COMMONWEALTH OF PENNSYLVANIA

SENATE COMMUNITY, ECONOMIC AND RECREATIONAL
DEVELOPMENT COMMITTEE

SENATE LOCAL GOVERNMENT COMMITTEE

HOUSE LOCAL GOVERNMENT COMMITTEE

HOUSE URBAN AFFAIRS COMMITTEE

STATE CAPITOL
ROOM 140, MAIN CAPITOL BUILDING

THURSDAY, DECEMBER 8, 2011
9:00 A.M.

SECOND JOINT PUBLIC HEARING ON ACT 47
(MUNICIPALITIES FINANCIAL RECOVERY ACT)

SENATOR JOHN BLAKE, MINORITY CHAIRMAN, SENATE LOCAL GOVERNMENT COMMITTEE
REPRESENTATIVE THOMAS CREIGHTON, MAJORITY CHAIRMAN, HOUSE LOCAL GOVERNMENT COMMITTEE
SENATOR JANE EARLL, MAJORITY CHAIRWOMAN, COMMUNITY, ECONOMIC & RECREATIONAL DEVELOPMENT COMMITTEE
SENATOR JOHN EICHELBERGER, MAJORITY CHAIRMAN, SENATE LOCAL GOVERNMENT COMMITTEE
REPRESENTATIVE CHRIS ROSS, MAJORITY CHAIRMAN, URBAN AFFAIRS
REPRESENTATIVE ROBERT FREEMAN, MINORITY CHAIRMAN, HOUSE LOCAL GOVERNMENT COMMITTEE
REPRESENTATIVE W. CURTIS THOMAS, MINORITY CHAIRMAN, URBAN AFFAIRS

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REP. RICK SACCONE
SENATOR JUDITH SCHWANK
SENATOR LLOYD SMUCKER
REP. JOHN TAYLOR
REP. MIKE TOBASH
REP. TARAH TOOHIL
REP. DAN TRUITT

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TESTIFIERS

WRITTEN TESTIMONY SUBMITTED:

JANET EVANS, PRESIDENT
CITY COUNCIL, CITY OF SCRANTON

JOSEPH L. PALUBINSKY
CHIEF ADMINISTRATIVE OFFICER, BOROUGH OF SHENANDOAH

MARK D. SCHWARTZ, ESQ.
ATTORNEY-AT-LAW

THOMAS W. JENNINGS, ESQ.
LABOR LAW, JENNINGS SIGMOND P.C.

FRATERNAL ORDER OF POLICE
READING, PA, LODGE #9

FRATERNAL ORDER OF POLICE
E.B. JERMYN LODGE #2, SCRANTON, PA

CHAIRMAN ROSS: For the information of all those in attendance, this hearing is being videotaped by the Broadcasting Office of the House Bipartisan Management Committee. The video is also being made available to the news media and for streaming on the House websites. We'd like to begin the joint hearing on Act 47 between the Senate Community and Economic Rela – Recreational Development Committee, Senate Local Government Committee, House Urban Affairs Committee, and House Local Government Committee. I'm State Representative Chris Ross, Chair of the Majority Chair of the House Urban Affairs Committee. At this time, I'd ask if our other members that are present here introduce themselves, please.

CHAIRWOMAN EARLL: Thank you, Chris. My name is Jane Earll, State Senator form Erie County, and I chair the Senate Economic – Community Economic Recreational Committee. I'm not going to belabor the point. I think that we all know why we're here this morning, and throughout the day, we're going to continue to receive testimony. This is the second in a series of hearings, testimony regarding the fact that many of our municipalities of all shapes and sizes are facing significant financial distress and that it is incumbent upon this Legislature to form an action plan via legislation in order to help these municipalities prior to getting into 47, as well as I'm hopeful that we will be able to update 47, tinker with it in a way to bring it into the 21^{st} Century, so with that I look forward to hearing testimony today.

CHAIRMAN EICHELBERGER: John Eichelberger. I'm from Blair County, represent Bedford, Fulton, Huntingdon, a little piece of Mifflin, and I chair the Local Government Committee in the Senate.

CHAIRMAN CREIGHTON: Representative Tom Creighton, 37^{th} District, Lancaster County, and I yield my time to my esteemed colleague.

CHAIRMAN FREEMAN: Thank you, Tom. I'm Representative Bob Freeman, Minority Democratic Chair of the House Local Government Committee. I represent the 136th District in Northampton County.

REPRESENTATIVE KNOWLES: Yes, good morning. I'm Jerry Knowles. I represent a portion of Berks and Schuylkill Counties, and I am a member of the House Local Government Committee.

REPRESENTATIVE MICCARELLLI: Nick Miccarelli, Delaware County, and I'm on Urban Affairs.

REPRESENTATIVE MASSER: Kurt Masser, 107th District, Northumberland, Montour, Columbia Counties, House Urban Affairs Committee.

REPRESENTATIVE TAYLOR: Thanks. Representative John Taylor from Philadelphia, Urban Affairs.

SENATOR ARGALL: Senator Dave Argall from Schuylkill and five other counties.

REPRESENTATIVE HELM: Sue Helm. I'm Dauphin County, 104th District, Urban Affairs Committee.

REPRESENTATIVE TOOHIL: Good morning. I'm Tara Toohil from the House. I'm on Local Government and Urban Affairs, and I'm from the 116th Legislative District, greater Hazelton area.

REPRESENTATIVE BLOOM: Stephen Bloom, Cumberland County, 199th district, and a member of the House Urban Affairs Committee.

REPRESENTATIVE TRUITT: Dan Truitt from Chester County. I'm with the House Urban Affairs and Local Government Committees.

REPRESENTATIVE SACCONE: Rick Saccone from the 39th District, Allegheny and Washington Counties on Urban Affairs. Thank you.

SENATOR SMUCKER: Thank you. Good morning. Lloyd Smucker as, as state Senator, 13th, which is located in Lancaster and York Counties.

SENATOR SCHWANK: Thank you. Good morning, everyone. Judy Schwank, State Senator representing the 11th district, primarily Berks County.

REPRESENTATIVE BROWNLEE: State Representative Michelle Brownlee, Philadelphia, Urban Affairs Committee.

CHAIRMAN ROSS: I think that's everybody. We will have other members attending as we go forward.

CHAIRWOMAN EARLL: I think that we are going to begin the morning with the representatives from various statewide local government associations: the County Commissioners, the League of Cities, the Township Supervisors Association, as well as the Borough Association. I think we're all present and accounted for, and you may begin in whatever order you would like as soon as you're ready. Thank you.

MAYOR BRACEY: Good morning. Good morning, Committee Chairs and members. Thank you for the invitation to testify on the very – on this very important and timely issue of Act 47 of Municipal Distress. I am Kim Bracey, Mayor of the City of York. I am here today representing the Pennsylvania League of Cities and Municipalities. I currently serve on the League's Board of Directors.

Pennsylvania League of Cities and Municipalities is a non-profit, non-partisan municipal association representing Pennsylvania's urban communities. Our membership is not based on a form of government but on common issues. Our current membership includes most of Pennsylvania's fifty-six cities and over twenty-five urban boroughs and townships.

As you know, Act 47 has been in the news frequently in recent months. The filing by our capital city, its subsequent inability to accept that Act 47 Plan developed, and the General Assembly's recent amendments to allow the State to step in and take over have precipitated much discussion throughout municipal government. Additionally, last month's Supreme Court decision regarding Scranton's Act 47 Plan and arbitration awards has severely impacted the effectiveness of the statute. For the twenty communities in Act 47, the fifty-seven early intervention communities, and the scores of communities facing a future decision to utilize the Act, today's hearing and subsequent changes to the law are of utmost importance.

Our vision over time is for small cities to have a menu of options and tools so that we can generate adequate public revenues to create the conditions whereby development can flourish and so our tax and fee structure is fairer and more stable and predictable. In turn, this will translate into property owners, residents, and businesses having the confidence and the security to invest, re-invest, and take ownership and pride in homes, blocks, and neighborhoods.

My message today is one of prevention and self-reliance. There are very real and absolute inadequacies in Pennsylvania's structure of local government. Changes must be made, locally and at the Commonwealth, to prevent communities from ever having to utilize Act 47. Act 47 should be for rare cases of municipal distress where nothing else can be done to turn a municipality around. Changes to Act 47 should be directly linked to changes to the elements that cause municipal distress. You as policy makers and our Commonwealth as a whole must look comprehensively at the full picture. Your core communities are crumbling, and we cannot sit idle and passively permit this to happen.

Pennsylvania League of Cities and Municipalities has been a longtime advocate for a number of municipal reform measures, but not until last year did we really focus in on several critical, key areas. This process was membership-driven and began in June of 2010 with a call for volunteers to serve on a Core Communities in Crisis Tax – Task Force. The task force members, staff, and technical advisors spent five months identifying and narrowing the issues confronting core communities, determining viable solutions to those problems, and preparing recommendations for the General Assembly and the Governor. In November of 2010, our Core Communities in Crisis Report was published and copies sent to all Legislators and Governor Corbett, as well. I encourage you to take a few minutes to read through the report. You have received another copy today, and the report is also posted on the Pennsylvania League of Cities and Municipalities website.

Preventing Municipal Distress. There are many factors involved in municipal distress. The City of York confronts the combined dilemmas of costs that rise faster than the rate of inflation with a narrow range of revenue sources that are relatively static. Specifically, the following four challenges have been festering and frustrating growth for years. A warehousing – number one, a warehousing of tax-exempt real estate in cities. Two, spikes in pension and health care costs. Three, being land-locked and trapped in an archaic system of government, and four, an inadequate and antiquated tax system prepared with a lack of enabling legislation from Harrisburg to cover rising costs. Simply put, this system created for the 1950's and [19]60's is not practical and does not work today. It is a broken system.

Structuring Healthy Communities. The Pennsylvania Economy League's PEL study of municipal revenue over the thirty-year period from 1970 to 2009 has been quoted many times since its release in 2007, and the results bear repeating.

> …fiscal distress is inevitable under the existing state laws that govern municipalities. Current legislation leaves those who lead the Commonwealth's cities, boroughs, and townships with revenue streams that are out of sync with budget needs. The best fiscal management and programs of economic and community development are not enough to turn the tide within municipal boundaries.

The study goes on to say, "in so much as municipal government is a creation of the state, leaders in the administration and legislature bear responsibility to create structures that allow municipalities to become and remain strong, vibrant entities." So we're not asking or seeking a bail out. We are simply asking that you give us the tools we need to succeed.

The recommendation presented in our Core Communities in Crisis Report address the change that is needed in local government structure in order to prevent the comment – the most common instances of distress.

Regional Thinking. We must shift from a narrow, competitive approach to gov – local government to a regional approach. Today's citizens utilize a region much more than their individual municipalities of residence. On a daily basis, we move in and out of multiple municipalities for work, school, shopping, health care, recreation, and dining. To many folks, these are invisible lines drawn on a map. We believe in a sense of a place that exists in our 2,562 individual communities, but honestly in 2011, it is a practical failure for our Commonwealth to even have 2,562 local governments. And to have counties like York with seventy-two municipalities that for the most part do their own thing without coordinated effort while the county seat, the City of York, is left to grapple with the largest concentration of blight, poverty, and tax-exempt land.

At 5.2 square miles, York is geographically one of the smallest cities in the United States. We also are landlocked with little hope of annexing and land outside of our borders to grow jobs and build our tax base. So-called rust belt cities like York are developed to their limits, and the state offers few incentives for neighboring municipalities and cities to collaborate, let alone share, resources or merge functions or facilities. Often, regionalization has unintended and adverse impacts because cities sometimes stand alone amongst surrounding municipalities as having the most professional staff with the largest inventory of equipment or technology, as often is the case in our police or fire protection services. Our services and the associated expenses are sent out more often than support comes in. As is the case in York, in 2011, our city fire department provides protection services to North York Borough. This is not out of some masterful regionalization plan, nor was it incentivized by the Commonwealth. It was out of necessity. The City of York forged a relationship with North York Borough to provide fire protection services out of necessity. This is a great example of how regionalization can work, but I can attest it is not a revenue generation option, nor does is necessarily decrease the burden to our general fund or pension fund.

Our fragmented municipal structure confuses and frustrates developers and would-be investors with a dizzying array of tax rates, incentives, strategic plans, planning commissions, zoning regulations, and zoning boards. Our fragmented municipal structure dilutes our political, professional, and civic intelligence. Our diluted and duplicative identities breed turf mentalities and intransigence by some and disinterest by others.

We need leadership from the Commonwealth to offer meaningful incentives that forge regional thinking, technical assistance prioritized funding, and best practices to model successful leadership efforts. From a budgetary standpoint, it is necessary to fully fund the Department of

Community and Economic Development's Shared Services Program and the Governor's Center for Local Government Services.

Tools to Address Tax-exempt Entities. Local government must be given those tools necessary to address the high percentage of tax-exempt properties in our older communities. The designation of "tax-exempt" takes place at the state level, but the effects are felt locally.

Locally in the City of York, approximately 32 percent of the city's General Revenue, General Fund Revenue comes from real estate tax. The city's tax base values about $1.6 billion. Of that, about $995 million is taxable, and get this, $605 million is tax-exempt. That's right. A staggering 605 million dollars, approximately 37 percent of the tax base in York, is exempt and does not pay real estate taxes. The properties include government, utilities, churches, social service agencies, hospital, education, and post-secondary schools. The large percentage of tax-exempt real estate means that more than 50 percent of each taxpayer bill is due to the high concentration of tax-exempt property. This level of tax-exempt property is especially burdensome to a population with a poverty rate of 20 percent, a per capita income rate of 13,000 dollars, and a median household income of about 26,000 dollars.

We serve all people who work in or visit in the City of York. That is our legal mandate and our ethical obligation. The practical result is that the real estate taxpayer of our city subsidize every non-city resident who uses county government services, medical facilities, religious, higher education, or social service facilities. We fully recognize the role tax-exempt institutions play in our communities as both employers and providers of educational, cultural, social, medical, and religious services. Many of us serve on their boards. However, this is a major drain on the overall tax base when the percentage with any single municipality reaches 30, 40 or 50 percent of exempt.

City taxpayers, in many cases the poorest in their counties, cannot sustain the burden of footing the bill for services that are used by all. This is free-riding, not self-reliance. Practically, it is infeasible. Fundamentally it is unfair. The opportunity to secure payments in lieu of taxes from exempt entities is appreciated but wholly voluntarily – voluntary, and it is a full-time job in and of itself, and it accounts to an overall minimal amount of money at best.

The Pennsylvania League of Cities and Municipalities has been an advocate for estate reimbursement to municipalities with a high concentration of tax-exempt properties. Additionally, we recommend that municipalities be authorized to charge municipal services fees for specific services provided to all property owners, including those that are tax-exempt.

Flexible Revenue Sources. New revenue from municipalities is not looked upon favorably by many, but the reality is that our local taxing structure is simply inadequate and cannot sustain the rising expenses to provide municipal services. That is fact. You will find little dispute among my colleagues on that.

Older municipalities are hamstrung by their inability to generate sufficient revenue to cover basic service provisions. Municipalities have only two local taxes that they can rely on - the local earned income tax and the local real property tax. These limitations place a heavy burden on our residents. They also cause our communities to be unable to compete in attracting prospective new residents and businesses who naturally compare the tax rates of municipalities.

Truth be told, Pennsylvania law severely restricts what small cities can do. As a consequence, we are overly dependent upon property taxes and an antiquated tax system to fund our services. It should come as no surprise that the real estate tax rate in the city has gone from 9.73 mills in 2001 to 17.38 mills in 2011.

This is not a good way to run a business or a city. Cities of the third class should be given a menu of options to become more self-reliant in the tradition of Philadelphia and Pittsburgh, both of which have been bestowed and trusted with a flexible range of mechanisms to chart their destinies as world-class cities. Our state legislature needs to see our small cities as special, distinctive places that can light up our Commonwealth with innovation, culture, and family-sustaining jobs. We can only reach our destinies as small great cities if the Commonwealth affords us the appropriate tools.

As mentioned earlier, today's society lives regionally, and services are provided to residents, workers, and visitors alike. Therefore, we should also tax regionally to allow the region and its anchor communities to benefit as a whole. An example of a regional tax is the 1 percent county option sales tax that is shared among all municipalities in that county. Or a countywide option tax on alcohol sale. Revenue generated could be restricted to pay for law enforcement or road improvements. These taxes and policies are already in place in Philadelphia and Pittsburgh. Arguably, it is unjust to not offer these options to our county government and their residents throughout the rest of the Commonwealth.

Control Personnel Costs. Placing limitations on the collective bargaining and pension laws that govern new uniform employees is a tough but necessary reality. We must draw a line and set limits on future awards and pension benefits. The current and future personnel expenses driven by Act 111 and municipal pension laws are half of municipal budgets in our older, full-service communities. Pension liabilities and post-retirement health care costs are equally significant, and together, they place a huge fiscal burden on residents many years into their future.

Act 111 has not been amended since its inception in 1968. The Act gives uniform personnel – uniform employees the upper hand when it comes to collective bargaining and binding arbitration. Specifically, municipalities pay the full cost of arbitration even though there are two parties to the process; the list of potential arbitrators is limited to only three; there is no requirement for consideration of a community's ability to pay for the benefits awarded; and the ability for a municipality to appeal an arbitration award in court is very narrowly limited. We're not suggesting Act 111 be eliminated, but a set of reasonable amendments to Act 111 would equalize those costs and equities.

Locally in York after wages and salaries, in the highest line item are pension and health insurance. MMO, as you know, stands for Minimum Municipal Obligation. State-imposed MMO is the mandatory annual payment that a local government must pay into its pension fund against future obligations. In York the 2001 MMO for the whole city workforce was 546,000 dollars, but by 2011 the MMO for the entire city work force is a staggering 6.5 million.

In addition, employee health insurance costs have risen dramatically over the past ten years. The city maintains a self-funded employee health insurance program. In 2000, the total cost of the program was 3.3 million, but by 2008, the cost was 7.4 million. A 123 percent increase over only 8 years. Just imagine if we could collectively purchase health insurance regionally or have joint coverage provided under the umbrella of the Commonwealth of the State.

Reform Legislation. Following the publication of the Pennsylvania League of Cities and Municipalities report, we partnered with a number of local Chambers - Reading, Harrisburg, Pittsburgh, Lancaster, York, and Wilkes-Barre. The consensus of the partnership was to concentrate on reforming two of the costliest mandates on local government, Act 111 and municipal pensions. Over the course of this year, we have developed specific legislature language setting forth fair commonsense reforms to Act 111. This language is finished, and we are now at a point of needing a strong group of bipartisan sponsors to introduce and help us move a bill. We would welcome the leadership and support of the members present today as sponsors of our proposal. Our municipal pension reform proposal is forthcoming as well.

So I'm here today to stress that we will stand with you to address this legislation. While it may seem controversial upon first glance, folks, it is the right thing to do and time to do it. You have mayors, council members, leagues, and business leaders ready and willing to stand alongside of you and support this legislation and support each of you.

Act 47. In conjunction with the above recommendations to prevent most cases of fiscal distress, Pennsylvania League of Cities and Municipalities has several suggestions for making Act 47 a more effective tool.

Immediate Concern. For the Pennsylvania League of Cities and Municipality members facing Act 47 and looking at the relief it could provide, two specific provisions of the statute that were arguably the main reasons to enter Act 47, which have been jeopardized. These provisions are the ability to gain new revenue from an increased non-resident earned income tax and limitations on arbitration awards. The passage of Senate Bill 1151 and the recent Supreme Court decision out of Scranton have severely impaired both provisions, potentially rendering the statute useless. As you know, Senate Bill 1151 removed the earned income tax provision for third class cities that do not adopt the Act 47 Plan, and the court decision allows arbitration awards to supersede Act 47 Plans.

Senate Bill 1321, introduced to resolve the issues surrounding the court decision for future arbitration awards, should reinstate the very important Act 47 tool. If new revenue options are provided outside of Act 47 as suggested earlier, then reinstatement of the earned income tax provision is not necessary. If not, an additional source of revenue for Act 47 communities is essential to fiscal health.

The Early Intervention Program. Although not currently part of the statute, the early intervention program (EIP) has had success and is useful to municipalities at first sign of distress. The City of York has used many of our recommendations. This program should be required for municipalities that meet certain criteria on their DCED [Department of Community and Economic Development] financial reports. A mandatory early intervention program will require a financial commitment from the Commonwealth, but the upfront costs should easily be recouped by addressing fiscal issues earlier rather than later.

A Schedule for Moving Out of Act 47. Currently, Act 47 is the legislative equivalent of the Roach Motel. "Once you check in, you don't check out." Act 47 promotes no timeframe for moving through the process and coming out of the program. We support benchmarks of success or the appointment of an oversight board to help move a community out of Act 47. A timeframe and the requirement to leave Act 47 is only useful if the prevention measures discussed earlier are in place to support local governments. It does not make sense to expect municipalities to leave Act 47 and go back to operating under the old, ineffective governance that caused the distress in the first place.

Merger and Consolidation. Both inside and outside of Act 47, there must be a concerted effort by the Commonwealth to find ways to make mergers and consolidation attractive to municipalities. This is on both a service level and a municipal level and goes back to our original point of regional thinking. Municipalities and their citizens naturally don't want merge with a municipality that is struggling. There are things the Commonwealth can do, though, to make this easier - monetary incentives, removing obstacles, and providing technical assistance are the most commonly-cited ways to achieve a willingness to merge and con – and consolidate.

Boundary Change for Non-viable Communities. It may be necessary to include in Act 46 an avenue for a municipality that can no longer sustain itself and provide for its citizens. The Pennsylvania League of Cities and Municipalities supports the Boundary Review Commission housed in Senate Bill 1357 of 2010. The public process in the legislation provides for a reorganization and regionalization of local government in order to promote fiscal health and efficient service delivery. Act 47 may be the place to begin this discussion.

So in conclusion, today as in numerous other hearings and venues, the Pennsylvania League of Cities and Municipalities and my colleagues have consistently laid out a number of reform measures that must take place at the state level to stop the fiscal decline of our municipalities. As stated at the beginning of my testimony, prevention and self-reliance should be the goals of the General Assembly.

We know how difficult and unpopular some of these decisions may be. I am here today on behalf of a city that supports these measures. Beyond support, it desperately needs them. Like many cities, we're currently undergoing our city budget process. Presently it proposes an 11 percent tax increase and a 10 percent increase in sewer refuse fees. This is nearly identical to our budget last year. But the scarier fact is our departments have held the line or cut costs where they can, outside of mandates. There's nowhere else to go. We are operating with less people and are freezing or eliminating any vacant positions, including three firefighters. So this budget propose – this budget proposes doing the same duties next year with less people, yet we will still require an increase in revenue. Our only options remaining to present a budget free of a tax increase would to – would be more significant layoffs in police and fire. Nobody wants that solution. I certainly don't, and we simply cannot continue to ask our residents to pay more in property taxes. And unfortunately, we are out of options. We have employed every tool and trick, if I could use that word. This is not a result of malfeasance. This is deferred maintenance by our Commonwealth that our residents, your constituents and mine, have to pay the price for.

Honestly, we have been saying this for years. None of this is new, and none of this should be shocking. Mayors, council members, municipal managers, leagues, committees, consultants, studies, and think tanks have all generally agreed to many of the principles laid forth today. Today, this is more than testimony; it is a plea for help. Let's face it, none of these cities or mayors wish to be in this position, but we are out of options, and hope is dwindling. Reading, Scranton, Harrisburg - these are our great cities. How can we continue to permit this as Pennsylvanians? Does our Commonwealth embrace its small cities or not? If nothing is done, more Act 47 petitions will follow, and more bankruptcies will result.

We stand ready and willing to work with you and are asking for help.

This is not partisan. This is what it will take to arrive at sensible, self-reliant, and preventive solutions for our core communities of this great Commonwealth that are in crisis. Thank you very much.

MR. HILL: Good morning. Excuse me. I'm Doug Hill. I'm Executive Director of the County Commissioners Association of Pennsylvania, and we are a non-profit, non-partisan association that represents all the Commonwealth's sixty-seven counties. I do appreciate your invitation for us to present remarks to you on Act 47.

Counties are involved in the Act in two different ways. One is that we can become subject to provisions of the Act and take advantages of the provisions of the Act, but then second, because of our unique circumstances, we're also in a position of helping to respond and helping municipalities in their recovery under the Act, and I'm going to take each of those in turn.

County involvement under the Act is a very short story. To my knowledge we've had no county actually fall under distress status. We've had maybe a half dozen or eight counties that have taken advantage of the EIP program, but that was just that little bit extra that they needed, and, and it worked well for them. And we attribute that to a number of factors. Most notably, counties are larger, better geographic, demographic, economic-based than the municipalities, and so we're in a better position to absorb economic challenges.

Similarly, the way state statute is structured and the mandates and services are structured, we're in a better position to perform those services without having the statutes themselves create very specific core structural problems, and so we don't see the same issues, for example, in collective bargaining because almost all of our employees, to the extent they are organized, fall under Act 195, much less restrictive than Act 111 that applies more broadly with the municipalities.

Similarly, county pension law, we don't have the same statutory level of definition of benefits that fall under Act 600 for municipal, uniformed, or for all employees under the city code, so we are better able under the statute to tailor the pension to meet our local needs and our local fiscal capacity. So we don't have those same kinds of structural issues that, that drive our budgets and cause us the same level of fiscal distress. That doesn't mean it's not there, and I'll talk a little bit more about that later.

The other end of the spectrum, counties can be partners in resolving fiscal problems for municipalities, and that, that comes in a number of ways. There's probably two significant examples. One is in the late 1980's counties took responsibility for solid waste planning and recycling and, and removed that responsibility from municipalities. In the early 1990's, we took over 9-1-1 call taking and dispatch, and those were significant changes and, and had two unique results. Number one is that we were able to provide all those services on a statewide basis relatively uniformly, and second, the counties relieved municipalities of some significant fiscal and administrative responsibility. There are probably other examples like that, smaller examples, but I think those are two key ones that you can take a look at. Similarly, we are involved in less formal responses. Counties have capacity to bring municipalities together in regional economic development issues, in land use issues, transportation projects, and others, and so we do have some capacity to help in that respect.

We did – excuse me – we did review the testimony that was submitted to the Joint Committees earlier. We do have some comments on a few things that were suggested there, and particularly on the testimony from the Local Government Commission and DCED, and I do want to say, parenthetically, that we commend the Local Government Commission for the work they did in developing and advocating passage of the Act, and for in respect to DCED, I think our members would agree that the Department and its administration of the Act has been generally positive and has been helpful and respectful of local politics and local conditions and, and has gone well.

Four things we'd like to comment on out of that testimony. First, the Department recommends a new revenue stream for cities, boroughs, and townships, noting that their current revenue streams are inelastic. We have to add counties to that list. If municipalities that have access to property tax and 9 – or Act 511, which includes earned income tax is inelastic. Look at the counties. All we have is the real property tax, and though we have advocated alternatives in the past. In particularly, in the context of the Act that's a problem because under the Act you have additional flexibility in relief from the rate caps, but a relief from the rate cap when your only alternative is a real property tax means there is really is – really makes that a meaningless recovery strategy.

Second issue that the Department commented on is particularly is that municipalities – their municipalities may not be viable, but as an organization we do not believe that we are ready yet for either forced consolidation or municipal dissolution or absorption by municipalities up to the county level. We think the Department notes rightly that there are a number of structural impediments to municipal cooperation and consolidation or shared services, and we think the prudent first step would be to address those impediments rather than forcing consolidation or dissolution.

Third issue is tax-exempt property. The Department commented on – the Mayor commented on very eloquently. That is an issue for all of our taxing jurisdictions to greater and lesser degrees, and we think that while not specifically part of the work that you're doing right now in Act 47, we think this – the Commonwealth and the Legislature should reexamine the institutions of purely public charity act, under which those tax exemptions are granted. We think that in some circumstances that the bar is set unreasonably low and allows some entities to qualify for exemption at a much lower threshold than what we think the Constitution actually envisions for those exemptions. And I think the other important point, too, and this was noted in the testimony, is that even with those – even though they are in some part offsetting government services or providing needed services to the community, they still do themselves draw community services, and to the extent they're exempt that means the cost of the services provided to those entities is born by the remainder of the taxpayers locally.

The last point that we want to mention out of the DCED testimony is the notion local autonomy has to be respected. The Act needs to be a tool toward recovery, a tool of assistance, and while I think we all agree that it can be frustrating and slow and heading down multiple different alleys before you find the proper course, it's still incumbent that we find the local solution that's going to get the local buy in, because that's the solution that's going to work in the long term.

Now, while we think the, the Act itself is a good tool toward helping us resolve local fiscal issues, really, the best alternative is to prevent us having those fiscal issues to begin with, and in that respect, I'd like to comment on Commonwealth policies because those, essentially, are what drive local service delivery, ultimately drive where our costs lie. You know, we've, we've talked about mandates dri – as the driving force in local government services. At the county level, mandates account for 80 to 90 percent of our budget. Very little of our local budgets are really discretionary, and almost all of what we do is to carry out mandates and priorities that the Commonwealth has established and has determined that we are in the best position to accomplish. And testimony that you've heard talks about structural mandates and whether that's pension requirements, benefit levels, we all know service mandates. You know, we do children and youth, mental health, mental retardation, elections, 9-1-1, a whole long list.

There's also administrative mandates. At the county level, what's the interrelationship among our elected offices? Who are we allowed to appoint to boards and authorities, and what's their public accountability? How centralized and decentralized are we? And there are procedural mandates, some of which you've tried to – you've addressed this year. Bidding is one, some of which you've tried to address, prevailing wage, so all of those things factor in as well as even the levels of services that we provide under mandates. So when we hit an economic downturn, the inconvenient truth is that we see less revenue at the local level, yet the types of services we provide, whether that's children and youth, drug and alcohol, domestic relations, the number of people presenting themselves in need of service increases.

We have three things that we would like to suggest to you. First, find a mechanism under which mandates can be addressed regularly and regularly reviewed as to scope, as to applicability, as to cost benefit, and whether it's, it's meeting its original need. Second, we need to find alternate revenue bases. We can't survive in, in a longest term at the county level with simply a real property tax base. We need to find alternatives that address local, economic, and demographic circumstances, and we, along with all of the other local government groups, have supported a county option sales tax as one primary alternative. We also support a county option earned income tax or personal income tax, and the point being, we need to find a way that better recognizes local economic and demographic circumstances to fund the core services that we're required to provide. The majority of other states, almost all of the other states, allow these alternate tax bases. Pennsylvania is almost unique in relegating counties to just the property tax.

The other side that we need to look at is fees, service fees, and there are services we provide for which fees are appropriate. That's utilities, solid waste management, court costs, 9-1-1. Those are all good examples, but we need to write those statutes in more flexible ways so that we can respond. 9-1-1's a great example. We had changes in technology, but the way the statute was originally written, we couldn't respond to that. We had to come back in now three times to amend the law to encompass new technology so that we could properly recoup the fees to provide that necessary service. So we need to recognize that and provide for, for longer-term flexibility.

And last, and this is a significant point for us. The Commonwealth needs to clearly understand its fiscal interrelationship with local government. We provide the core services that you want to be provided to our mutual constituents, and all of those statutes set out some fiscal relationship between the Commonwealth and the counties. And with increasing regularity, those commitments are not being met by the Commonwealth. Over the last decade, we have seen stagnant funding in almost all of the line items, and in many of the line items, we've seen decreases, and in fact, there are many line items now for which the 2011 appropriation is less than the 2001 appropriation. Yet, there has been no material change in the requirement for us to provide those services. And so we need to have a clear understanding that the actions that you take are going to drive what our fiscal condition is at the local level. We are responding as well as we can in the, in the context of our limited tax base and in terms of our limited administrative capacity, but the simple fact is that in every year, in every year somewhere between a quarter and a half of the counties are compelled to raise property taxes, and I say "every year." That's even Commissioner election years. This, this was a Commissioner election year. Coming into it, a quarter of the counties raised property tax, and just like you, we are responsive to the public. Raising a tax is our last alternative, and we are going to do that only when we've exhausted all of the other alternatives. Reducing services, improving revenue collections, finding administrative efficiencies, drawing from reserve to the extent prudent. It's only as a last resort that we raise property taxes, and the fact that we're compelled to do it with such regularity, I think, is indicative of the need to talk about levels of support that we're receiving from the State.

We also want you to consider it, not in the context of just the budget, but in context of services. One of the things that we unfortunately are compelled to talk about right now is children and youth services and the context of the unfortunate events at Penn State and elsewhere. And some of the responses that we've seen, while necessary, also have an effect of driving costs locally, so for example if you increase the penalty for failure to report a suspected incident, that means that the number of people who do reports is going to increase if they have a benefit – if they have a waver of doubt, "Should I report or not?" they are going to error on the side of reporting, and concurrently, county children and youth is going to investigate every one of those reports to see if it's founded or not. That increases the cost. We're not objecting to doing that, but we believe it has to be done prudently. We believe it has to be done in a way that considers what really fixes the problem, and, and comparatively, "How are we going to fund that increased level of service?" We support the creation of the commission that you now are discussing, and we support the notion that that would be done, that review would be done in a structured way to deal appropriately with the problems. But that's just one example, and every issue that comes before the Commonwealth for potential solution can have those potential ramifications locally and needs to be considered in that broader context of our capacity to deliver and your responsibility to pay a fair share to help us do that. So it's – and we're also seeking other – and that's not to, not to complain about the Commonwealth relationship and not to say that funding is the only solution. We are looking at other means as well.

Last year as a part of the budget adoption, you adopted changes in the public welfare code that compelled the Department of Public Welfare to work with us on restructuring children – or restructuring human services delivery, and that's something that we've undertaken with the Department. We've furnished them with an extensive list of the services we provide, the statutes that underlie, the reg[ulation]s that apply, the federal requirements that are attached to it, and the recommendations on how we can do pilot projects and then longer term solutions to better provide the services that our mutual constituents want. But in the context of doing it more efficiently within what we all recognize as a, as a smaller available pool of resources, so we are committed to, to finding those ways to deal with the issue as well to apply some creative thinking and to address all of our mutual constituents' needs going forward. That concludes my remarks. I'll be happy to answer questions after the panel's finished.

MR. HERR: Thank you. My name is Elam Herr, Assistant Executive Director for the State Association of Township Supervisors, and as Doug said, we are also a non-profit, non-partisan organization, and I want to thank the committees for giving us this opportunity to comment on Act 47 of 1987. I will not read my testimony. You all have a copy of it and can read it at, at your convenience. I will highlight several parts. I want to also state that a lot that has already been stated by the Mayor and Mr. Hill we agree with. There are a few issues that have been brought up that we could debate at this time, but I will not take up your time and have the debate among the committee sitting here at this table.

As you all know, we represent the majority of the municipalities within the state from very small to townships over 60,000 population, and I just want to state at this time that we have very little experience with Act 47. Although a statement was made at the previous hearing that Act 47 was originally created for the smaller municipalities, I only have two townships since [19]87 that have actually gone into Act 47, and one of those townships, Westfall Township, Pike County, which again you've already heard comments on, is a very unique situation that put them in Act 47. And again, I will not take up your time to go into that one, but if any Member sometime wants to discuss that particular issue, I'd be more than happy to sit down and talk to you.

Our primary concern are the reasons that municipalities end up being in Act 47 and are the – are those that are on the verge of entering into the process. Government provides services, facilities, programs that their constituents want or need, and that does not lessen during bad economic times. Matter of fact, it only grows during these times, and again, some of the comments that the Mayor has stated in her testimony, I think the rest of us could also reinforce that in our own municipalities that we have seen in the last few years. Financial difficulties that municipalities face are only heightened during this time period. People are out of work. That affects our – one of our two major tax sources, and that happens to be the earned income tax, which means that we rely on the, the property tax, which up in this building everybody seems to think should be totally done away with. Well, if you do away with the property tax, I won't speak for Doug, but I don't think he has any taxes, and from our standpoint that is the most reliable tax we have to work with at this particular time. Our revenues, they are limited. They are very inflexible, and the – as I said that means we rely on the property tax.

A lot of my municipalities in the last few years have been digging into their reserves so they don't have to raise taxes. I don't think anybody at this table, specifically the Mayor, since she's on the front line, but the rest of us and our members that we represent want to raise taxes no more than anybody else in this room who is elected, but we have to pay our bills, and that is a major problem.

Municipalities need the, the authority, the flexibility to tailor their taxes. They need to meet the needs of their residents. Again, local government as state government provide services that the private sector does not want to provide. I can give you examples over – in years past where a good example is mass transit, local mass transit. That was a governmental function at one time taken over by the private sector and now is back on the public side of the ledger. For the simple reason, they don't make money, and if – but the service is still needed. So the problem is it falls back on us to provide the services. We have to raise the revenues.

There was talk about tax-exempt property, and it's shown mostly, or it seemed to be mostly in urban areas, but again, I can show you municipalities, townships, where tax-exempt property takes up the majority of their taxable base, and it is a problem that goes across the board and, and does need to be addressed. As with tax exempt property and you get into the taxes, taxes have to be fair, flexible, and realistic. You know, I mentioned it a couple times, and I'll leave it at that. We need tax reform, local tax reform in Pennsylvania, and it has to be across the board. It has to affect the counties, the cities, the boroughs, and the townships.

Municipal leaders need to exercise restraint to excessive demands placed on them by their constituents and those affiliated with the municipality. This includes labor costs, and again, the Mayor was very elegant in her comments, but frequently, you have to realize that the largest budget item in a municipal budget is the labor costs and what goes along with the labor costs. I mean, when you look at labor costs amounting to 40 to 60 percent of your budget, it doesn't leave a lot for the services and other issues that are demanded by your constituents. And in this case, I'm not speaking on – for the Mayor and what she was mentioning. I'm talking about my municipalities – bless you – where townships are telling us that 60 percent of the budget is due to labor cost, and that is, as I said, is a very large issue.

We need changes to the arbitration process. It does not take into account the financial hardships of, of the municipality or what it will do to the municipality depending on what the award is. It doesn't take into account that municipalities may have to raise taxes, and again, in the economic situation that we're in today, raising taxes is not looked upon very favorable by the constituents nor the elected officials. And it doesn't look at what is the potential down the road. Will it take the municipality which is liable today and put them in a distressed situation? And with the Supreme Court case that has been referenced, that does not help a municipality get into – stay out of Act 47 or get them into the verge of going into that process.

Mandates. Doug spoke about those on behalf of the counties. We all face mandates, and the problem with the mandates is it's not only the state, and I know you don't have any jurisdiction over the Federal Government, but a lot of times the Federal Government puts a mandate out on you, and you immediately turn it over to us. And if it isn't the Legislature doing it, it's the bureaucracy which puts it back onto the municipal level. And the end result is that you can't just go by the way of saying, "You can raise taxes." We are limited on the amount of taxes we can do, and what has happened is they don't look at the cost benefit basis of it. Yes, and I'll use environmental aspects, it is a good thing. It is something that needs to be done, but we have to look at the cost benefit ratio, and if the cost to take care of a problem way exceeds the benefit, is it realistic?

I will give you an example from years ago when I started with the Association, and I do mean years ago. We had a, a township of 250 people. The township was actually larger, but DER, at the time, an area of 250 people within the township, they were told that they would have to put in a 12.5 million dollar sewer system for those 250 people. Now, that isn't 250 taxpaying people. That was 250 people, so if, if you take four people per household, you would see what the cost would have been for that situation. The township offered suggestions to – for alternatives to that, but at the time, the Department was basically saying, "No, this is the only alternative." Can you imagine what your monthly or quarterly bills would have been for – to pay for that system?

Doug made a good point, and I have to echo that. We are partners. All of us sitting here are members, are partners with the state government to provide the services that our constituents need and want. And it has to be looked at that. We're not customers with the st – or to the state. We're partners. And you cannot constantly mandate mandates on us or push down mandates on us and say, "Figure out how you are going to pay for them," because some constituency out there says that this is a great thing to do. There has to be some rational realization. Otherwise, you'll have more municipalities ending up going into Act 47. And just by consolidating or merging or doing that type of answer isn't going to straighten out the problem. You will still have the cost.

Pensions. We testified earlier this session on the issue of pensions, and the question asked of us is, "Why aren't you at 100 percent or better?" Well, one of the reasons that we've heard from our members is as soon as we get to above 90 percent or better and it goes to arbitration, they're saying, "You're solvent," and they give away more benefits. The end result is now we're below a realistic, viable amount. And what do we have to do then? Raise taxes to meet the MMO's to make sure our systems are solvent. The people who are depending on those retirement packages shouldn't have to worry that the money's going to be there, but we can't today, especially in this case when the economy's good, give away the candy store and assume that everything is constantly going to get better in the future. I think we've seen that for has happened from the beginning of the 2000 until the economy is today.

So finally, what I would like to leave with you, and as the other two that have presented, and I'm able to say, and later, you know, I'll take questions, but please, whether we're working on this aspect of cleaning up and making Act 47 more viable to help municipalities take care of their problems, get out of it, and be functioning for their constituents is to remember that we, as local government, or I should say our members as local government officials are partners with you to provide the services that are needed. Thank you.

MR. TROXELL: Okay, good morning, committee. My name's Ed Troxell. I am the Director of Government Affairs for the Boroughs Association, and I want to echo, first of all, what Elam shared, and just for of all us here is we want to be your partners through this whole process. And instead of reading through my testimony, I'll highlight a few things, but what I think's important, too, I may move away from it regarding this partnership concept idea, is that we do need to develop some way to work together. That's one thing the Boroughs Association has been created to do. We're celebrating one hundred years this year, 2011. We served over 958 boroughs during that time, throughout that time, and we've been able to accomplish various things. Some of the correct steps we applaud the Legislature for passing have been recently Act 92 for our borough code and also the other municipal codes where we were able to adjust our bid limit legislation. Also another thing to look at, too, in this whole discussion, is how Act 32 is working its way out, I mean, when it comes to generalized collections there, and one of the things, too, that we think is very important to remember is that keeping our legislation, keeping our, our codes up to date, keeping – as we're looking at Act 47 how to update it, how to modernize it. One of the things that we're doing is actually updating the borough code. Actually, House Bill 1702 is slated to run next week in the House, and what we're doing there is doing what we feel could also be done to Act 47 is to tweak it, change it, put things in there that actually work for us and work for our communities, work for us as partners with the Commonwealth.

But today as the four committees have, have asked us to testify, asked me to testify, basically, about Act 47 in particular, one thing I'm going to do is kind of present a little bit of history on Act 47 within our municipalities, some of the precepts or guiding dynamics within Act 47, the universe of Act 47 boroughs throughout time, some of the administrative dynamics I mentioned earlier, some of our recommendations on Act 47, and as well how do we see Act 47 being changed, altered, amended to where it becomes a practical piece of legislation, a good program that our folks shouldn't be ashamed to enter but can use to really bring back our economic viability.

Some of the precepts, some of the history behind Act 47. I know you've probably heard this earlier. Just to go over – back in 1987, Senate Bill 864 was passed. Its, its primary sponsor it's – was Senator, the late Senator Jim Rhoads. Senator Rhoads and other sponsors recognized that they wanted to form a public policy of the Commonwealth to foster fiscal, fiscal integrity of municipalities so that they provide for health, safety and welfare of their citizens. The citizens of the municipalities as well as citizens of our Commonwealth, so that's kind of the goals there. Three of the things that we found that were tucked in there I've enumerated here is that that were important to remember about Act 47 is that it is given to charge its elected officials, to keep them involved in the whole process, to enact procedures to help them adjust municipal debt. That's very important because a lot of times what's putting our people in distress status it's debt that's doing it, and also, it's giving something that we've talked about earlier that's been floating through the Legislature, merger consolidation of communities, but making it voluntary. You need that buy in from the locals to move in that direction.

So those three principles, basically, you can say are sovereignty of our local elected officials throughout this process, assistance with the fiscal conditions that we're approached with, and also a citizen-driven consolidation and merger throughout the whole process. Some of the history behind 47 has been used by a multitude of cities over a twenty-four-year period, too. That's an important thing to remember throughout this whole process. It's been around twenty-four years, and throughout those twenty-four years, twenty-six municipalities have used the program, either to success or still struggling with it.

Okay, I have listed there in that paragraph on page 4 a number of how those cities are and whatnot, and also to the in – appendices of my testimony, there's a list there that DCED puts out on its website regarding that. Basically, those twenty-six municipalities are the ones that we're focusing on, and some of them move in and out, etcetera. When it was enacted in 1987, two cities of the third class moved into the program. I go on here to explain that it happened – almost every year annually we had folks going into the program, either third-class cities, boroughs, etcetera, and then, we hit 1995 and a period of time there till 19 – till 2002 when there was a whole seven-year break in the program, so that's interesting to understand, too. If you have seven-year break within something that's twenty-four years long, you've got to kind of be a little particular with how you address it. I guess you could say overall the first few years of the program was kind of like its honeymoon. A lot of folks jumped into the program. They found themselves hopeful to use it to remedy some of the problems that they have. But the following twenty years we've seen an average of about one municipality entering the program per year. It should be noted that several entities have had their 47 status rescinded in the process of their recoveries.

One thing I'd like to focus on, because we're the boroughs and the majority of the folks that have taken advantage of Act 47 have more or less been our boroughs, we have twelve out of the twenty-six entities that have been determined distressed. Twelve of them were boroughs, and of those twelve boroughs, six of them have had their Act 47 status rescinded. So the program has viability. I mean, it works. It's just we need to tweak it, to modernize it, to bring it forward into the 21st Century.

Some of the – talking about the universe of our boroughs, focus a little bit more on those. Here the program worked well with our folks. Loss of funds is a good motivator that the program uses to kind of help boroughs get things back together under their law. The following summary I'm going to provide you here is included – does not include the boroughs that have accessed the early intervention program. The early intervention program within the Act isn't so much cited by name, but it's kind of alluded to in what they use early warning process, or early warning system in that language, so while not – it has kind of – it kind of has a statutory sense to it when it was developed.

Let me talk about those – in 1988, four boroughs entered the program: Braddock, Franklin, Shenandoah, and Wilkinsburg. Of those four boroughs, Shenandoah and Wilkinsburg have since had their distress status rescinded. The remaining boroughs of Braddock and Franklin, according to latest census figures, have both a loss of population over 26 percent. Comparatively, Shenandoah just reported a 9.8 percent loss and Wilkinsburg with a 17 percent downturn. Now, population is significant to a point. I mean, it's a common factor. We see it eroding our tax base. However, boroughs, as we mentioned earlier, Elam mentioned, too, we have a 511 tax, taxes that we use, as well, which is more less a menu and which Doug does not have, which is something that the Committee would want to consider moving down in the future. Basically, in 1989 – moving on to 1989, we had a borough, Rankin Borough, move in. 1990, Ambridge Borough moves in. These communities both lost population. However, Ambridge came out of it, so, you know, you have to handle the population aspect kind of gingerly.

I go on to talk about more about some of these communities and the population factor to be considered. There's four other boroughs that are kind of unique that are still in the program, which are unique. Two of them have left – excuse me – Greenville, West Hazelton, East

Pittsburgh, and Homestead, all of which split 50/50 on their current status, okay? And this alludes to some of the problems that we've men – heard mentioned earlier by the comm – by the testifiers here is what is really causing these problems to move them into distressed status? Some of those that have been there. Greenville Borough and Mercer has an Act 47 program since 2002. Its primary hurdle to rescission of that status has been identified in this June 2011 plan amendment was, simply put, a structural deficit over the last 3 years, ranging from 500 to 550,000 dollars annually is caused by numerous factors. Those factors, tax-exempt properties, we heard that talked about, such as the college, large hospital, the school district itself. It's combined with the recent loss to their employer, employer base. The borough's largest employer actually left the community, so – and in this down economy that we're facing, who knows what could occur there? And then lastly, the cost of local public safety emergency services, and that gets to our police, our fire. Those areas – Elam talked about them. For a lot of our folks, I'm finding out 45, 55 percent of their municipal budgets are spent on providing emergency services, fire and police, etcetera, so it tends to be problematic for them.

Moving on, I guess, to talk about some of the administrative dynamics within Act 47 on page 6 there. I'm going to take you to the middle of the page for the sake of time. Act 47, I said, can be a double-edged sword for boroughs, okay? Its determinations can enlist technical expertise, which often is too costly for our communities to maintain, as well as hurtful in the potential loss of revenue flows through municipalities, and not to mention the stigma you may acquire because you've gone into Act 47 or even the early intervention program distress status. It's something we hope to move folks out of. We do, though, do appreciate that there is, there is an early intervention program which can be used. It's very helpful in addressing the problems before they do occur.

One, one administrative dynamic we think that's worthy of looking at within the law. Under Act 47, Section 221, I have here footnoted for you is the designation of a plan coordinator, which is outlined in, in five subsections. One thing that we would find extremely helpful as an association who serves the boroughs is that when communities are – and, and, you know, a lot of times they don't want to talk about this. This is one of those secrets, but we really would like to know if they are inquiring with DCED or any of the par – you know, our partners throughout this whole process. If any of them are being contacted and spoken to about early intervention, etcetera, if there's something that would bring the municipal associations involved in that process, in that early alert, because maybe we can give to them as well. Providing some of the background that, you know, we've had boroughs in and out of this program. That's one of the things we'd like to see changed, maybe looked at and addressed.

Under our recommendations that I have here, Act 47's eventually working. I mean, it's positive. We feel as though there's some tweaks that need to be made. We feel that it needs to very much have a local role, a local ownership involved. It's very easy to rely on the person who's the contractor or whatever, the consultant who's put in there to run the whole show and kind of like. We, we would just like to know how to qualify his credentials, etcetera, things like that. It just needs to be a little working together.

Also moving on, one of the largest recommendations that was mentioned, too, here was the fact that the ruling of the recent Supreme Court decision in Scranton v. Fire Fighters local union, and in Senate Bill 1321, good move, good step. I mean, we've got to watch these expenses. I mean, and something like this can really kind of be very hurtful to our, to our communities. Lastly, Act 47 and, and the 21st Century of governance, okay? I am more or less – in closing on the, on the brief presentation, I want to echo that this vital instrument, Act 47 of law, is developed for a specialized purpose, to remedy fiscal and economic distress impacting our Commonwealth's citizenry. Act 47 communities do not exist in a vacuum, and their fiscally-imperiled determinations reach across municipal borders to affect people in their health, safety, and welfare. It's unfortunate when a competent volume of law such as Act 47 is misinterpreted at the cost of the taxpayer, but we've, we've seen something like that occur in the, in the Scranton case. Remedies are indeed needed to restore the viability of our act here. The remedy – one of the remedies in case in 1321 that I mentioned is there. Moreo – on this – the first of protecting the tools of the municipality need in the future here, and moreover, it enables the plan to remain whole, consistent, and reliable, moving – removing outside factors which may indeed undermine goals of a plan. For the sake of time, I'll cut it short here. I want to thank the committee, and I look forward to discussing.

CHAIRWOMAN EARLL: Mayor and gentlemen, thank you very much for your testimony. I don't have any questions. I'm just going to make a comment. You know, it's, it's glaringly apparent to me that as much as you all try to focus on Act 47, really the discussion continues to come back to what are the cost drivers forcing municipalities into the distress status that we see increasing numbers falling into, and that we have to do something about those cost drivers: Act 11, tax exempt properties, pension reform, and everybody that testifies, it seems to me, we come back to those fundamental points. With that, I would open the, the – for questioning by the committee, but if the committee could please keep your questions short and focused because we really want to make every effort to stay on time. We have a lot of testimony to get through, so with that, Mr. Chairman.

CHAIRMAN ROSS: Thank you, and I will take the advice of my colleague here. I'm actually not even going to really ask you a question that I expect you to answer right now. I'm going to put something to you that I, I want you to back and think about, maybe talk to your colleagues about, and I take your points about revenue. I take your points about some of the concerns about labor costs, and I think we're going to be looking more at them, but I wanted to just focus very briefly on the question of consolidation. We have a general sense that there – that it should be voluntary. There's a general sense that there may be appropriate times when that might be desirable, and in particularly, Mayor, that you mentioned that, and there has been a discussion or mention, not the first time that we've heard this of barriers that may exist. We're obviously at a time when we have very limited state funding. We're going to be probably looking at further reductions in the budget next year, so. But in, in terms of helping us, it would be useful for you to identify state barriers to consolidation, and then, also, if I could ask you to go one step further and go to neighboring municipalities that might be potential candidates for consolidation and talk to them about what it actually might take for them to voluntarily join you. It's very clear when a small municipality that is short on resources and deep in debt is looking to find some additional population that may be able to help support their services in the neighboring area, but it has to be a two-way street. There has to be something positive that the other side sees and that they're prepared to voluntarily join you with, so merely saying, "Gee, we wish they'd do it and if only we could drop a few barriers," when you don't have a willing partner on the other side is really not very helpful to us, so I'd ask you if you wouldn't mind to, to go back, think about that and maybe give some written responses or contact us through staff or directly to share your comments on that. Thank you.

CHAIRWOMAN EARLL: Yes, sir.

CHAIRMAN FREEMAN: Thank you, Madam Chairman. First, let me thank you all for your testimony and the fine work you do advocating on behalf of local governments here in

Pennsylvania. I was particularly pleased to hear the testimony of Mayor Bracey regarding tax-exempt properties. That's an area I have worked on extensively over the last few years from the legislative standpoint. I did have legislation in a previous session that I'll be reintroducing very shortly, possibly next week, which will provide for a means of compensation to our municipalities with high percentages of tax-exempt property, specifically diverting the 18 percent tax that's levied on the sale of wine and liquor in Pennsylvania into a special fund that'll drive those dollars out to those municipalities with high tax-exempt properties.

The one thing I wanted to touch on and ask Mayor Bracey, in particular. You mentioned that in York the percentage of tax-exempt real estate is about 37 percent, I think, overall assessed value, and in our research we found that the vast majority of Act 47 communities and even those in the early intervention program, all but a handful, all but one or two have tax-exempt levels of about 25, 30, 40 even 50 percent, so it really is the fundamental problem that's driving people into Act 47. Their tax base is eroded because so much of their property is tax-exempt. We have also found that a lot of those tax-exempt entities tend to be big institutions that are an important regional asset. They provide jobs, but again, as you've all mentioned with the tax structure being what it is at the local level, you can't recoup any revenue out of those jobs. People live in the suburbs. They work in those institutions in the city, and you can't tax their real estate. In the case of York, have you found that the biggest percentage of your tax-exempt properties are major institutions such as the county complex, such as a tax-exempt hospital, such as institutions of higher learning? Have they been the, the bulk of your tax-exempt?

MAYOR BRACEY: Indeed, all three. To include you mentioned county government, our churches, our social service agencies. York has a large concentration, and again, as I mentioned in the testimony, of, of the indigent or poverty, so we have all of the social agencies from the United Way to the YWCA's to YMCA, all of those organizations, as well. But, indeed, we have the schools. We have the higher inst – the higher learning institutions, all those that provide wonderful services that we enjoy a partnership with, as well. If they just paid their share, it would make a significant difference. In total, the City of York receives about $441,000 in pilots, payment in lieu of taxes from all the entities in the city.

CHAIRMAN FREEMAN: But your overall city budget is what?

MAYOR BRACEY: Our overall city budget is about 47 million General Fund. That's right, indeed.

CHAIRMAN FREEMAN: So that's a drop in the bucket of what you need to deal with, and again, just to be clear, I mean, these, these entities, these institutions of higher learning, the county government complex, any sort of hospital is tax-exempt. They really are regional assets, and the whole region draws on them for use.

MAYOR BRACEY: That's right.

CHAIRMAN FREEMAN: So it seems only fair that somehow the host municipality should be compensated for this.

MAYOR BRACEY: Indeed, and we agree fully with that and would support it.

CHAIRMAN FREEMAN: Thank you. Thank you, Madam Chairman.

MR. HERR: Mr. Chairman, just one other aspect to that. What we were seeing now with the recent court case that came down on retirement villages that are, you know, popping up all over Pennsylvania that they have won a case dealing with their tax status, and it is – you know, again, they are very large complexes that are becoming very attractive and putting a drain on the municipalities, but it's something that people don't think about.

CHAIRMAN FREEMAN: Thank you

CHAIRMAN BLAKE: Thank you, Madam Chair. Thank you, Mayor Bracey and gentleman, for your testimony. It's much appreciated, and out of respect for the advice of the Chair, I'll, I'll keep my, my comments very brief and, and maybe try to focus on one, one question or, or two. There is – seems to be a kind of unanimous consent on the issue of flexibility with respect to revenue generation. I think that this has been something that has been debated here in the General Assembly, and I expect we'll revisit it in the wake of the testimony here, so we hear you on that, and, Doug, maybe this is a question for you. One of the issues that relate to your reliance on property tax has to do with assessment/ reassessment. We have testimony in a previous hearing about the aged situation and, and whether or not the Commonwealth should be a better partner looking at that issue to create a better level playing field. Given your reliance, all of you, all of your members, on, on property taxes, could you speak to that issue?

MR. HILL: Yes, I would be happy to. First, though, we appreciate you passing legislation last year that at least combined all the assessment laws into a single statute. That was a necessary first step toward more meaningful reform. We have a couple working groups going right now. The Legislative Budget and Finance Committee released an extensive report last September, which I would commend to all of you to review, with some solid recommendations on how the assessment system could be restructured to make it more efficient to get past some of the barriers to doing reassessment. And then they also raised a handful of policy questions without recommendations attached, but at least they are things that, that need to be considered. And third right now, and Representative Creighton's involved with this, we have a House Resolution that is studying, on the one hand, the bare bones of county contracting procedures in, in entering mass appraisal firm contracts, and then secondarily, the second issue is to deal with the state tax equalization board and the formulas and methodologies that they use that really underpin the appeals process, underpin the school funding distribution formula and a number of other things, and, and we see some significant problems there that need to be addressed, but it's, it's an excellent topic area, and then we would add to that, as I said in my testimony, review of the institutions of purely public charity act to determine whether the, the thresholds are set properly for making those determinations.

CHAIRMAN BLAKE: Thank you, Doug. One last point, and this is, again, to, to the Chairman's point, a lot of the testimony seems to deviate outside the confines of Act 47 and the other, the other issues of complicated historical statute that, that constrained some of the opportunities for your members to do things more progressively for the 21st Century challenges, but inside Act 47 the distinction between a borough and a township and a city is not readily apparent in the way Act 47 operates, and would it be a good idea for us to consider a different tiered kind of review of, of that and its applicability to different units of local government in the state?

MR. TROXELL: I think, Senator, that may be a step that's worthy of some examination because of the different dynamics between the communities, our municipal codes, and things like that that work differently. It kind of got me thinking a little bit when you mentioned that the delineations of Chairman Ross's request of us to look at some of the state barriers or what not, why other municipalities don't want to take us on or, you know, a 47 community or what not, and maybe we need to look at somehow the way the municipal codes work in those two communities that make it either advantageous for a community to be one or the other. I don't know, but it is important in some way that we do delineate, I think, in the broad Act itself. I mean, otherwise, you kind of leave the Act as a very broad tool without real specific targets in it, you know, and if you're getting at fiscal problems, you know, it's just not revenue. Money's not the problem here. Okay, I mean, eventually, it will work out, but there's a lot of other dynamics that are operating that have to be examined as well, so.

CHAIRMAN BLAKE: Thanks. Thank you, Madam Chair.

CHAIRWOMAN EARLL: Representative Knowles.

REPRESENTATIVE KNOWLES: Thank you very much, Senator, and thank you to our testifiers, all of you, for coming out today. And I will be as quick as I can be on this. First of all, I would say that I agree with Mr. Herr that the – that we do need to do something about tax reform and that we do need to do something about the unfunded mandates. There is no doubt about that. I, I come from a unique background. I have served as a borough councilman, as a borough Mayor, as a County Commissioner, so I like to think I know a little bit about local government. I'm aware of the West Hazeltons and I'm aware of the Shenandoahs, but I want to just briefically talk about – briefly talk about a, a community that I represent, Tamaqua Borough. Tamaqua Borough is a somewhere around 7,000, a little over 7,000, people. They have a full-time police department. They have a water and sewer department. They have a street department. They really have no – they don't have a lot of expansion when it comes to their tax base. They've had some reasonable tax increases over the course of time, and I hear the same complaints from them as I do from you folks. I guess my question, or what I'm wondering is, how do they do it? How do they do it? Why is it that most of the boroughs and townships do it, but yet the cities are the ones who are having the most difficulty? And I'm having a hard time understanding it because I think somebody said earlier that you would think it would be the boroughs and the townships because of their size and so forth, so I don't know whether any one of the four of you would like to comment on that, but thank you very much, Madam Chair.

MAYOR BRACEY: If I may begin, I, I believe as we've already – in my testimony, I mean, the city has the highest concentration of poverty for one thing. The city also has the largest number of tax-exempt properties, as we spoke about, and again, if, if we don't do something, you will see this in our townships and boroughs. It's not farfetched. It's not that far out of reach. It may not be today, but the surrounding boroughs around the City of York are indeed experiencing the same very issues as the issues are, are spreading out because we don't see these municipal boundary lines. They are invisible, and it will happen in our townships and boroughs if we don't provide the restructuring of – as you said you agree with the tax reform is needed at this level.

REPRESENTATIVE KNOWLES: Thank you, Madam Chair.

CHAIRWOMAN EARLL: Senator Schwank.

SENATOR SCHWANK: Thank you, Senator Earll. I am currently serving on a transition team that is helping the new Mayor of Reading look at – Mayor-elect – look at what we can do to help cut costs for the city and provide the kinds of services that our city residents deserve. One of the recommendations we made was to meet with the municipalities, the townships, the boroughs that are outside of the, outside of the city to talk about service sharing. So my question for you is because I heard your testimony. I think it was so accurate and on target when you said that, "What's, what's the reason – why would other communities take on the burdens of, of a city?" And I also heard you say it needs to be a two-way street, so I'm thinking about what can the state do as far as incentives? What can the state do that would actually foster that kind of cooperation, and how can we keep it in place? Because I've also seen the history where we might develop a shared service or like a joint police force, and over time, either because of cost or political differences, sometimes those things break apart. I understand there needs to be flexibility, and maybe you don't want to answer this now, but I'd really like to know more about incentives, about what you think would really work, because I just don't think that more money alone is the answer.

CHAIRWOMAN EARLL: Anyone?

MR. HERR: Real quick. Money may not be the total answer, but it ends up being the answer from the standpoint that on both sides, and I think Representative Ross said it very well. Both sides have to see a benefit out of it, and not necessarily just the elected officials there, but it's the constituents of those elected officials, and although you may be able to provide joint municipal services, if one side sees or feels that the other side is getting the benefit, the question comes back to the money issue. Why should I be paying x amount of dollars so that they benefit? We will have to get back to you, I think, the four of us, for a more complete answer to the question, but it's – money is the end result, whether it's money coming from the state, municipalities putting in, but it's the tax dollars that the people got to see some cost benefit, and there's where a problem comes in. We have – the state has promoted when you have municipal sewers or, or water systems for joint. So you just don't have all of these around. That's good from the standpoint because you can try to see some cost benefit with it, but again, if one side is paying more than another, then you get the little rebellions back, back home, and as you are, so are our members responsible to their, to their constituents. Did you want to say something?

MR. TROXELL: Can I – just, just to jump in. One, one glaring difference I, I think that is there is provision of services and work forces. In our townships and our boroughs, our workforces aren't as large, and also, the services aren't as much of a demand, etcetera. [We] need to look at somehow where the workforce, unfortunately, for our communities and sometimes in, in the larger, in the cities, the workforce is large, okay? It's under collective bargaining agreements. There's things that have to be met there, and unfortunately, if there's no economic development occurring and in the meantime your bargaining benefits that you can't afford, you're creating a distressed environment where you'll actually need more of this enforcement or whatnot to address that, so it's kind of like things throw out of balance over a period of time, so, and lastly, I would say cogs are an interesting item to look at, as well, who are actually agreements, more or less, intergovernmental agreements to provide type of services, purchasing, some of those dynamics or mechanisms that can be used to decrease the cost of operating in these various types of communities, municipalities. Thank you, Madam Chairman. I apologize for ---.

MAYOR BRACEY: May I, ma'am?

CHAIRWOMAN EARLL: Quickly, because we're already over time here.

MAYOR BRACEY: Again, just to your point, I mean, thank you for serving on the transition team, but I think we as Pennsylvanians, and this is just more of the emotion, I guess, we should be ashamed of Reading being considered the poorest city in America. We all should be in line to help Reading, Harrisburg on the brink of bankruptcy, and the issues surrounding that city, and there's a lengthy line, as you heard, of many cities who are looking at Act 47 for that relief. That shouldn't even be a question. We should be there as Pennsylvanians ready to save our cities and ready to do what we need to do to regionalize, to help them out of this brink of disaster that's upon all of us.

CHAIRWOMAN EARLL: Thank you. Representative Saccone.

REPRESENTATIVE SACCONE: Thank you very much. I, I hear the, the call for increasing revenue streams, and that's fine, but I think you know as well as we do that the taxpayer is tapped out, and they don't really want to hear about any, any more taxes. And – but I am very much interested in helping municipalities cut costs, so I'd like – and we're debating some of these things right now up here. I'd really like to hear from you all. It doesn't have to be right now. I understand if you can't answer that, and I know we've heard from you a little bit on it, but some real concrete examples on things like prevailing wage. How – is that really important to you? Does it really – would it really help you? Even the modest considerations that we've been debating up here don't, you know, don't seem to be catching on, so we need to hear from you loud and clear with concrete examples on how things like these, these type of mandates could help you.

CHAIRWOMAN EARLL: And just for the information of the panel, any of the information that you're going to provide as a follow-up, if you submit it to Representative Ross and I, we'll make sure it gets distributed to the appropriate committees and Members, so with that any other questions from any Members? Thank you very much. We appreciate your insights. Stay tuned and I would invite – we're going to kind of skip over this break that was on this agenda, and I would invite the next panel to come up, which is Mayors, council members, borough managers, from various municipalities. If you want to come up and make yourself comfortable. Excuse me. If I could keep this moving a little bit, we have Council Chairperson Eileen Cipriani. We have Mayor Doherty; Mayor McMahon; Henry Sciortino, the Executive Director of the ICA [Intergovernmental Cooperation Authority] in Pittsburgh; I think Senator Smucker, potentially. I would also note for the record that we have been joined by Senator Blake and Representative Tobash who have joined us since the hearing commenced. Good morning. I am going to invite all of you to testify, and we will take questions after you're all done, and I would appreciate it if we could start with Eileen Cipriani who is the Council Chairperson for Luzerne County, the Borough of West Wyoming.

MS. CIPRIANI: Thank you. Good morning, please excuse my voice today.

SENATOR EARLL: If you could move the microphone over and speak directly into it and make sure the green light's on so that we can all hear what you have to say.

CHAIRMAN ROSS: You're going to have to make it quite close to your mouth for the, for the people outside to hear you.

SENATOR EARLL: Also I hate to sound like a complete banty rooster, here but we really are time limited, so I'm going to ask if you all keep your comments to approximately eight minutes. Thank you.

MS. CIPRIANI: Good morning, my name is Eileen Cipriani. I'm from the borough of West Wyoming, and I'm pleased to be here today to detail our financial crisis recently in the borough. In October 2009, West Wyoming Borough found itself with 168,000 dollars in unpaid bills, 900,000 dollars in debt, and 32 dollars in our checking account. It was earlier that month that it was discovered that the borough manager had paid himself a double salary, unbeknownst to council, 150,000 dollars. He had also paid two additional unauthorized salaries to two borough police officers. As council began to review our finances, we realized that the borough was brought to this position by nearly three decades of mismanagement and misconduct by the borough manager.

In the absence of adequate oversight by council, I contacted State Representative Phyllis Mundy to determine what help was available to the borough. Mundy directed the borough to the Pennsylvania Economy League. West Wyoming Borough was at a financial crossroads, on the brink of bankruptcy, and contemplating Act 47's distressed municipality status. The borough was deep in debt with mounting unpaid bills and vendors threatening to terminate services. With this high level of debt and an annual budget of less than 1 million dollars, the council discussed Act 47.

Despite our high debt to budget ratio, the council felt confident with the guidance of the Pennsylvania Economy League and the cooperation of local bank that it agreed to restructure our debt that we should not apply for the status. As council members began to review our borough finances, it became clear that almost every fund in every facet of our borough government was involved. Nearly 185,000 dollars in sewer funds had gone uncollected, pension accounts were underfunded, refuse account money was missing, and salary overpayments exceeded 200,000 dollars. The borough was left with no choice but to apply for a loan of 565,000 dollars in unfunded debt. In January of 2010, council members contacted Luzerne County District Attorney's Office, Pennsylvania State Police, to investigate the activities of the individuals receiving unauthorized salaries. Council members detailed the unauthorized salaries to the State Police, and they agreed to investigate the allegations. The investigation is still ongoing. The unfunded debt allowed the borough to pay its unpaid bills, restructure our debt into manageable payments.

The borough entered the early intervention program in January 2010 looking to achieve four basic objectives: expenditure reduction, revenue enhancement, adoption of best management practices, and the pursuit of intergovernmental cost sharing strategies. To achieve expenditure reduction, the borough reviewed and bid out borough finance, borough insurances, and pension services. The council had terminated the borough manager and eliminated vacant full-time jobs in both the police department and street department for an annual savings of 150,000 dollars. Council also required a 30 percent co-pay for employee health insurance and employee contributions to their pension.

To strengthen our borough finance system and increase the oversight, council established separate positions for the borough's secretary and treasurer. The previous manager held both positions. As council reevaluated the borough government, it changed its auditor, its payroll company, insurance carriers, pension administrator, vehicle maintenance vendors, and established new banking relationships. These changes helped council establish best management practices and resulted in considerable savings. Through better management, council was able to pay back the unpaid pension funds for 2008, [200]9, and the 2010 MMO. The borough pension has been listed as minimally distressed earlier in 2010. Today, we are current with our payments.

It is important to note that although the Pennsylvania Economy League had a unanimous cooperation and full commitment of the council, the Mayor and police department did not participate in the evaluation by the Economy League. As previously mentioned, council had cut the police department budget and reduced full-time staff. At this time, the Department has not developed best management practices and remains resistant to change. In less than two years through the efforts of the borough council and the guidance of the Economy League, the borough is now financially stable. The borough has remained in budget and has projected to finish the year in the black for the second consecutive year. The 2011 budget was balanced, and taxes and fees remained unchanged. The 2012 budget was placed on the table for review last month, and there will be no taxes or fee increases for 2012.

In March of this year, council was awarded the Governor's Award for local government excellence. There are still outstanding issues that can put the borough's financial health in jeopardy, though. The State Police requested that the borough place on hold any civil actions until the police investigation is completed, which the borough agreed to do initially. Next month the investigation will be entering its third year. The council's concerned that the borough taxpayers will be forced to repay the improper pension funds that were paid out due to the payroll overages to the managers and the police officers. When they are quantified in our next pension audit, this is caused council to be concerned that our financial recovery will be derailed. Because of this, council has decided to move forward with civil actions to preserve our recovery.

There are a few lessons we've taken away from this experience. One is our municipality, like all small municipalities, struggles with finances and oversight, but it is crucial that a method of oversight be put into place. The fact that our borough secretary was both the treasurer and secretary and the council did not provide oversight allowed him great freedom over financial matters and the opportunity to take taxpayers' money. Although the borough has not had to increase taxes to manage this crisis, the borough has limited other options for revenue. We struggle to pay our debt and struggle to fund our pensions annually. The borough has limited development possibilities to increase our tax base, and we have to rely on property tax increases if we need additional revenue.

In order to save money, we have put in place a part-time manager, but it takes considerable assistance from myself and other council members to run the borough. This is a temporary solution; we've tried having – sharing a full-time manager with a neighboring town. That did not work for us. We've also – and we have one full-time police officer, and the other shifts are covered by part-time officers. In my opinion, this is ineffective, inefficient, and costly to our borough. Regionalization of the police department was an attempted six years ago, but parochialism and politics put an end to it. In my opinion, regionalized cooperative efforts need to be pushed by the state to encourage shared services, group purchasing of supplies, and other needs such as insurance and pension services. Although some of these opportunities are available, municipalities need a strong incentive to cooperate with neighboring towns to overcome the fear of losing independence and autonomy.

In hindsight, our fiscal crisis actually saved the borough, in my opinion. It gave us the help of some outside resources, such as the Economy League, and a chance to change the culture of our borough from a secretive, apathetic, and fraudulent borough to being transparent, engaged, and legitimate. The Economy League gave us our road map, and our council implemented the change. Thank you.

SENATOR EARLL: Thank you. Next, we'll hear from Mayor Chris Doherty from the City of Scranton.

MR. DOHERTY: Good morning, Chairman Ross and Chairman Earll, the Members who are attending this meeting. My name is Chris Doherty. I am the Mayor of Scranton since 2002. Thank you for allowing me to speak today regarding Scranton's experience in Act 47.

The City of Scranton entered Act 47 in 1992. In 2000, the State of Pennsylvania had sanctioned the City of Scranton for violating its recovery plan. Those sanctions included all state grants and liquid fuels money. When I became Mayor in 2002, the city passed a new recovery plan. The police and fire unions asked that the plans be put on a referendum, and 72 percent of the people of Scranton voted in favor of the recovery plan. One month later, Governor Schweiker removed those sanctions against the city, releasing state grants and liquid fuels dollars.

Since 2003 the city and city's unions have forced the city into court, into the State's court system. In 2010 the Commonwealth Court ruled unanimously in favor of the city's recovery plan. Yet in 2011 in October, the State Supreme Court overturned that decision. The ruling by the State Supreme Court will cost the city in excess of 20 million dollars. In 2014 an entry level firefighter in the City of Scranton will be paid 71,000 dollars a year. The average taxpayer in Scranton earns 25,000 dollars a year.

However, the city's expenses are not just in salary. They're also in health care and benefits. In 2011 the city will, which is self-insured, will spend 15 million dollars in health care. Retirees will be in excess of 9 million dollars. Active employees will be in 5 million dollar range. As you can clearly see, our legacy costs are great. This disparity between retired employees and active employees will last for decades. None of the police and fire units contribute to their health care plans.

With our expenses rising, Scranton is forced to take extreme measures. On November 15th this year, I released my 2012 operating budget. The budget includes a raise in property taxes of 29 percent, an increase in our business privilege tax, our mercantile tax, as well as our real estate transfer tax. I've also announced layoffs of twenty-nine firemen in an offer to buy out ten sanitation workers who are eligible to retire. Ironically, I have to hire back six police officers who were previously laid off because of the State Supreme Court's decision.

How can a City survive when an outside entity, in this case the Pennsylvania Supreme Court, raises the city's expenses, yet does not provide the city the tools to adequately provide a balanced budget? The system is out of control, and cities will need the help of the Legislature.

The first challenge that Legislators should consider is changing Act 111. Arbitrators must be compelled to take into consideration the city's ability to pay for services that an arbitrator is ruling on. Presently, there is no law in place that forces a neutral arbitrator to consider the city's ability to pay.

If a city is to enter into Act 47, it should be understood from the outset by the city and the state that a city's duration inside the Act should be no more than eighteen months. If at the end of eighteen months a municipality is unable to make a decision to leave Act 47, the state should have the power to make those decisions for the city and force the city to abide by those decisions.

The challenges the cities are facing are daunting. During the last decade, cities have resorted to one-time revenue items to get through each year. Along with that, cities have also raised taxes and reduced the number of employees that work for them. In the next ten years cities will be more dependent on state government. The best course of action for the state government can take would be to pass new laws that allow cities to address these legacy costs and revenue opportunities.

In the next decade, more cities will enter Act 47 or an early intervention programs, smaller communities will be forced to give up on paid police departments, and the state will assume that responsibilities. Cities large and small are going to be faced with tremendous infrastructure needs. The roads and bridges throughout Pennsylvania are old and need repair. If we do not address these problems, they're only to get worse. These are the problems that we are facing today.

In the future, the biggest challenges that cities in Pennsylvania are going to face are pensions. Most mid-size and larger cities are simply paying out more than they're putting in. At the end of the next decade, pension funds would not longer be able to pay for those benefits. This will happen for two reasons. The first is the stock market is no, is no longer seeing significant growth. The second is cities have been reducing the size of their workforce. While this reduction is good in that we're reducing the size of government, the downside is that there are less people paying into the pension funds.

If cities are going to survive and prosper, they're going to need new revenue sources. Today, cities fund their budgets through property taxes and wage taxes. We need more choices. I would like to take this – I would like to ask this panel to consider a countywide sales tax available to every county and city, not just the largest. This tax would provide much needed revenue to all cities throughout Pennsylvania.

I would like to thank this panel for allowing me to speak today and also to talk about the challenges that we face as cities in Pennsylvania. Thank you very much.

SENATOR EARLL: Thank you, Mayor. Next we'll hear from Mayor Tom McMahon from the City of Reading in Berks County, and I understand that you're the President of the Pennsylvania….

MR. McMAHON: Pennsylvania League of Cities, President this year. Senator Earll and, and Representative Ross, thank you very much for giving me the opportunity. I've been Mayor of the City of Reading since 2004, and Reading area was hit hard over the last twenty years by the loss of close to 10,000 manufacturing jobs, followed by middle class flight, and finally by a, a jobless recovery reflected in our current 11.8 percent unemployment. Reading grew 7.3 percent from 2000. We added 6,000 people, almost the population of Tamaqua, by the way. Our poverty rate increased from, over that ten-year period, from 34.1 percent to 41.3 percent, meaning those 6,000 that came were mostly poor. That puts us at number one on the poverty index of all 420 cities in the United States over 65,000 population. Only about two-thirds of adults who finished high school – our school dropout rate is about 50 percent, and many of our schools see more than 100 percent turnover in students from September to June. Our per capita income is 14,000 dollars, roughly half the national average. Our families struggle to provide the basic necessities, and our social service agencies remain – report demand for services is up 75 percent.

At the city level, we're dealing with the cost of past collective bargaining awards, increased pension and health care costs, along with other escalating expenses incurred in running the fifth largest city in Pennsylvania. Core communities like Reading need full-time public safety professionals, and that alone consumes 65 percent of our revenues. Outlying municipalities may rely on State Police and volunteer ambulance and fire, and many have virtually no municipal tax. Reading residents shoulder almost the entire burden of providing services like police, fire, and ambulance in our city that is available to non-residents at one dollar per week, per the local service tax. This is not nearly enough, and it is grossly unfair. The poorest people are supporting the city to the highest municipal property tax and earned income tax among seventy-three municipalities in Berks County. We're just one of fifty-three of, of third class – one of Pennsylvania's third-class cities in financial trouble. In fact, the Pennsylvania Economy League showed that thirty-nine of our fifty-three third-class cities are in fiscal distress.

Similar to other core municipalities, we do everything possible to balance annual budgets. We floated pension bonds. We refinanced debt. We outsourced services. We laid off fire and police and public works employees, and we sold off assets. A 2008 study of Reading and four of our neighborhood Pennsylvania – neighboring Pennsylvania peer cities showed that only one of the five was able to pay for public safety (that means police, fire, and EMS) out of the total tax revenue. The other four had to find supplemental revenue to make up that difference, as well as supporting all other city services.

After doing everything we could to remain solvent and in spite of implementing some very good recommendations in the DCED early intervention program, it became clear that we were nearing a point of no return as a city. In early September 2009, I applied for a mission – admission into the Act 47 program, and on November 12, 2009, former Secretary of DCED George Cornelius officially approved, and we became the twenty-fifth municipality to enter Act 47.

I personally believe the decision by Secretary Cornelius was the most, one of the most difficult ones he had to make as Secretary of DCED. His remarks then are as true today as they were two years ago, and I'd like to quote in part.

> There have been twenty-four communities in Act 47 since it was enacted in 1987, and three-quarters of them remain in the program today. Of those eleven – of those eighteen, eleven have been in the program for more than ten years, and six have been in Act 47 for more than twenty years. The average tenure is thirteen years.
>
> Our coordinators tell me there is no exit strategy for many of these communities. There is no prospect for most of them to exit Act 47 in the foreseeable future. These data reinforce my point that Act 47 isn't the cure. It's merely a means to keep a municipality afloat to a later day when hopefully we as a Commonwealth will find the political will to address some of the underlying structural issues.
>
> In the meantime, at least ten other municipalities around the state hover over Act 47. Arrival of their petitions in the next year or so would not surprise anyone at DCED, as PEL observed in one of its reports, "The migration of communities towards fiscal decline is statewide." Unfortunately, this migration will not be slowed by Act 47.

Public Financial Management was appointed coordinator for Reading and developed a recovery plan that was adopted unanimously by City Council on July 9, 2010. There were 174 task items in the plan, and most are either complete or in various stages of progress.

Among the task items included: obtain an additional ten million dollars from the Parking and Water Authority, which we have done; raised income tax on local residents .4 percent for a total of 3.6 percent; raised a levy of commuter tax of .3 percent for 2011, which drops to .1 for 2012 and [20]13 and then expires; cut then freeze management salaries for three years; cut overtime pay for public safety; reduce starting salaries for fire and police; eliminate four holidays; reduce paid sicks day – sick days; require 20 percent contribution to health care premiums; eliminate free parking for employees; cut seventeen firefighters and ten police officers; extend the workweek for firefighters with no – for no extra money; and cut benefits – pension benefits in future contracts.

We raised property tax 20 percent last year, and our real estate transfer tax is now 5 percent, which I believe is the highest in the state. Our city finances are not yet stable, as these changes take time to show results. Still, it will not be enough according to the projections.

Because of early retirements and not doing replacements, our police force has shrunk from 205 to about 160 officers. As we enter 2012, once again to have a balanced budget we had to rely on a one-time source of 2.4 million dollars from an early payoff of a loan. Reading is making incremental progress in many areas, cutting expenses and incorporating many best practice business processes. Yet, as Secretary Cornelius said, there will be no long-term solution to the woes of our cities without significant help from the Legislators. There's only so much we can do to cut and only so much we can do to tax our citizens who are already at the bottom of the economic ladder.

Mayor Bracey's already discussed the work done by the Pennsylvania League of Cities and Municipalities with twenty-nine Mayors last year in producing the action plan "Core Communities in Crisis." You've already heard among several recommendations the action plan refers to the pension and collective bargaining reform, and legislative relief on these is critical if our cities are to survive. In the long run, the financial model just does not work without other sources of revenue in spite of massive cutbacks in expenses and services.

As cities like Reading continue to cut service and tax the poorest populations in our state, we are approaching a point where the state may need to take on one or more local municipal functions. We have the ability as a Commonwealth to address these issues. Pension reform to bring our system in line with private sector plans, revise outdated collective bargaining legislation that does not take into account the ability to pay, enact boundary legislation that could provide incentives to move beyond 2,566 fiefdoms to a more sensible local government structure, provide the option for regional revenue and asset sharing for third-class cities similar to what is available to our two largest cities.

Unless we address the issues of fiscally unsound communities, we will lose the ability to attract and grow businesses and will waste precious resources in repairing the consequences of our inaction. It's my opinion that Act 47 after twenty-four years has done a moderately good job of forestalling bankruptcy in many of our municipalities, and it was the right thing to do for the City of Reading. But Act 47 needs review and revision based on what has been learned with twenty-six municipalities since 1987. While it is important to revisit Act 47, the need to address other antiquated municipal legislation is perhaps even more important. Our problems and cities will fester unless we recognize that we're all in this together and work towards common solutions. A civil society does not discard people or municipalities. By nature, the job of the

Mayor is to be proactive in resolving problems in his or her cities, and I can assure you the Mayors are ready to roll up their sleeves to help work with all of you towards long-term solutions so that our cities and municipalities will not just survive but prosper. Thank you.

CHAIRWOMAN EARLL: Thank you, Mayor. Next we will hear from Mr. Henry Sciortino, if I'm saying that correctly, who is the Executive Director of the Intergovernmental Cooperation Authority in the City of Pittsburgh. Good morning.

MR. SCIORTINO: Good morning. My name's Henry Sciortino. The Italians pronounce it as "Shortino," and I want to thank you for the opportunity to provide testimony. I am presenting here today as an individual. The board of the ICA is made up of five members appointed by the General Assembly and the Governor, and I have their permission to speak candidly to you. For the sake of time, I'll allow my written remarks to be available to you for your review, and I'll answer any questions otherwise. But I come here as a person with about forty years of experience dealing in, in the municipal government world. Let me just be brief about what that is.

I started as a city administrator in a third-class city in the Commonwealth and spent a decade there and as a township manager in a township of the first class, and I worked as a city treasurer in a large city in Pennsylvania and graduated to the State Treasurer's Office as a Deputy State Treasurer. I've also worked for a decade as a consultant to fiscally-distressed and critically-distressed communities and non-profit entities, and I was a managing director of a public finance department for several state operations, meaning that I've been on the sell side of the equation, as well. So my perspective here is not to have an elective official. I don't bear the burden that you all do, but as one who's been through a lot of the process of what's going on. To help you craft public policy, I think I need to be as direct as I can to allow you to answer the questions that have been posed by others and for you to ask questions.

Act 47, in my opinion, is critically important. At the same time, what's critically important is recognition of the jobs that the people have to do in the operations in these cities and towns and boroughs and townships. The men and women who do these jobs are people like all of us, and we're obligated, as the General Assembly recognized in their creation of the Act, Act 11 of 2004 which created the ICA, the primary condition was to determine and to measure the health and safety for the citizens of the Commonwealth, and, and I think that includes everybody.

Pittsburgh is a unique situation. It is the only city in the Commonwealth that is both distressed under the Act 47 designation and has an oversight board separate through Act 11, and from that perspective, I think that we have a somewhat unique view of what has to happen. I neglected to mention in my background that I also served as an Act 47 coordinator in a community that was declared distressed in the Southeastern Pennsylvania area, so I've had an opportunity to sit in a fairly unique position, and I believe that some of the considerations that have been mentioned earlier are critical. There needs to be another look at the tax-exempt property status. There are tax-exempts, and then there are pseudo-tax-exempts.

The General Assembly in 2004 recognized the conditions that we brought forward relative to Pittsburgh and passed legislation that changed some structural taxing issues that might be instructive for you. In 2004, we found Pittsburgh to have a business privilege and mercantile tax where twenty-four of the largest twenty-six employers paid no tax. The General Assembly took our recommendation, the recommendation of the ICA board, and passed legislation that allowed for a payroll employment tax to take place. We also asked the General Assembly to consider legislation to enact a payroll employment tax at a different level of taxation for those in the tax-exempt community, but that did not get done. 47 – the Act 47 coordinators who come to the tables and the Act 47 law, I think, gives communities an advantage. As the Mayor of Reading just described, it helps forestall a number of difficult situations.

A part of the legislative effort that you have to face, candidly, is that any time you open a statute that exists, there are all kinds of things that happen, but there are statutes that need to be revisited. The fact that communities can issue derivatives is a serious concern for me because a majority of people, and I would suggest probably nobody in this room could really define what a derivative is, pension obligation bonds, while they may seem to be useful, also pose serious threats. Debt issuance is a legacy cost that's equal to, if not greater than, that of the pension legacy costs that all of communities face. And it is a critical issue, and it is not about cost containment versus new revenue. It's both, and it is both cost containment and revenue production. You can't have one without the other and see success, and I base that on my own personal opinions from the number of years that I've been able to be out there and have the privilege of working in this great Commonwealth.

The outside experts in my testimony have commented on what's happened in Pittsburgh, the rating agencies. Their reports are included in my testimony for your review at your leisure, but they've said without oversight the conditions in that distressed city would be different. They're the outside people that we look to. They have a different level of will. They have a different level of ability. But there are threshold questions that we have to ask each other and, and deal with directly. We have to identify whether the problems that are caused in these communities are managerial or economic or both. We have to ask the questions as to what are the real root cases. We have to ask, "How do we change the culture while we protect the men and women who do the jobs out there?" We have to look at who the stakeholders are and bring them to the table in a way that shows respect and dignity. We have to change and look at the way arbitration occurs.

And one of the benefits of Pittsburgh having two oversight boards, although some people would argue differently, is that the ICA has the ability to impact arbitration. We can put on the table in front of an arbitrator the issue of whether or not the balanced budget exists, and there are court proceedings that have taken place in Pittsburgh that have supported that. There is legal precedent. That's not the place we want to get to. We think that the role for oversight is sometimes initiator, sometimes referee, sometimes ombudsman, but all the time at the table bringing parties together to find the solutions to help generate what happens. And I recognize, I fully recognize coming from the background of a third-class city in Pennsylvania as an administrator a long time ago, that a community like Pittsburgh with about half a billion dollar budget is significantly different than the boroughs and townships, but the problems are the same.

You have the opportunity in your legislative review to look at things like functional consolidation. The Senator asked a really poignant question a few minutes ago. Functional consolidation allows for the back office operations to pull together to help save taxpayers and ratepayers money, not just in cities and boroughs, but the various authorities that are out there. The Mayor of York said there were 2,500 municipalities in Pennsylvania, but there are about 7,500 units of local government. All of these units are doing similar things, and there's an opportunity for you to craft legislation to give them an incentive to pull together some of these non-, if you will, elected official-driven type things but more back office administrative things. It's the kind of consolidation one would see if you looked at bringing about a joint venture of businesses, not a merger, but a joint venture. And there are opportunities to do that across this

Commonwealth, and I personally think that you have a great opportunity in front of you and a great challenge to help provide that incentive.

One last point. General revenue sharing was a godsend to communities in Pennsylvania and across this country back in the [19]70's. That disappeared. The Federal Government decided that it was easier to cram down to you at the state level responsibilities, and you have a burden to bear as a result of that, and yet so do the communities, because they can't build buildings without going to borrow money where revenue sharing provided some of that. And some of your opportunities to look at your RCAP programs and your legislative initiatives can provide incentives to communities to do long-term building capital projects as opposed to putting that burden directly on the local taxpayers who are already carrying a heavy burden, and I suggest that you have an opportunity to evaluate that and see that in a different light through our lens, and, and we're happy to spend whatever time necessary to help you do that. Thank you.

CHAIRWOMAN EARLL: Thank you. Last but not least we're going to hear from my colleague, Senator Smucker, who is here testifying on behalf of the Mayor of Lancaster Cou – of the City of Lancaster in Lancaster County. Good morning.

SENATOR SMUCKER: Good morning. Thank you, Madam Chairwoman. Thank you to the Chairs of the committees involved for scheduling this important series of hearings. As the Chairwoman said, I'm here because Mayor Gray, who was scheduled to participate at the first date this hearing had been scheduled before it was postponed, is visiting family in California today. [He] was not able to be with us, so he asked whether I would be willing to testify in his place, and I happily agreed to do so. So what you have today is a Republican State Senator pinch hitting for a Democratic Mayor. Now, I don't know how often that happens, but the point is the message here that matters is not a partisan one. We all have ownership in the serious financial problems afflicting nearly all of our urban centers. As the Harrisburg mess shows, and starkly, I might add, we can't cordon things off, imposing a quarantine to prevent city problems from pulling in and perhaps even pulling down surrounding communities. You have a copy of the Mayor's written testimony included in your packet. I, I won't read that here today, but I would like to take a few minutes and talk about some of the issues, some of the things that have been happening in Lancaster. [I'm] not here to endorse a set of bills or to urge specific actions that we should launch next week. Rather, my purpose is to highlight, excuse me, how severe the problems confronting cities are, how much city leaders have done to forestall the fiscal pressures, and how the prospect of a budget heading over a cliff in Lancaster compelled city officials, business leaders, and community-minded individuals to come together to combine efforts to craft a report titled "Prosper or Perish," and you have a copy of that report behind the Mayor's testimony, as well.

The testimony delivered at these hearings underscores the necessity of fixing weaknesses in Act 47. We do need to do that, but accomplishing it will leave important work uncompleted. The thrust of Lancaster's push is for us to take steps to enable cities to avoid distressed status. Just because a city has not become officially financially distressed does not mean it's fiscally healthy. These days serving as Mayor must seem a bit like being the skipper on the *Titanic*, desperately asking state legislators if we'd mind moving some of the looming fiscal icebergs. State government habitually tells cities to take care of their problems, just be more responsible, just cut, cut, cut. Such advice is easily given. Their power to accomplish it, however, is constricted by law, by the constitution, and by revenues.

Most cities cannot chalk up their budget difficulties to colossal miscalculations such as the Harrisburg incinerator. Most have ancient infrastructure that fails frequently and that they're under order to upgrade at ruinous costs. Most lack sufficient developable acreage to expand the tax base substantially. Many are bumping up against tax limits. Most have watched school districts turn the property tax, which is their chief revenue raiser, into a toxic option. Most fear arbitrator decisions that will aggravate pension funding and other cost concerns.

I don't want to give the impression that city officials have become professional panhandlers just grubbing for funding. Lancaster has a lot of success stories of rehabilitation, redevelopment, of commercial and residential investment, of cornerstone institutions expanding and contributing to rising economic vitality. Yet, it's not enough, even if the various situations described to me by officials from Altoona and other cities across the Commonwealth seem much more dire.

Contrary to the perception that all budget woes are the result of spending sprees and giveaways, Lancaster's taken a series of sound steps to control costs: cutting the work force, freezing salaries, increasing employee contributions for benefits, forging cooperative agreements to share services, accessing fees tied to the actual costs of service delivery. Still, with all that, there have been tax increases, the reserves are being chewed through, and the structural deficit deepens. What do they need from us? High degree of difficulty stuff, including changing the local tax structure, changing the binding arbitration law, changing prevailing wage, giving consolidation of services a stronger push, offering historic tax credits, laying out incentives for regionalizing services, and consolidating pension plans. By this time, none of these ideas have any novelty left. The question is whether of them an – whether any of them worked their way onto the legislative agenda this session. [It] does no good to give city officials another lecture about being realistic and tempering expectations. They well understand that every item on their shopping list involves policy difficulty and political hazard. So does every wrenching budget decision they are forced to make choosing between progressively ugly alternatives. Our Mayor found – finds himself at odds with natural allies, firefighters, police, construction workers, folks key to public safety and the quality of life. People who we depend on to work as a team in our best interest are too often divided in bitter disputes over pay and benefits and staffing ratios.

So there's the difficulty. The good news of progress gets overwhelmed by the bad news of out of kilter budgets. The City of Lancaster is a rebounding commercial, cultural, entertainment center. They market extensively assets and attractions old and new, and the response by visitors, commuters, and new residents is encouraging. Nothing in the look of Lancaster screams financial distress. It's only when you look at the books that the problem becomes unavoidably apparent. Business leaders have looked, and they do not see a city that's run recklessly or money spent wantonly. So we must repair Act 47, but we should also be in the business of creating new Act numbers containing real remedies for Lancaster and the other fifty-some cities in our Commonwealth not named Philadelphia or Pittsburgh. City leaders and advocates have submitted a blueprint. They now need our commitment to responsible action. Thank you.

CHAIRWOMAN EARLL: Thank you, Senator Smucker. I'll now open it up for questions, and I'll just lead off with this one to Scranton, Reading, and Pittsburgh. How much money have you expended in – while you have been in Act 47 or the combination of 47 and the ICA in Pittsburgh? How much money – what is the cost that none of those dollars have actually gone into your operating budgets, none of those dollars have actually helped solve any of your financial problems?

MR. DOHERTY: You mean, there's a legal cost?

CHAIRWOMAN EARLL: Legal costs, consultants fees, those ancillary costs that….

MR. DOHERTY: I'll say in excess of 4 million dollars, probably. Legal fees, we've been in court for ten years, so you have to have, obviously, representation. Hiring, when I came into office, the city did not have a, a bond rating, so we had to hire PFM to establish a bond rating and get us, you know, the fees on that, conservatively, in excess of 4 million dollars. Money that was spent that, yes, did not benefit the people, move the city ahead, pave a street, pay a cop, no.

CHAIRWOMAN EARLL: And Reading?

MR. McMAHON: I don't, I don't think, I don't think we had nearly, nearly that much because we haven't had the difficulty that Chris has had to endure in Scranton.

CHAIRWOMAN EARLL: Well, you haven't been in it as long, either.

MR. McMAHON: Right, and – but I, but I wanted to – maybe if you don't mind I'll turn it around and say one of, one of the advantages that we had in going into it was some of the help that we got through financial assistance from the state to be able to hire someone who really helped us put together a good economic development package and a housing package and also address some of the internal issues to try to turn the budgetary issues around it for forty, fifty, sixty years the city had not had. That was very significant for us, and it helped to put us on the right track, but we, we….

CHAIRWOMAN EARLL: And the state picked up the tab for that?

MR. McMAHON: The state, the state took care of that, yes, and that was part of it. Early intervention program, by the way, would say – and Chris and I have, have talked about this. Both, both Mayor Doherty and myself are involved with a group called Policy Link, and we've been up and given some presentations to them. It's a great organization, and they came up with 171 cities in Ohio, Pennsylvania, and New York that are in the same kind of situation we are. Early intervention helps. One of my recommendations would be that there ought to be some hooks to early intervention, some incentives. The state just shouldn't give cities money to do early intervention. I know this sounds really strange coming from a Democrat in a city that's in distress, but with the – the big advantage of having PFM with us under – as a coordinator in Act 47 is they become a partner for us, and I can't speak highly enough of the work that they've done for us. And so that also enabled administration and council to put aside some differences and come together on a common cause. But by having them involved in the Act 47 process, they're another touchstone. They're another place we can bounce things off of. With early intervention, you can throw money at it, and people come up with a study, and the study'll go on the shelf just like every other study until you put some hooks in it to say, "We're going to require visible progress before you go to the next step and the next step." It could have helped a lot of cities, I think, doing that.

CHAIRWOMAN EARLL: And the City of Pittsburgh?

MR. SCIORTINO: Senator, I'm not sure what the costs of the Act 47 --- has been in Pittsburgh because it's a separate entity and runs through DCED. The ICA is averaged about 600,000 dollars annually in terms of our budget since 2004. Early on, we spent about 1.2 million in legal fees just trying to establish the beachhead that we had to carry out the elements of the statute. What we've done over the last five years, though, is pretty much spent about half of our budget on incentive items in the city. For example, we paid for consultants to come in and study public safety issues that then rolled up – the consultant reports rolled up into the amended recovery plan so that Act 47 didn't have to spend that resource, and we did that in terms of using the consultants in a collaborative effort with the city. One example as they came to us and asked – the city came to us asked for us to study the Bureau of Building Inspection, so we went out and hired a national expert and came back and gave them a road map that then Act 47 then put into the amended recovery plan that's now a part of the process that the city must kind of meet. If you will, it's a consolidation of the resources that I say costs us about 600,000 dollars a year for the last 7 years.

CHAIRWOMAN EARLL: And an initial 1.2

MR. SCIORTINO: No, that was – that's included in it. That 1.2 went to legal over our term, but we've spent about $600,000 a year on average.

CHAIRWOMAN EARLL: And – but we don't know what the cost of the 47 plan…

MR. SCIORTINO: I'm not sure.

CHAIRWOMAN EARLL: …as simultaneously running.

MR. SCIORTINO: That's right. I don't know

CHAIRWOMAN EARLL: That's a lot of money. Representative Ross.

CHAIRMAN ROSS: Thank you. And I just want to begin by saying that my hat's off to all of you for struggling as we look at the details of the kinds of problems that you're dealing with. It's pretty amazing, and you're very brave to take them on. And obviously, you've been making some headway in some very difficult sets of circumstances, so I want to congratulate you all on that to begin with, and it also strikes me as to how different your circumstances are. I mean, there's certain common themes, certainly, but some of you been in really tough spots. Others are in scary positions that may get worse, but, you know, it does really help us to see specifically what's really happening on the ground to begin to understand how some of these laws actually apply to you. And I had one kind of a question which you may not really be able to answer right now, but I'd ask you again, as I did the previous panel, to think about and maybe get back to us on. We have heard the phrase "ability of a municipality to pay when awarding contracts, benefits and salaries," and I get the concept if we're going to be looking at any forms of legislation we're going to really need something more specific in the way of direction for the arbitrators, and maybe some standards that we could possibly apply. Both Senator Earll and I have some initial legislation in reaction to the court case that came down in regards to you in Scranton, but again, getting into the details of it, because I think we'll have differing positions on what that means, but until you actually try and get it specific, it's very hard. And if any of you wish to answer, react to that initially, that'd be great, but I also have a more specific question for Mr. Sciortino. I understand from your testimony that the ICA is able to intervene in a way that is obviously outside of the rules of Act 47 because you're operating under a different legislative mandate but that you have had, perhaps, some better success in intervening in arbitration cases, and maybe you could describe a little bit of that, and in particular, if there's anything in the ICA legislation that might be useful for us to apply more broadly in Act 47 situations.

MR. SCIORTINO: Mr. Chairman, I think there are a number of provisions in Act 11 of 2004 that, that might be helpful in the process. Act 11 is a little bit different because it allows the ICA to – it mandates that the ICA must approve the city's budget. Act 47 has a little bit of a different task. They help develop the budget, but whatever happens locally, you know, happens. The ICA's required by law to insure that the city has a balanced budget and a five-year plan, and it's really in that five-year plan strategy that most of this has really taking place. We've tried to use our resources to help the city reorient where they are, and we've tried to avoid the notion of arbitration by coming together. For example in my written testimony, I point to a shared services operation that we're doing with Allegheny County. Granted, Act 11, the ICA has absolutely no authority to work with or to mandate anything with Allegheny County, but we developed a partnership because they use the same accounting system that the school district in Pittsburgh uses and a number of other authorities do. We've pulled all of that together, and instead of causing legal difficulties, people have finally come around to the notion of bringing that shared service together. Now, that's going to save, in our opinion, over a ten-year period somewhere around 8 million dollars, and those are real numbers, and that's not because we're planning to lay people off or any of that. That's all just because of consolidation, if you think about the process. In the arbitration process, we're at the table, and we're looking at what the collective bargaining agreements are about, and we've met privately and separately with the unions. And we've spent weeks meeting with them. They've come to the table with great ideas on how to restructure certain kinds of things, and, and they are a part of the partnership that we see as important. We did – we've avoided or had – not had to deal with the arbitration issue directly because we've reached out. Act 11 allows us to do that a little bit differently. We don't have the same kind of legislative mandate that might be in Act 47 when it comes to the legal issues, so we were able to develop that working relationship and literally have hundreds of recommendations that have come from organized labor about how to fix the operations which drives the costs. I, I don't know if that answers your question.

CHAIRMAN ROSS: It certainly helps. Does anybody else wish to comment on that?

MR. DOUGHERTY: Representative, just on your question of the ability to pay. Cities now, really for the last several years and probably over the last decade, have been forced to reduce the amount of employees that we have. So if you look at it, we're pretty much at the edge of – at the end of where we can cut. Almost in every one of my departments there are less people today than when I started ten years ago. And it's almost close to 20 percent, so we're at a point now where we obviously have to provide these services because if the city's going to flourish, it has to be clean. It has to be safe, and people have to feel that the house that they own will appreciate in value. That's why they move to your city. And we are at the, at the end now of where can we get more revenue, because we have cut everything that we could cut, and, you know, we come here for the, the hope that we will be given more options from the state so that we will be able to provide the services and the cities can flourish. At the end of the day, it's about the people who live in those cities and live in our state. Their number one asset, especially in Pennsylvania, because we are middle class state, is their home. And we have an obligation to make sure that home appreciates in value.

MR. McMAHON: Could I add to that? Representative Ross, you, you threw us a good challenge, thank you, and I'm thinking that if you start looking at legislation, some changes that have to be made, and how you identify ability to pay and take a look at what the average tax burden is on the people, you take a look at what their average per capita income, family income is, and then also, also take a look at how much, how many dollars a citizen in Reading is paying for public safety and all the services compared to the money, dollars per capita that's being spent outside. I would be happy to take that challenge, and I will make sure I get back to you with some ideas further on this because that's really important that we can quantify what should go in new legislation.

CHAIRMAN ROSS: And, and just to be clear, I'm going to be probably asking the same question to the later panel that comes before us from the unions, and it's a little bit interesting and a little different when we're dealing with the municipalities that have the right to tax compared to a private sector business that obviously is constrained by its competitive position. In a, in a way, you're sort of constrained by a competitive position because your citizens can leave or your businesses can leave, your taxpaying entities can leave, but it's a little less obvious than it is in the private sector where clearly a business entity has the more immediate threat of going out of business and the jobs disappearing entirely. We, we assume as long as people are in your cities that there will be police and fire and other municipal workers still there, so it gets to be a little fuzzier and a little bit less clear, but it would be really helpful as we go forward if we begin to start thinking about what is an ability to pay and how it gets defined, and I think that you've raised some of the good, good potential places we might start looking for neutral standards that could be referred to an arbitrator for them to apply in these kinds of negotiations in the future. Thank you.

MR. McMAHON: One, one quick comment on that is so many people say to us, "Run your government like a business." And if I hear that one more time, I think I'm going to lose it. I already want to apologize for losing it partly, but everybody that walks in the door – our school system, I have to – we can only ask them three questions as you know, you know: name, address, location. And, and you can't ask anything whether they have green cards or what. We have a very, very high influx of Latino population, and the Latino population in general are great people, and I love them, but we have a lot of poverty that's, that's part of that, and we can't close the doors. Business can go bankrupt, and I know cities can possibly go bankrupt, and I hope this never happens, and I hope it doesn't happen in the case of Pittsburgh.

CHAIRWOMAN EARLL: They can't go bankrupt without state permission.

CHAIRMAN ROSS: Thank you.

CHAIRWOMAN EARLL: As has been confirmed by the court recently. Representative Saccone.

REPRESENTATIVE SACCONE: Thank you very much. I, I really appreciate what you – your testimony and what you do out there, and I don't want this to sound harsh, but again, we always – it always comes back to the taxpayer. When I go back to the taxpayer, they're going to say, "Is it any wonder you can't provide public safety when an entry-level position for a firefighter is 71,000 dollars plus benefits?" I mean, we, we have got to look at salary, pensions, and benefits of government employees. It's the biggest driver. You've all said it, but we don't seem to want to address it. Pensions at the state level, I've written about this, 30-40 billion dollars underfunded. Your pension system is in as bad of shape as ours is, yet we're not hearing a clamor out there to, to let's make some additional structural changes that – and I know some of you have, but we really need – I think, in my opinion, we really need to hear a clamor from you all with concrete suggestions on how to change, and I mean, I have some. Obviously, I've written about defined contributions and all these other things, but we need to hear it from you all, too. As, as many times as it takes to get us to include that in the debate and in the legislation as we move forward. That really wasn't a question. It was a comment to you, but, but….

MR. DOHERTY: Representative, just to respond to that. You make a very good point, and maybe to the panel if simply put. You know, we're under distress, so the state comes in and says, "Put a recovery plan together." We put a recovery plan together. It's passed by our city council. It goes before the electorate of the city, and 72 percent of the people voted in favor of the plan. We do everything we are supposed to do. And the Supreme Court says "No, we'll tell you what to do." Where do we live? You know, is – don't the people of Scranton have a right to determine how the city should be run? They're the ones who pay for the services. They're the ones that send their kids to our schools. They decided to live there, so if we're going to look at some type of change, allow us to rule ourselves. We're Mayors. You know, tonight, if there's a fire or there's a murder, we get the call at 3:30 in the morning. Nobody else does. We're the ones who take care of everybody, whether it's the poor, the rich, the middle class. It is our responsibility, and we do that. But we did everything we were supposed to do, that the state asked us to do. Because before that, before I became Mayor, the city didn't follow that, so the state sanctioned us, held back state dollars. We did everything you asked us to do. And then a group of individuals who don't live in Scranton tell us, "This is what you're going to do," and that's not fair. That's not fair at all.

MR. McMAHON: Can I, can I quickly respond to yours? At 71,000 dollars, and I think you're referring to Scranton. In our case, the entering salary for a fire was fifty-six, I think. Under the new contract, it will be thirty-nine, and if we want to have a discussion on pension, we don't have enough time here today for all of us to get into that, whether defined contributions, defined benefit, and some of the legacy costs that we've all inherited. It would be great for a new Mayor to go in and say, "Everything that I'm starting today, January 1st, is, is going to be brand new, and I'm going to eliminate all this pension issues." It is impossible. We've got legacy costs that are – people going into the drop program. We have a whole lot of those things that I'd love to spend days on, but thank you very much.

CHAIRWOMAN EARLL: Senator Eichelberger.

CHAIRMAN EICHELBERGER: Thank you, Madam Chairman. Can you folks tell me what your millage rate is?

MR. McMAHON: My millage rate is 14.45 mills in the municipality, and it's, it's right now 16.5 mills for the city, and it's 7 – 6.7 – 6.95 for the county. Our millage rate dropped, actually, for the ci – for the school district, but our millage rate in the city is the highest of any municipality.

MR. DOHERTY: I couldn't give you the exact numbers now. Obviously, I can tell you the percentages that we raise our property taxes and things like that. But it – our millage rate, our property tax, the city's residents of Scranton, between the school district, and the county, and the city, the lowest of property tax they pay is the city tax. The school district's about 54 percent of your tax. The county's about 27, and we're the differential at about 20 percent, 19 percent.

MS. CIPRIANI: Our millage in West Wyoming, sorry about my voice, is 1.5.

MR. SCIORTINO: Senator, I think it's different in Pittsburgh. The assessments are set by the county, and there's been a cap on any increase in assessments. There's some court cases, etcetera. But I can get specific detail to you.

CHAIRMAN EICHELBERGER: That, that's okay for Pittsburgh. You, you don't happen to know what Lancaster is, Lloyd, do you?

SENATOR SMUCKER: I, I don't know Lancaster's millage rate offhand. I can get that to you. I do know that it's considerably higher than the surrounding townships.

CHAIRMAN EICHELBERGER: Thanks.

CHAIRWOMAN EARLL: Representative Tobash.

REPRESENTATIVE TOBASH: I want to thank the Chairs, and I want to thank the panel. I appreciate the difficult work that you do in your service to your communities. It's certainly no easy task right now, and there's tough decisions to make. I just want to talk about the dynamic for a second. Look, rural citizens generally seek, utilize, and are afforded less services, and they pay taxes, and for the most part, they live in communities that are financially stable. How, in your opinion, very specifically, can we help as a Legislature to encourage and assist urban elected officials from not passing on debt and maintenance and other obligations that the next generation of leaders and your taxpayers are unavailable or unable to afford? And again, I think here, look, we've talked about a lot of things. You've got a wish list here, and I'd like to see the top of that wish list. I'd like to know that what we can do very specifically, the tools that you need to think that – so that you can get your job done.

MR. McMAHON: Let me, let me throw a couple of, couple of ideas out. One, we can start treating our third-class cities like we treat our first- and second-class cities, and if anybody ever could give me a logical reason why Pittsburgh has 2 percent additional sales tax, and I'm sorry. One percent and Philadelphia has 2 percent and fifty-three third-class cities do not. I'd like to know the reason, and I'd, you know – I'll be able to – anybody can get back to me on that, as well. There's no logic to that, and it only comes back to push, push, push. I think what the state can do to help us on this is – you've sort of got to look at it at a regional – you got to look at regional tax sharing. We've got to look at some more incentives to do the kinds of things that I think Pittsburgh has done really well. I love the model of the connect, of the connect, the connect issue between the surrounding municipalities and Allegheny County. I think it's a great model to take a look at. I think the regional asset district that's Allegheny County has another – is another great model to take a look at. But, but I think, I think beyond that we have to say how can we encourage more of, of what Senator Schwank had talked about and others about how communities have got to share? And there's got to be some incentive sometimes. We, we provide police service for the Bureau of Kenhorst right now. We took that over, and we also have been working long and hard to try and get a countywide consolidation of water and sewer. By the way, we're under 210 million dollar Department of Justice consent to create a --- upgrade – to upgrade our sewer plant, and that, that's another thing that hangs over us because we supply thirteen municipalities with that, so I think if we stand back and say, "How can we really encourage municipalities to share things, get beyond some of the, the potentates and fiefdoms that I call it, whether it's fire, or police, and others?" We did fire. We did a police consolidation study and looked at the economics of it, and it would have taken going from how many police departments --- Senator Schwank, about forty?

SENATOR SCHWANK: About forty police departments down to four or five, and it's very difficult to do that, as you know.

MR. DOUGHERTY: I would just add. Obviously, we need help with legacy costs just because before we became Mayors back in the [19]60's and [19]70's, one of the biggest bargaining chips was a giveaway was health care, and it didn't cost anything at that time. Everybody thought that'd be great, and now we're, we're paying the price for that, and the second legacy cost is that the importance of cities to regions. You know, that rural person when they're sick, they come to the city to the hospital. That's where their doctors are. If they have a, a problem and they need to go to the courthouse, it's in the city. Universities are in the cities. This is where they come to, so we have to – we understand why people don't want to live in cities, and, and we respect that, and that's fine, and they – because they choose a different life, but you're always going to need the city because it is what provides those services that we all need as Pennsylvanians, whether it's education, whether it's health care, or whether it's the rule of law. It'll always be in the cities, and remember how Pennsylvania was founded, all right? Largest cities were all industrial areas because of natural resources, so they've been established, and they're built, and they're old, and like Tom has a problem with the sewer authority. I have the same thing. Over 100 million dollars I'm going to have to spend to upgrade my sewer plant. Why? It's old because we're an old city, and to understand those things, we need to be in it together. We understand our responsibilities that we have to take care of things ourselves, and I accept that as a Mayor, but we do have to recognize the importance cities are to regions because they define regions, and because when people decide to move to an area, they want to know are the schools good, is the health care good, is it clean, and is it safe?

CHAIRWOMAN EARLL: Mayor Smucker.

SENATOR SMUCKER: Mayor, mayor – and, and I understand your response, and believe me, I understand that, that people seek – rural people seek services within the city, and they also go there for culture and other events, and there's other ways to generate revenue, but specifically, in your toolbox, there's a Christmas tree in the Rotunda right now. What's on your wish list? Top three things that this Legislature could do to help you manage this, your efforts, and not pass on this legacy debt that we're talking about to the next generation of leaders?

MR. DOUGHTERY: I would look at Act 111 and change that, and to have arbitrators consider the city's ability to pay. I would also look at different revenue sources, whether it's a countywide sales tax, which is not impacting the people of the community. It's more of a shared cost. Those are the two things, but on my Christmas list, those are the two things I want.

MR. McMAHON: If I could have three, I'd add pension. We have three.

SENATOR SMUCKER: From a Lancaster perspective, I think it would include the same items, but I think Lancaster's perspective on what is needed is contained in the report that I had mentioned earlier, "Prosper or Perish," which narrows it down to just a few of the top recommendations from that group, and that group, again, was a group of local leaders, business leaders, and folks outside the city, as well, in Lancaster County who looked at it and spent a year or two coming up with recommendations, so there's a, there's a pretty succinct set of recommendations contained in that report, as there are in many other reports. As is mentioned earlier, I think that there are many Chambers, including Lancaster Chamber, but many others across the Commonwealth have come up with their own series of recommendations, and, and I think they're very, very similar, and they're similar to the things that you've heard today. One of the interesting things about the group that looked at this in Lancaster was they realized fairly early on, and the Mayor bought into this concept, that it can't be solved with revenues alone because they just aren't available but also because there are structural, fundamental changes needed that will help to address some of the cost issues. And so their perspective was, yes, it does need to include looking at possible revamping of the revenue options that are available for municipalities, but if we only do that, in five years we're going to be back to – faced with the same kind of situations that we're in now. So, you know, one of the – I think the top one, actually, in "Prosper or Perish" is look at some things like the arbitration requirements under Act 111. And, again, there are many others, there are many others there, as well.

CHAIRWOMAN EARLL: Thank you, and last but not least, Senator Blake.

CHAIRMAN BLAKE: Thank you, Madam Chair, and thank you to the panel. Particular thanks to my colleague, Senator Smucker, for his thoughtful remarks, and of course, the comment of the most important – the leader of the most important city in my 22nd district, Mayor Doherty. A couple of things, and, and actually my question was already raised by the Representative in terms of what tools are most important that would have the most immediate effect on the fiscal trajectory of your cities. But I want to speak earlier to Senator Earll's point about costs, because it's one thing what it costs you as cities with, with respect to your participation and your designation of Act 47. It's another thing that it costs us. There is no sign hanging out of the office of Act 47 that says we provide perpetual care, and, and what I mean by that is that you – we are – the taxpayers are bearing costs for our failure to deal with the underlying structural issues that perpetuate your distress, and, and, Chris, you've already mentioned the issue of failure to be able to exit. I, I also want to speak thoughtfully about Chris's – Representative Ross's points about the issue of, of the Pittsburgh experience because you have had an opportunity to deal with an external board of stakeholders that have had an opportunity to be a separate arbitrator, and in some, in some cases you said referee or an ombudsman. I think that that's a model we've heard in the previous testimony here that having another board, for instance, to deal with a local governing body and to be in a position to take some of the suspicion away with regard to the state, the designated coordinator, and the political realities of, of our cities, is, is the helpful model we should consider to replicate and also because it creates the opportunity to get labor to the table early as opposed to being battles later. And I think that's an important consideration. The only other thing that I want to say here, and it's my last comment. I appreciate the patience of my colleagues is that it was inferred in the previous panel, but it also needs to be stated here now, is that within the cities you have three taxing authorities relying upon the same base. You have the county, which we heard already from Doug Hill that there's fiscal pressure there. You have the school districts, who have fiscal pressure there, and you have the cities all looking to the same tax base, and to my, to my Representative's point over here about the breaking – the, the brink that these taxpayers are on. I think unless we diversify the revenue stream by expanding the base, and I think that the, the point's already been made by the Mayors, those, those taxpayers can't bear that burden. So thank you for your patience and your, your testimony today.

CHAIRWOMAN EARLL: And with that, again let me thank you. Appreciate your insights, and any of the follow up information you would like to submit, please forward it to myself as well as Representative Ross, and we'll get it distributed. Thank you. With that, we're going to take a fifteen-minute break and then reconvene for the beginning of the afternoon's testimony so we'll see you about 12:10-ish.

(With that, the committee was in recess.)

CHAIRWOMAN EARLL: Good afternoon, everyone. I would ask if we could please come back to order. If everyone could take a seat, and I would invite to join us at the table Mr.

David Black who is the CEO and President of the Harrisburg Regional Chamber, as well as Mr. Brian Jensen, Senior Vice President, Allegheny Conference and also Executive Director of PEL of Southwestern Pennsylvania. Good afternoon, gentlemen. Whenever you're ready and comfortable, we're ready to hear what you have to say, and I would invite Dr. Jensen, if you want to proceed.

DR. JENSEN: Sure, thank you. Thank you, Senator. Good afternoon. Thank you for this opportunity to speak to the four committees regarding Act 47. I am Dr. Brian Jensen. I am the Executive Director of the Pennsylvania Economy League of Southwestern Pennsylvania and Senior Vice President for civic policy at the Allegheny Conference on Community Development, our parent organization in Pittsburgh. The Pennsylvania Economy League has a seventy-five year history of conducting independent, non-partisan research and is committed to sound public policy that enhances the competitiveness of the Commonwealth. In my twenty-four year career at PEL, I have worked to make Pennsylvania local government more efficient, more effective, and more competitive economically.

PEL has had a direct working experience with Act 47 since its passage in 1987. PEL offices across Pennsylvania have either drafted Act 47 recovery plans or served as recovery plan coordinators in eleven of the Commonwealth's officially designated financially-distressed municipalities.

Additionally, in 1998 the Governor's Center for Local Government Services commissioned PEL to review and recommend changes to the Municipalities Financial Recovery Act Program. Our study found that Act 47's provisions for addressing municipal fiscal distress had been inadequate over the previous decade and warranted improvement. We found that a number of shortcomings in Pennsylvania law impeded the recovery of distressed municipalities.

There are two categories of distress. Managerial distress results from inadequate, poor, or corrupt management practices, while structural distress results from the crippling erosion of tax base. Act 47 has had success in addressing managerial distress but has had relatively little success in addressing structural distress. Number two, municipal officials are sometimes unwilling to implement tough recovery plan recommendations. Act 47 has had a limited ability to encourage or force compliance with recovery plans. Number three, there's no limit to the amount of time a municipality can be in the Act 47 program. The Commonwealth's authority to address a given municipality's distress factors are the same in year twenty-four of the program as in year one. Number four, recovery plans can be and often are thwarted by ineffective labor negotiations on the part of the municipality, unwillingness of labor unions to reach contract agreements, and adverse arbitration decisions. Number five, municipal distress is often exacerbated by regional distress factors. Act 47 does not effectively address the regional factors of distress. Number six, the community – the Department of Community and Economic Development could better coordinate its economic development functions with its community development activities to focus resources towards distressed and pre-distressed municipalities. Distressed municipalities often are served by distressed or fiscally and academically weak school districts. There is no requirement – pardon me one second – there is no requirement for school districts and municipalities to work together towards general fiscal recovery.

In answer to these findings, PEL's report advanced ten recommendations on modifying Act 47 statutory language and program policies to improve the likelihood of recovery of distressed municipalities in a timely fashion. While the report offered a variety of recommendations on improving Act 47, in the interests of time here at today's hearing, I will mention just one recommendation that we deemed to be crucial to rectifying the fundamental weakness in the program.

That is, the length of time a municipality operates under the Act 47 program should be limited, and the Commonwealth's authority to intervene in municipal affairs should increase the longer a municipality remains in the program. After a sustained effort through successive recovery plans has proved inadequate for restoring financial health, the Secretary of the Department of Community and Economic Development should be authorized to seek court approval to empower a board of control to manage the municipality's affairs. That board of control should have increased control over labor provisions, including designating the planned coordinator as the neutral arbitrator in Act 111 binding arbitration proceedings. Additionally, if distress persists, the board of control should be authorized to prepare a boundary change plan at the recommendation of the Secretary.

At the time of our study in 1998, six of Pennsylvania's then seventeen officially distressed municipalities had been in the program for ten years or more, and only three municipalities in total had emerged from the program. The report stated: "In its twelve years of existence, Act 47 has clearly not been a successful vehicle for bringing municipalities out of financial distress."

Besides adding nine more municipalities to the Act 47 roster, little has changed in the intervening thirteen years since we've released our report. Eleven municipalities have spent ten or more years under Act 47. Of the twenty-six municipalities that have ever been declared distressed under Act 47, only six have emerged in the twenty-four years since the Act's passage.

But Act 47 municipalities are just the tip of the financial distress iceberg. Many, many more municipalities are financially stressed but have not yet filed for Act 47 declarations. At the end of the copy of my written testimony that I have provided you, you will see a map showing municipalities in Pennsylvania that PEL has identified as suffering from some category of financial distress, whether it be inclusion in the Act 47 program, participating in Pennsylvania's early intervention program, identification as a municipality in the annual Pennsylvania Economy League municipal stress index, or one that the Economy League has determined to suffer from pension plan distress.

You will note that the map highlights far more than twenty-six Act 47 municipalities. Financial distress is rampant throughout Pennsylvania. Indeed, there is hardly a county that doesn't have at least one distressed municipality. According to our analysis, 40 percent, and actually, I just redid the numbers and found that it's actually 42 percent by latest data, of Pennsylvanians live in a municipality that is undergoing some form of financial distress.

Why are so many of the Commonwealth's cities, boroughs, and, yes, even townships struggling to maintain financial health? I would submit that the problem stems fundamentally from outdated and intrusive state laws. While systematic shifts in the U.S. economy have devastated the tax bases of such former industrial centers as Aliquippa, Johnstown, and Reading, it is largely the lack of flexibility that Pennsylvania law offers to local governments to act in the best interest of its constituents that undermines the financial health of many municipalities.

State law hamstrings municipal financial health in two fundamental ways: it artificially and counterproductively increases costs, and it simultaneously segregates municipalities into those that can generate adequate revenues and those that cannot.

Rigid state pension law escalates municipal costs. For example, Pennsylvania law requires cities to offer defined benefit pension plans to police and firefighters. They are not authorized to offer hybrid systems that would introduce defined contribution plans into the retirement mix. While Americans now live longer, healthier lives and frequently elect to continue to work into their sixties and seventies, cities are required to offer retirement to police and firefighters at age fifty with twenty years of service, regardless of the health of the city's police and firefighters or the city's public safety and financial needs.

Pennsylvania's municipal pension laws have not kept pace with demographic and economic changes. The graph at the end of this testimony shows the local share of Pennsylvania pension costs will escalate more than threefold in the next five years, barring fundamental changes to pension law.

Binding arbitration provisions likewise tend to escalate municipal public safety costs. The selection process of the neutral third arbitrator, the requirement that the arbitration costs are not to be shared with labor but fall solely on the municipality, and the failure to require arbitration panels to consider the financial ability of the municipality to pay the arbitration awards all place municipalities at a disadvantage in the Act 111 process.

I want to be clear. We do not advocate the abolition of binding arbitration or the curtailment of collective bargaining rights, but we do think that the playing field has for too long been tilted to the disadvantage of the employer, who in the end, of course, is the taxpayer. Pennsylvania will not be able to restore municipal financial health and sustainability in the absence of reforms to the significant cost drivers of pension and binding arbitration.

In terms of addressing Act 111 as it affects Act 47 municipalities, specifically, the recent Pennsylvania Supreme Court decision makes it absolutely critical that the General Assembly pass legislation to clarify the long standing practice of Act 47 recovery plan provisions having precedence over arbitration awards.

A chart at the end of my testimony compares annual pay increases awarded in a Bethlehem police arbitration where the cumulative four-year pay increase was 21.5 percent, and those provided in a number of Act 47 recovery plans where the four-year cumulative pay increases ranged from 2 percent to 8.2 percent. The, the dramatic cost differential clearly shows the beneficial effect that Act 47 has had up until now on holding wage increases to manageable levels.

We urge your careful consideration and full support of Senate Bill 1321 and House Bill 1988 that amend Act 47 and clarify that the law applies to arbitration awards in addition to arbitration settlements. The enactment of one or the other of these bills will ensure clarity in the law and maintain one of the most critical and effective tools for containing costs within the Act 47 communities.

On the revenue side of the equation, the Commonwealth has established a taxation policy that pits municipality against municipality, creates winners and losers and fosters a system in which "have not" municipalities host public services from which they are forbidden to derive tax revenue and that residents of "have" municipalities enjoy at no cost.

Established "core" municipalities, frequently the county seat or a settled borough within a county region, typically host a variety of non-profit or governmental institutions, including hospitals, libraries, parks, churches, post offices, schools, colleges, and universities in county, state, and federal buildings. As such, these municipalities carry a disproportionate burden of hosting property that is tax-exempt, yet, to one degree or another, such tax-exempt property generally still requires public services. As a result of significant portions of property being tax-exempt yet requiring municipal services, our older, more established cities and boroughs are compelled to establish tax rates at higher levels than those of their less intensively-developed neighboring municipalities. If Pennsylvania is to solve municipal financial distress, it must address the issue of tax-exempt institutions.

Furthermore, many of these non-profit or governmental institutions serve residents beyond their own boundaries, resulting in a free rider situation where non-residents enjoy the services of a city or borough that is required to provide as a result of hosting these tax-exempt institutions, but they do not share in paying for those necessary municipal services. Pennsylvania should consider some form of regional or countywide tax revenue sharing.

Stepping back from the current way Pennsylvania organizes local government and looking at it from a 40,000 foot level, it appears to me that were the Commonwealth to start with a clean slate, it would not establish all the mandates and prohibitions that exist and impede municipal financial health, nor would we establish the boundaries that are currently in place. In some cases the original reason for incorporation of a city, borough, or township and the economic base that sustained it no longer obtain. In short these – there are some municipalities that are simply obsolete that the march of progress has left behind.

In these cases, almost no amount of assistance can restore financial viability, and in these cases the Commonwealth should have a mechanism for liquidating their assets and liabilities and merging them into a neighbor. We would suggest that the General Assembly revisit the recommendations of the State Planning Board to establish a boundary review commission to assist planning the long-term disposition of municipalities that are chronically and seemingly permanently financially unviable.

Finally, I would just add that with the very limited and shrinking resources the Governor's Center for Local Government Services has, it does a very commendable job on the complex set of very important issues that it faces. If the Commonwealth is to retain the capacity to provide vital services to its municipalities, it must be willing to appropriate funds sufficient to that responsibility. Thank you again for the opportunity to express the Pennsylvania Economy's views. I'd be happy to address any questions you may have.

CHAIRWOMAN EARLL: Thank you. I think we're going to wait for questions until we hear from Mr. Black.

MR. BLACK: Thank you, distinguished Chairs, members of the joint committee. On behalf of Pennsylvania's business community, I thank you for commuting – for convening these sessions to examine Act 47 and in turn learn more about the struggles of Pennsylvania's municipalities, particularly cities. I will tell you that my testimony is going to be a CliffsNotes version of what you have in front of you and no need to thank me for that.

I am here today representing our organization, the Harrisburg Regional Chamber and Economic Development Corporation, as well as a coalition of chambers that we call Chambers for Sustainable Communities that include metro chambers in Reading, Lancaster, York, Lehigh Valley, Wilkes-Barre, Scranton, Williamsport, Pittsburgh, and many other chambers continue to sign on statewide. All of our cities of those chambers I referenced are – have financial challenges. Some are in Act 47. Some are close. The point is the problems are similar.

As a former county commissioner from Clarion County, a small county in Northwestern Pennsylvania, I am familiar with public sector budgets and the challenges municipalities face each year. I observe the challenges and the differences from the borough of Clarion in comparison to its neighboring townships with no police services. Much of the difference has to do with the services and the levels of services provided. I also have the honor of serving as a former Deputy Secretary for Community Affairs and Development at the Department of Community Affairs and then the Department of Community of Economic Development during the Ridge administration. I worked very closely with Fred Reddig and the Governor's Center with Act 47 communities and have gained a fair understanding of the Act 47 program. I will also note that the Commonwealth is very fortunate to have Fred Reddig as – among its employees.

From a macro perspective, Act 47 is not the problem. The problem is the fundamental structure of local government in Pennsylvania. Legacy costs of older municipalities and the various established codes that Pennsylvania municipalities must operate under. Equating Act 47 to medical care, if you will, for just a moment, Act 47 provides triage service to the patient and creates a treatment plan that attempts to stabilize the patient. Rarely will Act 47 cure the patient. I've included in your testimony a little graphic there, "Welcome to Pennsylvania. We've always done it this way." I do that to drive home a point. We need to make some changes. The other thing that I'll point that's not included – point at that's not included in the testimony, but part of this came out of a foundation opportunity, something sponsored by the Ford Foundation that was offered to chamber exec[utive]s around the country to work on regional development issues, and actually, Ellen Horan from the Reading Chamber started the Chamber's Coalition, and, and the one thing we found in talking with our peers from around the country, they found it a little odd that we had cities of the third class, or, if you will, third-class cities. Why would anybody name a city a third-class? One of the things that we tried to establish during the Ridge administration, the DCED was to enhance the economic development component of Act 47 to help build the tax base, programs like Enterprise Zones, Keystone Opportunity Zones, and LERTA [Local Economic Revitalization Tax Assistance Act] were designed, and a lot of those predated the Ridge administration, were designed to grow commercial tax bases in urban centers, but these programs, along with significant investment, has not reversed the fiscal stress on cities and other municipalities which has been compounded by a bad global economy.

I also believe some – in some circles we have lost touch with the connection that municipalities in Pennsylvania are creatures of state government created by state authorization and governed by the codes created by the Legislature and signed into law by the Governor. In the last session of the General Assembly, as you heard Brian reference, there were some good discussions about the structure of municipal government in Pennsylvania and the impediments to voluntary mergers and consolidations. I would like to see those discussions continue. There is an expression that says the whole is only as strong as the sum of the parts, and in Pennsylvania some of our parts, municipalities aren't very strong.

I have some general recommendations that I would like to share for consideration for Act 47 and related urban renewal strategies today that the Chamber's Coalition have discovered after nearly two years of work and discussion. The Chamber Coalitions have the upmost respect for men and women in uniform who protect and provide public safety for municipalities. I have met with the FOP [Fraternal Order of Police], and I know this is a very sensitive issue, but there needs to be some discussions in the General Assembly and elsewhere involving municipalities, organizations representing uniformed public safety employees. The issues are both current collective bargaining legislation and pensions. Pennsylvania has approximately 25 percent of the municipal pension programs statewide in the country. We should move forward to consolidate pension programs and explore to find contribution plans, as Brian has also stated, for future employees.

We also believe that there should be some discussions and ideas and tools developed programs to encourage urban revitalization, tools that offer opportunities for older municipalities that want to be progressive and want to change. The original concept of the Keystone Opportunity Zone Program was urban redevelopment. It involved tax abetment in both the state and local levels. We would recommend to create a program that is similar to the LERTA program for publicly-owned or other non-taxable properties coming back into taxable use. The moment that a former school, post office is transferred to a private owner, it immediately becomes taxable. And we had a recent case in Harrisburg where the post office on the other side of the underpass on Market Street was bought by a private owner. The first thing he had to do was appeal the tax assessment and started paying taxes on it. There needs to be a period to transition some of these publicly-owned properties.

The other problem that we have seen in many Act community – Act 47 communities, notably the City of Chester and Harrisburg, is the failure of the school systems which limits city living to young people, to single professionals, and the people without children and empty nesters. This is related to the issue of, of education in cities nationwide, and I know that’s not the purpose of this committee, but it, it does have to be noted, I believe.

Another somewhat radical concept that we think bears exploration is tax base sharing. Now, I don’t know what that may look like, but if we look to Pennsylvania counties that essentially share the real estate tax base of the municipalities within those counties, it does provide some balance. While not flush with cash, none of Pennsylvania’s sixty-seven counties are financially distressed, and they also have 24/7 public safety responsibilities from 9-1-1 centers and county jails. But tax base sharing could look like it’s open for discussion, but I believe it is something that at least should be discussed as we try to benchmark ourselves against metropolitan statistical areas outside of Pennsylvania to see what other states are doing.

As for our city, I'd be remiss if I, I let this go without commenting something about Harrisburg. Our city currently makes international headlines. It is important to note that Harrisburg is one of 103 municipalities in the Harrisburg MSA [metropolitan statistical area] that we serve, Cumberland, Dauphin and Perry Counties. The other 102 run pretty well. The region as a whole tops many national best places to live and work lists. Harrisburg's population is about 49,000 people. The MSA is about 550,000 people, just 9 percent of the total MSA. You might ask why the disparity. Looking at the downtown, Harrisburg looks healthy. The population more than doubles during the work day, and the fifty-two dollar a year municipal services tax generates nearly as much as the earned income tax that the residents pay. That tells you something about the demographics of the city. Since 2008, I have witnessed a near total breakdown in the governors – governance of the City of Harrisburg. This is similar to the condition we found in the City of Chester in 1995 when it was declared Act 47. The local politics of Scranton stood in the way of a plan implementation, so in 1998 sanctions were implemented against Scranton. A former longtime institution in the Senate once told me that the success of any issue in government depends on what non-related issue it becomes related to. We find a lot of non-related issues in Act 47 communities. If Harrisburg, Scranton, or even Chester were a business it would no longer exist, and the principals of the firm would likely be in jail for malfeasance of their responsibilities, public disclosures, or other similar charges. In cities they are cheered by citizens group in the community that paint them as heroes taking on the evil state government.

As I conclude today, our coalition would love to see legislative action that realize that these are tough issues, so we would strongly suggest that some kind of formal task force or serious discussion group be put together, perhaps under the Governor, forming cooperative body with the General Assembly around specific issues that I have noted in my testimony and in more detail on my written testimony. Those issues are, are pensions, binding arbitration, economic development, easier methods of municipal merger and consolidation, and after some of those things are taken care of, yes, revenue enhancement options. The administration, Members of the General Assembly, and staff of municipal, of municipal organizations, municipal representatives, representatives of municipal workers, police, fire, public works, and others would meet under predetermined parameters to address these problems and look for long-term solutions. I believe rational people can sit down at a table and come out with some rational solutions. I doubt that we'll be able to push anything from either side through the General Assembly. I doubt that there were also be one piece of legislation that will address all ills that have been in place for over two hundred years, but remember, we've always done it this way. There's an opportunity to change. We need to get started now because the problems of cities in particular and other older municipalities have become magnified in a difficult economy and do hold back the progress of our state. I sincerely thank the members of the committee for holding these hearings and look forward to working with you in addressing these challenges that lie ahead. Be happy to answer questions.

CHAIRWOMAN EARLL: Thank you, gentlemen. I guess I would start, Dr. Jensen, by referencing the map that you've attached to your testimony on page 9 and point out that that's a pretty ugly-looking map.

DR. JENSEN: Yes, yes.

CHAIRWOMAN EARLL: I mean, it's, it's astounding, really, when you look at the number of municipalities that are in distress or on the verge of distress across the Commonwealth.

DR. JENSEN: I think of this as the measles map.

CHAIRWOMAN EARLL: Yeah, it's pretty ugly, but I'm curious. One of the points that you make is quote "additionally, if distress persists, the board of control under Act 47 after the municipality's been in 47 for a while should be authorized to prepare a boundary change plan at the recommendation of the Secretary." I'm not sure we're living in the same world. You're suggesting that we should force consolidations or mergers of municipalities just from a state level with those municipalities having no say in the process?

DR. JENSEN: I think there are situations where distressed municipalities simply cannot go on without significant subsidy. In those cases we really have to consider whether that municipality should continue as its own municipal government. So what options do we have? Well, the state could take it over and continue to subsidize it. The county could take it over and continue to subsidize it, or we could find some way for neighboring municipalities to take on individual responsibilities for various services in that municipality, so I guess I'm not, I'm not necessarily advocating full consolidation necessarily or right out of the box consolidation of those distressed municipalities with their neighbors, but I do think we have to put boundary change on the table for those municipalities that are simply in a chronic state of distress.

CHAIRWOMAN EARLL: Well, and I would suggest even further that we should have boundary change on the table for municipalities prior to becoming distressed and that that is one of the systemic problems that we have in Pennsylvania is we have far too many municipalities, and long-term, they're not sustainable, even those that are relatively healthy right now. But again, I, I don't – you know, with our long history of local control and reluctance under this dome to change things systemically, I'd, I'd be curious what we can do to massage that merger consolidation process short of offering a pot of money because we don't have it. What can we do to incentivize those municipalities, healthy or ill, to look at either out and out boundary line changes or at the very least shared services? What specific measures can we take?

MR. BLACK: Can I chime, chime in on that? We – during my years with the Ridge administration, we had two municipal consolidation. One was right across the river here. West Fairview Borough merged with East Pennsboro Township, and that was a matter of finding out what the liabilities of the smaller borough that merged into the larger township was, and, and it did involve money, but it was a relatively small amount of money to improve, I believe it was, some of their storm water system and some basic infrastructure. It was in, in the nature of 200 - 250,000 dollars.

CHAIRWOMAN EARLL: That came from the state?

MR. BLACK: It came from the state. It came from DCED, but that was enough to do it, and, and the success of that largely came from the citizens of West Fairview Borough that understood they were a borough of about 900 people, as I recall, that, that they, they couldn't – they just couldn't continue to operate as, as it – as they were currently structured. So – and, and I think over the next few years there was maybe another, you know, 100,000 dollars put into it. The, the other consolidation took place in Cambria County. Forgive me. I can't remember the two municipalities, but it was a matter of, of the two coming together, and, and coming together they, they qualified as a entitlement municipality under the state's community development block grant law that comes – the money comes, obviously, from the Federal Government, and they were large enough that they actually received several hundred thousand dollars a year, and they thought collectively that would help them solve a lot of problems, so it made financial sense. A lot of times it, it does have to be some kind of a financial incentive, but it doesn't have to be an outrageous financial incentive.

CHAIRWOMAN EARLL: Senator Eichelberger.

CHAIRMAN EICHELBERGER: It was Barnesboro and Spangler.

MR. BLACK: Thank you.

CHAIRMAN EICHELBERGER: Became Northern Cambria Borough in Cambria County, and there's, there's still lingering – interestingly, with that particular with that situation, they still have separate water authorities, however many years that's been. A couple questions, and, and before I, I do on that, I mean going down this track, we had brought to my attention recently about a borough, and the boroughs seem to be the probably the, the biggest problem child we, we have with very small boroughs throughout the state, particularly. In 900 is actually not, not too bad. The one I was dealing with this week was less than seventeen people. We pulled their report from DCED, their audit, and I think three people paid earned income tax there in 2009. But unless those folks want to voluntarily work with somebody else and try to get out of that situation, we, we can't do anything that I'm aware of to, to force them into, into some other, some other entity. Because I think we have a responsibility in Harrisburg to make sure that the citizens of Pennsylvania are well-served, and we have citizen that live in municipalities that aren't receiving services that they, they otherwise would, would receive. So I – there has been legislation on some of these things, and it hasn't gotten very far, and I think we need to take a second look at it and maybe tweak it a little bit, set some parameters, maybe some costs and maybe some size requirements or some things like that and try to approach these things incrementally at the, at the very least. One thing you said, Doctor, was you talked about schools working with municipalities to try and save money. Do you have any ideas? Other – I can think of purchasing, maybe some joint purchasing conglomerates here, but other than that, is there – can you think of any other ways that they could work together?

DR. JENSEN: Well, I think one of the big problems with Act 47 is that a municipality can be declared distressed, but the school district is not considered in the, the financial package mix, so one example that I'm very familiar with is the City of Duquesne in Allegheny County. Duquesne, an Act 47 municipality, would do everything it could to reduce its, its costs and keep its tax rate at a reasonable level, but the school district, which is coterminous with Duquesne, was under absolutely no obligation to try to keep its taxes down, so the, the concern was, "Gee, here we are, the municipality, reducing our costs, but then the school district just goes in and eats up those, those costs with their own tax increases." So I think what the Commonwealth needs to do is think of these municipalities as a geographical package and consider all the levels of government within them and, and really try to treat them as a system as opposed to just the one off municipality package of solutions that we have.

CHAIRMAN EICHELBERGER: Yeah, that's, that's interesting because I didn't think of this before, but one of the previous testifiers had mentioned in, in kind of an offhand way that raising taxes as a municipality becomes much more of problem if the school taxes are already very high. To that property owner their taxes are going up. They don't really care where the millage is going, if it's to the county, to the school district, or to the municipality, but the sch – and, and the school district taxes are very high everywhere, and, and they do have – you know, most perceptions are, I think, that they have a reluctance to really cut back what they're doing in comparison to how county and municipal governments work that are, I think, a little bit more responsible across the Commonwealth, so that is a problem.

DR. JENSEN: I agree with that and just one other – just final note on that. It really creates an economic disincentive for that area. You know, as you note, it doesn't really matter who's taxing. As long as those taxes as a package are high, nobody wants to move into those municipalities. Certainly, no business wants to operate in a, in a municipality like that, and that's why we really have to treat these as systems.

CHAIRMAN EICHELBERGER: Yes, that's another great ancillary point. Thank you.

CHAIRWOMAN EARLL: Representative Freeman.

CHAIRMAN FREEMAN: Thank you, Madam Chairman, and gentlemen, thank you for your testimony. I appreciate it today. You both made references to the issue of revenue sharing, and I would agree with you. I think something has to be done in that area. Particularly since we have such a fragmented system of local government, people work in one place, live in another, and when you have communities that are failing in large part because of a dwindling tax base, it only makes sense, particularly if that dwindling tax base has a high percentage of tax-exempt properties, regional assets like hospitals and government services that everyone uses but only the host municipality is supposed to maintain. So I appreciate that. I just wanted to ask if you have specific notions of revenue sharing that you are fonder of or you think might be more appropriate in that vein?

DR. JENSEN: Well, yeah, Allegheny County is a good example of a county in Pennsylvania that has a sort of tax revenue sharing. We implemented – actually, you all implemented through Act 77 the Allegheny regional asset district. And what that does is it shares an additional 1 percent of sales tax with – basically splits that additional 1 percent in half, half of the money going to regional assets such as the zoo, the aviary, and other facilities around Allegheny County, and the other half, then, is distributed to the municipalities. And it's distributed, basically, on a needs basis, so small places like Duquesne that are distressed get a percentage more than a wealthier municipality. That's a model that seems to work pretty well. It does, it does tend to level the playing field a little bit for those municipalities that aren't economically competitive anymore. Allegheny County is the only county in the Commonwealth that has that kind of tax advantage. Perhaps the General Assembly might consider expanding that as a possibility for other counties. I know a number of municipal or local government associations have talked about that over the years, and I believe it's something that really needs to be reconsidered for, for Pennsylvania.

MR. BLACK: If I could just, just add regional sales, perhaps regional earned income makes, makes sense, but like I said in my testimony, I think it's important that we address some of the other fundamental structures. The, the position of our Chamber's Coalition is to approach some of the, the structural issues first and then look to revenue. My, my concern is if, if you get revenue first, then, then the other issues get kicked down the road, and, and I think we need to address these fundamental issues that Brian and I have both talked about here today before we get too deep in the revenue structures, but you could work at them simultaneously as perhaps as a carrot and a stick approach.

CHAIRMAN FREEMAN: Just one quick follow up if I may. Through the course of these two hearings so far, we've identified a number of problems that seem to be systemic. And although Act 47 has been relatively successful in trying to at least stop the bleeding, it has not solved the problem because we don't actually deal with the systemic problem. If you have a municipality that has all the problems because it's that old urban core community, it's got the blight. It's got the poverty. It's got the crime, and at the end of the day, you're in Act 47. You get stabilized. "See ya, you know. Good luck with your mission." And you haven't given them the opportunity to tap other means of revenue to be able to maintain the services or to be compensated for the high percentage of tax-exempt properties that most of them have, the vast majority of them have. They can quickly fall back into Act 47 again because we haven't dealt with the systemic problem. And I've mentioned earlier in this hearing I have legislation I'll be introducing to try and address that to some extent. But is another possibility, particularly since so many of these communities have high tax-exempt properties and of those, most of them are major institutions, places like not, not-for-profit hospitals, institutions of higher learning, government facilities. Harrisburg's a classic example. State government is housed here. Would it not be to the benefit for the long-term health of, maybe, all third-class cities, is if the earned income tax, which is currently available to municipalities to levy, that in the case of, say, as an example, third-class cities, instead of that earned income tax falling to the place of residents as it does now, because it's levied within the community you live, and even though you're earning your money in community A, it's community B that gets the earned income tax. It's levied where you live, where you reside. Would it not be to the benefit of the long-term stability of many of these communities to prevent them from slipping into Act 47? If in the case of, say, a third-class city, that earned income tax should stay where the place the income is, is created. And that would help a tremendous number of communities that have those institutions that don't pay anything in real estate tax but are job generators in their own right, so in other words, if you work for state government but live in a suburban community outside of Harrisburg, your specific earned income tax would stay with Harrisburg because that's where the dollars were generated. Now, that wouldn't apply to everyone in the community. That's the bedroom community, only those employees that get their income from the community that is, say, like a third-class city.

DR. JENSEN: I think that's a very interesting concept, Representative Freeman. I just would add that historically the reason we have an income tax where the money stays at your residential municipality is back in the old days, people tended to live in the town where they worked. It's not the case anymore. The economy's changed, and if there's one major take away

I hope we all will get from our testimony today, is that the world is changing, and the problem with Pennsylvania municipal law is that it has not changed at the same rate. It has not kept up with new situations, so I, I fully support it – I think that's a really great idea and needs to be considered more, more thoroughly.

MR. BLACK: If I could just add, I was trying to rack my brain see what – the amount of the earned income tax, that I, I live outside the city goes to my municipality. It's relatively small. You're going to dip into the school district's pocket ---.

CHAIRMAN FREEMAN: Or you could separate – keep the school district where it is and just take the municipal side for the municipality. Thank you.

CHAIRWOMAN EARLL: Representative Ross

CHAIRMAN ROSS: Thank you, and thank you for your testimony. The, the map that you have, the so-called measles map, if one goes on the website, does – can we find the backup information on each of the municipalities, or do I need to request that separately?

DR. JENSEN: Yes, we can certainly supply it to you. The database is quite large, so it's hard for us to keep that in a file for you but certainly ---.

CHAIRMAN ROSS: I'm curious. Some are quite obvious, and I'm not surprised, but some are quiet surprising. So – and I see you have a variety of different factors that kick this off, including, perhaps, underfunded pensions, which maybe is, is something I'd just like to see what's, what's going into some of the ones, particularly down in Chester County. The other thing I just wanted to raise, and there's really no answer to this, I don't think, but it's worth keeping in mind is what I'll call the altruism issue here. Whether we're talking about consolidation of municipalities, or regional sales taxes, or other forms of corrections to some of these things that have been suggested. In consolidation, for example, it's not just the distressed municipality recognizing they don't have the wherewithal any longer and needing to merge. But I know in some of the situations there were several distressed municipalities that were prepared to dissolve and merge, but the receiving municipality looked at it and said, "No, thank you." And so when you're talking about doing this, you may be forcing a municipality that has been, in its mind, managing itself perfectly satisfactorily to take on some municipality that hasn't been successful and putting a burden on them, and it gets to be quite a difficult political question to imagine how to persuade those people. The second thing on regional sales taxes or other forms of revenue sharing across borders. If one municipality is clearly recognized as the sending of dollars municipality and the other one is the receiving of dollars municipality, you have the same issue there. Now, if everybody wants to support the zoo, and whether you live in the municipality where the zoo is, but you like the zoo, then you begin to, to get some kind of recognizable political support to be able to do that. But I don't think we ought to skate over that, and, you know, we have this down in the greater Philadelphia region, and something I've talked about in the Metropolitan Caucus with the, the various five munic – five counties that are down there. That there has to be some clear benefit that's recognized not only by people looking at it at our level but also by the average citizen. That the connection that they have with the neighboring municipality is worthwhile and that they are – it's, it's a good idea for them to actually be contributing in some way to solve that problem. And it may be a matter, in some cases, of exploring, as has been sort of alluded to here earlier, that there are certain kinds of expertise or advantages within a even a distressed municipality that can be exported and save money or provide assistance in the neighboring wealthier municipalities that, that wan – where everybody winds up coming out ahead, but I've heard it too often, "Oh, if only you would just send us money." That's a lovely idea, and there are some people that live in the suburbs that would like to do that, but I don't think its really politically realistic for many people, particularly when we're all feeling a little bit tight right now.

DR. JENSEN: Right, right. If I may respond, Representative Ross, one of the, one of the opportunities that the City of Pittsburgh has seized upon in line with your suggestion is to provide services to neighboring municipalities under contract. For example, City of Pittsburgh now provides garbage collection in the Borough of Wilkinsburg. Under contract, it's cheaper for Wilkinsburg, and it provides a revenue source for the City of Pittsburgh. Likewise, with the fire department, now, the City of Pittsburgh provides firefighter service to the City of Wilkinsburg. Again, cheaper than Wilkinsburg could provide it on its own and provides a revenue source for the City of Pittsburgh. I think that's a wonderful model, and that's the type of thing that I think the Commonwealth ought to encourage. If you can do it financial incentives, I think that's helpful, but certainly reducing the regulations that impede that type of operation would be very helpful.

CHAIRWOMAN EARLL: Or at least creating a process that if a municipality wants to explore that they can approach us with whatever they think the barriers are, and we could have a waiver process. Senator Schwank.

SENATOR SCHWANK: Thank you, Chairwoman Earll. I'd like to talk about economic development for a moment and its role in helping to promote the health of, of these communities. I considered it a major achievement when I think the six economic development organizations in Berks County actually issued a joint report, and they put all of their logos on the cover. That was, that was significant to me, and I, I think that's something I'd like you to address is how do we – I mean, certainly a lot of cities have said, "Well, we need to generate new business." They have so many barriers and things going against them and certainly not having the staff to help promote economic development. How can chambers, how can more of the county industrial development authorities or, you know, some of those more regional organizations take a role in helping to promote the health of urban communities, including, you know, redevelopment of sites, as well? I haven't seen much innovation there, and I'd, I'd like you to address that if you can.

MR. BLACK: There – thank you, Senator, for the question. There, there have been a couple of instances, I think, of the City of York and, and some of the work we did with the prior administration in Harrisburg of cooperative efforts done by the Economic Development Corporation and, and focusing on what's going on in, in the city. I'll speak from our own experience. We had a small financial arrangement with the city of Harrisburg to focus on the redevelopment of some particular properties and come up with other ideas to provide lending, which we did regardless to, to the City of Harrisburg. It was a cooperative agreement, and there was one staffer at the city, and, and we, we met on a regular basis. We focused on projects, and we've had some success on redevelopment and reinvestment. We worked collectively on, on the last iteration of the Keystone Opportunities Zone of, of identifying some sites within the city, got some good input from council towards the, the end of that, that process. The City of Harrisburg had a fairly aggressive LERTA program at the time that has, has since expired, and, and we've, we've tried to work with groups within the city, and it depends on, on where you are and what's going on with the city from, from an economic development corporation in, in developing quarter strategies for the City of Harrisburg's Market Street and Derry Street and Second Street, Front Street, to identify those areas as, as the place to start the redevelopment and development efforts and, and work on our – on a more of a master strategy. The city has had some success over the years, but there hasn't been a, a strategic process, and that's, that's one of the things we hope to do, and, and I'll go back to York. Just from my limited knowledge of what goes on there, they had a very aggressive city economic developer that teamed with the York Economic Development Corporation, and the ball stadium and everything else that has happened in the City of York is a, is an example of a cooperative arrangement. City staffs don't have the ability to do it on their own, but if they, if they partner with, you know, the umbrella region organization or county organization, you can make a lot of things happen. The final point that I'll say, our organization and similar organizations throughout the state are, are focused – part of our mission is clearly about urban renewal. We, as a matter of rule, do not go out and develop greenfield sites. We have private developers in our tri-county region that are great at doing that. We don't get involved with it. Maybe we'll package a little bit of incentive for a company that goes in there, but beyond that we focus – we try to focus on redevelopment efforts, not only in the City of Harrisburg, but other older municipalities, infill strategies where we have an opportunity.

SENATOR SCHWANK: For a moment – I'm sorry. Just a quick question, what role does the state have? Are there more tools we can put in the tool box that would help assist communities in economic development? I mean, I know, and we've said it many times, there's not much money there. I've looked at the, the programs, and I see that there is not, but what, what else can we do?

MR. BLACK: I – that's – money generally drives it. One of the things that – I don't want to be too long on this, but as we look at, at what's going on in the City of Harrisburg. I'll just use this as an example because we're here. Part of our suggestion to the current administration was just turn the economic development shop over to our organization. We'll, we'll find somebody, put them there, and then we'll back them up with the support we have and try to develop that because you don't have – quite frankly, you don't have the money to do that, and that's good for the short-term. Then, as the economy gets better, look to reinvest in some of the urban renewal programs, the HRA program at DCED, for example. Look to, to bump those up when, when the economy gets better, but for now the important thing, having gone through Keystone Opportunities Zone, the, the places where that was most effective were in communities where they had a strategy in place, where they, where they knew what they wanted to do, and as the tools came along, they could plug them in, and I've seen on a, on a countywide basis – Schuylkill County was great example of that, and, and on an urban basis, York was a great example. They had their strategy together, and when that program came along, they made it happen.

CHAIRWOMAN EARLL: Senator Smucker.

SENATOR SMUCKER: Thank you. The, the question that I have was actually, at least portion of it, was just asked by Senator Schwank. I wanted to focus on the economic development side of it, as well. The group in Lancaster that looked at this identified some specific tools that would encourage economic development as one of the pieces of the equation here in helping to solve this, and I know, Dave, that you included in your testimony, as well. You know, there aren't many bare pieces of ground in the cities, so if you're looking to expand or grow your tax base, which obviously will result in more revenue and could help solve the problem, it's probably doing infill or higher use for existing buildings, and a developer is looking at a project and comparing that to maybe one in a suburban area where they're dealing with a bare piece of ground. It's sometimes difficult to make the numbers work in the cities, and so some of the pieces identified in – by the Lancaster group were things like historic tax credits, providing state tax credits for development of a historic building. In fact, there's a bill in the Senate that I've introduced that, that hopes to start a program like that. Looking at ways to reduce the costs of those projects. For instance, prevailing wage would have an impact, at least in Lancaster and many other suburban areas. If we looked at changing that structure, we could reduce the cost. Sometimes a building code can be very prohibitive to developing projects. So I wanted to point that out. I was going to ask some of the questions that Senator Schwank asked in terms of what tools are available, but I guess I did want to get – just go a little further and get your sense of how important this is. Again, I know it's just one piece of the equation, but could you give any sense of how important do you think this is in the entire picture? How much of an impact would it have in the health of the cities if we were able to provide some of these tools?

MR. BLACK: Right, right now what's, what's happening in, in this, this country. There is a real interest in urban living. It's – I mean, you can sense it. You see it in the – we see it in Harrisburg, young professionals and others trying to get back to the cities. There's, there's an opportunity that people aren't, aren't, you know, fleeing to the suburbs anymore, and there's an interest to get back to the city so the degree we could have tools in place or, or even a little bit of support for some, some strategic planning in, in bringing some of the thought process. I, I mentioned at the end of Senator Schwank's question there to allow cities to develop strategies so when the tools are out there, you know, we can go full force, and quite frankly, in some of the cases, it's a matter of the city getting out of their own way. In some cases, they, they can't make things happen. You mentioned codes and some other things that need to be updated, but anything that can – that could be done to, to encourage and really to seize the opportunity. We're, we're at an unique moment in time in – while there's no money to, to invest in it right now, we can at least be planning, and maybe it's a small amount of money, and, and I've talked to some of the folks at DCED about this, and it's, it's something that I think's a great opportunity for Pennsylvania cities, so all of our third-class cities.

SENATOR SMUCKER: Thank you.

MR. BLACK: Or cities of the third class, excuse me.

CHAIRWOMAN EARLL: One, no? Representative, if we could make it quick so we can keep on schedule here.

REPRESENTATIVE TRUITT: Sure, I'll keep it quick. I, I was briefly confused by one of your statements here that says that state law requires cities to offer defined benefit pension plans to police and firefighters, and I was confused because I sat through a township meeting in my, my district, and they were talking about converting township employees over. I realized here you're saying police and firefighters, and you also said "cities." Does that apply to all municipalities in the state or just cities? Do you know?

DR. JENSEN: Cities have particular laws. Each of the codes are somewhat different, but third-class cities are required to offer defined benefit pension plans. Townships are – to my knowledge are not under that same obligation.

REPRESENTATIVE TRUITT: Okay, and then where I was going with that is I think there are some categories of city employees where they are not required to have defined benefit plans, and I was wondering is there a move, or can you give me a sense of how many cities or boroughs might be converting employees over to defined contribution plans at this point? Is there any move in that direction or…?

DR. JENSEN: Well, I think the desire is there, but the authority is not in cities. That's the problem.

REPRESENTATIVE TRUITT: Even for non-police and people who aren't police and firefighters but just regular employees of the city?

DR. JENSEN: Oh, I, I understand. For example, the City of Pittsburgh offers a defined contribution plan for its non-uniformed employees. I think, again, that's – it is in many cases something that municipalities want to offer. The biggest problem, however, tends to be with our uniformed employees in terms of the cost drivers for this. So you can offer a defined contribution plan for your senior staff, but that's not going to save you very much money. It's, it's really at that uniformed staff level where you're going to find the biggest cost savings through that kind of hybrid retirement plan.

REPRESENTATIVE TRUITT: Okay, very good, thank you.

CHAIRWOMAN EARLL: Any other questions? Gentlemen, thank you very much. Next I would invite up our last panel of the day. Ms. Nancy Drake, who is President of the Scranton Central Labor Council Union; Mr. Mark Koch, the Immediate Past President and Director of Legislative Affairs for the FOP, Pennsylvania State Lodge; the Art Martynuska, the President of the Pennsylvania Professional Firefighters Association; as well as Mr. William Dando, Director of Legislative and Political Affairs for AFSME. Good afternoon, everyone. Thank you for making yourselves available to join us today, and I would like to start with Ms. Drake, if you want to introduce yourself and share your comments. And, again, I would ask all of you to – I know that you've submitted written testimony that some of it is lengthy, so to the extent that you can paraphrase and tell us the most important things that we need to know it would be very much appreciated. Thank you.

MS. KRAKE: Thank you and good afternoon to you, also.

CHAIRWOMAN EARLL: Lean in and make sure your green light's on. Thanks.

MS. KRAKE: Absolutely. Thank you and good afternoon to all, all, also. My name's Nancy Krake. I am President of the Scranton Central Labor Union. The SCLU [Scranton

Central Labor Council Union] is comprised of 40 constituent local unions who collectively represent nearly 9,000 laboring men and women throughout Northeastern Pennsylvania.

CHAIRMAN ROSS: Excuse me, I think you're going to have to get that mic[rophone] a little bit closer. We can just barely hear you, thank you. Literally an inch or two away, thank you.

MS. KRAKE: I have to be careful. That will interfere with the bifocals. I am a lifelong employee of the City of Scranton where I currently serve as City Council Clerk. I thank you for the opportunity presenting this position on behalf of my members regarding this extremely important issue.

Initially, I note that the basis of our common interest in Act 47 should be obvious. We are the taxpayers who must bear the burden of increasing costs for decreasing services. It is my members and their families who are most directly affected by the inability of a municipality to balance its own books, to protect its citizens against the ravages of fire, and against the criminal elements that are regrettably an ever-growing portion of our population.

Additionally, in a broader sense, we all benefit in ways almost too numerous to mention from a government that is capable of competently maintaining its own finances. Whether my members are construction workers, industrial workers, office workers, or teachers, none will thrive in their particular employment setting if our government is weighing us down. "Distressed" sends the very wrong message to prospective employers. It would take the bravest of entrepreneurs to move an operation into a municipality that cannot balance its books, and it is living under the pall of seemingly perpetual distress status.

As we have now learned from our experience in Harrisburg, trouble within a major municipality is not restricted to that municipality but rather spills over and negatively affects all of the towns surrounding it. Stated quite simply, a financially-distressed Scranton has tentacles that extend far beyond its own borders.

We all, therefore, have a very real and material interest in an Act 47 that works. Quite clearly, the current version does not fill that bill.

The City of Scranton has been "distressed" since 1992. Throughout that entire period of time, we have been assigned the Pennsylvania Economy League as our Act 47 coordinator to guide us toward recovery. Even without the Supreme Court's recent decision involving the city, PEL reports that the city is in significantly greater distress at this present time than it was in 1992. How did this happen?

There are, of course, two levels of reality in dealing with any legislation, including Act 47. First, there is how it is supposed to work, and then, of course, there is how it has actually worked. The two are often very different, and this matter is a clear example of such difference. I most respectfully request that this committee spend the time and the effort to uncover and comprehend the actual truth of how Act 47 has worked in the City of Scranton.

Both DCED and the current Mayor of the City of Scranton will tell you that the major problem with Act 47 are the employees of the city. They suggest that unless and until you destroy the collective bargaining rights of the employees, much as was attempted in Ohio, Act 47 will never work. Indeed, they tell you that in light of the recent Supreme Court decision, unless you strip your police officers and firefighters of their right to engage in meaningful collective bargaining, nothing could ever be accomplished. In fact, nothing could be further from the truth.

First, let us look at some simple facts. Scranton is not the only municipality in Act 47. Chester, Johnstown, and even Pittsburgh have also been declared to be distressed. Nanticoke, a small city outside of Wilkes-Barre, is an Act 47 distressed city that is now ready, according to public reports, to exit that status.

All of these municipalities except Scranton have successfully negotiated collective bargaining agreements with their unions that reflect the reality of their finances without the bitterness and endless litigation that has come to characterize our city.

In that regard, the unions have always been willing to help. Apparently long forgotten are the sacrifices the police officers and firefighters in Scranton made to assist their city. Back in 1992 when the city was first declared distressed, police and fire voluntarily agreed to massive cuts in their collective bargaining contracts to permanent reductions in their conditions of employment resulting in millions of dollars of savings to the city. Subsequently, the parties were able to negotiate modifications to the original agreement that were modest in reach but that avoided the needless confrontation that is now occurred in our city.

The difference I suggest is attitude. The current administration, with the willing help, guidance, and encouragement of DCED and PEL, have decided to take a rigidly adversarial approach towards collective bargaining negotiations and toward the city unions in general. They decided that the city was to become the poster child for an unyielding mechanical approach to the application of a recovery plan. Any form of useful discussion disappeared. We were told time and again to take it or leave it by the Mayor, by DCED, and by the coordinator.

The city's desire to battle with its employees has come at a high and wasteful cost to its citizens. In the last nine years, the city has spent millions of tax dollars in legal fees to at least four separate law firms, unsuccessfully assaulting the existing collective bargaining contract. It has illegally aggregated the major element to our CBA's [collective bargaining agreements] and unsuccessfully challenged them in court. The most recent victory in the Supreme Court was simply one of several in which the courts themselves have declared the city's conduct to be unlawful.

As I stated, the city did not act alone. Both DCED and PEL have encouraged and even structured this illegal conduct.

Indeed, DCED has spent millions of dollars of its own budget to provide singularly unsuccessful assistance from the Pennsylvania Economy League and, more recently, to pay high-priced legal talent to actually combat the union in its own name. In the several years DCED has spent hundreds of thousands of dollars in attorney's fees directly from its own treasury, the taxpayers of the Commonwealth of Pennsylvania to unsuccessfully fight the unions in the name of the Commonwealth.

This was not the way Act 47 was intended to operate. Our first recovery plan was not like this. The gentlemen sat at our desks and asked us what we did. They went to each and every job, and the unions themselves negotiated it. As we were told when Act 47 first appeared on the horizons of our city, the unions were to be a partner in the recovery of the city. We fully recognized that being a large portion of the budget, any recovery had to address labor costs. We accepted that fact and provided that other providers, professionals, political appointments, and so on also sacrifice. As I have already stated, we did our part. However, no one else did.

As the number of firefighters and police officers in the city dwindled as a result of Act 47, the number of non-union employees steadily rose. In fact, two days ago, our Mayor actually proposed laying off twenty-nine more firefighters in order to pay for his disastrous efforts to destroy collective bargaining. As city employee ranks have been decimated and union wages were frozen and other benefits have been cut, non-union employees multiplied and were given lavish increases or assigned to non-existent duties in order to justify 10,000 dollar a year increase in their wages. While public safety budgets have become static, the overall budget of the city has skyrocketed as a result of endless spending and borrowing by the administration with the full acknowledgement and encouragement of PEL and the DCED.

At the same time, employees have been systematically excluded from the recovery process. The partnership that we were promised disappeared almost immediately after the concessions in [19]93. In the spirit of collegiality that we were promised and assured would exist, we have been confronted with a DCED and PEL that views the unions as being a little more than a needless and useless irritation that can be freely ignored.

Notwithstanding what we feel has been the clear betrayal of the unions perpetrated by PEL and DCED, we have nonetheless attempted to negotiate with the city, with the city administration with an effort to amicably resolve our differences. On three separate occasions in the past we have presented written proposals to the city that would have significantly modified, cut in half, the liability that the city now faces. The unions were not even given the courtesy of a reply except to be told that, unlike Pittsburgh, Chester, Johnstown, and Nanticoke, that the recovery plan must be adhered to with no limitation, exception, or deviation.

Year after year, decade after decade have come and gone in the city, and nothing has happened. The state has continued to pour millions of dollars of taxpayers' money into the city with absolutely no progress being evident. We are now facing 300 million dollars in long term debt. Police officers are buying their own cars, [and] 60-70 percent of the fire stations and apparatus being taken out of service. And budgets of cities authorities whose bonds are, I should say, probably as of today, practically in default. No recovery is anywhere in our future.

This, we are told, is the employees' fault. I most respectfully suggest that you can either blindly believe that baseless assertion or look at the facts yourselves. Act 47 has become a bottomless pit into which it is easy to fall and impossible to exit. Indeed, the Mayor of Johnstown was quoted as saying that he will never leave Act 47 because it is his only protection against the unions within the city. That, I suggest, was not the purpose of Act 47, is not the purpose of Act 47, and should not be the purpose of Act 47.

As others have stated, unions are not the enemy. They have demonstrated again and again that they will work with the city that will work with them. However, where the city spends millions of dollars to unsuccessfully attack CBA's and the Commonwealth spends millions more in that same venture, it becomes very difficult for the employees to view themselves as being in a partnership as we were originally promised.

I only ask that you not view organized labor as being the enemy of progress in this Commonwealth. Look at the actual facts in Scranton. The city's current difficulties are of its own making. It, along with DCED and PEL, decided that attacking was better than talking, that spending millions of taxpayer monies on armies of lawyers was better than trying to find a solution, and that it could not lose a case when it yet had never won one. A union cannot bargain with itself. As long as Act 47 excludes organized labor from the table, it cannot work. Unions are not the problem. They are the solution if you would only let that happen.

It is therefore my humble request to this committee that you consider revising Act 47 to provide the unions and municipal employees with a meaningful, substantive role in the Act 47 recovery. As currently structured and as applied by your DCED, they are now excluded as an unnecessary appendage. They are ignored, insulted, and unappreciated. The recovery of an Act 47 municipality will never be achieved through fear, intimidation, and threats such as occurred in Scranton in the last eight years. The unions and its members are not the enemy. We are partners in a venture that will ultimately work to the mutual benefit of all.

On the other hand, if Act 47 and DCED continue to make organized labor the enemy, it will, of necessity, become the enemy. Compare Chester or Pittsburgh or Nanticoke or Johnstown to the last eight years in Scranton to see how well that works and which course is the wiser and more productive for all to follow. I believe our own Mayor said it best when he said he spent four million, which was a little shy of probably actually what the city actually spent, compared to the other towns that worked with their employees. I thank you very much for allowing me to testify today.

CHAIRWOMAN EARLL: Thank you. Mr. Koch.

MR. KOCH: Good afternoon, everyone. My name is Mark Koch, and I am the proud – am proud to serve as the Immediate Past President and Director of Legislative Affairs for the Pennsylvania Fraternal Order of Police. The Pennsylvania Fraternal Order of Police represents more than 40,000 active and retired law enforcement professionals throughout the Commonwealth of Pennsylvania. On behalf of the members of the Fraternal Order of Police and their families, I would like to extend my sincerest thank you to each member of this joint committee for your past, present, and continued future support of Pennsylvania's law enforcement.

I appear before this legislative committee today to briefly present the viewpoint of the Fraternal Order of Police on the Financially Distressed Municipalities Act or what has become known as Act 47.

For the benefit of the members of this legislative committee, I have brought with me today in the audience State Fraternal Order of Police President Les Neri, as well as FOP Lodge representatives from Pittsburgh, Scranton, Johnstown, Chester, Altoona, Aliquippa, Chester City, Delaware County, Harrisburg, Lancaster, Montgomery County, and York City. Also with me today is the Pennsylvania Fraternal Order of Police Legislative Counsel to my left, Richard G Poulson, who, in addition to his legislative work, has represented public employees in many Act 47 communities. Finally, I was going to also have appear Mr. Tom Jennings, but [due] to a scheduling conflict that he had, he will not be here today.

Act 47, specifically the need to reform Act 47, is a critically important issue for the Pennsylvania police officers and their families. As you might expect, the Fraternal Order of Police's primary mission is to provide for the safety and security of the citizens and visitors within the Commonwealth. Our members risk their lives every day to keep Pennsylvania safe, but in addition to those safety and security concerns, the FOP is also tasked with protecting the dignity and the well-being of Pennsylvania's police officers. So we have two missions, really, and Act 47 threatens both of them. Because of this, we firmly believe that it is time for much-needed reform.

Before I review the FOP's suggested reforms to Act 47, I first want to stress that our proposed solutions to the problems posed by Act 47 are intended to improve the long-term fiscal health of distressed communities. Let me be clear. The members of the Fraternal Order of Police are completely committed to the success of the municipalities that they serve. Municipal police officers don't risk their lives in Act 47 communities. They also live, raise families, and pay taxes in those communities, too. We are stakeholders in every sense.

Police officers make critically important contributions to the overall success, safety, and health, and welfare of the Act 47 communities, and we both desire and deserve to be partners in developing solutions to foster the stability of those communities. Currently, this is not the case. Police officers in Act 47 communities have been almost completely disenfranchised, their rights and voices eliminated.

Our proposed reforms would restore the rights and the collective voice of the men and women who protect the citizens of Act 47 communities because we firmly believe that those reforms will result in stronger communities and a better future for our members and their families.

This joint committee has already heard testimony about the variety of ways in which Act 47 needs reform. The Fraternal Order of Police agrees with our fellow stakeholders on many of those issues, which is not surprising given that we all have the same interest in mind and that this is the recovery and the success of the Act 47 communities.

For example, the FOP agrees that reform is needed in the area of municipal mismanagement and corruption. Act 47 should promote through incentives and opportunities the concept of municipal managerial training to reduce the amount of managerial deficiencies of corruption or mismanagement. The Fraternal Order of Police supports the concept that having better trained managers and an appropriate system of municipal checks and balances will help communities emerge from and stay out of distressed status. We note the success of programs like the Early Intervention Program of the Department of Community and Economic Development, which highlights the importance of implementing best practices and encourages greater use of those tools.

We agree that there is a need to develop legislative tools to help municipalities, especially cities, address the challenges posed by tax-exempt properties that provide no revenue yet impose an ever increasing demand for police and emergency services. The Fraternal Order of Police fully supports the concept that all stakeholders, including tax-exempts, must share the pain necessary to emerge from distress, not just those working for the municipality.

We agree that Act 47 should be amended to help municipalities that provide emergency services develop more modernized revenue systems. Oftentimes, archaic revenue systems result in unfair assessments or disappropriation – disproportionate shares of local taxes and revenues for emergency services. The Fraternal Order of Police supports the modernization of those systems, including the distribution of fine monies and the elimination of the free-riders when it comes to police services.

The FOP also agrees with our fellow stakeholders that there are too many road blocks to effectively merge or consolidate failing communities or to implement regional approaches to policing. The Fraternal Order of Police supports the concept of merges and consolidation to defray costs and provide, in many cases, better services.

Finally, we wholeheartedly agree that there is a need to slash the bloated administrative system associated with having almost 1,000 different local police pension plans throughout the Commonwealth by establishing one statewide municipal police pension system. The Fraternal Order of Police has supported this concept for years, and this Session we are prepared to submit a proposal for a statewide police pension system to be administered through the Pennsylvania Municipal Retirement System that will provide millions in savings in the redundant administrative and actuarial costs of police pensions that are currently shouldered by local municipalities.

So there are already many areas of agreement among the stakeholders on ways to reform Act 47.

While we agree with our colleagues on the reforms I have just mentioned, it is the position of the Fraternal Order of Police that there are two areas of reform that stand out from the others.

First, Act 47 must be amended to provide for fair, limited, and local collective bargaining within the confines of the recovery process. Bargaining within an Act 47 plan will give management and labor the opportunity to work together to determine how they will jointly share pain and jointly share success within the resources and revenues available in those communities. Unfortunately, this does not exist currently. Police officers in Act 47 communities have virtually no rights. Let me repeat that police officers in Act 47 communities have virtually no rights. But if Act 47 were amended to restore limited yet meaningful collective bargaining for police officers, our members would be able to play an integral part in developing bargained-for solutions to the problems facing Act 47 communities.

Second, Act 47 must be amended to provide a sensible and objective exit strategy that does not forever render Act 47 communities as welfare wards of the state. Currently, there are far too many incentives for communities to remain distressed. Absent a change in the law, it is very clear that some distressed communities will likely never leave the program. This must be changed.

These two reforms, a restoration of bargaining and an objective exit process, are sorely needed and will result in a greatly improved Act 47 recovery program.

Finally, I would be remiss if I did not address in my testimony a recent judicial decision concerning Act 47 and law enforcement bargaining rights, rights which have caused a stir among many stakeholders and interested legislators.

The last decade has seen extensive and expensive litigation over the interplay between Act 47 and collective bargaining under Act 111, as municipal employers have gradually become more aggressive in their development and implementation of Act 47 recovery plans. During the course of this dispute, there has been two different schools of thought on the interplay between the Act 47 and Act 111.

The first approach, which is has been advanced by more aggressive municipal managers, is that there must be an elimination of all collective bargaining for employees and especially those under Act 47. This approach would place complete and total authority in the hands of the municipal manager or recovery plan coordinator with the employees having no say. According to some, this approach would magically cause the problems facing Act 47 communities to disappear. But this position is unrealistic and cannot be sustained. Imposing draconian cuts in contractual benefits and wages by fiat does not create maximum efficiency and productivity from the work force. In fact, it results in exactly the type of litigation, hard feelings, and overall dysfunction that we have seen in Scranton and similar Act 47 communities. Simply put, it hasn't worked for the last twenty-five years, and there's no reason to believe that it will work now.

The second approach, espoused by the recent Pennsylvania Supreme Court decision involving the City of Scranton, is that Act 47 does not apply at all in the context of Act 111 bargaining rights, specifically Act 111 interest arbitration awards. Critics of this approach have argued that it would inappropriately except police officers from the recovery process and in doing so undermine the overall Act 47 system.

I suppose it would be very easy for the Fraternal Order of Police to adopt this approach, which would essentially relieve police officers from any obligation to deal with the problems facing their cities. But this would be just as misguided as the one-sided absolute power approach that has been abused in some of the Act 47 communities to eliminate the rights and the protections afforded to police officers.

Because of this, the Pennsylvania Fraternal Order of Police rejects the all or nothing approach that we have heard from both sides of this argument. Instead, we offer a third option, one that both encourages and requires labor and management to work together to help their communities emerge from distress and move towards prosperity. This third option is, in our view, a balanced approach that takes into account realistic needs on both sides of the struggling municipality with their managers and workers.

Our proposed approach is to amend Act 47 to restore meaningful but limited collective bargaining rights within the context of the limitations faced – facing distressed communities. This approach will allow both sides to air their viewpoints in a purposeful way to look for the best answer and not just the easiest answer and to partner in an ongoing process of improving and changing together. Real change is a difficult process, but regardless of difficulty, we must seize this opportunity to improve Act 47's approach to managing municipalities through shared cooperation rather than producing an ever-increasing juggernaut and then wondering why the results are so dismal. It is time for meaningful change because the status quo in Act 47 communities simply has not worked.

To conclude, it is the position of the Fraternal Order of Police that Act 47 must be reformed to provide a vibrant, modern, and balanced approach to managing municipalities and their employees. Part of that reform is to provide distressed communities with improved tools to develop revenue so they can survive and thrive. Another part of the reform is to restore meaningful collective bargaining between municipal employees and employers. The third part of the effective reform is to provide an objective exit process that eliminates the current incentives for distressed communities to continuously fail.

Please accept my sincere thanks for your attention to this important issue and for your continued support for Pennsylvania's police officers and their families. Thank you.

CHAIRWOMAN EARLL: Thank you, Mark. Now we'll hear from the firefighters through Mr. Art Martynuska, President.

MR. MARTYNUSKA: Senator, thank you. As was mentioned, my name is Art Martynuska. I am the President of the Pennsylvania Professional Fire Fighters Association. With me today, I have representatives from Pittsburgh, Aliquippa, Johnstown, Greenville, Allentown, Lancaster, Lebanon, and Scranton. The Pennsylvania Professional Fire Fighters Association represents 10,000 active and retired firefighters and emergency responders throughout the Commonwealth. The dedicated men and women of PPFFA provide critical services on a daily basis to over 32 percent of Pennsylvania's residents. I am equally proud to have served just twenty years as a firefighter in the City of Johnstown from which I retired as an Assistant Chief in 2010.

Like my colleagues on this panel, I would also say that the joint committee hearings today are very important, in fact so much so that I consider it one of the single most important issues of my career, the need to reform Act 47 and restore some sense of justice and fairness in the treatment of our first responders.

What I'm going to attempt to do today, very briefly, is to provide the committee with a real world sense of how the Act 47 process works to the distinct disadvantage of first responders and the communities that we serve. I can speak with great confidence on this issue, for almost my entire career with the City of Johnstown I worked under a distressed status. In fact, next year will be the twentieth anniversary of our distressed status as a municipality in Pennsylvania. Unfortunately, that extra long recovery period is hardly unique. In fact, one of the better measures of the failure of the current Act 47 system is that distressed communities never recover. In fact, most of them don't want to because they have learned that it's easier to operate as a welfare ward of the state. A lot of work doesn't have to be done by the municipality. It's done by Act 47.

During my twenty years working in an Act 47 community assisting fellow firefighters in similar communities, I have seen firsthand how the abuse of Act 47 process goes, how it's hurt good men and women who risk their lives every day to protect the citizens and businesses in those Act 47 communities. I have seen firsthand how plan coordinators and municipal managers pick and choose which recovery plan provisions to follow and which to ignore, often to the detriment of my members and to the people that they're sworn to protect. I have experienced the heat of an already dangerous job of firefighting made even more dangerous as a result of a recovery plan mandated staffing cuts that have nothing to do with citizen or firefighter safety and everything to do with dollars and cents, or in other terms, as we've heard, just to bust the unions.

In my opinion and based on my own experience as well as the experience of my members, I can state with certainty that the current Act 47 recovery process is both broken, and it's bankrupt. The system deprives firefighters and other municipal employees of the most basic dignity in their workplace. What's morbidly ironic about this situation has done virtually nothing to improve the lot of the communities in the program. The system is long overdue for reform, and on behalf of 10,000 emergency responders, I would implore the Legislature to take the steps to advocate it today by myself and my colleagues.

During his testimony, Mr. Koch from the FOP testified that the Act 47 has applied in a way that virtually eliminates the rights of employees in Act 47 communities. I wholeheartedly agree with that statement and would like to provide a typically – typical example to make that point.

The collective bargaining process in an Act 47 community usually works like this. The firefighters in the community will have a collective bargaining agreement that has been negotiated and modified by the parties every three to four years for decades. This document represents years of sacrifice made by prior generations of firefighters and municipal managers. It's an almost sacred document, a promise made between labor and management as partners.

For firefighters, oftentimes that contract will contain provisions that require the number of firefighters be assigned to a fire truck on a given shift, specifically to provide for the safe response to emergencies. And I need to digress a little bit from my written testimony. One of the things that you need to understand that becomes evident as we sit through these arbitration hearings and these contract negotiations across the state, and I've been involved in several of those. Every time we go to the table, we go to the table with public safety in mind. It would be very easy for firefighters and police officers to sit back and say, "We don't care how many of us you have on the street as long as we're getting paid." But that's never the case. There's always an argument to have more folks on a fire engine or at least maintain the staff that you have because the science doesn't change, ladies and gentlemen, from municipality to municipality. Houses burn down in Reading, the way they burn down in Johnstown, the way they burn down in Philadelphia. It's all the same, and we need that staffing. Those safe staffing provisions themselves are a product of sacrifice. In fact, that the firefighters in a given community may have gone a raise or taken lessen benefits in order to secure relatively safe working conditions. That's not unusual. Firefighters routinely make economic sacrifices because we understand how important it is to have enough firefighters arrive at the scene of a fire as soon as possible. It quite literally can be the difference between life and death.

In an Act 47 community, however, when it comes time to renegotiate the collective bargaining agreement, the decades of prior sacrifice will mean exactly nothing because the entire agreement will be trumped by anything written into the recovery plan that is different. Over the years, we have seen management lawyers and plan coordinators become more and more aggressive in writing recovery plans that are specifically intended to put out our collective bargaining agreements without regard to public safety, and many times, as in the City of Johnstown against the advice of their very own safety consultants. It has gotten so bad that we see now – we now see negotiations in Act 47 communities where the employer walks into negotiations, drops a completely new contract on the table, one that has zero input from the firefighters, and says, "Here's your new contract." It's not, it's not even a take it or leave it. It's a take it or take it because if we fail to agree to give away to each and every provision of the current agreement, the employer will simply force the matter to arbitration, and the arbitration will be required to – the arbitrator will be required to award the exact recovery plan provisions, whether they are warranted or not.

If you think I'm exaggerating about this for the benefit of this proceeding, you're mistaken. This is exactly how it works. From our perspective, from the perspective of people who are so committed to Act 47 communities that we're willing to put our lives on the line for them, the entire Act 47 process is rigged at the outset. There is virtually nothing we can do about it.

Tell me where's the fairness in that? Where's the dignity? Don't our firefighters, our police officers, our social workers, our emergency responders who keep our distressed communities afloat deserve better? I think the answer is obvious.

Time and time again my colleagues in Act 47 communities across the Commonwealth have offered cost savings and revenue enhancing ideas to the municipalities. The incentives were not geared to increasing wages or benefits. They were aimed at maintaining critical staffing levels. But our employers, under the tutelage of Act 47 plan coordinators who themselves are under the stewardess – stewardship of DCED, have constantly rejected these ideas, simply because it was easier to cut than to think outside the box.

As I mentioned earlier, I have lived with this Kafkaesque thing called Act 47 for almost my entire firefighting career. I have seen firsthand mismanagement and fiduciary inadequacy. If the supposed checks and balances of Act 47 had been in place, these would never have happened. In Johnstown alone, the bad decisions surely have been at the expense of public safety and services. To cite a few examples: A sale of the positive revenue generating sewage treatment plant, which services thirty-three municipalities and was generating close to three million dollars a year for less than fifty cents on the dollar. Remodel, re-remodel, and then demolish and rebuild the municipal stadium in the course of fifteen years. Snubbing employee-driven offers to expand services that could possibly lead to municipal consolidation. Snubbing employee-generated health care proposals that would have saved the municipality over 400,000 dollars annually just for the fire department, not once, but twice, mind you. Ignoring the early retiree reinsurance program that was offered by the federal government.

This last missed opportunity is probably more egregious than some others. The same day that I personally gave the information to the Johnstown City Manager, I also gave it to the human resources director for the Cambria County. To date, Cambria County has received over 190,000 dollars in federal funds with additional monies to come. Johnstown has received nothing because they never even asked.

These are just a few examples from just my hometown. In the coming weeks we will be happy to provide the joint committee a dossier of information detailing revenue incentives that were offered by the employees in Act 47 communities and never taken advantage. Perhaps that will drive home why we're so frustrated.

This lack of basic fairness, this lack of any balance of power between labor management and Act 47 communities perhaps explains the rancor and discord that we have seen in these communities like Scranton where employees have lost all faith in the system, have chosen to take their battles to court in seemingly endless litigation. To give a firefighter's perspective, it is basic fire science that the heat and gases in a room cannot build unchecked forever. If not released, they will flash over or essentially explode into fire.

Bargaining rights release pressure. They release heat from the relationship between labor and management, especially in difficult times when we set – face difficult choices. In fact, that's what we need when we're bargaining most. When there's no way to release heat in labor - management relations, the heat will find a way to flash over to litigation, hard feelings, and worse. We saw that in the 1960's, which led directly to the amendment of our Constitution and the passage of Act 111, and we are seeing more of that now in Act 47 communities for the simple and obvious reason that a system that places absolute authority in one party's hands will ultimately collapse.

I'm here that this – I'm here this afternoon with my brothers and sisters from across the Commonwealth are here this afternoon because Pennsylvania cannot afford to let its struggling municipalities collapse. We recognize that.

Like our brothers and sisters in the law enforcement community, we agree that the challenges in reforming Act 47 are difficult, and the areas of reform are many. And like our colleagues, we also agree that the place to start immediately is to restore meaningful bargaining rights for employees in Act 47 communities. Not necessarily the same rights that are enjoyed in wealthier communities. We understand that. But there simply has to be some balance in the process. For reasons related not only to the need for basic fairness and dignity for men and women who risk and lose their lives in this Commonwealth, but also because twenty-five years of history under Act 47 tells us that the current process simply does not work.

Because of this, and on behalf of 10,000 men and women who are so committed to the success of distressed municipalities that we have pledged our very lives to protect them, I respectfully request that the General Assembly amend Act 47 to restore meaningful collective bargaining rights for firefighters and other public employees so that we can partner with our management colleagues to develop mutually acceptable ways to help our struggling communities thrive and prosper.

I would hope that I never have to hear another city mayor saying, as one did in Johnstown, "We're staying distressed to keep the bargaining units in check." That cannot be the answer for our struggling communities. We all deserve better. I know we can do better. Thank you for the opportunity to address the committee.

CHAIRWOMAN EARLL: Thank you, and last but not least, Mr. William Dando from the – from AFSCME Council 13.

MR. DANDO: Thank you, Senator, and also as – by your agenda, as I've seen, I am last, and I'm – will be brief, so I'm between you and the door. I understand that for all of you. Good afternoon, and I thank you, Madam Chairwoman and the Chairman and Members of all the committees here today, for the opportunity to address you concerning Act 47.

My name is William Dando. I am the Director of the political and legislative department of AFSCME Council 13. AFSCME Council 13 and its affiliates represent over 65,000 state, city, and county municipal employees here in Pennsylvania. Again, thank you to the committee for listening to our concerns and some suggestions we have for improving Act 47.

Among AFSCME Council 13's membership are employees of a number of distressed municipalities across the Commonwealth, including some that have been under a declaration of distress for decades, such, as you just heard, the City of Johnstown and a number that were declared distressed within the last several years, including the Cities of Pittsburgh, Reading, Scranton, and most recently the City of Harrisburg.

Our experience over the years of working with these municipalities indicate that the most important positive change that can be made to Act 47 would be to add a sunset provision for a declaration of distress. Under the present framework, there is no real end game for most distressed municipalities. The statute's current provision regarding termination of distressed status, found in Section 253 of the Act, provide only two means of coming out of distress: either the municipality or the Secretary of the Department of Community and Economic Development may seek a hearing to determine if the municipality is no longer financially distressed, after which, the Secretary makes that determination. In making this determination, the Secretary must consider four factors: one, whether the monthly reports submitted by the Plan Coordinator to DCED indicate that termination of the status of municipal financially distress is appropriate; two, whether the municipality's accrued deficits have been eliminated; three, whether the obligations issued to finance all or part of the municipality's deficit has been retired; and last, four, whether the municipality's audited financial statements show that it has operated for at least a year under positive current operating fund balance or equity.

In considerating the effectiveness of this mechanism, it is revealing to consider the fact that, and you all heard this all day today on this panel, in the twenty-four years since Act 47's passage, only six of twenty-six municipalities have been declared distressed have ever seen that declaration rescinded. More than 40 percent, eleven municipalities, have been in the state of finan – of fiscal distress for more than fifteen years. I do not claim any special expertise in municipal finances, but what we believe is obvious from this track record. It is not – it's that either Section 253's criteria are unattainable for struggling municipalities, or Act 47 itself does not provide sufficient incentives for those municipalities to do what is necessary to achieve the statute's objective: financial recovery.

AFSCME Council 13 and other labor unions are not alone in this belief. Act 47 is not working to bring municipalities out of distress, or that an addition of some sort of timeline for recovery would go a long way to help distressed municipalities get their fiscal house in order. Supreme Court Justice Eakin, in a recent concurring opinion in a case involving the City of Scranton, voiced the same concerns and I quote.

> During argument of this case, counsel candidly acknowledged that of approximately 25 cities that have "entered" Act 47 and its protections, only a handful have recovered to the point of leaving the protection of Act 47. The remaining cities have apparently found a home there; Scranton has been there nearly 20 years.

> I do not propose to fault the cities or their leaders for this condition, the crutchlike aid of Act 47 can understandably lead to dependence, and extrication from a state of dependence can be difficult.

At a recent event hosted by the Harrisburg Regional Chamber's State of the City event, the remarks of two Mayors of distressed third-class cities also echoed our concerns about Act 47's shortcomings. Reading Mayor Thomas McMahon, who has been dealing with Act 47 process since Reading was declared distressed just over two years ago stated, "Act 47 has helped Reading incrementally, but it hasn't provided permanent solutions." He also remarked that, "Kicking the can down the road, Act 47 is an interim policy. It does not solve the long-term problems of our cities in Pennsylvania; this is something we need in this room and everybody in this state to recognize." Mayor Chris Doherty of Scranton, offered these thoughts, which you heard again today from the Mayor sitting here, "The state should enforce stricter time mandates. The way the law is structured now, I don't see anybody getting out. I've always felt that if you are going to go into Act 47, there should be a time period of 12 to 18 months where you bring a sense of urgency to everyone in the room and the state having that power where they bring everybody together in the room saying this is the plan, you're going to have to do it, and if you don't, we are going to make you do it, and then you're on your own throughout."

A somewhat longer timeline might be more realistic, given the magnitude of the problems faced by distressed municipalities. But we share Mayor Doherty's belief that a mechanism is needed to provide a sense of urgency to those tasked with the right municipal – of the municipality's fiscal ship. After all, the rigorous provisions of Act 47 were designed to allow the governmental entity to regain its financial footing, not to keep the municipality forever on the brink of recovery but never quite able to regain its independence.

In order to provide an incentive to everyone involved to do what is necessary to bring the municipality out of fiscal distress, we suggest establishing a presumption that after five years of distress, the municipality should have some – become financially secure. Specifically, we suggest Section 253 of the statute be amended to provide that on the fifth anniversary of the declaration of distress, the municipality would automatically come out of distress status unless the municipality could demonstrate that it is still distressed. And we suggest that the standard that the municipality must meet should be the same standard that triggered distress status in the first place. In this way, those municipalities that continue to struggle despite their best efforts to return to fiscal health could continue benefiting from the state oversight and assistance. However, those who are no longer in distress but who nevertheless have declined to seek a determination to that effect would be required to retake responsibility for their future, rather than continuing to depend on the Commonwealth.

One alternative to consider would be to add more criteria to Act 47 under Section 253 and allow for termination of distressed status if the municipality meets a criteria – a certain percentage. This would not leave just to the discretion of the Secretary or the request of the municipality itself, as a way out of Act 47. Another alternative would be to allow an interested party, such as a labor union, to petition the Common – the Court of Common Pleas to remove a municipality from distressed status after five years have elapsed if it does not happen automatically and the Secretary of DCED is not responsive.

In closing, AFSCME Council 13 believes that now is the time, as you have heard throughout the day here today from other testimony, that Act 47 needs to be improved to better assist our municipalities in these troubling times and give all our municipalities a fighting chance to better their financial situations.

Thank you very much, and I'll answer any questions that I possibly can today. Thank you.

CHAIRWOMAN EARLL: Thank you, and thank you all for taking the time to be here this afternoon, and I think all of you really have been sitting here all day listening to the testimony that we've all heard. I hear you loud and clear. You're not being treated in your opinion under Act 47 in a fair way. Let me throw this out. You've heard just the same as the rest of the committee has heard that not only are we attempting to deal with 47, but to address 47 in a meaningfully wa – in a meaningful way, we also have to recognize and try to do something about those cost drivers that are forcing municipalities into distress in the first place. Across the board uniformly, we have heard that Act 111 is one of those major cost drivers, so let me throw this out to you. If we were going to consider, maybe, some modifications to 47 in terms of collective bargaining, would you consider modifications to Act 111 in terms of assisting us to help those municipalities with those cost drivers in the first place? You know, specifically, they're asking for a couple different modifications to 111 as I understand it, selection of arbiters, sharing of costs. There's probably five other things on that wish list in terms of modifications to 111, but I'd be curious what your positions would be on that issue if in fact we were going to look at your positions relative to modifications of 47.

MR. POULSON: I, I can answer that, Senator. First, thank you, Senator, thank you Representative Ross, for, for inviting us to participate in today's proceeding. I'm Rick Poulson from Willig, Williams & Davidson. Like you, I've heard this consistent theme of testimony about concerns with the arbitration process, specifically about whether arbitration panels consider…

CHAIRWOMAN EARLL: Should consider financial impact, correct.

MR. POULSON: …the ability to pay, right, and that's a fair concern to raise. I would, would suggest that that does happen. As somebody who spends a lot of time negotiating police and fire contracts, sitting on arbitration panels, I can tell you from firsthand experience that happens in every single interest arbitration proceeding. We spend 90 percent of our time on ability to pay, and those reviews of a municipality's fiscal condition from both sides are very, very thorough.

CHAIRWOMAN EARLL: So you'd have no objection, then, if we put that in the statutory mandate?

MR. POULSON: Well, I think that probably the better approach or approach that we think would make sense is we have an opportunity here with Act 47 and in a limited universe of about twenty, twenty-five municipalities that given that our position has been that there should be some limited bargaining rights in those communities. We say now there are none. That, that might be an interesting laboratory to work on and to look at changes that might make sense, and maybe they might make sense in a broader context, but this may be the opportunity to look at some of those things. So if there were some sort of requirement that arbitrators in Act 47 communities take into account, specifically, take into account and accord substantial weight to the employer's ability to pay, which is the system that's used in Philadelphia, which is the system that's used in Pittsburgh under Act 111, and I think with a fair degree of success that would be something that would be appropriate.

CHAIRWOMAN EARLL: Yeah, but if you're saying that it pretty much goes on all the time now that ability to pay is a consideration in 111 negotiations, then why would we limit that requirement to only those municipalities in 47 at this point?

MR. POULSON: Well, I guess that the answer is that we have a limited group that we're looking at now that are experiencing these problems. We haven't seen the same, the same problems in other communities. I….

CHAIRWOMAN EARLL: Well, I can attest to my own community. The City of Erie would insist that there should be reform to Act 111, and we're not in distress, and we have avoided even early intervention because council and the Mayor have taken measures that probably would have been mandated by early intervention, but they did it on their own. That doesn't mean we're not distressed. It's just not formally there.

MR. POULSON: Well, I think council and the Mayor…. In the City of Erie, and, and I can speak with, with not the degree of experience as you, Senator, but as someone who has been actively involved in those negotiations and involved in those panels over the years, I can tell you that we have had very, very thorough analyses of the city's ability to pay in interest arbitration already. And many of the reforms and the savings that have been secured have been as a result of collective bargaining without any additional restrictions, so it has worked in the City of Erie, and I would invite you, and I would invite any of the members of the committee to come along, come with me to any Act 111 interest arbitration hearing, and I'll show you the degree of detail that we get into in looking at ability to pay. It is – it should be the most important factor, and it is. So it does happen in these other communities, but of course, if we're looking at the Act 47 communities where they've raised it as a particular road block in getting out the, the perception, anyway, that the ability to pay isn't considered, that should be something that we should look at in the context of Act 47. I think that would be a good idea.

CHAIRWOMAN EARLL: I agree with you. I think we should look at it outside of the context of Act 47 as well, but any other comment on that, or I'm going to turn it over to Representative Ross for another question.

MR. KOCH: Well, I just want to comment, Senator, with that. As, as council stated, the issue with most of the members is not that they're trying to go to a community when they're talking to their employer, and in most cases where they live, that they're trying to put their hands around their throat to get every last nickel or, or force them into, into bankruptcy. The issue is that they see it from this one-sided – it's the sincerity of having – you know, they give up all of these benefits and this ability to pay because the community doesn't have this ability based on the submissions that are done, but then as time goes on, it seems like it's only one-sided. The ability to pay issue only comes to the employees. Following the plan to save them money long term seems to fall by the wayside. So that's where this, this – that's where this rub comes on, on the disjointedness. It's not them trying, you know, that they don't want them to look at the ability to pay. It's that they don't want to be the only people who are on, on their backs on loan is where the savings are.

CHAIRMAN ROSS: Thank you, and I want to pursue the same line of, of questioning a little bit that Senator Earll has opened up here because on two fronts, one, that obviously we've heard that there are a lot of municipalities that are near distress, maybe aren't even in early intervention, who exhibit a lot of the same kinds of problems, and we've been told over and over through both the hearings today and the last set of hearings that being more creative in assisting a municipality that isn't quite there yet is first of all a lot easier, and secondly, it's a lot better for the community as a whole, employees and all involved. And I'm afraid probably some of this is natural. We have ability to pay like beauty is in the eye of the, of the beholder, obviously, and it's not surprising that in any negotiation that the two parties in the negotiations see it from a slightly different point of view. One of the things that I'm curious about is if there are some neutral standards that we might be able to begin to develop that could be routinely applied to these sorts of discussions. I brought this up with the earlier panel, and I warned you that I was going to bring it up again with you all, too. So that we don't make this quite such a fraught confrontation that if everybody is recognizing that on the one hand there is a limit to taxpayer ability, and increasing taxes sometimes does wind up driving out both businesses and those that are able to pay and creates a downward spiral in the, in the municipality. On the other hand, that those of you that are trying to bargain fairly on behalf of your members and trying to give them a decent lifestyle and trying not to put them at a disadvantage compared to other municipal servants in other parts of the state are, are being fairly handled. That, perhaps, we can find some techniques that we can mutually agree on could be generally applied, and I would agree with Senator Earll. I think that they ought to be more broadly applied than just simply under Act 47, and I'm interested in perusing conversations along those lines. I'm not going to expect you to make any commitments here today or negotiate with me in, in this forum right now, but I did want you all to understand that I think that, that based on what we've heard from the municipalities and not just the municipalities but other third parties that have engaged in this discussion. I'm encouraged by the conversation that we've had, both here and earlier, that you're interested in a more comprehensive review of all the wages, benefits, pension, work conditions, and other things, and that they be looked at comprehensively because they all do count. They all do wind up adding to the total budget and also make tremendous differences to the members that you represent, as well. So engaging in a more broad conversation, trying to take a little of the heat out of this, not only under Act 47 municipalities, but under Act 111 municipal negations, as well, I think is desirable. And quite frankly, if you are right, and you probably are, doubtless, in some situations that some municipalities that could get out of Act 47 are not doing it simply because of the labor negotiations. If we do a better job, both under Act 111, from their point of view, as well as Act 47, then that barrier could go away, and I agree with you, Mr. Dando, that the idea a municipality just endlessly stays in this situation for twenty years is not satisfactory. And it's not good for them, and it's not good for the state as a whole, and it may be because they want to, and it may be because they can't figure out stop it. Their, their tax base may have deteriorated. They may not have any way to figure out how to get back on top of their expenses, but we ought to do everything we can to try and set up a system where that doesn't happen. So you're free to comment if you want, but don't feel that you have to, either.

MS. KRAKE: I have one quick comment. In our first recovery plan in 1992 where a lot of the pain was shared, collective bargaining agreements came out of that recovery plan, which created a healthcare cost containment committee. It was the first time that the unions were actually contributing to their health care. At that time, heath care was skyrocking, huge increases all over, and we became extremely educated. The language was set up so that everyone had to agree before something went forward. Long story short, we saved 5 million dollars in one year. And just recently, the firefighters and police, because of the Supreme Court decision, have forced the city to sit down again. In Scranton, they saved 1 million dollars in one day. These are the things that can be accomplished when we have a seat at the table and where Act 47 does help that happen.

CHAIRMAN BLAKE: Thank you, Madam Chair. I, I'm – first of all, thank you for your testimony. I'm deeply grateful that if the prior panels dealt with some issues outside of Act 47, for your testimony I felt imbedded right inside of it. I also want to acknowledge Dave

Gervasi, President of the Scranton firefighters. Dave, thank you for being here. Very quick comment. Actually, I'm going to ask of you something, and I'm following a little bit on, on Representative Ross's commentary. The issue associated with recommend language of the statute, whether it be Act 111 or Act 47, language which you seek out to get the reassurance you need. I, I would also ask of you advice on process, technique to, to Representative Ross's point. Because in prior, in prior testimony, we've talked a little bit about boards and having this ability for a set of stakeholders to be involved in the Act 47 process, to your point, making sure the negotiations and maybe the disconnect between what's ability to pay versus a recovery plan. Because there is a disconnect. To some extent, I think the issue – we, we work on the budget every year in the Commonwealth, and we're worried – you know, we have scarce resources. We don't have unlimited resources, one, but we also have to accord priority to the allocation of scarce resources, and the recovery plan, in some – to some extent does, does look at priorities of the administration, so all I'm asking you to consider is not only the language of the statutes but the process and the techniques that we could – and the best practices we can find to get – to, to bridge the process of communication and to build trust in, in that process. That's what I'm asking if you can offer the Chairs of this committee, these committees, a little bit of advice on that, as well.

MR. POULSON: Senator, we'd be happy to do so, and just to briefly to provide an immediate answer to at least the question about the process, and using Philadelphia as an example, which isn't an Act 47 community, but it's, it's has its own distress law, and we talk about a recovery plan and ability to pay and how the two relate. In Philadelphia in the PICA plan, which is a five-year plan, but it's essentially a recovery plan. It's five years instead of three. The – there are certain financial projections as to what the city is going to look like, what their budgets are going to be for the next certain years, and some recovery plans will contain that level of detail. Others won't. It just depends on the coordinator, but what, under PICA and under Act 111 in Pittsburgh, what they do is they, they make that the starting point so when we're talking about, you know, there are one hundred jelly beans in the jar, how are we going to divide them up? We start with one hundred because that's what's in the plan, and the number in the plan is given the benefit of the doubt, and the Commonwealth Court has told us that that's what it means to take into consideration and accord substantial weight to the recovery plan is that those numbers generated by the plan coordinator, they're not written in stone, but they're, you know, they're going to get every benefit of the doubt when challenged, so it does automatically at the outset give us some sense of what ability to pay is. Ability to pay is we've said we've had this much money. Show us where maybe we don't. Maybe we have more. Maybe our projections are wrong, and that's where we get into that level of detail, so that's the type of process that does happen informally, but perhaps if you looked to Philadelphia and Pittsburgh and those processes, we may have a more detailed road map to use in other Act 47 communities.

CHAIRWOMAN EARLL: If those projections ended up being wrong, though, nobody goes back and reconciles the numbers based on if it was overestimated revenue or underestimated revenue. Is there any truing up?

MR. POULSON: Yeah, in Philadelphia, there's a requirement that you revise the plan. If there were a – if the proposed benefit adjustments, either upwards or downwards, in the next – in the first year of what would be a new contract period are based on a projection, provided whether it comes from the employer or whether it comes from the recovery plan coordinator. Those are projections, and we test those projections. The arbitration panel, after hearing all the evidence, might reach a different conclusion, that there might be a little bit more flexibility in the budget. If they do that, they have to list with specificity exactly why they've reached that conclusion. That's why, unfortunately, I guess it's good for lawyers in Philadelphia arbitration awards are sixty, seventy pages long because there are pages and pages and pages of just financial details of all of the factors, good and bad, that are considered. That can be tested if the employer disagrees with that. They can appeal that award, and ultimately, there's a requirement to go back and revise the recovery plan if in fact the projections were off or there were some changes, so there is – it doesn't just end, you know, nowhere. There is a way to circle back and adjust the plan.

CHAIRWOMAN EARLL: Questions from any other Members? Okay, with that, then, I am going to dismiss you. Thank you once again. Appreciate your testimony and the time that you put into preparing your remarks. And I would note, just for the information of the Members, that also within – contained within the packets that you received are various written testimonies submitted by a variety of people that I won't enumerate right now, but there is additional testimony contained in your packet on the questions that we kind of edited throughout the day, so with that, thank you very much.

MR. KOCH: Thank you, Senator.

CHAIRWOMAN EARLL: To be continued.

CHAIRMAN ROSS: That ends the testimony for the, the hearing today. Thank you, all. We're adjourned.

Meeting is adjourned.

(Whereupon, the meeting was adjourned at 2:25 p.m.)

The above is a full and accurate transcript of proceedings produced by the Chief Clerk's Office of the Pennsylvania House of Representatives.

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