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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
HOUSE TRANSPORTATION COMMITTEE

RYAN OFFICE BUILDING
ROOM 205
HARRISBURG, PENNSYLVANIA

TUESDAY, AUGUST 19, 2008
9:00 A.M.

PUBLIC HEARING ON
HOUSE BILL 2689

BEFORE:

- HONORABLE JOSEPH F. MARKOSEK, CHAIRMAN
- HONORABLE RICHARD GEIST
- HONORABLE MIKE CARROLL
- HONORABLE PAUL COSTA
- HONORABLE DICK L. HESS
- HONORABLE MARK K. KELLER
- HONORABLE MARK LONGIETTI
- HONORABLE RON MARSICO

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(CONT'D)

HONORABLE RON MILLER
HONORABLE JOSEPH PETRARCA
HONORABLE TINA PICKETT
HONORABLE JEFFREY PYLE
HONORABLE JOHN SABATINA
HONORABLE JOHN SIPTROTH
HONORABLE THOMAS J. SOLOBAY
HONORABLE KATHARINE M. WATSON
HONORABLE JAKE WHEATLEY

ALSO PRESENT:

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

BRENDA S. HAMILTON, RPR
REPORTER - NOTARY PUBLIC

P R O C E E D I N G S

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CHAIRMAN MARKOSEK: Good morning,
everybody.

THE AUDIENCE: Good morning.

CHAIRMAN MARKOSEK: We'd like to get
started, please.

Today, we have a hearing on House
Bill 2689, and I would like to call on the
sponsor, Representative Ron Miller, to lead us
in the pledge of allegiance

(Pledge of allegiance.)

CHAIRMAN MARKOSEK: Thank you, Ron.
And my director now has said that Ron's better
half is here today.

Good morning. Welcome.

Our -- Rick and I are going to forego
any opening remarks, and we'll get started
here.

The first person to testify, we have
the -- from PennDOT, Mr. David Bach --
Bachman, Bicycle Pedestrian Coordinator with
the Pedalcycle/Pedestrian Bureau.

Mr. Bachman.

MR. BACHMAN: Thank you.

1 CHAIRMAN MARKOSEK: Oh, I'm sorry.
2 PennDOT also has a rep. Mr. Bachman, you're
3 not with PennDOT, is that correct?

4 MR. BACHMAN: Yes, I am.

5 CHAIRMAN MARKOSEK: You are also?

6 MR. MUNAFO: I am also.

7 CHAIRMAN MARKOSEK: Okay. All
8 right. Well, we have two folks from PennDOT
9 here now. That's great. Welcome.

10 MR. BACHMAN: Thank you.

11 CHAIRMAN MARKOSEK: Appreciate it.
12 Your name, sir?

13 MR. MUNAFO: My name is John Munafo.
14 I'm with the Bureau of Motor Vehicles.

15 CHAIRMAN MARKOSEK: Gentlemen, you
16 may proceed.

17 MR. BACHMAN: Well, we were requested
18 to address one particular topic this morning,
19 and that is the status of motorized bicycles.

20 CHAIRMAN MARKOSEK: Pull the mike
21 closer.

22 MR. BACHMAN: The status of motorized
23 bicycles, PennDOT's view of those. So we do
24 have some information to report.

25 We recently received a legal opinion

1 from PennDOT that motorized bicycles are, in
2 fact, motor vehicles under Pennsylvania law
3 and would be subject to license, title
4 registration, education, perhaps some
5 equipment requirements.

6 So that's -- that's our legal status
7 at this point. If there are any questions?
8 We didn't -- we didn't have any further
9 prepared remarks; so if there are questions
10 about the status of legalized bicycles in
11 Pennsylvania, we'd certainly be ready to
12 entertain those.

13 CHAIRMAN MARKOSEK: Yeah. We'll let
14 Representative Miller, sponsor of the bill --

15 REPRESENTATIVE MILLER: I -- I don't
16 really have a strong opinion on that ruling by
17 legal counsel, or decision.

18 I guess my question is, was there any
19 consideration of horsepower or brake
20 horsepower or -- or size?

21 MR. BACHMAN: Well, there are some --
22 some definitions in Pennsylvania law regarding
23 those topics. A -- a moped, for example, a
24 motorized pedicycle, has a limitation of 1.5
25 horsepower.

1 Some of the motorized bicycles that
2 are for sale have horsepower ratings of higher
3 than that, two to three horsepower and are
4 capable of speeds of 25 to 30 miles an hour on
5 level ground. So they may fall into other
6 categories. For example, motor driven cycles
7 or motorcycles, which are two other categories
8 in Pennsylvania law.

9 But we do feel that the ruling that
10 these are motorized vehicles does impose
11 certain requirements and restrictions on
12 those, and I think John can probably speak a
13 little more about those.

14 REPRESENTATIVE MILLER: I guess the
15 question occurs then are you going to require
16 them to be titled?

17 MR. MUNAFO: Excuse me. Currently
18 any -- any motor vehicle that's going to be
19 used on a highway has to be titled and
20 registered. Licensing requirements may differ
21 depending upon how -- how many horsepower the
22 vehicle has.

23 You can drive a motorized pedicycle,
24 for instance, with a Class E regular driver's
25 license. Once you start getting over five

1 horsepower or higher than 50 cc's, you're more
2 in the motorcycle class where you have to have
3 the training and the motorcycle endorsement on
4 your driver's license.

5 However, all the vehicles that are
6 operated on the highway must be registered and
7 insured.

8 REPRESENTATIVE MILLER: If the
9 manufacturer doesn't provide a title, how does
10 a person -- I think I see a bit of a problem
11 here. How are we going to address this going
12 forward?

13 MR. MUNAFO: Well, that would be the
14 same thing as though someone was building a
15 vehicle from scratch, which you can do in
16 Pennsylvania.

17 We have a process by which a person
18 would bring their vehicle -- in this case, a
19 motorized pedicycle or even a motorcycle -- to
20 an enhanced inspection station, have it
21 inspected, make sure that it meets the vehicle
22 equipment inspection regulations, and then
23 would submit that paperwork to the department
24 with photographs and all the applications that
25 are necessary, and we would provide a title

1 and a VIN plate for that vehicle, since it's
2 specially constructed.

3 REPRESENTATIVE MILLER: Is -- is
4 that -- can you tell me about the costs
5 associated with that? How is -- how is this
6 going to work?

7 It seems to me that somebody that
8 buys a vehicle, no matter what that vehicle
9 is, is looking to use that vehicle in a timely
10 matter.

11 So do we have the ability with the
12 inspections to turn that over in a timely
13 manner? And also what are the costs going to
14 be?

15 MR. MUNAFO: Well -- I'm sorry.

16 REPRESENTATIVE MILLER: I was reading
17 the paper, yesterday's York paper, the Sunday
18 edition had an article about some of these
19 electric cycles coming in from Europe and
20 Japan and things, and basically they're --
21 they're relatively inexpensive. Some of them
22 are 300, \$400.

23 The question is are we going to be
24 spending as much to get them registered as we
25 are to purchase them?

1 MR. MUNAFO: No. Not at all. The --
2 the process for having a vehicle titled and
3 registered which is bought brand new is just
4 like buying a brand new car. You have a
5 manufacturer statement of origin. Those
6 vehicles are manufactured to certain
7 standards, many of which are federal
8 standards, meet the federal motor vehicle
9 safety standard. They present that as they
10 would to any title agent, have it registered,
11 get a pink slip, get a license plate and
12 they're off in, you know, in a couple hours.

13 Where the time takes place and some
14 of the expense is if someone builds one from
15 scratch or decides to add an engine or an
16 electric motor to an existing bicycle.

17 There are approximately 375 of these
18 enhanced vehicles safety inspection stations
19 throughout Pennsylvania that handle about
20 20,000 of these types of vehicles a year.

21 Now, most of them are
22 reconstructed-type vehicles, vehicles that
23 were wrecked, brought back into service after
24 the repair, inspected, and the paperwork is
25 submitted.

1 In the past, all of that paperwork
2 had to be submitted to our Bureau for
3 process.

4 With the new process that started in
5 January of '07, I think it was, that can be
6 done at your local tag agent. So you're
7 talking literally a couple hours as opposed to
8 maybe a week or two.

9 Prices vary at the enhanced
10 inspection stations. Like any other
11 inspection station, the prices are market
12 driven. I've heard prices anywhere from \$30
13 to a \$120 depending on the type of vehicle and
14 work involved.

15 I would suspect that a motorized
16 pedicycle would be on the lower scale.

17 REPRESENTATIVE MILLER: Okay. Thank
18 you.

19 Mr. Chairman, I have no further
20 questions right now.

21 I -- you know, it's very
22 interesting. We're going to really have to
23 carefully address this because we're going to
24 see more and more of these type vehicles with
25 gas prices being what they are and even though

1 they're moderating with less pressure, but
2 it's -- it's ongoing.

3 We're going to figure out how to deal
4 with it and make sure we get all the rules and
5 regulations and laws in place so that we can
6 facilitate the use in a safe manner, not only
7 for the person using these electric bikes or
8 pedicycles, but also for the motoring public.

9 So I appreciate your input. Thank
10 you.

11 CHAIRMAN MARKOSEK: Chairman Geist.

12 REPRESENTATIVE GEIST: I have a
13 couple of questions then.

14 When -- when you get to be
15 ex-wrestler status like Ron and I, sometimes
16 you need power-assist to climb, and some of
17 these bicycles have the electric power assist
18 for climbing and the rest of the time you're
19 pedaling, building the battery back up.

20 At what point do you cross the line
21 that it becomes a power vehicle when most of
22 the power is really pedaling?

23 And a lot of these things don't come
24 with any kind of paperwork at all.

25 And, Dave, you're too young to

1 remember when we used to sell White Cloverine
2 brand salve to get enough points to get a
3 Wizard motor put on the old Schwinn, those
4 little clip-on motors.

5 I -- I don't know where all this is
6 going, but we're going to have a lot more of
7 this with the price of gasoline today.

8 MR. MUNAFO: According to the -- and
9 just to address as far as the size motor and
10 just climb assist, according to the recent
11 opinion that was just put out the other day,
12 in the current definitions of motor vehicle
13 and the different type of cycles that are out
14 there, it becomes a motor vehicle as soon as
15 you put any size electric assist on that -- on
16 that bicycle.

17 REPRESENTATIVE GEIST: Somehow you
18 got to find some more exemptions somewhere. I
19 don't know where it is.

20 CHAIRMAN MARKOSEK: I know you
21 mentioned legal opinion. Can you talk about
22 the legal opinion?

23 Maybe that would help clear some of
24 this up.

25 MR. MUNAFO: Our chief counsel was

1 asked some questions by one of our deputy
2 secretaries who had received some questions,
3 and he basically just addressed the fact
4 that -- I guess the question really was at
5 what point does a vehicle become a motor
6 vehicle?

7 And in the opinion he says that as
8 soon as you put either an electric-assisted or
9 gasoline-assisted motor on it, it becomes a
10 motor vehicle.

11 It's pretty cut and dried. There's
12 not too much wiggle room as far as, you know,
13 what is and what isn't. As soon as that motor
14 is put on, whether gasoline powered or
15 electric powered, it's a motor vehicle and, as
16 such, has to follow the same rules as most of
17 the other vehicles on the road.

18 There are some exemptions. It's a
19 little bit easier to register and title a
20 motorized pedicycle as opposed to a
21 motor-driven cycle or motorcycle.

22 CHAIRMAN MARKOSEK: Representative
23 Pyle.

24 REPRESENTATIVE PYLE: Thanks,
25 Mr. Chairman. The previous questioners have

1 pretty much answered my questions.

2 But one just popped out. On many of
3 our expressways, highways, freeways, there are
4 minimum speed requirements. If we title these
5 vehicles, are they going to be able to use
6 those highways and if they're titled in the
7 state, aren't they allowed to use whatever
8 highway we build or maintain?

9 MR. MUNAFO: Basically once you have
10 a license plate on a vehicle, you can take it
11 pretty much wherever you want.

12 REPRESENTATIVE PYLE: Yeah.

13 MR. MUNAFO: It's up to the operator
14 of that vehicle to know what his limitations
15 are. Much like you know you can't go any
16 faster than 65 on -- on some highways, you
17 can't go below the speed limit on -- on
18 others.

19 So a moped has -- can't have a design
20 speed of any more than 25 miles per hour so
21 that pretty much limits where you are supposed
22 to operate that vehicle.

23 But can you take it out on a
24 highway? Sure. It becomes an enforcement
25 issue.

1 REPRESENTATIVE PYLE: Again, with
2 gasoline as high as it is, electric vehicles
3 are becoming more popular.

4 I noticed in the state of, I believe,
5 Georgia the police just arrested a couple of
6 kids driving a golf cart on the streets.

7 Are golf carts more than five
8 horsepower?

9 MR. MUNAFO: Well, golf carts, I
10 can't -- I wouldn't say they can't be adapted
11 for highway use. I haven't seen any.

12 But I -- I hear stories as well that
13 people operate them regularly in developments
14 or whatever. They're not made for highway
15 use. Tires are not made for highway use.
16 They're slower vehicles as well.

17 And to my knowledge we have not
18 titled or registered any golf carts, whether
19 it's been adapted or not.

20 REPRESENTATIVE PYLE: What about the
21 little electric razor scooters that I see
22 buzzing around on my streets all the time?
23 They would fit the definition here. I'm just
24 not sure of the horsepowerage those things are
25 generating.

1 MR. MUNAFO: These are the ones you
2 stand on?

3 REPRESENTATIVE PYLE: They're two
4 wheels, pedal operated.

5 MR. MUNAFO: And pedal operated?

6 REPRESENTATIVE PYLE: Yeah.

7 MR. MUNAFO: That could fit into a
8 motorized pedicycle if it doesn't go over
9 one-half horsepower. So it would be possible
10 if that had the proper lighting, had proper
11 brake equipment, street tires, it's possible
12 that something like that could be registered.

13 REPRESENTATIVE PYLE: Thank you,
14 Mr. Chairman.

15 CHAIRMAN MARKOSEK: Okay. Thank
16 you.

17 Representative Mark Longietti.

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

20 I just want to clarify, what is it
21 that you all consider to be a pedicycle?

22 MR. MUNAFO: A pedicycle would be any
23 type of bicycle that would have operable
24 pedals.

25 REPRESENTATIVE LONGIETTI: So then --

1 so then we have a pedicycle and we also have
2 what you call a motorized pedi -- pedicycle?

3 MR. MUNAFO: That's correct.

4 REPRESENTATIVE LONGIETTI: Okay.

5 It's the motorized pedicycle that has the
6 capability of going over five horsepower that
7 is considered a motor vehicle?

8 MR. MUNAFO: No. A motorized
9 pedicycle cannot have more than one-and-a-half
10 horsepower.

11 Once it gets larger than that, it
12 would probably be considered a motor-driven
13 cycle and if it went over 50 cc's it would be
14 considered a motorcycle.

15 Motorized pedicycle, regardless of
16 the size of the engine, is a motorized
17 pedicycle as soon as you hang that assist on
18 that vehicle.

19 REPRESENTATIVE LONGIETTI: So -- so
20 is any motorized pedicycle then a motor
21 vehicle?

22 MR. MUNAFO: That's correct, yes.

23 REPRESENTATIVE LONGIETTI: In just
24 looking at the bill itself then, we may need
25 to -- you know, if we're going to move forward

1 on this bill, we may need to clarify some
2 things. Because the bill talks about
3 pedicycles and talks about motor vehicles and
4 doesn't necessarily indicate that a pedicycle
5 can be a subset of a motor vehicle.

6 For example, the driver of a motor
7 vehicle overtaking a pedicycle proceeding the
8 same direction shall pass to the left.

9 So, theoretically, if I'm in another
10 pedicycle that's motorized, I'm a motor
11 vehicle and I shall pass to the left of the
12 other pedicycle.

13 What is the department's view of
14 perhaps trying to redefine what a motor
15 vehicle is and possibly excluding some of
16 these motorized pedicycles from the definition
17 of a motor vehicle?

18 MR. MUNAFO: Well, to my knowledge it
19 hasn't been brought up, but we would certainly
20 entertain it and we'd be happy to comment on
21 anything that was introduced.

22 REPRESENTATIVE LONGIETTI: So it's at
23 least something that the department would be
24 willing to give some thought to?

25 MR. MUNAFO: Sure

1 MR. BACHMAN: Uh-huh.

2 REPRESENTATIVE LONGIETTI: What --
3 you know, it has been alluded to, with the
4 price of gasoline, there's all these different
5 varieties of vehicles now that are being
6 brought to the forefront.

7 Have you -- have you done any
8 research or what can we expect in the future
9 as far as -- as far as, you know --

10 MR. MUNAFO: It's funny you mentioned
11 that. We just had a meeting with a gentleman
12 yesterday out of Lititz that wants to start
13 selling three-wheel motorcycles that are
14 totally electric power. And we were kind of
15 giving him some of our feedback as to what he
16 needs to be able to legally title and register
17 these vehicles.

18 They are built to safety standards.
19 There were a few issues with some of the
20 paperwork, but nothing that can't be
21 overcome. So we're certainly going to see an
22 influx of electric type vehicles. Maybe even
23 smaller horsepower gas vehicles that just get
24 extremely good mileage but might be a little
25 more attractive to the -- to the motoring

1 public.

2 We are starting to see quite a few
3 more types of these vehicles coming out now.
4 As you said gas is the biggest driver.

5 REPRESENTATIVE LONGIETTI: It's
6 interesting. In the USA Today, I don't know
7 if you had a chance to see it, but there was
8 again renewed talk about flying motor
9 vehicles, and I know that, even though
10 technology has advanced, there really hasn't
11 been a, I guess, prototype that can be
12 marketed to any extent.

13 But nevertheless there are a number
14 of individuals that are sinking large amounts
15 of money into creating some kind of vehicle
16 that maybe could hover at a ten-foot height
17 and travel along or fly, might not look like
18 the Jetsons' vehicle.

19 But any -- any thoughts at the
20 department on that topic?

21 MR. MUNAFO: I don't know that I want
22 to think about something like that.

23 But, no, we haven't been approached
24 by anyone. Of course, if someone were to
25 mention it and bring it up and ask questions

1 about it, we have an obligation to at least
2 look at the current legality and try to figure
3 something out. But it hasn't come up yet.

4 REPRESENTATIVE LONGIETTI: I guess
5 last question, pedicycles, motorized
6 pedicycles, how do they fit into -- you know,
7 we see more and more bike lanes being
8 constructed.

9 Are these -- if I have a motorized
10 pedicle -- pedicycle, is that something I can
11 drive in a bike lane? Or who -- who controls
12 the bike lane? Does PennDOT have anything to
13 say about that?

14 MR. BACHMAN: In most areas you're
15 not permitted to drive a motor vehicle in a
16 bike lane, although there may be some -- some
17 cases where it's permitted to make turns, that
18 sort of thing.

19 So usually it's municipal ordinances
20 that governs those kinds of cases.

21 REPRESENTATIVE LONGIETTI: But, once
22 again, we might be in an area where, depending
23 on how much horsepower we're talking about, we
24 may want to look at, again, the definition of
25 motor vehicle because perhaps it's appropriate

1 or safe for some of these less powered
2 motoricized -- motorized pedicycles to be
3 traveling in bike lanes and it might be a
4 better approach than putting them out on the
5 regular lanes of traffic. Possibly something
6 to look at.

7 MR. BACHMAN: Certainly.

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

10 CHAIRMAN MARKOSEK: Representative
11 Miller, I think, has some additional
12 questions.

13 REPRESENTATIVE MILLER: Thank you,
14 Mr. Chairman. Representative Longietti picked
15 on some important issues here, and I think the
16 department has to take a careful look at -- if
17 we're going to license these and register
18 these vehicles, I don't know what the proper
19 name is, but we've all seen the controversy
20 with these little hyped-up, souped-up
21 motorcycles, typically called crotch rockets,
22 that basically you're half laid down on them
23 and you're only about two-and-a-half feet tall
24 when you're on these things and I don't think
25 we want those on the highway.

1 But what you told me, you could
2 register that and you could run it. And so I
3 have a question whether we're creating an
4 issue here that we -- we really need to look
5 at some break points where we say we're not
6 going to allow certain type vehicles.

7 And even with the pedicycles, I'm not
8 sure. For example, would a coaster brake pass
9 as a braking system on a vehicle? I don't
10 know. I don't know if that would meet the
11 Vehicle Code for proper braking.

12 And -- and so I'm not sure that we
13 don't need to really look at this whole --
14 whole picture and get into it in deep detail.

15 I understand the legal opinions.
16 And, okay, any motor, doesn't matter what
17 size, it becomes a motorized vehicle. But I'm
18 not sure we want to be registering and
19 licensing all of those. And that's what my
20 concern is.

21 MR. BACHMAN: Right. And the
22 manufacturers of some of these units have
23 recognized that also.

24 We haven't talked about it
25 specifically, but some of these motors are

1 add-on devices. You can -- you can mount them
2 aftermarket to your -- to your bicycle. And
3 some are sold with stronger braking systems
4 that you then install on your bicycle to
5 account for the increased speed involved.

6 So --

7 REPRESENTATIVE MILLER: I appreciate
8 that. That's what Representative Geist was
9 referring to earlier as -- from our
10 childhoods, because we remember when we added
11 those motors or had friends that added those
12 motors to bicycles.

13 So it's -- it's not necessarily new
14 technology; it's just popular again because of
15 gas prices and things like that.

16 But thank you.

17 Thank you, Mr. Chairman.

18 CHAIRMAN MARKOSEK: Representative
19 Watson.

20 REPRESENTATIVE WATSON: I think you
21 can hear me. So, gentlemen, I would like to
22 add, I had a constituent recently contact me.
23 He switched to driving -- a suburban county is
24 where I can come from. He has switched to
25 driving a car because of the gasoline prices.

1 He can ride a bike to work because it's only a
2 couple miles away.

3 However, he said as -- that he has
4 now turned 40 and there's particularly one
5 hill that he knows he has a lot of trouble
6 with, and so he purchased from Wal-Mart a
7 bicycle that has the motor on it and you just
8 actually, evidently the way it works, just
9 turn the thing on for the hill and then back.

10 And that's what he was saying.
11 There's not enough paperwork with that to find
12 the title. He got three different answers
13 when he called three different people at
14 PennDOT. So I would suggest you need to get
15 it all together.

16 But I would echo what all folks have
17 been saying. This needs to be revisited and
18 to get a lot more specific in figuring
19 everything out.

20 Because to save him for that, you
21 need to -- for the -- for the one hill on the
22 way to work, he told me going home is no
23 problem. Okay. He's good on the downhill.

24 But, indeed, to use that, and that's
25 an assist for him, and to say now that, well,

1 it has to be licensed, it has to find a title,
2 it has --that becomes absurd.

3 And, quite frankly, for some of our
4 folks, we need to be encouraging if, you know,
5 they're able and it works for their lifestyle
6 and it works certainly for their pocketbooks,
7 that they could not use a car and indeed
8 drive -- use the bike to go to work. But they
9 want that -- I'll call it a security there,
10 that if somehow they can't quite negotiate
11 that hill, they can turn this little thing on
12 and go and then turn it off again. Because he
13 wants the exercise.

14 I think it's wrong that we're doing
15 all these things to them and making them go
16 through all the hoops and truthfully jump
17 through a hoop that they can't jump through.
18 They don't have that kind of work.

19 So then what does he do? Return the
20 thing and then doesn't ride to work and we put
21 him back in a vehicle? Logically that doesn't
22 make sense I'm sure to any of my colleagues at
23 all.

24 We need to do a better job on this,
25 and I recognize a legal opinion but I know

1 legal opinions sometimes exist somewhere in a
2 vacuum and not necessarily in the real world
3 as to how that is then interpreted and how
4 that affects every day life.

5 So I would strongly suggest to you
6 that we need lots of concentrated effort
7 because I don't think this is somehow just an
8 aberration in time. I think this is part of
9 the new time that is coming.

10 We are looking for walkable
11 communities now that we build, and what that
12 means is to walk and to use a bicycle. We
13 have an older generation, but we are still
14 active, who would like that little tiny assist
15 on that vehicle for the time when there comes
16 that one hill that they can't negotiate.

17 You cannot say -- I think of the
18 over-55 communities in my district -- and tell
19 them, now, we need to get it titled, and you
20 need to spend this and you need to do that.

21 We need to do a better job. And yet
22 when you talk about the little pocket rockets,
23 I am sure my colleagues who are particularly
24 in the urban areas do not want to see them on,
25 you know, crowded busy urban streets. That's

1 just too dangerous for anyone.

2 Thank you.

3 CHAIRMAN MARKOSEK: Okay. Thank
4 you.

5 Representative Siptroth.

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

8 Gentlemen, as we make the transition
9 into this new form of vehicle registration
10 requirement, what are we going to do about the
11 requirement for turn signals, lights and for
12 evening travel and that type of apparatus that
13 would normally come?

14 I notice that some of the vehicles do
15 not require inspection. But nonetheless will
16 we have a problem with the various insurance
17 companies because these vehicles are now going
18 to be registered and they won't -- or they may
19 not have the apparatus that the normal
20 vehicles that are now slated for highway use
21 have?

22 What -- how are we going to address
23 that particularly?

24 MR. MUNAFO: Well, generally
25 speaking, they -- a purchased motorized

1 pedicycle will have all the necessary
2 equipment, high and low beams, turn signals,
3 running lights, things of that nature.

4 In order for somebody to put one
5 together themselves, they'll have to meet
6 those same requirements, by either doing it
7 themselves, and then taking it to an
8 inspection station to have the work verified,
9 have the application filled out, and then
10 submit it to PennDOT for -- for title and
11 registration.

12 So just because it's homemade doesn't
13 make them exempt from any of the other
14 requirements. Again, most of your
15 factory-built motorized pedicycles are
16 properly equipped and safe for most highway
17 use, I'll say.

18 And just as a point of clarification,
19 those little pocket rockets, or whatever you
20 called them, Representative Miller --

21 REPRESENTATIVE PYLE: Crotch
22 rockets. Crotch rockets.

23 MR. MUNAFO: -- they -- they have not
24 been titled and registered in Pennsylvania.
25 It was very clear from the manufacturer, and

1 this -- they probably came to light about two
2 years ago, and we had been asked at that time
3 to -- to title and register some. And we
4 would not because the manufacturer had said
5 that they are in no way made for highway use.

6 We always -- we always default
7 usually to the -- to the manufacturers'
8 recommended use for those vehicles.

9 And it was very clearly marked that
10 those vehicles in no way belonged on the
11 streets. So you won't see any of them unless
12 they're running around illegally.

13 REPRESENTATIVE MILLER: Thank you for
14 that clarification.

15 MR. MUNAFO: I just wanted to make
16 sure that was understood.

17 REPRESENTATIVE MILLER: Glad to hear
18 that.

19 REPRESENTATIVE SIPTROTH: Just --
20 just as a follow-up, sir.

21 MR. MUNAFO: Sure.

22 REPRESENTATIVE SIPTROTH: Under the
23 fact sheet defined as moped, I think you
24 indicated that initially they would have to be
25 retrofitted or manufactured, but yet they

1 require an inspection under your -- under your
2 fact sheet.

3 And so that's -- that's my concern.
4 If there is going to be no inspection, how
5 will the insurance companies -- and how do
6 they address that particular issue today if,
7 in fact -- if -- in the event they're involved
8 in a -- in an accident?

9 MR. MUNAFO: That I couldn't answer.
10 I know that people have to have them insured
11 to have them registered and they do, in fact,
12 get them insured.

13 So what they're telling their
14 insurance companies or how they view them, I
15 couldn't tell you. But they are getting them
16 insured. They have to be insured if they're
17 titled.

18 REPRESENTATIVE SIPTROTH: Okay. And
19 will the new class of vehicles be required to
20 be retrofitted as well with the appropriate
21 turn signals, lights, et cetera?

22 MR. MUNAFO: Which new vehicles are
23 we referring to?

24 REPRESENTATIVE SIPTROTH: The --
25 those that are -- you know, with the motor

1 assist, those types of vehicles.

2 MR. MUNAFO: Yes. They would have to
3 be brought up to standard. The braking system
4 would have to be adequate, as David had
5 mentioned earlier, tires, lighting systems,
6 speedometer, odometer, in many cases. So they
7 would --

8 REPRESENTATIVE SIPTROTH: They would
9 not require inspection either?

10 MR. MUNAFO: Not a motorized
11 pedicycle. Anything above that would have to
12 be inspected.

13 REPRESENTATIVE SIPTROTH: Thank you.
14 Thank you, Mr. Chairman.

15 CHAIRMAN MARKOSEK: Representative
16 Mark Keller.

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

19 Under your definition -- this is a
20 question, which I'm really confused -- would a
21 Segway be considered a motorized vehicle?

22 MR. MUNAFO: You're talking about the
23 two-wheel things that you stand in?

24 REPRESENTATIVE KELLER: Right.
25 Because that seemed -- I was just in

1 Philadelphia, and they're running all over the
2 place.

3 MR. MUNAFO: It would be considered a
4 motor vehicle, yes.

5 REPRESENTATIVE KELLER: Turn signals,
6 the whole --

7 MR. MUNAFO: I haven't seen it with
8 turn signals yet, but --

9 REPRESENTATIVE KELLER: Thank you.
10 That's why I'm saying that we -- we need to --
11 we really need to look at this very closely, I
12 think, you know, the extremes, as
13 Representative Watson said, I just think that
14 we -- we better get in the 21st century here
15 and realize what we really are doing.

16 So I hope to hear on it. Thank you.

17 CHAIRMAN MARKOSEK: I'm told we have
18 created a new category for them anyway. Is
19 that correct?

20 MR. MUNAFO: Segways?

21 CHAIRMAN MARKOSEK: Segways? We have
22 a separate category for them? I see some
23 heads shaking yes.

24 MR. BACHMAN: (Nods head up and
25 down.)

1 CHAIRMAN MARKOSEK: Okay. Can you --
2 can you -- can you follow that up and explain
3 a little bit?

4 MR. BACHMAN: I believe they're
5 considered EPAMDs, electric personal assisted
6 mobility device, and they are a separate
7 category under our law.

8 CHAIRMAN MARKOSEK: They can be run
9 on the -- on the streets? Or just the
10 sidewalk, cross the street I guess?

11 MR. BACHMAN? Yeah. They're --

12 MR. BUGAILE: It's very limited.

13 MR. BACHMAN: Yeah. They're --
14 they're sidewalk -- generally sidewalk
15 vehicles, and that's where we permit them to
16 run.

17 CHAIRMAN MARKOSEK: Okay. Okay.
18 Seeing no other questions, I just have one
19 other comment.

20 You had mentioned the legal opinion.
21 Can we get a copy of that? Is that something
22 you can send us?

23 MR. MUNAFO: Yes.

24 CHAIRMAN MARKOSEK: And we'll
25 distribute it to the committee.

1 Oh, I'm sorry. Representative Costa.

2 REPRESENTATIVE COSTA: Thank you,
3 Mr. Chairman. I'll be brief.

4 My question is can someone explain to
5 me what a pocket rocket is? And what kind of
6 pocket is it? It's a completely different
7 connotation.

8 CHAIRMAN MARKOSEK: He was -- he was
9 a hockey player.

10 REPRESENTATIVE COSTA: Sorry.

11 REPRESENTATIVE GEIST: Rocket
12 Richard.

13 CHAIRMAN MARKOSEK: Rocket Richard
14 and his brother was the Rocket.

15 REPRESENTATIVE GEIST: The Rocket.

16 MR. MUNAFO: They're about two feet
17 off the ground.

18 MR. BACHMAN: Representative Costa, I
19 believe we're -- the pocket rocket is a
20 general term for a very small motorcycle. Is
21 that what you're referring to?

22 REPRESENTATIVE COSTA: I have no
23 idea. Because, like I said, where I come from
24 it has a whole different meaning.

25 MR. BACHMAN: It's -- it's a very

1 small motorcycle. I believe some of them are
2 capable of speeds up to 50 miles an hour.
3 They were originally developed in Europe as a
4 practice device for professional
5 motorcyclist -- or professional motorcyclists
6 who could use these things on very small
7 tracks and then were imported to Asia and have
8 made their way here.

9 But they are motor vehicles, as John
10 mentioned, and they -- they often do not come
11 through with any of the equipment and the
12 title or any registration required. So they
13 are -- they are not street legal in -- in
14 nearly all the cases.

15 REPRESENTATIVE COSTA: Thank you.

16 CHAIRMAN MARKOSEK: Okay. Thank you
17 very much, gentlemen. Appreciate it very much
18 and thank you for coming.

19 MR. BACHMAN: Yes.

20 CHAIRMAN MARKOSEK: Okay. The next
21 person is Mr. Joseph Stafford, Executive
22 Director of Bicycle Access Council.

23 Mr. Stafford, welcome.

24 MR. STAFFORD: Good morning,
25 Mr. Chairman. You think you come prepared and

1 then you --

2 CHAIRMAN MARKOSEK: My understanding
3 is you worked closely with Representative
4 Miller to put the bill together.

5 MR. STAFFORD: Yes, sir.

6 CHAIRMAN MARKOSEK: Is that correct?
7 Okay. Good.

8 REPRESENTATIVE MILLER: Mr. Chairman,
9 if I may, Joe Stafford is my constituent and
10 I've known him for many years and we've
11 discussed bicycle issues for many years.

12 So it was quite natural to have him
13 present some of his ideas to me and work with
14 him and the staff to try to come up with some
15 type of legislation that would help facilitate
16 better safety between the pedicycle public,
17 the bicycle public, and the motoring community
18 at large.

19 Thank you.

20 CHAIRMAN MARKOSEK: Okay. Thank
21 you. You may proceed.

22 MR. STAFFORD: Thank you,
23 Representative Miller. Again, good morning
24 everyone. I appreciate the experience for
25 me.

1 The last testimony was quite
2 fascinating. My role here was going to be to
3 help educate and inform you on some of the
4 issues in this prepared bill.

5 On -- on your last topic, I thought
6 maybe PennDOT was going to try to educate
7 you. I think you educated them and me.

8 It opened quite a few issues that are
9 very comprehensive. So compliments to the
10 committee for raising all of those issues.

11 I did -- and this is my first time
12 testifying, so I'm not sure of the protocol.
13 I'm sure you'll guide me through it.

14 And I did bring a document, and you
15 should have it in front of you. It's three --
16 three sheets, several pages. The first page
17 is an outline of what I hope to testify
18 in regard -- on the issues of House Bill
19 2689.

20 I was asked to provide a biographical
21 summary, which is included. The organization,
22 the Bicycle Access Council, that I represent
23 is described there, and there's a narrative
24 newsletter that will kind of give you some
25 additional information.

1 So with your permission,
2 Mr. Chairman, I'll just begin.

3 CHAIRMAN MARKOSEK: You may.

4 MR. STAFFORD: This proposed
5 legislation is a work product of the Bicycle
6 Access Counsel. I did create this back in the
7 fall of 2006. It -- this has been reviewed
8 and modified over many months by PennDOT.

9 PPAC, which for some of the members
10 of this committee, is the Pedicycle and
11 Pedestrian Advisory Committee. It is a
12 committee that was created by statute. It is
13 in the Vehicle Code, and it meets quarterly.

14 So many of the issues that are
15 discussed regarding bicycling are well
16 reviewed, and that is a resource for this
17 committee, if you so choose.

18 So I've also had the input of bike
19 clubs and fellow advocates. This bill is
20 about drivers and bicyclists interacting on
21 the roadway.

22 Referring to some of the pertinent
23 questions from the last topic, that's exactly
24 what this is about.

25 Just as sort of a preparation here,

1 all traffic laws are based on safety of
2 roadway uses. You -- you clearly addressed
3 that earlier. The right-of-way is based on
4 first come, first served. A lot of times we
5 forgot that.

6 And so whether it's a bicycle or
7 motor vehicle or some other means of
8 transportation, we're always concerned with
9 the right-of-way.

10 This proposed legislation is also
11 consistent with the Uniform Vehicle Code. And
12 that is a national guide.

13 So why is this bill important? Well,
14 it's certainly important to me, representing a
15 bicycle advocacy organization, but it does
16 reinforce the statutes already applicable for
17 drivers and bicyclists. It does help law
18 enforcement officers interpret and inply --
19 apply the law.

20 This is an ongoing issue. This is
21 something that throughout the -- the country
22 there are landmark cases, or at least
23 significant cases, that come to light where
24 either a crash occurs or a citation is issued
25 inappropriately.

1 So this particular bill, you could
2 view it as some technical corrections in the
3 interaction of bicyclists and motor vehicle
4 drivers.

5 This bill also improves the safety
6 for all road users by setting clear safety
7 margins. I don't own a motorcycle, but I did
8 take the PennDOT motorcycle safety awareness
9 course. One of the key components of that is
10 to remind motor -- motorcycle drivers of
11 maintaining a margin of safety.

12 So this particular bill addresses
13 that very specifically and is good for all
14 roadway users. It further legitimizes
15 bicycles on the Commonwealth roadways.

16 I am so impressed with the past
17 testimony in the interaction with these
18 electric-assist bikes, because this is going
19 to be -- it's going to mesh with what I'm
20 talking about and it's going to mesh with your
21 concerns about electric-assist bikes.

22 If we could forget the electric bikes
23 for just a moment, when you're a bicyclist on
24 a roadway, you need to be aware of how to
25 interact with motor vehicles. And we have a

1 lot of rules of the road that apply to
2 bicyclists as well as motor vehicles, and part
3 of the problem is what I have listed here.
4 There's two aspects, driver knowledge and
5 driver attitude. I'll add a third one, which
6 is bicyclists' attitude.

7 But one of the -- the issues that
8 frustrates the purpose of including bicycles
9 as part of the transportation mix is the
10 knowledge of drivers and the attitude of
11 drivers.

12 There was a survey done by PennDOT
13 some time ago and it rated the knowledge of
14 drivers on the rights of bicyclists on the
15 roadway. The knowledge was high.

16 When it came to the attitude of
17 drivers regarding bicyclists on the roadway,
18 it was low. And I could -- I can fill an hour
19 with anecdotes. I don't think you want to
20 hear that now. But the attitude of drivers is
21 inconsistent at best.

22 And this bill will at least point out
23 that bicyclists have the rights to the roadway
24 as it's currently included in the Vehicle
25 Code. So it's a very key issue of why this

1 bill is important.

2 At -- at your prerogative, sir, I
3 could go through some of the specific statutes
4 or I could just gloss over them and you can
5 ask me specific questions.

6 CHAIRMAN MARKOSEK: I would say if
7 you just summarize as best you can.

8 MR. STAFFORD: Okay. I'll -- I'll
9 read these for the record. Yeah. I'll read
10 these for the record, and I'm sure you'll have
11 some specific questions.

12 Each -- each particular section is
13 the highlight of what's included here. It
14 excludes -- Section 3301 excludes bicyclists
15 from the definition of preceding at less than
16 prevailing speed. Otherwise known as impeding
17 traffic.

18 Section 3303 requires a minimum
19 overtaking, otherwise known as passing
20 distance, on the left of four feet.

21 That also includes -- in that statute
22 it says an overtaking vehicle should change
23 lanes but when not possible the passing
24 distance should be four feet.

25 Section 3307 allows overtaking of

1 bicyclists under certain conditions in a no
2 passing zone. I'd -- I'd like to get back to
3 that later, but let me just run through this
4 list.

5 Section 3309 allows overtaking
6 bicyclists under certain conditions when a
7 double yellow line or other traffic control
8 devices would otherwise prohibit changing
9 lanes.

10 Section 3331 prohibits interference
11 of bicyclists proceeding straight by right
12 turning driver movements. Bicyclists call
13 this a right hook.

14 Section 3364 specifies minimum speed
15 regulation applies to motor vehicles only.
16 That's one of those classic cases around the
17 country of -- of concern to bicyclists.

18 I'm moving on to who will benefit
19 from this bill? All roadway users who
20 conscientiously observe the law. We can't --
21 we can't legislate the scofflaws, but there
22 are people that actually follow the law if
23 they know it, and this -- this bill is meant
24 to do it.

25 And also all Pennsylvania bicyclists

1 and interested and potential bicyclists.

2 Again, looking back on your past testimony,
3 that is a topic.

4 If you frustrate the purpose of
5 alternative modes of transportation, we're --
6 we're no better off. So this bill will
7 facilitate those who do not ride a bicycle now
8 and make it possible for them to at least
9 consider an alternative mode of
10 transportation.

11 How much will this bill cost? I
12 think I've heard in the past on various
13 legislation what's -- what's the most asked
14 question? What does this legislation cost?
15 Nothing. It's -- it's a law.

16 But I had to add this particular
17 point that what this bill will accomplish is
18 that it will eliminate the need for some
19 expensive bicycle facilities costs.

20 I heard bike lanes mentioned. I know
21 that outside of the bookend cities,
22 Philadelphia and Pittsburgh, PennDOT does not
23 encourage the use of bike lanes. There's a
24 real problem with engineering of bike lanes,
25 and it's a very controversial issue.

1 I don't want to get into the issue,
2 but there are very few bike lanes in the
3 center of the Commonwealth and there's a
4 reason for that.

5 So there's a movement to get a lot
6 more bike lanes to help bicyclists. Quite
7 frankly, if this legislation is passed, that
8 will somewhat eliminate the need for building
9 these expensive facilities. And I can speak
10 to that later if you have additional
11 questions.

12 I'd like to take an opportunity -- I
13 don't know -- again, I'm not sure of the
14 protocol. I'm taking a chance here.

15 What's not in this bill? My original
16 proposal included what you have listed there.
17 To repeal Section 1317 and Section 1520
18 requiring PennDOT to include the litter
19 notice. The litter notice is related to
20 Section 3709.

21 That's -- and I -- I made a note here
22 that -- that would be replaced with a new
23 statute notify -- with notification regarding
24 the new safe passing distance.

25 This does not repeal the littering

1 statute. And no one is in favor of littering,
2 but at the same time that particular notice
3 has been on PennDOT documentations,
4 registration and license renewal documents,
5 for quite some time, and it is an
6 opportunity -- there's a space on that form,
7 and it would be an opportunity to really
8 replace it with something that's up-to-date.

9 I'd be glad to take questions on
10 that.

11 The reason it's not in this bill is
12 because I just got hammered and it -- I was
13 just informed it was a dead issue. So -- but
14 this is my chance to kind of get the foot in
15 the door. You may see me again at some point
16 in the future asking for this particular
17 change.

18 When should this bill be enacted? As
19 soon as possible. It's timely now. This
20 committee has already raised the kinds of
21 questions relative to what my concerns are.

22 Fuel costs are rising. No one has to
23 tell anyone that. And people are looking for
24 alternate means of transportation.

25 The bicycle is the most likely choice

1 for accomplishing that, and this bill will,
2 again, aid those potential and interested
3 persons in using their bicycles for
4 transportation.

5 At that, I'd like to conclude my
6 remarks and answer any questions.

7 CHAIRMAN MARKOSEK: Okay. You did
8 great.

9 MR. STAFFORD: Thank you, sir.

10 CHAIRMAN MARKOSEK: For the first
11 time, you did just great.

12 Representative Miller.

13 REPRESENTATIVE MILLER: I have -- I
14 have no questions. I've been working on this
15 for quite some time with Joe.

16 I actually went to one of the PPAC
17 meetings, and it was quite informative. I
18 think if members of this committee ever get
19 the opportunity, they ought to attend.

20 It's a subgroup who works within
21 PennDOT. It's pretty neat the way it works
22 and the input that you hear.

23 And I'd just open it up for questions
24 from the other members since I've been so
25 involved with this all along.

1 CHAIRMAN MARKOSEK: Representative
2 Mark Keller.

3 REPRESENTATIVE KELLER: Thank you,
4 Mr. Chair.

5 Thank you, Joe, for your testimony.

6 You alluded to the fact here that if
7 this bill was passed there would be no need
8 for bike lanes.

9 Do you really believe that the
10 different bike organizations throughout the
11 Commonwealth are going to think Kumbaya once
12 that -- if this would be passed and wouldn't
13 be going to their local MPOs and asking for
14 those bike lanes?

15 MR. STAFFORD: Sir, it is such a
16 controversial issue, but you are raising a
17 legitimate question.

18 When -- when you're referring to bike
19 organizations, I guess we have to define bike
20 organizations. There would be advocacy groups
21 in Pennsylvania. There would also be bike
22 clubs.

23 Part of the difficulty of my role as
24 executive director of an advocacy organization
25 is representing all bicyclists.

1 You know, for those of you who are
2 representatives, you know it's difficult in
3 your districts when you represent all your
4 constituents. You'll get a variety of
5 opinions and they might be black and white.
6 They might be far left, far right.

7 This bill will at least accommodate
8 those bicyclists where no bike lanes exist.

9 One of the difficulties -- and this
10 is part of my professional opinion -- the
11 difficulties with installing bike lanes is
12 that sometimes they are substandard and you
13 create more safety issues than they solved.

14 And unless an MPO is prepared to put
15 in a hundred percent bike lanes, what do you
16 do when the bike lane ends? That's the real
17 world, the reality of wishing for more bike
18 lanes.

19 The other issue is that when a bike
20 lane is present, the municipality then takes
21 on the liability of maintaining it and the
22 construction and engineering of a bike lane.

23 So if the road wide enough for a bike
24 lane, it's -- it's wide enough to be
25 considered a wide outside lane and that --

1 that's my concern.

2 You can -- you can hope for bike
3 lanes, and certain municipalities use them,
4 but it also -- I will try and use by own
5 personal term, does not legitimize bicycling
6 on roadways. That tends to segregate the
7 bicyclists and this goes to the attitude of
8 motor vehicle drivers again. Just want to get
9 the bikes out of my way.

10 And I can tell you from personal
11 experience -- I'm dipping into those anecdotes
12 now, but I can tell you from personal
13 experience when there's a -- a trail, path or
14 bike lane, the most harassment that I have
15 encountered is when those facilities are
16 present. When -- when a bicyclist is a
17 competent bicyclist on the roadway and uses
18 the roadway properly, that harassment
19 diminishes.

20 I don't know if I answered your
21 question.

22 REPRESENTATIVE KELLER: Well, you did
23 somewhat, but I want to throw another question
24 at you.

25 If this piece of legislation was

1 passed and signed, would your organization
2 champion the issue of bike lanes not being
3 needed?

4 MR. STAFFORD: Not being legal?

5 REPRESENTATIVE KELLER: Not being
6 needed.

7 MR. STAFFORD: Oh, not being needed.
8 There will always be a request for bike
9 lanes. But we do not oppose bike lanes.
10 However, they have to be properly engineered.

11 One of the specifics here -- and --
12 and this is evolving correctly -- but the
13 placement of a bike lane is so critical, the
14 engineering and design of a bike lane is so
15 critical, there's no problem with a bike lane
16 in a linear distance.

17 The problem with bike lanes occurs at
18 intersections. How do you accomplish movement
19 at intersections, which is the highest
20 conflict point and the highest crash incident
21 point?

22 If you have right turning lanes, too
23 often the bike lanes are designed by people
24 who don't ride bikes or don't appreciate the
25 intended movements of vehicles, motorized or

1 pedicycles.

2 So my biggest concern about bike
3 lanes is that once they're installed they're
4 not properly designed and they endanger
5 bicyclists as opposed to help them. So it's
6 always -- always a sensitive issue whether the
7 bike lane is installed properly.

8 I think that answers your question.

9 REPRESENTATIVE KELLER: Okay.

10 MR. STAFFORD: If not, keep asking.

11 REPRESENTATIVE KELLER: Okay. Thank
12 you.

13 Thank you, Mr. Chairman.

14 CHAIRMAN MARKOSEK: Thank you. I
15 have a couple questions myself.

16 You mentioned about the -- the
17 legalities of bike riding and there is also
18 the attitude of bike riding.

19 I want to just get into that a little
20 more in terms of, you know, what are some
21 anecdotal incidents that maybe come to mind
22 that somehow this bill may -- may help that
23 or, you know, educating the public.

24 MR. STAFFORD: Okay.

25 CHAIRMAN MARKOSEK: I mean I have a

1 lot of people -- you know, I mean I have
2 constituents, for example, you know, that say,
3 hey, they shouldn't be on the roads at all and
4 those kinds of things.

5 MR. STAFFORD: Exactly. Well, the
6 article I have included on our newsletter by a
7 local journalist kind of spells it out
8 easily.

9 I -- I alluded to it, but I don't
10 think I did a good job of explaining myself.
11 Part of my problem representing all bicyclists
12 is that some bicyclists don't adhere to the
13 law themselves.

14 But that also comes from a lack of
15 education of bicyclists. And my role as an
16 advocate is to help bicyclists understand that
17 there's more to bicycling than balancing on
18 two wheels.

19 So that's my challenge. You know,
20 there are no problems in the world anymore.
21 They're just challenges and barriers.

22 But my challenge is to reach out to
23 bicyclists and make sure that they are
24 operating their bicycle properly. However,
25 this bill will establish a standard that I can

1 go back now and say, now, look, you have had
2 your rights on the roadway enforced -- or
3 enhanced. Now we have to look at
4 enforcement.

5 Because my message to law enforcement
6 officers is if you see a bicyclist violating
7 the law, give them a citation. The
8 Pennsylvania State Police are very good about
9 that. I can't say that all local
10 municipalities adhere to that. It's very
11 inconsistent, which is why I made that point
12 about helping law enforcement apply the law
13 and interpret the law.

14 But the education of bicyclists is a
15 critical part. I would hope that PennDOT will
16 establish a policy or a means of getting more
17 information out to bicyclists.

18 I have had a good working
19 relationship with several of the deputy
20 secretaries, going all the way back to Mike
21 Ryan, Mr. Hoffman, Mr. Hogg. I've met with
22 Betty Serian. I've met with Kurt Myers. And
23 I've learned a lot about how the department
24 works.

25 There's no way I can get into that

1 Fort Knox of driver testing, and at some point
2 I hope this committee will take on some
3 direction to PennDOT for driver testing and
4 driver education.

5 As -- as far as your -- your direct
6 question, when I'm on the roadway, I feel that
7 I'm an educated cyclist and part of my safety
8 approach is proper lane position.

9 What we have now, is because people
10 are dragging bicycles out of their garages and
11 just hitting the roadway, we are going to have
12 a conflict with people who just want to save
13 gas and didn't think through the process of --
14 of what a bicycle is, which is a vehicle. And
15 you will see a lot of wrong way riding. You
16 will see a lot of nighttime riding without
17 lights or illumination.

18 But I come prepared when I use my
19 bicycle, and I use my bicycle a lot. So --
20 and I'm not sure if I'm answering your
21 question.

22 But in terms of how this bill will
23 enhance and enable bicyclists to use the bike
24 for an alternative mode of transportation, we
25 have to do a better job, and I would -- I

1 would appreciate any help from the department
2 on how we can get that word out.

3 What I slipped in earlier about
4 the -- the -- the repeal of that section on
5 the registration forms, that would go so far;
6 and if we could establish that license testing
7 and skills testing would include recognition
8 of bicyclists on the roadway, that -- that --
9 that would go a far way to accomplishing
10 safety on the roadway.

11 CHAIRMAN MARKOSEK: Do we -- I don't
12 know the answer to that question. I haven't
13 looked at the manual.

14 But the regular driver's manual, when
15 somebody gets their driver's license, does it
16 address bicycles at all?

17 MR. STAFFORD: Minimally.
18 Minimally. I had asked for Pub 95, which is
19 the Pennsylvania driver's manual, to be
20 reviewed and have requested a separate section
21 on interacting with bicycles.

22 I've been informed that the driver
23 tests are about to be revamped and the
24 department is, you know, working on other
25 issues right now.

1 I don't know that they will highlight
2 it unless you direct them to, and I would hope
3 you would direct them, because of what's
4 happening currently. You know, it's only been
5 a year that the gas prices have shot up and --
6 and -- and, you know, this bill may appear as
7 though it's a knee jerk reaction, and that's
8 why I mention that they've been working on
9 this for quite some time.

10 But reality is that the residents of
11 Pennsylvania need this kind of highlight in
12 the legislation to make sure that once they
13 take to the roadways the department has a
14 super opportunity to highlight the proper use
15 of a bicycle.

16 I don't want to see scofflaws and I
17 don't want to see incompetent roadway users on
18 bicycles. That doesn't accomplish anything.
19 I'd -- I'd like to use this as a real
20 springboard for educating bicyclists as well
21 as motor vehicle drivers.

22 CHAIRMAN MARKOSEK: Okay. The folks
23 from PennDOT were here and I think they've
24 left. I know we do have one representative
25 from PennDOT. So we would perhaps ask her to

1 take the message back to the Bureau of Motor
2 Vehicles, that they consider beefing up what's
3 in our manual, driver's manual, relative to --
4 at least give folks some -- perhaps change
5 their attitude, if you would, towards bicycles
6 and at least be aware of them.

7 We have Representative Siptroth that
8 has asked to speak.

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

11 Representative Miller, regarding the
12 bill, I don't know whether you would be
13 acceptable to have an amendment made, but
14 Mr. Stafford, would this be an opportunity for
15 the department to put out an educational piece
16 to be included with renewals and that type of
17 thing, renewals for driver's licenses and
18 motor vehicle registrations, so that the
19 awareness may be increased a little bit to --
20 to serve cyclists?

21 I'd take a response from
22 Representative Miller and then from you,
23 please.

24 REPRESENTATIVE MILLER: Well, I -- I
25 certainly have no problem with any amendments

1 that make this a better piece of legislation
2 and to help facilitate that safety factor
3 between the bicyclists and the motoring public
4 and certainly will take a look at that. And
5 any suggestions are welcome.

6 But one of the things I did not do,
7 Mr. Chairman, is that I did not circulate a
8 co-sponsor memo on this yet and I've been
9 asked to do that. And I will put it out and
10 it is out there for -- you know, anybody can
11 offer amendments to it and we'll take a look
12 at them.

13 I'm certainly not opposed to that.
14 Anything that makes it better is great.

15 MR. STAFFORD: Mr. -- Mr. Chairman, I
16 have to thank this gentleman, because in 2001
17 when this organization was created, one of
18 the -- one of the first efforts was to
19 approach the department for that exact same
20 thing, include some information in
21 registration and renewals and license
22 renewals, and I met with a very valid reason
23 why not from Deputy Secretary Betty Serian.

24 She was delightful when she
25 responded, but she basically said if the

1 General Assembly directs us to do so we will
2 do it. And you could see that it would be a
3 minimal cost.

4 The barrier I hit was that the
5 inserts that are being used now all generate
6 money for the Commonwealth. And unless
7 someone is going to pay for those inserts,
8 then the department was not willing to do it.

9 There was a recent insert on
10 motorcycle safety, and you can imagine my
11 surprise when I saw that. But that was paid
12 for by the Motorcycle Safety Fund.

13 But, again, this -- we need to
14 educate the public. You know, the department
15 has a press office, and they do a nice job,
16 but not everybody reads the paper. Not
17 everybody takes it seriously. Not everybody
18 takes it conscientiously.

19 So I -- I applaud you, sir. If you
20 can do that, you know, I would be so
21 appreciative and I'm sure Representative
22 Miller can make it happen if -- it sounds like
23 it's something receptive here.

24 CHAIRMAN MARKOSEK: Representative
25 Watson.

1 REPRESENTATIVE WATSON: May I just
2 add one thing, that perhaps if you're not
3 aware or other members are not aware, but
4 through PennDOT through federal money that
5 then is given to the state to give out
6 locally, you have highway safety programs
7 across the state funded through PennDOT and
8 they do a good bit of education, particularly
9 one of the cornerstones is bike safety and
10 they have brochures that they hand out, be
11 they at schools, being they at senior
12 centers.

13 I'm familiar with the Bucks County
14 Highway Safety Program, and it varies. Some
15 are by an individual county because -- if the
16 county is so large. Others are a composite
17 and they'll have maybe five counties that an
18 individual serves.

19 But they hand out a tremendous amount
20 of information, again, on seat belt usage, but
21 bike safety is key. It was one of the
22 original points that they were charged with
23 educating the general public on highway safety
24 matters, and that's all part and parcel of
25 federal money that comes that specifically is

1 earmarked for that purpose.

2 That's not to say we couldn't do a
3 better job on anything. But I would -- I
4 think it would be remiss for those individuals
5 who have been working. The program I'm aware
6 of has existed since around 1990. It would be
7 unfair. They work in schools.

8 And now they've gone particularly to
9 senior groups because indeed many of those
10 folks are charged with caring for
11 grandchildren and the way they learned to ride
12 and things they learned, we have evolved, we
13 have changed.

14 So they make a whole presentation to
15 seniors so that they would instruct
16 grandchildren and take care of them in the
17 proper way. They deserve a lot of credit. It
18 just seems as if everybody assumed nothing was
19 being done. That's really not true.

20 REPRESENTATIVE SIPTROTH: If you
21 don't mind, Mr. Chairman, Representative
22 Watson, I certainly appreciate that
23 information.

24 I just wanted to broaden the
25 dissemination of the information. That was my

1 intent, by all means.

2 My wife is one of the constituents
3 that Representative Markosek mentioned early
4 on, that she believes that bicyclists do not
5 belong on the roadway and she gets very upset
6 when she has to follow one for a long
7 distance.

8 So I think an educational piece like
9 this would certainly be in the best interests
10 of all of our constituents and certainly for
11 the safety of bicyclists and that was my
12 intent.

13 Thank You, Mr. Chairman.

14 CHAIRMAN MARKOSEK: Okay. Thank
15 you.

16 Mr. Stafford, thank you. You did a
17 great job.

18 MR. STAFFORD: Thank you, sir.

19 CHAIRMAN MARKOSEK: We appreciate
20 your passion. Obviously you're very much --
21 you spend a lot of time with this and you're
22 very passionate about it.

23 And I just want to say we're happy to
24 accommodate Representative Miller here with
25 the hearing on this bill and this has been

1 very interesting. So thank you very much.

2 MR. STAFFORD: And thank you for my
3 education.

4 CHAIRMAN MARKOSEK: Okay. Next we
5 have the Association of Pennsylvania
6 Contractors, Mr. Bob Latham, who was here
7 briefly. I know he's got some other folks.

8 REPRESENTATIVE GEIST: He's out in
9 the hall. Jamie, step up.

10 CHAIRMAN MARKOSEK: Other folks going
11 to testify as well?

12 MR. VAN BUREN: Our fearless leader
13 has left us.

14 CHAIRMAN MARKOSEK: Okay. We can --
15 there he is.

16 MR. LATHAM: In the middle of another
17 meeting. Thank you.

18 CHAIRMAN MARKOSEK: We can adjust the
19 chairs there, gentlemen.

20 MR. LATHAM: We have a couple
21 handouts for the committee.

22 CHAIRMAN MARKOSEK: The handouts.
23 And pull this other mike up here.

24 While they're getting ready, they're
25 here today to talk about some of the

1 challenges with the higher fuel prices and
2 doing businesses here in Pennsylvania and road
3 construction work in Pennsylvania and things
4 we need relative to transportation.

5 Give the stenographer some time to...

6 Bob, maybe you can do some
7 introductions here. Mr. Bob Latham.

8 MR. LATHAM: Chairman Markosek and
9 Chairman Geist, thank you for the opportunity
10 to be here and meet with the committee today
11 and talk a little bit about where we are
12 economically and I guess also from the human
13 standpoint with regard to our industry.

14 My name, again, is Bob Latham. I'm
15 Executive Vice President of the Associated
16 Pennsylvania Constructors, a statewide trade
17 association, representing more than 400
18 companies across the state of Pennsylvania,
19 about 190 of which are in the construction
20 business and the balance supply the industry
21 either with equipment, materials, insurance
22 and bonding and that sort of thing.

23 With me today from your right to left
24 is Randy Good, president of Pennsy Supply here
25 in the central Pennsylvania area; Ron

1 Cominsky, who is Executive Director of the
2 Pennsylvania Asphalt Pavement Association; and
3 then also Mr. James or Jamie Van Buren,
4 Executive Vice President and Chief Operating
5 Officer of New Enterprise Stone and Lime
6 Company, headquartered in Bedford County,
7 Pennsylvania; and they can give you some of
8 the perspective from their companies'
9 standpoint.

10 What we've just passed out to you --
11 and I'm just going to briefly touch on this a
12 little bit and then turn it over to them,
13 because they have -- they have, I think, more
14 interesting information than I give.

15 Our national association, the
16 American Road and Transportation Builders
17 Association, has an economics department, and
18 they do a report on a monthly basis of the
19 changes in material prices for highway and
20 streets construction and then also an
21 aggregate sort of producer price index for
22 highway and street construction nationally.

23 And I don't think I need to tell you,
24 but I'm going to anyway, that we are
25 experiencing hyper inflation in materials,

1 particularly since 2003.

2 As you can see, the last sentence in
3 that opening paragraph of that report,
4 nationally the price of highway and street
5 construction material has risen 70 percent
6 since 2003.

7 What are the implications of this?
8 In 2006 the Transportation Funding Reform
9 Commission recommended that we increase
10 high -- funding for highway construction just
11 at PennDOT at \$965 million per year going out
12 with some inflationary index and many had
13 served on that -- on that commission.

14 Doing a conservative estimate across
15 the boards using -- using these averages, we
16 figure about 14 percent per year average since
17 2006.

18 So you're looking now at the -- the
19 reform commission's recommendations are now
20 about \$1.4 billion a year, and this is for
21 maintenance of the existing PennDOT system
22 only. Absolutely no expansion of the system
23 and very little safety as well.

24 Safety improvements do come with some
25 of the -- some of the paving projects and

1 other improvements. But the bottom line is to
2 hold the current PennDOT system together, and
3 not really even address municipal costs and
4 costs for the municipalities to pave roads and
5 bridges -- or pave roads and -- and rebuild
6 and pave bridges, we are obviously lagging
7 behind.

8 And as you can see it builds up over
9 time. We're talking about probably 14 percent
10 since 2006, but now we're talking about 70
11 percent since 2003. And the longer we delay,
12 the greater the problem we have.

13 You might have noticed, those of you
14 in the Harrisburg area, there was an article
15 about asphalt paving and the challenges there
16 in yesterday's Patriot News, and I think what
17 we'll be able to do here is bring some of
18 that -- answer some questions on that, bring
19 you folks some more information on that, and
20 give you an update as to where that stands.

21 I think for batting order purposes,
22 I'm going to call on Jamie Van Buren to give
23 you insights into what is going on with his
24 company and the areas that they service.

25 MR. VAN BUREN: Thank you.

1 Thank you, Chairman Markosek and
2 Chairman Geist and committee, for having us in
3 today.

4 My name is Jamie Van Buren. I am the
5 chief operating officer and vice president of
6 development and one of the owners of New
7 Enterprise Stone and Lime Company.

8 We're a construction materials
9 supplier, heavy highway contractor, and safety
10 products and services supplier in Pennsylvania
11 as well as a number of other states.

12 We employ about 3100 people in the
13 state of Pennsylvania, located in 50
14 counties. Our major areas where we have
15 corporate locations are Blair/Bedford County,
16 Cumberland and Franklin County with Valley
17 Quarries, Lehigh and Northampton Counties with
18 Eastern Industries, Lancaster with Martin
19 Limestone, and then Harrisburg and five -- and
20 a number of other locations for our protection
21 services operations.

22 That looks something like 47
23 quarries, 24 hot mix asphalt plants, 18 ready
24 mix plants, three concrete block plants, two
25 precast facilities, and a sign manufacturing

1 facility here in Harrisburg.

2 So we're -- we're pretty much across
3 the state, and we do heavy highway
4 construction really everywhere in the state.

5 And -- and the reason I think that we
6 asked to come in front of you is after what
7 Bob had laid out as far as the facts, I've had
8 a number -- numerous conversations and
9 conversations when people ask me about New
10 Enterprises, it's normally about when are you
11 going to be finished with that particular
12 project that's causing me a problem with the
13 commute that I have?

14 REPRESENTATIVE GEIST: Amen.

15 MR. VAN BUREN: And even Chairman
16 Geist will -- I might even get a phone call on
17 that from time to time.

18 That hasn't been the conversation
19 this year. With fuel prices where they are,
20 most every person that just enters in casual
21 conversation with me now asks, how is the
22 economy been affecting your business? And
23 specifically it's saying, New Enterprise, out
24 in the center part of the state, we're very
25 visible with our big red trucks, and the

1 presidents of our other companies across the
2 state are getting exactly the same shift in
3 questions.

4 And the answer is, you know, you have
5 to come up with a short answer for that
6 because it's obviously a very long and
7 complicated answer.

8 But my short answer goes something
9 like this. We had a very wet spring. It
10 affected all of the contractors and material
11 suppliers across the state. That's not
12 unusual for us to have a wet spring.

13 It is unusual for it to be across the
14 entire state. You might have the western
15 part, the southern part. Different parts may
16 be wet, but it really -- it was a bad weather
17 construction season March, April, May. We
18 don't typically do a whole lot of work
19 December, January, and February anyway.

20 So that's the first part of the
21 answer.

22 The second part of the answer is what
23 they're really getting at, and that is fuel
24 and asphalt prices have -- have just gone up
25 as -- as Bob said, multiple-fold beyond

1 normal.

2 But my answer is that that doesn't
3 really necessarily significantly affect us
4 typically because our contracts have asphalt
5 and fuel adjustments in them to help buffer
6 the contractor against those types of swings
7 during a project.

8 But what it does do is that affects
9 PennDOT's ability to let work, and we have had
10 a number of projects where -- and I'll just
11 give you an example. If they're spending a
12 million dollars to put down 20,000 tons of
13 blacktop, they've changed the scope of the
14 project to 15,000 tons and it's still costing
15 a million dollars.

16 And so there's less work getting
17 done. Still spending the same amount of
18 money, but there's less work getting done.

19 And so after I kind of explain that,
20 people look at me and go, oh, geez, I thought
21 it would have been worse than that. And that
22 usually -- if they walk away, they walk away.

23 But usually that leads me to a little
24 lengthy conversation that is something along
25 the lines of, yeah, it is worse than that.

1 You see, PennDOT, they don't have the revenue
2 that they've had in the past. Their tax
3 revenue is being cut back because miles are
4 being driven less. And people say, oh, yeah,
5 I've seen that in the press.

6 And then I say, you know, also with
7 the substantial increase in the cost of the
8 projects, because of their absorbing the
9 asphalt and fuel increases, they don't have as
10 much money to spend in that regard as well.
11 And so they're cutting projects. We have bid
12 a number of projects, which cost all the
13 contractors money to actually bid a project,
14 and we've been low bidder, as have numerous
15 other contractors in the state, and then after
16 we've been determined to be low bidder the
17 contract has been pulled. And that happened a
18 number of times this summer.

19 That's very difficult for the
20 contractors to go through the process of
21 bidding and then run into the problem of not
22 being able to perform the work.

23 And then, as I said, we have had
24 contracts that have been significantly reduced
25 in scope and that really has a trickle down.

1 If you're going to do 15,000 tons instead of
2 20,000 tons, then your plants are going to
3 produce less hot mix and the stone quarries
4 behind them are going to produce less stone.
5 So inventories start building in that regard.

6 And the ultimate impact, since
7 PennDOT hasn't been bidding as much, is that
8 this fall, where normally when you have a wet
9 spring, you follow it up with a very good
10 summer, and I can't say this summer has been
11 any different. It's been a very good summer.
12 The weather has cooperated and we've been
13 chewing through our backlog, as would be
14 normal.

15 But normally then we would follow
16 that up with a very, very busy fall. All the
17 work that couldn't get done in the early
18 months would get pushed into the summer. Some
19 of that would get pushed into the fall. You
20 pick up jobs as they're bidding in the -- in
21 the summertime and you start doing those jobs
22 in the fall.

23 The problem is there's very little
24 work bid this summer. There's very little
25 work. There -- every -- every week for the

1 last eight or nine weeks there's been jobs
2 that have been posted to be let that have then
3 three, four days before the letting, again, as
4 we're working on putting the bids together,
5 we're finding out that it's getting pulled.

6 And it's for funding. We understand
7 that. But the back-end problem is we have no
8 work for the fall, and we don't have any work
9 scheduled for the spring and we can't see the
10 work coming up because anything on the letting
11 schedule, unless it's a small bridge -- and I
12 understand there's a big push for bridges.

13 But my blacktop paving guys can't go
14 build bridges unfortunately. We have bridge
15 guys to do that.

16 So the impact specifically to New
17 Enterprise, as I know it, in doing the study
18 is we're going to have hundreds of employees
19 that will be laid off in the next four to six
20 weeks.

21 It means by the beginning of October
22 they won't be working. Normally they'd be
23 pushing, especially with the wet spring, right
24 up to Thanksgiving and even into December, if
25 the weather cooperates. And down east, the

1 Lancaster and the Lehigh Valley markets, they
2 would keep working into December and maybe
3 even January. We just don't have the work on
4 the books for that.

5 So our estimates are that most of our
6 employees in that sector of the business will
7 be somewhere between 5 to \$15,000 they will
8 earn less than they have in past years.
9 That's on someone that only earns 35 or
10 \$40,000. That's a pretty big hit.

11 And then this is coming at the
12 time -- where this works is, they've earned
13 less money year to date by about 15 percent
14 and they're going to be laid off in October,
15 November, December.

16 Normally they're earning 5 to 6,
17 maybe \$6,500 a month. They're going to be on
18 unemployment earning \$2,000 a month. And so
19 their spending is going to be significantly
20 curtailed.

21 And since they'll be laid off two
22 months earlier, they're going to start running
23 out of benefits in the early spring. So
24 they'll be on unemployment for six to seven
25 months this year if we can get them back,

1 which right now it doesn't look like with the
2 workload that we're seeing that they come back
3 to maybe June. And normally we're trying to
4 push to get them back in the middle of March.
5 Six to seven months carries you into March.
6 It may be April.

7 And normally they would have been
8 laid off around Thanksgiving, come back in mid
9 March, maybe April. So they're off for
10 typically three to four months. That's what
11 they budget for. That's what -- that's what
12 those people that are earning 35 to \$40,000 a
13 year understand.

14 This year they don't understand.
15 They -- they see that the end is coming soon.
16 And again this is the trickle down. This is
17 construction people getting laid off. And
18 because there's no paving going on, the
19 blacktop plants close.

20 We've closed plants intermittently
21 throughout the summer, blacktop and stone
22 plants, because the demand hasn't been there.
23 And then when the stone -- when the blacktop
24 plants close, then there's less draw out of
25 the stone plants and then they get laid off

1 early also.

2 So we see this coming to a screeching
3 halt very quickly.

4 Despite the push on bridge beams, I
5 think probably the plant that's been most
6 drastically affected is our top rock plant,
7 which is in Erie, Pennsylvania. Those
8 employees have about 500 hours so far year to
9 date.

10 There's been so little work in
11 western Pennsylvania as far as bridges go
12 and -- and full-blown -- full-blown
13 reconstruction. They would typically have a
14 thousand or twelve hundred hours.

15 That means that when they get laid
16 off in about four weeks from now, their
17 benefits will cover -- their benefit coverage
18 will go through Christmastime and then they'll
19 run out of benefits and they'll be on
20 unemployment for months and months.

21 And I believe there's an unemployment
22 extension in place right now and so that would
23 cover them. But they're used to having 3 or
24 \$4,000 more in discretionary -- it's probably
25 not discretionary in their case. It's for

1 mortgage payments. It's for car payments, for
2 the increase in food and fuel costs.

3 We've talked quite often about the
4 employee who normally is filling up his oil
5 furnace -- his oil tank in central
6 Pennsylvania in the fall and it's costing him
7 \$1,200 and now he's going to be presented with
8 a \$3,500 bill and \$3,000 less income. So
9 that's -- that's quite a turn of events for
10 them.

11 So I -- I -- I -- I summarize the
12 conversations by saying, you know, it's been a
13 very strong summer. There's no doubt about
14 that. Construction has gone fine. We have
15 been blessed by picking up a number of
16 turnpike projects. With -- with their funding
17 streams, it's been a little bit better, and
18 they're longer term projects.

19 So those projects have continued,
20 which will allow our heavy highway side to
21 sort of keep moving and the blacktop side is
22 just going to come to a halt as well as the
23 plants.

24 Our employees will not be spending
25 locally this fall. So that's going to hurt

1 the local economies when our -- when our
2 construction workers don't spend in our local
3 towns and our local supermarkets, car
4 dealerships, shopping centers.

5 And I think it will have a very
6 quick -- we probably have less than one
7 percent of our people calling up in January or
8 February with financial problems because they
9 didn't budget very well and they can't make
10 this mortgage payment or a -- or a car payment
11 and they want to draw off their pension, which
12 is very complicated and very difficult and not
13 really anything that any of us would advocate
14 for a 42- or 47-year-old individual to start
15 taking pension money to make mortgage
16 payments.

17 For our -- our protocol is you either
18 have to quit or you have to declare a
19 hardship, which is a legal issue that most
20 people don't meet. So we hate employees
21 having to quit their job to get their
22 pension. That doesn't seem to make a whole
23 lot of sense.

24 But I -- our feeling is that that's
25 going to be in the five to seven percent

1 range. We're going to get a lot of employees
2 calling us in -- in January or February this
3 year just saying, hey, it was one heck of a
4 tough fall. I can't make my bills, and I need
5 to get at my pension money somehow.

6 From the state's standpoint, despite
7 a clear desire to fix the roads and bridges,
8 but with the inflation that Bob talked about,
9 we're spending more. And the work product
10 that's getting done and, again, it's -- it's
11 very well advertised that PennDOT is spending
12 more money, Act 44, the new bridge program.

13 The problem is -- is -- is where --
14 where it doesn't get covered is the units of
15 work getting done by those dollars is
16 substantially less.

17 And so despite their desire to spend
18 more we're fixing a lot less.

19 And then I -- I sort of wrapped
20 things up by telling them, I'm not the only
21 contractor with this story. I get across the
22 state.

23 I'm chairman of a foundation and a
24 number of other organizations in the state of
25 Pennsylvania. So I talk to a lot of

1 contractors. I get to a lot of association
2 meetings. And this story is just repeated
3 over and over again by contractors.

4 I don't know what the effect of
5 hundreds of our contract -- our workers being
6 laid off early -- being laid off early or
7 thousands of industry workers getting laid off
8 early and then subsequently spending thousands
9 and thousands of fewer dollars this fall is
10 going to have on the economy.

11 And as they draw more unemployment
12 out of the state unemployment coffers, out of
13 the treasury, I don't know what that effect is
14 going to be, but I just don't see it as being
15 very good.

16 So I'll just summarize by saying it
17 was -- it was a bad spring, a really nice
18 fall, and we just see this just dropping off
19 the end of a cliff unfortunately in the next
20 six to -- really in the next four to six
21 weeks.

22 So with that, I kind of turn it over
23 to Randy who is a peer of ours, a peer company
24 of ours, and he and I were talking and he has
25 his story.

1 CHAIRMAN MARKOSEK: Use the mike.

2 MR. GOOD: Good morning, Chairman
3 Markosek, Chairman Geist, and the
4 Transportation Committee, and I do appreciate
5 the opportunity to be here representing Pennsy
6 Supply.

7 I'm just going to add a couple
8 things. I also sit on a borough council in
9 Adamstown Borough. I've been off and on that
10 council. I've been there for 12 years. And I
11 sat on the school board.

12 So I've been in your position about
13 some of these taxes and have had to make some
14 of those decisions.

15 Giving you the background of Pennsy
16 Supply, we employ approximately 1100 people.
17 We're in the Harrisburg area, mostly in
18 Dauphin and Cumberland County, Lebanon
19 County. We have another company in Lancaster
20 County, McMinn's Asphalt, where it's doing
21 business as Pennsy Supply -- as McMinn's. And
22 up in Luzerne County, Slusser Brothers is one
23 of our companies as well. We have
24 approximately fourteen quarries, eight
25 concrete plants, two block plants, and

1 thirteen asphalt plants. And then we also do
2 highway construction, no heavy construction,
3 but asphalt overlays and minor construction,
4 as well as bridge projects.

5 I started in this business in 1970
6 part-time and went into this business in 1972
7 full-time, and my mentor at that time told me
8 a story. And I said, why should I go to work
9 in this work industry? And he said, it's
10 recession-proof. And I looked at him and I
11 said, I never heard of anything like that.

12 And at that time he talked about when
13 the economy really slowed down, the
14 residential and commercial, the federal
15 government and the state government usually
16 picked up the spending on highway construction
17 and maintenance work and that's what carried
18 us through until the economy was going again.

19 Hopefully we can get something like
20 that in Pennsylvania because we sure need it.
21 Our residential business where we do
22 developments and a lot of our commercial work,
23 we've had a couple projects cancelled on us
24 this year.

25 As a matter of fact, the Home Depot

1 in Lancaster County was started, about a
2 million dollars of excavation. The plug was
3 pulled.

4 CarMax, a new facility down there,
5 they did the demolition and they pulled the
6 plug on that project. So that's helping to
7 compound some of the things I'm going to say
8 here.

9 It's been the most challenging year
10 for me since 1970. The employee hours year to
11 date, they worked approximately 22 percent
12 less hours than last year.

13 The production of asphalt at our
14 plants is down 27 percent compared to last
15 year on a per ton basis. Liquid asphalt in
16 some areas is on allocation, especially the
17 polymer asphalts, 7622, and not all products
18 are available at the time.

19 And some of that is due to cokers and
20 when you look at the used oil, which we use to
21 fire up our asphalt burners, some of that is
22 becoming on a shortage as well and that's due
23 to the refineries. The industry model is
24 changing.

25 As Jamie said, we have already closed

1 several asphalt plants completely for the
2 year. They're shut down. Those people were
3 laid off. And some other plants we open when
4 we need them.

5 We're running with approximately a
6 hundred less employees than last year. We
7 have not replaced employees as they leave us.
8 We're attempting to keep the employees that we
9 have, working as many hours as we can, trying
10 to control our costs.

11 But we have a major concern as we lay
12 off employees and they hear the future, that
13 we can't get the federal bill corrected down
14 in Washington, D.C. and we have this issue
15 here, they're saying, what future is this for
16 me? My mortgage payment is twelve months. My
17 car payment is twelve months. And we're
18 losing some very good employees that we're
19 going to need in the future to other
20 industries right now. It's a concern.

21 We also will be starting layoffs
22 earlier this year. Our inventory at our stone
23 quarries is high and our overlay, we do not
24 have the commercial work and some of the state
25 work that we normally have. So we're going to

1 be moving layoffs up from Thanksgiving,
2 December. Some of them are going to start at
3 the end of October already and we're actually
4 having a fixed overhead cutback this week.

5 As everybody knows, costs are a lot
6 higher due to energy costs. There's also been
7 some changes this year in the way the
8 refineries are selling their asphalt which has
9 caused some extra costs for us.

10 2009, we're going to have a lot more
11 employees laid off over this winter because
12 the volume has been down, we won't be doing as
13 much maintenance, and we don't have as much
14 work that we can do during the winter, of
15 drainage work and projects like that. So the
16 amount of employees laid off will be higher.

17 And, again, we're expecting a slow
18 start in the spring. I went through the
19 six-month letting schedule, which was updated
20 August 1st, and when you look at overlay
21 projects and things like that and the counties
22 that we typically work in, they're down.

23 What needs to happen? I think
24 everybody knows what needs to happen, but we
25 need to get some groups together and really

1 work at this.

2 It's easy to sit here and say this,
3 but we really need to do it. We need to get
4 PennDOT, the citizens -- the road construction
5 industry are experiencing -- they're
6 experiencing a perfect storm right now. The
7 revenues are down because of less driving.

8 My wife is a great example of that.
9 She used to drive a pickup truck. She got 15
10 miles to the gallon. She now drives a Honda
11 and gets 30 miles to the gallon. But she
12 didn't drop down any of her driving.

13 REPRESENTATIVE GEIST: That's what
14 I'm hearing.

15 MR. GOOD: Yeah. So now instead of
16 the Department of Transportation getting a
17 thousand dollars a year, in Pennsylvania
18 they're only getting \$500 a year. But she's
19 driving just as much as ever. I got to get it
20 under control, Chairman.

21 So that's an issue. When your
22 revenue is going down, the department is also
23 experiencing costs are going up, as Bob said,
24 especially in structural steel and on paving,
25 diesel fuel as well as the asphalt end.

1 There's a large number of projects
2 that we all know need to be completed now in
3 order to save money, and I compare this to
4 your house roof. Maintenance versus
5 reconstruction. Some people don't want to
6 hear this. Some of the citizens don't want to
7 hear this.

8 But when the shingles start going bad
9 on your house roof and if you replace them at
10 this point, the maintenance bill is not near
11 as high as if you let it go and you eventually
12 have to replace some of the decking or some of
13 the timbers and everything else.

14 The Department of Transportation is
15 in the same position, and we need to make sure
16 all the citizens understand that. That if we
17 can take a milling machine out there, mill the
18 surface, overlay it, versus reconstruction,
19 the bill is going to be lower and the citizens
20 will not have to spend as much money.

21 That's going to be a tough sell, but
22 we need to make sure that information gets out
23 to the public.

24 We talk about saving gas. We have a
25 tremendous amount of congestion, especially in

1 certain areas, and we have a lot of safety
2 needs.

3 What I'd like to close with -- and
4 it's not a lecture; it's an appeal -- for our
5 employees that are going to be laid off, as
6 well as our plants are that are going to be
7 shut down and everything else, that I ask
8 PennDOT, the Senate, citizens and the House of
9 Representatives need to work on a funding
10 solution now. If not right now, at least in
11 the first quarter of next year.

12 We know that this volume of work is
13 not going to disappear. If we wait the bill
14 will be a lot higher due to having to do
15 reconstruction versus maintenance.

16 We need to provide the Department of
17 Transportation the money they need to do the
18 job correctly. The industry needs the work.
19 The citizens need the work completed. If the
20 industry does not have -- receive more
21 funding, there will be a lot of employees
22 looking for jobs and a lot of plants not
23 producing product.

24 I thank you.

25 CHAIRMAN MARKOSEK: Thank you, sir.

1 MR. LATHAM: Last up is Ron Cominsky,
2 Executive Director of the Pennsylvania Asphalt
3 and Paving Association, and he's going to
4 basically run through a few numbers to put
5 some perspective on this.

6 There's been some questions about
7 what's going on with the asphalt situation and
8 he's the expert.

9 Ron.

10 MR. COMINSKY: Chairman Markosek,
11 Chairman Geist, representatives of the
12 committee, I thank you for your attention.
13 I'll make my comments very brief here this
14 morning.

15 I've been in this business 39 years
16 professionally. Hot mix is my first love.
17 It's always been my first love as an
18 engineer.

19 Financially this is the worst
20 situation that I have personally seen in 39
21 years. That's what's happening to this
22 business.

23 And what I put together for you here
24 this morning is -- and it's very simple. It's
25 what's happening with the asphalt market.

1 I continually get calls from the
2 citizens, from municipalities, townships, so
3 on, what's happening with the asphalt prices?
4 The oil on the stock exchange is dropping per
5 barrel. Asphalt has gone through the roof.

6 The first thing we have to understand
7 is what's quoted on the stock exchange is
8 basically the light crudes. That's the
9 money-making crudes for the refiners to
10 generate gasoline, jet fuels, that sort of
11 thing.

12 The asphalt that we use in our
13 industry is generated from heavy crudes.
14 These heavy crudes come from Venezuela,
15 Canada, most of the countries overseas.

16 You know what's happening in
17 Venezuela at this point. So there's a
18 tremendous shortage of heavy crudes to refine
19 into asphalt, number one.

20 Number two, Canada is having problems
21 with their pipe lines and that's a short --
22 that's a short-time effect. But that heavy
23 crude has been impacted as well.

24 I provided you with a handout of the
25 listing of the pricing index as put together

1 by PennDOT. Each month PennDOT puts together
2 a posted price that we bid as an industry for
3 our projects.

4 If you look at the bottom of that
5 page, in November of 2005, if you're looking
6 at the eastern PennDOT districts, \$259 a
7 liquid ton. That's a short ton, 2,000
8 pounds. Today here at \$834 per liquid ton.
9 That's in a matter of a course of about three
10 years.

11 If you go back a year ago, in the
12 eastern part of Pennsylvania we're looking at
13 about \$349 a liquid ton compared to where we
14 are today.

15 What's driving that market? The
16 refiners want to make asphalt a profit-making
17 operation, carry its own weight, just like
18 gasoline, just like jet fuels.

19 In the past the refining of asphalt,
20 at best, was a break-even proposition for
21 these refiners. So they're looking at making
22 this a money-making, profit operation for
23 their companies. That's -- that's number
24 one.

25 Number two is the shortage that's

1 occurring. What I've done is I've put
2 together some figures here for you. If you
3 look at a ton of hot mix, only five percent,
4 approximately five percent of the liquid
5 asphalt goes into the hot mix.

6 So a lot of people confuse the
7 current price that they see for liquid
8 asphalt, where we are at now of roughly \$835,
9 they confuse that with a ton of hot mix. And
10 really that's not the cost of a ton of hot
11 mix, because only five percent of the liquid
12 goes into a ton of hot mix to serve as the
13 glue to hold -- to hold that hot mix
14 together.

15 So if you look at where we were last
16 year and look at the eastern part of
17 Pennsylvania, we were paying \$349 a liquid
18 ton. Five percent of that has gone into a
19 mix. So about \$17.50 would be attributable to
20 liquid asphalt.

21 Today we're at \$834 a liquid ton.
22 Five percent again going into the hot mix.
23 We're at \$41.70 that the liquid asphalt is
24 adding to a ton of hot mix.

25 Now, that doesn't count -- include

1 the giant costs that these two gentlemen were
2 looking at with -- if they have to use the
3 diesel fuel to dry the aggregate and any
4 energy costs for -- for running the plant.
5 That's purely the effect of the liquid asphalt
6 on the cost of a ton of hot mix.

7 In 2007 we were looking at, as an
8 industry, for a ton of hot mix across the
9 state about \$50 a ton. Today we're looking at
10 about \$80 a ton on an average.

11 If you're a PennDOT person and
12 looking at what does this equate into the cost
13 of my job -- I'm only talking about the
14 material cost for -- for hot mix now. This
15 doesn't include all of the sundry costs that
16 go into designing a project and so on.

17 But if we were to compare replacing
18 one-mile, lane mile of pavement 12 feet wide,
19 one-and-a-half inches thick, in 2007, material
20 costs would have been \$30,690. Today we're
21 looking at 49,104.

22 Obviously you'd have to double that,
23 because you got to complete the other lane as
24 well.

25 But you can see the jump in costs

1 that's affecting this industry. And because
2 of those costs, PennDOT has deferred projects,
3 as the two gentlemen alluded to this morning.
4 In some cases, there has been cancellations.

5 We understand that as an industry.
6 And as was mentioned also, by contract,
7 PennDOT has provided a contractor with a
8 buffer where he bid on a job, let's say, in
9 August of 2007 at \$349 a liquid ton and he's
10 placing that project today at \$850 a liquid
11 ton, they do have an escalation clause built
12 in that contract. And they've been working
13 very closely with our industry on that.

14 However, they are vastly exceeding
15 the money that's available to provide that
16 escalation, and that -- that pot of money has
17 to come from somewhere.

18 And so it is affecting our industry
19 drastically by deferral of projects,
20 cancellation of projects. And I haven't even
21 alluded to the municipalities and the private
22 work these two gentlemen have, because that's
23 about 50 percent of our business.

24 Plant closures. Our association
25 represents about a hundred members across the

1 state, of which 55 are produce -- paving
2 contractor members. That represents about 138
3 plants across the state, hot mix plants.

4 Currently, if -- looking across the
5 state, we have about 15 percent of those
6 plants that are either in temporary closure or
7 permanent closure, and we're looking at a
8 larger percentage as we go on.

9 What's going to happen in the
10 future? We have had meetings with these
11 refiners. It doesn't look like the price is
12 going to go down. If anything, it's going to
13 go up. And then it may -- it may level off
14 for a short -- short term.

15 But for 2009 we're anticipating that
16 this is going to -- the price of a liquid ton
17 of asphalt will continue to escalate.

18 And I thank you very much for your
19 attention.

20 CHAIRMAN MARKOSEK: Okay. Thank
21 you. It's very good.

22 MR. LATHAM: Mr. Chairman, we
23 appreciate the opportunity to come here and --
24 and lay out the situation for you, and I think
25 we'd be happy to answer any questions at this

1 point.

2 CHAIRMAN MARKOSEK: Okay. Chairman
3 Geist.

4 REPRESENTATIVE GEIST: Yeah. I have
5 a couple questions.

6 What's the projected reduction to
7 Pennsylvania because the liquid fuels fund at
8 the federal level is going into deficit?
9 What's the latest projection for how much and
10 how much we're going to lose in Pennsylvania?

11 And I keep readings different
12 numbers.

13 MR. LATHAM: Well, I haven't seen any
14 figures on the drop in -- in revenues to the
15 National Highway Trust Fund and what our
16 percentage of that -- our percentages of the
17 trust fund, I think, in this current
18 authorization bill is about four-and-a-half
19 percent.

20 So if you -- and I don't have the
21 total quantity estimate on what -- what we
22 think revenues are dropping, like we're
23 getting here at the state level where there's
24 an estimate of a hundred million dollars in
25 revenue lost through -- through the Department

1 of Revenue. We're not seeing that out of the
2 federal government at this point.

3 The -- the loss, if Congress does
4 not, you know, once and for all pass this fix,
5 which I think they are poised to do, the --
6 the loss to Pennsylvania is in the two to
7 three hundred million dollar range I believe
8 for this -- this fiscal year.

9 REPRESENTATIVE GEIST: I know when we
10 met with the federal highway folks about a
11 month ago, the concern was really pretty large
12 on their part based upon tracking vehicle
13 miles driven and the amount of monies that are
14 coming in, plus the formula, under our safety
15 rule, and that Pennsylvania, all the northeast
16 states, they could be hit in the course of
17 that.

18 So I -- I was really concerned if
19 anybody is really putting a pencil to paper
20 and starting to work on our projections.
21 Because that's something that we as state
22 legislators can't control at all.

23 And I mean the amount of tax that you
24 would have to put on per gallon at the federal
25 level to break even -- I know that they have

1 talked about ten cents, they talked about
2 more -- is much greater than that.

3 So that puts a tremendous burden back
4 upon the states for us to raise a lot of
5 money. Yesterday, we -- we had hearings on
6 the -- our House Bill 555 and the Senate Bill
7 on public-private partnerships which offer us
8 a way -- another tool to raise a lot of money
9 for the department.

10 But I think we're in a -- we're in a
11 terrible bind, and we've known we've been in
12 it now for years and it's time for us to kind
13 of get together and work our way out of it.

14 The next governor of Pennsylvania is
15 going to face an absolutely terrible problem
16 in infrastructure.

17 CHAIRMAN MARKOSEK: Representative
18 Sabatina.

19 REPRESENTATIVE SABATINA: Yeah.
20 Taking you back to when you first testified
21 and my question is for Jamie.

22 MR. VAN BUREN: Yeah.

23 REPRESENTATIVE SABATINA: You said a
24 wet spring.

25 MR. VAN BUREN: Uh-huh.

1 REPRESENTATIVE SABATINA: Is that
2 because you couldn't start work or what
3 significance does a wet spring have?

4 MR. VAN BUREN: Yeah. Wet spring is
5 referring to the weather. It was very rainy
6 and it was -- it was cold. And we can have
7 rainy weather in the summertime, and because
8 it will get hot the next day it's going to dry
9 out quickly.

10 But when it's raining you can't
11 blacktop pave. We can't get the grading
12 done. And then you can't put your stone down
13 and so you can't pave.

14 And so what -- what happens is just a
15 rainy spring, when the temperatures aren't
16 real good, it was real cloudy this spring, it
17 just doesn't allow things to dry out. And our
18 business is a hundred percent outside.

19 And when you have a wet spring, you
20 can't do the work. So we couldn't generate
21 the sales.

22 And, again, we've had that before.
23 That -- that happens. That happens typically
24 isolated. Normally it's not the entire
25 Pennsylvania industry that it's affecting.

1 So it's sort of double jeopardy. It
2 was almost all of Pennsylvania had a wet
3 spring. Spring is March, April, May, and --
4 sorry. Spring is March.

5 MR. LATHAM: That's the 1052 coming
6 through.

7 MR. VAN BUREN: I thought a K-9 was
8 rolling through.

9 When you have the wet spring,
10 normally you just -- you really have to put it
11 to it in the fall and -- and you just -- you
12 just -- really pushes all the work back.

13 And that's not great but it -- at
14 least you're generating revenue. You're
15 employing people. But when there's no work in
16 the fall, our people didn't come -- show up to
17 work till later in the year, so they wind up
18 getting pinched on both ends, as do we as a
19 company.

20 We had very little spring work and in
21 the fall we start laying people off, which
22 is -- that's really unheard of. I've never
23 been here -- I didn't say how long I've been
24 in the industry. It pales in comparison to my
25 colleagues to the left. I've been around

1 since '91 and I've -- I've never seen this,
2 you know.

3 It's always if you have a wet spring,
4 you have to work really hard in the fall.

5 Okay.

6 REPRESENTATIVE SABATINA: My second
7 question is to -- I'm sorry. I forgot your
8 name.

9 MR. COMINSKY: Ron Cominsky.

10 REPRESENTATIVE SABATINA:
11 Mr. Cominsky, are you seeing any relief in the
12 industry from the falling of the light
13 crude/gas prices? Are you seeing any?

14 MR. COMINSKY: No. None. That's why
15 I -- I made my one comment. The falling of
16 the crudes -- the falling of the crudes on the
17 stock market, those crudes are light -- what's
18 termed light crudes.

19 The refiners generate a tremendous
20 amount of gasoline, jet fuels, diesel fuels,
21 so on from that.

22 REPRESENTATIVE SABATINA: It's not
23 translating into --

24 MR. COMINSKY: No. There's no
25 translation. Because the asphalt's from the

1 heavy crudes and we're at the mercy of some of
2 the countries that are supplying those heavy
3 crudes. Particularly Venezuela right now.

4 REPRESENTATIVE SABATINA: Venezuela
5 is keeping their price artificially high? Is
6 that it?

7 MR. COMINSKY: Yes. Venezuela
8 previously had supplied the U.S. with some
9 preredefined -- is my mike not working?

10 MR. LATHAM: No. You're good.

11 MR. COMINSKY: Oh, okay. Some
12 preredefined crudes, heavy crudes. They've cut
13 that supply off to the U.S. now.

14 And so what crudes they are supplying
15 are purely heavy crudes. They have to be
16 refined here. So -- and the supply of those
17 crudes, the heavy crudes, it looks like the
18 supply is going to open some, but how much is
19 all speculation right now on the market.

20 REPRESENTATIVE SABATINA: Okay.
21 Thank you, gentlemen.

22 MR. GOOD: What we are seeing is
23 diesel fuel, gasoline, those are coming down.
24 Liquid asphalt is staying up.

25 And one of the reasons that's

1 happening, if you start studying the -- the
2 refiners, what they're doing is they're
3 putting in cokers. A coker is a process where
4 they can take the liquid asphalt -- that's a
5 byproduct -- run it back through their
6 refinery through a coker and turn that into
7 diesel fuel.

8 The margin on diesel fuel or home
9 heating oil is a lot higher than it is on
10 liquid asphalt. So that is the other thing
11 that is starting to constrict the supply.

12 If you go back 20 years ago in the
13 Philadelphia area, you had five or six
14 refiners that were supplying liquid asphalt.
15 We're basically down to two, Valero and New
16 Star.

17 So the refining industry are changing
18 their plants and looking to market their
19 products where they're getting a higher margin
20 as well, which is having a negative impact on
21 the asphalt industry as well.

22 REPRESENTATIVE SABATINA: So you're
23 saying instead of producing asphalt they're
24 producing diesel fuel?

25 MR. GOOD: Right. They're taking

1 that product -- when they run a barrel through
2 the refinery and they end up with so much
3 asphalt at the end, they've taken that
4 asphalt, running it back through another
5 section of their refinery, and it's coming out
6 as diesel fuel and no more asphalt.

7 So they are actually producing less
8 product today of liquid asphalt than what they
9 used to produce.

10 REPRESENTATIVE SABATINA: Thank you.

11 MR. COMINSKY: I might add the
12 residual that Mr. Good is referring to from
13 that coker process does not lend itself to
14 asphalt refining. It's a sludge.

15 So there -- if these plants
16 continually put in cokers, from that
17 standpoint, there will not be any asphalt
18 generation.

19 REPRESENTATIVE SABATINA: Thank you.

20 Thank you, Mr. Chairman.

21 CHAIRMAN MARKOSEK: Thank you.

22 Representative Longietti.

23 REPRESENTATIVE LONGIETTI: Thank you,
24 Mr. Chairman.

25 And I appreciate those comments -- is

1 it Mr. Good? Because that -- that seems to
2 speak to me, you know, even though the price
3 of asphalt remains high as -- as -- as some of
4 the, you know, light sweet crude oil is
5 declining, that there is a relationship
6 between the two.

7 In other words, that I'm a refiner so
8 I'm going to try to make my most -- the most
9 profit that I can make and because I can make
10 more profit on diesel, then, you know, then
11 I'm going to charge more to refine asphalt.

12 So there's a relationship, it sounds
13 like, between the two. There could be a lag.

14 And I guess my point is this. You
15 know, what can we do about all this? Well,
16 you've talked about funding and coming up with
17 funding mechanisms, and I certainly understand
18 and appreciate that, and that's a
19 responsibility that falls on all of us here.

20 But I also believe that the price of
21 these commodities is being driven up at least
22 in part by speculation in the markets, and I
23 think there's action that Congress can take to
24 try to deal with that speculation.

25 So I would like -- at least invite

1 you to consider that, and, you know, what can
2 we do in the short term to deal with these
3 commodity prices.

4 There's a group called Stop Oil
5 Speculation Now, and that's their website as
6 well, and I've joined that group. And it's
7 not some fringe group. These are people that
8 are economists. These are people that are
9 CEOs of large corporations that are calling
10 upon Congress to enact market reforms to at
11 least deal with that component of the price of
12 these commodities.

13 You know -- you know, it's
14 interesting to me that the price of at least
15 the light sweet crude oil began to decline
16 when Congress seriously debated this in July
17 and unfortunately they've gone home without
18 enacting it and my concern is that the price
19 will eventually rebound without market
20 reforms.

21 But at least it's something to
22 consider, and I understand what you're talking
23 about so you need funding and these projects
24 need to be done and that's certainly the other
25 part of the equation.

1 But I think if --if -- if enough
2 people get together, business people and --
3 and political people, perhaps we can make a
4 change in the way the commodities market work
5 and at least stabilize that component of the
6 price.

7 Thank you, Mr. Chairman.

8 CHAIRMAN MARKOSEK: Thank you. Thank
9 you. And perhaps, Representative, you can
10 share that, e-mail us and -- all that
11 information as well.

12 Representative Petrarca.

13 REPRESENTATIVE PETRARCA: Thank you,
14 Chairman.

15 Quick question. You know, we all
16 feel the pinch in the rising costs also in our
17 legislative districts. I think we're going --
18 we're dealing with situations where roads were
19 supposed to be paved and now we're doing a
20 little base repair and maybe tarring and
21 chipping and things such as that, which, you
22 know, obviously those roads aren't going to
23 last as they would under other circumstances.

24 But my -- my question is with -- with
25 the rising cost of asphalt, are we -- are we

1 getting to the point where -- when we're
2 talking about reconstruction, not -- maybe not
3 overlay work or maintenance, the maintenance
4 operation, are we getting to the point with
5 reconstruction of a road or new construction
6 that we should be looking at concrete and --
7 and not asphalt in terms of longevity of the
8 product?

9 I mean how do we answer something
10 like that with the costs the way they are
11 right now?

12 MR. VAN BUREN: Maybe I can hit that
13 being a unbiased contractor that lays both
14 asphalt and concrete.

15 The issue from an industry
16 perspective is we need people working. We
17 will do whatever PennDOT designs from a --
18 from a design standpoint.

19 There is always a break even point,
20 and as cement prices increase one year or hot
21 mix asphalt prices increase the next year,
22 PennDOT needs to be making those decisions as
23 to what's the most economical, given its
24 longevity of its -- of its life.

25 The issue that, you know, we're

1 really here talking about today is I have
2 concrete guys that aren't going to be working
3 this fall, and I have blacktop guys that
4 aren't going to be working this fall. I have
5 stone plant guys that won't be working this
6 fall. Because they're just -- they're just
7 out of money, you know.

8 And if you switch from cement to --
9 to -- to asphalt and back from asphalt to
10 cement, the market dynamics of pulling all the
11 cement out of the cement company silos may
12 very well push their prices up, I think.

13 You know, that's -- maybe you guys
14 have a different take on that. I mean Ron is
15 head of the Asphalt Paving Association. So
16 you don't want to hear his view on that.

17 MR. COMINSKY: No. I'll -- I'll --
18 I'll speak to that from the Asphalt Paving
19 Association. And I agree with -- with what
20 Jamie mentioned here.

21 But from PennDOT's point of view,
22 just looking at it from a -- like from a pure
23 life cycle standpoint, whether to choose black
24 or white, it's -- it's rapidly a point --
25 approaching the point where, yes, it's more

1 economical to build a concrete pavement on the
2 large reconstruct and reconstruction
3 projects.

4 And I hate to say that as a hot mix
5 guy, but that's -- that's where we are today
6 with the prices.

7 MR. VAN BUREN: New Enterprise just
8 switched a job at PennDOT's request that was a
9 full-blown reconstruction job on 22 between
10 Altoona and Pittsburgh from a blacktop job to
11 a concrete job, because it made sense. As
12 PennDOT is going to save money, it was the
13 right thing to do.

14 I will confess I'm a former chairman
15 of American Concrete Paving Association, but
16 my company does far more blacktop paving than
17 we do in concrete paving so...

18 CHAIRMAN MARKOSEK: Okay.
19 Representative Keller.

20 REPRESENTATIVE KELLER: Thank you,
21 Mr. Chairman.

22 Gentlemen, since you deal with the
23 business, the national controversy today is
24 whether or not we all should drill.

25 Do you believe that to be a positive

1 or negative? Would it help your business or
2 hurt your business or be no effect
3 whatsoever?

4 I mean it's out there. We're
5 questioning that, and, you know, it comes back
6 to the supply and demand of -- of the
7 product. Do you think it has any -- any
8 relevance on it at all?

9 MR. LATHAM: I'll give it a shot.

10 MR. VAN BUREN: Yeah.

11 MR. LATHAM: Representative Keller, I
12 think to the extent that any product that is
13 derived from off-shore drilling would lead to
14 more supplies of diesel fuel, I think that
15 would have a positive impact on costs because
16 obviously a lot of costs that are borne here
17 are transportation costs. Getting stuff from
18 one place to the other and also the cost to
19 run equipment.

20 So I would say from that standpoint,
21 yes.

22 I'm not qualified to respond as to
23 whether any of those potential sites would
24 yield light versus heavy crude, which would
25 derive, you know, more supplies of asphalt or

1 somehow make it more profitable for the -- for
2 the oil industry to -- to produce asphalt.

3 REPRESENTATIVE KELLER: Thank you.

4 CHAIRMAN MARKOSEK: Okay.

5 Representative Miller.

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

8 Gentlemen, it was interesting you
9 noted that the turnpike has continued to pave
10 and you picked up some projects there and
11 PennDOT is cutting back because of the high
12 cost of asphalt and hoping that the price will
13 come down.

14 Initially, in your testimony, though,
15 you indicated you really don't think it's
16 coming down. It might continue to rise
17 somewhat and then plateau.

18 So it seems to me that we really need
19 to be looking at a better economic analysis on
20 some of our decisions as far as holding off.

21 I would think right now, if things are slow
22 for the paving contractors, if the free market
23 truly works, you're hungrier, the bidding will
24 come in, pencils sharpened up a little bit, a
25 little less profit margin, whatever, and it

1 might be a good time to look at paving because
2 even if the prices came down slightly going
3 into next year and it opens up much more
4 paving, then it gets more difficult because
5 you guys are busy and some of it is overtime.
6 And that -- excuse me. That increases the
7 costs.

8 So I just hope that PennDOT, we're
9 looking at this as a total picture on the
10 economic analysis of all the costs.

11 And I understand PennDOT's budget is
12 separate than much of the rest of the state
13 budget, but I think we also in this state need
14 to get to where we look at, you know, the
15 unemployment costs for people being laid off
16 and everything else and make some smarter
17 decisions.

18 And I would just suggest that maybe
19 we need to look at some of these decisions on
20 the paving. It may make sense to press
21 forward. I know budgets are tight, and the
22 money may not be there to do as much as --
23 paving as we want, but maybe if we still spend
24 the money that is available and scale back the
25 number of projects we continue to push

1 forward, get some of that backlog off the
2 list.

3 It's just an observation and a
4 concern.

5 Thank you, Mr. Chairman.

6 MR. VAN BUREN: If I may? We're not
7 in a position to say that we understand that
8 PennDOT's not bidding jobs right now because
9 we think -- they're too expensive.

10 Our understanding is they don't have
11 any more money to spend, because they're
12 uncertain what their revenues are coming in
13 and they know there's a very large bill out
14 there on their asphalt adjustments currently.

15 And I've heard that those numbers are
16 upwards a hundred million on the not coming in
17 and two hundred million on the expense side.
18 And on a -- that's three hundred million out
19 of a 2.0 billion dollar budget. That's 15
20 percent of their budget. They don't know
21 whether they have the money to cover it.

22 And so I don't know whether PennDOT
23 has been holding back because they think
24 things are too expensive. That was not --
25 that's not my understanding at the present

1 time.

2 And when the work is there, the
3 contractors are always bidding against each
4 other and our pencils are always sharp.

5 REPRESENTATIVE MILLER: Mr. Chairman,
6 I think that would be very interesting
7 information for the committee to have, if you
8 could get that from the department or maybe
9 have another hearing or whatever.

10 I think we should understand those
11 dynamics. Appreciate it. Thank you.

12 CHAIRMAN MARKOSEK: Okay. We will --
13 yet, again we have a PennDOT representative
14 here who perhaps can provide us with that and
15 we will make some calls ourselves.

16 Representative Siptroth.

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

19 Just to pick up a little bit with
20 Representative Petrarca's concerns and
21 Representative Miller. My discussion with
22 Deputy Secretary Hogg was, in fact, that they
23 are very perplexed about the -- the overrun,
24 cost overruns on the projects that are out
25 there today, and that's why they pulled the

1 plug, if you will, on bidding additional
2 projects.

3 Now, whether that will be, you know,
4 what will be presented to us at a later time
5 or not, I'm not sure and whether, in fact,
6 that the inadequate -- inadequacy of the
7 revenues that we in the General Assembly --
8 Assembly have offered for PennDOT this year, I
9 think was pretty much in line with their
10 requests.

11 So either they didn't have any
12 objection or the additional costs didn't
13 provide that for us. I'm not certain.

14 One -- one thing I would like to
15 ask. Is there any alternative to liquid
16 asphalt that could be used as a product, as a
17 base product, rather than what we have today?

18 Has anyone done any R and D on -- on
19 any material that could be used other than the
20 liquid asphalt? Is AC-20 the same as liquid
21 asphalt?

22 MR. COMINSKY: (Nods head up and
23 down.)

24 REPRESENTATIVE SIPTROTH: Okay. If
25 you could expand on that.

1 MR. GOOD: Yes. AC-20 is liquid
2 asphalt.

3 If you go back to the -- dating
4 myself again -- if you go back to the '70s and
5 '80s, we were using some bases that were
6 called lime pozzolan base or pozzopack or
7 different things like that replaced BCBC.
8 Some of that is being looked into.

9 All the people in the industry are
10 very creative, and I'm sure they're going to
11 take a long hard look at that and see where we
12 can lower the costs.

13 One of the difficulties that the
14 department has right now is we follow the oil
15 industry very close. Some of the companies
16 across the country buy winter oil.

17 And if you just look at the
18 information that was put out this past Friday,
19 okay, there was one analyst saying that oil
20 could go down to 65 to \$70 a barrel, there was
21 another analyst that said it was going to a
22 hundred and fifty, and the federal government
23 put out on Friday that they anticipate that
24 the average price of a barrel oil next year
25 would be \$124 dollars instead of \$133.

1 So it's very difficult, I think, for
2 anybody right now to project where it's really
3 going to be and what is really going to
4 happen.

5 REPRESENTATIVE SIPTROTH: But -- but,
6 again, that doesn't affect the -- the heavy
7 crude industry that has been somewhat cut off
8 to the United States.

9 So I think the alternative is to find
10 an alternative material that can be used and
11 that's acceptable and -- and needs to be
12 prudent, of course, and will take time. But I
13 think it would behoove the industry itself to
14 work on that particular R and D.

15 MR. COMINSKY: The industry, at least
16 in this state, Representative, is working very
17 closely with PennDOT, not looking as a
18 complete substitute for liquid asphalt, but
19 the asphalt pavements that are down there are
20 a hundred percent recyclable, and that
21 material can be used and replaced back on the
22 road with a very small amount of asphalt to
23 rejuvenate it.

24 PennDOT has been somewhat slow
25 getting this program moving, but we are

1 working with them as an industry very closely
2 to use more recycled asphalt pavement,
3 commonly referred to as RAP, on their highway
4 projects so -- but that is not a complete
5 substitute for liquid asphalt.

6 REPRESENTATIVE SIPTROTH: Yeah.

7 Okay. And I hear a debate before PennDOT.

8 But, again, you know, there's a cost
9 factor that all has to be factored into
10 whether or not the RAP product is, in fact,
11 less expensive to be put in place rather than
12 the new BCBC or something.

13 That's all it can be used for. I
14 don't think it can be used for a wearing
15 course until -- yet. Maybe I'm wrong, but
16 that's always been the direction I've been
17 led, that it could be used for a base or
18 subbase but it can't be used for a wearing
19 course. I'm not sure about that.

20 But, again, it's a cost factor, the
21 whole thing is.

22 CHAIRMAN MARKOSEK: Representative
23 Marsico.

24 REPRESENTATIVE MARSICO: Thank you,
25 Mr. Chairman.

1 Just one quick follow-up to that with
2 the recycling of the asphalt. Something that
3 I was going to ask before and you brought it
4 up.

5 Now, you said that PennDOT has been
6 slow to react to that program. How -- how is
7 that -- how long has that program been
8 available?

9 MR. COMINSKY: Well, we have had
10 discussions with PennDOT approximately two
11 years, Representative, on -- on this.

12 The slowness on the part of PennDOT
13 is they're looking at the skid -- the skid
14 level of the RAP that's included in the
15 surface course. They have some concerns from
16 a liability standpoint that if this high
17 percentage of RAP is placed on the surface
18 course that there could be traffic accidents,
19 you know, wet weather -- wet-weather-type
20 traffic accidents due to the reduction in the
21 skid level of the -- of the surface course.

22 So they have been working -- they're
23 slow to move on that because -- because of
24 that reason.

25 However, they are permitting up to 20

1 percent RAP in our mixes currently. Our point
2 of view with PennDOT is to go above that range
3 and get into the 40 to 45 percent range.

4 REPRESENTATIVE MARSICO: Do you know
5 whether there are any other states that have
6 this program?

7 MR. COMINSKY: Yes. There's a number
8 of them that are currently using recycled
9 asphalt pavement on a routine basis. We could
10 get the committee a list of those states that
11 currently are using it.

12 REPRESENTATIVE MARSICO: That would
13 be very helpful.

14 MR. COMINSKY: Yes, sir.

15 REPRESENTATIVE MARSICO: Thank you.

16 CHAIRMAN MARKOSEK: Representative
17 Siptroth.

18 REPRESENTATIVE SIPTROTH: Again, I
19 don't want to turn this into a debate, but in
20 addition to that, how about the statistics of
21 the accidents on particular roadways that are
22 using the RAP as a wearing course?

23 That would be extremely useful in
24 trying to convince PennDOT to use this -- this
25 particular product.

1 REPRESENTATIVE MARSICO:

2 Mr. Chairman, if I could just very -- yeah --
3 I have a special guest here today, Chairman
4 Markosek. It's my granddaughter, Leah. I
5 wanted everyone to know that she's here with
6 me today.

7 Would you stand up, Leah? Thank you.

8 CHAIRMAN MARKOSEK: Thank you.

9 Okay. Gentlemen, thank you very
10 much. Very interesting today. A global
11 perspective almost here on some of this. I
12 wasn't aware of a lot of this.

13 So whether we have -- it's just --
14 it's been tough. It's been tough for you and
15 us and everybody. It's just not easy to do
16 what we do these days.

17 But I can assure you we are trying
18 very hard to find the money. It's just not
19 easy.

20 And I would just maybe leave you with
21 one other thing. Is to continue, if you
22 haven't, lobbying the Feds as well because,
23 you know, they have to be part of this as
24 well.

25 So thank you very much. I'd like to

1 remind the committee that -- pencil in
2 September 8th and 9th in Philadelphia. Take
3 the committee down there -- we'll get you more
4 information on that -- for two days of
5 hearings and also September 26th, which
6 happens to be a Friday, and I have to
7 apologize for that. It was really a little
8 bit out of our control, but we're planning to
9 do a hearing in Greene County, Pennsylvania on
10 the bonding requirements for -- for roads and
11 municipalities. That's Representative
12 Longietti's bill, who is a member of our
13 committee.

14 So with that, seeing no other
15 business, the meeting is adjourned. Thank
16 you.

17 (The hearing was concluded at
18 11:22 a.m.)

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I hereby certify that the proceedings
and evidence are contained fully and
accurately in the notes taken by me on the
within proceedings and that this is a correct
transcript of the same.

Brenda S. Hamilton, RPR
Reporter - Notary Public