Testimony of the

Public Employees Federation

DOT Executive Board Member

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to the

New York State Senate Transportation Committee

Why Public Private Partnerships Are A Bad Deal for New Yorkers

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Mr. Chairman, my name is Edward Lucas, DOT Statewide Labor/Management Representative of the New York State Public Employees Federation.

We represent more than 56 thousand workers including 4,500 in the State Department of Transportation.

First, I want to thank you for the opportunity to address the important issue of Public Private Partnerships.

It is tempting to believe that a public private partnership would produce massive new funds for infrastructure construction. But that is a false promise.

There is no such thing as free money. In the end someone has to pay. And, when there are private investors or corporations this also means there is also the need for a monetary return on their investment. You can use nice words to describe it, but the fact remains, the source of revenue for transportation projects will always be the same- either taxes or tolls.

Today's buzzword is partnership. The term evokes warm and fuzzy feelings about cooperation and a sense that it is a smart way to save tax dollars while providing a profit for the private sector. A win-win situation.

But the reality is very different. History shows us that time after time, public-private toll road projects mean higher cost to all of the taxpaying public, but especially to those who rely on the roads for their livelihoods.

I would like to address today three dangers of PPPs. The potential to default, non-compete clauses and, finally, high costs.

Although not all of these were transportation projects, a global study of PPPs done by the analyst Dexter Whitfield showed that some 1,000 PPPs, valued at a half a trillion (with a "T") dollars, failed or were radically reduced in the decades since PPPs first became popular in the 1970s and 1980s.

Whitfield writes – and I quote – "there is now a significant evidence base to show that most PPP projects have little or no democratic control or transparency, are costly, (provide) poor value, lack innovation and flexibility, reduce employment and erode public service values. "

Whitfield reports that there were 58 PPP failures in Europe, North America and Australia in recent years, the majority occurring between 2000 and 2008 with more than a third of which were transportation projects, according to his book, the "The Global Auction of Public Assets."

"There have been further PPP failures since I completed the book in late 2009," Whitfield told our researchers at PEF.

A 2006 Denver Post review of 23 new U.S. turnpikes nationwide found that a clear majority failed to meet the revenue projections used to justify the costs of building them. Eighty-six percent of new toll roads in eight states "failed to meet expectations in their first full year" and by their third year "75 percent – 15 of the 20 that have been open that long – remained poor performers. " The figures for actual use of the privately financed roads were off by "34.5 percent to 67.5 percent of their estimated traffic in their first year of operation" and reminded dramatically off in their third year.

One of the problem roads is the $200 million, 16-mile Southern Connector in Greenville, S.C. A road designed to steer traffic toward some private developers' planned projects, the Southern Connector opened just as a recession hit in February 2001, Business Week reported.

Eight years after it opened, the traffic on the Southern Connector was at 16,000 vehicles a day – or less than half of the 33,000 forecast in 1998 when the original forecasting was done.

When it filed for bankruptcy in 2010, the Southern Connector lacked sufficient revenue to reimburse the South Carolina DOT for anticipated maintenance and repairs.

Accumulated deficits on the connector are $163 million, and they are being added to at about 14 percent a year, according to Peter Samuel of TollRoadNews.

But the Southern Connector wasn't the only toll road that went bankrupt last year, according to Samuel, who is a policy fellow at the Reason Foundation and a strong supporter of toll roads.

The South Bay Expressway in San Diego went bankrupt March 22, 2010, after it became clear traffic and revenue would not support the debt incurred building the $635 million, 9 mile expressway.

On May 6, just 10 days ago, the newspaper *The Bond Buyer* reported that the Expressway has emerged from Chapter 11 with the taxpayers effectively taking a $73 million loss on the restructuring of the loans for this highway.

In both of these cases, it appears that the only parties that benefited were the financial advisors and investment firms that were paid at the front end of the deal.

In most of these cases, the failure was due to wildly optimistic predictions on the use of the toll roads.

But, as far as the taxpayer is concerned, a debt restructuring isn't the answer to the pain of a toll road. The Dulles Greenway in Virginia, a 14-mile $340 million, defaulted on its loans in 1996. In 2005, an Australian firm bought the Greenway and raised the average toll from about $2 dollars to roughly $3.50, or a 75 percent hike, in its first five years of ownership.

I would like to point to one PPP that is especially horrific: The 2008 lease of Chicago parking meters.

In August of last year, Bloomberg Businessweek reported that Chicago drivers will pay the private parking meter contractor more than $11.6 billion in parking fees over the 75-year contract of the franchise. That is more than 10 times the $1.15 billion the City of Chicago received for the parking franchise in 2008.

Who bought the parking franchise? Why a partnership made up of the investment bank Morgan Stanley.

Businessweek called it "A Windfall for Investors, A Loss for Chicago."

The deal illustrates how Wall Street banks, recipients of more than $300 billion in bailouts in the worst financial meltdown since the Great Depression, are profiting by selling bonds and leasing public properties, according to Businessweek.

But there are many other problems with this so-called "free market" solution to our infrastructure problems.

In July 2008, the Denver Post reported that Coloradans were shocked to learn that the private contractors who leased the 8-mile Northwest Parkway for 99 years could put a halt to improvements on public roads that the private businessmen thought might hurt the toll receipts on the Parkway.

This is done through "non-compete clauses," typical aspects of PPPs

Gregory Cohen of the American Highway Users Alliance warns that – and I quote – "Non-compete clauses are designed to prevent market competition from new roads and capacity improvements to nearby roads. The use of "non-compete clauses" brings into doubt the claim that privately-operated roads are "free market" innovations. Non-compete clauses effectively create monopoly-like restrictions to prevent competition."

In the case of Colorado's Northwest Parkway, contractors have the right to receive compensation for lost anticipated revenues if new roads or transit systems are built during the term of the 99-year contract.

This caused a Colorado state legislator to tell the Denver Post that "The purpose of toll roads is to augment state transportation infrastructure, not act as a roadblock to the construction of new transportation infrastructure in the northwest metro area."

In many cases throughout the nation, PPPs have been exactly that: a roadblock to the future.

There have been lease agreements in Chicago, Virginia and Indiana that range from 75 to 99 years. These are essentially leases that can't be changed in several generations. That means no competition for up to a century.

For others where the PPP is considered, the asset being sold or leased is the only viable transportation corridor in the area, one of the projects frequently mentioned is the Tappan Zee Bridge, which due to the limited number of points across the Hudson is already a virtual monopoly.

Finally, I want to address the cost of PPPs.

Many experts we talked to on the issue of PPPs, the American Trucking Associations, the American Highway Users Alliance and others, have pointed to the high cost of financing PPPs.

Privately financed road projects cost more to finance than publicly financed projects. This is because the cost of private bonds are higher than government, tax-exempt bonds.

Also, the private operator must make a profit, usually by charging higher tolls. The SOLE goal of a PPP is profit, not public service.

Finally, it is clear that PPPs will result in the greater use of private engineering consultants on State road and bridge projects for both design and construction inspection. This is exactly the opposite of what is needed to make our bridge and road construction dollars go further.

Numerous studies by the Office of State Comptroller and several independent groups that find DOT engineering consultants cost between 50 percent and 75 percent more than DOT engineers to do the same work.

The best example of state wasteful spending on engineering consultants is the bridge inspection program. Consultants hired by DOT for bridge inspection cost on average 94% more than state employed engineers to do the same work.

One of the main reasons why PEF opposes a public private partnership program is that it would only increase our reliance on more expensive consultant engineers. We calculate that DOT could save between $55 million and $83 million per year by reducing its use of consultants for engineering.

As I said before, it is tempting to believe that a public private partnership would produce massive new funds for infrastructure construction. But that is a false promise. There is no such thing as free money. The underlying source of revenue is the same- either tolls or taxes. Public financing and public design will produce better results at lower cost.

Thank you for the opportunity to present our point of view.