

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

AGRICULTURE AND RURAL AFFAIRS  
COMMITTEE HEARING

STATE CAPITOL  
ROOM 60 EAST WING  
HARRISBURG, PENNSYLVANIA

THURSDAY, OCTOBER 22, 2009  
9:04 A.M.

PRESENTATION ON HOUSE BILL 1788  
PAYMENTS TO LOCAL TAXING AUTHORITIES

BEFORE:

HONORABLE MICHAEL K. HANNA, MAJORITY CHAIRMAN  
HONORABLE EUGENE DePASQUALE  
HONORABLE GARY HALUSKA  
HONORABLE TOM HOUGHTON  
HONORABLE DAVID R. KESSLER  
HONORABLE RICK MIRABITO  
HONORABLE JOSEPH PRESTON, JR.  
HONORABLE TIMOTHY J. SOLOBAY  
HONORABLE GORDON DENLINGER  
HONORABLE DAVID S. HICKERNELL  
HONORABLE DAVID R. MILLARD

ALSO IN ATTENDANCE:

HONORABLE BRYAN CUTLER

\* \* \* \* \*

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ALSO PRESENT:  
DIANE W. HAIN  
MAJORITY EXECUTIVE DIRECTOR  
DONNA J. DEDERT-CLARK  
MAJORITY LEGISLATIVE ASSISTANT  
ALYCIA M. LAURETI  
MAJORITY RESEARCH ANALYST  
KERRY L. GOLDEN  
MINORITY EXECUTIVE DIRECTOR  
JAY HOWES  
MINORITY POLICY DIRECTOR  
MARY E. GEIGER  
MINORITY LEGISLATIVE ADMINISTRATIVE ASSISTANT  
SHELLY K. WEAVER  
MINORITY LEGISLATIVE SECRETARY

DEBRA B. MILLER  
REPORTER

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## 1 P R O C E E D I N G S

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3 CHAIRMAN HANNA: Good morning, everyone.

4 Let me call this meeting of the House  
5 Agriculture Committee to order.6 I'm Chairman Mike Hanna, and I'm pleased to  
7 be here today for this hearing on House Bill 1788.8 As all of you know, this is a piece of  
9 legislation that would amend the Pennsylvania  
10 Farmland and Forest Land Assessment Act of 1974, more  
11 affectionately known as Clean and Green.12 The Clean and Green preferential assessment  
13 law has been in effect for several decades now, and  
14 while it has, I think, achieved its purposes in a lot  
15 of ways, a lot of questions have arisen about it, and  
16 today's hearing is an opportunity to address at least  
17 some of those questions.18 So I'm pleased to have all of us here today,  
19 and I will at this time turn it over to the  
20 Republican Chairman-designee, Bryan Cutler, who is  
21 also the prime sponsor of the legislation.22 So we'll give Bryan an opportunity to  
23 explain his bill. Bryan.24 REPRESENTATIVE CUTLER: Thank you, Chairman  
25 Hanna. Thank you, members of the Ag Committee.

1 I would like to start by thanking everyone  
2 for their time and their interest and that you would  
3 even be willing to hold a hearing on House Bill 1788  
4 and the financial impacts of 319.

5 I would like to also begin by saying that I  
6 believe Clean and Green is a good program, borne out  
7 of good intentions. The intent of the program is to  
8 preserve farmland and open space and also reduce the  
9 tax burden associated with maintaining these large  
10 tracts of land.

11 Without a doubt, a lack of development does  
12 result in lower populations and lower overall school  
13 costs for everyone involved. However, the lower  
14 enrollment is not just an overall savings to local  
15 taxpayers through reduced overhead and building  
16 costs.

17 The part that I believe is missed is that  
18 the Commonwealth also benefits from the lower  
19 enrollments, since their overall educational  
20 expenditures are lower for these areas.

21 Additionally, I believe that there are other  
22 positive impacts for the Commonwealth with the  
23 Clean and Green enrollment.

24 With the issues surrounding the Chesapeake  
25 Bay Initiative, the Commonwealth is responsible for

1 hitting certain environmental goals, and I believe  
2 that larger tracts of land play an important part of  
3 this in that they allow for stream buffers and other  
4 environmental monitoring and improvements.

5           Without Clean and Green, I believe that some  
6 of these tracts of land might be developed and  
7 contribute to the pollution instead of alleviating  
8 it.

9           There are certainly areas of the act that  
10 could be improved, such as the mini-estates that are  
11 popping up and qualify for the exemptions based  
12 solely on the letter of the law but probably not the  
13 intent.

14           While these areas are equally important, I  
15 am asking the Legislature to direct our attention to  
16 another important issue which is more mechanical in  
17 nature, and this issue is how the school districts  
18 actually make up the loss in revenue associated with  
19 the Clean and Green process and the cost shifting  
20 that occurs.

21           This issue was first brought to my attention  
22 by our local school districts. You will hear from  
23 them a little bit later, so I won't go into great  
24 detail about the specifics and their individual  
25 school districts.

1           However, I will say this: In researching  
2 the issue, they are intimately familiar with it, and  
3 in making my rounds in developing the legislation, I  
4 would say that they are the experts.

5           There is no greater teacher than being  
6 required to fund school districts and their  
7 operations with a smaller and shrinking tax base.

8           I will confess that I'm probably most  
9 familiar with the impacts on my tax bill, which is  
10 approximately 27 percent higher due to the cost  
11 shifting that occurs, and there will be a little bit  
12 more detail in that as we hear from the local school  
13 district manager later.

14           I believe that all communities can and  
15 should bear a portion of the financial responsibility  
16 associated with this program since we are the ones  
17 who directly benefit from it.

18           House Bill 1788 would only become effective  
19 when school districts lose more than 10 percent of  
20 their assessed value due to the Clean and Green  
21 Program.

22           I believe that this is a reasonable amount  
23 of the local share for the program, but I also  
24 believe that a State program should be primarily  
25 funded by the State.

1           However, as in some cases we will hear about  
2 today, there are some communities that bear a  
3 disproportionately large number of these properties  
4 and their boundaries and, as a result, have to shift  
5 a larger portion of their taxes to those nine  
6 Clean and Green properties.

7           To put it in perspective, I would like to  
8 use a comparison that I think we are all familiar  
9 with and an issue that we dealt with earlier in the  
10 session.

11           Recently, we dealt with the issue of  
12 tax-exempt properties within city boundaries, and I  
13 certainly think that is an area that primarily  
14 affects those urban areas. I think it's important,  
15 and I also think it needs addressed.

16           However, when you compare the tax revenue  
17 that is lost through tax-exempt properties plus  
18 Clean and Green that is lost -- for example, in the  
19 Solanco School District, which is my local area,  
20 when compared to the city of Lancaster, Solanco  
21 actually loses a larger percentage of their tax base  
22 when compared, point on point, 34 percent versus  
23 25 percent.

24           Each area is equally impacted by the loss in  
25 revenue. I understand that the inner city has other

1 educational issues that come with it, so we are not  
2 asking to be put on par with them. We are simply  
3 asking for the attention to be given to the issue so  
4 that those rural school districts that are most  
5 affected by Clean and Green could also have some  
6 increase in their overall funding that's available  
7 for their school districts.

8           Earlier in the year, we were successful in  
9 getting an amendment into House Resolution 334 that  
10 will do an overall assessment of the program on local  
11 tax bases and the impact of Clean and Green.

12           I'm anxious to see the results and will  
13 share them with all of the members as soon as it is  
14 completed.

15           And I also know that since this bill would  
16 have a financial impact on the Commonwealth, that  
17 it's unlikely to be considered in the immediate  
18 future due to financial constraints imposed by the  
19 budget.

20           However, as we await the results from the  
21 LBFC assessment and ride out the economical concerns  
22 of the near future, I ask that our members be mindful  
23 of the impacts of this great program, and if our  
24 financial situation improves, that we can hopefully  
25 resolve this issue in the not too distant future.

1           In closing, I believe that Clean and Green  
2 is a great program and is integral for our long-term  
3 goals of directing growth to logical areas, as well  
4 as hitting the Chesapeake Bay Compact goals.

5           I also know that there are many local school  
6 districts that are negatively impacted by this loss  
7 in tax revenue. Under the current formula and  
8 program, the school districts are not the only  
9 benefactor, but they are the only person who pays the  
10 bill.

11           I appreciate the members' time and interest  
12 in the topic. I appreciate Chairman Hanna graciously  
13 holding the hearing on this issue, and I look forward  
14 to hearing the other testimony and suggestions that  
15 the other presenters will have and hope that we can  
16 move this issue forward in the upcoming legislative  
17 cycles.

18           Thank you, Mr. Chairman.

19           CHAIRMAN HANNA: Thank you, Chairman Cutler.

20           It has a nice sound, doesn't it, that  
21 "Chairman Cutler"?

22           REPRESENTATIVE CUTLER: It does, but I won't  
23 get too used to it, Mr. Chairman.

24           Thank you.

25           CHAIRMAN HANNA: Well, at least for the day.

1           I was remiss in starting without allowing  
2   our members to introduce themselves, and we'll  
3   start with Representative Kessler over on the far  
4   right.

5           REPRESENTATIVE KESSLER: Representative  
6   Kessler, Berks County.

7           REPRESENTATIVE PRESTON: Representative  
8   Joe Preston, Allegheny County.

9           REPRESENTATIVE DENLINGER: Representative  
10   Gordon Denlinger, eastern Lancaster County.

11          REPRESENTATIVE HICKERNELL: Dave Hickernell,  
12   Lancaster and Dauphin Counties.

13          MR. HOWES: Jay Howes, House Republican  
14   staff.

15          REPRESENTATIVE CUTLER: Hi. Good morning.  
16   Bryan Cutler, 100th District, southern Lancaster  
17   County.

18          MS. HAIN: Diane Hain, Executive Director of  
19   the committee.

20          REPRESENTATIVE HOUGHTON: Tom Houghton,  
21   southern Chester.

22          REPRESENTATIVE MILLARD: David Millard,  
23   Columbia County.

24          REPRESENTATIVE HALUSKA: Gary Haluska,  
25   Cambria County.

1           REPRESENTATIVE MIRABITO: Rick Mirabito,  
2 Lycoming County.

3           REPRESENTATIVE SOLOBAY: Tim Solobay,  
4 Washington County.

5           CHAIRMAN HANNA: Yes, go down through there.  
6 They need to know everybody that does all the work on  
7 this stuff.

8           MS. GOLDEN: Good morning. Kerry Golden,  
9 Minority Executive Director of the Ag Committee.

10          MS. LAURETI: Good morning. Alycia Laureti,  
11 Representative Mike Hanna's office.

12          MS. DEDERT-CLARK: Donna Dedert-Clark,  
13 Representative Hanna's office.

14          MS. GEIGER: Mary Geiger, Representative  
15 Maher's office.

16          MS. WEAVER: Shelly Weaver, Representative  
17 Maher's office.

18          CHAIRMAN HANNA: And I should note that  
19 Representative Maher, Chairman Maher, did notify us  
20 earlier of his conflict and had asked that  
21 Representative Cutler stand in as the  
22 Chairman-designee for today.

23                 Next, I would like to turn to Representative  
24 Tom Houghton. Tom is a cosponsor of this legislation  
25 and, like Chairman Cutler, has a district that seems

1 to be dramatically impacted by Clean and Green.

2 Tom.

3 REPRESENTATIVE HOUGHTON: Thank you,  
4 Mr. Chairman.

5 Yes, Bryan and I actually share Octorara  
6 School District, and you'll hear from Superintendent  
7 Dr. Tom Newcome in a little bit.

8 I would like to start out by saying that I'm  
9 a little tired today because my Phillies just won  
10 another National League pennant about 9 hours ago,  
11 and so I'm dragging a little bit today.

12 But with all joking aside, I would like to  
13 thank Chairman Hanna's staff and, of course, Chairman  
14 Maher's staff for putting this hearing together on  
15 such an important issue.

16 I would like to also commend Representative  
17 Cutler for taking on this legislation, House Bill  
18 1788.

19 I would also like to thank former  
20 Representative Art Hershey, my predecessor, for  
21 trying to tackle this issue just last session. And  
22 any Legislator with Octorara School District,  
23 Avon-Grove, Coatesville, and Oxford would be  
24 crazy not to be interested in pushing this  
25 legislation.

1           Let me just say that I'm a big supporter of  
2 Clean and Green. Saving farmland is not only  
3 environmentally sound, it is fiscally responsible.

4           Since 1950, Philadelphia has lost about  
5 500,000 to 600,000 people, and that was according to  
6 the 2000 U.S. Census. So suburban sprawl is  
7 essentially the result of that loss.

8           The rural townships and rural districts,  
9 legislative districts, an hour or 2 hours outside of  
10 the city, have really been impacted tremendously, as  
11 Bryan can attest to. In southern Chester County,  
12 sprawl has been a major issue.

13           And any developer will tell you, as they  
14 have told me from my 7 years on the board of  
15 supervisors -- and Representative Kessler can  
16 certainly attest to this in Berks County; Dave has  
17 been a supervisor for about 18 years, I think -- it  
18 costs about \$10,000 right now in Octorara to educate  
19 one child per year.

20           And any developer will tell you that the  
21 average household has about 2.3 children per  
22 household. That means Octorara will spend about  
23 \$20,000, \$25,000 per year to educate the children in  
24 one household but collect about 5 or 6 grand in  
25 property taxes. So schools are losing money

1 hand over fist as the homes come in.

2 So again, saving farmland. The best soil is  
3 right here -- well, not right here, but in southern  
4 Chester County, the best soils on planet earth,  
5 and again, it is fiscally responsible to save  
6 farmland.

7 Now, saying that I support Clean and Green,  
8 I do understand the impact to our schools, and  
9 Dr. Newcome will testify. And I don't want to steal  
10 his thunder, but essentially Octorara loses about  
11 \$5 million per year as a result of the preferential  
12 tax treatment under Clean and Green.

13 Now, Clean and Green is a great program  
14 because it is allowing us to save farmland and  
15 prevent sprawl, but again, there is an impact, and  
16 that is what we are here today to address.

17 And I want to commend again the staffs of  
18 both Chairmen, the Minority and Majority Chairman,  
19 and Representative Cutler for giving us the  
20 opportunity to discuss this issue today.

21 And I am a proud cosponsor of this  
22 legislation.

23 Thank you.

24 CHAIRMAN HANNA: Thank you, Representative  
25 Houghton.

1           With that, we'll move to our first  
2 presenter, and that is Director Doug Wolfgang. He is  
3 the Director of the Bureau of Farmland Preservation  
4 of the Pennsylvania Department of Agriculture.

5           Doug.

6           DIRECTOR WOLFGANG: Good morning. Thank  
7 you.

8           I have with me today Deputy Secretary  
9 Kilgore, who is going to introduce himself.

10          DEPUTY SECRETARY KILGORE: Good morning,  
11 ladies and gentlemen. It's a pleasure to be here.

12          Doug Kilgore, a farmer, a school board  
13 member and a county commissioner from York, and a new  
14 Deputy at the Department of Agriculture.

15          So it's a pleasure to be here with  
16 Doug Wolfgang, and I think we can offer some good  
17 testimony for your committee.

18          CHAIRMAN HANNA: Thank you.

19          DEPUTY SECRETARY KILGORE: Thank you.

20          DIRECTOR WOLFGANG: So Chairman Hanna,  
21 Representative Cutler, and distinguished members of  
22 the House Ag and Rural Affairs Committee, thank you  
23 for the opportunity to speak with you today.

24          My name, again, is Doug Wolfgang. I'm  
25 Director of the Bureau of Farmland Preservation and

1 have the responsibility of administering the  
2 Clean and Green Program at the State level.

3           The department has two main functions  
4 related to Clean and Green. First, we distribute  
5 annual county-specific use values to the county  
6 assessors; and second, we provide for uniform  
7 interpretation and administration of the act.

8           The department works closely with county  
9 assessors on program issues as they arise. As you  
10 are aware, the Pennsylvania State Legislature enacted  
11 the program in 1974 as a tool to encourage protection  
12 to the Commonwealth's valuable farmland, forestland,  
13 and open spaces.

14           Landowners enrolled in the program are  
15 obligated to devote their land to agricultural use,  
16 agricultural reserve, or forest reserve in order to  
17 qualify for a lower property tax rate.

18           Landowners who exit the program are required  
19 to pay up to 7 years' worth of rollback taxes plus  
20 interest.

21           Currently, 55 of the Commonwealth's  
22 67 counties participate in Clean and Green. The  
23 program has been extremely successful in protecting  
24 farmland and has seen the enrollment grow to over  
25 8.5 million acres.

1           Now, land enrolled in the program is taxed  
2 according to its use value rather than its fair  
3 market value. This ordinarily results in a tax  
4 savings for the landowner.

5           The Department of Agriculture is required by  
6 statute to calculate and distribute the county  
7 assessors a use value by May 1 of each year.

8           The formula to calculate this value was  
9 established in consultation with the Pennsylvania  
10 State University College of Agricultural Sciences.

11           I have included a copy of the formula with  
12 my testimony.

13           A county assessor may establish use values  
14 for land-use subcategories that are less than the use  
15 values established by the department. A county  
16 assessor may use these lower use values in  
17 determining preferential assessment under the  
18 Clean and Green Program.

19           A county may not, under any circumstances,  
20 establish or apply use values that are higher than  
21 those established by the department.

22           The Commonwealth has seen the use values  
23 increase by 30 percent in the last 5 years. This can  
24 be attributed to a 10-year trend of higher production  
25 by county and a 10-year trend of lower interest

1 rates. Those are the two components of the  
2 formula.

3 Counties participating in Clean and Green  
4 have the option to either adopt the use values  
5 annually or to establish base-year values and only  
6 change those values if there is a countywide  
7 reassessment or the current-year values drop below  
8 those base-year figures. Counties may also develop  
9 values of their own.

10 The department believes that House Bill 1788  
11 keeps the goal and intention of the Clean and Green  
12 Program in focus, and for that we are appreciative.

13 However, we feel that this legislation could  
14 potentially shift the burden to Pennsylvania  
15 taxpayers and counties that have not been reassessed  
16 recently or that are not participating in Clean and  
17 Green.

18 By committing General Fund dollars, the  
19 burden for local tax issues becomes the  
20 responsibility of all taxpayers.

21 It has been observed that although Clean and  
22 Green reduces the amount of local tax revenue,  
23 farmlands, forestlands, and open spaces also place  
24 less demands for local services than do developed  
25 residential lands.

1           With many of the farmers in Pennsylvania  
2 facing financial difficulty, the answer for some has  
3 been to sell some or all of their land for  
4 development.

5           Clean and Green creates an incentive for  
6 landowners to continue to preserve the land for  
7 agricultural use, and this, in turn, eliminates the  
8 burdensome need to implement and develop the  
9 necessary services that local governments are forced  
10 to supply to an increase in population caused by the  
11 access to development.

12           Thank you again for the opportunity to speak  
13 with you and to discuss the positive aspects of  
14 Clean and Green.

15           The program has provided for property tax  
16 savings for our farmers and has allowed them to  
17 reinvest those dollars into their farming operations,  
18 keeping the farms viable and productive. With  
19 millions of acres enrolled statewide, the benefit  
20 to the farming community is far-reaching and  
21 immeasurable.

22           And I will be happy to answer any questions  
23 at this time.

24           CHAIRMAN HANNA: Thank you, Director  
25 Wolfgang.

1           Doug, if I could ask, you mention in your  
2 testimony that the legislation could potentially  
3 shift the burden to Pennsylvania taxpayers and  
4 counties that have not been reassessed or that are  
5 not participating in Clean and Green.

6           You indicated earlier that 55 of the  
7 67 counties do participate.

8           DIRECTOR WOLFGANG: Correct.

9           CHAIRMAN HANNA: How about the reassessed?  
10 Is there any evidence of that, of how---

11           DIRECTOR WOLFGANG: Do you mean the counties  
12 that participate in Clean and Green but don't have a  
13 current reassessment?

14           CHAIRMAN HANNA: Right.

15           DIRECTOR WOLFGANG: So in other words, the  
16 savings for, like, I will use an example of Columbia  
17 County where it has been quite a few years since they  
18 have had a reassessment. The savings for property  
19 owners is going to be dramatically less than in a  
20 county with a newer reassessment.

21           Really, it's across the board. The  
22 counties with the newer reassessment obviously are  
23 going to be, we would think, would be more eligible  
24 for this program than those that have an aging  
25 reassessment.

1           So that would just be our sense anyway.

2           CHAIRMAN HANNA:   Okay.

3           It is my understanding that there is  
4 legislation introduced by someone to require  
5 reassessment, but current Pennsylvania law does not  
6 require any timeline on reassessment.  Am I right?

7           DIRECTOR WOLFGANG:  That's my understanding;  
8 correct.

9           CHAIRMAN HANNA:  All right.

10          DIRECTOR WOLFGANG:  Usually a reassessment  
11 in a county will come about as a result of a  
12 lawsuit.

13          CHAIRMAN HANNA:  Right.  Okay.

14          Chairman Cutler, questions?

15          REPRESENTATIVE CUTLER:  Thank you, Chairman  
16 Hanna.

17          In regard to the formula that is utilized  
18 for the use value---

19          DIRECTOR WOLFGANG:  Yes.

20          REPRESENTATIVE CUTLER:  And I just had this  
21 recently brought up to me, and I thought it was a  
22 good question.

23          Understanding that commodity prices have  
24 raised significantly recently---

25          DIRECTOR WOLFGANG:  Yes.

1           REPRESENTATIVE CUTLER: ---or the use or the  
2 utility value has obviously went up, what happens if  
3 we find ourselves in a situation like now where the  
4 potential for the commodity price is to drop?

5           DIRECTOR WOLFGANG: Correct.

6           REPRESENTATIVE CUTLER: Is there still a  
7 negative reassessment that would occur, or is it once  
8 you are locked in at a level, you are stuck there?

9           DIRECTOR WOLFGANG: Well, Representative,  
10 the way that the formula works is we use 10 years'  
11 worth of production data and 10 years' worth of  
12 interest rates.

13           The most recent years' worth of production  
14 data we use for the 2009 use values are 1997 through  
15 2007. And so there are some years there of very high  
16 production numbers, value of production.

17           Our sense is that over time, as the economic  
18 downturn is reflected in the data that we use in the  
19 formula, the values should level off to some degree.

20           We don't know that for sure, because we  
21 won't know if the interest rates are, you know,  
22 leveling off. Or if the interest rates start  
23 increasing again, then the use values, that will also  
24 result in the use values going down.

25           REPRESENTATIVE CUTLER: Okay.

1           DIRECTOR WOLFGANG:  So the two factors --  
2   the production and the use values.

3           But to answer your question, the reason that  
4   isn't realized right now is because it takes time for  
5   that data for this economic downturn to be reflected  
6   in the formula.

7           REPRESENTATIVE CUTLER:  All right.  Thank  
8   you.

9           DIRECTOR WOLFGANG:  Sure.

10          CHAIRMAN HANNA:  Representative Houghton.

11          REPRESENTATIVE HOUGHTON:  Mr. Wolfgang,  
12   thank you for your testimony.

13           I just have a comment concerning the top of  
14   page 2 of your testimony---

15          DIRECTOR WOLFGANG:  Okay.

16          REPRESENTATIVE HOUGHTON:  ---where you  
17   indicate that this legislation, Representative  
18   Cutler's legislation, potentially has a shift burden  
19   to Pennsylvania taxpayers in counties that do not  
20   participate in Clean and Green.

21           And I just want to say that, you know,  
22   agriculture is the number one industry in  
23   Pennsylvania.  And, you know, we used to have rain  
24   forests in this country, and of course we don't now,  
25   and we have an interest in this country to help

1 preserve rain forests -- in South America, for  
2 example. So we contribute funds as a general policy  
3 to help save rain forests.

4 And, you know, in terms of policy, I think  
5 that it is good policy for this Commonwealth to see a  
6 shift in tax burden. So if an area, a district that  
7 doesn't have any rural communities, if they have a  
8 shift in tax burden because the State is going to  
9 refund some money to school districts, like Octorara,  
10 for example, to encourage them, encourage their  
11 landowners to preserve their agricultural lands, I  
12 think that is good policy.

13 CHAIRMAN HANNA: Thank you, Tom.

14 Representative Solobay.

15 REPRESENTATIVE SOLOBAY: Thank you,  
16 Mr. Chairman.

17 Doug, do you have a list with you or do you  
18 know them off by heart the counties that are not  
19 participating in Clean and Green in the Commonwealth  
20 right now?

21 DIRECTOR WOLFGANG: Yes, I could certainly  
22 provide that information to you.

23 Generally the counties in southeast or  
24 south-central that don't are Lebanon and Franklin.  
25 Lebanon County is undergoing a reassessment right

1 now, or starting a reassessment, so they'll be  
2 participating in Clean and Green in the next several  
3 years.

4 And then there are a handful of counties in  
5 the northwestern part of the State that haven't been  
6 reassessed in recent years and they don't participate  
7 in Clean and Green.

8 REPRESENTATIVE SOLOBAY: Okay.

9 DIRECTOR WOLFGANG: All of the other  
10 southeastern counties, and now with the reassessment  
11 of Luzerne and Lackawanna County, the northeastern  
12 counties do participate.

13 REPRESENTATIVE SOLOBAY: How about out of  
14 the southwest?

15 DIRECTOR WOLFGANG: The southwest, there is  
16 very low enrollment in Westmoreland County---

17 REPRESENTATIVE SOLOBAY: Okay.

18 DIRECTOR WOLFGANG: ---because it has been a  
19 long time since they have had reassessment.

20 A high enrollment in Washington County. A  
21 fairly significant enrollment in Allegheny County.

22 Beaver County, I believe, has fairly low  
23 enrollment, and I think it's because of the data of  
24 their last countywide reassessment.

25 REPRESENTATIVE SOLOBAY: Okay. If you could

1 provide that list of the ones, I would appreciate  
2 that.

3 DIRECTOR WOLFGANG: Sure. Will do.

4 REPRESENTATIVE SOLOBAY: Thank you.

5 DIRECTOR WOLFGANG: Sure.

6 CHAIRMAN HANNA: Representative Millard.

7 REPRESENTATIVE MILLARD: Thank you,

8 Mr. Chairman.

9 Doug, you mentioned Columbia County---

10 DIRECTOR WOLFGANG: Yes.

11 REPRESENTATIVE MILLARD: ---and I wondered  
12 if you would share for the benefit of this committee  
13 what actually occurred there. You had a meeting in  
14 Columbia County, according to this formula.

15 DIRECTOR WOLFGANG: Sure.

16 REPRESENTATIVE MILLARD: And if you would  
17 also share with the committee any pending litigation  
18 concerning this formula.

19 DIRECTOR WOLFGANG: Yes.

20 Just to give you a background, in Columbia  
21 County, the department met with the county  
22 commissioners back in, oh, I believe it was September  
23 to discuss the current 2009 use values.

24 The use values have increased significantly  
25 this past year, and the county was concerned with

1 implementing those values because, you know, they  
2 felt they were too high and didn't reflect the  
3 current economic situation.

4 And, you know, we explained to the counties,  
5 similar to how I did to you all right now, about how  
6 in future years the economic data will be reflected  
7 in the values, and that, you know, the county's  
8 concern was if they implemented a base year, which  
9 the Clean and Green legislation allows them to do,  
10 that it wouldn't be defensible in the future.

11 So they were struggling with whether to  
12 implement the values and, you know, have a higher  
13 overall assessment for the farming community or to  
14 establish a base year and risk some sort of challenge  
15 to that. That was the struggle that the county was  
16 going through at that time.

17 Now, Columbia County has an older  
18 reassessment, and so the savings for the property  
19 owner is less significant than a county with a fresh  
20 reassessment would be.

21 REPRESENTATIVE MILLARD: Thank you.

22 Now, Mr. Chairman, I just wanted him to  
23 highlight what you mentioned and what Representative  
24 Cutler mentioned, that there certainly is a dilemma  
25 here.

1           And I'm not sure there's a silver bullet  
2 here, but a lot of other things have to be considered  
3 in this mix. So thank you.

4           CHAIRMAN HANNA: Thank you.

5           Anyone else with a question?

6           All right. We thank you and we appreciate  
7 your testimony.

8           Next we'll turn to Dr. Thomas Newcome,  
9 Superintendent, Octorara School District, as well as  
10 the Business Manager, Tim Shrom, from the southern  
11 Lancaster County School District.

12           DR. NEWCOME: Mr. Chairman, thank you for  
13 allowing us to speak this morning.

14           I'm Tom Newcome, Superintendent with the  
15 Octorara School District.

16           I'm actually going to ask Mr. Shrom to begin  
17 our discussion.

18           CHAIRMAN HANNA: All right. Thank you.

19           MR. SHROM: Deferred by the Superintendent.

20           Good morning, Mr. Chairman,  
21 Chairman-designee Cutler, and distinguished members  
22 of the House Ag Committee.

23           Good morning. I am Tim Shrom, Business  
24 Manager for Solanco School District, and in the  
25 spirit of disclosure, I have been at that school

1 district for 28 years.

2 I actually grew up on the border, almost  
3 right on the Octorara Creek, between Octorara and  
4 Solanco, so I know this area very well and actually  
5 pre-date Clean and Green on those issues.

6 We are located in southern Lancaster County,  
7 and we serve approximately 4,000 students in our  
8 180 square miles.

9 I am pleased to have this opportunity to  
10 present the information on the impact that Act 319  
11 has on our school district specifically and on many  
12 rural districts in general.

13 Public policy to protect and help save farms  
14 and open space is often debated from many viewpoints.  
15 However, generally it is a given that most reasonable  
16 people view such policies as a positive.

17 That said, in most rural areas, and  
18 including my district, most people do not understand  
19 the fiscal impact of those policies. And to this  
20 day, many farmers and Act 319 participants assume  
21 there is some big State pot of money that funds their  
22 significant tax reductions, and in reality, the funds  
23 come from the tax shift to their next-door neighbor  
24 and all the taxpayers not eligible for those  
25 reductions.

1           Current State, county, and municipal  
2 regulatory environment places the largest financial  
3 burden of this policy under the very local rural  
4 districts and municipalities which they try to  
5 protect.

6           The cost burden for that policy is  
7 particularly onerous for low-income and fixed-income  
8 homeowners who absorb that tax shift within the  
9 political subdivision's borders.

10           The range of examples within my own district  
11 is repeated statewide, reflecting the anomalies of  
12 unintended consequences from a one-size-fits-all  
13 policy.

14           Significant tax reductions are provided to  
15 wealthy and healthy farm operations, as well as those  
16 who are struggling to make ends meet. Those same  
17 reductions are afforded to many, what I'll call  
18 mini-farmette properties, who often have substantial  
19 financial resources, while the retired fixed-income  
20 seniors in the brick rancher across the street pay  
21 more to fund that reduction.

22           Zoning rules and provisions for parcels  
23 which are 10 acres or greater serve to exacerbate and  
24 erode the true intent of the act as we strive to  
25 preserve our agricultural heritage.

1           Act 319 exemptions are the equivalent of a  
2 tax shift from one taxpayer to another. And in  
3 Lancaster County and statewide, Act 72/Act 1  
4 tax-shift voter referendums were soundly defeated at  
5 the polls.

6           It is highly probable that an Act 319 tax  
7 shift, if it were to be voted on by the general  
8 public, would fail as well. So it is understood that  
9 such a policy, when deemed important, would be  
10 legislated and mandated as it has been. No State  
11 funds were allocated to the districts to pay for this  
12 public policy.

13           It follows then that the Act 319 shift hits  
14 disproportionately those populations within a  
15 Clean and Green rural farm area more significantly  
16 than the city or suburban areas. Without a doubt,  
17 these rural areas have a lower population count over  
18 which to spread that shift.

19           Additionally, as a general rule, rural areas  
20 have a lower per capita income, and they do not have  
21 the commercial or professional services tax base  
22 found in the suburban strip malls or urban settings.

23           Solanco School District's income levels rank  
24 third in the county, right behind Lancaster City and  
25 Columbia Borough.

1           Smaller population and lower per capita  
2 income result in both a higher-per-parcel cost shift  
3 as well as an increased likelihood that the local  
4 municipality will be unable to cover the entire shift  
5 burden.

6           This serves to depress the tax rate as the  
7 population's ability to pay within that district or  
8 municipality is encumbered with a large intra-tax  
9 base shift before any levy actually takes place.

10           In the real world where district revenues  
11 and expenditures must match, expenditure levels are a  
12 direct correlation to the ability to raise revenue.

13           Currently, Solanco School District has the  
14 lowest property tax in Lancaster County, which serves  
15 the public policy of helping and preserving open  
16 space and operating farms.

17           Contradictory to Solanco's efforts is the  
18 education funding formula enacted in 2008. It uses,  
19 in my opinion, a flawed measure of tax effort, and as  
20 a result, it penalizes Solanco and rural districts  
21 like Solanco for their perceived low tax rates.

22           We not so affectionately refer to that as  
23 the "equalized mill penalty."

24           While tax records indicate otherwise, the  
25 Solanco tax base includes very few commercial

1 properties, which in turn means the property tax base  
2 burden falls directly on residential property and the  
3 farms themselves, which, of course, is where the  
4 farmer lives. In essence, 90 percent of our tax  
5 bills are paid by a person, not an entity.

6           Currently, county tax records indicate that  
7 Solanco is second only to Conestoga Valley in  
8 commercial base for taxes. In reality, there is  
9 minimal commercial base and few professional services  
10 in Solanco, as is true in most rural areas. This  
11 misclassification in the tax records is due to  
12 classifying farms as "commercial properties."

13           Ironically, this misclassification issue  
14 also served to reduce Solanco's and other rural  
15 schools' shares of the property tax reduction funds  
16 -- i.e., slot funds -- as commercial property was a  
17 calculation "reduction" component within that  
18 distribution formula.

19           Suffice to say that many variations exist  
20 between county assessment offices with regard to the  
21 administration and processes surrounding assessments  
22 in general and Act 319 processes specifically.

23           The valuation formula itself creates  
24 political and practicality issues for processing  
25 changes and the thresholds for those changes.

1           And I would point out that the exhibit that  
2 I have in there was actually a misprint. It has a  
3 5-year rolling average, and in the new formula it has  
4 the 10-year rolling average, and that was actually  
5 addressing in some instances some of the political  
6 ramifications of the shorter time span of those  
7 rolling averages.

8           A moment ago I mentioned that Solanco had  
9 the lowest property tax rate. Currently, Solanco  
10 School District has the highest earned income tax  
11 rate in the county. Solanco's rate is 1.15 percent  
12 versus one-half of 1 percent for all the other  
13 districts, with the exception of Warwick.

14           This does serve to keep our property tax  
15 lower, as those households with a higher income pay a  
16 larger share of the district's tax mix. This tax mix  
17 was no accident. It was purposefully implemented  
18 over time to assist the farming community and spread  
19 the tax burden.

20           For example, a 130-percent increase in  
21 earned income tax in more affluent school districts  
22 would generate more than enough funds for a  
23 significant reduction in their property tax rate,  
24 many perhaps on par with Solanco's low property tax  
25 rate.

1           Of course, the major difference is that  
2 many of those districts generate more earned income  
3 tax at one-half of 1 percent than we do at our  
4 1.15 percent.

5           As noted earlier, Solanco's personal income  
6 and EIT typically ranks third lowest in the county,  
7 following Lancaster City and Columbia School  
8 Districts.

9           We have taken all measures to spread our tax  
10 burden, and realistically, there just aren't that  
11 many people over which to spread it.

12           Solanco and many rural schools find  
13 themselves between these conflicting State policies,  
14 which provide a tax exemption for the 319 parcels on  
15 one hand while the education formula provides  
16 penalties for not taxing hard enough.

17           Our EIT tax rates are significantly higher  
18 than surrounding districts, and within our borders,  
19 we have lower income comparatively to tax.

20           This is especially important within county  
21 comparisons and even our two Chester County  
22 School District neighbors, because it is within that  
23 area and that arena that we compete for labor to  
24 provide the educational services required and  
25 mandated.

1           Distribution of the basic ed subsidy  
2 inclusive of the EM penalty is made clear as one  
3 looks at several of the wealthiest districts in the  
4 county receiving a percentage share of subsidy  
5 increases at significant levels above Solanco, and I  
6 have provided an exhibit for that.

7           Ironically, many of the rural schools,  
8 including Solanco, were rated high in Pennsylvania's  
9 2007 Costing-Out Study in terms of need, but many  
10 receive shares of new State funds within their county  
11 correspondingly inverse to that study.

12           New Act 1 tax rate caps constrain the  
13 Solanco board to a percentage increase of the lowest  
14 millage in the county. And for anyone who is math  
15 challenged in the room, it is simply a small number  
16 times a small number gives you a small number.

17           Meanwhile, in Solanco, our Clean and Green  
18 numbers continue to grow, and the district must  
19 continually strike a balance between shifting tax  
20 burden to others, increasing property tax rates on  
21 the entire community in general, and providing the  
22 educational programs we can afford to serve the  
23 students in our community.

24           In my opinion, I will note as a given that  
25 Clean and Green as a mandated public policy was the

1 right thing for this Commonwealth to do.

2           Additionally, I would argue that too many  
3 local resources are being lost to benefit properties  
4 that the program was never intended to cover.

5           However, the bottom line today remains that  
6 Act 319 presently only functions as an intra-local  
7 government tax shift, and that tax shift burden falls  
8 disproportionately on the rural areas that the policy  
9 is actually intended to protect.

10           In Pennsylvania, funding K-12 public  
11 education is and will remain for the foreseeable  
12 future a shared responsibility, requiring both local  
13 and State revenue.

14           House Bill 1788 serves the public good, as  
15 it will offer some assistance to many rural  
16 districts, which in turn will serve to lower the  
17 burden and tax pressure on those rates in the very  
18 communities and farmland that Act 319 was intended to  
19 protect.

20           House Bill 1788 simply asks for some  
21 assistance to improve Act 319 intent and impact and  
22 to make this a shared commitment between local and  
23 State resources.

24           I have provided some exhibits, but at this  
25 point in time, I think Dr. Newcome has some comments,

1 and then we'll go to questions after that.

2 DR. NEWCOME: Thank you, Mr. Shrom.

3 I would like to reiterate my thanks to  
4 Representatives Cutler and Houghton. They both  
5 represent the Octorara School District.

6 And I also have to put out the props that  
7 were put out earlier for Representative Hershey,  
8 prior to Representative Houghton. This is a  
9 discussion that is not new, and I'm glad to see it  
10 still has legs, and I hope we talk about it for as  
11 long as it takes.

12 The Octorara School District is partially  
13 located in eastern Lancaster County and  
14 western Chester County. We have approximately  
15 2,800 students.

16 The majority of our district is rural  
17 agricultural. We have several small-town centers and  
18 a few village centers.

19 I am pleased to have the opportunity to  
20 speak to the topic of the impact of 319 on our school  
21 district specifically and on many rural school  
22 districts in general.

23 I had the advantage -- Mr. Shrom and I  
24 talked in trying to prepare so that we would be most  
25 effective with our time -- to review his documents,

1 and I quite honestly do not believe in repeating  
2 stuff that people have already said. Representative  
3 Houghton and Representative Cutler said most of what  
4 I would want to say, so I will not spend a lot of  
5 time repeating.

6 Obviously Mr. Shrom's materials were  
7 applicable for ours. You can change the numbers  
8 slightly. But if you go across the rural school  
9 districts in the State of Pennsylvania, you will find  
10 that those numbers play out in a very similar  
11 fashion.

12 In real terms -- I am a fairly bottom-line  
13 person -- in the Octorara School District, we had  
14 over \$5 million in lost revenues with 319.

15 There are approximately a thousand parcels  
16 that realize the tax advantage of 319, so it is  
17 approximately \$5,000 per parcel if we do averages.  
18 And it is approximately 6,000 parcels that realize an  
19 increase in taxes to offset this loss to the  
20 district, approximately \$850 per parcel.

21 A November 2008 report entitled *Making*  
22 *Poverty History in Chester County, PA*, from the  
23 Making Poverty History Task Force, data shows that  
24 the highest concentration of poverty in Chester  
25 County resides in the Octorara Area School District.

1           Additionally, we have the lowest assessed  
2 property values in the county and the highest millage  
3 rate in the county.

4           This population, living in poverty, is the  
5 population that has to make up the lost revenue from  
6 Act 319. Finding a way to offset the difference  
7 would be real tax relief for these citizens.

8           At least as far back as '99, and probably  
9 before that, there was some understanding of this  
10 effect of 319 and the troubling consequences. And  
11 there was a Senate Bill 1199 that never made it to a  
12 public hearing back in '99. The authors understood  
13 that at least some portion of the difference in tax  
14 shift to the average property owner needed to be  
15 offset.

16           The intent was to balance out the impact of  
17 319 on communities that were more rural, and I would  
18 maintain as a Superintendent to assure that the  
19 children in these communities had the same  
20 educational opportunities as the children in more  
21 developed communities.

22           Unfortunately, and I will also say  
23 gratefully, we are still discussing this 10 years  
24 later. Unfortunately we have to, gratefully that you  
25 are still willing to, and I appreciate that.

1           So the bottom line for me is the real impact  
2 of 319:

- 3           • Higher taxes for the majority of the  
4           residents in our community.
- 5           • The poorest population in our county is  
6           bearing the responsibility to provide  
7           Clean and Green space for the county while  
8           our wealthiest areas bear little of the  
9           responsibility to assure there is green  
10          space.
- 11          • The very people that pay more to provide  
12          the resources for others, it is their  
13          children that receive less.

14           I appreciate you allowing me to speak. I  
15 thank you for your services to the residents of the  
16 Commonwealth.

17           I know your challenges are steep. On behalf  
18 of the residents of the Octorara Area School  
19 District, I share my appreciation for your  
20 consideration of this bill.

21           And we would gladly try to answer some  
22 questions.

23           CHAIRMAN HANNA: Thank you.

24           Let me start.

25           Tim, I noted in your testimony on page 3 and

1 again on page 5 that you made comments about the  
2 "flawed measure of tax effort" and "many receive  
3 shares of new state funds within their county  
4 correspondingly inverse to that study."

5 MR. SHROM: Yes.

6 CHAIRMAN HANNA: I know today's hearing is  
7 on Clean and Green, so I won't ask you to answer it  
8 today unless there is a short answer, but if you  
9 could provide us with some information.

10 I mean, you are clearly indicating that the  
11 educational subsidy formula penalizes rural school  
12 districts, and if you could provide us with more  
13 information on that.

14 I represent a very rural area myself, and I  
15 appreciate your comments on that. And if you would  
16 give us more of a critique of the subsidy formula, it  
17 might be helpful for those of us who are trying to  
18 help our rural areas.

19 As I say, unless you have a short answer to  
20 that question, I won't ask you to respond to that  
21 today.

22 MR. SHROM: I have a very short -- I would  
23 love to provide that information and will do so.

24 The short answer is basically that the  
25 location cost metric, which maybe members have heard

1 in terms of the -- there were two issues in the  
2 formula, location cost metric as well as the  
3 equalized mills.

4 The location cost metric was removed  
5 recently, in the recent round. Somehow or other, the  
6 powers that be couldn't get rid of both.

7 But I will provide information back to you  
8 within a reasonable time period or Mr. Cutler.

9 CHAIRMAN HANNA: I appreciate that.

10 Chairman Cutler, questions?

11 REPRESENTATIVE CUTLER: Thank you,  
12 Mr. Chairman.

13 Mr. Shrom, Dr. Newcome, thank you.

14 Obviously in the interests of full  
15 disclosure, I have worked with both these men  
16 extensively since I came into office and even before.  
17 I actually went to Solanco while Mr. Shrom was there,  
18 so I understood and appreciated his fine management  
19 of our financial resources.

20 Real quick, I would like to help clarify a  
21 point that you brought up, Mr. Shrom, in regard to  
22 the actual loss in revenue that occurs for Solanco,  
23 and then I think probably the more impressive number,  
24 and I was looking through and I couldn't find it in  
25 the testimony, the assessed value that is nontaxable

1 under Clean and Green.

2 Could you provide both of those numbers?

3 MR. SHROM: That would be Exhibit II in your  
4 packet.

5 REPRESENTATIVE CUTLER: Okay.

6 Just so we're all looking at the right  
7 lines, that's the decrease in values, \$477 million?  
8 Is that right, Mr. Shrom?

9 MR. SHROM: Are you on Exhibit II?

10 REPRESENTATIVE CUTLER: Maybe I'm looking  
11 off an old chart. I apologize.

12 Oh, there it is.

13 MR. SHROM: I was going to say on  
14 Exhibit II, the dollar value that I think you were  
15 looking for would be in the "Act 319 Exempt...Value"  
16 column, which would be one, two, three, four, five  
17 columns over.

18 REPRESENTATIVE CUTLER: Okay.

19 MR. SHROM: It is highlighted in yellow,  
20 showing the \$4.5 million.

21 And I would point out that that \$4.5 million  
22 is a direct correlation to our lowest millage in the  
23 county. So if we were at the average mills, that  
24 number would be almost double. And we are not at the  
25 average mills, thank goodness, for our farmers.

1           REPRESENTATIVE CUTLER:  And it is my  
2 understanding from both your testimony and in prior  
3 discussions that we've had that that overall lower  
4 tax rate is essentially locked in now with Act 1, and  
5 there is really no way to make up that difference.  
6 Is that correct?

7           MR. SHROM:  That is correct.

8           And that Exhibit II follows to Exhibit IIa,  
9 which then simply plots that in a visual so that you  
10 can see that the exemptions as a percent of total  
11 taxable within the districts, you can see that there  
12 are three districts that are over 20 percent and five  
13 districts that are over 10 percent in terms of that  
14 mathematical calculation.

15          REPRESENTATIVE CUTLER:  Thank you.

16          A comment, if I may, Mr. Chairman?

17          CHAIRMAN HANNA:  Yes.

18          REPRESENTATIVE CUTLER:  Just in regard to  
19 these numbers, this is actually where we kind of  
20 helped develop the 10-percent number.

21          We tried to look at and divide the baby, so  
22 to speak, as far as what districts were  
23 disproportionately high versus what was the average  
24 in just Lancaster County, because that is what I had  
25 the data for.

1           And I think it is very telling, and I don't  
2 think it was an intended consequence but something  
3 that has occurred since Act 1 has been implemented,  
4 that all of the school districts that have been  
5 adversely impacted by the economical side effects, if  
6 you will, of Clean and Green are now essentially  
7 locked in there.

8           And absent raising the Act 1 caps every  
9 year, they are never going to get to a point in the  
10 current funding formula that is used where they can  
11 actually qualify for more money statewide, is my  
12 understanding.

13           So despite our best efforts, and if the  
14 school board would, and thankfully they aren't too  
15 eager to do so, but if they would max out every year,  
16 we still would lose more and more State funding every  
17 year because we are perpetually behind the curve at  
18 this point. Not just in Solanco but Octorara as  
19 well.

20           And I think that the study that is being  
21 done in regard to House Resolution 334 will also show  
22 that that occurs elsewhere in the State. And that  
23 is, unfortunately, my fear, that two very well  
24 intentioned projects or pieces of legislation, one  
25 dealing with Clean and Green and the preservation of

1 open space, and the other which is capping tax rates  
2 for local property owners, are actually at odds with  
3 each other now. And I think that is certainly an  
4 unintended consequence and very unfortunate.

5 So I just wanted to bring that to the  
6 members' attention, because I personally was amazed  
7 at how high the numbers were when you are talking  
8 \$5 million in lost revenue for essentially both  
9 school districts.

10 And I just appreciate both gentlemen coming  
11 and sharing their thoughts.

12 CHAIRMAN HANNA: Chairman Cutler, if I  
13 could, your legislation would help to alleviate that  
14 problem?

15 REPRESENTATIVE CUTLER: Yes, it would.

16 With the 90/10 split, 10 percent of the cost  
17 shift would actually be the local burden at that  
18 point.

19 And back to my preceding comments, I think  
20 that that would actually help, because we are the  
21 ones who have the most immediate enjoyment out of the  
22 area in the preservation of open spaces.

23 But to Representative Houghton's point  
24 earlier, I do think that the Commonwealth does share  
25 some burden for the overall preservation of farmland,

1 just because of the environmental impacts and the  
2 fact that they also end up eventually paying a lower  
3 portion of the overall educational costs because  
4 there is not the need for facilities with high  
5 student populations.

6 So whether or not it was intended, the  
7 Commonwealth certainly saves some money, because now  
8 they don't have to direct as much money to these  
9 rural school districts that are enrolled in Clean and  
10 Green as well. And our legislation would simply help  
11 equalize some of that and ask for some State funding  
12 to supplement what the local school districts are  
13 already doing.

14 CHAIRMAN HANNA: Thank you.

15 Representative Houghton.

16 REPRESENTATIVE HOUGHTON: Thank you,  
17 Mr. Chairman.

18 Dr. Newcome, thank you for your testimony,  
19 and as an attorney, I am going to ask you a real  
20 leading question.

21 CHAIRMAN HANNA: Overruled.

22 REPRESENTATIVE HOUGHTON: Oxford School  
23 District and Octorara School District are clearly  
24 struggling to bring in good commercial development,  
25 to bring in some ratables for the schools for some

1 revenues. And you know that for the last 9 months we  
2 have been working on that in Octorara and are about  
3 to begin working on that in Oxford.

4 As you also may know, developers like to  
5 count rooftops before coming into an area, and you  
6 mentioned and I think we know that Octorara is  
7 incredibly rural, so there are not many rooftops, not  
8 many consumers.

9 Talk about the impact, you know, and touch  
10 on the Octorara Regional Council that was formed  
11 10 years ago and the struggles that I have become  
12 acutely aware of in the last 9 months since I have  
13 been sworn in.

14 Talk about the struggles that Octorara has  
15 had, you know, the Parkesburg, Atglen, West Sadsbury,  
16 Highland, Londonderry -- well, of course Highland  
17 is really fighting to stay agricultural -- and  
18 West Fallowfield and Londonderry Township.

19 Talk about the struggles we have had, you  
20 have had in particular, in trying to promote and  
21 attract good industrial and/or commercial developers  
22 to the region to help bring some revenues into the  
23 school district.

24 DR. NEWCOME: Since you led me so well, I  
25 will also add some props to that.

1           We started trying -- the school district  
2 initiated a community economic council, trying to  
3 find ways to do some smart things to develop our  
4 community economically.

5           There is resistance in several of the  
6 townships to economic development. We have decided  
7 that is okay. Where there are folks that are  
8 interested, that is who we will work with.

9           Representative Cutler was in on the very  
10 first meetings for that. Representative Hershey was  
11 at that time. And Representative Houghton, as soon  
12 as he took office, we met, and he has been on the  
13 ball with that for us right away.

14           Actually looking at properties, looking at  
15 what we have in the community that could be  
16 developed. Looking at actually not trying to develop  
17 green space but trying to develop the areas that we  
18 already have that are developed areas -- our town  
19 centers, our small communities, our villages -- and  
20 doing some smart developing there.

21           Representative Houghton has brought  
22 developers out to take a look at things for us. We  
23 have most of the townships working with us in looking  
24 at that. And there is some excitement that there is  
25 a possibility of some economic growth.

1           But I probably will not see it in my tenure  
2 as Superintendent, because what Representative  
3 Houghton speaks to is, we don't have that many  
4 rooftops. And the folks come out and look and say,  
5 talk to us when Coatesville keeps moving out and you  
6 become a part of Coatesville. That is sort of the  
7 feel. Obviously there is resistance, and I hope it  
8 is resistant for a long time for us to become a city  
9 area.

10           Our students, though we only have 2,800  
11 students, we believe that our 2,800 students should  
12 have the same advantages that students in the  
13 eastern part of our county have, and our students  
14 don't.

15           We have had very serious conversations. We  
16 have reduced programming and athletics. We have  
17 reduced classroom teachers.

18           And while I use that, you can go back and  
19 find statistics that say that is not true, because  
20 with some grants, we were able to put some positions  
21 in place. We have taken all of our Federal moneys,  
22 all of our ARRA moneys. We have shifted that into  
23 funding staff so we don't have to lose them.

24           We all know in 2011 we come to a cliff, and  
25 those will be lost. At the same token, though, we

1 have actually reduced classroom teachers. We have  
2 reduced world languages.

3 We have, I believe, as a fairly average  
4 person in life, we have reduced services for the  
5 average students, because we have advocates on the  
6 top end and the bottom end in education to make sure  
7 that we don't reduce any services for students at  
8 those ends of the spectrum. Thus, as our class sizes  
9 for our average students grow, our resources for our  
10 average students shrink.

11 So we have been struggling. Economic  
12 development in rural communities is a very big  
13 challenge, and I do appreciate the Representatives as  
14 they have been trying to help us. Thank you.

15 REPRESENTATIVE HOUGHTON: Real quick. Real  
16 quick.

17 Could you also, Dr. Newcome, compare, you  
18 know, Octorara, of course, is in the middle of a  
19 \$30 million building expansion. Aside from that, can  
20 you touch on the amount of money that Octorara has in  
21 reserve versus my school district where I live,  
22 Avon-Grove School District, which has some good  
23 commercial and industrial tax base.

24 DR. NEWCOME: We, much to the chagrin of our  
25 business administrator -- who retired, and now we

1 have a new business administrator I brought to watch  
2 this so that he could see what he got himself into by  
3 taking the job.

4 Three years ago we didn't not have a fund  
5 balance. We actually were in the negative column.  
6 We are not a school district that is sitting out  
7 there hoarding money away.

8 We have enough of a fund balance now to make  
9 sure that we are able to meet our payroll in the  
10 summer months if something happens. We were getting  
11 ready to shut down schools if we didn't get a budget  
12 from the State, because we don't have moneys to keep  
13 ourselves going. The clock was running on us, and we  
14 thank you for finally getting that done.

15 So if you compare us to a comparable school  
16 district, and I'll take Representative Houghton's  
17 home school district, they have about 50 percent more  
18 students than us and about 10 times more fund balance  
19 than us.

20 REPRESENTATIVE HOUGHTON: Thank you.

21 Thank you, Mr. Chairman.

22 CHAIRMAN HANNA: Thank you.

23 Representative Kessler was next.

24 REPRESENTATIVE KESSLER: Thank you.

25 Thank you for your testimony.

1           My district is approximately -- and I would  
2 like to make a comment here -- my district is  
3 approximately 70 percent rural and then the other  
4 30 percent is high density. You may be familiar with  
5 my area. Where the 422 Expressway comes out of  
6 King of Prussia, right where it ends is where my  
7 district starts.

8           DR. NEWCOME: Okay.

9           REPRESENTATIVE KESSLER: And where my  
10 district starts is the Daniel Boone School District,  
11 and in that area there has been a lot of push from  
12 King of Prussia and Philadelphia where people work  
13 there and had moved into that area, and the  
14 Daniel Boone School District has some of the highest  
15 property taxes in Berks County.

16           If you come into the Oley School District  
17 where I live, we have some of the lowest property  
18 taxes in Berks County, and the reason being is  
19 because we have done a lot of farmland  
20 preservation.

21           You talked about the \$5 million number, and  
22 I would just like to, on the other side of the coin,  
23 give you an example as to why the Oley School  
24 District is lower property taxes than most school  
25 districts in Berks County.

1           An example is, I own 50 acres that are in  
2 Clean and Green, and I took it a step further where I  
3 sold my development rights to preserve that land, and  
4 the majority of that land is farmed.

5           DR. NEWCOME: Okay.

6           REPRESENTATIVE KESSLER: If I didn't do that  
7 and instead decided to sell it to a developer, and  
8 if a developer were to come in and, say, build  
9 200 homes, quarter-acre lots, I just did some quick  
10 math here based on the \$10,000 per student. That  
11 would create a tax burden of approximately  
12 \$4 million.

13           What I pay, I pay about \$8,000 less in  
14 school property taxes. So that \$4 million property  
15 tax burden on those 200 homes, those homes, based on  
16 \$200,000, \$250,000 homes, would bring in about a  
17 million dollars. So the net loss would be actually  
18 \$3 million.

19           So if there was a development that built  
20 400 homes, then you would be looking at a net loss  
21 larger than that \$5 million.

22           Penn State University did a study several  
23 years back, which I will get a copy to everybody  
24 here. They took an acre of farmland, they took an  
25 acre of residential, they took an acre of commercial,

1 and they took an acre of industrial and did an  
2 analysis on what that would cost the taxpayer.

3 The acre of farmland cost the taxpayers the  
4 least amount of money, the acre of residential cost  
5 the taxpayers the most amount of money, and the  
6 commercial and the retail was somewhere in between  
7 there.

8 In the Oley School District, we don't have  
9 much commercial or industrial or retail, but we still  
10 have lower property taxes than the majority of the  
11 school districts, and that reason being is because we  
12 have preserved a lot of farmland by putting ag zoning  
13 in approximately 16 years ago.

14 So I think we need to take a look at that  
15 side of the coin as well, because farmland  
16 preservation in the long run does save the taxpayers  
17 money. And I will get you a copy of that study that  
18 Penn State University did, as well as all the  
19 members.

20 Thank you.

21 CHAIRMAN HANNA: Thank you, Representative  
22 Kessler. You are obviously a level above small  
23 number times small number equals small number.

24 But we appreciate that, and we would like to  
25 see that study as well.

1           Next was Representative Mirabito.

2           REPRESENTATIVE MIRABITO: Just a quick  
3 question.

4           The \$5 million, what is that as a percent of  
5 your total budget?

6           DR. NEWCOME: It's \$42 million, so it's \$1  
7 out of every \$8. That comes out to 12 percent. I'm  
8 doing the math in my head real quickly.

9           REPRESENTATIVE MIRABITO: Thank you.

10          CHAIRMAN HANNA: Next was Representative  
11 Denlinger.

12          REPRESENTATIVE DENLINGER: Thank you,  
13 Mr. Chairman.

14          Thank you both for your testimony.

15          Mr. Shrom, on page 4 of your testimony, you  
16 went into a bit of a discussion on the EIT and the  
17 fact that you are, I guess, the district in Lancaster  
18 County that implements that to the highest degree for  
19 your funding.

20          MR. SHROM: Correct.

21          REPRESENTATIVE DENLINGER: What percentage  
22 of your total funding is EIT?

23          MR. SHROM: Percentage-wise, of a  
24 \$45 million budget, it's about a \$7 million budget  
25 for the EIT and about a \$16 million budget for the

1 property tax.

2 REPRESENTATIVE DENLINGER: Okay. You said  
3 \$7 million EIT?

4 MR. SHROM: \$7 million EIT.

5 REPRESENTATIVE DENLINGER: Okay.

6 Just wondering, how did the public receive  
7 that conversion over to income-based taxation? Was  
8 that well received or dicey?

9 MR. SHROM: A very brief history.

10 We are an Act 24 school district, so that  
11 whole process of shifting from property taxes  
12 actually began as the occupational assessment.

13 REPRESENTATIVE DENLINGER: Yes.

14 MR. SHROM: We moved at Act 24 with a voter  
15 referendum on that particular issue. It was  
16 overwhelmingly approved in unheard-of numbers, like  
17 6 to 1. It was huge. So the community voted to do  
18 this.

19 REPRESENTATIVE DENLINGER: Okay. And at the  
20 rate of 1.15.

21 MR. SHROM: At the rate of 1.15, yes.

22 REPRESENTATIVE DENLINGER: Okay. Very good.

23 And then one other quick question, if I may.

24 Over on page 6 of your testimony, at the top  
25 you made the statement that the program is benefiting

1 properties that it was never intended to cover.  
2 Could you share for all of us, in your thoughts, what  
3 are those types of properties?

4 MR. SHROM: First I will qualify that it is  
5 my opinion that it is covering properties that I  
6 don't think it was intended to cover. And I have  
7 read the bill and I have actually followed the '94  
8 study. I think that is the one that Representative  
9 Kessler was talking about, the '94-95 study.

10 But living in Octorara, on the border, for  
11 30-plus years, now being in Solanco, just moving  
12 right across the line over those years, I have  
13 watched the mini-farms encroachment from the Delaware  
14 County line walk its way across Chester County all  
15 the way into now southern Lancaster County. And  
16 basically what you have is many, many, many farms and  
17 farmettes who qualify for this program, and yet they  
18 get on the train and go to Philadelphia to work every  
19 day.

20 So, I mean, that is the type of thing I'm  
21 talking about. You know, how you define that, does a  
22 15-acre farmette qualify to keep open space? That is  
23 the argument debate that people would want to enjoin  
24 that does keep open space. And is that something we  
25 would want to encourage, or was the true intent to

1 keep operating farms operating? And I think, there  
2 again, that is in that gray box in between the two  
3 lines for people to discuss.

4 REPRESENTATIVE DENLINGER: Very good. Thank  
5 you.

6 MR. SHROM: Sure.

7 CHAIRMAN HANNA: We are having a little  
8 sidebar up here. I just want to be sure that I'm  
9 correct.

10 A number of years ago, wasn't there an  
11 effort to address that problem by allowing counties  
12 to exempt the base acre so that the mini-farms or  
13 those -- I mean, we have much the same thing you are  
14 describing.

15 MR. SHROM: Yes.

16 CHAIRMAN HANNA: I have whole developments  
17 that were constructed around the Clean and Green law,  
18 where the developer specifically met all the  
19 requirements of Clean and Green and then marketed the  
20 lots with one of the selling points being, you are  
21 eligible for Clean and Green.

22 MR. SHROM: Yes.

23 CHAIRMAN HANNA: And I thought when the  
24 change about the exemption of the base acre, where we  
25 allowed the counties to try and address that, and I

1 know my home county did, I thought that at least  
2 eliminated some of those unintended or reduced the  
3 impact of some of those kinds of what were called  
4 McFarms or McMansions or something like that?

5 MR. SHROM: And I would agree, and Lancaster  
6 County has done that. There is a carve-out of the  
7 homes sitting on that.

8 But again, 15 acres, 20 acres, 30 acres,  
9 those do receive the preferential treatment as long  
10 as, I think the minimum still is the \$2,000 income  
11 swap in some areas. And I know even recently that  
12 came up in Bucks County with some of the reassessment  
13 issues going on down there, so---

14 CHAIRMAN HANNA: All right. Thank you.  
15 Representative Kessler.

16 REPRESENTATIVE KESSLER: So a perfect  
17 example of that, and I have seen this as well where  
18 it is a 100-acre farm, a developer comes in,  
19 subdivides it into ten 10-acre lots, and you get your  
20 McMansion and therefore they qualify. But the way  
21 the houses are structured amongst that 100 acres,  
22 that 100 acres no longer can be farmed, so therefore,  
23 those 10 acres may be just weeds or even mowed.

24 In that situation, I think that is possibly  
25 an abuse of the Clean and Green, and I think that is

1 something that needs to be addressed. And apparently  
2 if Lancaster has addressed something like that, then  
3 you may want to look at that.

4 MR. SHROM: Okay.

5 REPRESENTATIVE KESSLER: Thank you.

6 CHAIRMAN HANNA: All right. Any other  
7 questions?

8 Thank you, gentlemen. We appreciate your  
9 testimony. It has been very helpful.

10 We have been joined by Representative  
11 DePasquale.

12 Gene, I'll allow you to introduce  
13 yourself.

14 REPRESENTATIVE DePASQUALE: Hi. Eugene  
15 DePasquale, the 95th District in York County.

16 CHAIRMAN HANNA: Thank you, Gene.

17 Our next presenter is Lisa Schaefer,  
18 Government Relations Specialist for the Pennsylvania  
19 School Boards Association.

20 Lisa.

21 MS. SCHAEFER: Good morning, Chairman Hanna,  
22 Chairman Cutler, members of the committee.

23 My name is Lisa Schaefer, and I am the  
24 Governmental Relations Specialist for the  
25 School Boards Association.

1           I would like to thank you for giving me the  
2 opportunity to testify here today on House Bill 1788,  
3 which addresses the financial losses incurred by  
4 school districts and other political subdivisions due  
5 to Act 319, which we have been referring to as the  
6 "Clean and Green Program."

7           As we have discussed here today, the purpose  
8 of the Clean and Green Program is to preserve  
9 farmland and other open spaces. To enroll in the  
10 program, as you know, property owners must enroll at  
11 least 10 acres of their land solely to agricultural,  
12 agricultural-reserve, or forest-reserve use.

13           In return, that property receives a  
14 preferential assessment and is taxed based on its use  
15 value rather than its market value, resulting in a  
16 lower property tax for the owner, often by thousands  
17 of dollars.

18           I would like to point out that the  
19 Pennsylvania School Boards Association supports the  
20 intent of the Clean and Green Program to preserve  
21 open space.

22           However, our members also urge the State to  
23 reimburse school districts realizing a loss in school  
24 property tax revenue as a result of the preferential  
25 assessment on these properties.

1           To that end, we applaud Representative  
2           Cutler for recognizing the significant impact that  
3           Clean and Green properties have on school district  
4           property tax collections and for introducing  
5           House Bill 1788 to provide for such State  
6           reimbursement to districts.

7           Landowners interested in enrolling in  
8           Clean and Green voluntarily submit applications to  
9           their county, which are then reviewed by the county  
10          to determine whether the property meets Clean and  
11          Green qualifications.

12          School districts are not involved in the  
13          decisions to enroll property in Clean and Green, yet  
14          as you heard, are often the entity that gets hits the  
15          hardest by the loss of tax revenue.

16          Local revenues account for about twice as  
17          much as State aid in most school district budgets,  
18          with real estate taxes on average making up about  
19          80 percent of those local revenues.

20          When taxes from one source, such as the  
21          Clean and Green property, are reduced, the burden of  
22          making up that difference then falls on the other  
23          properties and the other taxpayers in the school  
24          district.

25          Act 1 of 2006 places additional pressures on

1 those school districts by restricting the districts  
2 from raising property taxes above a certain index  
3 unless a higher rate is approved through voter  
4 referendum.

5 This makes it even more difficult for  
6 districts impacted by Clean and Green to maintain  
7 adequate revenues to provide appropriate educational  
8 instruction for their students without cutting  
9 beneficial programs.

10 We would be remiss if we did not mention  
11 that the financial drawbacks of school districts  
12 under Clean and Green are further compounded by the  
13 fact that language in current law, as we were just  
14 discussing, has been used by some property owners to  
15 get tax breaks on property that was never intended to  
16 meet the purpose of Clean and Green.

17 For instance, we found some media reports  
18 from 2007 that in Allegheny County, they had  
19 golf courses enrolled in Clean and Green under the  
20 "forest reserve" category simply because the property  
21 had a number of trees.

22 Other property owners had enrolled their  
23 land in the "agricultural reserve" category for  
24 noncommercial open space for use for outdoor  
25 recreation or the enjoyment of scenic and natural

1 beauty, and under the guidelines, that land is then  
2 supposed to be open for public use and those property  
3 owners had not opened their land for public use as  
4 they were required.

5 Other examples listed in this media report  
6 included condominium complexes, country clubs,  
7 developers, as we have noted. They are among some of  
8 the others who are taking advantage of Clean and  
9 Green discounts.

10 And these circumstances are, of course, not  
11 specific to Allegheny County, but we can find  
12 examples throughout the Commonwealth.

13 House Bill 1788 offers State assistance  
14 payments to local taxing authorities that would  
15 otherwise lose 10 percent or more of their assessed  
16 value under Clean and Green.

17 These payments would equal 90 percent of the  
18 lost revenue, helping to mitigate the impact of the  
19 lost revenues on school district budgets and  
20 relieving the burden on other local taxpayers who do  
21 not benefit from the Clean and Green Program.

22 This legislation is a commonsense approach  
23 to provide support to districts forced to work with  
24 fewer dollars through no fault of their own, and  
25 PSBA strongly urges this committee to support

1 House Bill 1788.

2 Again, I thank you for allowing me to make  
3 these comments, and I would be happy to answer any  
4 questions.

5 CHAIRMAN HANNA: Thank you, Lisa.

6 Beginning, well, at the bottom of page 1 of  
7 your testimony, you mention Act 1 of 2006 and the  
8 fact that "unless a higher rate is approved through  
9 voter referendum." You don't happen to know how many  
10 school districts have actually gone to referendum  
11 since that act was implemented, do you?

12 MS. SCHAEFER: I don't have the number in  
13 front of me. I don't believe it has been very many,  
14 but I can get that data for you.

15 CHAIRMAN HANNA: So Act 1 has been very  
16 restrictive to the school districts. They have in  
17 fact, almost all of them, complied with it every  
18 year.

19 MS. SCHAEFER: Yes. Very few seek -- some  
20 seek exceptions, but very few have gone to voter  
21 referendum, to my understanding.

22 CHAIRMAN HANNA: Thank you.

23 Representative Cutler.

24 REPRESENTATIVE CUTLER: Thank you,

25 Mr. Chairman.

1           Along Chairman Hanna's question and  
2 something I touched on with Mr. Shrom, have there  
3 been any particular instances where the cost shifting  
4 from Clean and Green actually caused something to go  
5 to referendum?

6           I know you probably wouldn't have that  
7 answer now, but I would appreciate any information  
8 you might have on that just because of the costs  
9 associated with it. I mean, each one of the  
10 preceding school districts obviously testified that  
11 it is about 1 in 8 of their dollars that goes towards  
12 that cost shift, and I would be interested in any  
13 data that might show that.

14           Because that is certainly something I didn't  
15 anticipate, actually, when we drafted the amendment  
16 for HR 334. So if you could provide any additional  
17 insight on that, I would certainly appreciate it.

18           MS. SCHAEFER: I would certainly be happy to  
19 get that for you.

20           REPRESENTATIVE CUTLER: Thank you.

21           CHAIRMAN HANNA: Any other questions or  
22 comments from members?

23           Representative Kessler.

24           REPRESENTATIVE KESSLER: You mentioned  
25 golf courses and a recreational area. Do you think

1 maybe we should look at Clean and Green and possibly  
2 restructure it where, I don't know, whether a certain  
3 percentage of that land is being farmed? Because  
4 that was the intent in the forests where maybe a  
5 golf course could apply to Clean and Green but  
6 wouldn't get as big a reduction as a piece of land  
7 that was being farmed or was all forest.

8           Would that be something that you think we  
9 should look at rather than maybe possibly taking this  
10 approach?

11           MS. SCHAEFER: I will say again that we do  
12 support the intent of the Clean and Green Program.  
13 Certainly any legislation that comes around to deal  
14 with issues for land that is enrolled that possibly  
15 may not have met that original intent, we would be  
16 more than happy to look at.

17           But in the meantime, the point remains that  
18 there are legitimate properties enrolled in Clean and  
19 Green, and school districts are losing tax dollars  
20 and needing to make up those revenues, even for those  
21 properties. So we still would encourage this bill to  
22 move forward.

23           REPRESENTATIVE KESSLER: Thank you.

24           CHAIRMAN HANNA: Thank you.

25           Representative Houghton.

1           REPRESENTATIVE HOUGHTON: Just real quick to  
2 Representative Kessler's comment.

3           I think Act 316, to get on my soapbox,  
4 should be looked at. Just given your example of the  
5 10 lots, 10 acres each, I think it should be looked  
6 at simply on the basis of whether or not that  
7 property can be subdivided and bring in more housing.

8           So if that 10-acre property has a McMansion  
9 on it, if that owner can actually subdivide  
10 nine acres and bring in nine houses with 2.3 children  
11 per house, that would be a tremendous cost to school  
12 districts.

13           So if that landowner has the ability to do  
14 that, then I think that landowner, you know, of  
15 course it just doesn't smell right, but we have to  
16 really weigh whether or not he should or should not  
17 be bumped out of Clean and Green.

18           If he has the ability to subdivide and bring  
19 in nine more homes, you know, then we want to  
20 encourage preservation. But again, obviously it  
21 doesn't smell right for McMansion with a tremendous  
22 valued property, you know, to be enrolled in  
23 Clean and Green and getting preferential treatment  
24 while a neighbor, some widow on a 1-acre rancher lot,  
25 is paying almost the same amount of property taxes if

1 that McMansion is getting preferential status.

2 CHAIRMAN HANNA: Executive Director  
3 Kerry Golden.

4 MS. GOLDEN: Thank you, Mr. Chairman.

5 I just want to clarify that the golf courses  
6 and the land that was not open to the public, they  
7 are not legitimate uses under Clean and Green. There  
8 is nothing that we need to do under the State law to  
9 take care of that. That is an enforcement issue in  
10 the county.

11 REPRESENTATIVE KESSLER: So you are saying  
12 that golf courses are not in Clean and Green? I  
13 thought she was saying---

14 MS. GOLDEN: They shouldn't be. If they  
15 are, they are erroneously enrolled.

16 They don't qualify under an ag use,  
17 ag-reserve, or forest-reserve use, unless  
18 Doug Wolfgang might have a comment on that.

19 CHAIRMAN HANNA: Let's let Doug step up.

20 DIRECTOR WOLFGANG: The only thing I would  
21 add is, my understanding with the issue with  
22 golf courses is let's say there's a 200-acre tract of  
23 land that is owned by a golf course. One hundred  
24 acres of it is woodland and 100 acres of it is the  
25 golf course. They applied 100 acres of woodland

1 toward preferential assessment, but the golf course  
2 itself does not receive that preferential assessment.  
3 That's my understanding anyway.

4 CHAIRMAN HANNA: But I believe we have had  
5 testify before -- I hope that is correct in the  
6 example that was cited.

7 DIRECTOR WOLFGANG: Yes.

8 CHAIRMAN HANNA: But I think we have had  
9 testimony before that we do have somewhat uneven  
10 enforcement of Clean and Green across the State since  
11 it is left to the counties to determine who is  
12 eligible.

13 DIRECTOR WOLFGANG: Yes, there are some  
14 issues of interpretation, but that clearly is a  
15 commercial activity, and if it is enrolled in  
16 Clean and Green, it should be rolled back out.

17 CHAIRMAN HANNA: All right. But they are  
18 eligible to move their forestland---

19 DIRECTOR WOLFGANG: Yes. I mean, just like  
20 any other property owner, if they had acreage that is  
21 eligible, they could apply it towards the program.  
22 But the golf course itself is not eligible.

23 CHAIRMAN HANNA: All right.

24 REPRESENTATIVE HOUGHTON: Let me just say,  
25 though, that if that forestland is intermingled with

1 the holes and it is not contiguous and not usable,  
2 then it should not be receiving preferential  
3 status.

4 DIRECTOR WOLFGANG: True. Correct.

5 REPRESENTATIVE HOUGHTON: If it's, you know,  
6 let's develop 100 acres for the golf course and over  
7 here we'll preserve -- we could subdivide and put a  
8 subdivision but let's preserve 100 acres, then that  
9 100 acres, you know, should benefit from the  
10 preferential treatment.

11 DIRECTOR WOLFGANG: Right.

12 CHAIRMAN HANNA: So a golf course isn't  
13 eligible and a links course could be eligible. All  
14 right.

15 Representative Cutler.

16 REPRESENTATIVE CUTLER: Thank you.

17 Actually as a followup to Representatives  
18 Houghton and Kessler's point, I would just like to  
19 ask your position in regard to, this is one of those  
20 tangential areas that I referred to in my opening  
21 comments. There are other concerns about the  
22 Clean and Green actual application.

23 Would it be better to move towards a  
24 percentage of overall income for the people who own  
25 those lands?

1           Or to Representative Houghton's point, if  
2 someone either preserves their farm and has already  
3 sold the building rights or subdivided down as far as  
4 they could go, would it be advisable to take that  
5 into consideration? Because obviously they have  
6 already effectively preserved their farm and there is  
7 no longer that incentive there not to develop  
8 because, quite frankly, they simply can't.

9           What would the School Boards Association  
10 have to say in regard to that?

11           MS. SCHAEFER: I would say that our  
12 legislative platform does not specifically address  
13 Clean and Green other than the loss of revenue to  
14 school districts.

15           But again, this is a program that we keep an  
16 eye on because of its impact on school districts, and  
17 any new ideas that come across, we would certainly be  
18 more than happy to work with you to move those along.

19           REPRESENTATIVE CUTLER: Thank you very much.  
20 I appreciate your comments.

21           MS. SCHAEFER: Sure.

22           CHAIRMAN HANNA: Any other questions or  
23 comments?

24           All right. Thank you, Lisa. We appreciate  
25 your testimony. It has been very helpful.

1           Next is Kristen Goshorn, Government  
2 Relations Manager for the County Commissioners  
3 Association of Pennsylvania.

4           Kristen.

5           MS. GOSHORN: Good morning, Chairman Hanna  
6 and Representative Cutler and members of the  
7 committee.

8           Thank you for the opportunity to testify  
9 here today. My name is Kristen Goshorn. I'm the  
10 Government Relations Manager for the County  
11 Commissioners Association of Pennsylvania.

12           I think all of you are familiar with us. We  
13 do represent all 67 counties, and we provide a  
14 variety of services to the counties as a nonprofit,  
15 nonpartisan association, including legislative,  
16 education, insurance, and other services.

17           I don't think I'm going to read my testimony  
18 to you word for word, if that's okay, but I will  
19 highlight some of the points that we made in the  
20 testimony. And first of all and most importantly, we  
21 do want to state our support for Representative  
22 Cutler's House Bill 1788.

23           We support this bill because it is intended  
24 to restore some equity to the property tax burden of  
25 landowners not enrolled in Clean and Green where the

1 local tax base is significantly impacted by Clean and  
2 Green properties.

3 Our counties do recognize the value of  
4 Clean and Green and its support to the agricultural  
5 industry in Pennsylvania. We certainly do not want  
6 to make disparaging remarks about the program  
7 overall.

8 But the fact of the matter is that you do  
9 have a program here that impacts in very localized  
10 ways the local property tax base, and because all of  
11 our local taxing jurisdictions in Pennsylvania are so  
12 heavily reliant on the property tax, it's an impact  
13 that we can't really set aside and ignore, we  
14 believe.

15 So we do have a longstanding plank in our  
16 platform that supports basically reimbursement from  
17 the State anytime special tax status is granted by  
18 the State for any particular class of property or any  
19 particular individual, and that is the strong basis  
20 on which we can support House Bill 1788.

21 We have some suggested changes to the bill  
22 that I think from an assessor's perspective, looking  
23 at implementing this and being the entity that is  
24 responsible for verifying calculations and  
25 determining who is eligible to apply for funding from

1 the State, we have some suggestions to make along  
2 those lines that are outlined in my testimony.

3 We have talked, several people have talked  
4 today about House Resolution 334, and that is a study  
5 that is underway, expected to be finalized by the  
6 spring.

7 There is a broader issue being addressed in  
8 that resolution study as well by the Legislative  
9 Budget and Finance Committee, which is an overall  
10 look at the assessment system in Pennsylvania given  
11 what we have been seeing in litigation out of  
12 Allegheny County and some other places.

13 So there are a lot of meaty issues that are  
14 going to come out in this study alongside the  
15 Clean and Green issue, and you heard a little bit of  
16 it from the Department of Agriculture and others that  
17 we can't totally set aside the assessment issue as  
18 separate from the Clean and Green issue because they  
19 are related and will be related to this bill.

20 Since there is not a comprehensive data set  
21 available yet for the LBFC study, what I did was go  
22 out to the counties and try to get some information  
23 from them, looking at the bill, how many counties and  
24 how many jurisdictions within each county that would  
25 qualify would meet the 10-percent reduction in their

1 overall assessed value.

2 I have some updates to the numbers that are  
3 in the testimony. I have actually been able to get  
4 responses from 31 counties. Six of those counties  
5 only have a handful of properties enrolled in  
6 Clean and Green and found that neither the county nor  
7 any of the other local taxing jurisdictions would be  
8 eligible to apply for any funding from the State.

9 We had 14 counties where they found that the  
10 county itself would not exceed the 10-percent  
11 threshold, but some percentage of the other local  
12 taxing jurisdictions in the county would. And 11  
13 counties found that both the county as well as some  
14 portion of the other local taxing jurisdictions would  
15 be qualified to apply for funding from the State.

16 Assessment plays in here because we found  
17 there were a number of counties who were really right  
18 on the borderline. One in particular that we found  
19 was Wyoming County, which intuitively I would have  
20 thought would have been a county where the county and  
21 a lot of the taxing jurisdictions would definitely  
22 qualify.

23 Those of you that were at a hearing that  
24 this committee had, I guess about a year and a half  
25 ago, the assessor from Wyoming County actually

1 brought a map and rolled it out to show just how high  
2 the percentage of land in that county is that is  
3 either enrolled in Clean and Green or is State-owned  
4 land.

5           They did not qualify. They were like a  
6 9.7 percent overall reduction in the county's  
7 assessed value.

8           Speculation is that if they do undergo a  
9 full reassessment, that will push that up over the  
10 10-percent threshold, because there will be more  
11 savings available for people that are enrolled in  
12 Clean and Green. And so we could see some adjustment  
13 in those numbers based on what happens on the  
14 assessment front.

15           To move on to kind of the technical changes  
16 that we have to suggest to the bill, one of the  
17 issues that seems to need some clarification is that  
18 when we are talking about a reduction in the  
19 10-percent assessed value, drilling down a little bit  
20 further just to see exactly what that means, there  
21 were some questions about whether that is only  
22 intended to encompass the taxable parcels or taxable  
23 and nontaxable.

24           Counties do maintain values for nontaxable  
25 parcels. They are not always highly scientific or

1 accurate, because sometimes those nontaxable  
2 parcels are something like a State corrections  
3 institution or a defense property where they can't  
4 really go in and assess the value but they have a  
5 rough estimate.

6           So our suggestion, just to keep everyone  
7 consistent and making their calculations based on the  
8 same base, is to make that calculation based on all  
9 taxable real property in the county. That excludes  
10 the nontaxable part.

11           There was also a question about whether that  
12 affects both the land with improvements or just the  
13 assessed value of the land. So some clarification  
14 would be useful there.

15           We suggested that it be land and  
16 improvements. I'm not sure it makes a whole lot of  
17 difference either way, just some specification which  
18 way the calculation should take place.

19           Finally, we did want to note that there are  
20 some school districts that cross county lines, and  
21 the counties are only going to be able to verify and  
22 do calculations for the portions of the school  
23 districts that lie within their boundaries.

24           So some school districts are going to have  
25 two separate calculations, and you may have half the

1 school district that qualifies and half the school  
2 district that doesn't. But depending which county  
3 boundary the school district lies in, that would be  
4 reflected in the numbers that would be verified to  
5 DCED for the application.

6 So in conclusion, again, we want to state  
7 our support for Representative Cutler's House Bill  
8 1788. If the State commits General Fund dollars,  
9 local taxing jurisdictions will be reimbursed for  
10 reductions in the local tax base caused by Clean and  
11 Green, and this will improve equity for other local  
12 taxpayers by reducing their burden.

13 This bill addresses a longstanding CCAP  
14 policy which states that tax revenues foregone or  
15 lost by any grant of special status should be  
16 reimbursed by the State.

17 And I'll be happy to answer any questions  
18 anyone has.

19 CHAIRMAN HANNA: Thank you, Kristen.

20 First, let me encourage you and your  
21 association to work with Representative Cutler to  
22 address some of those technical changes that you have  
23 recommended.

24 And with that, I'll turn to Representative  
25 Cutler for any questions.

1           REPRESENTATIVE CUTLER: Thank you,  
2 Mr. Chairman.

3           Thank you for your suggestions. They  
4 certainly, as we are discussing today unintended  
5 consequences, these were some things that really I  
6 had not probably given as much thought to as I  
7 should, even though I know that we had pointed out  
8 earlier that Representative Houghton and I share a  
9 school district across county lines.

10           I would be interested, or maybe this would  
11 be a better question towards the School Boards  
12 Association, do we know how many shared school  
13 districts there are across the Commonwealth like  
14 that, or can we get it?

15           MS. GOSHORN: I don't have that number.

16           MS. SCHAEFER: We do have a number. I don't  
17 know what it is off the top of my head.

18           REPRESENTATIVE CUTLER: Okay. Because I  
19 would be interested in seeing that, because that is  
20 certainly something that probably would -- now, our  
21 shared school district wouldn't necessarily be at  
22 odds because both sides would probably qualify.  
23 But you bring up an interesting case where half the  
24 school district might qualify and the other half may  
25 not.

1           In regard to the taxable real property, I  
2 also appreciate that issue. Obviously that is  
3 something we tried to tackle earlier with Chairman  
4 Freeman's bill, and certainly we'll go back and look  
5 at that language as well to try to evaluate the  
6 impact and the overall outcomes that would be based  
7 on tax-exempt versus Clean and Green property tax  
8 assessment reductions.

9           I just really appreciate your input and look  
10 forward to working with you. Thank you.

11           MS. GOSHORN: Sure.

12           CHAIRMAN HANNA: Thank you, Chairman Cutler.

13           Any other questions or comments for Kristen?

14           All right. We thank you for your testimony,  
15 and again, we encourage you and your association to  
16 work with Representative Cutler to modify some of  
17 those technical aspects.

18           That brings to a close our testimony for  
19 this morning's hearing. I would like to thank all of  
20 those who are here today.

21           Particularly I want to thank our presenters.  
22 I think we have received some wonderful information.

23           I also want to thank the members and staff  
24 -- members for being here and staff for preparing  
25 this hearing so well.

1           And before I go to Representative Cutler for  
2 some final comments, let me ask if any members have  
3 any final comments?

4           We will go Representative Cutler,  
5 Representative Houghton, and then I'll close it up.  
6           Representative Chairman Cutler.

7           REPRESENTATIVE CUTLER: Thank you, Chairman  
8 Hanna.

9           Thank you, colleagues joining us here today.  
10 I appreciate your interest in the topic as well as  
11 the healthy discussion that we had.

12           I would like to also thank the staff,  
13 because I know that they have been intimately  
14 involved in getting this together and gathering the  
15 presenters.

16           I would also like to thank the presenters  
17 for their insight into this particular issue and the  
18 impacts that we have at a local level on this.

19           I certainly would like to highlight one, I  
20 guess, parting point, and that is something that was  
21 kind of brought up at different times through a  
22 variety of testimonies, and that's the fact that as  
23 we have more properties enrolling in Clean and Green,  
24 that since we are effectively locked in with some of  
25 the other legislation that has been passed

1 previously, that that is really, for the local school  
2 districts that increase enrollment, that is really  
3 money off the top, that they have got to shift that  
4 within their boundaries at that point and they are  
5 really limited to where they can go to recoup that  
6 lost money as far as the tax shift that occurs.

7           That is an issue, I think, that is really at  
8 the crux of what we were discussing today, is the  
9 ability to offset that revenue versus the costs  
10 associated with development. Obviously we have to  
11 maintain a balance here in the Legislature.

12           I appreciate that you are all willing to  
13 listen to and be interested in this topic, and I  
14 certainly look forward to working with everyone from  
15 the colleagues in the House, hopefully the Senate, as  
16 well as the presenters here today. I just really  
17 appreciate the interest and thank everyone.

18           Thank you, Mr. Chairman, for the  
19 opportunity.

20           REPRESENTATIVE HOUGHTON: I would like to  
21 second that. Thank you, Mr. Chairman.

22           Thank you, Representative Cutler, for  
23 bringing this legislation forward.

24           I just want to address why I believe that  
25 the State does have or why we should actually help

1 reimburse our school districts.

2 Our State planning land use law, the  
3 Municipalities Planning Code, is a law that actually,  
4 a set of laws that actually encourage urban flight  
5 and suburban sprawl, and until we fix the MPC and not  
6 force every one of our outlying townships to have to  
7 zone for every type of land use, we should look to  
8 reimburse our school districts for the sprawl that  
9 results.

10 You know, if you drive down Route 1 or  
11 Route 41 in my school district, in a 10-minute ride  
12 you'll go through four or five townships, and every  
13 one of those townships must zone for every single  
14 land use -- residential, commercial, industrial,  
15 agricultural. The next town -- residential,  
16 commercial, industrial, agricultural.

17 It's not shocking that Philadelphia has lost  
18 500,000 or 600,000 people. We have that -- if you've  
19 ever seen that old cheesy 1980s Kurt Russell movie  
20 *Escape from New York*, the MPC actually creates that  
21 mentality in Pennsylvania, you know, 67 counties,  
22 2,200 municipalities.

23 And our urban areas -- Pittsburgh,  
24 Allentown, you know, Scranton -- well, things are  
25 going to hell in a hand basket, so let's just put a

1 fence around the city and let's go start an hour or  
2 2 hours outside of a city. So it is within the  
3 Commonwealth's interests to change our land use law  
4 and to start to encourage smart growth policies.

5 And in terms of Mr. Wolfgang's testimony  
6 about the burden of shifting the cost, smart growth  
7 policies will benefit urban areas.

8 Now, if we can change the MPC and then  
9 encourage smart growth, it will be killing two birds  
10 with one stone. They will benefit from revitalizing  
11 town centers and drawing populations back to our  
12 urban areas in Pennsylvania at the same time we  
13 continue to push programs like Clean and Green.

14 And again, if you don't force Highland  
15 Township, if you don't force West Fallowfield to zone  
16 for every land use, that will encourage smart growth  
17 policy.

18 So that I see as the major issue in  
19 Pennsylvania -- 67 counties with all these  
20 municipalities, and every single municipality must  
21 zone for every land use.

22 So in the meantime, until we fix the MCP,  
23 which is why I was sent here to Harrisburg, we have  
24 to continue to encourage Clean and Green and smart  
25 growth policies, and I support this legislation

1 100 percent.

2 CHAIRMAN HANNA: Thank you, Tom.

3 Representative Solobay.

4 REPRESENTATIVE SOLOBAY: Thank you,

5 Mr. Chairman.

6 I guess just the obvious question it comes  
7 into is, then would this be an addition on the basic  
8 ed funding line item for these particular districts?  
9 Would this be a separate designation based on  
10 utilizing the formula and showing what that would be?  
11 And then are we talking general appropriations  
12 dollars or are we talking some type of a new tax, or  
13 where are we looking to, you know, put this funding  
14 from?

15 REPRESENTATIVE CUTLER: Thank you,

16 Mr. Chairman.

17 Currently the way the legislation is  
18 drafted, the money would actually be driven out  
19 through DCED. So at this point, it would be separate  
20 from the educational funding that is out there and  
21 would actually be supplemental for the specific  
22 purpose of reducing local property taxes.

23 REPRESENTATIVE SOLOBAY: But still, Bryan,  
24 where are we going to get -- where is DCED going to  
25 get that money?

1           REPRESENTATIVE CUTLER: It would have to  
2 come from the General Fund, which is why I referenced  
3 in my opening comments, I understand it is probably  
4 going to be a year or two before we can actually  
5 tackle this issue just because of the financial  
6 constraints that we are looking at and, you know, as  
7 they pointed out, the budget next year as well as the  
8 cliff, if you will, in 2011 and 2012 related to the  
9 loss of Federal dollars, as well as the loss of  
10 income in regard to the pension spike.

11           So it is certainly a financial issue that we  
12 need to look at. But it would be supplemental, but  
13 it would ultimately come from the General Fund.

14           REPRESENTATIVE SOLOBAY: And I have got to  
15 ask, you know, going through the whole debate through  
16 the budget most recently in the past here, many  
17 comments by many members about keeping things down,  
18 not increasing things, you were one of them.

19           I mean, I understand where you are trying to  
20 go, and I appreciate it and I think we need to look  
21 at this thing, but are we going to be able to get  
22 that vote from folks to be able to do this, to put  
23 the additional funding into DCED to manage this?

24           REPRESENTATIVE CUTLER: I think that we'll  
25 have a better understanding of it once we have the

1 complete data set from the study that is being  
2 done.

3           Because honestly, I can only speak from the  
4 perspective of myself and Representative Houghton's  
5 areas, that we know we are impacted at this point, so  
6 that is what brought it to our attention.

7           I'm not sure what the breadth of the impact  
8 is across the Commonwealth. I think those numbers  
9 will help probably drive or deny some of the support  
10 for the overall legislation. Until we have those  
11 numbers, I certainly think that is probably an  
12 open discussion, one that we should continue to  
13 have.

14           In regard to where the funding would come  
15 from, I am still a firm believer in that we can still  
16 make some cuts. I spoke about them on the floor in  
17 regard to some fraud reduction in welfare.

18           And I don't want to enter into a budget  
19 discussion here, but I do think that we can, once we  
20 know the size of the problem, we will know what kind  
21 of money we are looking for.

22           But at this point, I can say at least  
23 locally we are talking about money that I think could  
24 be found in the existing budget and the existing line  
25 items that could simply be reallocated.

1           REPRESENTATIVE HOUGHTON: And I agree with  
2 Representative Cutler that of course we need to make  
3 cuts, and we certainly have, and there are a lot of  
4 losers in this budget.

5           But property taxes is the major issue in my  
6 district. And I know it is a big Commonwealth; it is  
7 not a one-size-fits-all. But I would certainly be  
8 willing to put up a "yes" vote to remove the tax  
9 exemption on candy and gum, airline food, UCC filing  
10 fees, dry-cleaning, to take those funds and place  
11 them into an account that would go back to our school  
12 districts who are suffering loss in revenue from  
13 Clean and Green.

14           I will put up that vote.

15           CHAIRMAN HANNA: I think we are entering  
16 into a general budget debate.

17           And while we seem to be well within our  
18 schedule, we will allow members to do that as long as  
19 they are willing to.

20           Representative Mirabito.

21           REPRESENTATIVE MIRABITO: The only question  
22 I have is, does it make sense -- and I don't want to  
23 throw a wrinkle in this -- does it make sense to take  
24 the money out of DCED or does it make sense to have a  
25 line item in education?

1           I think part of the problem we suffer from  
2 in Harrisburg is that constituents see these  
3 amorphous departments like DCED, and we cut that  
4 budget by 50 percent in this budget round. And if we  
5 identify that it's for schools and it's to deal with  
6 an inequity, maybe we would actually gain more  
7 support from the public, because they would not be --  
8 it's not money that, I don't want to say hidden, but  
9 so many of the programs are not out front. And as a  
10 taxpayer I believe that, you know, it should say what  
11 it is, if it's for school and equity, which is what  
12 you said, and I support what your intent is.

13           So that's just something to think about.

14           CHAIRMAN HANNA: Go ahead.

15           REPRESENTATIVE CUTLER: Thank you,  
16 Mr. Chairman.

17           I actually agree with Representative  
18 Mirabito. I mean, that would be fine. I mean, for  
19 me, that is more of a mechanical issue that we can  
20 work out behind the scenes.

21           I can say for probably the majority of the  
22 taxpayers in the district that I represent, and  
23 probably Representative Houghton as well, I don't  
24 think they'll care where the money is coming from  
25 just because of the impact of the problem. We've got

1 three school districts that all have in excess of a  
2 20-percent shift.

3 I think you are probably right as far as  
4 getting that social buy-in. I think you are probably  
5 correct that the educational department might make  
6 more sense, and I'll certainly be willing to look at  
7 that and go over any proposed language that anyone  
8 would have as well as the groups that were here  
9 today.

10 Because at the end of the day, it really is,  
11 as Representative Houghton said, a property tax is  
12 the end result of what happens. But where the money  
13 comes from, where the cuts occur, you know, where we  
14 have that discussion I think is completely open at  
15 this point because we are so early in the process,  
16 and I appreciate the input.

17 CHAIRMAN HANNA: Anyone else?

18 REPRESENTATIVE KESSLER: May I make a  
19 comment?

20 CHAIRMAN HANNA: Certainly. Representative  
21 Kessler.

22 REPRESENTATIVE KESSLER: Thank you.

23 Since we are early in the process, in the  
24 meantime, I would like to understand Clean and Green  
25 a little more. So I would ask the Department of

1 Agriculture to maybe give us a summary as to what  
2 qualifies, what doesn't.

3           We've heard the example of the 100 acres  
4 with the 10-acre lots. And what I have a problem  
5 with in Clean and Green is that if you were in  
6 Clean and Green under that situation and 20 years  
7 later you do subdivide that 10 acres, you only have  
8 to pay 7 years of back taxes where you might have  
9 been in Clean and Green for 20 years.

10           In a scenario like that, I think that person  
11 should be required to pay back, whether it be  
12 15 years, 20 years, 25 years in Clean and Green, they  
13 pay that amount back, because that just opens up the  
14 door for abuse, as in the example that we talked  
15 about. So I appreciate that.

16           Thank you.

17           CHAIRMAN HANNA: All right. We would  
18 encourage the department to provide that information  
19 to Representative Kessler and the rest of us as well.

20           Interestingly enough, I wrote some closing  
21 comments before we entered into our budget debate  
22 here, and they are much along that line.

23           What I was going to note is that we didn't  
24 today have much of a discussion about the fiscal  
25 impact to the Commonwealth of this bill, and I think

1 that is important for all of us to think about. As  
2 Representative Cutler pointed out, it does have a  
3 fiscal impact.

4 I count myself amongst the supporters of  
5 House Bill 1788. I want to see it become law. But I  
6 think what we have to do as a group is continue this  
7 effort that we started here today to better educate  
8 not just the public but also our fellow members about  
9 the importance of this and try and make it a priority  
10 as we move into future budget discussions.

11 Clearly the Commonwealth's overall economic  
12 situation will impact on our ability to do this, but  
13 we need to make sure that we better educate our  
14 fellow members as well about the impacts that  
15 Clean and Green has in our areas and about the  
16 benefits that it brings to them, as pointed out by  
17 Representative Kessler.

18 There are a lot of benefits to Clean and  
19 Green that go to those who are not in the counties  
20 where most of the Clean and Green land is. They are  
21 the ones that get the benefit of it remaining  
22 Clean and Green.

23 So I think we need to educate our fellow  
24 members and work to try and make sure that when we do  
25 have the opportunity to bring this legislation

1 forward, that we can be assured that we'll have a  
2 healthy debate and hopefully passage of it as well.

3           So with that, I will close the hearing and  
4 thank everybody once again -- thank our presenters  
5 once again, thank staff once again, and thank our  
6 members for being here.

7

8           (The hearing concluded at 10:35 a.m.)

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

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Debra B. Miller, Reporter

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