Privatization of the 'Pike?

New Jersey **hates** the idea of turning the Turnpike over to a **private** company. But does anyone really **understand** what that means?

By Tara Nurin

He was a controversial guy, that James Fenimore Cooper. The author of "Last of the Mohicans" turned off a great many of his 19th century readers by attacking them in his writings. But because he was a noted historical figure born in New Jersey, his memory is indelibly preserved and honored for future generations at the service area that bears his name between exits four and five northbound on the New Jersey Turnpike.

However, Cooper's prolific career and influential books don't seem to resonate with most 21st century Americans informally polled at his namesake rest area on a recent Sunday night.

"Who?" stuttered one middle-aged man as he shoved a french fry into his mouth while waiting for his Burger King dinner inside the cement and tile visitors building.

Some fraction of the turnpike's more than 200 million drivers use this rest area every year, stopping for refuge in the course of whatever journey brings them onto the 148-mile toll road. Judging from responses to this unscientific survey, many never give a minute's thought to how the turnpike's rest stops are named.

But the indifferent attitude switches dramatically when patrons are asked about New Jersey's possible willingness to relinquish control of the rest areas and the toll road itself—an option being explored as a way to rescue the state from financial ruin.

"It's a terrible idea," asserts Stacey Taylor, who was returning home to Pequannock after dropping her son at Rowan University. "The New Jersey Turnpike is one of the most well-run and safest roads in the state. Why would you want to give that up?"

But that may not matter to the state's decision makers. A controversial new financing mechanism unheard of a few years ago is already being road tested in Europe, Chicago and Indiana and has passed legislatures in 26 states. Pennsylvania governor Ed Rendell is advocating the idea as a funding solution for its transportation budgetary shortfalls, and New Jersey is on its way.

Like it or not, traversing the asphalt artery that has helped turn New Jersey into the butt of the nation's jokes for decades may never be the same.

Politicians call it "asset monetization" and reporters sometimes call it a "sale," "lease" or "privatization." But the most accurate and simple way to refer to it is a "public-private partnership" (PPP) and it's being considered for many of New Jersey's public holdings—including the Turnpike Authority's properties—as a way to reduce the state's intractable debt.

There are at least dozens of ways asset monetization can occur, but the most traditional formula calls for a private company to pay the state a large amount of money up front in return for the ability to collect the revenues the asset generates for the length of the contract. In the case of the Chicago Skyway and the Indiana Toll Road, the companies also took on the burden of managing the highways for 99 years and 75 years, respectively. Here in Jersey, while monetizing smaller assets like the lottery, for instance, may cause concern, it's the New Jersey Turnpike and the Garden State Parkway that are receiving the most attention. Deeply imbedded in the state's collective identity, all Jerseyans feel they own part of the turnpike too, and many fear the potential for lost jobs, higher tolls, or neglected maintenance that could ensue if a private company gets to rule the road upon which they rely. Not to mention, history has made them extremely skeptical of the financing gimmicks that have too frequently failed to deliver what their elected representatives had promised.

"If we don't deal with this huge debt, our state is going to fall behind economically and our quality of life will slowly deteriorate," warns

Senator Raymond Lesniak, (D-20), who has introduced a bill to allow any qualified private company to control the Turnpike Authority's assets for 50 years. "The damage will be irreversible unless we do something about it."

But Lesniak is traveling a lonely road. He couldn't find a single co-sponsor for his bill; just about every politico, consumer organization, newspaper editorial board and relevant industry lobbying group and labor union is strongly opposed; and an AAA poll released in March concluded that 56 percent of New Jersey adults

oppose the idea of partnerships for their toll roads.

Gov. Jon Corzine could turn out to be one of Lesniak's only allies. His administration is working on its own proposal for asset monetization, which may or may not include highways. As of press time, the governor was slated to announce a plan in late April or early May.

Although monetization's motor has just started to rev, it seems the state's politicians, radio commentators and consumer advocates are already trying to slam on the brakes. Lesniak complains that people across the state are so busy shouting down the very notion of PPPs, they don't listen to its proponents.

"They're just criticizing to gain political points," Lesniak accuses his adversaries. "Any time you try to do things the way they haven't been done, you're subject to ridicule. It's our responsibility to have a dialogue and a debate about it."

The general principles that guide the state's search for an economic bailout go something like this: It's widely acknowledged that for decades, New Jersey's elected officials have neglected to muster the political will to raise taxes, cut spending, restructure the budget or even increase tolls sufficiently. This leaves the state unable to fulfill many of its present and future obligations, and means taxpayers are on the hook for $30 billion to investors who buy the bonds the state sells in order to raise cash to pay for projects and programs that current revenues can't support. Furthermore, every year the state has to find $1 billion to pay down that bond principle, plus interest. Carrying this devastating debt is the reason some complain "NJ is borrowing from tomorrow to pay for today."

The state's financial condition is rapidly approaching critical, particularly for transportation needs. It takes $1 billion a year to run the Department of Transportation and NJ Transit, and to make up for their annual budget shortfalls, the state keeps increasing the length and dollar amount of the bonds it issues.

The NJDOT and NJ Transit get their money from the Transportation Trust Fund, which is filled principally by gas taxes, federal contributions and bond revenues. However, a majority of the most recently issued bonds come due in 2040 but the trust fund is projected to dry up in 2010. That's because legislators are borrowing against future gas tax revenues to pay for present transportation needs. Where will the money needed to pay back those bond holders come from?

On the other hand, the Turnpike Authority—a public authority headed by governor appointees—is economically self-sufficient. It oversees all aspects of the turnpike and Garden State Parkway, which it funds primarily with the $716 million in tolls it collects annually. But only its commissioners have the authority to raise those tolls, which it hasn't approved since 1999 for the turnpike and 1988 for the parkway. Because tolls aren't keeping up with inflation, it's getting harder for the authority to support itself, much less kick in its annual $22 million contribution to the Transportation Trust Fund, which, as stated earlier, will run dry in three years.

Desperate times call for desperate measures. That's why Lesniak and Corzine are eyeing the valuable turnpike hungrily for the immediate infusion of cash its monetization could provide.

"We have to maximize our assets that aren't yielding value under the current way we use them," Lesniak insists.

He's structured his bill so that a selected company will pay the state upfront (an amount he estimates to be roughly $15 billion) in exchange for the company's ability to collect toll revenue and operate the roads according to provisions specified in the signed contract.

As written, there are some restrictions in the bill: toll increases must be pegged to incremental cost of living increases; current workers must be retained for at least six years; the company will honor current contracts with the operators of the PNC Arts Center (which is owned by the authority) and the turnpike's service areas; and the company will be responsible for proper road maintenance

and security, for which the state will keep oversight and enforcement rights.

Revenues would be used immediately to replenish the Transportation Trust Fund and pay down the state's general debt, which, according to Lesniak and his few supporters, would free up other money to fund projects like education improvements and open space purchasing.

"What you're doing is eliminating yearly debt payments. $15 billion is going to go to reduce the debt of the state, which means every year we're not going to have to pay $1 billion in interest and principle," explains Lesniak.

If passed, the bill would only enable a contract to be pursued; passage would not guarantee that one would ever be signed.

Meanwhile, the state's Department of the Treasury is studying asset monetization too, so that it can recommend a plan of action to the governor. In order to best evaluate several distinct possible approaches, the department enlisted the analytical might of UBS Investment Bank. In a report released last October, UBS called the idea of monetizing the turnpike and parkway "very" or "extremely attractive" and cites a strong market environment for these endeavors.

But the treasury department cautions that it is too early to predict what course it might recommend, and stresses that if it does propose monetizing assets, it may include holdings beyond just roads, and may not include roads at all.

"We knew going in that roads were an obvious place to look. That doesn't mean we're going to do anything with them," states spokesman Mark Perkiss. "We've been surprised at some of the things that the analysts and our financial advisor showed us that had potential. They pointed out that there may be interest in the lottery. That was not something we had thought of in the beginning."

Senator Lesniak is at least partially okay with that. He acknowledges that privatizing the turnpike and the parkway alone probably won't raise enough money to cover all of the state's current debt, and concedes that his bill is just one part of the solution.

Even so, Lesniak forecasts his bill is doomed, even if it makes it out of the Senate Transportation Committee, where, as of press time, it was under debate.

"I think the prospects are slim and none right now," he admits. "It's so easy to avoid solving problems because change is so difficult."

The chairman of the General Assembly Transportation and Public Works Committee won't get to vote on Lesniak's Senate bill, of course. Nonetheless, he's launched a public relations war against allowing PPPs for transportation. He begins by attacking the economics behind them.

"The notion that there's a silver bullet, that there's a quick fix, is quite frankly the notion that has gotten us into these problems," chastises Assemblyman John Wisniewski (D-19). "We've dug ourselves a hole and to presume that there's a magical Wall Street fix to dig us out of that hole is preposterous."

"This is like taking out a second mortgage on your house to take a vacation," agrees David Schulz, director of Northwestern University's Infrastructure Technology Institute. "The vacation is done, your tan is faded and now you're stuck with a series of payments."

Another common objection is Lesniak's desire to use the windfall to pay for non-transportation expenses, something Schulz argues is "alarming," and contradictory to accepted public financing principles.

"These poor schmucks for the next 75 years will be paying their tolls on the Jersey Turnpike and they'll help us pay off the debt and there's absolutely no relationship between the transportation benefit that those individuals get and the benefit to the State of New Jersey," gripes Schulz.

A fairer solution, argues Abigail Field, Legislative Director for New Jersey Public Interest Research Group, would be to reinvest the profits back into transportation needs. But overall, her group is skeptical of asset monetization deals as a matter of budget policy, and is especially troubled by the types that seize public property from public control.

"The easiest way to retain public control is not to do a private deal at all," Field says.

Yet there are alternatives. "Just like a private company, the authority or the state could go to the capital markets with the forecasted toll revenues to raise the kinds of large upfront payments the governor is seeking," she says.

Included in Lesniak's bill is a stipulation that works off that premise. It's a financing mechanism he calls a "public-public partnership," and it would give the Turnpike Authority the right of first refusal to match a private offer. But public-public partnerships have infinite numbers of possible derivations, including one listed in a parallel bill introduced by Assemblyman Wilfredo Caraballo (D-29). The bill puts forth an idea that Lesniak believes will—in some form—ultimately triumph: the state's pension fund managers would invest in the turnpike in order to collect future toll revenues while leaving operations to the authority.

The assemblyman calls it a win-win situation that would raise long-term dollars for the pension fund and short-term dollars for the state to use to pay down its debt. "We need to pour in more money to the pension funds and maybe this would be one way to increase the rate of return. It would decrease the burden on the state taxpayers with respect to the amount we have to put into pension funds."

While NJPIRG isn't endorsing any of these approaches, Field believes these deals are less dangerous when they are purely financial and retain public control of the major thoroughfares that drivers must use to traverse the state and schlep their kids to the shore.

"Management of the turnpike wouldn't change in any way," she explains. "So you don't have any of these 'control of the turnpike' issues—the conflict between profit motives and public interest motives."

But transportation financing expert Dr. Joseph M. Giglio, professor at the College of Business at Northeastern University, counters that a smart contract would require state safety and maintenance audits every year and at the end of the lease term. Plus, he points out, a corporation has a stronger economic incentive to keep the roads safe and operable than do politicians. Neglecting maintenance, he asserts, would surely cut into profits.

"You know that if you buy a new car that if you don't change the oil every six months that your repair bill is going to be a lot larger," Giglio says.

But the length of the lease terms troubles him, and others, because any contract signed now could be rendered insufficient by changing demographics, as well as technological and safety advances that nobody can predict.

"Let's say they come up with a new road surface that is more expensive to lay down in the short term but turns out to be much safer—New Jersey might be willing to spend the extra bucks because it's saving its citizens' lives. Would a private entity make that same decision if it's going to cut into its profit margin?" Field asks.

These are undoubtedly scary questions with no concrete answers. Yet anyone who will ever travel the New Jersey Turnpike or the Garden State Parkway has a crucial stake in finding those answers. It is this balance that makes the journey to convince the public to privatize roads so wrought with peril.

It could be that the frenzied controversy will compel lawmakers to do what has historically come easier to them—defaulting to a politically expedient solution. One could call it a compromise or one could call it cowardice.

However one regards it, there is one alternative recommended by the UBS Bank study that will raise less money than monetizing the roads but will also raise less ire from voters: It's selling the naming rights to public assets like airports, arenas, and yes, the James Fenimore Cooper Service Area. ▪