



POLICYPOINTS

Quick facts from the Commonwealth Foundation

Act 44 & Transportation Funding

In July 2007, the Pennsylvania General Assembly passed and Governor Ed Rendell signed Act 44. This legislation authorized the Pennsylvania Turnpike Commission (PTC) to increase tolls on the Turnpike; to enter into a lease agreement with the Pennsylvania Department of Transportation (PennDOT) to take control of Interstate 80; to begin tolling Interstate 80; and to issue billions of dollars in bonded debt. Following are some answers to frequently ask questions about Act 44 of 2007 and transportation funding.

Act 44 of 2007: Transportation Funding

The November 2006 report issue by the Pennsylvania Transportation Funding and Reform Commission (PTFRC) recommended:

*“**no additional funding** should be provided for highways, bridges and transit unless a series of parallel actions are taken to reform funding structure and a number of transportation business practices.”*

- ◆ **Act 44 provided additional funding without any reforms being enacted or mandated.**

Act 44 provides **less than half the funding needed for roads, highways, and bridges**, according to the PTFRC report.

- ◆ The PTFRC report recommended an increase of ***\$1.7 billion in annual funding*** for transportation infrastructure needs—\$965 million for roads, highways, and bridges, and \$760 million for mass transit.
- ◆ Act 44 provides ***only \$750 million***—\$450 million for roads, highways, and bridges, and \$300 million for mass transit—in FY 2007-08, and an average of only \$946 million over the next 10 years.
- ◆ Act 44 funding increases are unlikely to keep pace with inflation.
- ◆ Additionally, these funding projections are predicated on federal approval for tolling I-80.

Act 44 will generate **only \$450 million annually—less than one-fourth the identified need of \$1.7 billion**, if the Federal Highway Administration does not approve the tolling of I-80 (see below).

- ◆ **Roads, highways, and bridges will receive only \$200 million** in additional funding—*only one-fifth the identified need of \$965 million.*
- ◆ **Mass transit will receive only \$250 million** in additional funding—*less than one-third the identified need of \$760 million.*

I-80 Tolling Contingent on Federal Approval

The tolling of I-80 requires approval from the Federal Highway Administration (FHWA). The PTC and PennDOT applied for approval in October 2007 under the Interstate System Reconstruction and Rehabilitation Pilot Program (IRRPP). However, **there are several reasons to doubt the plan will receive approval.**

- ▶ There are *only three slots available* under the IRRPP; two have already been approved and other states have already applied for the third.
- ▶ Under the IRRPP, toll revenue can only be used “for the project’s debt service, providing a reasonable rate of return on investment to any private person financing the project, and costs for the improvement, operation and maintenance of the facility.” This restriction would **not allow the use of I-80 tolls to subsidize other roads and mass transit agencies, as required under Act 44.**
- ▶ An October 17, 2007 letter from the FHWA to PennDOT Secretary Biehler and PTC Executive Director Brimmeier notes that six other interstate facilities have been selected for “national prioritization” under the “Corridors of the Future” program.

Are I-80 Tolls Going to Mass Transit?

The Turnpike Commission’s claim that I-80 tolls will not fund mass transit systems in Philadelphia and Pittsburgh is misleading. Act 44 funding comes from three sources of revenue from the Turnpike Commission:

1) Tolls on I-80, 2) Higher tolls on the Turnpike, and 3) bonds.

If the federal government does not approve tolling I-80, the Act 44-created “Public Transportation Trust Fund” will receive less funding each year without tolling I-80.

Act 44 Funding for Mass Transit				
Fiscal Year	With I-80 Tolling	Without I-80 Tolling	Difference	
2008	\$300,000,000	\$250,000,000	\$50,000,000	
2009	\$350,000,000	\$250,000,000	\$100,000,000	
2010	\$400,000,000	\$250,000,000	\$150,000,000	
2011	\$410,000,000	\$250,000,000	\$160,000,000	
2012	\$420,250,000	\$250,000,000	\$170,250,000	
2013	\$430,756,250	\$250,000,000	\$180,756,250	
2014	\$441,525,156	\$250,000,000	\$191,525,156	
2015	\$452,563,285	\$250,000,000	\$202,563,285	
2016	\$463,877,367	\$250,000,000	\$213,877,367	
2017	\$475,474,301	\$250,000,000	\$225,474,301	

Source: Pennsylvania Turnpike Commission, Summary of Lease and Funding Agreement, www.paturnpike.com/i80

Over the next ten years, mass transit would receive an average of \$414 million annually if I-80 tolls are approved, but only \$250 million if tolling does not occur. Thus, **mass transit agencies get \$160 million more annually if tolls are permitted on I-80.**

Broken Legislative Process

Act 44 of 2007 passed with **inadequate vetting of the proposal.**

- ▶ A 2005 PennDOT study recommended *against tolling I-80 because there would be negative cash flow for the first 20 years.*
- ▶ There were no committee hearings, no public discussions with lawmakers, and no opportunity for the public to weigh in on Act 44.

- ◆ There were **no studies conducted on the impact of tolling I-80**, including diversion of traffic onto secondary roads or the economic impact on businesses along the I-80 corridor.
- ◆ A potential lawsuit alleging violations of the Pennsylvania Constitution may overturn Act 44, forcing the General Assembly and Governor to revisit the issue.

Controversy over Signing of I-80 Lease

According to Section 7, Paragraph 8915.3 of Act 44 of 2007, “The department and the commission shall enter into a lease agreement relating to Interstate 80 *prior to* October 15, 2007.”

- ◆ Media reports indicated that the lease agreement was finalized either on October 16 or late into the night on October 15, *neither of which complies with the statutory deadline*.
- ◆ In the rush to finish the contract, PennDOT and Turnpike officials failed to properly review the deal and protect the public interest. According to the *Philadelphia Inquirer*, “The agencies said their lawyers had **continued to work on details** of the contract **after** Transportation Secretary Allen Biehler and Turnpike Commission chairman Mitchell Rubin **signed it Saturday** [October 13].” [emphasis added]

Alternative to Tolling I-80: Benefits of Leasing the Turnpike

In contrast to the many pitfalls of Act 44, leasing the operation and maintenance of the Pennsylvania Turnpike to a private contractor can provide many advantages. Unfortunately, the idea of leasing the Pennsylvania Turnpike was never considered in either the House or Senate. The following are just some of the benefits of a Turnpike lease.

Lower Tolls on Turnpike

- ◆ Act 44 empowers the Pennsylvania Turnpike Commission to raise tolls on the Turnpike **by 25% in 2009 and 3% every year thereafter**, as well erect toll plazas on the currently untolled Interstate-80.
- ◆ Tolls **can be restricted** under a Turnpike lease agreement. Lawmakers could insist on toll increases equal to—or even less than—those allowed under Act 44.

More Money for Transportation Needs

- ◆ A Morgan Stanley report indicated that a Turnpike lease would generate \$1.2 to \$1.6 billion, up to **twice the amount of funding provided under Act 44**, without tolling I-80 or increasing bonded debt.
- ◆ Reports indicate that potential bidders could value a Turnpike lease at over \$30 billion dollars—about 67% higher than the Morgan Stanley estimate—potentially generating **\$2.1 to \$2.7 billion** annually for the state, which is more than **three times the amount provided under Act 44**, without tolling I-80 or increasing bonded debt.

Earning Interest Rather than Paying Interest

- ◆ Upfront cash from a turnpike lease could generate **billions in interest** each year.
- ◆ Under Act 44, taxpayers and motorists will pay **\$11 billion in interest alone**.

Reduced Taxpayer Risk, Lower Taxes

- ♦ **A lease shifts the financial risk from taxpayers to the private-sector partner.**
 - ♦ If the Turnpike Commission fails to generate the expected toll revenues from the Turnpike and I-80, *taxpayers will be forced to make up the difference.*
 - ♦ The Turnpike Commission began borrowing *before* all revenue streams were assured, placing the taxpayers at even greater risk.
- ♦ **A gas tax increase may be necessary** to pay back Turnpike bonds that are leveraged against the Motor License Fund if the federal government denies permission to toll I-80 tolling.
 - ♦ *Even with the tolling of I-80, a gas tax increase may be necessary* because Act 44 fails to fully fund Pennsylvania transportation infrastructure needs.

“In-Sourcing” of Jobs and Foreign Capital

- ♦ **Concerns about foreign-based companies leasing the Turnpike are overblown.**
 - ♦ Instead of “out-sourcing” capital and jobs to foreign countries, a lease of the Turnpike would “in-source” capital and jobs to Pennsylvania.
- ♦ **Pension funds of lawmakers, state workers, and school teachers** are among the financial interests looking to invest in public-private partnerships.
 - ♦ In our global economy the difference between foreign and domestic companies is blurred—many shareholders of “foreign companies” live in the U.S. and Pennsylvania.
- ♦ In addition to the lease fee paid to the state, a private operator would **hire Pennsylvania workers, contract with Pennsylvania contractors, and pay Pennsylvania taxes.**
 - ♦ A foreign operator would have strong financial interest in ensuring security and safety on the Turnpike.
 - ♦ The lease agreement can require a high level of policing on the road, surveillance systems, and vetting of employees.

Eliminating the Patronage-Ridden Turnpike Commission

- ♦ The Pennsylvania Turnpike Commission has a well-documented record of being a **patronage playground for politicians**, which has resulted in significant waste, fraud, and abuse. A lease of the Turnpike would eliminate many of these problems.
- ♦ In 2005, approximately 2,300 people were employed by the Commission, including **about 500 middle managers (nearly one per mile of the Turnpike)**, many of whom were hired as political favors.
- ♦ According to published reports, Turnpike CEO Joseph Brimmeier hired *his son, a cousin, two sisters, the son of his godmother, the son of a county party chairman, and the son of a Congressman.*
- ♦ According to a 139-count federal indictment of Senator Vince Fumo, Turnpike consultant Mike Palermo—who earned \$220,000 over two years—apparently completed no work for the PTC, but did find time to **manage the senator’s 100-acre Harrisburg farm.**
 - ♦ The indictment also alleges that when he was no longer able to put his no-work contracts on the state senate payroll, Fumo *used the Turnpike payroll* instead.
- ♦ The Turnpike Commission used toll revenue to spend **\$26,000 per month lobbying state legislators** to pass Act 44, and spent **\$280,000 lobbying the federal government.**
- ♦ The Turnpike Commission has been **using toll revenues to buy radio and newspaper ads across the state to deflect criticism of I-80 tolling.**