

**PUBLIC HEARING**

before

**ASSEMBLY TRANSPORTATION AND COMMUNICATIONS COMMITTEE**

on

**TRANSPORTATION FUNDING**

Held:  
May 14, 1984  
Room 90  
State House  
Trenton, New Jersey

**MEMBERS OF COMMITTEE PRESENT:**

Assemblyman Wayne R. Bryant (Chairman)  
Assemblyman Paul Cuprowski  
Assemblyman Thomas P. Foy  
Assemblyman Edward K. Gill  
Assemblyman John W. Markert

**ALSO PRESENT:**

Laurence A. Gurman, Research Associate  
Office of Legislative Services  
Aide, Assembly Transportation and Communications Committee

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**ASSEMBLYMAN WAYNE R. BRYANT (Chairman):** Good morning. I am sorry for my tardiness. I have been here since 8:30, but as you know in the State House you get caught up with a lot of different things. I thought the hearing was in the Majority Conference Room. Then I thought it was in the Minority Conference Room, so I kept running down there. They finally set up for the Aging hearing; that gave me a little hint that I wasn't in the right room.

This is a public hearing by the Transportation Committee, dealing with the concept of the Trust Fund Authority. This portion of the public hearing is limited to the financing of that concept.

To begin with, I thought for the Committee and those who might be present-- There was some information distributed by Mr. Ferguson regarding why this might become a confusing issue. I think if we see that, we will allow the Commissioner, or other people who testify, to give us insight as to those comments. As one might know, Mr. Ferguson was head of the Governor's Management Improvement Program. At this time, Prince, would you run the film so everyone can see it? (At which time Mr. Prince Wooten, Executive Assistant of the New Jersey Network, shows a video telecast)

(The following comments, made by Mr. Robert Ferguson, were taken from the aforementioned video telecast)

The State of New Jersey is very, very fortunate in the sense that it is the only Triple A Rated State for bond purposes in the Northeast. It means a tremendous amount. And, if in fact, you take a look at the Governor's proposed Budget, and look at what has happened to the debt service over the last four years, you will see a rather dramatic increase, which will increase further this year. There is some point beyond which we cannot retain a Triple A Bond Rating. If we are going to sell these bonds, and call it moral obligation or any other term you would like to call it, we're selling State-obligation bonds in some form. It's going into the rating computations, and we can't afford to lose that Triple A Rating. So, it

seems to me, the-pay-as-you-go gasoline tax increase is the one that makes sense. From the GMIP standpoint -- and I don't want to go back to that all the time -- the real objectives of the strategic issues raised by that group were: First of all, what is affordable? And, second, a long range-plan as opposed to a short-range plan, and all the options that were suggested into the subjects studied there -- and there were options in each case. It was not "this is the way you do it" or "this isn't." They all were designed with this long-range affordability in mind, to maintain our solvency, to hold our bond ratings, and to stop the steadily-increasing debt service. That's why it seems to me that bonds are not the way to go in this kind of a situation."

ASSEMBLYMAN BRYANT: Thank you. We would like to thank New Jersey Television for providing us with that piece of information. Could you tell us the date that occurred?

MR. WOOTEN: April 23, 1984.

ASSEMBLYMAN BRYANT: At this time, I will ask Mr. Markert if he wants to question the television. I told him we would take a recording and take it back. (laughter)

ASSEMBLYMAN MARKERT: Since there is no possibility of dialogue with the gentleman who is recorded, I will just let the statements stay as they are. Maybe we can clear up some of the inequities in the statements that were made through testimony and questions of the Commissioner. So, Mr. Chairman, I'll just withdraw my request to question the television set.

ASSEMBLYMAN BRYANT: Thank you, Mr. Markert.

At this time we are quite pleased to have before us the Commissioner of Transportation, Mr. John Sheridan.

COMMISSIONER JOHN P. SHERIDAN: Good morning, Mr. Chairman and Assemblyman Markert. I have with me Roger Nutt, who is Assistant Commissioner for Finance and Administration with the Department. I thank you for this opportunity to appear before you to explain and to

discuss the New Jersey Transportation Trust Fund Authority Act of 1984.

As you know, Governor Kean has made this transportation proposal a key element of his proposed 1984 - 1985 State Budget. It is a program designed to build on New Jersey's strengths by addressing the problems we face on our highways, bridges, and in public transportation. No day goes by when the life of each and every resident of this State isn't somehow affected by our transportation system. It is our responsibility as public officials -- you as legislators and me as Transportation Commissioner -- to do everything within our power to assure that our transportation system is in good order and safe condition.

A sound transportation system is absolutely fundamental to the continued economic growth of our State and the quality of life of its residents. It was with that in mind that this legislation was created. We believe it is program that lays the groundwork for a transportation network that will carry the State into the Twenty-first Century. The members of this Committee know all too well about the \$42 billion that the people of this State have invested in our transportation infrastructure. You also are well aware of the \$3 billion backlog of needy transportation projects we face; that backlog is made up of projects that were needed five, ten, and fifteen years ago for the good of the State, but they remain unbuilt today.

The reason for this backlog is history. What we must focus on is the future. That is what this program does. It is a program designed to make a needed investment in New Jersey's future.

I would now like to briefly describe the program for you, after which I will try to answer any questions you may have regarding the program. And, I certainly will answer any questions related to the telecast we have just seen.

On the program side, the Trust Fund would enable the State, in each of the next four years, to spend the following:

\$50 million to match all available Federal public transit capital funds;

\$58 million to match all available Federal highway and bridge capital funds. I should point out, with respect to the \$58 million, that the bond issue that was passed last November actually provides the matching funds for much of the bridge dollars. That was contained in the bills that this Committee released the other day, Mr. Chairman.

\$62 million in 100 percent State funds on the State's primary highways, which will enable us to complete the many missing links in our State highway system. On this point, I should note, that we get our money from the Federal government in categories of funds. We have a couple of categories where the Federal program is particularly weak in comparison to New Jersey's needs. One of them is in primary area, Route 55, Route 90, Routes 30, 40, 70, 42, 47, and the ones going up to Bergen County, Routes 17, 3, and 4 -- what you think of as the basic highway system, outside of the interstate system. We only get \$48 million a year, and I can name four or five projects a year that everybody thinks are going to be done that will cost more than that amount.

\$25 million on resurfacing will enable us to prolong the useful life of our highways. I think, in this regard, that we have an opportunity to actually save hundreds of millions of dollars by doing some resurfacing at the appropriate stage of the life of a highway.

\$35 million on a dollar-for-dollar substitution program with the counties for the Federal Aid Urban System Program in which they are now involved, will enable the counties and municipalities of this State to get out from under the Federal requirements and red tape with which they must now contend.

I would also like to point out that this legislation contains language for Minority Business Enterprises and Female Business Enterprises that would, for the first time, impose mandatory minimum goals on the amount of money from this program that must be spent with businesses owned and controlled by minorities and women. In the past these goals have applied to Federal funds only. With the passage of this legislation, that distinction between Federal and State funds would disappear and minority and women business owners would be the beneficiaries.

On the revenue side, which is the focus of our hearing today, the proposed Transportation Trust Fund would generate \$3.3 billion in State and Federal capital funds for highway, bridge, and public transit projects during the next four years.

Of this \$3.3 billion, approximately \$1 billion would be State funds and the remaining \$2.3 would be Federal funds for the capital programs at the Department of Transportation and New Jersey Transit.

The State's share of these funds would come from three sources:

\$88 million would be appropriated annually from the general fund by the Legislature through the normal appropriations process;

\$25 million would be contributed annually by the three independent toll road authorities under agreements already reached with those authorities;

\$30 million would be generated annually through an increase in heavy truck registration fees which is incorporated in this legislation.

These three revenue sources would provide \$143 million annually which would be deposited in the Transportation Trust Fund.

In turn, the Trust Fund Authority would sell ten-year bonds in each year of the four-year program, so that an average \$230 million in State funds would be available for highways and public transit capital projects through State Fiscal Year 1988.

This would enable the Department of Transportation and New Jersey Transit to complete long overdue highway, bridge, and public transit improvements throughout New Jersey, without prompting a toll increase, without jeopardizing New Jersey's Triple A credit rating, and most importantly, without raising taxes.

The contribution from the toll road authorities will benefit the users of those highways, as well as the three authorities themselves, by helping to improve the State highways that residents of New Jersey, who use the Parkway, Turnpike, and Expressway, must use to get to and from these toll roads.

The proposed increase in heavy truck fees would place a "fairer share" of the cost of building and maintaining our highways on

an industry that will benefit from the improvements included in this program, at least as much as, and probably more than, any other single segment of our society.

At present, New Jersey ranks 46th among the states in the level of user charges imposed on heavy trucks. With the proposed registration fee increase, it would rank 37th. By comparison, New York ranks 3rd and Pennsylvania 15th when all user fees and taxes are taken into consideration.

Of the \$230 million in State funds generated annually by this program, New Jersey Transit would receive \$50 million and the Department of Transportation would receive \$180 million. Matching those funds with every available Federal dollar would produce about \$800 million a year for capital spending on the State's highways, bridges, and public transit system in each of the next four years.

I believe the most important part of this program, which is key to solving our long-term transportation problems in this State, lies in the fact that we can implement it without a tax increase.

We can do that because of the two principles on which the Trust Fund legislation is based:

First, over the life of the four-year program, more than half of the money would be spent on a pay-as-you-go basis. This is a departure from past transportation funding programs in New Jersey when we relied almost entirely on long-term general obligation bond financing.

Second, the creation of the Trust Fund Authority as the financing mechanism would enable the State to sell appropriations bonds to supplement the pay-as-you-go capital at a relatively low net increase cost to the taxpayers of New Jersey. For example, the 1968 transportation bonds cost the taxpayers 79 percent of principle in net interest costs. The 1979 bonds are expected to cost the taxpayers more in interest than the actual \$475 million in bonds sold. By comparison, the Trust Fund bonds would cost only 36 percent in net interest costs of the total \$472 million in bonds that would be sold.

As I mentioned at the outset of this statement, the Transportation Trust Fund is about New Jersey's future. We estimate the

projects will generate more than 150,000 jobs as a result of the construction. And, I believe the economic growth these projects will generate is incalculable.

This program is designed to build on New Jersey's strengths by recognizing its weaknesses and providing a program that will prepare our State for the future.

Thank you very much. As I said, I would be happy to answer any questions.

ASSEMBLYMAN BRYANT: Thank you, Mr. Commissioner. Let me ask you one question. Is the Transportation Authority intending to fund the total State transportation capital needs?

COMMISSIONER SHERIDAN: Does it address every single need that I could identify? The answer is no. What it is intended to do, is to do as much as we can possibly do in the next four years, and at the same time to attack identifiable needs.

ASSEMBLYMAN BRYANT: You might have answered my second question. Does that mean we are not going to reduce funding for New Jersey Transit during this time?

COMMISSIONER SHERIDAN: We are not going to do what?

ASSEMBLYMAN BRYANT: Reduce funding. In other words, by doing this program, we will not have reduced funding in terms of the needs of the New Jersey Department of Transportation?

COMMISSIONER SHERIDAN: I'm sorry, Mr. Chairman, I still don't understand.

ASSEMBLYMAN BRYANT: I am asking, is general State funding-- If we build in this mechanism with the general State funding from the New Jersey Transportation Department, will the funding be reduced because we have now adopted this new--

COMMISSIONER SHERIDAN: (interrupting) Would our operating program or operating budget be reduced?

ASSEMBLYMAN BRYANT: Yes.

COMMISSIONER SHERIDAN: The answer is absolutely no.

ASSEMBLYMAN BRYANT: Would it be increased?

COMMISSIONER SHERIDAN: We have requested a small increase in the Department of Transportation's operating budget this year and a

relatively small increase in New Jersey Transit's operating budget. We would expect to have similar operating request increases over the four-year period.

ASSEMBLYMAN BRYANT: Also the language and the development concept of the Authority refers to the fixing of tolls essentially by the Authority. Could you explain to me why the Authority should fix tolls?

COMMISSIONER SHERIDAN: We don't believe that language is necessary. We have already agreed with the Senate-- As a matter of fact, I believe that the bill has already been amended to delete that provision, and we would certainly agree that provision could be deleted.

ASSEMBLYMAN BRYANT: Go ahead, Mr. Markert. I'll let you ask a couple of questions, and then I'll ask a few more.

ASSEMBLYMAN MARKERT: I think, Mr. Chairman, that you might find within that package of amendments, that we are already addressing the question you asked. I think I have already submitted those amendments to you and the Committee staff members, for consideration at the time when the bill is taken under consideration. As I stated, there might possibly be one or two other amendments that are coming.

I would like to try to also ascertain some of the other problems that, I think, we are solving with this particular bill. I think at this point in time I would like to get into the testimony as stated on the television. I would appreciate it, Commissioner, if you could explain the difference between the point of opinion there and what I assume is the correct facts, or at least those that would not affect our bond ratings.

COMMISSIONER SHERIDAN: I would just say that unfortunately I did not have the opportunity to hear this before today or to talk to Mr. Ferguson, to give him a briefing on the program. I would think that what we are talking about -- our proposal -- is very consistent with the recommendations of the Governor's Management Improvement Program. What they suggested was that we move substantially toward pay-as-you-go, and that is what this program does.

For the first time in the history of New Jersey, at least in the last 20 years, we have a program that is more than 50 percent pay-as-you-go. As you know, just going back to the bond issues in the sixties and the one in 1979, we have been borrowing 100 percent of our capital needs, or close to 100 percent. The first time that changed in any measure was in Governor Kean's Budget last year. This time, with this program, we are moving to more than 50 percent pay-as-you-go. I think we have substantially reflected the thoughts of the Governor's Management Improvement Program in fashioning this program. We are deeply concerned that we have a program that does not adversely affect the Triple A Credit Rating. The Governor has been absolutely insistent that what we devise should have no impact on that. We are satisfied, after talking to former Treasurer Biederman, present Treasurer Horn and his staff, at least three Wall Street firms, and after preliminary meetings with the rating agencies, that there is not going to be any adverse impact on the State's Triple A Credit Rating. As a matter of fact, one of the credit agencies indicated informally that they thought this program -- because it added some discipline to the process -- would have the potential of actually strengthening our credit situation in the State.

ASSEMBLYMAN BRYANT: Let me ask you a question. I think the points I understood that Mr. Ferguson was making on April 24th were, number one, that we should pay-as-we-go and, number two, that any type of lending, regardless of how we couch it, whether we call it a moral obligation bond, revenue bond, or general obligation bond-- I think the point that I understood was that affects your credit rating. Are you saying that you disagree with that?

COMMISSIONER SHERIDAN: No, I think what he is saying is that if you have borrowing, the borrowing will be taken into consideration when bonds are rated. We think that these borrowings would certainly be taken into consideration. What I am saying is that we have carefully evaluated our needs in the transportation area; we have discussed it with those people who are the most knowledgeable in this area. We are satisfied, after looking out over the four-year period and knowing what the other State needs are, that this is a manageable

amount of bonding and a sensible way to do it. We don't believe there will be any adverse effect on the State's Triple A Credit Rating.

ASSEMBLYMAN BRYANT: That is not to say Mr. Ferguson does not have knowledge in this area? You are not relating to that?

COMMISSIONER SHERIDAN: Mr. Ferguson is a very knowledgeable individual. I'm not saying that he is not. I am just saying that we have been more intimately involved with this program, and we have discussed it with the people we need to discuss it with. We're satisfied. We have gone very much in the direction that the GMIP has suggested. As a matter of fact, I wish that I knew this was going to be a topic because I would have reviewed that report, but I think you will find, when you review that report, that one of the recommendations was indeed a mechanism similar to what we have proposed, in order to get out front and be able to do a lot in a hurry.

ASSEMBLYMAN BRYANT: That is not the total topic I just understood, and I had not seen it before myself. He had mentioned some things about the Authority and I thought this Committee should have information from all sources. Let me ask you another question.

COMMISSIONER SHERIDAN: (interrupting) As far-- I might-- I am sorry. Go ahead.

ASSEMBLYMAN BRYANT: I want to ask a question because I know a lot of times we compare them with our 1979 bond acts and such. What would be the length of those bonds? When we start talking about interest-- Isn't it generally that we float those bonds for 30 years?

COMMISSIONER SHERIDAN: Yes. I mean the reason--

ASSEMBLYMAN BRYANT: (interrupting) General obligation bonds?

COMMISSIONER SHERIDAN: (continuing) The reason we have a net interest cost that is much lower than the way we have done business in the past is twofold: One, we are selling shorter term bonds -- ten-year bonds instead of twenty or even thirty-year bonds -- and second of all, because this Fund will have earnings on the money in the Fund.

ASSEMBLYMAN BRYANT: What would the interest be, if in fact, the State decided to do general obligation bonds at ten years as opposed to thirty years and use the huge surplus to match those bonds? Then would not the comparison be far in difference from what you are speaking of?

COMMISSIONER SHERIDAN: I agree; it would not be so far in difference. Because of the earnings on this bond, it would still be less costly this way, even though the interest rate would be ever so slightly higher for Double A bonds -- which we expect that these would sell at -- than Triple A bonds. That is more than offset by the earnings in this Fund. So, we think it is a better way.

I might just comment on Mr. Ferguson's other point-- Our view of it is-- What he is suggesting is a substantial gasoline tax. So that everybody understands what is being proposed when they say "total 100 percent pay-as-you-go," it would take a six cent gasoline tax increase to provide \$230 million. We don't think it makes sense to go to a tax when you have a way that does not require the tax. More important than that, I have talked to 80 or more Legislators about this program, one on one, or one on two. And, if I have had two or three suggest to me that a gasoline tax is the way to go, I would say that would be a lot; some of those have changed their minds since the first time I talked to them. Given the fact that we have a surplus budgetary situation and given the fact that we had a sales tax and income tax increases last year, there isn't any realistic possibility, at this time, of passing a gas tax increase. I would say there is one other important reason why I don't think it should be passed. The users of the transportation system -- until this program goes in place -- will have a situation where more money is coming in from present user fees, gas tax, and registration fees, than is being spent on transportation. For the first time in probably 20 years, the books will finally be balanced in that regard under this program.

The figures are roughly these: If you take the Department of Transportation's budget of approximately \$400 million and you add to it the \$230 million that we are talking about in capital, you have a total of \$630 million. At the present time, registration fees and the gas

tax rates are somewhere around \$475 million. If you add \$25 million to that from the toll roads and \$30 million from the truckers, you will see that for the first time user fee revenues and expenditures on transportation have come into balance. I think it would be quite inequitable to charge the users until those accounts are brought into balance.

ASSEMBLYMAN BRYANT: Six cents seems to scare everybody to death on gasoline tax. I don't profess to know a lot about financing, but it would seem to me, that if we use the same figures of \$25 million coming from the Toll Road Authority, \$88 million from general revenue, and \$30 from truckers -- assuming that was the formula -- then you would be talking about a gas tax around three cents as opposed to six cents. Wouldn't that be more reasonable?

COMMISSIONER SHERIDAN: If what you are talking about is using the same three revenues--

ASSEMBLYMAN BRYANT: (interrupting) That is the fundamental basis of this, so I'm assuming--

COMMISSIONER SHERIDAN: (interrupting) You're right, if it is \$88 million, \$30 million, and \$25 million. But what are you saying? We have the truckers screaming now at the proposal because of the \$30 million, and you're recommending, on top of that, we add three cents to the gas?

ASSEMBLYMAN BRYANT: (interrupting) No, I wasn't recommending that. What I was saying was that when Mr. Ferguson said, "Pay-as-you-go," I thought he might have thought of a system where if you had a state with a three percent dedicated tax, you could still balance it out with the other kinds of items you have here -- as opposed to a six percent tax.

COMMISSIONER SHERIDAN: I understand basically what he is saying. I just think it is completely unrealistic.

ASSEMBLYMAN BRYANT: Let me ask you another question. Will the Authority also be responsible for New Jersey's total transportation capital needs?

COMMISSIONER SHERIDAN: When you say "be responsible"-- We see the Authority as basically a bond-selling mechanism. They will

have no role in terms of project selection; all of that will remain exactly as it is now. All we expect that Authority to do is sell the bonds to finance the capital program. The \$230 million is what we need in capital over the next four years. So if the question, Mr. Chairman, is, will we need more money than that? I think the answer to you is that over the next four years, we will not.

ASSEMBLYMAN BRYANT: Ok. Then it does address the total capital needs for those four years.

COMMISSIONER SHERIDAN: Mr. Nutt is pointing out something to me that is very important, and I don't want to mislead you, so let me just explain. There are some capital needs that are not fully addressed in this program, that we know are likely to have to be addressed in the four years. I can mention two areas: The Meadowlands up in North Jersey and the Waterfront in North Jersey.

There is one source of funds that has not been calculated into the \$3.3 billion, and that is, the moneys available from the Port Authority of New York and New Jersey under Governor Kean's and Governor Cuomo's programs. Basically while the calls on that money include sewer, water, and transportation, we are hopeful that some of the money will be available for transportation projects not in this \$3.3 billion program. The reason they are not in here is that there are studies still going on, which haven't specifically identified what the projects would be that would need to be funded. We would have that resource potentially available. Those are two of the areas where we think some of the funds would be spent.

ASSEMBLYMAN BRYANT: Could you provide this Committee with information, in terms of those capital needs that are either projected or in planning which would not be covered by this Fund?

COMMISSIONER SHERIDAN: The problem, Mr. Chairman, is exactly that. For instance, on the Waterfront, we have an eighteen-month study going on, that we are three to four months into. We don't know what projects are going to be recommended. We don't know whether it is going to recommend the transit project or a combination transit and highway project. Until we have the projects identified and make a decision about which ones we think make sense, it is impossible to

quantify the capital needs. That's why we left it out of the \$3.3 billion program. At any rate, we're talking probably about the end of the four-year period. It is not something we are talking about in the next year or two.

ASSEMBLYMAN BRYANT: So you are saying that the Department could not provide us with information in terms of other capital needs that are not addressed by the Authority?

COMMISSIONER SHERIDAN: Those are the only major ones that I am aware of. For instance, a light rail system might be what is recommended on the Waterfront. I would have to know where it begins, where it ends, and what it is going to look like, before we could give you a realistic estimate of the cost. I think the reason we left them off the list was just that; we are not able at this time to quantify them in a realistic way.

ASSEMBLYMAN BRYANT: The only reason I asked that is, I think in order for me to make an informed decision, we might need to have a larger program than is even suggested. I think it is helpful to the Legislature to know what is at least in the works, even if we have ballpark figures. It would seem to me that if the Department is working on projects in some vain -- regardless whether we have a dollar figure for them or whether they are actually going through -- that we could at least get a list of those projects which are outside of the vein of this program.

ASSEMBLYMAN MARKERT: Mr. Chairman, I think what I heard was an answer to that question. I'm not sure, but I thought I heard the Commissioner state that these studies that are going on will be able to give us what projects might become available. I think it would be impossible at four months into a program-- I would not want someone to speculate so far out and to have that type of information in my hands, because it certainly would not be anything you could hang your hat on. I would rather see a program studied to a point where we could have facts and not just speculations.

ASSEMBLYMAN BRYANT: As long as that satisfies you, that's fine. What I am saying, as the Chairman, is that I feel I have a need to know if, in fact, I am projecting a Transportation Trust Fund that

will end up covering all the capital costs, even if I know what projects are in the "think stage." That would be helpful for me to make some type of decision.

COMMISSIONER SHERIDAN: Mr. Chairman, I think what you are asking for we can provide you with, as long as it is with the understanding that these are very preliminary figures and they may turn out to be quite different than what we are talking--

ASSEMBLYMAN BRYANT: (interrupting) I would expect that you would qualify it in those terms and I understand and accept the information in that light.

Mr. Foy, would you like to ask some questions?

ASSEMBLYMAN FOY: I want to see your wish list. I'm sure you have one. When a municipality prepares its capital budget over five years, they put a lot of things in it that they know, even at the end of those five years, they are not going to have the wherewithal to complete. I want an idea as to the thinking of the Department with respect to its prioritization of projects throughout the State of New Jersey. I will be quite candid with you; I am a South Jersey Legislator and I have grave concerns about how South Jersey is going to be treated under this program. In the past, there have been problems regarding the allocation of funds regionally throughout the State. It is no secret, John, I am a New Jersey partisan, and I want to see to it that, even on the wish list, some of our Christmas wishes will come true someday, as far as what the Department of Transportation and this Trust Fund Authority views as the important transportation network throughout the State. I think it is pretty clear, in terms of available land and development, that the western and southern portions of the State of New Jersey are the areas where the opening-up of highways will foster economic development and business growth. So, there is a subtle or not so subtle message there about where my concerns lie with respect to it.

In addition, I'm sure you have been deluged with concerns from the trucking industry and its employees, as I have. I am inundated with letters about it, and in reading those letters, they make some sense with respect to the fact that there is going to be a fairly

dramatic impact after a long time of maybe coasting -- no question about that. I am wondering, if through the use of some of the surplus--

ASSEMBLYMAN BRYANT: (interrupting) This is on financing. The truckers are coming in on the 21st, and if you could reserve that-- I think it would be unfair to the Commissioner to have to be prepared to speak on that.

ASSEMBLYMAN FOY: If we are restricting this just to finance, I 'll hold that for the truckers' meeting.

COMMISSIONER SHERIDAN: With respect to your first question, I think that your sense about the future is probably quite right. I would think that, in many ways, we have a mature system in the northeastern part of the State, a well identified one for the most part, except for the two major growth areas that I mentioned -- the Meadowlands and the Waterfront. We know what needs to be done. Where we don't know exactly what needs to be done is in those areas in the State that are growing rapidly, and they are, basically, Ocean and Burlington in the south, and Sussex, Warren, and Hunterdon in the west. I think South Jersey has been treated fairly under this program, but I think one of the things that we ought to be looking at is the next generation of projects for those areas of the State where there is a lot of potential growth. Just to mention two-- I have had some requests, for instance, with respect to a South Jersey project that would basically run from the Delaware Memorial Bridge to connect with the Atlantic City Expressway and also a project south of the terminus of Route 55, from Port Elizabeth to Cape May. What I have said publicly and privately is that I think if this program passes, the two studies that have been asked for ought to be done. We ought to start thinking about what the future holds.

What I have said simultaneously, though, is if this program or something substantially similar to it, does not pass, then I can't think about the next generation of projects when we have massive missing links in the existing system that need to be completed -- Route 55 being a primary example and the Route 38 dualization in your area as another example. I hope that addresses your question.

We can provide you with our seven year capital program, and I would also point out to you that in the New Jersey Transportation Trust Fund, some of the needs beyond four years are left to the period beyond four years, and they are so listed in here.

ASSEMBLYMAN FOY: One other thing, in terms of your projections with respect to this, does anybody have a pro forma as to what-- You know, you mentioned 150,000 jobs in here. Have your economists extrapolated to the point that they estimate what annual income that may generate for New Jersey, and what taxes that annual income may generate with respect to either sales, income, or things like that?

COMMISSIONER SHERIDAN: I am--

ASSEMBLYMAN FOY: (interrupting) I am just curious. You know, if we are going to create a lot of jobs, that is certainly going to help the economy. I would like to see some projections with respect to that.

COMMISSIONER SHERIDAN: What we have used is the United States Department of Transportation's rule of thumb in estimating the number of jobs available. That is where that 6,000 jobs per \$100 million worth of construction comes from.

We are aware of some private work that is being done, but our own internal staff has not generated any specific income figures, or anything like that.

ASSEMBLYMAN BRYANT: Getting back to what we requested in terms of other projects, do you know when we can get that information?

COMMISSIONER SHERIDAN: Within a week.

ASSEMBLYMAN BRYANT: Within a week? That would be helpful.

Let me ask you something else. Since the establishment of the Commission on Capital Budget and Planning, the State has had a near perfect record on approval for bond issues. Is the Administration reluctant to trust the voters on this issue?

COMMISSIONER SHERIDAN: No. I think, for instance, given the present atmosphere, a transportation bond issue would pass. But mechanism for the long term that does not depend on the specific situation of the moment -- the overall economic climate that can put

our business on a businesslike basis, so we know that every year the funds are going to be there, and we are not planning projects that can't be funded once we have done the design work.

Let me give you an example that I think is a perfect illustration of the problem we have had in New Jersey: Route 18, in Monmouth County, was partially built with 1968 bond funds. The remaining sections were fully designed with 1968 bond funds. The assumption was, when Dave Goldberg and then Governor Hughes campaigned for the '68 bond fund, that there would be a subsequent bond issue in 1972. That bond issue failed. The '73 bond issue failed. The '75 bond issue failed. We didn't get a bond issue until 1979. In the meantime, there was no pay-as-you-go capital, and, essentially, the Department was without funds for a major portion of that period.

Route 18 -- and I have the plans on my desk -- that we are talking about building under this program, was fully designed in 1972. A 3.3 mile section that could have been built for \$15 million is now going to cost \$60 million, and guess what? We have to redesign it because the Federal criteria, in terms of safety and construction, have dramatically changed over the last 12 year period. So, what we essentially wound up doing was, we wasted a portion of those 1968 bond funds. In the meantime--

ASSEMBLYMAN BRYANT: (interrupting) Commissioner, you are convincing me to vote for stable funding, such as a dedicated gasoline tax. You are saying we need this kind of stable funding.

Maybe my understanding is wrong concerning this program, or Authority. It is a four-year program, so it is not ad infinitum, and it is a ten-year payout. That does not address what you just said to me, in terms of our need to have this ongoing, stable funding. That is why I guess I get confused. At one point we talk about long-range stable funding, and it would seem to me the best approach to that would be some type of dedicated gasoline tax. On the other hand, we are talking about going with the general obligation bonds, where the voters might have some say, and in some way that is not stable even though the program only lasts for four years.

COMMISSIONER SHERIDAN: Well, it is true, it is a four-year program, but it provides a mechanism that, assuming it will work the way we all think it will work, the Legislature could easily fund at the end of four years for a second stage. They could easily fund it permanently. They could fund it for a second stage, with the thought there would be a third stage.

One of the reasons why we picked four years was that the Federal program -- now, we are talking about a transportation program that is basically two-thirds Federal and one-third State-- One of the problems with taking it beyond four years is -- and we could probably have made a five or six year program with the same money -- the Federal program -- the Federal funding -- is likely to change over that period of time. The reason for this is that the interstate system is nearly built-out. We would think that toward the end of the four year period, we are going to see a shift in priorities at the Federal level that we will have to adjust to at the State level.

So, I can't tell you that in the fifth year we will need \$230 million. It might be less. It might be more. And, to design a program that goes headlong past that period, in my mind -- given that fact -- doesn't make a lot of sense.

The other thing is, our cost estimates and our schedules, once you get past four years, are just not as reliable as they have to be in order to have a specific planning tool.

ASSEMBLYMAN BRYANT: So, this Authority will be created forever, is that correct?

COMMISSIONER SHERIDAN: What I am saying is, there has been some talk about a sunset provision, or a review period. We have proposed a mechanism that could be continued. Obviously, it won't have much value unless it is refunded at the end of the four-year periods, at some level; but, I don't know what that level is, and I don't think anybody in the Legislature does either. I think we need to get closer to that deadline before we decide how to refund it, and at what level.

ASSEMBLYMAN BRYANT: Where I might be getting somewhat perplexed is, I know both the Treasurers have talked about bonding and they have worried about our rating, if they are general obligation

bonds. Yet, there are a couple of proposals that are coming up this year for future bonding. Knowing the need for transportation, I don't understand why that didn't take priority over the other bonding we are talking about and general obligation bonds. This is not a scenario where we, or the Administration, do not want to go out for obligation bonds. It seems to be a retreat; that they don't consider transportation the most necessary thing to go to the voter about.

COMMISSIONER SHERIDAN: We want to get away from the hit or miss process of general obligation bonds. It doesn't lend itself to an ongoing program, such as we have in transportation, where the needs are annual.

ASSEMBLYMAN BRYANT: This program really addresses backlog, and what I am saying is, if you develop a program with general obligation bonds to deal with the backlog, we could be talking about whether it would be a gasoline tax or another type of stable funding.

COMMISSIONER SHERIDAN: I guess, Mr. Chairman, my only answer to you is, we think we have a good program; one that makes sense; one that can work for four years; and, if it works the way we think it will, the Legislature will be only too willing to refund it at the end of the four years in order to continue it past that time.

From my perspective in the Department, I want to get off the roller coaster of funding we have had with general obligation bonds. We had a lot of money in '68; we were down in the troth for 11 years, a substantial part of that period without funding; we had a little money in 1979; and, here we are, four years later, and we are out of funds. We are not only 100 percent out of State funds, we are out of matching funds, and we need those funds, July 1st.

ASSEMBLYMAN BRYANT: Let me ask you another question. The Governor's office must have considered alternatives before setting up the Transportation Trust Authority. Can you tell me what those alternatives were, and why they were discarded in favor of the Authority?

COMMISSIONER SHERIDAN: I can't speak--

ASSEMBLYMAN BRYANT: Or your Department -- whoever?

COMMISSIONER SHERIDAN: You know, we certainly thought about alternatives. It was just logical to think about another bond issue. I rejected that.

ASSEMBLYMAN BRYANT: Did you think about matching funds, or increasing truck revenues and toll road authority funds; setting general appropriations at a set fee; and maybe setting the bonds at 10 years?

COMMISSIONER SHERIDAN: That is a lot of things at one time. I am not sure what you are asking.

ASSEMBLYMAN BRYANT: Exactly what you have in your program.

COMMISSIONER SHERIDAN: Did we think of that?

ASSEMBLYMAN BRYANT: Increasing truck route fees; getting money from the toll road authorities, and also an \$88 million appropriation from the Legislature; then having a general obligation bond for ten years; that is exactly the same as having a general obligation bond and having the voters vote on it. It would still leave you with a stable \$3.3 billion.

COMMISSIONER SHERIDAN: I think I have already explained why I was not personally in favor of general obligation bonds. I want to put in place, if we possibly can, a long-term mechanism. That doesn't provide it.

ASSEMBLYMAN BRYANT: So, you would be disagreeable to having any sunset on this Authority?

COMMISSIONER SHERIDAN: No, as long as the sunset, or review period, is out quite a few years, I don't have a problem with it.

ASSEMBLYMAN BRYANT: How many years?

COMMISSIONER SHERIDAN: Out long enough to-- I think I would need some advise from our investment bankers on that question. Out long enough to make sure it does not jeopardize the bonding provision we have to put in place.

ASSEMBLYMAN BRYANT: Well, maybe I misunderstand that, because you are telling me that if it is out long enough to pay off the bonds and not jeopardize the market, it would do the same thing as a general obligation bond, except it didn't go to the voters -- because you capped it and sunset it at that point.

COMMISSIONER SHERIDAN: It won't do the same thing, because the Legislature, at the end of the four-year period can refund this period, and extend, simultaneously, the sunset provision. So, it is not the same thing.

ASSEMBLYMAN BRYANT: If, in fact, the sunset provision you agree to does that, I am saying it would be tantamount to the same thing, because of the sunset -- unless we did something that would not continue it. During that four year period, while we are doing the backlog, we could take other actions, whether they be a gasoline tax, other bond issues, or other general appropriations, and we could do the same thing. That is always a possibility, if, in fact, you agree to a sunset.

COMMISSIONER SHERIDAN: I think you have completely lost me. I heard a lot of things, but I don't know what you are saying.

ASSEMBLYMAN BRYANT: Assuming you agree to a sunset, a sunset basically says that at some point in time it stops.

COMMISSIONER SHERIDAN: Yes. What I am saying is, if you want to put in a sunset that is out 20 years or so--

ASSEMBLYMAN BRYANT: (interrupting) That's what I was trying to get to. You are talking about 20 years?

COMMISSIONER SHERIDAN: Yes.

ASSEMBLYMAN BRYANT: Oh, okay. And, what would it do during the period of time following the first 20 years?

COMMISSIONER SHERIDAN: If you wanted to have a review period -- I think that basically the review period is built in, because if it doesn't work the way I see it working, I don't think the Legislature will refund it after four years. What I am saying is, give us a shot. Let us show you we can do it. Let us show you that it is a sensible mechanism that will work well from a financing point of view, that the projects will move, the Department of Transportation of New Jersey can produce them, and at the end of four years, I think the Legislature will decide to refund this mechanism.

ASSEMBLYMAN FOY: Mr. Chairman, I have a question. Commissioner, when, for example, we reformed the Workers Compensation law in 1980, we required that after a certain period of time they

report, with respect to the actual workings and the progress of what was reformed, to the Legislature, with recommendations from the Commissioner -- in this case that could be from you -- as to what changes should be made, or whatever. Would you be amenable to something like that, insofar as the legislation goes? You would have to come back to us after the four year period, or whatever, and lay it all out. That's what they did with Workers Compensation. We have made some changes since that time in the Workers Comp law: Where things they anticipated would work were not working, we changed them.

COMMISSIONER SHERIDAN: Sure. I think that is a legislative prerogative at any time.

ASSEMBLYMAN FOY: It seems to me it is sensible. You know, this is new territory, to a certain extent, and we are going to have to be flexible about how we approach it. I think we have to build in some sort of obligation on your part to give us an accounting.

COMMISSIONER SHERIDAN: I don't have any problem with that. I don't have any problem, for instance, with annual reports on our progress, or anything like that. I would be surprised if, at the end of the four-year period, the Legislature thought it was working fairly well but saw some things that ought to be corrected. Or if the Commissioner of Transportation saw some things ought to be corrected, I would be totally surprised if, before it was funded for a second time, there were not some changes made at that time.

ASSEMBLYMAN BRYANT: Let me ask you a question then. When we get to refunding, maybe I get confused again. I understand when we go into this program, after the four years, we are going to pay \$88 million through general appropriations for from 10 to 14 years -- or whatever that period is. How do we refund that after four years?

COMMISSIONER SHERIDAN: I think that is a legislative decision to be made. It might be another \$88 million from appropriations, assuming the level is the same -- \$230 million; I think it could be any number of things.

ASSEMBLYMAN BRYANT: Okay. Let's take it from four to ten, or four to fourteen years. We are still spending \$88 million. Where is the refunding mechanism that we get from the Legislature? We would have to add more money, I would imagine.

COMMISSIONER SHERIDAN: Yes. That is what I am saying, refund it. I mean fund it a second time. Add some additional money.

ASSEMBLYMAN BRYANT: More than \$88 million?

COMMISSIONER SHERIDAN: No.

ASSEMBLYMAN BRYANT: You are dedicating \$88 million?

COMMISSIONER SHERIDAN: When I say \$88 million, I am talking about an additional \$88 million to maintain the same level.

ASSEMBLYMAN BRYANT: Let me ask you another question.

COMMISSIONER SHERIDAN: (interrupting) My finance man is telling me that -- for how many years? -- in order to extend it for three years, the total amount of new money needed would be \$35 or \$36 million.

ASSEMBLYMAN BRYANT: Is that the same level of funding?

COMMISSIONER SHERIDAN: Yes, to extend it for three years -- beyond the four years.

ASSEMBLYMAN BRYANT: Okay. Extend what? I am confused now. Extend our general revenues another \$88 million?

COMMISSIONER SHERIDAN: No, if you wanted to continue the program at the \$230 million level, assuming that was the right number -- okay?

ASSEMBLYMAN BRYANT: Yes.

COMMISSIONER SHERIDAN: (continuing) You could, by adding \$36 million a year--

ASSEMBLYMAN BRYANT: In what year?

COMMISSIONER SHERIDAN: In fiscal '89, fiscal '90, and fiscal '91.

ASSEMBLYMAN BRYANT: So, in other words, for the last 10 years, we would have to have--

ASSEMBLYMAN MARKERT: You are doing it for four years, right?

ASSEMBLYMAN BRYANT: Well, there is a question as to whether it is for 10 years or 14 years. If it is 14 years, there will be an additional 10 years.

ASSEMBLYMAN MARKERT: With an additional payoff.

ASSEMBLYMAN BRYANT: I am not sure. No one has answered that question for me yet.

COMMISSIONER SHERIDAN: The question has been answered.

ASSEMBLYMAN BRYANT: Whether it is 10 years or 14 years?

COMMISSIONER SHERIDAN: The bonds are not all going to be sold the first year. They are 10-year bonds: some bonds the first year, some the second year, some the third year, and some the fourth year. But, the \$88 million has to be available for a 14 year period.

ASSEMBLYMAN BRYANT: That's right. That's my understanding. Now, we are talking about an additional \$36 for 10 years, adding \$36 to \$88 -- okay?

COMMISSIONER SHERIDAN: That's right. What we are saying is you could do it for another three years at the \$230 million level.

ASSEMBLYMAN BRYANT: You would just be issuing larger bonds during that period of time?

COMMISSIONER SHERIDAN: You would have to issue more bonds.

ASSEMBLYMAN MARKERT: Another set of 10-year bonds.

COMMISSIONER SHERIDAN: It would still be mostly pay-as-you-go, but there will be some additional bonds.

ASSEMBLYMAN BRYANT: Do you think it would be prudent for the taxpayers of the State of New Jersey, with such a large surplus, to pay it all at one time in the first year? That way, they will incur no debt.

COMMISSIONER SHERIDAN: I think it is impossible for me to answer that question. I don't know or understand all of the calls on that money. I don't know the size of the surplus. I understand there has been \$600 or \$700 million in requests with respect to those surplus funds. It is impossible for me to make that judgment.

ASSEMBLYMAN BRYANT: I understand the same thing, but it seems to me that we had increased in almost every area, even before we found out there was a large surplus. Transportation is such an overriding need that in order to match Federal dollars and open up the economy for New Jersey -- and at the same time not tax or further burden our taxpayers -- it would seem to me, since everybody is telling me that this is such an important thing to do, and we have ignored it for so long -- and I agree with that, as Chairman of Transportation -- that if we have this one opportunity this year, it would be a prudent way to spend the surplus.

COMMISSIONER SHERIDAN: I can't answer that question. I think the person who has to answer that question is the person who has an understanding of all the other calls on that money. It wouldn't be true if there were another greater, or equally great, need. But, I don't know what they are, or what they might be.

ASSEMBLYMAN BRYANT: From your point of view, is there a greater need?

COMMISSIONER SHERIDAN: I have to admit, I have a very narrow focus.

ASSEMBLYMAN FOY: Maybe what we need is a way to bring in some Executive participation, by having the Governor pledge to dedicate a portion of whatever surplus exists through the balance of his term, or terms, as the case may be, as a contribution to this.

ASSEMBLYMAN MARKERT: It will probably be terms.

ASSEMBLYMAN FOY: Well, that's possible. Maybe we need dedicated funding from the Administration as part of the contribution, then we can reduce what we are doing to the truckers, and we can get the Governor to throw in \$30 million a year for the next six years, if he is going to be Governor that long.

ASSEMBLYMAN MARKERT: If you have it.

ASSEMBLYMAN FOY: Well, if you have it. It is an upset figure. If you don't have it, you don't use it; if you have it, you use it.

ASSEMBLYMAN MARKERT: Once again, I think we are addressing an unstable funding mechanism. We can't go from year to year, not knowing what we have or what we do not have.

ASSEMBLYMAN FOY: Well, if you have all the other ones in place, then that is bonus money. It could then go into the Trust Fund to be used for additional years.

You know, everyone is being asked to participate in this thing. The Legislature is being asked to put their neck on line for 14 years, for \$88 million. We don't have a crystal ball to go into the future with; you are aware of that.

With reference to the other two, you are going to assume the Authorities will have positive fund balances, and make that money

available over a period of time. That is an assumption that has the potential for instability. If your projections are correct, we will generate truck fees each year, and maybe then some if it keeps going -- if we don't put them out of business.

We may need an additional upset source, to a certain extent, that has to be triggered in, to make up for any shortfalls with respect to these revenues. You might get a recalcitrant Legislature; you might get a Republican Legislature at some time that does not want to spend any money. The fact of the matter is, maybe we ought to be talking to the Administration. Maybe we ought to have the Governor here at a hearing, and listen to what he is going to do with the balance of the surplus.

ASSEMBLYMAN MARKERT: Mr. Chairman--

ASSEMBLYMAN FOY: If that sounds partisan, it is only because it is.

ASSEMBLYMAN MARKERT: Mr. Chairman, if I may?

ASSEMBLYMAN BRYANT: Do you want to ask some questions?

ASSEMBLYMAN MARKERT: No, I want to make some general statements, as has been done in the past few minutes.

ASSEMBLYMAN BRYANT: Two minutes of general statements. The Commissioner's time is valuable. I have other questions on the point.

ASSEMBLYMAN MARKERT: Thank you, Mr. Chairman. I agree with some of the thoughts my colleague has expressed. I don't agree with the mechanisms, because basically what we are concerned about is what we feel is important for the State of New Jersey today. And, creating a form of stable funding-- Because we do not know what is going to come down in a year and one-half from now; I have no idea how many legislators will retain their seats, nor how long it will take for them to understand and know the problems we have in the State of New Jersey with reference to transportation. I think we have the knowledge and the information at this point in time in this Legislature, to know that unless the \$3 billion backlog is immediately addressed and taken care of -- and basically a good portion of this money is for that purpose -- we are going to bankrupt the State of New Jersey, with reference to moving people, goods, and businesses throughout our State.

So, I don't think we should address this politically. I don't think we can address it as to the economy of the budget -- its surpluses this year versus next year or the year after, etc. I think what we have to do is to concern ourselves with establishing something that the State of New Jersey needs, and that is a firm, stable funding process in order to be able to address the problems. This may not be the answer, but it is the only one that I have seen down the line in the eight years I have been here. I am willing to try to give it a chance, because it seems to be the best solution we have been able to find.

We in the Legislature can control this, and control it completely. If things are not working out in a couple of years, we will have the rights, as a Legislature, to be able to do something about it. That is why I think it is so important to put something like this on the books.

ASSEMBLYMAN BRYANT: Mr. Markert -- and I don't to get into a long dialogue -- that is not necessarily true -- that we will control it. We have not controlled any authority that has been created by the State. We are talking about 10-year payouts and 14-year payouts. I am not so sure we are going to control that anyway.

All I am saying is, this Committee is responsible to the constituents of the State of New Jersey, and we are responsible to do things at the lowest cost to those constituents. We do have a huge surplus this year. The Legislature is responsible to discuss that surplus, and where it is needed. And, if that can pay for one year-- We are only talking about a three-year backlog right now, assuming we paid it all. So, those are issues I think we should be discussing here. They are pertinent to whether they voters are going to pay more money.

Let me ask you a question, Commissioner. What I want to know is the concern your office and the Executive branch might have in establishing a new Authority. What it does is, as everyone knows, it by-passes the voters and their constitutional right to vote on debt, which is something, in this State, when we go to general obligation bonds, they vote on -- they vote on debt. I am not in fear of the

voters if, in fact, this is so critical to the State of New Jersey -- which I believe it is. I believe, as a legislator, representing my district, I would sell this to my voters because of what it will do economically for them, and what it will do for them in terms of jobs. They would then have the opportunity to decide if, in fact, whatever new debt is created and paid for by this State will be something they are part of, and that they had something to do with the decision-making on that debt. I don't see why we want to obfuscate that, and I would like to know whether that was taken into consideration.

COMMISSIONER SHERIDAN: First of all, I would assume that we had advise from the Attorney General's bond counsel that we are not doing anything that takes away anybody's constitutional rights. We are doing something that is perfectly constitutional, and perfectly permissible.

The State has--

ASSEMBLYMAN BRYANT: Is it a mechanism to by-pass the voters? Do they vote on these bonds?

COMMISSIONER SHERIDAN: If the question is, do the voters vote on these bonds, you know the answer to that and I know the answer; they don't vote on these bonds. Did they vote on the Building Authority bonds? Did they vote on the Mortgage Finance Authority bonds? Did they vote on a whole host of others? The answer is no, and the reason is they don't have to. This mechanism is exactly -- not exactly, but it is quite similar to the Building Authority mechanism. It is not exactly similar, but it is very, very close to what is done there. It is very, very similar to what is done around the United States in a lot of other states.

Basically, we have a Constitutional mechanism, and this is one man's view, but my view is that with a program where you need money on an annual basis, year in and year out -- unlike special purpose bond issues for things that are in many way discretionary -- transportation, is not discretionary. It is the foundation of our economy. It is something that has to be attended to every single year.

ASSEMBLYMAN BRYANT: I am going to get your vote on a tax yet.

COMMISSIONER SHERIDAN: The general obligation bond route is not the way to go with transportation issues, in my judgment.

ASSEMBLYMAN BRYANT: Let me ask you a couple of other questions. As I understand it, when analyzing the State's debt capacity, all State indebtedness is considered. Why would this type of debt have a more positive effect on our rating than a general obligation bond would, if any? Or does it?

COMMISSIONER SHERIDAN: Of course, all debt is going to be considered in all its forms. I think the reason that comment was made to us by one of the rating agencies was, they see the exact point I am talking about -- that there is some discipline to the process. It is not a hit-or-miss thing. It is not risking the economy of this State by not doing what needs to be done by saying we are going to go at our business and we are going to plan our business sensibly. We are not going to design projects for which there is no money to build. We are going to decide what needs to be done, and we are going to go out and attack it on a systematic basis.

I think what goes into the credit rating is a lot more than an analysis of the debt; it is the general state of the economy. It is the State's ability to discipline itself, among other things. They see this as adding some discipline to the budgetary process and to the Department of Transportation's work.

ASSEMBLYMAN BRYANT: Maybe you can explain to me what the components of the discipline are.

COMMISSIONER SHERIDAN: Discipline is when we have looked at our needs and decided what they are. We have now put a mechanism in place which allows us to fund them. That is discipline. The other part of the discipline is, the Legislature makes the commitment to fund them, not on a hit-or-miss basis, but over an extended period of time.

ASSEMBLYMAN BRYANT: Is it my understanding the Legislature cannot make that same commitment, using the same type of foundation, on a general obligation bond? I am just asking a question.

COMMISSIONER SHERIDAN: This is not the place to be critical of the Legislature. (laughter)

ASSEMBLYMAN BRYANT: I am trying to find out how we can make one commitment and we can't make the other, assuming we did the same thing -- as you said, assuming we had the same components.

COMMISSIONER SHERIDAN: Because once these bonds are sold, the Legislature will be fully committed to making the payments.

ASSEMBLYMAN BRYANT: That is with any bond issue.

COMMISSIONER SHERIDAN: It is true with general obligation bonds, but look what has happened in the past. I believe this is true of the 1968 bond funds, and I know it was true with the '79 bond funds. The bond funds in 1979 were to be -- they were intended to be -- an addition to normal appropriations to match Federal dollars. That is not what happened. As soon as that bond issue passed, the State stopped funding matching funds for the Federal program.

ASSEMBLYMAN BRYANT: So, what you are telling me is, if we pass legislation with the components of \$88 million, \$25 million, and \$30 million, the other part of that is an obligation bond for ten years -- which is completely different from the other types of bonds we have ever put out in this State; we have generally issued 30-year bonds -- and that will not give the Legislature a signal of obligation? I am trying to figure out the difference so I understand it.

COMMISSIONER SHERIDAN: That was their view, and I am trying to read into what they said to me. But, they don't see, in the normal general appropriations process, the same kind of commitment this program gives to transportation.

ASSEMBLYMAN BRYANT: So, it was never really discussed; but, we have never passed legislation which put in components, for payment of anything, like that before.

COMMISSIONER SHERIDAN: That's also true.

ASSEMBLYMAN BRYANT: So, therefore, they probably didn't discuss it, or think of it.

COMMISSIONER SHERIDAN: I don't know.

ASSEMBLYMAN BRYANT: Maybe we will ask them that. We have some of them coming up to testify; we can ask them at that time.

Are there any other states that use this method of funding right now?

COMMISSIONER SHERIDAN: I don't think there is any other state that would have quite this mechanism, but similar mechanisms have been used. For instance, appropriations bonds have been used in New York to finance the MTA capital program, where there is a commitment from the Legislature to make a contractual payment every year to the MTA, on the basis that bonds were sold, and to fund the capital program. So, yes, that is one place where it has been done.

ASSEMBLYMAN BRYANT: You convinced me of exactly what I just said, that if we make a commitment on the part of the Legislature to general obligation bonds, we can probably do this that way also.

COMMISSIONER SHERIDAN: No. We are talking about two different things. These are a commitment to make future appropriations on the basis of which bonds were sold to finance a capital program.

ASSEMBLYMAN BRYANT: Couldn't this Legislature do the same thing with general obligation bonds?

COMMISSIONER SHERIDAN: You can't do anything until the voters approve it, if you go to a general obligation bond.

ASSEMBLYMAN BRYANT: I am saying by statute; can't we create a statute which makes us obligated, assuming the voters approve that bond, to make certain payments?

COMMISSIONER SHERIDAN: The statute would be subject to change on an annual basis. We have a statute on the books right now, for instance for a local aid program, and it hasn't been funded in 12 years.

ASSEMBLYMAN BRYANT: Well, this statute will be subject to change too.

COMMISSIONER SHERIDAN: Once those bonds are sold, Mr. Chairman, with all due respect, the Legislature would not be legally committed to make those bond payments, but in my opinion, there is no way those bonds will not be paid, because to do so would wreak havoc with the State's fiscal health.

ASSEMBLYMAN BRYANT: Well, I don't want to go around and around on this. I will ask one more follow-up question, because otherwise I will be going around in a circle with this. It seems to me that if that can be done with this type of bond, if we pass legislation

that says we are committed to a general obligation bond, if it passes, we have to be committed to make those payments. There is no substantive difference in that obligation to stop us from payment, because those new bondholders -- assuming the voters passed it-- That would be a condition of those bonds. It would be a guarantee to their bonds also, because there is a statute on their books that says the same thing as this would say to the Authority.

I'm wrong? Then explain it to me. I'm not good in finance.

COMMISSIONER SHERIDAN: I think once the bonds are sold, the Legislature will be committed to making sure that the debt service on those bonds is paid. Every other mechanism, where there is a commitment by statute is something that the Legislature could renege on the following year.

ASSEMBLYMAN FOY: Commissioner, let's get to another matter, as far as the commitment is concerned. While you are saying there is no legal commitment, it is a moral commitment. The fact of the matter is, if the Legislature were to fail to appropriate the \$88 million, and the bonds were jeopardized, it would be incumbent upon the Transportation Authority to sue the Legislature on behalf of those bondholders. Because, obviously, the bondholders are going to sue the State Transportation Authority. So, we are going to get into a round robin litigation on this one if we fail to appropriate the money.

COMMISSIONER SHERIDAN: Assemblyman, I--

ASSEMBLYMAN FOY: (interrupting) And, the court is going to order us to appropriate it, that's the bottom line. This is as legal and binding a commitment as you can perceive, without putting it in binding terms, in writing.

COMMISSIONER SHERIDAN: That's my point.

ASSEMBLYMAN FOY: You are exactly right. There is no question about that. We have to come up with the money every year, or we are in a position to be the recipients of litigation regarding a breach of faith with respect to those bondholders. There is no question about it.

ASSEMBLYMAN BRYANT: My point is, you can do the same thing by statute with general obligation bonds.

ASSEMBLYMAN FOY: That may be. That is not the issue I am addressing.

COMMISSIONER SHERIDAN: I guess we have a disagreement -- a large disagreement -- on that point.

ASSEMBLYMAN BRYANT: Are there any other questions?  
(negative response)

Commissioner, thank you for your testimony. We appreciate your appearance before the Transportation Committee.

COMMISSIONER SHERIDAN: Thank you very much.

ASSEMBLYMAN BRYANT: We will now take a two-minute break.

(Two Minute Break)

**AFTER RECESS:**

ASSEMBLYMAN BRYANT: Our next witness will be Mr. Nicholas Capozzoli.

NICHOLAS CAPOZZOLI: Mr. Chairman, members of the Committee, I thank you for allowing me to testify this morning. My remarks will be quite brief. I have a written statement prepared, and I will be happy to answer any questions you might have with respect to my testimony.

My name is Nicholas J. Capozzoli, Jr., and I am a member of the law firm of Mudge Rose Guthrie Alexander & Ferdon. My firm has acted as an advisor in the drafting of this bill. I would now like to read from my prepared statement, if I may.

This bill, if adopted, will establish the New Jersey Transportation Trust Fund Authority, whose purpose will be to aid in the payment and financing of transportation projects within the State of New Jersey.

In furtherance of this purpose, the Authority is granted the power to borrow money and to issue bonds. It is contemplated that bonds of the Authority would be principally secured by amounts paid to the Authority from the General Fund of the State. In addition, the proposed legislation would authorize the utilization of any amounts received from the State toll road authorities for the payment of debt service on the Authority's bonds. The legislation would also permit

the Authority to transfer amounts received from either of the aforementioned sources directly to the State to pay transportation project costs.

The proposed legislation expressly provides that the State's payments to the Authority are subject to and dependent upon appropriations being made from time to time by the Legislature. Thus, each year money for the State's annual payment must be approved by the Legislature through the usual appropriation process.

The proceeds of bonds issued by the Authority will be paid over to the State Treasurer for deposit in a Special Transportation Trust Fund to be used for transportation purposes. The expenditure of amounts from this Fund by the Department of Transportation can be made only pursuant to appropriations or authorizations made from time to time by the Legislature.

The Authority will be created to accomplish two principal goals. First, to structure a program and raise funds to finance the State's transportation program in a manner acceptable in the financial marketplace; and, second, to make certain that the program is legally feasible.

The issuance of bonds by a public entity, secured by state payments that are subject to appropriation by a state legislature has become an acceptable and recognized form of financing, both within the State of New Jersey and elsewhere.

In New Jersey, the State Building Authority has issued bonds secured by State lease payments which are subject to and dependent upon appropriations being made by the State Legislature. In addition, bonds have been issued by counties in New Jersey, pursuant to the County College Bond Act, to finance the State's portion of the capital cost for county colleges. These bonds are secured by payments from the State which are subject to legislative appropriation.

Both of the aforesaid financing structures have passed Constitutional muster in cases decided by the New Jersey Supreme Court.

Deviating from the text a little bit, I might cite the cases. One is *Holster v. The Board of Trustees of Passaic College*, which was decided in 1971. And, the second case, dealing with the

Building Authority, was Anorato v. The New Jersey Building Authority, which was decided in July, 1982.

ASSEMBLYMAN BRYANT: Do you have the citations on those cases?

MR. CAPOZZOLI: I can get them for the Committee.

ASSEMBLYMAN BRYANT: I would appreciate that.

MR. CAPOZZOLI: In both of these cases the court recognized that even though it was contemplated that appropriations would be made by the State Legislature, there was no legal obligation on the part of the State to do so and, therefore, a debt of the State was not created.

In the State of New York, the Metropolitan Transportation Authority has issued over \$500 million aggregate principal amount of bonds, secured by service contracts with the State of New York. These contracts provide that in consideration of the operation of the State's commuter railroads and transit facilities by the MTA, the State will make payments for costs incurred in such operation, including debt service on bonds issued by the MTA. The payments under these service contracts are subject to legislative appropriation.

There is also precedent for the use by a public authority of funds generated by another public authority. Pursuant to statute, the New York MTA receives funds from the Triborough Bridge and Tunnel Authority. Some figures that I have obtained indicate that the Triborough Bridge and Tunnel Authority, in 1983, transferred to the New York City Transit Authority -- which is controlled by the MTA -- funds of over \$104 million, and transferred directly to the MTA amounts over \$83 million. The MTA has issued over \$400 million in bonds, secured in part by these revenues.

In conclusion, the plan contained in the New Jersey Transportation Trust Fund Authority Act of 1984, is one intended to provide a reliable method to aid in the payment and financing of the State's transportation needs in a manner acceptable to the financial marketplace, and permitted under the Constitution and laws of the State of New Jersey. Thank you.

ASSEMBLYMAN BRYANT: Mr. Capozzoli, you are not talking about their financial stability; you are saying it is legal to issue these types of bonds?

MR. CAPOZZOLI: Yes, sir. I am a lawyer, and I speak to the legalities.

ASSEMBLYMAN BRYANT: Have you represented any other states with regard to the issuance of these types of bonds?

MR. CAPOZZOLI: My firm represents the Metropolitan Transportation Authority -- the New York Metropolitan Transportation Authority -- which I just referred to.

Bonds which are issued, subject to payments from states that appropriate funds to secure them are generally acknowledged in the marketplace, and this is done very frequently. As a matter of fact, the Albany Mall was financed in such a matter. I guess they issued bonds that totaled somewhere in the amount of \$1 billion. Those were secured similar to the way your Building Authority does it, by lease payments from the state. But, here again, those lease payments are subject to appropriation by the state legislature, and there is no legal obligation on the part of the state to make those payments. So, they are not considered debts of the state within any constitutional prohibition.

ASSEMBLYMAN BRYANT: Let me ask you another question. Do you represent any authorities in the State of New Jersey, or does your firm represent any authorities in this State?

MR. CAPOZZOLI: Do we represent any authorities in the State of New Jersey?

ASSEMBLYMAN BRYANT: Any authority, or any subdivision, in the State of New Jersey? Do you represent this State in a bonding capacity?

MR. CAPOZZOLI: Yes. We have represented the State in the issuance of its GO bonds.

ASSEMBLYMAN BRYANT: Let me ask you another question. Assume you had the same dollar mechanism, and there was a statute passed, obligating the State Legislature to create \$88 million, \$25 million, and \$30 million on the basis that we would pass a general revenue bond -- sort of the same way you did it with the toll authorities. In the agreement it would say: "If you don't enact this piece of legislation, the money doesn't come."

Assuming we did the same type of thing by legislation, and the vote taken was to pass the general obligation bond. The State now passes the statute, saying: "We will contribute \$88 million; we will contribute \$25 million; or, we will contribute \$30 million." In your experience, would that have the same effect as these other types of bonds would have?

MR. CAPOZZOLI: The same effect in what manner?

ASSEMBLYMAN BRYANT: In terms of it being legal.

MR. CAPOZZOLI: Oh, they would be legal all right. If you are talking about passing legislation which would authorize the issuance of general obligation bonds for these purposes, and that legislation were to be submitted to the voters and passed, I assume that would be a legal mechanism.

ASSEMBLYMAN BRYANT: But, I am also saying it is a statute which would say the State Legislature will commit \$88 million a year during the course of those bonds, assuming they were for ten years; \$25 million from another source, assuming that the toll authorities were in agreement to do that; and, \$30 million from truckers, or whatever. Would that give more force and weight to those bonds?

MR. CAPOZZOLI: Well, when you say give more force and weight to the bonds, I--

ASSEMBLYMAN BRYANT: (interrupting) We would have created a mechanism in order to pay bonds, similar to what you are doing.

MR. CAPOZZOLI: Are you suggesting that the legislation which would commit the \$88 million, would be committed to the payment of the general obligation bonds?

ASSEMBLYMAN BRYANT: Yes.

MR. CAPOZZOLI: Well, you could do that right in the legislation authorizing the bonds themselves, and that is voted on by the voters. Under the New Jersey Constitution, any general obligation bonds that are issued by the State are required to have a way and a means to pay those bonds. So, you will find in many instances there is a provision, for instance, where a sales tax will be utilized to pay the bonds.

However, in the last analysis, they are bottom-line secured by the full faith and credit of the State, and ad valorem taxes can be levied to pay the bonds, if necessary. That is really how they receive their Triple A Rating at the present time.

ASSEMBLYMAN BRYANT: Thank you. Are there any questions?

ASSEMBLYMAN FOY: I have a question. This was mentioned before by Commissioner Sheridan, and it had to do with a hypothetical scenario, where some obstreperous legislature decides they are not going to fund the \$88 million in a given year. I notice, on page two of your statement, you said, "In both cases the court recognized that even though it was contemplated that appropriations would be made by the...legislature, there was no legal obligation on the part of the State to do so...." Have you had any experience with a situation where this has occurred -- where the legislature refused to fund these moral obligations, as the Commissioner termed them; and, has litigation been engendered as a result of that failure? Are you aware of anything like that happening?

MR. CAPOZZOLI: I am not aware of any such instance. I would have to say that when these bonds are sold, I assume they will be sold on the basis of an official statement, which will be distributed with the bonds, to the prospective bond purchasers. Certainly, that official statement will make it abundantly clear that bonds are payable from certain sources. Some of those sources will be by appropriation--mainly, they will be by appropriation from the state. And, in bold letters, it will advise the prospective purchasers that there is no legal obligation on the part of the legislature to make the appropriations needed.

So, as far as litigation being commenced, I can't say it will not be commenced, but they won't have a leg to stand on, because there was no legal obligation to pay on the part of the state, and that is the basis upon which they bought their bonds.

ASSEMBLYMAN FOY: Right. Then that engenders my second question, which is: Does that not then, since they become somewhat higher-risk bonds, affect the marketability of those bonds? Are we likely to have a less favorable rating because of this financing mechanism?

MR. CAPOZZOLI: First of all, I would like to make it clear that I am not a financial advisor. I am a lawyer. However, my experience has been that a bond of this nature would have a rating of one notch below whatever the rating of the state is, because there is no full faith and credit behind them.

ASSEMBLYMAN BRYANT: Does that translate into what one pays in points, from your experience?

MR. CAPOZZOLI: Most certainly, a lower rating would have to be reflected in the interest rate on the bonds, yes.

ASSEMBLYMAN FOY: Lower rating, higher interest -- right?

MR. CAPOZZOLI: Here again, I think there are people from the financial world here today. Certainly, someone can correct me if I am wrong. I am just drawing from my own experience.

ASSEMBLYMAN FOY: Thank you.

ASSEMBLYMAN BRYANT: I am going to go to Mr. Markert and then to Mr. Cuprowski.

ASSEMBLYMAN MARKERT: Thank you. Mr. Capozzoli, with reference to the same topic, what would happen if the state wanted to renege on the bonds that were sold under this Authority, bonds which, as you stated, had in bold letters that there would be no commitment by the state, and, therefore, would give no legal process by which they could be satisfied due to default? What if the bonds were not paid? If you could just follow up on that, as an attorney, could you tell us what would happen legally in that case?

MR. CAPOZZOLI: Well, as a legal matter -- as I mentioned before -- a bondholder may choose to sue. I will reiterate that he would not have a leg to stand on because the document selling the bonds to that particular purchaser would have made it clear that he could not bind future legislatures with this type of bond; there would be no legal obligation on the part of the legislature to make an appropriation. Therefore, with no legal obligation, there is no legal basis for a law suit.

However, if appropriations are not made, and if, as a result of the appropriations not being made, bonds by a state authority go into default, most certainly I would have to think that would have an effect on the credit rating of the state.

Now, purchasers who buy the bonds, and the rating agencies who give the ratings to these bonds understand that. That is why the rating agencies are able to rate them so high.

For instance, with respect to the State of New Jersey, if New Jersey had a Triple A, this type of bond probably would get a Double A. Again, I hedge because I am a lawyer; I am not a financial adviser. So, it is certainly recognized by the rating agencies that they would expect future state legislatures to meet the obligations of previous administrations and legislatures by making those payments.

You have a perfect case in point in your area, in Camden. I represented the South Jersey Port Corporation when they had their bond issue, many, many years ago. Those were moral obligation bonds, and because of the conditions down South, it has been very difficult for the corporation to raise the revenues required in order to make the debt service payments on the bonds. So, the legislature has had to, for many years, make payments for this debt service reserve in order to pay these bonds. That is what we call the moral obligation bond.

Let me give you another example -- I hate to tell you this, because you must think I represent every authority in New Jersey, which is not true -- we were bond counsel to the New Jersey Sports and Exposition Authority at the time the New York Giants were brought over to New Jersey. At that time, it was very difficult to try and sell bonds that were going to be backed by racing revenues, and the only way they were capable of selling those bonds was to put the moral obligation of the State behind those bonds. The Legislature did that. They authorized that moral obligation. It was given. It was done, and today we have refunded those bonds. There is no longer any moral obligation, as you know. Some of those bonds were actually refunded through a guarantee by the State, because it reduced their debt service requirements.

This is a recognized form of financing when used properly. And, I submit to you that this is a proper instance for its use.

ASSEMBLYMAN FOY: All right. But, at the outside, we may be exposed to a little higher premium with respect to the fact that we are not going to have a Triple A Rating, we may have a Double A Rating.

MR. CAPOZZOLI: I would say that generally speaking, if you have a general obligation bond of the State which runs 20 years, and you then set up an appropriation process for an identical type bond, I would have to assume you would pay a higher interest rate, because one bond would be rated higher than the other.

ASSEMBLYMAN BRYANT: Mr. Cuprowski?

ASSEMBLYMAN CUPROWSKI: Yes. You made some statements, and you made reference to public authority funds generated by another public authority. You made reference to the fact that the New York MTA receives funds from the Triborough Bridge and Tunnel Authority.

MR. CAPOZZOLI: Yes.

ASSEMBLYMAN CUPROWSKI: Is that a similar arrangement to the proposed piece of legislation we are drafting, which states that this Authority may enter into contracts with the State's toll road authorities, who can provide funds to this particular Authority? Obviously, that would be done by contract -- this Authority versus the toll road authorities. I was wondering if that is a similar arrangement to the one you cited?

MR. CAPOZZOLI: I am not too sure that is actually a contractual arrangement. They may actually be provided for by statute.

ASSEMBLYMAN CUPROWSKI: As opposed to the contractual arrangements between the two authorities?

MR. CAPOZZOLI: Yes. I cannot swear to that, but that may be a statutory provision, as distinguished from a contractual arrangement. The effect is the same. I believe most of the dollars turned over are surplus-type dollars that are used by the MTA.

ASSEMBLYMAN BRYANT: Mr. Gill?

ASSEMBLYMAN GILL: I have just one quick question. You talk about the possibility of what this may do to the credit rating, and so forth. What, in your experience, was the experience of the Meadowlands? Understanding that New Jersey's credit rating is Triple A, what was the credit rating on the bonds for the New Jersey Meadowlands exposition? Was it Double A?

MR. CAPOZZOLI: When they were originally issued on the moral obligation, I think they were rated one notch below the State. It is

different today, because there is no moral obligation bond. They are strictly secured by the revenues generated. So, they are somewhere in the A area -- Single A, I think.

ASSEMBLYMAN FOY: Would you anticipate -- I guess this should be addressed by one of the financial experts -- any difficulty in having these bonds sold -- picked up by the general public, or what have you?

MR. CAPOZZOLI: I would think not.

ASSEMBLYMAN FOY: Okay.

ASSEMBLYMAN BRYANT: Let me ask you another question: Do you know of any other state that has set up an Authority, such as the one being contemplated, where there is a pass-through and they have no assets?

MR. CAPOZZOLI: They have no assets?

ASSEMBLYMAN BRYANT: From my understanding the Commission will have no assets. It is a complete pass-through.

MR. CAPOZZOLI: Well, certainly, all of your industrial development authorities are in the nature of just funding authorities. I think your EDA here in New Jersey -- and they have Industrial Development Authorities throughout most of the states -- just acts as a funding agency; they have no assets; they are not liable on the bonds.

ASSEMBLYMAN BRYANT: They don't have the moral obligation of the State of New Jersey?

MR. CAPOZZOLI: They don't have any moral obligation, no.

ASSEMBLYMAN BRYANT: Do you think that has any effect, when there are no assets in an authority we give a moral obligation to? It seems to me that would be a factor.

MR. CAPOZZOLI: Well, when you say it has no effect, I think in the financial marketplace, it is not going to have an effect. I think people are going to understand what is being done, and it is not something that has not been done before. The only point you are bringing up is that they do not have any physical assets. In other words, they are just passing the funds through, back to the State of New Jersey so these improvements can be made.

ASSEMBLYMAN BRYANT: That gets to another question. In areas, such as MTA, they do have assets of their own, and it seems to me in any bond market that I can think of, where there are some assets, even though you have a moral obligation of the state, there are some assets to attach to besides just the state's moral obligation. That is why I asked the question: Do you know of any place where the state has given a moral obligation to an authority that has absolutely no assets?

MR. CAPOZZOLI: I cannot think of one at this time. However, I would -- and, here again, I am not a financial adviser -- not believe that the purchasers of bonds look to the assets of the particular authority, unless they are going to get some first mortgage lien on those assets. I think you are really selling those bonds on the basis of the obligation of the state to make the payments.

ASSEMBLYMAN BRYANT: Then it is virtually like a general obligation bond?

MR. CAPOZZOLI: It is not like a general obligation bond because--

ASSEMBLYMAN BRYANT: (interrupting) Aside from the rating; we get a better rating.

MR. CAPOZZOLI: I tried to explain to you that the difference is, there is no legal obligation to pay. Since there is no legal obligation to pay, the rating agencies have decided that you can not have the same rating. So, usually, it is one notch below. But, the difference is, there is no legal obligation to pay, insofar as the appropriation for bonds is concerned; and, where general obligation bonds are concerned, there is a legal obligation to pay.

ASSEMBLYMAN BRYANT: Mr. Cuprowski?

ASSEMBLYMAN CUPROWSKI: One final question. In your conclusion, you state that this method will provide a reliable way to aid the payment of the financing. I am just wondering, is it your opinion that this would be the preferred method, or the recommended method of financing?

MR. CAPOZZOLI: I really don't think I could speak to that. I can say this is a legal method of financing that has been accepted before. But, as to whether one is preferred over another, I don't think I can really speak to that as a lawyer.

ASSEMBLYMAN CUPROWSKI: All right. Thank you.

ASSEMBLYMAN FOY: Just as a follow-up to Assemblyman Cuprowski's earlier question, do you feel it strengthens the relationship between the Trust Fund Authority and the authorities it may enter into a contractual relationship with, to have prior statutory authority, similar to New York's relationship with their authorities?

In New Jersey we are simply going to do it by contract, pursuant to this legislation. Do you feel there is a need for, or that it strengthens or enhances the situation if we have a separate, authorizing statute regarding these types of relationships?

MR. CAPOZZOLI: I don't know that it would because, as I understand the legislation here, there is authority for the toll road authorities to enter into such arrangements with this Authority. So, there is recognition given to this by the Legislature, in contemplation that this would be done. I think this is pretty strong.

ASSEMBLYMAN FOY: Do you have any background knowledge as to why it was done by statute in New York?

MR. CAPOZZOLI: No. Again, I hedged on that one a little bit.

ASSEMBLYMAN CUPROWSKI: May I ask one more question?

MR. CAPOZZOLI: Certainly.

ASSEMBLYMAN CUPROWSKI: It is a hypothetical question. Since both Authorities have the authority, by statute, to enter into contractual agreements, what would prevent them-- If, five or ten years down the road, one of those Authorities were to get into financial difficulty, could it be reversed? Could we appropriate money for them if they needed it? What control would the Legislature have under those conditions?

MR. CAPOZZOLI: Let me see if I understand your question. You are posturing that one of the toll road authorities enters into an agreement with the Transportation Trust Fund Authority?

ASSEMBLYMAN CUPROWSKI: That is correct.

MR. CAPOZZOLI: And then, down the road, the toll road authority runs into--

ASSEMBLYMAN CUPROWSKI: (interrupting) Financial difficulty.

MR. CAPOZZOLI: (continuing) --financial difficulties, which would result in the inability on the part of the toll road authority to make its payment under its contract?

ASSEMBLYMAN CUPROWSKI: That could be part of it; but, to extend that, suppose they needed additional money?

MR. CAPOZZOLI: The toll road authority needed additional funds?

ASSEMBLYMAN CUPROWSKI: Yes, for whatever reason -- capital improvement, or whatever -- would they have the authority to enter into an agreement, without coming back to the Legislature to provide those funds, if that was their wish, and if they contractually agreed to do that?

MR. CAPOZZOLI: For this Authority to provide funds to one of the toll road authorities?

ASSEMBLYMAN CUPROWSKI: That's correct. Right now, it is the other way around.

MR. CAPOZZOLI: Yes. There is no authorization, as far as I know, under this legislation which would permit that kind of an arrangement.

ASSEMBLYMAN BRYANT: I guess, to follow up on that, he is asking if there is any prohibition?

MR. CAPOZZOLI: Well, I think the prohibition is in the specificity on how the funds are to flow through this Authority. In other words, we specifically set forth that appropriations are made by the State to this Authority. Then, in turn, it specifically states that funds are then paid over to the special trust fund held by the State Treasurer, upon certification of the Commission as to the need.

There is no provision here for those dollars to flow in any other manner, so I would have to say under this legislation that would not be possible -- at least as it is now drafted.

ASSEMBLYMAN GILL: But, there is nothing to inhibit one of the highway authorities from asking for, and looking for, generation of more moneys, so long as their contractual arrangements with the Department of Transportation are met?

MR. CAPOZZOLI: You say nothing would prohibit it. I am saying, as a practical matter, it would not be able to flow in that manner. The way it is now drafted, all funds are going to flow through this Authority, back to the State, into that special transportation fund. There is no other flow out, as it is presently drafted.

ASSEMBLYMAN GILL: Okay. Thank you.

ASSEMBLYMAN BRYANT: Are there any further questions? (negative response) Thank you very much, Mr. Capozzoli.

MR. CAPOZZOLI: Thank you very much for your attention.

ASSEMBLYMAN BRYANT: Would anyone else like to testify at this hearing?

ASSEMBLYMAN MARKERT: I think I might like to add, Mr. Chairman, that if there is someone in the audience from the financial end of this who could give us a little input as to how acceptable these bonds might be, and just what rating they might have-- Since we have had so many questions along those lines this morning and both of the people who addressed us stated that they were not in the financial market and they could not accurately give us that information, I think maybe this is what we should look at right now.

ASSEMBLYMAN BRYANT: Mr. Markert, I just asked if anyone wanted to testify. If anyone wants to testify, they can. A public hearing is not held to force people to testify. If someone wants to testify, please come forward.

ASSEMBLYMAN MARKERT: Well, I would like to have someone from the financial market come before us because I do have some questions, if is anyone is willing to come forward.

(At which time two gentlemen from the audience volunteer to testify)

MARK MEYERS: Mr. Chairman, my name is Mark Meyers. I am from Dilon Reed.

ASSEMBLYMAN BRYANT: You are from where?

MR. MEYERS: Dilon Reed.

THOMAS BOUST: I am Thomas Boust, from Bear Stearns and Company.

ASSEMBLYMAN MARKERT: Do you gentlemen have a preped text? You have come with nothing, correct -- just information that we might be looking for?

MR. BOUST: We are here to answer your questions.

ASSEMBLYMAN FOY: Before you start, I realize you are with these companies. I assume you are not clerks, or whatever. Tell us a little bit about your background, so we know who is speaking.

ASSEMBLYMAN BRYANT: That would be helpful.

MR. MEYERS: I am Vice President of Dilon Reed. I have been with them for ten years. I am in the municipal finance area.

ASSEMBLYMAN BRYANT: What do you do, municipal finance?

MR. MEYERS: Municipal finance.

ASSEMBLYMAN BRYANT: Not state finance, but municipal finance?

MR. MEYERS: State tax-exempt finance.

ASSEMBLYMAN BRYANT: Okay.

MR. BOUST: I am also part of the Public Finance Department at Bear Stearns. I have been with Bear Stearns approximately a year and three-quarters. Before that, I had public sector experience with New York State.

ASSEMBLYMAN BRYANT: Do you have any testimony for us at all concerning the issue of finance?

MR. MEYERS: I have no prepared remarks.

MR. BOUST: We would be happy to answer your questions.

ASSEMBLYMAN BRYANT: You just want to answer questions? Fine. We are open for questions.

ASSEMBLYMAN MARKERT: Thank you, Mr. Chairman. Gentlemen, I don't know how long you have been sitting in the room, but I guess you heard some of the questions that have been asked on the financial end, that both the Commissioner and the lawyer who was before us were able to answer. Can you give us any input, or any enlightenment, with reference to how these bonds would be accepted on the bond market? With the Triple A Rating New Jersey now enjoys, would that be affected? Would our current rate be affected? Just what would be the effectual rate of these bonds, and how acceptable would they be under this particular Legislature, as it is established?

MR. BOUST: Could you break that question into a couple of pieces, and ask one at a time? That one slid by me.

ASSEMBLYMAN BRYANT: If you can figure out the question, answer it.

MR. MEYERS: I think you heard testimony today about this proposal. The type of financing that is being proposed here is not something that is brand new. It has been done in other places, and with really significant and large issuers. It has been a very recognized vehicle in the financial markets.

ASSEMBLYMAN BRYANT: Maybe you can give us an idea of how it has been done.

MR. MEYERS: The MTA transaction -- the service contract bonds, which have been discussed here earlier -- and the Building Authority that you have here in New Jersey are not too dissimilar.

I take it you have also heard comments today, regarding the rating agencies views, from the Commissioner as well as Mr. Capozzoli. I think what they said was accurate, in terms of how the rating agencies would view this bond, vis-a-vis a general obligation rating. In essence, it would be one notch below it.

So, I think the way it is set up, you are not breaking absolutely new ground. The market has seen this type of instrument before, and it has bought this type of instrument before. You will be going out with a type of instrument which, in all likelihood, will be rated Double A, which is a highly-marketable piece of paper on the municipal market.

ASSEMBLYMAN BRYANT: How much does that cost in percentage points?

ASSEMBLYMAN FOY: Yes. What is the difference in percentage points from Triple A down to Double A?

MR. MEYERS: Probably around one-quarter.

ASSEMBLYMAN FOY: A quarter of a point is all?

MR. MEYERS: Yes.

ASSEMBLYMAN BRYANT: Is it possible for either of you gentlemen to be available on the 21st?

MR. MEYERS: I can be available.

ASSEMBLYMAN BRYANT: This conference room has to be vacated by twelve o'clock, because someone else is going to use it. What I am thinking about doing is to take the first half hour on the 21st -- prior to the truckers' testimony -- and ask these gentlemen if they

can come back on that date at nine o'clock for further questioning. I am only doing this because this room has to be utilized at this time.

We will dismiss this hearing until the 21st, and the first priority will be to finish our questioning on the financial end of this issue. It seems as though you are the only two left that we want to ask questions of. We will then start with the testimony of the trucking industry.

ASSEMBLYMAN FOY: Will that be in this room, Mr. Chairman?

ASSEMBLYMAN BRYANT: I am not sure. We will send notices to the members of the Committee regarding the location.

This hearing is now concluded.

**(Hearing Concluded)**



