

COMMONWEALTH OF PENNSYLVANIA

HOUSE OF REPRESENTATIVES

VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS COMMITTEE

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PUBLIC HEARING

IN RE: HOUSE BILL 1989 - PROVIDING FOR THE
PENNSYLVANIA FLOOD GRANT AND ASSISTANCE PROGRAM

* * * * *

BEFORE: RICHARD GRUCELA, Acting Chairman
John Payne, Eddie Pashinski, Scott
Hutchinson, John Yudichak, Ken Smith, John
Siptroth, Frank Andrews Shimkus, Members

HEARING: Thursday, March 6, 2008
Commencing at 10:00 a.m.

LOCATION: Scranton City Hall
340 North Washington Avenue
Scranton, PA 18503

SPEAKERS: Representative James Wansacz, Cathy Myers,
John Comey, Robert Flanagan,

Reporter: Kenneth D. O'Hearn

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I N D E X

1
2
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10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OPENING REMARKS

By Chairman Grucela 3 - 4

STATEMENTS

By Representative Wansacz 4 - 7

By Deputy Secretary Myers 26 - 40

By Mr. Comey 82 - 87

By Mr. Flanagan 92 - 97

CLOSING REMARKS

By Chairman Grucela 110 - 111

CERTIFICATE

112

P R O C E E D I N G S

CHAIRMAN GRUCELA:

Good morning, everyone. I'm Representative Richard Grucela. I'm the Sub-Committee Chairman of the Veterans Affairs Committee. Representative Tony Melio, our Chairman, couldn't be with us this morning, as well as Representative Russ Fairchild, the Republican Chairman. Also, Representative Tim Solobay, the Sub-Committee Chairman for which this bill is named, Representative Solobay also was unable to be with us this morning. So I will be your host Chairman for this morning.

I would remind the members that the proceeding will be taped. To make sure you're taped, talk into the microphone when you are giving remarks, et cetera. So without any further ado, I'll introduce the members of the Committee who joined us this morning, starting with my left.

REPRESENTATIVE PAYNE:

Representative John Payne, 106th District, Dauphin County.

REPRESENTATIVE SHIMKUS:

Representative Frank Shimkus, and I'm 113th District, and that's a good part of

1 Scranton ---.

2 REPRESENTATIVE HUTCHINSON:

3 Representative Scott Hutchinson out of
4 the 64th District, which includes Venango County and a
5 small portion of Butler County.

6 REPRESENTATIVE YUDICHAK:

7 Good morning. Representative John
8 Yudichak from Luzerne County.

9 REPRESENTATIVE SMITH:

10 Good morning. Representative Ken Smith,
11 112th District, to which we sit right now. Thank you.

12 CHAIRMAN GRUCELA:

13 Very well. And I forgot to mention I'm
14 in Northampton County and I'm 137th District in
15 Northampton County. This hearing today is being held
16 on House Bill 1989, which was introduced by
17 Representative Jim Wansacz. At this time, I would ask
18 Representative Wansacz to give his testimony.

19 REPRESENTATIVE WANSACZ:

20 Thank you, Chairman Grucela. Thank you,
21 members of the Committee, for coming here today to
22 Scranton. As you see, it's a quiet right now, but I
23 guarantee on Saturday, parade day, we will not be as
24 quiet in Scranton. What I did was I introduced House
25 Bill 1989 after, you know, our conferences trying to

1 solve the problem ---. It's a major problem that
2 Pennsylvania has to deal with is floods. And it came
3 down to the point where it's --- as each of us knows,
4 for us to get any federal help, the county needs, I
5 believe it's \$15 million worth of debt. And really,
6 so what happens if our local town or borough or county
7 gets hit with \$1 million or \$10 million or \$13
8 million? There's no help. So what are we supposed to
9 do? You know, we've had this situation, as I know,
10 throughout each and every one of our districts and
11 counties where you say, I'm sorry, there's nothing I
12 can do for you.

13 So what I decided to do was come up with
14 a two-prong approach. And that two-prong approach was
15 to provide money for flood prevention, to try to keep
16 these floods from happening. Currently we do not have
17 enough money in the state for it. And also a grant
18 program to be given out in those cases of those floods
19 where we can help the businesses and municipalities
20 fix the roads, redo their parks that are destroyed
21 because of floods.

22 And how I'm going to do this is --- you
23 know, in Harrisburg, you can come up with the best
24 ideas in the world for how to fund. So what I decided
25 to do was look at a way to put a \$1 surcharge on each

1 and every homeowner's insurance policy and business
2 property insurance. One dollar every year we should
3 generate about roughly \$4 million that can be used.
4 The key is we cannot look too high for developing a
5 grant program because the federal government will use
6 that against us. So if we had an ability of, say, \$5
7 million to \$10 million sitting in the side for a grant
8 program, they would say, you don't need the money, so
9 we're not going to give it to you. We're going to
10 give you less money.

11 So my proposal is really to take the
12 first \$3 million that are used for grant money, and
13 anything that goes above \$3 million we use for flood
14 protection. Now, if we're lucky and we have a year
15 like 2007 and we didn't have any major flooding, that
16 money then is rolled over. So the next money that
17 comes in, that \$3 million will stay intact. The next
18 \$4 million that comes in will go towards flood
19 prevention. So we would have more money available and
20 that way we would still be able to qualify for federal
21 money if something were to take place.

22 As you heard in the Governor's budget
23 address, he also believes that flooding is --- he has
24 a somewhat similar idea to myself, but it's different
25 into the fact that he isn't setting up a grant

1 program. He is putting on seven cents, I think, for
2 \$100 of insurance, which would generate roughly about
3 \$3 million or \$4 million and using to pay off bond, so
4 we're putting more up front money into the program.
5 So I think, you know, he understands the problem as
6 well as each and every one of us in the state. I
7 don't think a \$1 surcharge on the homeowner is
8 anything, you know, too inconvenient to buy flood
9 protection. Because after all, as we all know, if you
10 lose that soccer field, you lose that local road,
11 bridge, whether or not you use it, you're still paying
12 it, because your local taxes --- or you're
13 inconvenienced because you don't have the ability to
14 do use those things.

15 So that is my intent behind the bill. I
16 realize it's a work in progress. There's some tweaks
17 that are being --- still need some changes to this.
18 Hopefully after the testimonies today, I'm hearing
19 each one of your comments that we need more with this,
20 you know, draft an amendment for the bill and
21 hopefully get it voted out into the full Committee.
22 Thank you, Mr. Chairman. I will be happy to answer
23 questions that any of you have.

24 CHAIRMAN GRUCELA:

25 Thank you, Representative Wansacz.

1 Starting to the left, members of the Committee?

2 REPRESENTATIVE PAYNE:

3 Not at this time.

4 CHAIRMAN GRUCELA:

5 Representative Shimkus?

6 REPRESENTATIVE SHIMKUS:

7 I would just like to make a comment.

8 Flooding is a major problem in our district. There
9 are still parts of my District in the area of Scranton
10 in an area called Keyser Valley where floods a few
11 years ago, that damage has still not been repaired.
12 And we're supposed to get an inch of rain on Saturday
13 in this area. And I already know that there will be
14 businesses in Southampton Township that will be
15 sandbagged. It's just a natural thing.

16 And having talked to Representative
17 Wansacz --- it is so frustrating to find a solution,
18 because even if we found a solution locally, it
19 doesn't work. It has to be statewide. Because
20 Leggett's Creek, which is a major problem in my area,
21 if we came up with DEP money and cleaned Leggett's
22 Creek in Southampton Township and spent hundreds of
23 thousands of dollars or millions, it would make no
24 difference if the communities upstream didn't also
25 work on it as well.

1 And so I've looked for money and I've
2 looked everywhere and I just want to compliment you,
3 because when you first began to broach this subject, I
4 thought this was a great idea. And I'm just hoping
5 that it will come out of Committee and it will end up
6 being something with a statewide impact. And I just
7 want to thank you for your leadership and ask you to
8 just talk about the frustration that you have as well.

9 REPRESENTATIVE WANSACZ:

10 Sure. As Representative Shimkus said ---
11 you point out different things. It doesn't matter if
12 each and everyone of us picks our local problem. If
13 upstream they won't fix the problem, we're going to be
14 in trouble. You know, rivers run through many parts
15 --- as I'm sure all of you do, through your districts.
16 And you know, we've got the Army Corps come in and fix
17 a section of the river. Well, that's great, but if
18 you won't fix it upstream or you don't fix it
19 downstream, essentially that whole section just gets
20 washed away. And we've seen that happen on the border
21 of Lackawanna and Luzerne County, Spring Brook, down
22 into Pittston Township, into Moosic, and then it goes
23 right down and floods.

24 So we have to take a comprehensive
25 approach. We have to fix everything that we can do.

1 Right now there's not enough money, and that's why we
2 have to depend on the Army Reserve to come in here and
3 do this, especially when you know their resources
4 right now for the last few years, who knows into the
5 future how long they're going to be tied up.

6 And with so many projects going on in the
7 state, we really need to be proactive in the state.
8 We need to be able to take the lead. We have to come
9 up with some money to help these local towns. We have
10 to help the businesses that do get flooded, be able to
11 give them --- because we're going to give them the
12 abilities, such as in Southampton, so they don't have
13 to go out every time it rains putting sandbags up,
14 that they can have some money and fix the problems.
15 And this is something I think that can work.

16 And maybe, you know, with the guys, you
17 guys, maybe a way that we can go a little bit further
18 just coming up with a comprehensive plan saying to a
19 municipality, you guys come together, and you ---
20 maybe some matching, you can use this money to match
21 this so we can do the project. But this is all things
22 that can be worked out in the future. But I think
23 it's the first step. It's the first step to get us
24 the money. It's the plan to be able to work on this
25 and be able to really, I think, you know, now and in

1 the future, not only help in the case of a
2 catastrophe, but stop the floods, because that's the
3 key, prevention. Prevention saves a lot of dollars
4 than actually just throwing money out there when you
5 have something.

6 CHAIRMAN GRUCELA:

7 Representatives? Representative
8 Yudichak?

9 REPRESENTATIVE YUDICHAK:

10 Yes. Thank you, Mr. Chairman.

11 Representative Wansacz, there is one question.
12 There's a sunset provision in the bill. Can you speak
13 to that? Why would we have to have a sunset
14 provision?

15 REPRESENTATIVE WANSACZ:

16 Sure. I think the sunset provision is,
17 you know, that we understand so many times with new
18 legislature, let's say they got a flood tax. We would
19 put that in there and it would just keep going and
20 going. It's not really intended the intended purpose.
21 So what I think, to really just ease concerns of, you
22 know, ourselves and all our colleagues, let's say,
23 let's put this provision in here. And after six
24 years, if we do not like the way it's being run, if we
25 do not like the way it is being properly --- you know,

1 to the intent of the bill, that we have the ability
2 now to come back and improve it or make some changes.
3 Because who knows, we might be in a different
4 situation six years from now, so we can make more
5 changes. Maybe we'll say we need more money or we
6 need less money. And that could be something that,
7 you know, we as a General Assembly can decide. So
8 that was something I heard about for six years that we
9 have the ability of doing. If that's something that,
10 you know, Committee decides that, you know, we'd
11 rather let it go on, I'm in favor of that, too. I
12 just thought that was reasonable that I should put
13 that in there.

14 REPRESENTATIVE YUDICHAK:

15 The other question I have speaks to the
16 prevention practices you mentioned, and I think they
17 are very important, as you noted. Taking the
18 reasonable approach to these issues, in coordination
19 with not just PEMA, but all the state agencies that
20 deal with growth, many of the problems that we're
21 seeing in Luzerne County, particularly --- and just to
22 give you a history, the floods that have been a part
23 of my life for my entire life. In 1972 when I was two
24 years old, Agnes drug my two-story house, my family's
25 home right down into the river. So in that community

1 where my father happens to now be the township
2 supervisor at age 75, those same issues that he faced
3 in '72 we're still facing today in terms of flood
4 alarms.

5 There doesn't seem to be a strong
6 coordination of various agencies in conjunction with
7 the federal government to make sure that we have
8 economic growth, that we're making sure that water
9 management issues are taken care of. For example, in
10 the Wilkes-Barre --- generally, not a flood would be
11 seen because of great development in Wilkes-Barre
12 Township. And in fact, now in Luzerne county, areas
13 where we have not seen flooding, you're seeing
14 flooding, and major damages to state roads, state
15 bridges. And that draws a loss across the board. So
16 that's why I agree with you. I will cosponsor the
17 bill.

18 Can you speak a little bit more what we
19 can do to bring all those agencies together so that
20 this is in comprehensive strategy, not just a single
21 grant program administered by PEMA, but really bring
22 in all the state agencies that when we have major
23 economic development or major residential development
24 in an area, that they're going to have to meet certain
25 criteria before they can proceed so that we don't have

1 problems down the road?

2 REPRESENTATIVE WANSACZ:

3 And thank you for bringing that up. And
4 as you can see, we were joined here today --- we have
5 the Department of Environmental Protection. We have
6 PEMA, and DCED was supposed to be here as well. So I
7 tried to bring in all of the groups. I have met with
8 them. I discussed the idea of making sure everybody
9 works together, because if we don't all work together,
10 just one group, it's not going to work.

11 So my intent was to bring all these
12 people. I brought them into negotiations and said,
13 how can we best make this happen? Well, the best way
14 that we can make this happen is by introducing this.
15 And then it goes out to those organizations to draft
16 regulations to be able to make it happen. DEP
17 understands that they don't have enough money right
18 now to fix all these problems. DCED understands.
19 PEMA understands. What everybody also understands,
20 that there is a problem and something needs to be
21 done. So by letting these --- by getting them this
22 vehicle to bring them together so that they can put
23 the necessary regulations in so that we can work
24 together, put in certain provisions, you know, even
25 with the advice, I think, we can have the ability ---

1 your Committee will have the ability to say, this is
2 what the regulations are and this is some of our ideas
3 and some of the things --- that we can go ahead and
4 solve all these issues. And I know that as a member
5 of this Committee, I really look forward to, you know,
6 you working with them to help set the regulations.

7 REPRESENTATIVE YUDICHAK:

8 Thank you. Thank you, Mr. Chairman.

9 CHAIRMAN GRUCELA:

10 Representative Smith?

11 REPRESENTATIVE SMITH:

12 Thank you, Mr. Chairman. Representative
13 Wansacz, just a hypothetical situation. Let's say I'm
14 a property owner and my property borders the river and
15 I have a constant problem with flooding. As a
16 homeowner and property owner --- two things. One, if
17 this is a continuous problem, do I turn to the DCED to
18 look at --- where do I start? Number two, would it be
19 just flood prevention or does any of this funding take
20 care of my personal property?

21 REPRESENTATIVE WANSACZ:

22 Two great questions. I'll answer the
23 last first here. There's the two parts to this fund.
24 One is the grant program, the \$3 million. After we
25 hit that cap, as I explained earlier, we can't go

1 above that because then the federal government will
2 start to penalize us. So that first \$3 million goes
3 with the grant. The additional money goes to the
4 flood prevention.

5 So for example, in 2007, we hit that year
6 --- if we had this law on the books, 2007, we had a \$3
7 million cap on the grant already. We had money for
8 flood prevention. The \$4 million or so that would
9 come in the next year all would go to flood
10 prevention. So for 2008 we may even have three or
11 four times that for flood prevention. But let's say
12 you get a huge storm. There was some minor flooding,
13 I believe, throughout the state yesterday. An
14 individual homeowner, individual business, individual
15 municipality would be able to apply for that
16 \$3 million to be able to help offset them.

17 Now, one of the concerns that has been
18 brought to my attention after working on these bills,
19 for those of you that live in apartments --- some of
20 you may not be aware, and Scott, you'd be much more
21 knowledgeable about this issue than I think I ever
22 want to be on it, out of necessity. You don't have to
23 have flood insurance. Everybody thinks you have to
24 have flood insurance. You don't. You do if you have
25 a mortgage on your house because the bank will require

1 it, but not if you don't have a mortgage on it. If
2 your house is paid off, you don't have to have flood
3 insurance.

4 So one of the provisions that we want to
5 do is if those people live in flood plain, they should
6 be self responsible for this. So one of the
7 provisions that we've been talking about as a group
8 and deciding is the fact that maybe there's a one time
9 help out there for this person. Once you get that one
10 time help, you would have to either carry flood
11 insurance or you don't, but you're not going to get
12 bailed out from the state every time because you don't
13 want to have flood insurance. So I believe in self
14 responsibility. I believe in those individuals that
15 are living in flood plains, that they should carry
16 flood insurance. But there is going to be money that
17 would help the first time.

18 But most importantly, for those
19 individuals, there's going to be money there for
20 prevention. There's going to be money there, so
21 hopefully those flood plains that are getting flooded
22 now won't be getting flooded after one inch of rain or
23 two inches of rain. And maybe they'll go back to
24 their 100-year storms instead of getting hit three or
25 four times in between. So that's how I'm addressing

1 the problem. I do believe in self responsibility. I
2 do believe we do need money there to help you one
3 time, but then say, you've been helped. Now it's your
4 responsibility to take flood insurance. That grant is
5 going to help all the time. This is going to be for
6 communities as well as flood prevention as a whole.
7 So those communities that we talked about that never
8 got flooded before, we're going to help fix those
9 flood problems as well.

10 REPRESENTATIVE SHIMKUS:

11 Thank you very much. And thank you very
12 much for taking on the task to try to run with this,
13 because it's a big problem and not an easy solution.
14 Thank you.

15 REPRESENTATIVE WANSACZ:

16 And I know both in yours and ---
17 Representative Shimkus' and Representative Yudichak's
18 area, you guys do get hit with quite a number of
19 floods, and we feel horrible for the residents and
20 businesses that are located there.

21 CHAIRMAN GRUCELA:

22 Thank you. We've been joined by another
23 member of the Committee. I'll ask him to introduce
24 himself.

25 REPRESENTATIVE PASHINSKI:

1 Good morning. Representative Eddie
2 Pashinski, Luzerne County, 121st District. And while
3 John was two years old for the '72 flood, I was out
4 there tying sandbags.

5 REPRESENTATIVE YUDICHAK:

6 How old were you?

7 REPRESENTATIVE PASHINSKI:

8 I was four. If I could say a few things
9 here. Representative Wansacz, thank you very much for
10 having this hearing, and I applaud you for it. With
11 respect to this bill, I think some of the questions
12 that I just had heard, you know, are vital to really
13 developing a quality of life. Let's just focus in on
14 yours, because yours is a new source of money that
15 will be more accessible to people that are inundated
16 with flood problems, and that is an important part of
17 it.

18 As far as the regulations go, and in
19 responsibilities of the various municipalities, the
20 concept where, well, I live on top, you know, I don't
21 get flooded, it doesn't happen where I live, too bad,
22 you get flooded on the bottom, we experienced that in
23 our area. Certain municipalities that should have a
24 responsibility to help mitigate flood problem do not,
25 and as a result, it ends up in flooding another area.

1 There is a House Bill 2266 that is a
2 result of --- I think Representative Steil sponsored
3 it, that deals with this particular issue. So if you
4 have municipalities that cannot work together, it will
5 give the county an option to, first of all, develop a
6 study to make sure that they're developing quality
7 flood planning, plus implement with the means and the
8 mechanisms and the funding. So I think with your bill
9 in addition to Representative Steil's bill, it's going
10 to start creating a conversation necessary for
11 communities or counties.

12 By the way, what I like about your bill
13 is there's not going to be any type of costly factor
14 for anyone when you're talking about a dollar for
15 insurance. And I think this fills a major gap for
16 this money to be accessible a lot quicker than the
17 others; right?

18 REPRESENTATIVE WANSACZ:

19 Correct. And I can tell you, especially
20 when you talk about the dollar, sometimes we hear so
21 much in Harrisburg saying, well, it's raising taxes,
22 it's doing this, it's a dollar. If you do not have
23 any money set aside now, which we don't, it is
24 possible that each every homeowner, regardless of
25 whether you live in a flood plain or not, you're not

1 giving a lot, because for a local small town, that
2 would replace broken bridges or anything else. It's
3 spread out and everybody's going to be paying a
4 dollar. This is a dollar a homeowner, or let's say
5 you were in my case, that you had two homes, I'd pay
6 \$2 a year. But I'm willing to do that to help spread
7 the cost throughout the state. I think ---

8 REPRESENTATIVE PASHINSKI:

9 You're a great spender.

10 REPRESENTATIVE WANSACZ:

11 --- it's a responsibility. I think it's
12 something that needs to be done. That's why I always
13 believed in that question, you know, what I was told.
14 If you want to come up with some idea, come up with a
15 good one and figure out how to pay for it. This way
16 of paying for it. I don't think it's going to break
17 the bank of anybody, \$1 or \$2 a year.

18 REPRESENTATIVE PASHINSKI:

19 Would you be willing to consider adding
20 or changing something based upon the questions that
21 each member has raised? And that is for those people
22 that choose to live in these areas, you know, in an
23 inundated area, there's also several other activities
24 that are going on where the state or the counties are
25 buying these properties so they won't have to deal

1 with that. Is it necessary to put in any clause so
2 that this bill, your bill would deal primarily with
3 those people that haven't been flooded before that are
4 getting flooded at the present time?

5 REPRESENTATIVE WANSACZ:

6 Well, I think the best thing we can do is
7 leave this broad as possible and that the agencies,
8 PEMA and DEP and the DCED, work together to come up
9 with the regulations, which your Committee, I believe,
10 will be putting the regulations in front of you to
11 review, to make comments or not to make comments on.
12 And in going ahead --- so sometimes, as we all know,
13 and I know this is, you know, a perfect example where
14 it was cheaper for the federal government to come up
15 and buy those homes than it was to fix the problem.
16 So, you know, who knows, maybe we should give DEP that
17 option to say that if there is people here, it might
18 be cheaper for us to go ahead, instead of spending
19 millions of dollars here, we can spend \$200,000 buying
20 all these people and we're in better shape.

21 So I think we have to use as many options
22 off of that that's possible, but at the same time, you
23 know, we have to --- people that lived next to the
24 rivers, lived next to creeks and know it's a flood
25 plain have to show some type of self responsibility.

1 But there is going to be money there for prevention.
2 So hopefully, they're not getting it quite as often as
3 they are. So if we can fix the problem upstream and
4 fix the problem that's causing that, hopefully they're
5 not going to get that every single time.

6 REPRESENTATIVE PASHINSKI:

7 Thank you very much for your time. Thank
8 you.

9 CHAIRMAN GRUCELA:

10 Representative Shimkus?

11 REPRESENTATIVE SHIMKUS:

12 I just had a follow-up question. Thank
13 you, Mr. Chairman. Your grant program is absolutely
14 critical to dealing with this problem. And I too have
15 learned a lot about flooding just in trying to help my
16 constituents. And I invite Pennsylvania Emergency ---
17 DEP who had already testified, helped me understand
18 this, but my understanding now is that the state tells
19 the county to develop a flood bank. The counties then
20 tell the municipalities, okay, here's what we think
21 works. And I know a lot of them call for a copy of
22 that and it's still being drawn up, so there is no
23 comprehensive plan, at least for this century, that is
24 being implemented. But my question to you is, in your
25 grant program, would the counties then get the money

1 to farm it out to the municipalities, or could each
2 municipality apply on their own?

3 REPRESENTATIVE WANSACZ:

4 Well, the way I have it set up right now
5 is each municipality will apply on their own, but
6 maybe there are regulations to address these things
7 that we've talked about or maybe we could put this in
8 the bill. Is that where the county needs to be maybe
9 as the applicant for approval as an applicant, make it
10 much like other things, so that that way, the counties
11 could have some type of say and force the
12 municipalities to work together, so if this one little
13 river doesn't fix that the problem, it causes more
14 flooding downstream for anybody else, so that we can
15 fix the problems. So I am open to suggestions.

16 REPRESENTATIVE SHIMKUS:

17 And I think it's also an incentive for
18 the counties to get on the ball and get their flood
19 plan in action. Thank you very much. Thank you, Mr.
20 Chairman.

21 CHAIRMAN GRUCELA:

22 Thank you, Mr. Shimkus. And I would
23 agree. Along with Representative Yudichak and what
24 Representative Shimkus just said, just to amplify a
25 little bit --- Representative Siptroth will be joining

1 us shortly. I know he's on his way. He and I
2 represent communities and municipalities along the
3 Delaware River. We have a little bit of a separate
4 problem because we have to deal with DRBC, which is a
5 whole different problem. However, we did experience
6 three floods, and there was two that happened in 16
7 months. And as Representative Yudichak said and
8 Representative Shimkus also just sort of said the same
9 thing, one of the things I've learned during those
10 flooding problems was coordination. And there really
11 was like --- to use an unrelated example, no head
12 coach. And it didn't seem like, you know, the
13 counties, state and federal government were all
14 involved. They all seemed to do something different
15 and there was really a lack of coordination, in my
16 opinion, that I saw happening at those times. I think
17 Representative Siptroth would agree with that.

18 But if you have --- and our counties are
19 doing the same thing. And it's my understanding ---
20 and maybe these are questions better for later on.
21 But my understanding was the county was to develop a
22 plan that each municipality had to approve or agree
23 to. Now, Pennsylvania, as you know, we go from the
24 bottom up where they have one of their local --- so
25 that it causes some --- I don't know if we're on the

1 same page. But my concern would be the same thing. I
2 think it's a great program. I'm happy we got 66
3 cosponsors that we've had on this bill.

4 But one of the things we're really going
5 to have to look at is to make sure that we coordinate
6 and say it's done right, and really somebody is kind
7 of a head coach, somebody overseeing the whole thing
8 so we don't end up with a myriad of all kind of
9 applications of all kinds of confusion as to how to
10 apply, where to apply. And that's what happened the
11 last time that we experienced. So again, great bill,
12 and I would just say I hope we move it forward. And I
13 commend you for finding a funding stream for it as
14 well.

15 Any other questions for Representative
16 Wansacz? If not, again, thanks for your testimony.
17 You're welcome to join us for the last two speakers.
18 Our next testifier will be Cathy Myers, Deputy
19 Secretary for Water Management, Department of
20 Environmental Protection.

21 DEPUTY SECRETARY MYERS:

22 Good morning, Mr. Chairman. Well, first,
23 I apologize for being a little late. My secretary
24 sent me to the university, which was a lovely spot to
25 go this morning, but it wasn't where this hearing was

1 being held. So once we directed ---.

2 Members of the Committee, I would first
3 like to thank you for calling this hearing and
4 providing an opportunity to discuss in detail some of
5 the background information and facts relevant to
6 Pennsylvania's Flood Protection Program as well as the
7 urgent need for additional funding sources to address
8 the type of assistance provided for through House Bill
9 1989.

10 I am Cathy Curran Myers. I am the Deputy
11 Secretary of the Office of Water Management in the
12 Department of Environmental Protection. And one of my
13 primary responsibilities is oversight of DEP's Flood
14 Protection Program. I'd like to give you a little
15 background first of what we do now. There are
16 multiple variety of programs. Representative Grucela
17 is not wrong that there are many programs trying to
18 address parts of floods. They are spread out among
19 many state and federal agencies. And we definitely
20 need to get our act together and get it coordinated.
21 One thing the Governor has done to try and improve,
22 from the administration side, our coordination ability
23 was, in last year's budget, a relatively small line
24 item, but an important addition of \$300,000 to create
25 an interagency task force and a flood director, who

1 will be appointed soon, to manage our end of it and
2 try and provide staying power.

3 We do pretty well when there's a flood
4 and everybody gets together and we've had --- PEMA has
5 a very good system for getting us going then. But
6 then things sort of fall off and we don't have the
7 staying power for the long haul to be prepared in
8 advance for the next round, which will inevitably come
9 in such a flood-prone state. So we are trying to have
10 some more glue and some more oversight management on
11 our end to address the very lack of coordination that
12 we have with the many multiple players from at least
13 the state's --- as much as the state can accomplish
14 that with the federal, state and local players.

15 Pennsylvania derives many advantages from
16 its water supply. At times, however, the volume of
17 water can certainly be overwhelming. Pennsylvania's
18 mountainous terrain and more than 86,000 miles of
19 rivers and streams and abundant rainfall have the
20 potential to create flooding anywhere in the state.
21 Past flooding has cost literally billions of dollars
22 worth of flood damage, making Pennsylvania one of the
23 most flood-prone states in the union. North Carolina
24 apparently vies for us with that, so I won't say the
25 most flood-prone state and I'm not sure that's where

1 we want to be listed. But we're either one or two
2 based on flood damage claims and payment over the
3 years.

4 Because of this long history of flooding,
5 we have developed one of the most extensive flood
6 protection programs in the country. DEP manages the
7 Commonwealth's Flood Protection Program and is
8 authorized to provide structural flood protection for
9 Pennsylvania communities that request such protection,
10 provided that the effort can be justified
11 economically. We do a cost benefits analysis. If the
12 damage, historical damage, from flooding does not
13 exceed the cost of the project, we cannot do it.

14 Flooding in Pennsylvania has been caused
15 by a variety of weather events and conditions. A
16 severe thunderstorm can cause dangerous flash flooding
17 locally on small streams and may occur in one small
18 watershed, while remnants of hurricanes can result in
19 days of hard, steady rainfall, devastating really
20 large watersheds and whole regions of the state, as we
21 saw in the Delaware River situation not just once, not
22 just twice, but three times in less than two years.
23 We also flooded many times because of a combination,
24 as we fear this spring, of snow melt and heavy
25 rainfall, which you understand is April showers

1 bringing May flowers, but it can also bring spring
2 floods and devastation, which is not nearly as
3 pleasant an experience.

4 Sometimes the spring flooding and the
5 spring thaw situation also leads to ice jams. The ice
6 jams actually act as dams and can result in additional
7 flooding and monetary loss. On the Delaware, we have
8 established as a result of concern about ice jams a
9 sort of SWAT team that goes out and watches the ice
10 break up and is monitoring it to warn of any jams that
11 start to occur in coordination with PEMA and some of
12 our federal partners. No matter what the cause of the
13 flood, there is always one common denominator, and
14 that certainly is heartache for Pennsylvania
15 residents.

16 The severity of flood problems can also
17 vary. While some are relatively minor in nature and
18 can be corrected or relieved by removing channel
19 blockage or debris or by stabilizing a severely eroded
20 streambank or replacing a damaged bridge or culvert,
21 many times the flood problem is more severe, resulting
22 in millions of dollars in damage and possible loss of
23 life. These high magnitude events are sometimes
24 referred to as a 100-year flood. And it's important
25 to remember that a 100-year flood does not mean it

1 will only occur once every 100 years, as we saw in the
2 repeated 100-year and 500-year floods in the Delaware
3 Basin in the recent years. It refers only to a
4 probability and means that such a flood has a one
5 percent chance of occurring in any given year.

6 Larger scale flood problems may require
7 extensive engineering analysis that may lead to a
8 combination of structural and nonstructural solutions.
9 When I talk about nonstructural flood damage reduction
10 measures, I am talking about things like
11 floodproofing, elevation of structures, voluntary
12 buyouts, as you gentlemen were discussing earlier,
13 stream and wetland restoration and even buffer areas.
14 We plan, design, construct, and annually inspect flood
15 control projects that are designed to provide
16 protection from those 100-year floods.

17 Since the 1940s, which is fairly unique
18 in the country, DEP has a group of waterways engineers
19 who actually design and construct flood control
20 projects, and we have done about 200 in the state at a
21 cost of over \$800 million into today's dollars. The
22 Governor is recommending legislative changes to the
23 Department's existing authority to specify that
24 non-structural solutions, those buyouts,
25 floodproofing, alternatives to simply bricks and

1 mortar, should be implemented in order that we can
2 design the best flood control project with the
3 smallest necessary footprint and the lowest
4 maintenance costs. We get a balance --- in many
5 cases, we'll look at a situation and there may be a
6 one-mile flood wall that needs to go in if we protect
7 every single house that's at risk, but three folks
8 over in one corner may love to get out of harm's way,
9 and if we could encourage them to do that, provide
10 them the funds to do that, we might be down to a
11 quarter-mile flood wall instead of a mile flood wall.
12 And access to the stream and a buffer and the
13 landscape solution, although part of it, any small
14 footprint for the structural solution, a lower cost,
15 lower O&M going forward, that's a better program.

16 Wasn't the kind of thing thought of in
17 the '40s, so our 1940s legislation simply says we can
18 construct flood control projects, very structural
19 approach. We want to add to that, or nonstructural
20 measures, as may be appropriate. That may be
21 something in a separate bill. That may be something
22 we may wish to consider in this bill to make sure we
23 have the full authority to pick from among the
24 solutions the one that best fits an individual
25 community and its wishes and desires in terms of

1 protecting its residents and its stream and its
2 community setting.

3 The Department has programs that address
4 both the minor type of flooding that I was talking
5 about and also the more severe situations. We have a
6 Stream Improvement Program that addresses those
7 smaller flood problems by removing channel blockages
8 and debris that can contribute to chronic flooding.
9 It also addresses the streambank erosion where
10 residential or commercial structure is directly
11 threatened. Eligible projects have to have an
12 imminent threat to an occupied residence or business.

13 The Flood Protection Program addresses
14 the more severe flooding problems by the Department
15 conducting a comprehensive engineering study to
16 determine if a structural flood protection project is
17 economically feasible. These types of projects
18 include compacted earth levees, concrete or natural
19 channels, floodwalls, channel improvements, detention
20 dams or any combination of these alternatives.
21 Projects are intended to provide flood protection to a
22 large area of the community, and in many cases are
23 multi-million dollar investments, like the ones in
24 Wilkes-Barre and Scranton that have needed a
25 combination of federal project dollars, state project

1 dollars, local project dollars and are still being
2 phased in and built over about a 20-year period.

3 In addition to evaluating flood-prone
4 areas and designing stream improvement and flood
5 protection facilities, then managing the construction
6 of those projects, the Department remains involved
7 with the local project sponsors, meaning the local
8 communities, after the project is constructed.
9 Because after we construct a project, we then turn it
10 over to the municipality and it's theirs going
11 forward. So they do need help, both technical
12 assistance for nonroutine maintenance and repair.
13 They need assistance with things like how do you mow a
14 levee. Well, you need one of these fancy --- have you
15 ever seen the really huge John Deere sort of --- but
16 it goes on an angle so that you can be sitting up
17 straight and it's cutting along at an angle. They're
18 very expensive. Often several communities can get
19 together and buy one, but it's critical for keeping
20 that levee in vegetation and not having trees and
21 things start to grow up and poke those holes in your
22 levee and then make a major problem, which causes
23 major maintenance.

24 So we do everything from the really big
25 to the fairly small, but they're all critical to a

1 comprehensive program. We provide technical
2 assistance to the sponsors for operating and
3 maintaining those projects, and we annually inspect
4 the projects to ensure they are in a state of
5 readiness and will function as intended and designed.

6 Now, funding for these projects comes
7 from the Department's annual Flood Control Projects
8 line item in the budget or from capital budget funds.
9 The Flood Control Projects line item provide about
10 \$2.8 million a year that DEP uses to fund
11 rehabilitation or upgrades of existing projects,
12 construction of new smaller flood protection projects,
13 usually under \$300,000, flood protection grants for
14 project sponsors, and those smaller stream improvement
15 projects. In addition to that, line items are
16 \$3 million year in, year out for the smaller projects.
17 The Governor's Budget Office typically releases
18 \$10 million per year through the capital budgeting
19 system released for larger flood control projects.

20 These funding sources have been a fairly
21 adequate way to operate the Flood Protection Program
22 for many years with the major problem being how to
23 address emergency situations immediately following a
24 flood disaster and then also the time to design and
25 construct new projects. When a disaster occurs,

1 there's typically no readily available funds to
2 earmark for emergency recovery efforts. Now, there
3 are federal programs we tap into, and that's one of
4 the reasons for the appearance of scurrying about so
5 we can get the right funds, get NRCS. That's a
6 Department of Agricultural organization that you
7 wouldn't expect has flood control responsibilities,
8 but it does. And it has emergency recovery funds and
9 we partner and cost share with them in the aftermath
10 of floods, as well as the other partners you've talked
11 about.

12 Much of the federal assistance for
13 communities such as FEMA grants are not available
14 unless the federal threshold --- oh, I should back up.
15 I want --- lost my place here. I don't want to skip
16 anything important. For recovery work in streams,
17 such as streambank stabilization projects to protect
18 homes, the funds are taken from the Flood Protection
19 Program's annual project budget and, you know, that
20 means that when we run out, we run out and we can't
21 start new projects if we've spent a lot of time
22 working on flood relief efforts because it's sort of
23 all one fund.

24 And that's really what's happened --- the
25 situation we find ourselves in right now with the

1 recent spate of flood events. My staff has been out
2 doing the flood recovery effort instead of designing
3 the projects, and we're getting behind. There are
4 many projects in the queue, which is why the Governor
5 wanted to put forth an initiative this year to
6 increase our output and our ability to have output,
7 because we send the same people out either to do new
8 things or fix the problems we've already got. So we
9 really need to put a little more manpower and a little
10 more money at that problem.

11 House Bill 1989 would provide an
12 additional funding source to assist local communities
13 directly both before and after a flooding event. Much
14 of the federal assistance for communities such as FEMA
15 grants, as I'm sure John will explain, are not
16 available unless the federal threshold for damage is
17 sustained and a federal disaster is declared. House
18 Bill 1989 would create a funding source to assist with
19 flood-related damages for floods where no federal
20 disaster declaration has been made. That money would
21 be available for grants for flood protection projects
22 and for other related projects. The money generated
23 would be in addition to the current funding DEP
24 receives for that Flood Protection Program I
25 described.

1 Now, the Governor's also trying to pump
2 up our activity. The Governor's fiscal year 2008-2009
3 budget proposes an additional --- proposal includes
4 \$100 million over three years for flood protection,
5 including a significant increase in capital budget
6 financing. The funding is for design and construction
7 of new flood protection projects, repair or
8 improvements to existing flood protection projects,
9 and just increasing the number of stream improvement
10 projects and flood improvement grants to local
11 communities. The proposal more than doubles the flood
12 protection line time from approximately the
13 \$2.8 million to \$5.8 million. It also includes an
14 annual increase in capital funds that will provide \$91
15 million over three years, about triple the amount
16 released.

17 So basically we're doubling the small
18 project level of activity and tripling the large
19 project level of activity within the administration
20 with those increases in that announced flood
21 initiative for this year's budget. That will mean
22 approximately 80 projects waiting in the wings will
23 move forward over these three years. And we have a
24 list of those projects that I can provide for you,
25 although I don't think I have it with me now. And we

1 hope that many more can be funded. The Governor's
2 proposal includes a new funding source similar in
3 concept to the funding mechanism in House Bill 1989
4 for the increased debt service required in order to
5 triple these capital funds that would be released over
6 the next three years.

7 Certainly, flooding in Pennsylvania is a
8 serious issue, costing the residents in this state
9 billions of dollars in damage and much more in
10 heartache. By providing more funding for flood
11 control and repairs following serious floods, we can
12 continue the process of reducing future damage and
13 protecting those living within these flood-prone
14 areas. We think that the concepts described in House
15 Bill 1989 set the stage for further discussions on how
16 to directly assist communities with preventing
17 flood-related damages. And we look forward to working
18 with the many sponsors of the bill and the legislative
19 leaders in accomplishing this goal.

20 DEP feels we do have a very sound flood
21 protection program. It's a solid, nationally known
22 one. We're one of the few states with their own
23 little mini Corps of Engineers. And with your support
24 and help, we can continue to expand the program in
25 directions and in ways that will better serve our

1 public. So we thank you for the opportunity and I'd
2 be happy to answer questions.

3 CHAIRMAN GRUCELA:

4 Thank you. At this time we will start on
5 the right. Representative Smith?

6 REPRESENTATIVE SMITH:

7 Thank you, Mr. Chairman. And thank you,
8 Madam Secretary or Deputy Secretary, for being here
9 today. We appreciate it. I hope you enjoyed your
10 time at the university.

11 DEPUTY SECRETARY MYERS:

12 I did. It's always fun, because even in
13 the cold winter, there are students everywhere and
14 just energy everywhere.

15 REPRESENTATIVE SMITH:

16 Brings out the youth in you.

17 DEPUTY SECRETARY MYERS:

18 It does. It does.

19 REPRESENTATIVE SMITH:

20 Earlier in your presentation, you spoke
21 of the \$300,000 budget account. Two questions. One,
22 is this a one time budget item, \$300,000? And how
23 does that money go forward to increase the response
24 time for people that are affected by a flood? In
25 other words, it seems as though people that are

1 affected, homeowners I'm now speaking of, homeowners,
2 they have had a long period of frustration in getting
3 answers to how to prevent --- and how they're going to
4 protect their property.

5 DEPUTY SECRETARY MYERS:

6 Well, that \$300,000 was really to improve
7 the interagency coordination. It's really all about
8 coordination. And just as we have a great emergency
9 responsiveness network now that's well coordinated,
10 our flood control efforts and flood response efforts
11 need to be fully coordinated with all those agencies.
12 So we really didn't have a similar mechanism to really
13 focus on the flood issues. So the Governor created an
14 interagency task force and he originally put Art
15 Stevens, who was one of the Deputy Chiefs of Staff, on
16 that.

17 But for the long run, you don't want to
18 have a Deputy Chief of Staff popping in and popping
19 out as major issues occur. You want to have a
20 full-time professional in charge of that and make it a
21 permanent part of our institutional makeup on the
22 administrative branch. And that's what that funding
23 was for. And it would be long term. It's an increase
24 in the budget item to my agency. Interestingly
25 enough, the person will be directly under the

1 Secretary but housed with John Comey in their offices.
2 So it will be truly an interagency concept.

3 REPRESENTATIVE SMITH:

4 So at the end of the day, you will be
5 feeling confident that we didn't create more
6 bureaucracy? We've created --- or were part of the
7 solution?

8 DEPUTY SECRETARY MYERS:

9 I really think so, yes. We heard many
10 times that we'd like a single place to go to and know
11 someone who can get you the right person for the right
12 thing. And that's what this is supposed to do.

13 REPRESENTATIVE SMITH:

14 Perfect. Excellent. Thank you.

15 CHAIRMAN GRUCELA:

16 Representative Yudichak?

17 REPRESENTATIVE YUDICHAK:

18 Thank you. I could hear in your voice
19 when you were talking about fiscal data, and I think
20 this goes across state agencies, that we've been hit
21 by some natural disasters and we have seen stress on
22 the system, part of that due to some understaffing.
23 Do you think that you have the appropriate level of
24 staff to meet the needs where we want you to do the
25 flood protection but we're also addressing immediate

1 emergencies and we are stressing that to the state
2 system? Can you speak a little bit more to that?

3 DEPUTY SECRETARY MYERS:

4 Sure. Certainly you can always do more
5 with more staff. On the other hand, I don't live on
6 Mars and I'm a taxpayer too, so we need to have an
7 appropriate balance between private sector work and
8 public sector work. We tried to combine that in our
9 flood projects. For example, we have wage hour
10 workers on contract who actually oversee the
11 construction of the projects. They're technically
12 under me, but they're much more like contract workers.
13 And they're out in the field and they're on those job
14 sites when we're building flood control projects. I
15 never have seen them and never do see them. They're
16 not like a typical government worker. We let a
17 contract to get good contractors in the area to do the
18 work. So we do a combination of things, so it's
19 beyond my own staff.

20 Certainly the Governor knew that we
21 couldn't double our activity in small projects and
22 triple it as to these big projects without increasing
23 staff. And included in that budget is an increase of
24 four engineers for the flood control projects. We're
25 also trying to save money by --- we've had a lot of

1 retirees, a lot of gray-haired folks like me, who are
2 baby boomers and came to the agency in the '70s and
3 have 35 years in, so they're good dam engineers and
4 flood engineers, and we've talked a bunch of them into
5 coming back in the coming year. They'll be part time.
6 We get them for pretty much cheap that way. It's not
7 the same as a full-time employee. And so we're going
8 to be using those annuitants, as they call them, to
9 really help give us some of the real mature experience
10 to help gear up this program and pick it up and move
11 it to the next level.

12 REPRESENTATIVE SMITH:

13 Great. Second question I have is the
14 Governor's proposal of doubling the flood protection
15 line item from 2.8 to 5.8 is terrific, even at 5.8
16 level, and then of course the bond issue. But right
17 now that capital bond issue would be for \$10 million a
18 year. Every legislator probably will go to those
19 funds in their individual district, or at least in
20 their individual regions. I understand that there's
21 also coupling funding at the federal level as well,
22 but in dollars, how do we ---?

23 The Governor recognizes this problem and
24 he's asking us to double the funding for
25 Representative Wansacz, his cosponsors. He'll

1 recognize the problem and try to provide more money.
2 What is an appropriate funding level? And I know you
3 do not live on Mars as you've stated, but if we can
4 get an accurate or at least a ballpark number of what
5 can really --- because you've been in the field. John
6 Comey's been in the field. And recognizing how
7 serious a problem this is and how difficult it is for
8 legislators, they're trying to respond to their
9 constituents. And what funding level is appropriate?
10 Is there a way that we can mirror what the Governor is
11 trying to accomplish with House Bill 1989 and have
12 that affirmative number?

13 Because the Governor --- as the Governor
14 finishes his second term, it's going to be incumbent
15 upon the next Governor to take up the initiative. As
16 we have seen in Harrisburg, that's not always the
17 case. New Governor, new programs. We'd hate to lose
18 that priority because the administration changed. How
19 can we put this so that this is a permanent program so
20 it's there and is appropriately funded and staffed?

21 DEPUTY SECRETARY MYERS:

22 Well, I think that as you see in --- I
23 think part of the solution has to be from a dedicated
24 funding source like is proposed here. That's the way
25 you make sure --- you make a decision that it's

1 priority and you make sure it happens. Certainly
2 that's why everyone wants a piece of the various
3 funds, because you know you can count --- and I'll
4 talk about a simple other little program.

5 We get a tiny percentage of liquid fuels
6 tax for dirt and gravel roads in the rural areas of
7 this Commonwealth. And what that means is take all
8 those dirt roads that are used by townships all over,
9 were never engineered, so the stormwater damage they
10 cause is incredible, and go out and with the help of
11 Penn State, for a very modest amount, we re-engineer
12 those streams, put just basic structures and culverts,
13 some rock filters, so all that debris and mud doesn't
14 wash into the next stream and just create gullies and
15 then create little --- basically, all those roads
16 become little new stream channels to whip stormwater
17 out into the streams and increase the flooding.

18 \$4 million a year every year we can count
19 on from this --- I think it's two-hundredths of a
20 percent of the liquid fuels tax or something. Don't
21 write it down because I'm not sure. But I know we get
22 --- it's a small amount and we get guaranteed, so you
23 can then run a program and you can hire Penn State.
24 You can tell local municipalities to sign up for roads
25 and they can have a whole five-year plan for roads

1 they want to do and everybody competes and we just
2 year in, year out attend to that problem.

3 And we really need to move the flood
4 program into that kind of context, which is I think
5 why the Governor and why the representative and the
6 many sponsors have thought this is something we should
7 have, some new dedicated funding. Even in a time
8 where people are really pinching pennies and needing
9 to, this is something which I can tell you in my
10 experience all across the state. In every part of the
11 state, people want us to address the flood problem.

12 REPRESENTATIVE SMITH:

13 Thank you.

14 CHAIRMAN GRUCELA:

15 Representative Hutchinson?

16 REPRESENTATIVE HUTCHINSON:

17 Thank you. I learned something new
18 today. I didn't really realize that the DEP actually
19 did design work kind of stuff. I always thought of
20 the Army Corps of Engineers did those kinds of things.
21 Do you have a threshold of the size maybe that says
22 you will do it as opposed to Army Corps ---?

23 DEPUTY SECRETARY MYERS:

24 Yeah. We don't generally do the
25 \$10 million, \$20 million projects. We work with the

1 Corps on them and we do permitting part of it, but we
2 don't usually do the really large projects. But some
3 of the projects --- we have done projects that are up
4 to, say, \$10 million. It's more the type of project
5 it is. We can do a levy and a culvert and a, you
6 know, combination of fixing the stream and putting
7 some flood wall or some levee or some channel
8 protection or --- and working with PennDOT around the
9 bridge and those sorts of things. When it gets to be
10 25-foot high flood gates and those sorts of things, we
11 generally leave it to the Corps.

12 REPRESENTATIVE HUTCHINSON:

13 Okay. I guess, you know, a personal
14 example, I thought --- I mean, if it's on the scale of
15 a couple million dollars, \$3 million, ---

16 DEPUTY SECRETARY MYERS:

17 That'd be something ---.

18 REPRESENTATIVE HUTCHINSON:

19 --- the Army Corps does that stuff?

20 DEPUTY SECRETARY MYERS:

21 Yeah.

22 REPRESENTATIVE HUTCHINSON:

23 But I'll leave that subject. And the
24 other question that I have, which is, do you feel that
25 the funding and amendments contained in this bill will

1 hamper the other proposals? I think like already
2 mentioned, and you alluded to a dollar per policy kind
3 of thing too, should we do both? Should we do --- you
4 know, make it \$2, look for a different funding source?

5 DEPUTY SECRETARY MYERS:

6 Well, I haven't been given a lot of
7 direction on this, but I think I know the answer. And
8 I think the answer is we should have a good public
9 debate on this. I don't think we need \$2. You know,
10 people thinking hard about it came up with the same
11 kind of concept whether it works better to be seven
12 cents on \$100 of insurance and have it done through
13 the insurance agency or \$1, as in this bill, for a
14 different group of people ---. Whatever seems to be
15 the most appropriate from a legislative point of view,
16 I think, is what where we go.

17 We just think that there needs to be a
18 funding source and it probably should be --- to be
19 equitable and we say as well should be related to
20 people that have flood issues. And so we were looking
21 at --- the insurance industry because it is true, as I
22 think Representative Wansacz said, only about one out
23 of four people that is eligible for flood insurance
24 and is in the flood plain actually gets flood
25 insurance. So there's more uninsured people. And the

1 kinds of questions you were asking about, should the
2 people in the flood plain be asked to pay a little
3 more since they're occasioning this? Those are some
4 thoughts that need to be done.

5 It's difficult to separate and administer
6 that way, but in the sort of equities, looking at the
7 insurance part, we're trying to protect homes or
8 should we try and move them out? All of those
9 suggests that, you know, perhaps something that's
10 directed at insurance or the damage and liability
11 maybe makes some sense. But we're so flood-prone, on
12 the other hand, I don't think we'd object if it was a
13 more general kind of a levy of surcharge or charge.

14 So I think that we are trying to raise a
15 modest amount of money. I think our seven cents on
16 the \$100 raised about \$3 or \$4 million a year, but
17 made sure --- we say that we know we have something
18 going forward to count on regardless of the
19 persistence of budgets and recessions and, you know,
20 boom times or not, that you know you have something so
21 we can keep these projects going. Because one of the
22 things that happens is projects are in the pipeline
23 for a very long time. And part of that is because of
24 the complexity of it. The municipality has to go out,
25 figure out where the public utilities are going to go,

1 to go around and under and be dug up and put aerially
2 or over bridges. There are a lot of complicated
3 things. You have to get all the easements and the
4 property issues and the local government has to do
5 that. It takes some time, a lot of legal work of the
6 design, the permitting. It's a big project. But it
7 also ends up with delays because each step of the way
8 you need to release funds and sometimes they're there
9 and sometimes they're not.

10 REPRESENTATIVE HUTCHINSON:

11 Thank you.

12 CHAIRMAN GRUCELA:

13 Okay. Representative Shimkus?

14 REPRESENTATIVE SHIMKUS:

15 Thank you, Mr. Chairman. Deputy
16 Secretary, thank you for your testimony. I have
17 dozens and dozens and dozens of flood problem stories
18 that I could relate, which I won't do. But if I
19 walked through my district in the areas that are hard
20 hit by flooding, the people generally think they know
21 what the problem is, what has changed in their
22 landscape, where the trees were, where the parking lot
23 is now, what washed down the hill or never washed
24 down. They have a sense. The reason I say this is
25 because in House Bill 1989, which I am a cosponsor of,

1 Representative Wansacz's bill, we have a pool of money
2 here that will help. My question to you is, do you
3 believe the counties know where the money needs to be
4 spent? And more specifically, I mentioned that
5 Lackawanna County, as far as I know, is developing a
6 flood plan. How many counties in our state do not
7 have a current flood plan where they might know where
8 the problems are or how to head them off in the
9 future? And then I'll have another question.

10 DEPUTY SECRETARY MYERS:

11 Okay. Well, you've hit one of our
12 biggest problems right on the head, I think. We've
13 had a stormwater management --- the kind of flooding
14 you're talking about is that local flashy flood,
15 stormwater problem. That kind of flooding is usually
16 not the main stem regional flooding like when the
17 Delaware backs up and --- not talking about that. But
18 a lot of flooding is from these local flashy streams,
19 and they probably do have a good idea of what changed
20 in the landscape and what wasn't managed well. And
21 many communities have taken the responsibility of
22 doing the planning and putting in ordinances to
23 prevent, you know, future people from getting in
24 harm's way and trying to put buffers and landscape
25 requirements that will put greenways and flooding

1 areas into the mix and reduce the flash flooding from
2 those streams.

3 But not enough communities have done
4 that, and there are two things about that. We've had
5 a law since 1978 requiring all counties to have
6 stormwater management plans. There's 75 percent
7 reimbursement for the cost of that that the
8 legislature renews and renews and renews, and only
9 about a third of the counties have actually done so.
10 One perhaps excuse for that might be that on the other
11 end, when some municipalities have really taken charge
12 of their destinies and put on top floodway management,
13 stay out of the floodway, don't build zones, which is
14 a very effective way to prevent further future flood
15 damage is to prospectively get people out of the
16 floodway, once they're out, leave it open and let it
17 flood there safely, only to have the courts not
18 support them in challenges with developers.

19 Representative Steil's bill tries to
20 address those issues, and we think does a very fine
21 job of it. It does three things. It updates our
22 stormwater management program to recognize that we
23 need to not look just at peak rate of runoff. We need
24 not to gather up all the water then send it
25 downstream, because now we're sending huge volumes ---

1 much bigger volumes than we used to for a much longer
2 period, and it scours the heck out of the streams and
3 is a real problem. Now that we know that, we have to
4 manage for rate, velocity and volume, so that's built
5 into his bill.

6 The second part is we need to integrate
7 the flood management that they're doing because of
8 FEMA regulations or the stormwater management that
9 they're doing because of state and federal regulations
10 with concerns about protecting the drinking water,
11 which ends up being a lot of the same things. Provide
12 buffers, provide setbacks, do the local planning in
13 all 2,600 municipalities. As impossible and
14 formidable a task as that is, we have to do that
15 because it is home rule and it's got to be done on the
16 ground or it won't happen. So the key is to how to
17 deliver the assistance and expertise to municipalities
18 to take charge of their communities and get the right
19 thing on the ground.

20 So the third thing in that bill that
21 really helps is really the --- well, the second thing
22 is to integrated management and the third part of it
23 is the ability to have authorities, multi-municipal
24 authorities for stormwater. And that would be a sort
25 of municipal district kind of concept you could use.

1 So you could have the watershed then managed and you
2 could look at the flood and stormwater and take the
3 county plans and really deploy them on a unified
4 basis. It's way to hook up those municipalities as
5 you've talked about, that it has to be comprehensive
6 or you'll just send your flooding problem downstream.
7 So the bill does that.

8 And finally --- I said three things, but
9 the fourth thing is really the legality. Make it very
10 clear to the courts in Pennsylvania that the
11 legislature intends local municipalities to be able to
12 do ordinances that stick. And if they need an area to
13 be allowed to flood and they don't want structures
14 there, that's what should happen.

15 REPRESENTATIVE SHIMKUS:

16 Just to reiterate, like Representative
17 Wansacz said, if this creates a pool of money and we
18 have only one third of the counties that have a
19 stormwater management plan, then there should be some
20 type of a hammer to say, if we're going to give you
21 money, you've got to have this, because otherwise, how
22 can we tell if you know what's going on? And if not,
23 then it goes to the municipalities.

24 My second question is, and I don't mean
25 to make this pick on DEP day ---.

1 DEPUTY SECRETARY MYERS:

2 Oh, that's all right. I'm used to that.
3 That's my job.

4 REPRESENTATIVE SHIMKUS:

5 I have concluded personally that a
6 compliance order doesn't mean anything. I have seen
7 compliance orders issued for flood litigation. First,
8 I've seen people wait years, literally, for the
9 hearing sentence to come back while there was
10 flooding. Then when the compliance order was issued,
11 delay, delay, delay. I have one in mind where there
12 was a huge culvert that went through the creek into a
13 small little six-inch pipe. And so when it can't take
14 the gushing water, it just overflows. And in the
15 compliance order that was issued, nothing has
16 happened. And it's been 18 months and we continue to
17 wait and wait and wait.

18 DEPUTY SECRETARY MYERS:

19 Yeah.

20 REPRESENTATIVE SHIMKUS:

21 And so I guess question number one is,
22 you know, how aggressive is DEP on dealing with the
23 flood solutions that they recommend now? And my other
24 question is, your statement here when a disaster
25 occurs, they are typically no readily available funds

1 to earmark for emergency recovery efforts, and I think
2 this ties into that. Disaster is relative. You know,
3 it could be a whole community. But if I have, you
4 know, a contemporary area in the Southampton Township
5 that washes out its floor every six weeks from the
6 rain, that's a disaster to them and a threat to a
7 small business.

8 And so I think that Representative
9 Wansacz's bill for communities is essential because it
10 takes the disaster down to the mainstream and it says,
11 we care about you, not, you know, Washington saying it
12 has to be X number of dollars and X number of people
13 and just because you're affected, we don't care. So
14 I'm not asking you to solve the oil crisis, but if you
15 could comment.

16 DEPUTY SECRETARY MYERS:

17 Well, certainly. DEP --- I'm troubled by
18 the sense we put out a compliance order and didn't
19 follow up. I'd like to know what the specifics are.
20 We don't put out as many orders as perhaps people who
21 have problems would like, but we usually do follow up
22 on them. And we can demonstrate by records of that.
23 The Secretary requires 30-day reports after compliance
24 orders, so somebody's in trouble on that. So, you
25 know, certainly we don't have an enforcement presence

1 everywhere, and when it rains --- I mean, when it
2 rains hard like it did this week --- my husband was
3 complaining about it. He could see muddy water
4 running from the stream. If we sent somebody out to
5 every place where muddy water was running off the
6 construction site and gave them all --- you know, we'd
7 have to have everybody stop everything else and run
8 out and try to do that. So you can't get everything.
9 You should get the most important things. We try to
10 do that. If we fail, we want to know about it and
11 we'll do the best we can to fix it.

12 But especially if there's, you know, been
13 an order, that means we've looked at it and, yep, it
14 really is a violation. We don't require construction
15 companies to manage for no discharge. It's not
16 possible and we don't require that. We require them
17 to have the practices in place to minimize harm. So
18 if they have their silt fences, their bails, they've
19 done it right, there may be stuff running off the
20 site, but it's been minimized and that's not a
21 violation. And you might get mud in your driveway
22 anyway. So there are things that people won't like
23 that are allowed, but then there's plenty that's going
24 to happen that is not allowed and we should be after
25 it and it's perfectly fine to call us on it.

1 REPRESENTATIVE SHIMKUS:

2 Thank you.

3 CHAIRMAN GRUCELA:

4 Representative Pashinski?

5 REPRESENTATIVE PASHINSKI:

6 Thank you, Mr. Chairman. And thank you,
7 Madam Secretary, for being here. Just a
8 clarification. That federal --- what was that,
9 \$15 million in order to ---?

10 DEPUTY SECRETARY MYERS:

11 I think I will refer to my colleague from
12 PEMA who --- that's who I ask when I need to know
13 these things.

14 REPRESENTATIVE PASHINSKI:

15 Is that it, 15.2?

16 DEPUTY SECRETARY MYERS:

17 15.2?

18 MR. COMEY:

19 Yes.

20 DEPUTY SECRETARY MYERS:

21 15.2.

22 REPRESENTATIVE PASHINSKI:

23 15.2. Okay. Have you identified the
24 nuisance flood areas? In other words, have you
25 identified your problem areas and is there a priority

1 for which particular areas need to be addressed more
2 than others?

3 DEPUTY SECRETARY MYERS:

4 No. We don't --- it's the bottom up
5 system. If a municipality has a flooding problem and
6 they want us to come look at it, that's what we do.
7 And ---.

8 REPRESENTATIVE PASHINSKI:

9 Okay. When there's an issue, bottom up
10 or not, how long does that process take? Because I
11 have --- I brought with me a list of the flooding
12 areas that I have in my District, and it's fairly
13 extensive. Now, the question is, when they apply, is
14 there a pecking order, any priority order? No? So
15 whoever applies gets a chance at the funds?

16 DEPUTY SECRETARY MYERS:

17 Yes.

18 REPRESENTATIVE PASHINSKI:

19 Okay.

20 DEPUTY SECRETARY MYERS:

21 Yes. And sometimes it is baffling.
22 Sometimes there'll be a problem. We'll go out and
23 we'll look. We'll say, yep, you have a problem. It's
24 the kind of problem we think we could help with. We
25 do some preliminary conceptual sort of designs and the

1 community does not want to sponsor and they are not
2 interested in participating. They do have to take
3 some responsibility. They have to get those
4 easements. There are some costs. And so sometimes we
5 have no takers on situations where we really think we
6 could help.

7 Other times, communities --- it does take
8 a long time, there's no question, from the beginning
9 to the end of the project with the numbers of fittings
10 and so forth. And sometimes we can't move projects
11 forward as fast as someone would like. And hence, as
12 projects --- as we know, there are more projects than
13 we're moving forward and we feel we're falling behind,
14 we do request more money. And we're fortunate this
15 year in the Governor saying, yes, this is important.
16 I don't want to see those projects fall behind.
17 We'll give you a couple more engineers to get, you
18 know, those projects rolling. So it is what it is,
19 but there are a lot of things that don't come to us
20 for projects that surprise us.

21 REPRESENTATIVE PASHINSKI:

22 If you had the ability to make changes in
23 the system in order to make it more efficient, what
24 would they be?

25 DEPUTY SECRETARY MYERS:

1 Well, I think that the stormwater
2 planning is critical. It really is critical because
3 we don't --- we have to rely upon what's coming from
4 the municipality. And they need to get an organized
5 and professional evaluation done. And then we would
6 be able to --- and perhaps it is time. Our whole
7 program has been --- unlike our regulatory programs,
8 we don't prioritize. You want a project, you have
9 need for it, you show that the cost --- the damage
10 that will be avoided is greater than the cost, then
11 you get a project and you get in the queue and we work
12 on it as we can and we get them done over the years.

13 It may be that we should prioritize and
14 target. And if we had the mandate to do that, I'm
15 sure we'd be happy to do that. But I think the
16 stormwater planning part first is going to be an
17 important part of that. Because without that, you'd
18 really have the state having to try and go out and
19 accomplish that, which is just not going happen, and
20 not going to happen as well as having the community
21 take charge of the whole combination of goals that it
22 has and put the water issues into that mix so that it
23 works for --- greenways along the streams can be part
24 of the parks, can be part of the recreation, can be,
25 you know, part of the water quality protection and the

1 floodway and stormway program.

2 Some of the same things can do multiple
3 things in a community. And they have the best vision
4 of roughly what they want. Then we can provide the
5 technical assistance to get it done and get it
6 designed and help focus on issues. But I think we
7 need to have that first planning effort done both on
8 the county level of county hazard planning and for the
9 big flood issues and on the stormwater level.

10 REPRESENTATIVE PASHINSKI:

11 Thank you very much.

12 CHAIRMAN GRUCELA:

13 Representative Payne?

14 REPRESENTATIVE PAYNE:

15 Thank you, Mr. Chairman. Deputy
16 Secretary, thank you for your testimony. A couple of
17 things. Actually, I didn't know we had our own Corps
18 of Engineers. That's interesting. I guess one would
19 be if there's a way to get a list to the Committee on
20 projects over the last some reasonable amount of time,
21 three years, four years, five years, that we've done,
22 the dollar amounts for those five years total. And
23 I'm doing that because I'm interested in what this
24 dollar per homeowner, 70 cents or whatever, that the
25 Governor's proposing enough money.

1 Being from my area, I think you'd
2 probably want \$20 a home because I don't see that
3 there's enough money to do all the flood projects that
4 are out there. I'm not talking about the grant money.
5 I'm talking about --- I spent 25 years for the fire
6 department. I'm talking about fire prevention. We're
7 not spending enough money on the prevention side to
8 stop the problem. So it would be interesting at least
9 for me to know how much money have we spent in X
10 number of years? How many people do you have ---?

11 And the question, for you --- I want to
12 keep rolling, so I'm losing my thought process here.
13 How do they interact as far your mini Corps of
14 Engineers that the regular Corps of Engineers? I as
15 the township supervisor pay XYZ Engineering Firm to go
16 out and do this study. Why wouldn't I use the DEP
17 people to do that study? That's really my first
18 question.

19 The second one's going to be I'd like to
20 see a list of the counties that do have a flood plan.
21 I hope mine does. I don't know that. But if they
22 don't, then I think we need to incorporate Steil's
23 bill, this bill, any bill sometime current rather than
24 penalty, that if you don't do this flood plan, you
25 can't qualify for this bill. You just can't get any.

1 And they would have to do more than that because
2 that's the crux of the problem. They're not even
3 studying the problem, and that's my one concern. They
4 don't want to create a fund and then we throw money at
5 them, but we don't even know what the problem is, but
6 we threw money at them. So I'm kind of anxious to
7 find out what methods we may come up with from the
8 state on how do we get those counties on board.
9 Obviously, that in work since --- what year did you
10 say?

11 DEPUTY SECRETARY MYERS:

12 1978.

13 REPRESENTATIVE PAYNE:

14 '78. Whatever we've been doing isn't
15 working. So we've got to change that somehow. So if
16 you could, I like to know how --- back to my first
17 question, how do you, the Army Corps of Engineers, the
18 local engineering firm --- why shouldn't I use you
19 instead of depending on --- or go with the Army Corps
20 of Engineers, which has a waiting list of years?

21 DEPUTY SECRETARY MYERS:

22 Well, I think most communities do, if
23 they're in our, you know --- if their project is
24 doable and is, you know, not so huge we can't manage
25 it, a lot of the communities do use us. They can use

1 --- they have a choice. Especially the capital budget
2 money, they would frequently either have the Corps of
3 Engineers, if the Corps of Engineers takes that
4 project, based on its priorities and its funding and
5 its restrictions, if it does get money for that
6 project, they usually go with them. They can take
7 their capital budget money and get an engineer or we
8 can be working with them or we can divide it.

9 But it's hard to talk about it in one
10 piece because you sort of look case by case and see
11 who has the resources that best fit that project or
12 what combinations. And we're often working together
13 on them. It will be part a Corps project and then may
14 be a little piece of it that's a state project.

15 REPRESENTATIVE PAYNE:

16 Okay. All right. I understand it. Let
17 me ask one more question. On, again, the grant part
18 of this, your county participates, you've never
19 received money before --- I'm not so sure if we're in
20 a flood plain or floodway, if you don't have flood
21 insurance --- you should've figured that out when you
22 opened your front door or back door and saw a river
23 there. But at least it's open for all the people who
24 get hit and never, never experience a problem, and
25 that happens a lot among all the districts. Do we as

1 a state have any idea of a cost to fix --- let's just
2 pick one river, the Delaware or the Susquehanna?
3 Because I don't think we've been able to get our hands
4 around the magnitude of this problem. I mean, I've
5 been enlightened recently on the magnitude of a bridge
6 problem in the Commonwealth. And I'm going to say
7 that we're probably not even close to touching this if
8 we don't come up with some substantial dollars on the
9 prevention side.

10 DEPUTY SECRETARY MYERS:

11 I think we do have some estimates and I
12 don't have them with me. Certainly neither the money
13 you're proposing here nor the Governor's money of
14 having the dedicated fund that gets \$4 million or
15 \$5 million a year is nearly enough. But it's a start.
16 It's a good, solid investment or sustainable
17 investment, which is part of what we need. It needs
18 to be sustainable. It needs to be --- we can't start
19 projects that are five-year projects and not know
20 there will be money to draw on when they get to the
21 construction stage, because that's what you have to
22 think of. You need to first, you know, authorize some
23 funds, like through the capital budget, and it's a
24 \$5 million project. Well, hooray, and you get an
25 appropriation. The Governor says, we'll release funds

1 because you're ready to go for design. So maybe you
2 spend \$300,000 on design over a year, a year and a
3 half. And then you work with that design and the
4 community does some things with getting some easements
5 and so forth, and then a year later you need some big
6 bucks for the first phase of construction. So then
7 you're calling upon the fund. In our case we use the
8 bond funds, and it's a release of the Commonwealth's
9 bond money as authorized from the capital budget. And
10 that's what we let out at a rate of \$10 million a
11 year, year in, year out. And we're going to increase
12 that so we can be putting more like \$30 million out,
13 based on the Governor's proposal, so that we'd have
14 \$30 million to give out. So you can see that that
15 allows more projects that are ready to start going to
16 construction that can draw those funds down.

17 The total --- we don't even know what the
18 total --- no, we don't know what the total needs are
19 currently. We know what's been brought to our
20 attention. And many times we know there's a flooding
21 problem, but we haven't --- no one has assessed what
22 the best solutions are and the cost effective
23 solutions. And so we only have very rough estimates,
24 but I think we do have them, but they're very large.

25 I know what we have for the dams, just

1 --- it's \$950 million that would be needed to repair
2 or replace or breach all of the high hazard dams in
3 the Commonwealth. So that, you know, gives you a
4 sense of that project. And that's just dams, a much
5 less widespread and concrete number that we know where
6 they are, we know what they are and we know or have a
7 pretty good idea of the condition there when we
8 inspect them and so forth, whereas flooding problems,
9 there are multiple solutions and we just don't have
10 those yet.

11 REPRESENTATIVE PAYNE:

12 Well, I'm talking about for the large
13 purpose of trying to get an idea ---. We have been
14 putting money aside for bridge repair for 25 years.
15 Then when the bridge collapsed, it was like, how many
16 bridges do we have in construction ---? Well, we have
17 this number. Well, with the amount of money we're
18 putting aside, we'll never get there. It'll be 100
19 years. Now they've tripled that amount of money and
20 they're realistic. Within 20 years we're going to get
21 through all of this significant construction of the
22 deficient bridges in the Commonwealth of Pennsylvania.
23 It may not be tomorrow, but at least you know your big
24 picture and you know how you're going to get there.

25 DEPUTY SECRETARY MYERS:

1 Yeah. I believe ---.

2 REPRESENTATIVE PAYNE:

3 I'm obviously concerned that you don't
4 even have a clue on how much money we're really
5 talking about. And I don't know that you can with the
6 small municipalities, storm pipes and all that. But
7 certainly on our rivers and our dams and all that, I
8 would hope that you would.

9 DEPUTY SECRETARY MYERS:

10 Yeah. We do have --- I would just say, I
11 don't want say we have no estimates. We have made
12 some estimates, because of course, the Governor wanted
13 to know the same thing.

14 REPRESENTATIVE PAYNE:

15 I'm interested to see those.

16 DEPUTY SECRETARY MYERS:

17 Yeah. I will get you something that we
18 have.

19 REPRESENTATIVE PAYNE:

20 I serve on the Liquor Committee, too, and
21 --- one of the things I've said is the 18 percent
22 Johnstown Flood Tax, couldn't you find another line if
23 you're looking for new sources of revenue and we've
24 been collecting an 18 percent Johnstown Flood Tax
25 since the Johnstown flood? You know, I don't know

1 what that generates, but if we're going to keep that
2 tax there, I think maybe we might want to use common
3 sense. Maybe we ought to use the 18 percent Johnstown
4 Flood Tax for flood projects.

5 DEPUTY SECRETARY MYERS:

6 That has been suggested.

7 REPRESENTATIVE PAYNE:

8 Most people, and I think they're all the
9 same, for every member here, they want to see
10 something for their money. Nobody minds the buck ---
11 well, I'll take that back. We all have one
12 constituent who will call us about it. But 99 percent
13 of the constituents I represent, it isn't the buck or
14 the two bucks. It's are you doing --- can I see
15 something for that money? Thanks for being here
16 today.

17 DEPUTY SECRETARY MYERS:

18 Sure. Thank you.

19 CHAIRMAN GRUCELA:

20 We have been joined by another member of
21 the Committee and ask him to introduce himself.

22 REPRESENTATIVE SIPTROTH:

23 Thank you, Mr. Chairman. I'm
24 Representative John Siptroth from the 189th District,
25 Monroe and Pike Counties. And Secretary Myers, good

1 to see you again. Regarding House Bill 1989, although
2 I don't see it specifically in here, would this bill
3 include the private property owners associations?
4 Would this be extended to those individuals as well
5 since they face a number of challenges just like
6 municipalities or regarding their structure needs and
7 their dam safety needs? So in saying that, how would
8 that be interpreted? Who's going to apply?

9 DEPUTY SECRETARY MYERS:

10 Well, I think it's my understanding that
11 Representative Wansacz intends the bill to cover some
12 private damages. We would not have a problem with
13 that.

14 REPRESENTATIVE SIPTROTH:

15 Thank you very much.

16 REPRESENTATIVE WANSACZ:

17 And if I could just add on to that,
18 Representative Siptroth, my bill would be for an
19 organization or private community if they want to
20 apply for those grants, just like a local municipality
21 or business or anybody could. They could come in.
22 And what I'm hoping is that some of the problems that
23 we've heard Deputy Secretary Myers talk about is some
24 of these things can be worked out in regulations or
25 suggestions of some of the changes that we believe

1 have to be made since, what, 1940 is the law? So
2 we've all realized now that we --- I was under the
3 impression that we haven't made any changes since
4 1940, so some of these things hopefully can get done.
5 And it is a problem. And we can make the suggested
6 changes, have these resources.

7 I've talked to some of the Committee
8 members. I don't know if we're ever going to have
9 enough money, you know, to do that. And to put the
10 amount of money that we need in a year would probably
11 be --- but we need a plan and we need to start
12 somewhere. We need to start chipping away. And
13 that's my intent in this.

14 REPRESENTATIVE SIPTROTH:

15 One follow-up. The stormwater management
16 plan is that suitable and satisfactory, and if we need
17 to use it, will we be in compliance? Or is there more
18 plans that have to be established to get those passed
19 down to private communities in compliance with the
20 bill?

21 DEPUTY SECRETARY MYERS:

22 I think that we were discussing the local
23 flash flooding type of flooding as compared with the
24 regional river flooding. And for that kind of
25 flooding, it's primarily caused by stormwater

1 problems. And so in those cases, the stormwater would
2 be --- good stormwater planning within the community
3 would be the most important compliance, prerequisite
4 to getting the right things done and being sure that
5 the project will work as intended and won't cause
6 unintended consequences elsewhere.

7 I think we also have to keep in mind, and
8 again, this is part of the separate nature of all the
9 little programs that came up. The actual flood plain
10 management program is run through DCED with the flood
11 insurance program. And certainly whatever those
12 requirements are need to be done, too, especially for
13 the larger scale flooding. Then you need to be very
14 conscious where is the floodway. There is a real
15 floodway and how do you manage that, and those
16 definitely need to be in compliance, too.

17 But that's a much larger scope issue and
18 something that is done with PEMA and the Corps and the
19 whole mapping issues of needing the new better maps
20 and a lot of other issues that we could get into but
21 really aren't my responsibility or my primary
22 knowledge.

23 REPRESENTATIVE SIPTROTH:

24 As this bill is promulgated, it would
25 have to ensure that the municipalities are

1 understanding that they take into consideration for
2 those private communities to be eligible. And there
3 are a number of floodways that need to be looked at as
4 well as ones downstream. And so as it's promulgated,
5 they should assure that they have those private
6 communities being part of their plan so that they're
7 compliant.

8 DEPUTY SECRETARY MYERS:

9 Right. I think that's an important
10 point. Senator Steil's --- Representative Steil's
11 bill on integrated stormwater management, he was
12 gracious enough to put in our sort of big idea to try
13 and get to the bottom of this issue of the various ---
14 looking from the municipal point of view, I see a
15 demand for six or eight different water resource
16 related plans. And there's good reasons, historical
17 reasons for it. People identified this problem, this
18 problem, made a requirement that you do it. From a
19 municipal point of view, it must be overwhelming, and
20 I can understand why only a third of the communities
21 actually did the stormwater plan. They also have the
22 drinking water protection. They also have wastewater
23 planning.

24 So we're trying to say if we do one plan,
25 one plan to get your drinking protection, your

1 stormwater, your flood plain management, your --- if
2 you've got a water quantity problem, your state water
3 plan, conservation and protection kind of things for
4 having enough water resources, and put in that your
5 infrastructure planning and we're trying to make our
6 people --- we'll take --- you give us the one plan,
7 get one consultant to do a water resources plan to do
8 all --- have a page for each of those things. You can
9 then turn it into ordinance for each of those things
10 or an integrated ordinance, but we're calling that an
11 integrated water resource plan. And I would dearly
12 love to be able to say you just do that plan, you've
13 got it all. You got the flood, you've got the
14 stormwater, you've got your infrastructure. You got
15 all of your environmental and water-related
16 requirements in one plan.

17 We provide that alternative in the David
18 Steils bill to doing just --- you can still do the
19 stormwater plan like we've always been doing and was
20 intended and just update that or you can go for an
21 integrated plan. And that bill tries to encourage
22 that approach so we can get farther faster and not
23 overburden municipalities and maybe step back and say,
24 okay, you know, an ideal stormwater plan would look
25 like this, but let's make sure everybody gets a start

1 and let's get the five most important things on the
2 ground and have a basic plan out there for everybody
3 rather than the best plan. Certainly a municipality
4 can go further, but let's try and scale it down and
5 get it up there. That sort of goes hand in hand with
6 this bill, I think, for doing a lot to take into
7 consideration what hasn't worked yet over the last 20,
8 30 years we've been trying to work with these problems
9 and, you know, try a new approach.

10 REPRESENTATIVE SIPTROTH:

11 So it would basically be an expansion of
12 167, kind of a wrapper?

13 DEPUTY SECRETARY MYERS:

14 Yeah. Wrap things around 167.

15 REPRESENTATIVE SIPTROTH:

16 Thank you very much. Thank you, Mr.
17 Chairman.

18 CHAIRMAN GRUCELA:

19 Thank you. My main question, is this
20 area here in the watershed area of those New York
21 reservoirs?

22 DEPUTY SECRETARY MYERS:

23 No.

24 CHAIRMAN GRUCELA:

25 It's not?

1 DEPUTY SECRETARY MYERS:

2 Oh, here?

3 CHAIRMAN GRUCELA:

4 Yes.

5 DEPUTY SECRETARY MYERS:

6 No. This is part of the Susquehanna
7 basin.

8 CHAIRMAN GRUCELA:

9 Okay. But I did have one follow-up on
10 that. Representative Siptroth, I'm sure, would agree
11 with that. I would just ask you a favor since you are
12 the representative of DRBC.

13 DEPUTY SECRETARY MYERS:

14 Yes, I am.

15 CHAIRMAN GRUCELA:

16 Then would you please have them take a
17 look at those reservoirs? Because it's going to
18 happen this weekend. I hope it doesn't happen this
19 weekend, but I know Representative Siptroth, myself
20 and all representatives who are along the Delaware
21 River are going to be inundated, you know, including
22 residents from New Jersey, with this business about
23 the reservoir and, you know, and the fastest possible
24 funding, the best possible funding. There are
25 conflicting studies now. And a lot of these people

1 realize that we really don't have any best oversight
2 over DRBC. It's an independent agency. But if we can
3 Governor or bring in that board --- we need to take a
4 better look at that.

5 DEPUTY SECRETARY MYERS:

6 Well, let me be clear about this. We
7 don't ever stop taking a look at that. I share your
8 concern and we hear from your constituents every day.
9 I probably have at least a dozen new e-mails this
10 morning because a storm is coming. I'm sure I do.
11 And that's understandable and appropriate.

12 We have already --- you know, contrary to
13 popular belief, we have already put forth the first
14 ever new operating plan for those reservoirs that does
15 include the provision of flood mitigation. There are
16 specific provisions now in the FFMP, which is the
17 Flexible Flow Management Program, which was instituted
18 on an interim basis in September, which, for the very
19 first time, require changes in the New York City
20 Reservoir operations to provide additional flood
21 storage. Those reservoirs are water-supplied
22 reservoirs. They did not have any operations that
23 attempted to lower water levels. Their whole reason
24 for existence is to store water. So there is a
25 massive change in the history of those things.

1 Now, what we are doing basically right
2 now --- your constituents are not happy because they
3 have latched onto the notion, which I understand is a
4 comforting vision, that we should keep those
5 reservoirs no more than three-quarters full or 80
6 percent full. And if we did that, they would feel
7 comfortable, which I understand. But that being said,
8 that is not possible with the structures that exist.
9 There's a straw that you can let water out of those
10 reservoirs, two straws really, one that heads for New
11 York City and one that heads for the Delaware River.
12 And you cannot empty them fast enough to provide those
13 kinds of voids when it is raining, or even catch up.
14 So it isn't possible to operate them that way. And
15 right now we don't even know that that would give
16 meaningful flood relief to the downstream victims.

17 We know it sounds comforting, but we
18 are not at all convinced and there are no real
19 studies. The people who have done studies all admit
20 they don't have the tools they need to be able to
21 evaluate what the benefit of various reservoir changes
22 in operations would be. We will very soon have that
23 tool so everyone can see what the results would be if
24 we impose different restrictions on those reservoirs.

25 That was what the Governor called for

1 right after the 2006 flood. We got each of the states
2 to ante up \$150,000. The Corps added another \$300,000
3 and they're building us a model that will let us run
4 scenarios, not just for the three upstream reservoirs,
5 but for all dozen reservoirs. And frankly, the
6 reservoirs closer to us, like Wallenpaupack, like Blue
7 Marsh, like Nockamixon are more likely to give us more
8 flood protection in the down basin than trying to
9 fiddle with the headwaters. Those dams only can
10 impound 20 percent of the total watershed.

11 CHAIRMAN GRUCELA:

12 That's really not relevant to this bill.
13 I am not the person that brought it up.

14 DEPUTY SECRETARY MYERS:

15 Okay. But let me just tell you. We have
16 changed the reservoirs to produce voids. Whenever
17 we're above normal, we're releasing water. That was
18 never the case before. And we are completely
19 reassessing and next week we'll be announcing the
20 reassessment of the New York City reservoir system and
21 its operations. We have not lost sight of it and we
22 are going to address that problem.

23 CHAIRMAN GRUCELA:

24 All right. I would just say I hope the
25 Delaware doesn't flood this weekend because the people

1 aren't going to believe you.

2 DEPUTY SECRETARY MYERS:

3 Oh, I know. Well, I understand ---.

4 CHAIRMAN GRUCELA:

5 We're going to have to do more ---.

6 DEPUTY SECRETARY MYERS:

7 I understand --- I understand, but it's
8 not ---.

9 CHAIRMAN GRUCELA:

10 Thank you, Madam Secretary. Our next
11 testifier will be John Comey. John is the Executive
12 Assistant Director to the Pennsylvania Emergency
13 Management Agency. And I would only ask the members
14 --- again, remind you that we only have the chambers
15 until 12:30. John?

16 MR. COMEY:

17 Mr. Chairman, thank you. I will edit my
18 remarks to try to streamline our time.

19 CHAIRMAN GRUCELA:

20 Thank you.

21 MR. COMEY:

22 On behalf of Governor Rendell, PEMA
23 Director French, and Pennsylvania's emergency disaster
24 preparedness community, we do welcome this opportunity
25 to share our thoughts on House Bill 1989, the

1 Pennsylvania Flood Grant and Assistance Program. With
2 me this morning is Vince Hudock. Vince is the
3 Agency's new legislative liaison. I ask you to
4 continue to support Vince in our efforts as you have
5 for me these many years.

6 Permit me to preface our remarks by
7 thanking this Committee for your continued interest in
8 and support of our statewide disaster preparedness and
9 response program. As Secretary Myers indicated,
10 Pennsylvania is one of the most flood-prone states in
11 the nation. We have the unique distinction of having
12 more miles of running water than any other of the
13 lower 48 states. Approximately 80,000 miles of rivers
14 and streams run through Pennsylvania's communities.
15 Normally they are placid, calming, providing award
16 winning fishing, recreational boating and scenic
17 walkways. However, the potential always exists that
18 these quiet streams can transform into raging walls of
19 water, capable of untold destruction and threatening
20 the very lives of those live along those waterways.

21 Pennsylvania averages a major flood about
22 once every 14 months. This is due in part to the
23 natural topography, the tremendous miles of running
24 water that was mentioned, and the fact that over the
25 last 300 years, we as a society have developed the

1 flood plains. Homes and businesses were built on land
2 at risk of flooding. The scientific term for this is
3 the flood plains, low land located proximate to the
4 waterways, which flood when river, stream and creek
5 volume exceeds the bank capacity.

6 The main difference between localized
7 basement flooding, some of which is going on as we
8 speak, and deadly wall of water is the amount of
9 rainfall and oftentimes just plain luck. The flood of
10 record in Pennsylvania is the 1972 Tropical Storm
11 Agnes flooding, which ravaged the state capital as
12 well as the Wyoming Valley adjacent to us here in
13 northeast Pennsylvania. However, it also caused
14 widespread destruction and claimed lives in many other
15 parts of the state. In all, that storm claimed 48
16 lives and caused more the \$2 billion in damage. And
17 that's 1972 unadjusted dollars. Every Pennsylvania
18 county, every county and most communities have land at
19 risk of serious flooding. The challenge we face and
20 the focus of this bill is finding reasonable and
21 realistic way to reduce the risk as well as creating a
22 way to help rebuild when flooding does occur.

23 Interestingly, the national disaster
24 recovery program, in fact, grew out of the lessons
25 learned in Agnes in '72. The Federal Disaster Relief

1 Act of '74 creates that national program, and it has
2 been amended several times. The important issue is
3 National Disaster Assistance Program, by federal law,
4 is supplemental in nature. It is not intended to
5 repair all damage, but to make essential repairs. The
6 counterpart at the state level does not exist.

7 The primary protection for real and
8 personal property for any loss is insurance. Most of
9 us have flood insurance --- I'm sorry, most of us have
10 fire insurance to help rebuild and replace property
11 lost in a fire. The National Flood Insurance Program
12 provides the same type of coverage for those living at
13 risk of flood loss. It is essential to understand
14 that a homeowner's insurance policy does not provide
15 coverage for rising water damage. Rising water damage
16 can be defined as water entering the home from
17 outside, as opposed to a broken pipe, which is covered
18 by most homeowners' policies. Flood insurance is
19 available through your homeowners' insurance agent and
20 is essential to ensure adequate protection of the
21 home, business and personal property.

22 House Bill 1989 is intended to provide a
23 state-based help for residents, businesses and local
24 governments when flooding occurs and federal aid is
25 not authorized. Without going into a complex

1 explanation of the federal thresholds, permit me to
2 say that flood damage that occurs below \$15.2 million
3 and/or several hundred homes with major damage will
4 not qualify for federal assistance. This bill was
5 created, House Bill 1989 was created to help provide
6 assistance when the flooding falls below that mark.

7 House Bill 1989 would create two grant
8 programs. The first through DEP would provide
9 assistance with dealing with the nature of the
10 problem, helping to stabilize streams, construct and
11 improve dams and levees. The second piece of the
12 program would deal with the Department of Community of
13 Economic Development and PEMA, which is providing
14 grants to help prepare homes, businesses and public
15 property such as roads and bridges that could be
16 caused --- or the cause of damage.

17 The very unpredictability of mother
18 nature makes fiscal predictions for 1989 virtually
19 impossible. The number and intensity of flooding
20 events are impossible to predict. The bill tasks the
21 agencies with the development of implementing
22 regulations that define the type and level of
23 assistance that could be provided. I would suggest to
24 you gentlemen that the success and viability of this
25 program lies in the development of those regulatory

1 processes. And expectation of a 100 percent state
2 funding to cover all losses at the municipal, business
3 and homeowner level is unrealistic. Like the existing
4 federal program, a reasonable cost share may be the
5 only way to avoid depleting the fund with every
6 localized event.

7 Mr. Chairman, thank you for the
8 opportunity to address this Committee. We certainly
9 welcome the opportunity to work with Representative
10 Wansacz and members of the Committee. As you move
11 forward in these discussions, having been around just
12 for a few years, I can tell you that I think the first
13 time I was involved in discussion with the general
14 assembly was sometime in the early '80s on this. It's
15 still an issue of concern and it's one that we have
16 not resolved. The challenge is major, but the
17 opportunity is great and necessary. We will continue
18 to work with you to reach that solution. I'll be
19 happy to answer questions.

20 CHAIRMAN GRUCELA:

21 Thank you. In the interest of time, I
22 think I'll ask --- I don't have any questions. Does
23 anybody over to my right? Representative Hutchinson?

24 REPRESENTATIVE HUTCHINSON:

25 Just a quick question. In your opinion,

1 with this program, I think Representative Wansacz
2 addressed the issue, will this --- if we set up this
3 funding program, will it jeopardize eligibility for
4 any general or other funds, you know, which has been
5 an issue forever? Will this jeopardize it, in your
6 opinion?

7 MR. COMEY:

8 It's a concern that has to be carefully
9 considered in the language. We don't anticipate, and
10 in all honesty, Representative, we will make every
11 effort to ensure that it does not. We don't want to
12 create a fund that would exceed our capacity to deal
13 with the problem and negate our eligibility for
14 federal aid, which is that \$15.2 million threshold.
15 We're well aware of that. We would make sure that that
16 did not happen.

17 REPRESENTATIVE HUTCHINSON:

18 Thank you.

19 CHAIRMAN GRUCELA:

20 I have one question, and I apologize if I
21 missed this. The major flood year, was it 2006?

22 MR. COMEY:

23 The last major flood was in northeastern
24 Pennsylvania and it was in --- November of 2007, I
25 believe.

1 CHAIRMAN GRUCELA:

2 Okay. Whatever. I guess the question
3 was, what was the cost ---?

4 MR. COMEY:

5 It varies, Representative.

6 CHAIRMAN GRUCELA:

7 It varies? There are no ---?

8 MR. COMEY:

9 No. The minimum is about \$25 million or
10 \$30 million of eligible costs, and that's public
11 assistance and private. For instance, Ivan was about
12 a \$200 million impact. They're all over the ballpark.
13 They're impossible to predict.

14 CHAIRMAN GRUCELA:

15 We do get federal fundings, too?

16 MR. COMEY:

17 Yes, sir. Well, when there's federal
18 funding available. When flooding occurs that falls
19 below that federal threshold, it's below that \$15.2
20 million, but it could be \$14 million. And there is no
21 reasonable assistance that we can provide. There has
22 been recent flooding in Millvale in Allegheny County,
23 Aliquippa and Beaver County, which was just this past
24 summer, which did not qualify for federal aid. And
25 the Department of Community and Economic Development,

1 PennDOT and a few other agencies did assist to the
2 degree they could to repair that damage, but by and
3 large, it's a local responsibility.

4 CHAIR:

5 Yeah. My recollection is the county
6 declares emergency or asks for the Governor to do it.
7 It's in the mechanics.

8 MR. COMEY:

9 All three, a municipality can declare, a
10 county can declare, and the governor can declare, yes
11 sir, under the current Title 35 authorization.

12 CHAIRMAN GRUCELA:

13 Okay. Thank you. Thank you, John. Jim?

14 REPRESENTATIVE WANSACZ:

15 Thank you, Chairman Grucela. John, I
16 have just one question. I know a couple of the
17 representatives asked this earlier. And this is a
18 debate that I think you and I had as well as everybody
19 else. In your opinion, do you believe \$1 is enough or
20 should we go a little bit higher, meaning putting that
21 money not so much into the grant, because you got to
22 be careful with the FEMA so they would not penalize
23 us, but putting that more into prevention? Should we
24 be maybe looking at more than a \$1 a policy, \$2 a
25 policy? We could probably put it up to \$20 a policy

1 and it won't be enough, but is there --- you know,
2 should we be looking at --- this Committee, should
3 they be looking at maybe increasing that money?

4 MR. COMEY:

5 I would suggest following Secretary
6 Myers' recommendation, working with the administration
7 and identifying the universe, what the needs are and a
8 realistic approach to try to address them. I don't
9 think we have sufficient information to argue for or
10 against any dollar --- any amount. It's a major
11 undertaking and I think that we have to define the
12 realistic threshold we're trying to address. Because
13 it's not just the assistance to victims of disasters,
14 which can vary. It's also trying to make a meaningful
15 impact on preventing future flooding from occurring
16 through construction that is far more expensive. I
17 think that your bill is a very good starting point and
18 grounds for further discussion in just these areas.
19 And we look forward to participating with them.

20 REPRESENTATIVE WANSACZ:

21 Thank you. Thank you.

22 CHAIRMAN GRUCELA:

23 Thank you. Thanks again, John.

24 MR. COMEY:

25 My pleasure.

1 CHAIRMAN GRUCELA:

2 Our final testifier is going to be Mr.
3 Robert Flanagan, the Lackawanna Emergency Management
4 Agency director. Whenever you're ready, you can
5 begin.

6 MR. FLANAGAN:

7 Good morning. Let me thank you --- start
8 off by thanking you for the opportunity to speak
9 before you this morning. I don't have a lot of
10 statements put together for the Committee. I can give
11 you probably not a lot that other folks haven't
12 mentioned to you already or that you don't know
13 yourselves. But I will be able to answer probably any
14 questions that you have.

15 As I understand it, the purpose of the
16 bill is to put together grant funding to try and help
17 out businesses, citizens, municipalities when a
18 flooding event does not reach the threshold of being
19 able to have a presidential declaration and thereby
20 being able to bring FEMA assistance in. I've noticed
21 that that's been an issue since I started working in
22 emergency management 12 years ago. As John Comey said
23 before, flooding is one of the major issues that we
24 deal with, especially here in northeastern
25 Pennsylvania. And one of the problems that we always

1 come across are those flooding events, or even though
2 they're natural disaster events that happen and you
3 don't reach that dollar threshold to request a
4 presidential declaration, which tends to leave a lot
5 of families, businesses and municipalities in a
6 position where they don't know how to pay for the
7 damage that they've sustained. And I've come across
8 it time and again in the last 12 years. It's an issue
9 --- exactly how it's going to be solved, I don't
10 really know. I think the recommendation to have this
11 bill put forward is probably an extremely good idea,
12 something that's been long overdue. I've seen an
13 awful lot of businesses, an awful lot of families have
14 to deal with the aftermath of a natural disaster,
15 especially flooding, with no means to try and help
16 them recover.

17 Just as recently as November of 2006, we
18 ran into that situation with the flooding that
19 occurred here is Lackawanna County and other counties
20 in the northeast. The flooding occurred on the 16th
21 of November and it took until the 23rd of February in
22 order to do the damage assessments. We actually had
23 to run through them two separate occasions. And it
24 took until February 23rd before the presidential
25 declaration came through. Even then, there was a

1 question as to whether or not it would actually come
2 to fruition. So that had an awful lot of folks,
3 business, municipalities, families really concerned as
4 to whether or not they were ever going to get --- be
5 put back in any semblance of what their lives were
6 before the flooding. And that often becomes a major
7 concern that we have to deal with.

8 The one issue that I've seen time and
9 again is, number one, the flooding or natural
10 disasters occur far more often at the lower level than
11 they do where they reach the threshold where we can
12 request the presidential declaration. We've dealt
13 with five presidential declarations since 2003 here in
14 the northeast. And that tends to be a little bit
15 unusual, quite frankly, for those kind of events. But
16 as I said, we tend to deal with the others that don't
17 come to that threshold a lot more often.

18 And a lot of folks that I deal with on a
19 daily basis and when we have to deal with disasters
20 oftentimes don't have flood insurance. And this was
21 the case in the most recent event because the flooding
22 didn't occur along the river where it normally does,
23 those places where we've, you know, over the years
24 expected the flooding to occur. It occurred in areas
25 that had never seen flooding before. It occurred in

1 areas where folks didn't even think that they had to
2 have flood insurance because it just never occurred to
3 them that it might be necessary. And those are the
4 kinds of issues that we tend to deal with. So those
5 folks end up in a position where they have no flood
6 insurance, and if the federal government isn't coming
7 in to help out, they tend to be stuck. And how do you
8 help them is one of the issues that we tend to deal
9 with and we really have no answers for in the long
10 run.

11 In my tenure in emergency management,
12 we've seen grant funding for dealing with hazardous
13 materials incidents, grant funding for dealing with
14 radiological incidents, and they were needed and they
15 were used extremely well. And they're very welcome to
16 have that ability. And I know a lot of the emergency
17 managers across the Commonwealth have been hoping for
18 this type of a solution for many years, because it's
19 something that we all have to deal with, and none of
20 us really have an effective answer for.

21 I think another item that really we have
22 to pay attention to, and you were just alluding to it
23 a couple minutes ago, was what happens if we give out
24 some grant money to businesses, municipalities,
25 families and then FEMA might come in afterwards? Is

1 that going to jeopardize the funding at all? I don't
2 know the answer to that question, but I know it's an
3 issue that's come up even as recently as the last
4 event, simply because there was a three-month timeline
5 between the time the event happened and the time that
6 the federal assistance came in, in which case, you're
7 trying to figure out how do you pay for rebuilding
8 roads, rebuilding bridges, getting basements pumped
9 out, getting hazardous materials, oil that's maybe
10 leaked all over a home, partial foundation collapse,
11 those kinds of things, how do you repair that kind of
12 damage when a homeowner or business doesn't have the
13 insurance to cover it and probably doesn't have the
14 wherewithal to be able to do it themselves?

15 Another incident I think that we probably
16 also need to look at is when there is federal funding
17 that comes down, sometimes it only addresses one side
18 or the other. It may address the individual
19 assistance and not the public infrastructure. In
20 2007, it addressed the public infrastructure, but
21 there was nothing there available for businesses and
22 families. So it tends to be a double-edged sword
23 there. And I think there is, you know, folks at your
24 level that hopefully can address some of those issues
25 probably a lot better than I can, or some of my

1 cohorts. That's about all I have for the moment. If
2 you gentlemen have questions, I'll be happy to answer
3 whatever I can.

4 CHAIRMAN GRUCELA:

5 Thank you, Mr. Flanagan. Representative
6 Shimkus.

7 REPRESENTATIVE SHIMKUS:

8 Thank you, Mr. Chairman. Good morning,
9 Robert.

10 MR. FLANAGAN:

11 Good morning.

12 REPRESENTATIVE SHIMKUS:

13 We have been talking during this hearing
14 quite a bit about a stormwater management plan. And
15 the Deputy Secretary for DEP testified that only
16 one-third of the counties in the Commonwealth have
17 stormwater management plans. Could you give me a
18 status report on Lackawanna County's?

19 MR. FLANAGAN:

20 Right now, I know there were stormwater
21 management plans that have been done over the years.
22 At the moment we're in the process of working in
23 conjunction with Luzerne County to put together a
24 comprehensive plan for both counties, which will
25 include not only the stormwater management but the

1 traffic management and hazard mitigation as well. So
2 that's an effort right now that's under way. It
3 started back in the fall.

4 REPRESENTATIVE SHIMKUS:

5 Any idea when it will be done?

6 MR. FLANAGAN:

7 The time frame for it to be done is in
8 2009. I believe in the spring, early summer.

9 REPRESENTATIVE SHIIMKUS:

10 And the reason that's relevant to this
11 hearing is that we have made point that under
12 Representative Wansacz's bill, this pool of money will
13 be created for a lot of different things related to
14 floods, including a flood mitigation programs, but who
15 gets it, the county or the municipalities? And we
16 said that this bill would require a stormwater --- or
17 could possibly require a stormwater management plan be
18 in effect before any of that grant money would be
19 divvied out. So that's the relevance.

20 I can picture you standing, you know, in
21 Jermyn during that disaster. I can see you standing
22 at the base of South Abington Road, you know, when
23 that gets flooded out. I can see you on Crisp Avenue
24 and all over. And I think there are many people in
25 Lackawanna County that owe their lives and their

1 property to your good work. But I want to ask you for
2 guidance right there in the front lines. What do you
3 think is some of the top things that need to be done
4 in dealing with flood problems?

5 MR. FLANAGAN:

6 Well ---.

7 REPRESENTATIVE SHIMKUS:

8 Common sense, regardless of what is
9 practical in politics.

10 MR. FLANAGAN:

11 When it comes right down to it, a lot has
12 to do with the stormwater management. That certainly
13 is an issue. We've seen that over a number of years
14 that if you don't pay attention to that, you're going
15 to pay for it in the long run. A number of other
16 issues that we tend to deal with that really I don't
17 have an answer for and we keep running into a problem
18 with is the debris removal, especially when it comes
19 to the flooding. There's specific regulations as to
20 what you can do in terms of your debris removal and
21 how far upstream or downstream from a road you can do
22 it, how much FEMA will reimburse for doing that.

23 And what we've come across, and I know a
24 number of the other counties are all in the same
25 position, is you get two-mile stretch of a stream or a

1 river where you've got debris clogging up the whole
2 thing and you get authorization to be able to clear
3 100 yards upstream or downstream from a bridge or a
4 road, and the other mile and a half of the stream is
5 still clogged. FEMA isn't going to reimburse for
6 taking care of that debris removal, and a municipality
7 or a property owner ends up scratching their head
8 knowing that if they don't get rid of that, the next
9 flood's going to be even worse. The damage is going
10 to be even worse. But how do they afford to do it?
11 And that's one issue that we've constantly been coming
12 up with.

13 In some cases, a national conservancy has
14 some authorization over that, and in other issues DEP
15 may have part of it. But what we find out happens is
16 one agency will have the ability to handle a project
17 but not the money. The other agency will have the
18 money but not the ability. And a lot of times, it's
19 very difficult to be able to match the two of them
20 together just because of legislation that's in place
21 or the operational parameters of particular agencies
22 and how they're set up. And that's become a major
23 problem over the last three years, especially with a
24 lot of the debris that we've seen in the rivers and
25 the streams and that get deposited on property.

1 Another issue that has come up a lot of
2 times are how you deal with private bridges. How do
3 you deal with private roads that suffer a major impact
4 from a flood? In November of '06, in Ransom Township,
5 we had a road up there that went up to three family
6 homes and it was considered a private road. What
7 happened was Gardner Creek changed its course, scoured
8 out about 50 feet of an embankment and basically
9 destroyed the road going up to the three homes. There
10 was no way to get up to them. FEMA doesn't cover that
11 because it's a private road. The homeowner doesn't
12 have the flood insurance to cover something like that.

13 And so there was a major issue as to how
14 do we get any kind of access back to these homes. And
15 it took an enormous amount of work to be able to do
16 that. And thank God we did have a couple of
17 businesses in the area that were able to step forward
18 and said, you know, we'll provide some of the
19 material. Maybe we'll get paid for it. Maybe we
20 won't. But they were able to at least get one lane
21 open to try and get in and out from some of those
22 properties. And those are some of the major things
23 that we tend to deal with.

24 And then the homeowners that suffer from
25 flooding, they'll have a partial collapse of a

1 foundation or a partial collapse of a home. In one
2 instance --- well, in more than one instance, in a
3 number of instances, you've got oil tanks that are
4 broken loose so now you've got 100, 200 gallons of
5 heating oil floating around in a basement. That's got
6 to be cleaned up as well as getting the water out, and
7 the homeowner has no flood insurance. And the
8 insurance that they have, because it was a flood,
9 won't cover the damage to it. If it was a wind storm
10 or something else, he'd be able to recoup some of it.
11 But the flooding has always posed a major issue for
12 us.

13 REPRESENTATIVE SHIMKUS:

14 Thank you very much. Thank you, Mr.
15 Chairman.

16 CHAIRMAN GRUCELA:

17 Representative Pashinski?

18 REPRESENTATIVE PASHINSKI:

19 Thank you very much. I know you weren't
20 here earlier, but we were talking about another bill,
21 House Bill 2266, only for the reason that it allows
22 the county the option to developing a disaster plan,
23 stormwater management. What is the cooperation
24 between your local communities and counties on that?

25 MR. FLANAGAN:

1 At this point, as I mentioned before,
2 we're working on trying to put together a
3 comprehensive plan in conjunction with Luzerne County.
4 Some of the municipalities, I know, especially in
5 Luzerne County, have their own hazard mitigation
6 plans, some of their own disaster management plans in
7 effect. For us, all the municipalities in Lackawanna
8 County have a disaster response plan. Some of them
9 will have some stormwater management, maybe some other
10 comprehensive plans, but they go back quite a number
11 of years. And our recommendation at this point would
12 be once we have the comprehensive plan put together,
13 the easiest thing to do would be for the
14 municipalities to sign onto the county's plan, which,
15 all in all, would probably make things a lot simpler
16 to deal with rather than having 40 separate plans and
17 trying to figure out the differences. And hopefully
18 they're going to try and mesh together in some kind of
19 cohesive manner.

20 But that would be --- in some cases
21 you're going to have just the natural politics of the
22 Commonwealth, which tends to pop up a lot of times,
23 where a municipality wants to have its own autonomy and
24 be able to, you know, make its own rules, its own
25 ordinances, its own plans, so ---.

1 REPRESENTATIVE PAHINSKI:

2 My question is really about the fact ---
3 we do have some communities in Luzerne County, you
4 know, that basically turn a blind eye to some of the
5 flooding problems. And would their cooperation
6 mitigate it? And that's what I was wondering, whether
7 you thought that the idea behind 2266, which, again,
8 is to give the county the option of developing that
9 plan and then instituting that plan as also a way
10 to ---.

11 MR. FLANAGAN:

12 It's certainly the way that ---
13 especially when we've been discussing hazard
14 mitigation, it seems to be the more logical approach
15 to go that way simply because it would make things a
16 lot more --- a lot easier to coordinate at the county
17 level and then up to the state level from there.

18 ATTORNEY PASHINSKI:

19 Thank you very much.

20 CHAIRMAN GRUCELA:

21 Representative Smith?

22 REPRESENTATIVE SMITH:

23 Thank you, Mr. Chairman. Very briefly,
24 may I say thank you very much, Mr. Flanagan, for being
25 here today and for bringing your obvious expertise to

1 this hearing. On the county level, on Lackawanna
2 County level, have --- in the past eight to ten years,
3 have we made private residents respond to flood crises
4 and to the individual people and property owners
5 themselves?

6 MR. FLANAGAN:

7 It's been a learning curve for me. And
8 it's been a learning curve for the elected officials
9 around the county, especially municipal officials, a
10 big learning curve. We've come a long way in the last
11 12 years in responding to flooding and being able to
12 have the emergency services better prepared for
13 responding to it. Twelve (12) years ago we didn't
14 have a county technical rescue team, which we do now.
15 And we've used it in several of the flooding events in
16 the last several years since we've created that team.
17 And we've also requested assistance from Luzerne
18 County's technical rescue team.

19 That's a major point that for me tends to
20 allow me to relax a little bit when we have a flooding
21 incident because now I know, well, I don't have to run
22 around trying to figure out where am I going to get
23 the resources? If we have to start doing an
24 evacuation, if we have to start rescuing folks, where
25 do I get that from? I know I can call the 911 center

1 and say, you know, activate the county technical
2 rescue team and now I've got ten fire departments all
3 coming together with people who are trained, you know,
4 to do those kinds of things. And we can work in
5 conjunction with some of the swiftwater rescue teams
6 in the region.

7 The municipal officials over the years
8 have come a long way in learning what to do when
9 dealing with --- especially the flooding response and
10 the recovery. One issue that we still have is on the
11 mitigation side. And I think that's probably
12 county-wide. It's probably region-wide. The
13 mitigation is still an issue that we have to address.
14 Although we have had, in the run-up to preparing the
15 hazard mitigation, we've gotten a lot of projects
16 recommended to us from the municipalities that they
17 feel would be a tremendous help towards reducing the
18 types and the amount of flooding that we have to deal
19 with. And I'm really looking forward to being able to
20 get those kinds of projects input into our hazard
21 mitigation plan and being able to hopefully move on
22 and get funding to be able to see some of those
23 projects completed. If we can see some of those
24 completed, I think we'll be in a lot better position
25 than we have been.

1 REPRESENTATIVE PASHINSKI:

2 Thank you, sir.

3 CHAIRMAN GRUCELA:

4 Representative Siptroth?

5 REPRESENTATIVE SIPTROTH:

6 Thank you, Mr. Chairman. Mr. Flanagan,
7 thank you for being here today, and this will be brief
8 also. A couple of the things. You mentioned the
9 three homes that were severed because of the road
10 being washed out.

11 MR. FLANAGAN:

12 Right.

13 REPRESENTATIVE SIPTROTH:

14 Were they in the flood plain?

15 MR. FLANAGAN:

16 No. As a matter of fact, they sat about
17 200 feet above the flood plain. And there was a
18 another home, as a matter of fact, that was in the
19 same situation where the home was way up on the top of
20 the hill, but in order to get to the house, you had to
21 take a little bridge across the Gardener Creek. Well,
22 the bridge got washed out. And the family was ready
23 to bring the husband home from having surgery at
24 Community Medical Center and they had to be put up in
25 a hotel because there was no way --- you know, how do

1 you get across --- you know, what do you do with a
2 private bridge? A private bridge doesn't qualify for
3 the funding. And you're telling a family that, well,
4 you're going to have to come up with \$30,000 to
5 replace the bridge that you just lost. And they're
6 trying to figure out, how do I pay for my husband's
7 surgery, and they had a couple of disabled kids and
8 you --- that was a big go around for a couple of
9 months with that one particular family to sort out ---
10 we finally got a bridge in there, but it wasn't an
11 easy thing to accomplish.

12 REPRESENTATIVE SIPTROTH:

13 And I sat on the Appropriations Committee
14 and I asked Secretary McGinty a couple of questions
15 and one was the flood plain mapping issue, which is so
16 outdated. I think the DCNR has the funds and have
17 started the process. They expect to be soon finished
18 with a portion of it. They're doing the entire state
19 so that that information can be utilized to redo the
20 flood plain maps, which I think will move on to the
21 communities. However, in the instance of private
22 bridges and roads, there's still an issue and that's
23 what --- I think this bill will fill that void.

24 And also, through the Governor's budget
25 this year, I understand there's additional monies for

1 flood mitigation, which would include the removal of
2 debris from streams. I think that that --- and I
3 agree with you that that's very unheard of that ---
4 you know, not necessarily that they would channel
5 down, but just to get the stuff out of the streets and
6 creeks and so that can ---

7 MR. FLANAGAN:

8 Correct, yeah.

9 REPRESENTATIVE SIPTROTH:

10 --- water can flow more freely and not
11 cause flooding at a later time. That's all I have.
12 Thank you, Mr. Chairman.

13 CHAIRMAN GRUCELA:

14 Thank you. Thank you, Mr. Flanagan.
15 Representative Wansacz, is there something you wanted
16 to ---?

17 REPRESENTATIVE WANSACZ:

18 Well, first off, again, thank you all for
19 coming. I think what you've heard today is testimony
20 from everybody talking about, you know, there is a
21 need, there is a problem, and without any funding,
22 nothing gets done. And we all realize that. And, you
23 know, when water, when streams or creeks come through,
24 you can be on a hill and you can be above the flood
25 plain, and the water, even though you have to have it

1 to go in to do anything, you have to have a DEP
2 permit. But it's either the responsibility of the
3 homeowner or the borough of where the person lives to
4 be able to fix this. And so if you're seeing problems
5 such as where Bob says, you've got a bridge, you can
6 only go 100 feet to the left or 100 feet to the right
7 of it. Or if it's a state road, PennDOT will come in
8 and clear it right underneath the bridge, or 50 feet,
9 I think, one way or the other, but then what about the
10 rest of the stream? And that takes money. And these
11 homeowners that live there, or if that floods out,
12 that floods other areas that aren't even in the flood
13 plain because nothing was addressed upstream.

14 So what we're trying to do is create
15 this. I look forward to working with each and every
16 one of you on the Committee because I value your
17 insight. And I think this is a great way, a starting
18 point. What we've learned here today is not only do
19 we need good, smart planning, but we also need the
20 funding to be able to implement these things. So I
21 look forward to working with you. Thank you for
22 coming.

23 CHAIRMAN GRUCELA:

24 Thank you, Representative Wansacz. And,
25 again, on behalf of the Chairman of the Committee, the

1 overall Committee Chairman Melio, Chairman Fairchild
2 as well as our Emergency Preparedness Sub-Committee
3 Chairman, Representative Solobay, Representative
4 Bastian, who I failed to mention at the beginning of
5 this hearing, and of course, the members that were in
6 attendance today, all of you who testified,
7 Representative Wansacz, who I know has a very good
8 bill here that addresses a need that we certainly have
9 seen for many, many years.

10 As I had mentioned earlier, there are 66
11 cosponsors for this bill. When you get that many
12 cosponsors, you certainly have touched a nerve that
13 needs to be attended to. And I think hopefully we'll
14 report back to the Majority and Minority Chairmen the
15 proceeds are today and hopefully we get this bill on
16 Committee's calendar to be taken up by the full
17 Committee. And of course, my thanks to the City of
18 Scranton for the use of their fine facilities here
19 this morning to allow us to conduct this hearing. So
20 I thank everyone, and everyone have a good day.

21 * * * * *

22 HEARING CONCLUDED

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