14 responsible for every dollar that goes out because we're
15 holding a gun to the head of every taxpayer and telling
16 them you must pay.

17 So we want to make sure that if we're compelling
18 people to pay, using the force of government to compel
19 people to pay, that it's being used wisely.

20 SENATE MAJORITY CHAIRMAN FOLMER: Senator Muth.

21 SENATOR MUTH: Thank you.

22 Secretary Topper, I just had one question.

23 When you were going through the process of
24 describing how RFPs would be transparent and the whole
25 process, you mentioned that you would make sure that there

1 were no conflicts of interest throughout the evaluation
2 commission.

3 Can you elaborate more on what the criteria would
4 be or is that not figured out yet?

5 SECRETARY CURT TOPPER: So how we would approach
6 that specifically with respect to members of the General
7 Assembly and their staff is something that I think we'll
8 have to -- we're breaking new ground there, right. So I
9 think we'll have to figure that part out.

10 But with respect to what happens on the -- within
11 the administration, there is already a governor's code of
12 conduct. There is already a process that we go through
13 where every member of every evaluation committee
14 effectively signs a non-disclosure agreement and signs an
15 agreement basically establishing for us that they have no
16 conflicts of interest.

17 And that process has worked well, and it's
18 enforceable because, to the extent that we find that if
19 someone should misrepresent themselves going into an
20 evaluation committee, then they're our employees, and we
21 can take action.

22 SENATOR MUTH: Thank you.

23 Do you feel that those current standards could be
24 strengthened in any way or feel that there's not enough
25 resources to delve deep enough into people's history?

1 And I'm not totally familiar with this
2 conflict-of-interest process. I know a little bit more
3 about it on the PUC side, so I'm not sure.

4 SECRETARY CURT TOPPER: Yeah.

5 SENATOR MUTH: But I just wanted to see what you
6 thought about it.

7 SECRETARY CURT TOPPER: I am very comfortable
8 with the process as it stands on the administration side.
9 And part of the reason I'm comfortable with it is because
10 in the -- you know, in the five years that I've been in
11 this role, we haven't had a single instance where there's
12 really been a challenge.

13 We've had one or two instances that really sort
14 of boiled down to optics. But when we've dug into it,
15 we've really understood that there wasn't really a
16 significant conflict of interest.

17 I think that the folks who do procurement and
18 contracting here in the Commonwealth, you know, generally
19 speaking are, you know, among -- that integrity is the only
20 thing they get to leave with, right. And in my experience
21 they take their responsibilities incredibly seriously.
22 They want a fair process.

23 SENATOR MUTH: Thank you very much.

24 SECRETARY CURT TOPPER: Sure.

25 HOUSE MAJORITY CHAIRMAN EVERETT: Representative

1 Miller.

2 REPRESENTATIVE MILLER: Thank you, Mr. Chairman.

3 And thank you, panelists, for being here today.

4 I want to first of all applaud you for the effort
5 of what you are undertaking, and basically agree with what
6 you said at the outset, Secretary, that you want efficiency
7 improved, cost savings where you can obtain them, and as
8 well have a degree of accountability. I want to echo some
9 of the comments that were made previously by some of the
10 folks here related to the accountability.

11 When I think about this, essentially this, what
12 you're proposing, is no different than what we have on the
13 county or municipal level, where a county or municipality
14 has property. And I know many members of the General
15 Assembly have (indiscernible) this property for some
16 reason.

17 But the thing that's important to note there is
18 that the property is not owned by the municipality or the
19 county. It's owned by the people. And to sell that
20 property is a function that needs to be addressed to the
21 people which is done by their elected representatives.

22 And so, to that point I am completely in favor of
23 the efficiency that you're seeking, to update the law as
24 may be needed, I think that's essential to make government
25 more efficient, and hopefully more cost effective.

1 But at the same time, I do believe that the
2 General Assembly needs to maintain that accountability
3 piece. Otherwise we're relegating that responsibility, I
4 think, contrary to what the function of government was
5 because the people own that property.

6 So with that, I guess my question for you is what
7 you're proposing then would in essence be separate from
8 what a municipal government or a county government would
9 have to do. That state government would then be -- have a
10 separate protocol than county and municipal government.

11 SECRETARY CURT TOPPER: Representative, forgive
12 me. I'm not -- I don't know that I understand the
13 question.

14 REPRESENTATIVE MILLER: Well, forgive me.

15 As I'm understanding, you're wanting a process
16 that perhaps will put the responsibility for sale
17 completely under DGS.

18 Is -- did I -- am I misunderstanding that?

19 SECRETARY CURT TOPPER: I am advocating for a
20 process that would put more of the responsibility on DGS,
21 but that would maintain the involvement of the General
22 Assembly really to the extent that the General Assembly
23 wishes to be involved.

24 We have a proposal. I fully anticipate -- I
25 think the administration fully anticipates that we're going

1 to work together to find a more efficient solution than the
2 one we have because the scenario we have is costing us
3 millions of dollars.

4 I am -- we have some language that we would
5 propose. If the General Assembly feels that what we have
6 proposed goes too far, in terms of providing independent
7 authority for DGS, then I guess I would encourage the
8 General Assembly to meet us somewhere in the middle because
9 I'll take whatever I can get in terms of finding ways to
10 make this process more efficient and more effective.

11 I'm not advocating that the General Assembly step
12 back from its responsibility here to represent the people
13 who own that property. I'm simply asking for us to work
14 together to find a more efficient statutory framework that
15 enables us to avoid potentially years of holding on to
16 property pending sale.

17 Because it's just -- because that those tens of
18 millions of dollars that we're spending in carrying costs
19 could be a whole lot more effectively spent in other parts
20 of the government.

21 And that's really what -- that's what this is
22 about for me, Representative.

23 We have a specific proposal but I am -- I would
24 like nothing better than to work with members of the
25 General Assembly to find a new set of rules that enables us

1 to move more quickly while preserving the legitimate
2 prerogatives and the legitimate role that the General
3 Assembly plays in this process.

4 I have no interest in taking away or getting into
5 a separation of powers kind of argument. That's not what
6 this is about for me. It's not a power grab. It's
7 basically just a -- it's a proposal that could lead to
8 millions of dollars in savings if we could find a way to
9 get more efficient. And that's all it's about for me.

10 I don't know if that's an adequate answer to your
11 question.

12 I don't -- I'm not terribly familiar with the way
13 that municipalities and county governments dispose of
14 property. But, you know, if they offer a model or a
15 solution that is potentially, you know, viable for us, then
16 I would encourage us to look at it.

17 REPRESENTATIVE MILLER: Well, thank you for that.

18 Basically, the point I was making with county and
19 municipal government is that the authority for the sale
20 rests with the Board when all the process is done. And I
21 think that --

22 SECRETARY CURT TOPPER: Uh-huh.

23 REPRESENTATIVE MILLER: -- that model needs to be
24 maintained here. And I think you'll find a lot of willing
25 hands willing to see this process improve to make it more

1 efficient for time, which is really one of the main factors
2 here, and cost savings.

3 And I think if there's a time problem often it
4 resides with the General Assembly, so maybe we need to find
5 a better and more efficient way to operate amongst our
6 processes.

7 SECRETARY CURT TOPPER: Thank you,
8 Representative.

9 I think, in fairness to the General Assembly, it
10 doesn't all rest with the General Assembly.

11 REPRESENTATIVE MILLER: Got it.

12 SECRETARY CURT TOPPER: There are plenty of
13 opportunities here within the administration for us to
14 find -- you know, to continue to improve cycle time. So I
15 don't want you to walk away here with the impression that I
16 believe that the General Assembly is the problem.

17 What we're looking for is -- again, I just -- I
18 want to work together to establish a new set of rules that
19 enables the parts of it that we do on our own, it enables
20 us to do it more quickly.

21 And the parts of it that involve members of the
22 General Assembly, if there are portions of this that we can
23 do without a specific act of the General Assembly for every
24 single transaction, you know, at least for the routine
25 stuff, that would be hugely beneficial for us.

1 If there were a way for us to get to a best value
2 sale, and still enable the General Assembly to have a final
3 approval, I'm all for that. Let's -- I think we can figure
4 this out.

5 REPRESENTATIVE MILLER: Thank you very much.

6 HOUSE MAJORITY CHAIRMAN EVERETT: Representative
7 Webster.

8 REPRESENTATIVE WEBSTER: Thank you, Mr. Chairman.

9 And, Mr. Secretary, I might be taking this in a
10 little different direction, and I don't know if the
11 representatives from Lebanon County, Representative Diamond
12 or Representative Ryan, who had the lead before, would
13 agree with me or want to kick me in the shins.

14 But in a prior life in Washington D.C., I
15 watched, for instance, the U.S. Air Force dispose of
16 airspace around training ranges because it was impacting
17 commercial flights. But once you lose that airspace and
18 that training space, you never get it back.

19 So I'm thinking about the --some other inherent
20 values that might be around a property or about a
21 government function and wanted to ask how -- I know we
22 project at Fort Indiantown Gap we're not going to change
23 what is today the largest training facility in the country.
24 You know, that we train more soldiers there than anywhere
25 else in the country. But that has an inherent value.

1 SECRETARY CURT TOPPER: Uh-huh.

2 REPRESENTATIVE WEBSTER: What about -- I looked
3 at one of your examples, and I know this is just a made-up
4 example, so you talked about the -- your annex as being
5 surplus.

6 But in a world where emergency preparedness may
7 be a necessary thing, you know, do we ever get back that
8 space if we give it up now?

9 So how do you -- and I know that carrying costs,
10 the efficiency. I get that. But how do we also measure
11 some of these other inherent values that a property might
12 hold?

13 SECRETARY CURT TOPPER: Yeah.

14 Representative, I think that's a great question.
15 I think historically DGS has really deferred to the
16 agencies that we serve to make the determination about what
17 they need going forward.

18 So it would be -- like, I can't decide for
19 Secretary Miller at DHS, you know, what she's going to need
20 with respect to the state hospital system going forward.
21 And it would be -- you know, it just wouldn't be consistent
22 with my role in order to do that. So we have not
23 historically really been involved in those, you know, in
24 planning at that level.

25 We do have a current process where every time an

1 agency determines that they no longer need a piece of
2 property, the first step is to make that property available
3 to all of the other agencies under the Governor's
4 jurisdiction so that should another agency have a need --
5 and we've had examples where we've found parcels on former
6 DHS property that has in turn become state police -- state
7 police has been able to move in and occupy.

8 There are examples where we repurpose
9 Commonwealth property once it's been declared surplus, and
10 it never makes it down the path to an actual sale.

11 But, you know, my sense of it over the long term
12 though is that as the state government workforce continues
13 to contract, we probably -- it's hard for me to imagine the
14 time when we're going to need to -- when we're going to
15 need all of this excess property.

16 Right now, our occupancy is -- you know, in state
17 facilities and leased facilities is lower than it probably
18 should be, right. And part of that is because we're
19 maintaining a portfolio of owned property, and part of it
20 is because we're in longer termed leases.

21 And, you know, many agencies are in the same
22 scenario that DGS is in, in that, you know, my agency is 30
23 percent smaller in terms of head count than it was in 2008.
24 So consequently, I need few -- I need a lot fewer square
25 feet. That's just a fact, right.

1 And it's not that different for many of the other
2 agencies. You know, the state police experienced
3 notwithstanding; they've grown.

4 But this is why I think -- I think it's a great
5 question, but I think it would be difficult for me as
6 Secretary of DGS to wade into the agencies' long-term
7 planning about what they need and what they don't.

8 MAJOR EDWARD HOKE: And, sir, just to follow up
9 on the Secretary's comments.

10 Within my tenure within the state police, which
11 is almost 32 years, we've only ever consolidated one
12 station and that was the Ephrata barracks. So we're
13 usually in a position where we're looking to find either,
14 A, new facilities because of our lease expirations and/or
15 looking to make modifications to our existing headquarters.

16 So we're not typically, from -- at least from
17 PSP's perspective, looking to, you know, lessen our
18 facility complement if you will.

19 SENATE MAJORITY CHAIRMAN FOLMER: Senator Hill.

20 SENATOR HILL: Thank you, Mr. Chairman.

21 Major Hoke, it's good to see you again, and I
22 want to thank you for testifying at the second hearing of
23 the Senate Communications and Technology Committee on
24 closing our digital divide. And I really appreciate that
25 the state police provided us with the facility to hold that

1 hearing in Monroe County. So --

2 MAJOR EDWARD HOKE: We appreciate --

3 SENATOR HILL: -- thank you.

4 MAJOR EDWARD HOKE: -- the opportunity to be
5 there, Senator.

6 Thank you.

7 SENATOR HILL: So I was initially going to ask
8 you for your thoughts, and the state police thoughts, on
9 the legislation that Representative Snyder and I had
10 written with regard to inventorying state-owned assets for
11 the further deployment of broadband.

12 We know that you have transitioned to a new radio
13 system, that some of your towers are no longer needed --
14 actually, a fairly good number of towers have been
15 identified no longer necessary for emergency service
16 providers.

17 And we know that access to high-speed internet is
18 a public safety issue for both the public, who are trying
19 to contact 9-1-1 services, EMS services, as well as for
20 state police, in assuring this public safety in an
21 emergency situation.

22 So in Representative Snyder and my bipartisan,
23 bicameral work on this issue, we have been concerned with
24 assuring that emergency services and public safety needs
25 are met. So we felt that that was a good place to start

1 with regard to deployment to underserved and unserved
2 areas.

3 And so, I guess, now in light of the testimony
4 that Secretary Topper has provided, I'm hoping that you
5 could share with us the conversations and the input that
6 you had in this process because we are concerned about
7 public safety and our emergency responders.

8 MAJOR EDWARD HOKE: Senator, first and foremost,
9 thank you for your appreciation of what the state police
10 and our first responders do across the Commonwealth.

11 For the benefit of this Committee, the
12 Pennsylvania State Police are in the process of deploying a
13 P-25 radio system across the Commonwealth. We are
14 approximately -- this project began in earnest in 2018;
15 thus far we are deployed across 41 counties across the
16 Commonwealth.

17 This, the P-25 radio system, is a non-proprietary
18 radio system which will allow the Pennsylvania State Police
19 to communicate with other law enforcement agencies and
20 other first responder agencies, who -- unlike our current
21 system, which is the 800 megahertz OpenSky system, which is
22 a proprietary system.

23 We expect that this project will complete, if we
24 stay on schedule, and we fully expect to do so, by June of
25 2021, at which point that the former or the current OpenSky

1 800 megahertz system will be decommissioned.

2 The OpenSky 800 radio system consists of
3 approximately 1100 towers. The 1100 towers vary in
4 different configurations. There are approximately 350 to
5 400-and-some odd what we refer to as microcell towers. A
6 microcell tower is nothing more than a phone pole with an
7 antenna mounted on top of it.

8 And they were deployed across the Commonwealth to
9 improve this radio system's capability so that our troopers
10 would have adequate radio coverage in very rural areas.

11 Many of these microcells are in areas that are
12 not even accessible by electricity. They have their own
13 power source, an alternative power source. They have a
14 propane generator or something of that nature to ensure
15 that power remains supplied to that facility.

16 We hope to decommission those once we fully
17 deploy the P-25 radio system, and in doing so those current
18 assets that are part of that system will be relinquished
19 over to DGS for decommissioning.

20 And I'm not sure, Senator, if that answers your
21 question.

22 SENATOR HILL: So you have had conversations with
23 DGS in regard to this contract.

24 And how have the existing assets that you are
25 retaining for the use of the state police been treated

1 under this contract that has been negotiated?

2 MAJOR EDWARD HOKE: The new P-25 system will
3 typically require about 125 towers. So you can see that
4 there are significant -- there is a significant reduction
5 in the number of assets that would be necessary to keep the
6 system operational. Albeit some of those towers are much
7 more substantial than the current towers.

8 Some of the towers that are part of the current
9 800 megahertz system, the OpenSky system, can be repurposed
10 and will remain in service as part of the P-25 network.
11 Those other assets will be simply turned over to DGS for,
12 again, decommissioning because we will no longer have a
13 need for them for public safety.

14 SENATOR HILL: But existing assets that you are
15 using are retained for state police and are not part of the
16 contract that was negotiated by DGS.

17 MAJOR EDWARD HOKE: The current contract that
18 we're under is under the Crown Castle contract, and that is
19 good until the end of December of 2020, next year, at which
20 point the contract that the Secretary spoke to earlier will
21 take over from that point.

22 My understanding is that there is language being
23 written in there to protect the public safety aspect of
24 that so that we would have the ability to maintain control
25 over the critical infrastructure that we need to maintain

1 and ensure public safety.

2 SENATOR HILL: So you're saying it's being
3 written.

4 So is the contract executed, and has it been
5 signed on the line? Because from Major Hoke's testimony it
6 doesn't sound like it has been.

7 SECRETARY CURT TOPPER: Senator, I --

8 SENATOR HILL: Have you seen the written
9 language? Have you approved it? And is it part of a
10 contract that's actually been signed?

11 MAJOR EDWARD HOKE: Senator, my -- I stand
12 corrected. My understanding is that the contract has been
13 validated; it is in place. Major Diane Stackhouse from our
14 Bureau of Communication and Information Services has been
15 involved with DGS, I believe, in the authoring of that.

16 SENATOR HILL: But that doesn't answer the
17 question, have you -- has the state --

18 MAJOR EDWARD HOKE: I --

19 SENATOR HILL: -- police seen the language --

20 MAJOR EDWARD HOKE: I have not seen it
21 personally.

22 SENATOR HILL: -- and are those assets that are
23 currently being used for first responders and public safety
24 part of that contract; yes or no?

25 MAJOR EDWARD HOKE: I believe -- my

1 understanding, Senator, of -- is that the contract will
2 encompass all state assets. The Pennsylvania State Police
3 maintain control of the STARNet network division, which is
4 the radio assets across the Commonwealth, by virtue of a
5 management directive. So we've been given the authority
6 for the oversight and maintenance of that program.

7 SENATOR HILL: Thank you, Major.

8 SENATE MAJORITY CHAIRMAN FOLMER: Well, that is
9 our last question.

10 And in closing, again, I want to thank Chairman
11 Everett and his staff, especially Susan Boyle, Melanie
12 Donnelly and Chanin Zwing for working with us to hold this
13 joint hearing.

14 Also, I want to thank the members of both the
15 House and Senate State Government Committees for your time
16 and participation in today's hearing.

17 And I believe that today's hearing has provided
18 information. I believe we have some other questions.

19 SECRETARY CURT TOPPER: Uh-huh.

20 SENATE MAJORITY CHAIRMAN FOLMER: But I'm -- it's
21 our hope that we continue these discussions after today to
22 work together to craft a piece of legislation on real
23 estate modernization that I believe is necessary. But I
24 believe we need to further feather out this information
25 that we've received here today in the very near future.

1 As a reminder, both the House and Senate State
2 Government Committees will have another informal
3 legislative briefing on election issues next Monday,
4 September 16th, at 1:00 p.m. at 60 East Wing.

5 For now, that concludes today's hearing.

6 Thank you for everyone.

7 HOUSE MAJORITY CHAIRMAN EVERETT: And I would
8 just remind --

9 SENATE MAJORITY CHAIRMAN FOLMER: Oh, I'm sorry.

10 HOUSE MAJORITY CHAIRMAN EVERETT: Oh no, I didn't
11 want to say anything.

12 I just want to remind our members to sign the
13 attendance sheet before you leave.

14 Thank you.

15 (Hearing concluded at 11:42 a.m.)
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C E R T I F I C A T E

I hereby certify that the foregoing proceedings are a true and accurate transcription produced from audio on the said proceedings and that this is a correct transcript of the same.

Susan Opdahl

Transcriptionist

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