

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

FINANCE COMMITTEE HEARING

STATE CAPITOL  
HARRISBURG, PA

IRVIS OFFICE BUILDING  
ROOM G-50

MONDAY, JUNE 4, 2012  
9:35 A.M.

PRESENTATION ON HB 1776  
ELIMINATION OF SCHOOL PROPERTY TAXES

BEFORE:

HONORABLE KERRY A. BENNINGHOFF, MAJORITY CHAIRMAN  
HONORABLE JIM COX  
HONORABLE GORDON DENLINGER  
HONORABLE GEORGE DUNBAR  
HONORABLE ELI EVANKOVICH  
HONORABLE MATT GABLER  
HONORABLE DUANE MILNE  
HONORABLE MICHAEL PEIFER  
HONORABLE KATHY L. RAPP  
HONORABLE MARIO M. SCAVELLO  
HONORABLE PHYLLIS MUNDY, DEMOCRATIC CHAIRMAN  
HONORABLE KEVIN J. BOYLE  
HONORABLE TIM BRIGGS  
HONORABLE MARGO L. DAVIDSON  
HONORABLE MADELEINE DEAN  
HONORABLE FLORINDO J. FABRIZIO  
HONORABLE SID MICHAELS KAVULICH  
HONORABLE RICK MIRABITO

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*Pennsylvania House of Representatives  
Commonwealth of Pennsylvania*

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ALSO IN ATTENDANCE:  
HONORABLE ROSEMARY M. BROWN  
HONORABLE GLEN R. GRELL  
HONORABLE RICK SACCONI  
HONORABLE ROSEMARIE SWANGER

I N D E X

TESTIFIERS

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SUBMITTED WRITTEN TESTIMONY

\* \* \*

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

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MAJORITY CHAIRMAN BENNINGHOFF: Good morning, everyone. Thank you very much for joining us.

A couple of editorial notes. According to the cell phone clock, it's 9:35. That's 5 minutes fast, but in the interim, we want to get rolling anyhow. We respect your time. In fact, we have a lot of testifiers.

And we'll remind those out there, as well as the Members, please turn cell phones onto vibrate because this meeting is being recorded. It makes it a little difficult for them to be going off in the middle of the meeting.

A quick overview. As you know, the issue of property taxes is not a new one. We're trying to address it, and trying to find solutions is not a new gesture as well but an amicable one that we need to be trying to work together on.

A couple of the Members of the committee have put proposals forth. Today, we are here specifically as a follow-up on our last hearing on HB 1776, at which time we did not have sufficient amount of time to have all the individuals that were interested in providing testimony to do so.

There will be some testimony provided to us in writing as well, which I will make sure it is distributed to the Members for those who could not come to testify today.

1           Madam Chairwoman, if you would like to add any  
2 opening remarks. We will then have Representative Cox come  
3 forth and present his overview.

4           MINORITY CHAIRMAN MUNDY: I think not today,  
5 Mr. Chairman. Thank you.

6           MAJORITY CHAIRMAN BENNINGHOFF: For the sake of  
7 brevity, we thank you.

8           Representative Cox, if you'd like to come before us.  
9 We would like to congratulate Representative Cox and  
10 his family on becoming parents again. Congratulations.

11           To the Members, if you could, we're going to try to  
12 limit to one question. If there's time, we'll go back around  
13 and take a second question and try to keep things moving.

14           Representative Cox, you've got the floor. Turn on  
15 the mic when you're ready, and we're ready to roll.

16           REPRESENTATIVE COX: Thank you, Mr. Chairman.

17           I, too, will try to keep this brief, since this is  
18 the second hearing on HB 1776. But as you had requested, I  
19 will provide a brief overview of the legislation and what its  
20 intent is and how we propose to accomplish a few of the goals  
21 that we have in the legislation.

22           MAJORITY CHAIRMAN BENNINGHOFF: Thank you.

23           REPRESENTATIVE COX: If my mind strays, you'll have  
24 to forgive me. It's those midnight-and-beyond feedings, that  
25 they're maybe wreaking havoc on my mental acuteness.

1 MAJORITY CHAIRMAN BENNINGHOFF: A good excuse, I  
2 know.

3 REPRESENTATIVE COX: I do need an excuse.

4 MAJORITY CHAIRMAN BENNINGHOFF: Ah, you're a good  
5 guy. Go ahead.

6 REPRESENTATIVE COX: All right. Thank you,  
7 Mr. Chairman.

8 HB 1776, as many of you are aware, will eliminate  
9 school property taxes, and it does so primarily by utilizing  
10 the personal income tax and the sales tax.

11 The personal income tax rate will move from  
12 3.07 percent up to 4.01 percent. The sales tax, the proposal  
13 would be to move the rate from 6 percent up to 7 percent, and  
14 we would also do an expansion into some of the goods and  
15 services that are not currently taxed.

16 The overall approach, the overall approach is to  
17 fully eliminate the school property tax over the course of  
18 years. I should tell you that there's a provision in the  
19 legislation that allows for school districts to retain their  
20 school property taxes to the level that they would need to  
21 cover their debt service.

22 This was a provision that was put into the proposal  
23 in direct response to concerns of Members of previous versions  
24 that essentially said, you know, they had a problem with taking  
25 on the substantial debt of school districts around the

1 Commonwealth. They didn't feel it was their responsibility as  
2 a Member of the Pennsylvania Legislature to make up for the  
3 errant ways of some of the school boards around the State. And  
4 so my response to that was to put a provision in allowing the  
5 school property tax to stay in place for the term of the  
6 existing debt service.

7           It's also important to note that we are not  
8 allowing them to incur new debt under that provision. It is a  
9 snapshot of the debt incurred, the total debt in place, as of  
10 December 31, 2011. So it's a date past. They can't run out  
11 and run up new debt. And so in order to prevent them from  
12 running it up, we said we'll take a snapshot of where it is at  
13 that point and we'll move on from there. But they are allowed  
14 to retain property taxes to the level to pay for their debt  
15 service.

16           On average, around the Commonwealth, that's about  
17 10 percent of their school district budget. So most homeowners  
18 around the Commonwealth would receive a 90-percent immediate  
19 property tax reduction.

20           There are about 15 or so school districts -- it  
21 might even be 18; I'll go with 15 to be safe, though -- about  
22 15, from our understanding, that do not have any existing debt.  
23 Those districts would have full property tax elimination  
24 immediately. All of the other districts that have some level  
25 of debt service would have property taxes at roughly 10 percent



1 for the duration of the debt service, whether that be 5 years  
2 remaining on the debt, 10 years. Whatever the year amount,  
3 we're leaving that with the school district.

4 Funding distribution is another common question we  
5 get, and I'll cover that briefly.

6 We don't put any funding formula in. That was the  
7 second most contentious problem with previous versions of this  
8 type of legislation. By not having a funding formula that  
9 makes huge changes to the distribution formula that we  
10 currently have, I was able to bring on multiple new cosponsors  
11 who said, listen, as long as we're getting dollar for dollar  
12 what we had been getting under the school property taxes,  
13 that's what we're seeking. And so there are some that are  
14 nervous about that and have cosponsored anyway; there are  
15 others who are nervous about it and have chosen not to  
16 cosponsor.

17 And I understand the issue of hold harmless, and the  
18 existing funding formula is a contentious one, but I felt, as  
19 many of the other cosponsors did, that this was not the place  
20 for the discussion. This is simply, the goal of this  
21 legislation is about getting the question before the House and  
22 before the Senate: Do we want to change the school funding  
23 formula or do we want to change the school funding source --  
24 we're not messing with the formula -- do we want to change that  
25 source from a local school district tax, which is burdening

1 homeowners, driving people out of their homes, to something  
2 that we feel is more fair and more stable and more able to  
3 directly reflect the economy, the growth, the ebbs and flows of  
4 the economy more directly, without compromising home ownership?  
5 So that's our goal in not providing a funding formula but  
6 rather saying, if a school district collected, for instance,  
7 \$100 million from its school property tax, that is the amount  
8 that this would replace over the course once the plan reaches  
9 full point of implementation.

10           As I mentioned earlier, we have multiple goods and  
11 services that will be taxed that weren't previously taxed. Two  
12 of the larger ones are food and clothing. Those are the two  
13 that will perhaps draw some of the most fire from individuals  
14 until they take a closer look at it.

15           Food. We are taxing only the items that are not  
16 found on the WIC list. The WIC list, in summary, is a list put  
17 together by the USDA in conjunction with the Pennsylvania  
18 Department of Welfare of a list of foods that are considered  
19 nutritious. And so our goal was to say, all right, if you want  
20 to feed your family, if you want to feed them nutritious foods,  
21 you can do that and you will not have a new tax on your food  
22 purchases, and so you can continue to feed your child and your  
23 family without seeing an increased tax burden. So we felt that  
24 was a good compromise and we felt it was a way to prevent it  
25 from being as regressive as it otherwise might have been.

1           Clothing. We also heard the calls for people  
2 saying, you know what? Clothing is another essential of life.  
3 And so our goal was not to make it so that people couldn't  
4 clothe their families. We don't want people to be cold out  
5 there. We don't want people to go without shoes and coats and  
6 so forth. So we chose a dollar amount of \$50. Fifty dollars  
7 is a number that's high enough to allow you to purchase almost  
8 every type of good, and in fact I believe you can purchase  
9 every type of clothing that you would need. Whether it's a  
10 pair of shoes or a coat, you can find clothing at less than the  
11 \$50 price point. That's not \$50 for a total purchase; it's  
12 \$50 per item. So they could buy a coat for \$49, a pair of  
13 shoes for \$49, and make a thousand dollars in clothing  
14 purchases in one day. But as long as any one item did not  
15 breach the \$50 threshold, there would be no tax on the  
16 purchase. So we felt that was a fair compromise.

17           So those were the two biggest things as far as the  
18 regressive nature of the tax, that people look at and say the  
19 sales tax is regressive. We tried to address that, and those  
20 were the two biggest ways we did it.

21           My last comment will be on regressivity as a larger  
22 concept. People like to talk about the sales tax and even the  
23 income tax, the sales tax particularly, though, as being  
24 regressive. Income tax, because we have a uniform tax, they  
25 will say that the personal income tax is also regressive.

1           In response to the regressive nature of the income  
2 tax, I'd like to remind the Members of the Finance Committee  
3 that we have a pretty substantial Tax Forgiveness Program in  
4 place. Form SP allows a multitude of taxpayers who pay  
5 personal income tax, it allows them to actually not end up  
6 having to pay personal income tax at all. It's based on income  
7 levels. It's a graduated tax forgiveness, and it goes from  
8 10 percent on up to 100 percent tax forgiveness depending on  
9 your income levels, and you receive additional amounts for the  
10 number of children you have. So we feel that because of those  
11 provisions, that increasing the tax rate by 1 percent, or  
12 roughly 1 percent, is not going to have an impact on them,  
13 because if they qualify under tax forgiveness because of an  
14 income level, they will remain qualified for tax forgiveness if  
15 their income does not exceed the threshold.

16           On the issue of regressivity of the sales tax, as I  
17 mentioned, we tried to tackle that with the food and clothing,  
18 the two biggest areas. We left other essentials out, not  
19 taxing them at all, such as utilities for heating your home,  
20 cooling your home. We did not tax firewood, fuel oil, things  
21 like that, for the same reason: We're trying not to drive  
22 people out of their homes with increased costs.

23           But I would ask all the Members of the Finance  
24 Committee this one question: Is there anything more regressive  
25 than asking someone to leave their home? Is there anything

1 that we as a Legislature should work harder to stop than people  
2 being forced to leave their home because they cannot afford the  
3 school property tax?

4 As a previous testifier a couple weeks ago  
5 mentioned, there are about 10,000 people leaving their homes  
6 annually, and it's not by their own choice. Property taxes  
7 have become that tax that you pay because you have to. It's  
8 the tax that I hear seniors talking about doing without  
9 medications for a month so they can save money for their  
10 property taxes. Many of you have had individuals in your  
11 office with the same types of statements.

12 Those of you who have cosponsored have probably had  
13 some of the most heartbreaking stories of people sitting in  
14 your office. And so the testimony we heard 2 weeks ago is  
15 probably not unlike what we're probably going to hear today.  
16 You're going to hear the special interests talk about why this  
17 business or this industry or this business will suffer if we  
18 make this change.

19 But I ask you, who do you represent? You weren't  
20 elected to represent the special interests. You weren't  
21 elected to represent a particular industry. You were elected  
22 to represent individuals, seniors, young families trying to  
23 keep the home, young farmers trying to keep the family farm in  
24 the family. That's the decision we have to make.

25 And so as you hear the testimony today, I'd ask you

1 to keep that in mind. And I do appreciate your interest in  
2 this legislation, and I look forward to hearing the testimony,  
3 as I know many of you do.

4 Thank you, Mr. Chairman.

5 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,  
6 Representative Cox. I think you did an excellent job outlining  
7 that and I appreciate it. I know this is a very important  
8 issue to you. You spent a lot of your career -- don't leave  
9 the hot seat yet because I suspect the Members might have a  
10 couple of questions.

11 Representative Eli Evankovich, then Chairwoman  
12 Mundy. Anyone else?

13 First you and then Representative Evankovich. Thank  
14 you, gentlemen.

15 MINORITY CHAIRMAN MUNDY: Thank you, Representative  
16 Evankovich.

17 Mr. Cox, as I mentioned the last time, I commend you  
18 for taking up the issue. Property taxes are the most  
19 regressive form of taxation, and we do need to shift to sales  
20 and income or some other form of revenue to replace property  
21 taxes. But in your bill there seems to be, even now, a lot of  
22 confusion on exactly how much revenue your bill will generate.

23 Now, when my Appropriations staff, the Democratic  
24 Appropriations staff, looked at your numbers and the numbers  
25 given by the Department of Revenue, the funding gap is about

1 \$3.5 billion, not the original \$500 million that was used in  
2 the last hearing that we had on this subject. Have you seen  
3 the numbers that the Department of Revenue has put out? And  
4 that's a huge difference, so I'm very confused as to where you  
5 get your numbers. Because truly, if there is a \$3.5 billion  
6 gap, you are not eliminating property taxes and replacing them;  
7 you're simply eliminating them and leaving our school districts  
8 in a horrible bind.

9           Could you address my question, please.

10           REPRESENTATIVE COX: Absolutely. Thank you,  
11 Madam Chairman.

12           As I mentioned in my previous testimony a couple of  
13 weeks ago, what we were working on were not Department of  
14 Revenue estimates. They were not official Appropriations  
15 Committee estimates or things like that. We were working with  
16 numbers that we had received from the Appropriations as to what  
17 1 percent would bring in -- a 1-percent increase to the  
18 personal income tax, for instance; a 1-percent increase to the  
19 existing sales tax base -- and then utilizing the numbers from  
20 the Governor's budget, we made estimates there.

21           Now, as the Majority Chairman mentioned, I've been a  
22 little busy in the last week or so since those numbers have  
23 become available. I've not yet had a chance to sit down with  
24 the Department of Revenue. We received, I think the day we  
25 were last in session, we received a pretty -- I don't know how

1 to describe the memo. It was quite confusing. It didn't have  
2 a whole lot of verbiage with the memo that we received, and it  
3 was a chart, and I've yet to be able to work through that  
4 with the Department of Revenue. So if there is indeed a  
5 \$3 1/2 billion shortfall, then, as I mentioned, I would look to  
6 the personal income tax to make up any shortfall.

7 Our goal, as stated from the beginning, is to not  
8 have a bill leave this committee, or leave the House, for that  
9 matter, that leaves schools in a shortfall. We are not  
10 interested in that. I know the Independent Fiscal Office has  
11 been requested to perform a study on it as well. As the bill  
12 moves through the process, I'm confident the Appropriations  
13 Committee will come up with some numbers in addition. So  
14 between those two financial bodies and the Department of  
15 Revenue, I think we will end up finding -- I have trouble  
16 seeing a \$3 1/2 billion hole. But again, I'd be glad to sit  
17 down and talk to them.

18 If we end up needing, you know, \$3 billion and that  
19 becomes the final number, then a 1-percent increase on top of  
20 the proposed 4 percent, you know, if we have to have a  
21 5-percent personal income tax rate in order to level fund and  
22 make the bill revenue neutral, then that would be my response  
23 to it. That's the amendment I would support.

24 My goal, again, is revenue neutrality. It is not to  
25 short-fund the schools and, you know, put them in a bind



1 financially. The goal is to provide, as I've said throughout,  
2 financial stability and a funding that flows with the economy.  
3 And I do understand the ebbs and flows of it, but the stability  
4 of the property tax comes with a huge price, which you've  
5 pointed out, and that is that we're leaving people homeless.

6 MINORITY CHAIRMAN MUNDY: Thank you.

7 So you would look to increasing and then putting an  
8 additional amount on the personal income tax to fill that  
9 \$3.5 billion, or whatever it is, gap?

10 REPRESENTATIVE COX: Yes, ma'am. Any amount through  
11 the process, if we identify that there is a potential  
12 shortfall, I would look -- and the cosponsors that I've talked  
13 to in cosponsoring the legislation, we are in agreement that  
14 the personal income tax is the place that we would need to look  
15 to fill that void.

16 MINORITY CHAIRMAN MUNDY: Thank you.

17 REPRESENTATIVE COX: Thank you.

18 MAJORITY CHAIRMAN BENNINGHOFF: Representative  
19 Evankovich.

20 REPRESENTATIVE EVANKOVICH: Thank you, Mr. Chairman,  
21 and congratulations, Jim.

22 REPRESENTATIVE COX: Thank you.

23 REPRESENTATIVE EVANKOVICH: I think it's important  
24 to note that I wholeheartedly support the elimination of  
25 property taxes. Many of the shareholder groups that you

1 mentioned are ones that I'm close with. I'm a family farmer.  
2 You know, in my district, just like yours, people are  
3 struggling to pay their property taxes, so finding the best  
4 solution for the ultimate elimination of property taxes is my  
5 concern.

6           There seems to be, there seems to be a little bit of  
7 confusion on my part, and maybe you can help me understand and  
8 the Members of the committee understand. Ownership is a really  
9 important thing, especially in how you appropriate tax money,  
10 and I think that if we look at the way that local school  
11 districts are elected, you know, right now, the locals have  
12 ownership because they're paying property taxes directly to  
13 that school and they know exactly where their property taxes  
14 are going. There's ownership. For lack of better words, the  
15 taxpayers keep the school boards accountable in many cases,  
16 especially in areas where property taxation is high.

17           What in the bill, because the way that I understand  
18 it is this basically shifts the taxing responsibility out of  
19 the local governments and into Harrisburg. My major concern is  
20 when you make that shift, what prevents another Governor or any  
21 Governor or any General Assembly from changing the priority of  
22 where that money is going? What changes -- what prevents  
23 places from receiving currently what they receive from local  
24 property taxes, because when you shift that taxing authority to  
25 Harrisburg, I could just see places like my district in

1 Westmoreland and Armstrong Counties getting their tax money  
2 that they're currently paying redistributed to the Philadelphia  
3 area or into the city of Pittsburgh. And that's one of the  
4 major concerns that I have: What prevents that major shift  
5 from happening, number one. And number two, will that then in  
6 turn lead to increased property taxes at the local level if  
7 they have no other alternative for how to get revenue to run  
8 their school districts?

9           So if you could just help me understand a little bit  
10 better that dynamic, I'd appreciate it.

11           REPRESENTATIVE COX: The last question you asked is  
12 probably the most simple, so I'll answer that. What prevents  
13 them from increasing the school property taxes is that we will  
14 thoroughly eliminate their ability to do so. They will retain  
15 only the amount to service their debt.

16           Again, the statewide average is 10 percent, and so  
17 the average school district will retain about 10 percent of its  
18 millage rate in order to collect roughly 10 percent of its  
19 school property taxes to make those debt service payments. So  
20 they will not have authority to incur new debt. They will not  
21 be able to run out and run rampant.

22           In answer to your first question as far as what  
23 prevents the State from becoming some arbitrary funder of  
24 education and making it all lopsided, absolutely nothing. But  
25 I'd like to remind the Members of the Finance Committee of this

1 one thing: How many of you during your election cycle  
2 struggled with people thinking -- you're Members of the House.  
3 How many people get letters all the time calling you "Senator  
4 Denlinger" or "Senator Peifer"? People don't know who their  
5 elected officials are.

6 Now, take that a step further and ask how many  
7 people know who their school board members are. And you have  
8 to look no further than school board elections, municipal  
9 elections, the differences in percentages of turnout for voters  
10 for school board elections, municipal elections, State  
11 Representative and State Senator elections that take place in a  
12 non-Presidential year and then Presidential-year turnout.  
13 Those three turnouts are vastly different, and, of course, the  
14 lowest of all is the school board.

15 So while a lot of people that argue say, hey, you  
16 know, my school board has local control, by and large, the  
17 general public is apparently just too busy to pay a whole lot  
18 of attention to who their school board members are -- and  
19 that's an unfortunate thing -- and yet they do want local  
20 control.

21 And so in finding the balance, I went with the  
22 Legislature coming up with a funding formula. We do it for the  
23 vast majority of education funding in the General Fund. We as  
24 a Legislature determine on a nearly annual basis fluctuations  
25 in a funding formula for the basic education subsidy.

1           And so while it's an unfortunate thing, we as a  
2           Legislature are tasked with that responsibility, and if people  
3           look at us and say, "We don't like the way you're funding  
4           education," whether it's through that General Fund formula,  
5           whether it's through a funding formula that we come up with for  
6           the long term for this particular funding, then that's  
7           something that I felt it was a good balance to not put it on  
8           every 4 years and say that, you know, the Governor decides.

9           We are Representatives. We are elected to be the  
10          voice of our people. And the current school boards, in my  
11          opinion, as a whole I can't say that they are all a failure,  
12          but there are substantial enough numbers of school board  
13          members that have failed on their duties to protect the  
14          taxpayer that I feel it's time for the State House and Senate  
15          to step in and secure the future of Pennsylvania by securing  
16          home ownership, and if that means that the funding moves away  
17          from the local school district, then that is something that we  
18          may end up having to do. And that's the decision that's before  
19          the Finance Committee here and that will be the decision before  
20          the House, hopefully, in the next several weeks.

21                   MAJORITY CHAIRMAN BENNINGHOFF: Representative  
22          Boyle.

23                   REPRESENTATIVE BOYLE: Thank you, Representative  
24          Cox.

25                   Often in many suburban Philadelphia school

1 districts, projects, out-of-school construction projects, are  
2 paid through the issuance of bonds. How would your bill affect  
3 that way of funding various operations?

4 REPRESENTATIVE COX: Again, we don't put a long-term  
5 funding formula in place, and that is certainly something that  
6 I would anticipate needing to be included in that.

7 Previous versions of the legislation talked about  
8 when that would be allowed or when things would be allowed, and  
9 there was a State-approval process. We would want to come up  
10 with something that was both workable for the local school  
11 districts but yet something that protected the taxpayers.

12 Initially, though, what we do allow for is the  
13 implementation of a local personal income tax or earned income  
14 tax, and that would be something that would be the full  
15 discretion of the local taxpayers. It's not a decision that's  
16 put on the shoulders of the school board, but it goes directly  
17 to referendum. The local taxpayers decide, what do we want to  
18 do? Do we want to incur debt for a swimming pool? Do we want  
19 to incur debt for a new building? Do we want to incur debt for  
20 a long-term increase in the salaries of school district  
21 personnel? And so that question is one that will be answered  
22 by the taxpayers directly.

23 Many of us came into the House with a goal to change  
24 the way things are done, and putting decisions directly in the  
25 hands of the taxpayers, I feel, is one of the best ways to do

1 that. And that's what the legislation allows for, that  
2 personal income tax or earned income tax increase, but it is a  
3 referendum that would accomplish that.

4 MAJORITY CHAIRMAN BENNINGHOFF: Representative Dean.

5 REPRESENTATIVE DEAN: Thank you, Mr. Chairman.

6 Congratulations, Representative Cox, on the birth of  
7 your son.

8 REPRESENTATIVE COX: Thank you.

9 REPRESENTATIVE DEAN: I come from a district where  
10 we happen to have the same concern -- property taxes. A lot of  
11 my constituents talk about it, so I appreciate what you're  
12 trying to do and craft some sort of a difference, a solution.  
13 I also happen to represent a district with two terrific school  
14 boards, so I feel differently from some of what you talked  
15 about.

16 I wanted to go back to two things. One is the  
17 predictability of what we're going to be able to raise, what  
18 Chairman Mundy talked about in terms of the gap, but also  
19 moving forward. I raised this at the last public hearing  
20 May the 21st. I'm really concerned about the equation, and in  
21 bad economic times, how are we going to know that we're going  
22 to be able to raise, through this shift of the revenue stream,  
23 enough money?

24 REPRESENTATIVE COX: Well, that is a question that  
25 people have asked throughout the course of the drafting of

1 this, and one of the things that people look at when they see  
2 school district funding -- and let me start by saying that I,  
3 too, have very good school districts, by and large. Of course,  
4 you know, nobody likes a tax increase of any kind, but we  
5 provide a very solid education in the school districts I  
6 represent. Some of my constituent taxpayers feel otherwise,  
7 and so that's part of the reason that I'm pushing forward on  
8 this type of proposal.

9           The big picture, though -- the stability. I  
10 addressed this in the previous hearing. Stability comes at a  
11 cost, and so I won't dwell on that. Stability of someone  
12 losing their home, it's a huge threat to them, and they don't  
13 want to lose their home so they'll pay the tax at all cost.  
14 Whether it means foregoing medications or skipping another  
15 payment on something, they will often do without something else  
16 to make sure they keep their home. And so, yes, there is  
17 stability.

18           The other side of the equation, though, is that  
19 school districts, for every dollar given to them by the State,  
20 about a dollar 33 has been spent, and so they are raising their  
21 school property taxes a dollar 33 for every dollar we give  
22 them. Now, taxpayers look at that and they don't like what  
23 they're seeing. They don't like the way that education funding  
24 has outpaced inflation. And depending on the chart, it's  
25 double, triple. You know, you can look at any number of charts



1 and show that level of education funding and how it has  
2 increased over the last 10 years versus what has happened with  
3 the economy.

4           So when you look at that, people like the idea of a  
5 funding source that more directly tracks the economy. And  
6 spending, goods and services, purchases, et cetera, under the  
7 sales tax, income levels, all of those more directly reflect  
8 the economy. And so while there are ebbs and flows in that,  
9 they do ebb and flow with the economy, but if you look at a  
10 chart of the sales and income tax, over the last number of  
11 years -- again, I'm using a 10-year reference point -- you see  
12 a steady increase.

13           The price of goods. You can't buy a gallon of milk  
14 now for the same price you bought it for 10 years ago.  
15 Virtually anything you purchase you can't purchase at the same  
16 level you did 10 years ago. And so the cost of the good has  
17 gone up, and with the cost of the good, 6 percent on something  
18 that cost a dollar 10 years ago is now 6 percent on something  
19 that may cost \$3 now. And so we are receiving a higher  
20 percentage of revenue, but that has gone directly up with the  
21 economy.

22           Likewise, most wages across the board have continued  
23 to go up. We as a Legislature increased the minimum wage a few  
24 years ago, and that has resulted in wages continuing to go up.  
25 We have a continuing, it's not a spike, it's not a plummet, but

1 it is something that is a steady growth.

2           So a lot of the cosponsors of the legislation, and I  
3 can't speak for all of them, but a lot of the cosponsors like  
4 the fact that it more directly tracked what is happening in the  
5 economy and what is happening in the average taxpayer's  
6 pocketbook. And so when you look at it that way, there is a  
7 stability there; there is a certainty.

8           And even with the downturn in the revenue, we saw --  
9 we as a government tried to tighten our belts; why should  
10 school districts be any different? Why should they not be put  
11 in the position to have to tighten their belts when the rest of  
12 the population is tightening their belt? when government should  
13 be tightening its belt? So that's the goal behind that.

14           REPRESENTATIVE DEAN: I just would make the comment,  
15 though, that as the cost of goods -- I can agree that the cost  
16 of goods goes up, but spending goes down in a bad economic  
17 time. So even though something might cost me more, if my  
18 income is down, I'm going to spend less; therefore, the sales  
19 tax collection is going to be less. So that's my concern over  
20 that.

21           REPRESENTATIVE COX: And those ebbs and flows, as I  
22 mentioned, over time, if you look at a 1-year period, you will  
23 see the ups and downs. The spikes and the dips, you will see  
24 those. But if you look at the course of a 10-year stability  
25 and a 10-year level of certainty, which is -- you can't look at

1 a snapshot of, you know, 3 months of revenue or 6 months of  
2 revenue or even 1 year of revenue and look at and determine  
3 whether something is stable. I think that would be  
4 disingenuous to look at a 1-year snapshot and say, well, we had  
5 dips here and increases there, so it's not going to provide us  
6 with a known level of funding. But when you spread it out  
7 across 5 years, 10 years, and even further than that, you will  
8 see that steady increase in the revenue levels that come up.

9 So I would be glad to share the information in more  
10 detail with you as far as that's concerned.

11 REPRESENTATIVE DEAN: Thank you very much.

12 REPRESENTATIVE COX: Sure.

13 MAJORITY CHAIRMAN BENNINGHOFF: We're joined by  
14 Representative Briggs.

15 The last two questions from the panel,  
16 Representatives Davidson and Kavulich.

17 REPRESENTATIVE DAVIDSON: Thank you, Representative  
18 Cox, for the proposed legislation and for your testimony today.

19 Of course, in my area we suffer from some of the  
20 highest property taxes in the Commonwealth, and it's a great  
21 concern to not only seniors who are losing their home but young  
22 people who are walking away from their home. And every year my  
23 school board decides to raise taxes again, just under the  
24 index, so they have no need to go to the Department of  
25 Education or no need to go to the voters, and it's just a

1 reprehensible situation. And now, in my school district,  
2 they're again raising taxes and cutting programs, and it's a  
3 deplorable situation that the residents of my district can no  
4 longer tolerate.

5           So I'm supporting the legislation. At the same  
6 time, I'm very concerned about making sure that there is level  
7 funding for school districts so they do have the revenues that  
8 they need in order to operate, and the \$3.5 billion shortfall  
9 is not something that I can accept. So I had put in an  
10 amendment to the Marcellus Shale legislation some time ago to  
11 provide a 1-percent designated funding towards, part of that  
12 funding go to education, because I do believe that education  
13 needs to be funded in a different way.

14           So to cover a shortfall, if we determine that that  
15 is in fact the shortfall, would you consider other ways of  
16 closing that gap, like a 1-percent tax on Marcellus or a  
17 1-percent takeaway from the Marcellus Shale revenue to go to  
18 local school districts and other ways that we can put money  
19 into the Education Stabilization Fund?

20           REPRESENTATIVE COX: Thank you. That was a long  
21 question; I hope I have a short answer for you.

22           MAJORITY CHAIRMAN BENNINGHOFF: So do I.

23           REPRESENTATIVE COX: Thank you, Mr. Chairman.

24           The short of it is, yes, I will entertain other  
25 revenue sources. My commitment to the cosponsors of this

1 legislation, my commitment to the taxpayers of Pennsylvania, is  
2 revenue neutrality. And so whether it's \$3 1/2 billion, as the  
3 Minority Chairwoman pointed out as a possibility, whether it's  
4 \$500 million, whatever the dollar amount, if we end up with an  
5 excess, all of that will be changed based on, the personal  
6 income tax is the first go-to point.

7           A 1-percent increase in the personal income tax  
8 raises over \$3 billion instantly, and so the easy place to go  
9 would be an increase in the personal income tax. The higher we  
10 go with any of the existing taxes, like personal income tax or  
11 sales tax, the closer we come to becoming noncompetitive as a  
12 business environment, and you, I know, know the importance of  
13 retaining business competitiveness with not having an income  
14 tax that drives people or businesses out of the State.

15           So if it comes to the point of saying we can raise  
16 the income tax half a percent or a certain percent and then  
17 entertaining a tax like the Marcellus Shale or other types of  
18 approaches that people may have, I'm certainly willing to  
19 entertain those, and I know the vast majority of our cosponsors  
20 would be in the same place.

21           Our goal is to make sure we replace every penny of  
22 the funding, that we pull away from the school districts on the  
23 school district tax. Every penny needs to go back to them, and  
24 I'm committed to whatever sources we need to accomplish that  
25 goal.

1 MAJORITY CHAIRMAN BENNINGHOFF: Representative  
2 Kavulich.

3 REPRESENTATIVE KAVULICH: Thank you, Mr. Chairman.

4 First of all, quickly, two congratulations. One to  
5 you, Representative Cox.

6 REPRESENTATIVE COX: Thank you.

7 REPRESENTATIVE KAVULICH: The other to Chairman  
8 Benninghoff, because he finally pronounced my name right after  
9 18 months. I was going to start to ask questions just to see  
10 how you would pronounce my name.

11 MAJORITY CHAIRMAN BENNINGHOFF: I can't take full  
12 credit. I actually wrote it down phonetically to make sure I  
13 didn't screw it up, so.

14 REPRESENTATIVE KAVULICH: Thank you very much.

15 Representative, again, I applaud you for tackling  
16 this. We just have too many people losing their homes because  
17 they can't pay their property taxes.

18 But I'm thinking of, in northeastern Pennsylvania in  
19 particular there is a shopping area -- and I notice  
20 Representative Brown here as well, and it's in her Monroe  
21 County -- where, on a given weekend or a holiday, there are a  
22 lot of license plates from New York, New Jersey. I know  
23 there's an area, a shopping area, in Grove City which draws a  
24 lot of people from out of State. Do you think that the  
25 expansion of the sales tax under your bill will negatively

1 affect Pennsylvania retailers?

2 REPRESENTATIVE COX: I think, by and large, there  
3 will be some behavior, but considering things like the price of  
4 gas, when the dollar amounts even out in Pennsylvania,  
5 Pennsylvanians aren't going to be driving across the border to  
6 get to Delaware for the zero percent. But going from zero  
7 percent to 6 percent on items of clothing, we might see a shift  
8 in purchases of items over \$50 for the clothing, for instance.  
9 I don't know that people come to Pennsylvania for zero percent,  
10 you know, no tax on food. I don't know that that's a  
11 particular habit, and I don't think that's what you're  
12 referencing.

13 REPRESENTATIVE KAVULICH: No.

14 REPRESENTATIVE COX: But a lot of the retailers, if  
15 you look at any given mall or any given outlet center perhaps,  
16 a lot of the goods are priced at over \$50, but there are just  
17 as many, if not more, priced at below that.

18 And it's the low prices. I come from the Reading  
19 area, kind of the home of one of the original outlets, VF  
20 Factory Outlet, and some of the other outlets in the Reading  
21 area. When you look at the price points there and you look at  
22 what is sold, in fact I walked through the factory outlets just  
23 a couple weeks ago to kind of challenge my thinking and make  
24 sure that things hadn't changed significantly over the years,  
25 but you see most of the items are under \$50, especially in the

1 clothing area.

2           People are coming here for the good deals, not  
3 necessarily the no tax, and so if they're coming for the good  
4 deals and the item still is under \$50, they're probably going  
5 to continue that same shopping pattern. And if you've got a  
6 good that's normally priced at \$300 and it happens to be  
7 \$51 here in Pennsylvania, do you not make the trip to save that  
8 amount of money? And I use that as an exaggerated forum, but  
9 it is the outlet experience more often than not that draws  
10 people down. And in my recollection and in even talking with a  
11 lot of the outlet managers locally, they've said, you know,  
12 there's a big draw based on their pricing point, not  
13 necessarily the zero, you know, no tax on clothing. That is  
14 certainly an extra draw, but a lot of it is the price point.

15           REPRESENTATIVE KAVULICH: Yeah; my concern about  
16 that is, in looking at, there's a different type, I think, of  
17 retailer in the Reading outlets than there is if you look at  
18 some of those that are closer to the -- like, for example, in  
19 the Poconos or Grove City, there's more of a higher end as  
20 well. So that's where my concern was, that we might not see as  
21 many out of State and it might affect our retailers here in  
22 Pennsylvania.

23           REPRESENTATIVE COX: Well, even in those higher-end  
24 stores, we do have one of the areas called Designer Place. It  
25 has some of the higher end, and that's the Reading outlet --



1 it's right next to the VF Factory Outlet, I should say.

2 REPRESENTATIVE KAVULICH: Okay.

3 REPRESENTATIVE COX: But they have the higher-end  
4 product, if you will. People come there, again, for the  
5 different price point. They come because it is factory outlet  
6 pricing.

7 And so many of those goods in fact are already  
8 taxable under Pennsylvania law, whether it's fur coats or other  
9 things like that. We've got a huge level of inconsistency in  
10 the Pennsylvania clothing law. For instance, the sales tax is  
11 replete with, you know, if it has this kind of lining or that  
12 kind of lining, it makes it taxable or nontaxable. So a lot of  
13 the items that you're speaking of may already be taxed anyway,  
14 and so price point still remains the issue.

15 REPRESENTATIVE KAVULICH: Thank you.

16 REPRESENTATIVE COX: Thank you.

17 MAJORITY CHAIRMAN BENNINGHOFF: Representative  
18 Peifer.

19 REPRESENTATIVE PEIFER: Thank you, Mr. Chairman, for  
20 making me number three after you said there's only two, so I  
21 appreciate you adding me.

22 And Representative Cox, thank you for all your work.  
23 This is a real challenging task, and I appreciate your work and  
24 your efforts as much as anything.

25 Could you help me define "elimination" a little bit?

1 A recent court case in Pike County said that a religious camp  
2 no longer meets the exempt status for property tax or exempt  
3 status. It doesn't meet the test for exemptions, which, as you  
4 know, many people in the Commonwealth worry as far as hospitals  
5 go and other entities, whether those nonprofits meet exempt  
6 status.

7 I had talked to you earlier about issues in my  
8 district. You know, we were talking about the Poconos a little  
9 bit as far as vacation homes. Would vacation homes have their  
10 property tax eliminated as well as second homes or homes owned  
11 by nonresidents? Could you help me just define "elimination"?

12 REPRESENTATIVE COX: The Constitution currently  
13 limits us as to what we can do to tackle the issue of any kind  
14 of tax. Taxes must be uniform. We have somewhat of an  
15 allowance, if you will, in the Pennsylvania Constitution when  
16 it comes to homesteads and farmsteads, and we are permitted by  
17 law to make changes and give up to 50 percent of the median  
18 assessed value as a benefit to the homeowner and the farmstead  
19 owner as opposed to the rental property, vacation property,  
20 second home, et cetera -- or business properties, for that  
21 matter. And so our current Constitution limits us from moving  
22 too much beyond that.

23 So under the structure of HB 1776, all properties  
24 are treated equally. We can't go out and say we're going to  
25 eliminate property taxes for homesteads and not do it for

1 someone who has a second home in Pennsylvania. So whether they  
2 live there 3 months out of the year or that is their primary  
3 residence, we are required under our Constitution as it exists  
4 now to address it in a uniform manner.

5 REPRESENTATIVE PEIFER: So all entities would get  
6 forgiveness, other than the debt service, which you defined  
7 earlier in your presentation. Is that correct? So there would  
8 be elimination across the board. The issue that I brought  
9 about about the court case for a nonprofit, that would be, you  
10 know, minute at this point.

11 REPRESENTATIVE COX: Yeah. The issue of whether  
12 it's taxable or not becomes moot, because all properties would  
13 receive the same treatment regardless of who owns them.

14 REPRESENTATIVE PEIFER: My second question has to do  
15 with the real estate transfer tax, paid at the buy, the  
16 purchase of sale of a property. Are there any changes to that  
17 transfer tax, and does the funding still go to the same sources  
18 that receive that funding now?

19 REPRESENTATIVE COX: We make no changes whatsoever.  
20 And previous versions of this legislation did have realty  
21 transfer tax changes and manipulations to it in where it went  
22 and everything else. We removed the realty transfer tax  
23 provisions entirely.

24 Our goal here is to stimulate home ownership, and we  
25 felt, along with the -- we ended up agreeing with the realtors

1 on this, that a realty transfer tax causes a potentially  
2 problematic tax. An increase to it would cause a problem for  
3 home ownership, and so we backed off on using that as a revenue  
4 source of any kind.

5 REPRESENTATIVE PEIFER: So would the individual  
6 distribution still go to the townships and the local school  
7 districts, or would the school piece come to the State, because  
8 technically there would be no amount due to the school because  
9 their obligations would be fulfilled by the State.

10 REPRESENTATIVE COX: We're not changing that as a  
11 revenue source. That as a revenue source---

12 REPRESENTATIVE PEIFER: So that source is still  
13 coming into your equation, if you're using your equation?

14 REPRESENTATIVE COX: Exactly.

15 REPRESENTATIVE PEIFER: Okay.

16 REPRESENTATIVE COX: Yeah; we're not taking  
17 responsibility for that funding. So we're not pulling it in;  
18 therefore, we have no need to drive it out. We are leaving the  
19 realty transfer tax structure and distribution, we're leaving  
20 that completely alone. In fact, I don't think there's a  
21 mention of the realty transfer tax in this legislation. We  
22 leave the distribution the way it is now.

23 REPRESENTATIVE PEIFER: Okay. Thank you, and thank  
24 you, Mr. Chairman.

25 REPRESENTATIVE COX: Thank you.

1 MAJORITY CHAIRMAN BENNINGHOFF: Number four, for his  
2 one question, Representative Scavello.

3 REPRESENTATIVE SCAVELLO: Thank you, Mr. Chairman.

4 I want to first go over two quick things. It's not  
5 in Representative Brown's district; it's in my district, the  
6 Crossings, that Representative Kavulich talked about.

7 Usually retailers have a price point, and price  
8 point is based off of expenses. And property taxes in those  
9 outlets is huge, so I see retails coming down, so I expect  
10 business to even boom.

11 There's another point to be made with second home  
12 sales. I mean, I think second home sales would jump in my  
13 area. At one time we had a tremendous amount of second home  
14 sales; however, with property taxes up at \$7,000, \$8,000,  
15 \$9,000 per house, folks just vacated their second homes and it  
16 became full-time residences. So I see a spur in second home  
17 sales, and by the same time I see a spur in the transfer tax,  
18 because you're going to see folks, you know, buying more  
19 properties.

20 My concern, Representative Cox, is, how do you  
21 convert those folks that are paying a thousand dollars a year  
22 in school property taxes in the Luzernes, the Lackawannas? And  
23 in the areas that have lost population, that haven't built  
24 school buildings like a county like Monroe, where the property  
25 tax is \$7,000, \$8,000, \$9,000, \$10,000, \$11,000, \$12,000 on a

1 house and it can go as high as \$30,000 on a house that's worth  
2 maybe \$300,000 today, how do you convert those folks to vote  
3 for this and ask them to vote -- because I'm supporting it.  
4 I'll support any bill that reduces or eliminates school  
5 property taxes.

6 REPRESENTATIVE COX: I don't know how I convert all  
7 of them. I'm able to convert some people. As I mentioned in  
8 previous testimony, we've got 70 cosponsors. It's one of the  
9 highest number of cosponsorships in the history of this type of  
10 legislation. I don't attribute that to myself. I attribute  
11 that to the changing nature of Pennsylvania politics.

12 REPRESENTATIVE SCAVELLO: Yeah.

13 REPRESENTATIVE COX: And I think part of the answer  
14 to your question lies in, people are looking and saying, "I  
15 understand that this is an issue for your district," and I've  
16 had some people say, "Listen, I can't cosponsor it, but I can  
17 vote for it when it comes to the House." Marcellus Shale was  
18 not an issue in Berks County. We don't have Marcellus Shale,  
19 but there were a lot of people who looked at the Marcellus  
20 Shale legislation and said, you know what? This is good for  
21 Pennsylvania, and I can jump on board.

22 REPRESENTATIVE SCAVELLO: I don't want to cut you  
23 short, but I think that's going to be your challenge.

24 REPRESENTATIVE COX: Oh, absolutely.

25 REPRESENTATIVE SCAVELLO: Because I know the

1 Chairman has got other folks, but that's going to be the  
2 challenge.

3 REPRESENTATIVE COX: Absolutely.

4 REPRESENTATIVE SCAVELLO: We need somehow or other  
5 to convert them, because let them explain that they've been  
6 getting free rides for a long, long time. Thank you.

7 REPRESENTATIVE COX: Thank you.

8 MAJORITY CHAIRMAN BENNINGHOFF: Representative Cox,  
9 we appreciate your candor, your hard work on this stuff, and  
10 your willingness to take a little bit of our ribbing. Thanks  
11 for your good work and--- I apologize. Representative Mundy  
12 has a comment or a question.

13 MINORITY CHAIRMAN MUNDY: I would just, you're  
14 indicating that you're preparing an amendment?

15 REPRESENTATIVE COX: Yes, ma'am.

16 MINORITY CHAIRMAN MUNDY: And, you know, the rules  
17 say that you have until 2 o'clock on Friday, and we're voting  
18 on the bill on Monday. Obviously, you know, I can't tell you  
19 how many nights and weekends my staff has had to work to  
20 analyze bills and amendments from this committee, and I would  
21 just ask you, please, don't wait until 2 o'clock on Friday to  
22 give us an amendment that's going to be voted on on Monday  
23 morning.

24 Please, please, get it to us as soon as possible. I  
25 realize you have a number of issues, personal issues to deal

1 with -- congratulations.

2 REPRESENTATIVE COX: Thank you.

3 MINORITY CHAIRMAN MUNDY: But, you know, my staff  
4 has family obligations, too, on the weekend, and I'm just  
5 really concerned about being able to analyze this and to, you  
6 know, check it out with the Department of Revenue, our  
7 Appropriations Committee staff.

8 You know, as I've made the case many times before,  
9 the bill needs to be right in committee, not go to the floor  
10 with a number of issues that need to be cleaned up. So I would  
11 just urge you to please get us that amendment as soon as  
12 possible.

13 REPRESENTATIVE COX: Thank you. My goal would not  
14 be to have the amendment be placed in your hands at 2 p.m. I  
15 will be working during the course of this week to get the  
16 language put together sooner rather than later.

17 At the same time, I would ask that anyone who does  
18 have an amendment, if they would be interested in sitting down  
19 with me and speaking about it, I would be willing to  
20 incorporate -- I know there are some amendments that I could  
21 incorporate into what we might want to call an omnibus  
22 amendment that addresses a number of concerns at once. It  
23 may be that we can come to an agreement on some of the  
24 amendments and make the process on Monday a much friendlier  
25 one.



1 I don't anticipate this being an issue of  
2 partisanship. We've got a significant number of Members on  
3 both sides of the aisle who are cosponsors of this legislation  
4 -- 20 Democrats, 50 Republicans. And so I feel we've struck a  
5 pretty decent balance with a lot of the provisions, and it's my  
6 goal going forward that we retain that interaction and that  
7 input.

8 So I, too, would welcome, if you have amendment  
9 ideas or whatever, if you or your staff want to sit down and  
10 chat with me, I'd love to see if we can put those in and work  
11 up an agreed-to set of amendments or whatever the case may be.

12 Thank you.

13 MAJORITY CHAIRMAN BENNINGHOFF: Thank you both.

14 We will now be joined by Michael Wood, Research  
15 Director of the Pennsylvania Budget and Policy Center.

16 In the interim, I want to acknowledge that  
17 Representative Milne has joined the panel.

18 And we also, in attendance, have Representative  
19 Rosemary Brown, Representative Glen Grell, Representative Rick  
20 Saccone, and Representative RoseMarie Swanger.

21 Mr. Wood, when you are ready---

22 MR. WOOD: Thank you very much.

23 MAJORITY CHAIRMAN BENNINGHOFF: ---the fun is yours.  
24 Thank you.

25 MR. WOOD: Okay.

1                   Good morning, Representative Benninghoff and  
2 Representative Mundy and fellow Members of the Finance  
3 Committee.

4                   Thank you for the opportunity to comment on HB 1776.  
5 I am Michael Wood, the Research Director of the Pennsylvania  
6 Budget and Policy Center.

7                   Founded in 2005, the Pennsylvania Budget and Policy  
8 Center is a nonpartisan, statewide policy research project that  
9 provides independent, credible analysis on State tax, budget,  
10 and related policy issues with attention to the impact on the  
11 current and proposed policies on working families.

12                  HB 1776 attempts to "solve" the property tax problem  
13 in Pennsylvania by eliminating school property taxes, typically  
14 the largest portion of the taxpayers' property tax bill. While  
15 property taxes are a problem for people in specific situations  
16 and an overreliance on a single source of tax income is a  
17 problem for public institutions, eliminating school property  
18 taxes in Pennsylvania and the strict limits placed on schools  
19 in this bill would have dire, unintended consequences for our  
20 State, our residents, and our children.

21                  Rather than taking radical steps encompassed in  
22 HB 1776 and the uncertainty they would foster, we think the  
23 General Assembly could consider a number of more targeted and  
24 proven policy prescriptions that would better address property  
25 tax issues in Pennsylvania.

1            Pennsylvania has over 5 million owner-occupied  
2 residences, according to the U.S. Census. Proponents argue  
3 that 10,000 Pennsylvanians lose their homes each year, which  
4 equates with less than 0.2 percent of the total homes in the  
5 State. Dismantling the school funding system for a problem  
6 that doesn't affect 99.8 percent of homeowners is "throwing the  
7 baby out with the bathwater," as HB 1776 suggests. Other  
8 States have tried similar measures, and the results are not  
9 promising for success in Pennsylvania.

10            HB 1776 includes a number of features that could be  
11 part of an effective solution but, as currently written, goes  
12 too far. As you consider this bill and other proposals to  
13 reform property taxes, a number of things should be kept in  
14 perspective.

15            No. 1: While people do not like paying property  
16 taxes, they benefit our communities and our wallets. Our local  
17 communities invest our property tax payments in education for  
18 our children. As funding has increased, so have the offerings  
19 that schools can provide. They have tangible benefits that we  
20 all see through increased test scores, increased graduation and  
21 college entrance rates, and improved job readiness/  
22 competitiveness. Good schools in our communities make our  
23 houses worth more and expand opportunities for all of us. Over  
24 the years, property taxes have helped make this possible.

25            These investments show dividends. Pennsylvania was

1 the only State of 25 measured in a Center on Education Policy  
2 study, with rising test scores in all three grades -- 4, 8,  
3 and 11 -- measured and all three achievement levels in both  
4 reading and math. Pennsylvania students are also increasingly  
5 entering college immediately after high school, growing from  
6 53.8 percent of students in 1992 to 63.9 percent in 2008. This  
7 is helping to make Pennsylvania a more educated and job-ready  
8 workforce.

9           Studies have shown that increasing skills in local  
10 areas is a key driver of growth, and good schools are a  
11 significant part of this. A 2003 paper published by the  
12 Harvard Institute on Economic Research concluded, "City growth  
13 can be promoted with strategies that increase the level of  
14 local human capital. At the regional or metropolitan level,  
15 attracting high human capital workers may require provision of  
16 basic services, amenities and quality public schools that will  
17 lure the most skilled."

18           No. 2: Generally speaking, property taxes are not  
19 high in Pennsylvania, but they are not uniform across the  
20 State. Eliminating school property taxes to fix a localized  
21 issue is bad tax policy.

22           According to the most recent data compiled by the  
23 U.S. Census, local property taxes from all levels of  
24 government, including schools and other local governments, and  
25 from all payers -- businesses and individuals -- in

1 Pennsylvania are slightly lower than the national average. At  
2 3 percent of personal income, Pennsylvania local property taxes  
3 ranked 26th highest in 2008-2009, which is slightly below the  
4 U.S. average of 3.3 percent of personal income.

5 The same is true of our neighbors. New Jersey,  
6 New York, and Ohio have higher local property tax rates as a  
7 share of personal income, while West Virginia, Maryland, and  
8 Delaware have lower levels of local property taxes than  
9 Pennsylvania.

10 So if we're seeking to eliminate property taxes  
11 because they are high compared to other States, this cannot be  
12 supported in the data. However, in 2008-09, Pennsylvania State  
13 taxes and income taxes both ranked 30th highest as a share of  
14 personal income. This means that there's some capacity to  
15 equalize our tax effort by replacing a portion of the property  
16 tax revenue with increased State income tax dollars.

17 The central issue of HB 1776 seems to be the burden  
18 of property taxes on residential properties. As a share of  
19 personal income, residential school property taxes do vary by  
20 district but not as much as generally assumed.

21 In 2009-10, 26 districts -- only 5.2 percent of the  
22 total -- had property tax levels that exceeded 150 percent of  
23 the statewide average of 3.0 percent of personal income. A  
24 list of these districts can be found at the end of our written  
25 comments.

1           These are clustered in northeastern and southeastern  
2 Pennsylvania. A number of cases in the northeast are affected  
3 by a large presence of vacation homes. For these areas, the  
4 tax on vacation homes is exported to other areas, much like a  
5 sales tax in Florida or severance taxes in Texas. Generally  
6 speaking, this is thought to be beneficial to local taxpayers.

7           In other areas, like inner-ring suburbs in the  
8 southeast, declining wealth and increasing poverty have led to  
9 a high taxing effort. Hampered by the wage system in  
10 Philadelphia, these suburbs are heavily reliant on property  
11 taxes to operate their schools. Eliminating school property  
12 taxes statewide to address localized issues is not good tax  
13 policy, particularly when other remedies exist.

14           Pennsylvania has the eighth highest reliance on  
15 local dollars to fund schools, which in most cases means  
16 property taxes. At the same time, our percentage of school  
17 funding coming from the State ranks 42d. This is evidence of  
18 too much reliance on local sources, but there are ways to  
19 address this in a more targeted, less volatile manner.

20           No. 3: HB 1776 would do irreparable harm to  
21 Pennsylvania's ability to adequately fund public education. It  
22 replaces local control over school financing with a  
23 one-size-fits-all approach that would fail our children and our  
24 communities. It trades certainty for variability.

25           The bill takes a locally controlled revenue stream

1 -- school property taxes -- and replaces them with an  
2 artificially limited State revenue stream. HB 1776 assumes  
3 local finances are what they were in 2010-11 and then limits  
4 the growth to the lower of the consumer price index or sales  
5 tax growth. In recessions, when consumption decreases, sales  
6 tax growth can be negative, which translates into cuts to  
7 schools.

8           Had this formula been in place during the last  
9 recession, schools would have endured 3 straight years of  
10 "property tax replacement" cuts, as sales tax receipts dropped  
11 1, 4, and 1 percent respectively from 2007-08 through 2009-10.  
12 Over the 3 years, this would equate with a loss of over  
13 \$1.3 billion in school funding. Had there been no Federal  
14 stimulus, the State, too, would have likely cut funding for  
15 schools. This would have resulted in massive layoffs and fewer  
16 dollars being driven back into local communities.

17           We would be trading the countercyclical benefits  
18 that schools provide our economy for a system directly related  
19 to consumption. Children need the same access to education in  
20 good times and bad.

21           With the expansion of the sales tax base, growth and  
22 the responsiveness to the general economy will be different  
23 than what we have experienced historically. We do not know  
24 what this will be. Linking school funding to this unknown  
25 factor is risky. That the new funding mechanism equals school

1 property taxes it would replace is also uncertain, particularly  
2 with the significant expansion in the sales tax base.

3           The rigid funding formula in this bill is too  
4 restrictive and will significantly reduce funding for classroom  
5 instruction. The bill initially replaces property tax revenues  
6 that existed in 2010-11. In future years, this amount would  
7 grow by the lesser of the growth rate of sales tax collections  
8 or the CPI.

9           This does not account for known and likely cost  
10 increases. Both the State and school districts will have to  
11 contribute significantly new dollars in the coming years to  
12 correct unfunded pension liabilities. Health-care costs in  
13 every sector are increasing at a rate much faster than  
14 inflation. Fuel prices spike. Mandates increase. More kids  
15 are found to have special needs that need to be addressed. All  
16 of these things cost more money, more than the lesser of the  
17 CPI or sales tax growth could be expected to meet. This means  
18 the funds would have to come from somewhere else -- classrooms.

19           No. 4: HB 1776 would be a huge tax windfall for one  
20 group of taxpayers -- corporations -- paid for by a shift in  
21 taxes to individuals.

22           HB 1776 is being described as a great deal for  
23 seniors, but they would see increases in their sales tax bills  
24 for staples like food, nonprescription drugs, and many other  
25 supplies. Seniors who rent would see little benefit from the



1 elimination of school property taxes, and it is unlikely that  
2 their rent would be reduced when property taxes were  
3 eliminated.

4 Corporations, on the other hand, would see their  
5 schools taxes eliminated with little to no increase in other  
6 taxes, as many business-to-business transactions would be  
7 exempted from sales tax and most manufacturing inputs are  
8 already exempt. The bill includes no increase in the corporate  
9 income tax rate.

10 Nonresidential property accounts for 28 percent of  
11 the assessed total value of property in Pennsylvania, according  
12 to the 2009 data from the State Tax Equalization Board. Tax  
13 dollars that were previously generated from these properties  
14 would be shifted to individuals through higher personal income  
15 and sales taxes.

16 No longer would corporations be partners with other  
17 communities to help pay for an educated workforce and customer  
18 base. The financial benefits corporations would receive would  
19 be distributed nationally and internationally, not locally.

20 For typical Pennsylvania families, property taxes  
21 are less regressive than the existing sales tax base. The  
22 Institute on Taxation and Economic Policy estimates that  
23 families in the lowest income fifth spend five times as much on  
24 their income on sales taxes as the top 1 percent of  
25 Pennsylvania families. For property taxes, the difference is

1 2.7 times. Adding many new goods and services to the sales tax  
2 base could make this disparity much worse.

3 Most egregious of these proposed changes is the  
4 taxation of many groceries. Items that would qualify for the  
5 Federal Women, Infants, and Children Program would be exempt  
6 from sales tax, but families would soon find out how limited  
7 this list actually is.

8 A small sampling of items that would be taxable  
9 include fresh, frozen, or sliced meat; butter or margarine;  
10 green peas; organic or reduced-fat peanut butter; pasta sauce;  
11 salsa; white potatoes; fruit cocktail; baked goods;  
12 individually-wrapped cheese; ice cream; most non-whole grain or  
13 sweetened cereals; and white bread or rice.

14 Most States do not tax groceries -- food consumed at  
15 home. Only two States, Mississippi and Alabama, tax groceries  
16 at the full sales tax rate. Seven States tax groceries at  
17 reduced rates, and five offer credits to offset the sales tax  
18 costs. This type of trading of tax bills will make the poor,  
19 including many elderly, even poorer.

20 Point five is that there are still many questions  
21 that remain: How would the funds be distributed? Are property  
22 taxes replaced locally dollar for dollar or are they to be  
23 replaced on a per-student basis and enrollment? What happens  
24 to growing or shrinking schools? Many schools already are  
25 funded through earned income taxes. Wouldn't they receive less

1 benefit than schools completely dependent on local property  
2 taxes? How would the bill address differences in local school  
3 spending preferences? What role would local officials have in  
4 school spending decisions? What happens if new State revenue  
5 sources do not generate sufficient revenue to replace school  
6 property taxes?

7           And then point No. 6 is, similar reforms have been  
8 tried in other States and with poor results, unfortunately.

9           California. One of the first property tax revolts  
10 occurred in California with the passage of Proposition 13 in  
11 1978. This law rolled back property tax assessments to the  
12 1975-76 levels, limited taxes to 1 percent of assessed values,  
13 and limited annual assessment increases.

14           Education funding has been shifted largely to the  
15 volatile State income tax. Following the recession of 2001,  
16 California General Fund revenue declined by 17 percent, due in  
17 large part to falling income tax receipts.

18           This continues today with California facing a budget  
19 shortfall of \$16 billion, forcing cuts to schools and other  
20 critical services at a time when the rest of the nation is  
21 slowly recovering. The impact on schools was more equal  
22 spending, largely due to reduced spending by previously  
23 high-spending districts.

24           And in Michigan. In 1993, Michigan temporarily  
25 banned schools from using property taxes and gave voters a

1 choice: increase sales taxes or income taxes. The voters chose  
2 to increase reliance on State sales taxes. The plan included  
3 new statewide property tax for schools, lower and reduced local  
4 property taxes, and increased State revenue from sales tax.

5 Much like HB 1776, the Michigan changes shifted much  
6 of the responsibility for funding schools to the State sales  
7 tax. As Michigan's economy collapsed in the early 2000s, State  
8 revenues plummeted, resulting in the squeezing of school  
9 funding.

10 A decade after implementation, a reviewer concluded,  
11 "Proposal A, as it was created originally, could have worked if  
12 the economy were strong indefinitely. However, due to the way  
13 the public school funds are collected and distributed, it is  
14 not a system based on equality or equity, and it shows all  
15 children are not given the same value, nor are they receiving  
16 the same service."

17 One of the factors cited for the problems with State  
18 funding in Michigan was the whittling away at the sales tax  
19 base almost immediately after the passage of Proposal A. Small  
20 cuts add up quickly, reducing revenue for schools.

21 How would Pennsylvania be different? A look at the  
22 expenditure section of the Pennsylvania budget shows that our  
23 sales tax base is riddled with exemptions. Just a few weeks  
24 ago, the House of Representatives approved an exemption for  
25 corporate jets and repairs from sales tax. How long would a

1 sales tax base expansion last?

2           And then finally, North Dakota. While not enacted,  
3 the North Dakota proposal that is a model of HB 1776 is opposed  
4 by a number of groups, including many in the business  
5 community. The North Dakota plan uses severance tax revenue  
6 from the oil boom to eliminate property taxes. While  
7 businesses would seem to benefit from the plan, the uncertainty  
8 the plan creates makes the State a riskier place to do  
9 business.

10           And then the final point we want to get to is,  
11 better, more targeted options exist. It is unclear what the  
12 main issue of HB 1776 is intended to fix. Even so, many other  
13 issues identified can be addressed with smaller, more measured  
14 changes.

15           There are two approaches: target tax relief to  
16 individuals based on ability to pay. Since the central  
17 complaint cited for the need for HB 1776 is that taxes are not  
18 directly based on ability to pay, this would directly address  
19 this problem.

20           The second approach, which Pennsylvania has used  
21 before, is to target tax relief by school district. This  
22 approach can be beneficial to communities with relatively high  
23 property taxes that are a drag on economic growth.

24           One option is to expand the Property Tax/Rent Rebate  
25 Program for seniors. Bill proponents claim seniors are driven

1 from their homes due to property taxes. Pennsylvania already  
2 has a program, the Property Tax/Rent Rebate Program, to address  
3 this need for the poorest of elderly Pennsylvanians.  
4 Currently, the program provides a modest State subsidy, \$250 to  
5 \$650, based on income up to \$35,000 per year for homeowners,  
6 and they also provide funding for renters.

7           This program could be expanded to offset property  
8 taxes for seniors with limited incomes and for properties up to  
9 the median value in a school district or on payments that could  
10 be sent directly to the school district to offset any tax an  
11 eligible senior would otherwise owe. The program expansion  
12 could be funded with more modest increases in the State  
13 personal income tax or a higher rate on unearned income.

14           Another option is to enact a "circuit breaker" to  
15 target property tax relief to needy taxpayers, regardless of  
16 age. These programs compare property tax payments to a  
17 family's income, and like an electric circuit breaker, the  
18 program benefits activate once property taxes exceed a  
19 threshold. This would be means tested and accountable, no  
20 matter what school district you live in. In 2008, 18 States  
21 had some sort of a form of a circuit breaker program, whether  
22 it targeted seniors or all homeowners.

23           Another option is to create a property tax deferral  
24 program. Like a reverse mortgage, property tax deferral plans  
25 allow specific groups of homeowners, typically the elderly, to

1 tap into the unrealized equity of their homes to pay for  
2 property taxes. The taxes would be paid on the house when  
3 it is sold. Oregon and Washington currently have such  
4 programs.

5 And then finally, increasing State funding for  
6 schools and sticking with it. Pennsylvania's larger than  
7 average dependence on local funds for schools could be  
8 addressed by increasing State funding for all districts. This  
9 cannot be a promise of convenience for the State, as has been  
10 the case in the past.

11 Developing a school's funding formula that  
12 incorporates tax effort as a critical variable. Pennsylvania  
13 has a funding formula, adopted in statute in 2009. That  
14 formula could be modified to include a variable that better  
15 measures local tax effort and distributes a higher share of  
16 State dollars to districts with higher tax effort.

17 Thank you for the opportunity to comment, and I am  
18 happy to answer any questions.

19 MAJORITY CHAIRMAN BENNINGHOFF: Thank you very much.  
20 We appreciate your testimony, Mr. Wood.

21 I would remind the Members, if you could, start with  
22 one question and then we'll go around and go to a second  
23 question.

24 In a couple of moments, I'm going to step out to go  
25 to the Governor's Office for a meeting, and Representative

1 Dunbar will take over as Chair.

2 Representative Mundy, I believe you want to start  
3 with a question.

4 MINORITY CHAIRMAN MUNDY: Thank you, Mr. Chairman.

5 Thank you for your testimony, Mr. Wood.

6 First, just a very brief comment. I guess I just do  
7 not agree that property taxes are not a problem. If we're  
8 talking about tax fairness, tax based on the ability to pay,  
9 property taxes are a huge problem and they're a very big  
10 problem in my district. And even though senior citizens don't  
11 pay income tax on their pensions or on their Social Security,  
12 many seniors find themselves at risk of, maybe not being forced  
13 out of their homes, but unable to pay their bills because  
14 property taxes continue to increase.

15 And in many ways, that's because we don't fund  
16 schools adequately at the State level. It's our fault as much  
17 as it is the local school board's fault. It's not always that  
18 teacher salaries are high. It's not always that there has been  
19 a lot of building or Taj Mahal-type facilities. Sometimes it's  
20 just that in order to attract quality professionals to the  
21 school, you need to pay a decent salary based on the cost of  
22 living, and when we don't support that at the State level, they  
23 just have no place else to go.

24 So I do support -- and I'm not sure that it's going  
25 to be possible to completely eliminate property taxes, but we



1 certainly could make efforts to reduce property taxes. And  
2 I think some of the alternatives that you raise are very  
3 interesting, and I would like to pursue those with you  
4 further.

5 I'm going to start with one question and then let  
6 others ask theirs, and maybe on a second round ask more. But,  
7 for example -- well, I guess I won't ask that one because you  
8 did address it at the end -- how would the more targeted, less  
9 volatile alternatives, what would they be? -- and I'll look at  
10 those more carefully.

11 I'm looking at page 4 of your testimony---

12 MR. WOOD: Okay.

13 MINORITY CHAIRMAN MUNDY: ---about the fact that  
14 HB 1776 would be a huge windfall to corporations, and I totally  
15 agree with you. Because of the uniformity clause, if we're  
16 going to eliminate property taxes, we have to do it for even  
17 those large, multi-State, multinational corporations that would  
18 not then pay any taxes really, given all the other loopholes  
19 and tax breaks that they're getting.

20 But can you, in the, what, third paragraph here, you  
21 say, "Non-residential property accounts for 28% of the assessed  
22 value of property...." Do you have any data that shows the  
23 amount of tax dollars that are generated by corporations?

24 MR. WOOD: Unfortunately, we don't. The data from  
25 the State Tax Equalization Board just lists it by assessment

1 type. It doesn't say anything about who the actual ownership  
2 of that is.

3 MINORITY CHAIRMAN MUNDY: Okay. Well, that's  
4 unfortunate that we can't---

5 MR. WOOD: Yes, it is.

6 MINORITY CHAIRMAN MUNDY: ---that you can't get that  
7 number, but we have to keep working on that.

8 So I'll wait for a second round. Thank you.

9 MAJORITY CHAIRMAN BENNINGHOFF: Representative Cox.

10 REPRESENTATIVE COX: Thank you for your testimony.

11 MR. WOOD: Sure.

12 REPRESENTATIVE COX: I think you are working from  
13 some different assumptions, and I disagree with each of those  
14 assumptions.

15 One of those assumptions is that because people  
16 aren't losing their home, you know, you make a reference to  
17 saying that 99.8 percent of homeowners are not losing their  
18 homes; therefore, they're not affected. Spend 15 minutes  
19 talking to your neighbors and I think you'll see otherwise,  
20 that this is one of the most hated taxes. This is one of the  
21 most difficult to pay. This is the one that seniors are doing  
22 without their medications. Young families are foregoing  
23 homeownership because of school property taxes.

24 You know, people look at the county and municipal  
25 property taxes and they say, hey, those make sense; I'm getting

1 a service for it, a tangible service, whether it's fire  
2 protection, police protection, et cetera. The intangibility,  
3 if you will, of the school property tax in conjunction with the  
4 exorbitant rate increases that school property taxes have seen  
5 over the years makes this one of the most problematic taxes  
6 across the Commonwealth, regardless of what, you know,  
7 homeownership losses. And, you know, that's a static figure,  
8 and so because "you don't lose your home, it doesn't affect  
9 you," that is a disconnect for me and thousands of  
10 Pennsylvanians in the Commonwealth.

11 Another assumption you make in paragraph 3 of your  
12 statement is that we are replacing, you know, replacing it with  
13 a one-size-fits-all approach that is an ongoing formula. It  
14 appears, from the verbiage in your language here, that you look  
15 at this one-time formula as an ongoing formula when that is not  
16 the case.

17 On page 167, lines 23 to 25, we clearly point out in  
18 the legislation that subsequent fiscal years beginning after  
19 June 30, 2013, "...the department shall make disbursements to  
20 each school district as required by statute." And I know  
21 there's no statute in place as of right now, and so this  
22 language forces us, over the course of the next year, to put a  
23 formula in place that is fair and that does work in an ongoing  
24 fashion.

25 The third assumption you make is that "Seniors who

1 rent..." -- a statement you make in paragraph 4 -- "Seniors who  
2 rent would see little benefit from the elimination of school  
3 property taxes, as it is unlikely that their rent would be  
4 reduced when property taxes were eliminated." I ran some quick  
5 numbers, and even if said senior somehow pulled together \$250 a  
6 week to spend on goods and services that are not already  
7 taxable, if they somehow came up with \$250 a week to purchase  
8 new taxable goods or new taxable services, that amounts to  
9 about \$13,000 a year, which 7 percent of \$13,000 in purchases  
10 would be \$910 a year. That's \$75 a month.

11 Now, I daresay that their rents would not stabilize.  
12 Their rents probably include more than \$75 in school property  
13 taxes. And so I'm a firm believer in the power of the free  
14 market, and I believe that rents would stabilize. I know there  
15 would be a vast number of properties that would be improved for  
16 the first time and that we would have a lot of competition out  
17 there for what some people might call deadbeat landlords -- or  
18 whatever you want to call them, slumlords -- there would be  
19 some competition out there. And so people in otherwise  
20 deplorable living conditions would suddenly have a choice, and  
21 so I disagree with that third assumption as well.

22 A good portion of No. 5 deals with a funding formula  
23 that, as I mentioned, does not even exist. We clearly call out  
24 a 1-year funding formula and we leave the rest of it to the  
25 Legislature for future years, so that is a completely errant

1 portion of your testimony.

2           Lastly, and perhaps the issue I take the greatest  
3 concern with, is the assumption that children in one district  
4 are worth more than children in another district. That's what  
5 our current system is creating and perpetuating year after  
6 year. And so, yes, I understand that there are school  
7 districts that spend \$28,000 a year on their students, and  
8 because of the local school property tax, they're able to do  
9 that, and yet other school districts, many performing as well,  
10 some even better than those high spending school districts,  
11 they're spending \$6,000, \$7,000, \$8,000 and accomplishing much  
12 more.

13           And so my question for Members of this committee and  
14 the Legislature as a whole is, how much is it worth to fund the  
15 education for a child, and why is it that we as a Legislature  
16 want to perpetuate a system that enables those inequities, that  
17 fosters the inequities and even causes those inequities to  
18 grow? The disparity between the highest spending and the  
19 lowest spending school district has increased over the last  
20 10 years. If we were doing our job as a Legislature, we'd be  
21 closing that gap.

22           Now, whether I agree with the funding study that was  
23 provided under the costing-out study commissioned a few years  
24 ago, whether I agree with those exact numbers or that that is  
25 the dollar amount, it's irrelevant. But I do know that a child

1 in Philadelphia is worth the same amount of money as a child in  
2 Harrisburg or Berks County or Allegheny County. It doesn't  
3 matter. So I find that as a deplorable approach to funding  
4 education when you can lopsided funding in such a severe way  
5 that a student is handicapped irreparably for the rest of his  
6 life because of where he lives.

7 Thank you.

8 REPRESENTATIVE DUNBAR: Representative Peifer.

9 REPRESENTATIVE PEIFER: Thank you, Mr. Chairman.

10 Thank you, Mr. Wood.

11 MR. WOOD: Certainly.

12 REPRESENTATIVE PEIFER: Could you please expand, I'm  
13 looking at page 3 and we're looking at the top of page 3 where  
14 it talks about the 26 districts who had property tax levels  
15 that exceeded 150 percent of the statewide average of 3 percent  
16 of personal income, and then in the back of your testimony  
17 there's the Appendix 1 which outlines those districts and the  
18 percentages of their household property taxes, percentage of  
19 personal income tax for 2009-2010.

20 In the testimony, you talked about vacation homes  
21 supplementing the local tax base to help those areas,  
22 especially in the northeast. But even with the vacation homes  
23 supplementing the tax base, my schools are still on this list  
24 because they're obviously not supplementing the tax base enough  
25 as compared to the State's average.

1           So, I mean, I don't quite understand your testimony  
2 in that you believe that we'd be exporting our property taxes,  
3 which I agree with you, but then the fact of the matter is,  
4 based upon our income levels in certain areas, we're still  
5 paying a larger part of our incomes towards property tax with  
6 the vacation properties that are there now.

7           MR. WOOD: I think the personal income is not  
8 counted in there, and I think that's where some of the  
9 disparity comes from that, is when you have a vacation home,  
10 like let's say you live in New York, your personal income is  
11 counted in New York, not in Pennsylvania, for that house. So  
12 they have the value of the house. The taxes are in there. It  
13 skews the numbers.

14           One thing about that, and I think it's an issue that  
15 in general, and I think that it's with property taxes, is that  
16 there are specific areas in the State that have real property  
17 tax problems, and I think the northeast is one portion and the  
18 southeast another portion, Allegheny County is another portion,  
19 and there needs to be State solutions for being able to help  
20 fix that. And our point of the testimony is that maybe there  
21 are more limited ways that we could fix that but more  
22 specifically addressing those problems as opposed to kind of a  
23 global shift.

24           REPRESENTATIVE PEIFER: So more of a targeted  
25 approach. But the problem is, we've tried that targeted

1 approach for years here with the hold harmless funding equation  
2 and we've gotten nowhere. So, you know, at some point, many of  
3 us basically have to throw out this -- you know, if there's one  
4 big pro of this whole plan is that it throws out a funding  
5 formula, and right now it looks like my constituents, based  
6 upon their household incomes, are losers, because we're paying  
7 much more of our salaries towards property tax elimination or  
8 for property tax funding.

9 I didn't think the numbers would be this high. I  
10 mean, I just think it's interesting that even with these  
11 vacation homes and properties, many of my constituents are  
12 still paying way above the average at the State level, almost  
13 two times the level.

14 MR. WOOD: Yeah; there are certain areas that their  
15 property taxes end up being very skewed.

16 REPRESENTATIVE PEIFER: Besides expanding -- one  
17 idea that I like is the targeted approach. You talk about  
18 expanding the rent rebate, and, you know, I'm sitting here  
19 talking with Representative Denlinger about just the  
20 homesteads, and that, again, takes a constitutional change. I  
21 mean, could you expand a little bit on that targeted approach  
22 where we could just target those seniors or target those  
23 10,000 people that lost their homes, and what really is the  
24 number that we would have to target first, and of course that  
25 would, you know, create a change in the Constitution. But what



1 would those targets be to solve Representative Cox's problem of  
2 people losing their homes?

3 MR. WOOD: Well, the Constitution gives ability to  
4 -- it gives separate tax status for homesteads, and with that  
5 you could, when you drive out in State dollars for eliminating  
6 property taxes, use that homestead amount as, like a median  
7 amount of that, as being kind of the average of what people  
8 would pay. So if you have a bigger house, that's one thing,  
9 but if you have a smaller house, then that's, you know, just  
10 the way it is.

11 It would be just a way to look at -- that's one of  
12 the ways we currently have set up without having to do  
13 constitutional changes -- because those are difficult,  
14 obviously -- that we could just expand the current program  
15 that's already there to make it so people would have more  
16 benefit.

17 REPRESENTATIVE PEIFER: Increasing the thresholds  
18 per income, that type of---

19 MR. WOOD: That sort of thing, yes.

20 REPRESENTATIVE PEIFER: Okay.

21 Thank you, Mr. Chairman.

22 REPRESENTATIVE DUNBAR: Thank you, Mr. Wood. That  
23 concludes your testimony.

24 MR. WOOD: Certainly.

25 REPRESENTATIVE DUNBAR: Next on our schedule, the

1 next testifier would be Betsy Huber, the Legislative Liaison  
2 for the Pennsylvania State Grange.

3 If you just want to come up to the table, whenever  
4 you're ready. And just a reminder to all our testifiers, if we  
5 can please try and minimize our testimony so we can try and get  
6 somewhat back on schedule. Thanks.

7 MS. HUBER: Thank you, Mr. Chairman, Madam Chairman.

8 Thank you for the opportunity to testify this  
9 morning, and I will be brief. I'm not going to read my  
10 testimony.

11 I'm Betsy Huber, the Legislative Liaison for the  
12 Pennsylvania State Grange.

13 The Grange has supported elimination of the property  
14 tax for many years. I went back as far as 1972, and the  
15 delegates adopted a policy statement to study the issue and  
16 determine if it would be feasible to replace the local  
17 real estate tax with an increased rate and a graduated income  
18 tax. So we're very pleased that this issue is receiving  
19 serious consideration, and I'm happy to lend our support.

20 Our 1973 policy statement said, "We believe it is  
21 fairer to tax people, instead of continually raising taxes on  
22 land." The Grange believes that property tax is inherently  
23 unfair because it's not based on the ability to pay.

24 According to a Cost of Community Services study done  
25 by the Brandywine Conservancy in 2004, farmland in southern

1 Chester County, where I live, uses just 4 cents in services  
2 for every dollar paid in tax, while residential properties use  
3 \$1.17 for every dollar in tax that they pay. So farmers are  
4 subsidizing other residents of the school district or  
5 municipality with their huge property tax payments. This is an  
6 unfair system.

7           Of course, agriculture is our number one industry,  
8 but the current property tax structure is a major impediment to  
9 profitable farming. It's pretty much impossible to farm, to  
10 grow food without land, but land is what we tax to fund our  
11 schools and county and local governments.

12           The second group of citizens unfairly affected by  
13 the current property tax structure is seniors who have owned  
14 and lived in their homes for many years and are now retired.  
15 They are being forced out of their homes because they're unable  
16 to pay their property taxes.

17           I can use myself as an example. My property taxes  
18 are about \$4,000, which is lower than many. I've been a widow  
19 for 6 years, and since my retirement from being the Grange  
20 President, I'm now working part time, and I don't have enough  
21 income to pay those property taxes. That would be 20 percent  
22 of my income.

23           So recently, my daughter and her family wanted to  
24 move back to Pennsylvania, so we combined our households. So  
25 instead of supporting my household by myself, now I have two

1 other wage earners and three children in the house to support  
2 paying the property taxes. So it has been a major change in my  
3 life -- for the better, obviously, with grandchildren in the  
4 house -- but it was definitely caused by the property tax.

5 Society is putting more emphasis on aging in place,  
6 so our tax system should allow our senior citizens to do  
7 that.

8 Without property tax, the whole issue of assessment  
9 would be unnecessary. There has been a lot of discussion on  
10 mandatory reassessment by counties and the cost of that, and  
11 that whole system would be unnecessary without property tax.

12 And the property tax also requires thousands of tax  
13 collectors, who are all paid to perform their duties. The  
14 Legislature passed Act 32 just a few years ago to consolidate  
15 collection of the income tax. Consolidation of the property  
16 tax would be much more difficult, perhaps impossible, since  
17 every municipality and school district has a different rate.  
18 So we feel that tax collection would be much more efficient  
19 using income and sales tax rather than property.

20 In conclusion, the Pennsylvania State Grange  
21 supports elimination of the property tax because it's unfair to  
22 farmers and senior citizens. It's not based on ability to pay.  
23 It's cumbersome, burdensome, and costly to collect.

24 Thank you very much for the opportunity. I'd be  
25 happy to answer questions.

1           REPRESENTATIVE DUNBAR: Thank you, Ms. Huber, for  
2 your testimony.

3           And first -- questions from the Members --  
4 Chairwoman Mundy.

5           MINORITY CHAIRMAN MUNDY: Just one quick question.

6           If we're going to reduce or eliminate property  
7 taxes, we need to balance that with a way to fund public  
8 education, and you didn't address that at all. I'm wondering  
9 what you would do to support public education.

10          MS. HUBER: We are supportive of the income tax. I  
11 think the 40-year-old policy---

12          MINORITY CHAIRMAN MUNDY: So not sales?

13          MS. HUBER: We believe that sales tax is also---

14          MINORITY CHAIRMAN MUNDY: Regressive.

15          MS. HUBER: ---based on the ability to pay. So that  
16 if you have income, you can purchase things and pay the sales  
17 tax; if you don't have income, then you're not going to  
18 purchase things. So it's not like the property tax where it's  
19 due whether you have any income or not.

20          MINORITY CHAIRMAN MUNDY: So the personal income tax  
21 or an earned income tax. Which?

22          MS. HUBER: I don't believe that we have policy for  
23 one over the other, so I can't---

24          MINORITY CHAIRMAN MUNDY: You mean the Grange  
25 doesn't?

1 MS. HUBER: Yes.

2 MINORITY CHAIRMAN MUNDY: Okay.

3 MS. HUBER: Yeah; I'm testifying on behalf of the  
4 Grange.

5 MINORITY CHAIRMAN MUNDY: Right; right.

6 Okay; so either personal or earned income tax as  
7 opposed to sales to replace property taxes.

8 MS. HUBER: In addition to sales. We're okay with  
9 income tax and sales tax.

10 MINORITY CHAIRMAN MUNDY: Oh, okay. All right.  
11 Thank you.

12 REPRESENTATIVE DUNBAR: Representative Cox.

13 REPRESENTATIVE COX: I don't have so much a question  
14 as I do a thank-you for your testimony. Your testimony is a  
15 poignant reminder that Pennsylvanians are not just a statistic  
16 and that while you technically didn't lose your home to a tax  
17 sale, that decision was forced on you by the property tax. And  
18 so I thank you for that openness and willingness to share your  
19 personal story in amongst the testimony that you're providing  
20 on behalf of the Grange.

21 So thank you again for coming today and for your  
22 testimony.

23 MS. HUBER: You're welcome. Thank you.

24 REPRESENTATIVE DUNBAR: The next question would be  
25 Representative Milne.

1                   REPRESENTATIVE MILNE: Good morning, Betsy. It's  
2 nice to see a fellow Chester Countian up here in the big  
3 city.

4                   You have, I think, established an outstanding  
5 reputation across the State and in Chester County about  
6 sustaining the family farm, and I know it's something you're  
7 very passionate about. Could you maybe just elaborate a little  
8 bit about the impact that the property tax does have on that  
9 larger goal -- trying to sustain agriculture in our  
10 communities, trying to manage the transition from one  
11 generation to the other in terms of the family farm.

12                   And perhaps you could even compare a little bit and  
13 give some perspective about where property taxes also align  
14 with inheritance-tax issues -- a separate issue but I think  
15 somewhat tied together here in terms of trying to manage family  
16 farms these days.

17                   MS. HUBER: Yes, that's a big topic.

18                   Farmers have to pay the property tax, and because  
19 they're required to have so much land, their property tax bill  
20 can be extremely high.

21                   The Grange was a supporter, I think I mentioned in  
22 my testimony, in 1974 of the Clean and Green Act, which has  
23 helped a lot, but still, the property tax burden on a family  
24 farmer is great. They've been forced to sell off an acre of  
25 land each year to pay their bills, so it's shrinking their

1 available land to make an income on when they need to sell off  
2 some of it to pay their tax bill.

3 REPRESENTATIVE MILNE: And I suppose one of the  
4 ironies, too, is selling off an acre of land and take that  
5 figure. Nine times out of ten, that's generally for a  
6 residential development in these areas, which in turn  
7 translates to additional children in the school districts and,  
8 of course, some additional costs there as well often.

9 MS. HUBER: Yes. And it also affects the  
10 right-to-farm issue. When you have houses around the farm, it  
11 makes it more difficult for the farmer to operate normal  
12 farming practices sometimes.

13 The estate tax is a huge issue. I didn't want to  
14 get into that today and confuse it with the school tax,  
15 property tax issue, but estate tax is a huge burden in  
16 succession of the family farm.

17 REPRESENTATIVE MILNE: Certainly.

18 All right. Thank you for being here.

19 MS. HUBER: Thank you.

20 REPRESENTATIVE DUNBAR: Thank you, Ms. Huber. Your  
21 testimony is complete.

22 Next is Matthew Creme, Jr., Immediate Past President  
23 of the Pennsylvania Bar Association.

24 Mr. Creme, if you could just come up to the  
25 microphone and start whenever you're comfortable.



1 MR. CREME: Thank you, sir.

2 Good morning, Mr. Chairman, Madam Chairwoman.

3 Good morning, Members of the committee. My name is  
4 Matthew Creme. I am the Immediate Past President of the  
5 Pennsylvania Bar Association, and I live and work in Lancaster  
6 County. I appreciate the opportunity to address you this  
7 morning on behalf of the Pennsylvania Bar Association and its  
8 28,000 members.

9 The Pennsylvania Bar Association does not represent  
10 every lawyer in Pennsylvania, but we have been recognized as  
11 that organization most representative of Pennsylvania lawyers,  
12 meaning we represent the broadest cross section of lawyers in  
13 Pennsylvania. We are, as a body, opposed to the adoption of  
14 this legislation to the extent that it includes sales taxation  
15 of legal services. Our position is that legal services are not  
16 a commodity like every other commodity, and we think that you  
17 know that as well.

18 The way that the bill is currently framed, legal  
19 services are taxed or not taxed based on the subject matter of  
20 the representation. Criminal representation, domestic and  
21 family law representation, would not be taxed.

22 Legal services are taxed or not taxed on the basis  
23 of the status of the client. Charitable nonprofits,  
24 municipalities, and businesses would not be taxed.

25 And finally, legal services are taxed or not taxed

1 based on the methodology by which the legal fee would be  
2 charged. Contingent-fee arrangements would not be taxed;  
3 hourly arrangements would be taxed, so that we share some of  
4 the uncertainty of the Minority Chairwoman on how taxation of  
5 legal services will generate a sufficient tax revenue to impact  
6 the goals and objectives that the bill is aimed to accomplish.

7 But that's a minor part of the opposition with which  
8 we come to represent the association today. We will be  
9 following up with some questions that plumb the depth of what  
10 is and what isn't taxed and under what circumstances legal  
11 services would be taxed.

12 But as I've said, legal services are not a commodity  
13 such as other commodities which are proposed for taxation by a  
14 State sales tax. The need for legal services is brought about  
15 by the need to access our system of justice. And again, I  
16 expect that the Representatives who hear this testimony this  
17 morning and, more importantly, your staff who provide  
18 constituent services know that as well as we lawyers do,  
19 because we hear it from you and we hear it from your staff.

20 When constituents seek help of your offices, more  
21 likely than not the first item of advice that those  
22 constituents receive is "You really need to talk to a lawyer."  
23 And under those circumstances, many of the constituents who are  
24 in the worst position, many of the seniors, many of the family  
25 farmers whose concerns you have heard expressed today, will

1 seek the advice of a lawyer, and the services that the lawyer  
2 will provide are many times the services that are taxed under  
3 this proposed legislation.

4           For example, people who are at risk in losing their  
5 homes, either because of mortgage foreclosure or the landlord  
6 and tenant disputes -- and again, I know you hear that and I  
7 know that you read it in the popular media -- our mortgage  
8 lenders have not done a good job of documenting the  
9 transaction; they have not done a good job of managing the  
10 account. And much of what we see, the lawyers who represent  
11 those clients in those circumstances, is that there is  
12 tremendous confusion over what is owed, what has been credited.  
13 And I will not take the committee's time this morning to go  
14 into specific examples, but those clients who are at risk of  
15 losing their homes are the clients who would be taxed for the  
16 legal services. The parties on the other side, being  
17 businesses, would not be paying the tax.

18           So this is, as in all cases, a shift of the burden  
19 of taxation, and I ask the committee and I ask the Legislature  
20 as a whole to consider whether the taxation of legal services  
21 is a proper shift of the burden to those parties who are best  
22 able to pay it or those parties who are least able to pay it.  
23 And I do emphasize that our testimony this morning is limited  
24 to those aspects of the bill that call for sales taxation on  
25 legal services.

1           So I do ask the committee to take our written  
2 testimony into account in addition to the testimony that we've  
3 presented this morning, and I am ready and able to address your  
4 questions.

5           REPRESENTATIVE DUNBAR: Thank you, Mr. Creme, and I  
6 apologize for the mispronunciation. I figured I had a 50/50  
7 shot at "Creme" or "Creme," and I, of course, went with the  
8 wrong one.

9           MR. CREME: There's actually a third variation that  
10 I won't put into your mind lest it drive out the proper  
11 pronunciation, but I do answer to all three.

12           REPRESENTATIVE DUNBAR: Very well.

13           Just briefly, a quick question on your written  
14 testimony.

15           On your second page you had stated that "Were House  
16 Bill 1776 to become law, every family living in a \$400,000 home  
17 would benefit, as would every family living in a \$1,000,000  
18 home." What basis do we have on that?

19           MR. CREME: Because of the elimination of the school  
20 property tax, every one of those families would benefit from  
21 the elimination of the property tax and not necessarily, again  
22 in our area of concern, replace that with a sales tax burden.

23           REPRESENTATIVE DUNBAR: I just felt that "benefit"  
24 is a strong word, because you have to balance off what the  
25 potential increases in income taxes and sales tax would be.

1 Representative Mundy -- Chairwoman Mundy; I'm sorry.

2 MINORITY CHAIRMAN MUNDY: Just quickly.

3 I'm very interested in the uniformity clause in the  
4 Pennsylvania Constitution, and as an attorney, I'm hoping you  
5 can help me with it a little bit, because I really can't figure  
6 out how we're not going to tax business-to-business services  
7 but we are going to tax business-to-individual services. It  
8 would seem to me that the uniformity clause would prohibit  
9 that, but apparently the drafter of the bill, the prime  
10 sponsor, does not think that's a problem.

11 MR. CREME: Representative Mundy, I have a  
12 reputation for being glib, and I resisted that this morning in  
13 my remarks, but now you've given me the opportunity. Not even  
14 the lawyers understand how this can pass constitutional muster.

15 As I've said, the status of the client, the subject  
16 matter of the representation, and the methodology by which the  
17 fees are paid all create variables and opportunities for  
18 avoiding the tax.

19 Under our rules of professional responsibility,  
20 contingent-fee arrangements are prohibited in the case of  
21 family law representation and in the case of criminal defense  
22 representation. Those areas are already eliminated from the  
23 sales tax, so that doesn't apply. But every other area of  
24 representation is theoretically available for a contingency-fee  
25 arrangement.

1 I expect that if this were to become law, the  
2 negotiation of the basis of the fee will become much more  
3 aggressive, because it already is. Many clients are asking for  
4 contingent-fee arrangements under circumstances where typically  
5 the lawyer would prefer to charge on an hourly basis.

6 MINORITY CHAIRMAN MUNDY: Thank you.

7 REPRESENTATIVE DUNBAR: Representative Cox.

8 REPRESENTATIVE COX: Thank you.

9 My first question is, can you ballpark what the  
10 average Pennsylvanian might spend on legal services over the  
11 course of a year?

12 MR. CREME: Probably nothing.

13 REPRESENTATIVE COX: Okay.

14 MR. CREME: But---

15 REPRESENTATIVE COX: Over a lifetime, would you say  
16 it's fair to say that they spend \$10,000 or \$100,000? I mean,  
17 what are we looking at?

18 MR. CREME: Again, it would depend on what you would  
19 include in the profile of the "average" Pennsylvanian. But I  
20 should tell you I'm also a member of the Berks County Bar  
21 Association, so I have familiarity in two of our south-central  
22 Pennsylvania counties.

23 The typical reason that the average Pennsylvanian  
24 would approach a lawyer for representation would be estate  
25 planning, wills, and trusts. My area of practice is zoning and

1 municipal law. Particularly in today's economy, people are  
2 staying put rather than moving into bigger houses, so they may  
3 be putting on additions.

4 At the end of life, some additional estate planning  
5 and transfer of assets, and then, of course, the administration  
6 of estates -- all of those things would be taxable. All of  
7 those representations would be taxable under this bill. Those  
8 could accumulate over a lifetime to \$10,000 or \$15,000  
9 depending on the complexity of what may be involved.

10 The increasing need that we see is for people who  
11 need representation in housing, and they are typically people  
12 who cannot access the legal services network because their  
13 incomes exclude them from representation by our legal services.  
14 So in Berks County, for example, we have a program called  
15 Modest Means where people are represented at a reduced rate in  
16 those circumstances where their housing is at risk.

17 Again, in other areas such as custody and support,  
18 the bill would exclude that from representation. But in the  
19 housing and the protection of the family home, those would be  
20 taxable events. And the fees there would be uncertain,  
21 depending on, again, the complexity of it, but several  
22 thousands of dollars to tens of thousands perhaps.

23 REPRESENTATIVE COX: So if the average  
24 Pennsylvanian, my parents -- I was raised in Illinois. For  
25 21 years, my parents never sought a lick of legal advice. I

1 know a lot of people who do not seek legal advice, even when  
2 they probably should.

3 MR. CREME: Our judges would tell you that, too.

4 REPRESENTATIVE COX: Absolutely. And as an attorney  
5 myself, I find myself picking up the pieces of people not  
6 seeking legal advice when they should have, and so you find  
7 yourself with the Band-Aids and whatever other remedies are  
8 available under law.

9 Unfortunately, the cost here, I'm not seeing the  
10 cost in the same way that I think the Bar Association is, and  
11 when I look at a \$10,000 lifetime of legal fees, that's \$700 if  
12 you look at a 7-percent tax on that. There aren't too many  
13 people paying school property taxes of \$700. Even if you  
14 exaggerate it out to \$100,000, that's a \$7,000 total over the  
15 course of a lifetime that they might add to this.

16 So I fail to see how financially it's something  
17 that's going to be problematic to individuals as far as "access  
18 to justice" or whatever term. I can't see people saying, you  
19 know what? I have to pay \$10,700 to accomplish this legal goal  
20 versus \$10,000. I can't see them walking away from that type  
21 of scenario. And again, I'm exaggerating the numbers out  
22 across a lifetime even.

23 The second aspect of that is, I know the  
24 Bar Association promotes an active pro bono effort by its  
25 member attorneys and by all Pennsylvania attorneys. I myself



1 do pro bono work because I feel it's a part of giving back to  
2 the community. Now, if a particular legal representation would  
3 cost a thousand dollars and suddenly it would end up costing  
4 \$1,070, I find it difficult to think that an attorney who is  
5 wanting to provide a legal service to an individual that might  
6 be financially strapped, I can easily see them reducing their  
7 rate to keep it at the \$1,000 that that individual might be  
8 able to afford. I know a lot of attorneys and they have big  
9 hearts, and they want to, you know, they're driven by that  
10 sense of justice.

11           So I think, you know, there may be some instances  
12 where a sales tax might become cost prohibitive for a potential  
13 client, and I do see the legal profession stepping up and  
14 finding ways to reduce their fees in order to make sure that  
15 their client can pay and that they are only paying what they're  
16 able to pay.

17           The next question I have is, has the Bar Association  
18 considered what Pennsylvanians might do with an extra huge  
19 chunk of money in their pockets, whether their yearly property  
20 taxes, like Representative Scavello talked about, being upwards  
21 of \$10,000 and \$15,000, or whether it's \$4,000 like the young  
22 lady who testified before us -- or before you. Four thousand  
23 dollars, \$10,000, \$15,000 -- I know as an attorney, people come  
24 to me, and I'm not disparaging any makers of legal software,  
25 but they come to us and they've drafted a document based on

1 something they found on the Internet or using a piece of  
2 software. Have you considered how many people might say, you  
3 know what? I'm not going to use that particular legal software  
4 to draft my will; I'm going to go and speak to an attorney, and  
5 now I have the money to do it. Now I have an extra \$4,000,  
6 \$15,000, that I could pursue those types of services. I can  
7 afford it now. I can go and I can find out, rather than trying  
8 to hide my zoning issue or try to skirt around a permit that I  
9 probably should have gotten, I can afford that \$50, that \$100,  
10 that \$500 to go through the proper permitting process and not  
11 have to worry about the zoning issue and not have to worry  
12 about the township coming after me.

13 That's just one aspect of the legal realm, and it's  
14 similar in other fields, whether it's accounting. People who  
15 use software to do their taxes will now, for the first time, be  
16 able to consider going to an accountant. And regardless of the  
17 profession, individuals, I believe, will be more likely to  
18 utilize professional services, for the first time perhaps, with  
19 that extra cash in their pocket.

20 So the big-picture question: Has the Bar  
21 Association given any thought to the potential boom in  
22 business, as Representative Scavello talked about, with reduced  
23 taxes on property for retailers? That's another benefit that  
24 law firms who own their buildings will see. Thirty thousand  
25 dollars, \$40,000, \$50,000 and on up, depending on the size of

1 the real estate holdings that they have, they will see those  
2 benefits as well and could potentially pass those savings on to  
3 some of those clients who otherwise might not be able to afford  
4 the tax.

5 MR. CREME: The short answer is no. It is a concept  
6 that is counterintuitive, that when you tax a service it will  
7 become more popular, and I would be happy to have an  
8 opportunity to review the information on which you base those  
9 beliefs.

10 And again, our disagreement with the legislation may  
11 be that we are not looking at the average person. We are not  
12 looking at the aggregate across the Commonwealth. We are  
13 looking at those people who may not qualify for free legal  
14 representation, and because the need is so great, our pro bono  
15 system is based on the same qualifications as our legal aid  
16 network, and still we can't meet the needs of the poor as  
17 opposed to providing free legal services to those who don't  
18 qualify for that category. And it's those people, those people  
19 of modest means who may not be benefitting from a property tax  
20 savings because they can't afford to own a house and will never  
21 afford to own a house but have a rental situation that is  
22 difficult and requires the intervention of the law and a  
23 lawyer, that will be shouldering a portion of this tax.

24 And again, under the circumstances, we're not sure  
25 how much legal services would be contributing to the overall

1 offset of property taxes, so that we don't necessarily agree  
2 that it's an essential to the accomplishment of the broader  
3 goals and objectives of HB 1776.

4 REPRESENTATIVE COX: Thank you.

5 REPRESENTATIVE DUNBAR: Thank you, Mr. Creme.

6 MR. CREME: Thank you, sir.

7 REPRESENTATIVE DUNBAR: Thank you for your time and  
8 testimony.

9 MR. CREME: Thank you, Madam. Thank you, Members of  
10 the committee.

11 REPRESENTATIVE DUNBAR: Our next testifier will be  
12 Joel Rotz, the State Governmental Relations Director for the  
13 Pennsylvania Farm Bureau.

14 Joel, if you could come up and take the microphone.  
15 Start whenever you're comfortable. Thank you.

16 MR. ROTZ: Good morning, everyone. You're pretty  
17 much back on schedule, and I'll try to get you ahead of  
18 schedule.

19 You have some extensive written testimony in front  
20 of you. I will not be reading all of that, but I would like to  
21 hit some of the highlights.

22 I am Joel Rotz, Director of Governmental Relations  
23 for the Pennsylvania Farm Bureau. We represent over 53,000  
24 family members across the State, and I am here today to speak  
25 in favor of HB 1776.

1           For decades, the Farm Bureau has expressed a  
2 consistent message that the current means for financing schools  
3 imposes a serious financial burden on farm families and it  
4 needs to be changed.

5           Our current system of school taxation would appear  
6 to be based on two basic principles: the property tax is the  
7 most reliable means for the school districts to raise revenue;  
8 and number two, that property ownership is a reflection of  
9 wealth and ability to pay local taxes.

10           It's hard to find fault with the first principle,  
11 since most property owners somehow find some way to pay the  
12 property tax, even when the owners can't afford to pay them.  
13 The Farm Bureau does find fault with the validity of the second  
14 principle with respect to Pennsylvania farmers.

15           Farmers are most often land rich and cash poor.  
16 The concept that the property ownership is a reflection of  
17 wealth and ability to pay is arcane. Farming is a  
18 land-intensive enterprise. Ownership and use of large amounts  
19 of land are necessary components to the viability of a farm  
20 operation.

21           While Pennsylvania agriculture continues to be a  
22 core component of the Commonwealth's economic engine, the  
23 challenges of maintaining the economic viability of a family  
24 farm in this State remain great. For many producers, the price  
25 they receive for their product is not keeping pace with the

1 costs of the operation of the farm, as the purchase of farm  
2 inputs continue to steadily increase.

3 Not only have farm families been struggling with  
4 securing a sustained income level that sufficiently provides  
5 for a family's livelihood, farm families have been consistently  
6 hit with increasing school tax burdens because of the increased  
7 fiscal needs of school districts and a taxing system that makes  
8 property taxation the only real means to satisfy those  
9 increased needs.

10 According to the Pennsylvania Commonwealth  
11 Foundation, it is estimated that the cost of public education  
12 for K through 12 schools across the State is approximately  
13 \$26 billion. Adjusted for inflation, that is a 44-percent  
14 increase per student just since 1996. Because of our current  
15 taxing system, much of that burden of this dramatic increase in  
16 education cost is placed on property owners.

17 Farm Bureau members do understand there's no  
18 "free lunch" when it comes to financing one of the most  
19 important and basic functions of government in providing public  
20 education. Eliminating the property tax requires a tax shift.  
21 HB 1776 places a large share of the burden of funding public  
22 schools on income and State sales tax expansion and increase.  
23 The Pennsylvania Farm Bureau believes the shift from property  
24 tax proposed in HB 1776 provides a more fair and equitable  
25 manner to finance our public school system.

1           We acknowledge and appreciate the efforts this  
2 legislative body and those in the past have made to provide  
3 some measure of property tax relief for farmers through passage  
4 of the Clean and Green Act and the various amendments made  
5 since its enactment. While the Clean and Green Program has  
6 been and continues to be a significant help in easing property  
7 tax burdens for many farmers across the State, it of course  
8 only shifts the property tax burden among landowners and does  
9 not address the overall concern of solely encumbering property  
10 owners with funding schools.

11           Even with Clean and Green Programs in place in many  
12 counties across the State, studies continue to demonstrate how  
13 property taxes paid by farmers benefit local governments and  
14 school districts. The most recent study the Pennsylvania  
15 Farm Bureau can cite on the cost of services versus revenue  
16 generated by the property tax was done in 2006 by  
17 Dr. Tim Kelsey of Penn State University and is attached to this  
18 testimony. The study demonstrates that farms only require  
19 pennies on the dollar in the cost of needed services versus  
20 taxes paid, while in stark contrast, residential housing  
21 requires slightly more to significantly more in costs of  
22 service than dollars provided to fund services such as public  
23 education.

24           Also cited in a separate study by Dr. Kelsey -- also  
25 attached -- are numbers demonstrating the inequitable

1 distribution of the burden to the individual farmer as it  
2 relates to gross income. The study states that on average, a  
3 Pennsylvania farmer pays 6 percent of their gross income on  
4 property taxes. Of course, gross income is not a dependable  
5 indicator of ability to pay. A farmer, like any other  
6 business, may have \$500,000 in gross income and still produce  
7 little to no net income.

8           While the "average" cited in the study of percent of  
9 gross income paid by farmers in property tax is 6 percent, it's  
10 interesting to note that individual counties vary greatly  
11 across the State. In some counties, farmers pay as little as  
12 less than 3 percent of gross income where in other counties,  
13 farmers are paying as much as 9, 10, 12, and, in even one  
14 county, 18 percent of gross income.

15           Acknowledging that there are many varying factors  
16 that these numbers are based upon, the Pennsylvania Farm Bureau  
17 believes these numbers nonetheless point to the great  
18 inequities created by taxing farmland to fund public schools.

19           With that, I'll close and take any questions.

20           REPRESENTATIVE DUNBAR: Thank you, Mr. Rotz.

21           Any questions by any of the Members? Any questions?

22           Representative Cox.

23           REPRESENTATIVE COX: I just want to say thank you.

24           You've done a great job in pointing out the inequity of the  
25 system. And like the testimony of the young lady from the



1 Grange, it brings the reality home that these are not just  
2 statistics; these are individuals trying to hold on to the  
3 family farm, individuals trying to contribute to what we all  
4 know to be the number one industry in Pennsylvania, and that's  
5 agriculture.

6           Like you, I understand the importance of the food  
7 sources remaining in our backyard. The Farm Bureau and the  
8 national effort agriculturally is to make sure that  
9 Pennsylvania and America has the ability to feed its own, and  
10 the more we drive farmers out of business, the more we  
11 compromise, I believe, our own State independence and our own  
12 security as a nation.

13           So I appreciate you pointing out those problems and  
14 for your testimony today.

15           MR. ROTZ: Thank you.

16           REPRESENTATIVE DUNBAR: Thank you, Representative  
17 Cox.

18           Next will be Representative Gabler.

19           REPRESENTATIVE GABLER: Thank you very much.

20           One last question, and I'll keep it brief.

21           You mentioned in your testimony that estimates of  
22 the cost of public education statewide are about \$26 billion a  
23 year. And, of course, there's no free lunch; that bill has to  
24 be paid from somewhere, whether it's -- and our discussion here  
25 is about how those revenues are generated.

1           My question for you is, do you think that we need to  
2 be concerned about the idea of essentially dividing the group  
3 that raises the revenue from the group who spends the revenue?  
4 Because essentially, you know, one thing I'm trying to think  
5 through with this proposal is that we're going to leave it to  
6 the State to raise the money but leave it to the local school  
7 boards to spend the money, and do you think that could overall  
8 end up for a larger call for revenue, because the locals don't  
9 have to be answerable for raising the revenue, they're only  
10 going to spend it. Do you think that would change the dynamic  
11 of how efficiently our education funds are used?

12           MR. ROTZ: Well, I guess my gut reaction to your  
13 question is, it's really going to come down to the details of  
14 how this money is going to be distributed. But as I generally  
15 understood it from the Representative earlier, you know, we're  
16 essentially setting this up to make sure everybody gets "held  
17 harmless," to use the term. And if that's our starting point,  
18 then I guess the question is, what's going to be the ability of  
19 the local districts to go from there? As long as they're going  
20 to be limited to the amount that they were receiving before  
21 plus cost of living, I think that's going to keep a pretty good  
22 thumb on their spending.

23           And it's also my understanding, I guess if they have  
24 considerable debt to pay off, that the property tax will  
25 continue until that is paid off. Once that debt is paid off, I

1 guess I don't know the answer to the question either of what  
2 happens when they need to bring on additional debt.

3           There again, it seems like that would be the point  
4 where the local taxpayer would have the ability to have some  
5 input as to whether they're going to take on more debt to build  
6 a new school. I'm assuming I'm correct on that.

7           REPRESENTATIVE GABLER: Right. And I thank you,  
8 certainly for your advocacy on behalf of the rural areas and  
9 the farmers in the State. And it's just, I think, an  
10 interesting question to go into, and your mention of the  
11 overall concept in your testimony brought that question to mind  
12 and it's something I'll be pondering as well. So thank you for  
13 your entertaining the question.

14           MR. ROTZ: Surely.

15           REPRESENTATIVE DUNBAR: Thanks, Mr. Rotz, for your  
16 testimony and your time, and thanks for getting us back on  
17 schedule. We appreciate that.

18           MR. ROTZ: Sure thing.

19           REPRESENTATIVE DUNBAR: Our next testifier will be  
20 Dean Sheaffer, Senior Vice President of Financial Services at  
21 Boscov's and Chairman of the Board of the PA Retailers'  
22 Association.

23           Mr. Sheaffer, whenever you're ready.

24           MR. RIDER: Representative Dunbar and Chairperson  
25 Mundy, with your permission, I'd like to join our chairman.

1                   REPRESENTATIVE DUNBAR: Very well.

2                   Brian Rider will be joining Mr. Sheaffer in his  
3 testimony, so feel free to start whenever you guys are ready.

4                   MR. SHEAFFER: Very good.

5                   Good morning, Mr. Chairman, Madam Chairwoman,  
6 Members of the House Finance Committee.

7                   My name is Dean Sheaffer. I'm Senior Vice President  
8 of Financial Services and also the Chief Compliance Officer for  
9 Boscov's. I'm testifying today on behalf of the Pennsylvania  
10 Retailers' Association as their Chairman, and I have with me to  
11 my left Brian Rider, our President and CEO of the Pennsylvania  
12 Retailers' Association, not Boscov's.

13                   The Pennsylvania Retailers' Association is a trade  
14 association which represents retailers throughout the  
15 Commonwealth, and we respectfully oppose HB 1776. Although we  
16 understand and respect the need to address the critical issue  
17 of increasing school district property taxes, we believe that  
18 the sales and use tax is not a stable or predictable revenue  
19 source for school district funding, and an increase and  
20 expansion of the sales and use tax will negatively affect  
21 retail businesses and low-income wage earners in Pennsylvania.

22                   Using the sales tax rather than the school district  
23 property tax as a means of funding school districts is  
24 unstable, as evidenced by States that have already made the  
25 switch.

1           For example, Michigan shifted school funding from a  
2 school district property tax to the sales and use tax in 1994,  
3 but in 2007, prior to the recession, Michigan schools were  
4 cutting programs and laying off teachers at an alarming rate  
5 due to sales tax revenue failing to meet projections. Again  
6 this year, Michigan State Representatives are calling for  
7 restorations from last year's budget cuts and additional  
8 funding for the public school system.

9           Terry Spradlin, Associate Director of the Center for  
10 Evaluation and Education Policy at Indiana University, has said  
11 of the problem in Michigan, quote, "The property tax is a much  
12 more consistent source of funding, no doubt. ...sales taxes  
13 are cyclical." And I think that you all have recognized as  
14 we've gone through the recession, being very close to retail,  
15 we have been experiencing this cycle. So as our sales increase  
16 or decrease with the economic cycle, so does the sales tax  
17 revenue we're able to collect and remit to the State.

18           Property taxes are not only more stable, they're  
19 also more predictable. By eliminating school district property  
20 taxes that are collected and dispersed locally, HB 1776 creates  
21 the Education Stabilization Fund that will replace school  
22 district property taxes with the revenue from the increased  
23 personal income tax and sales and use tax, as well as the  
24 expansion of the sales and use tax. It will become a State  
25 collection and distribution center system for school funding.

1           HB 1776 offers a distribution formula for these  
2 funds for the first fiscal year after the bill is enacted.  
3 However, there is no distribution formula for the subsequent  
4 years. School funding becomes not only unstable, it is also  
5 unpredictable.

6           Retailers fear that an increase in the sales and use  
7 tax will negatively affect people's purchasing patterns, both  
8 in how much they spend and where they spend it. So today,  
9 retailers in Pennsylvania are struggling not only against  
10 online retailers who may not have a sales tax nexus in  
11 Pennsylvania and therefore are not required to remit sales tax  
12 to the Commonwealth, but they also struggle with, for example,  
13 the neighboring State of Delaware that has no sales and use tax  
14 on most of the goods and services that we sell.

15           Retailers have informed us that they would likely  
16 respond to lower sales by reducing expenses, primarily payroll  
17 -- that is jobs, wages, and employee benefits -- and this comes  
18 at a time just when we're beginning to start to add jobs back,  
19 just when we're able to start doing things like holiday bonuses  
20 that perhaps we had cut back during the recession. So this has  
21 been demonstrated in States that have increased the sales tax  
22 rate.

23           In a 2010 study by Dr. Alberta Charney of the  
24 University of Arizona on the effects of a 1-percent increase in  
25 the sales tax, it was found that consumers would likely spend

1 less on goods and services as well as save less money,  
2 negatively affecting their ability to save adequately for  
3 purchasing homes, college funds, and retirement. It was also  
4 found that the direct impact on retailers would be a reduction  
5 of 4,283 jobs and \$181 million, roughly, in labor income.

6           Similar results were found in a 2010 study by  
7 Art Hall, Director for the Center for Applied Economics at  
8 the University of Kansas. His model simulated the economic  
9 impact of a 1-percent sales tax increase over the following  
10 6 years on the State. The results demonstrated a loss of  
11 \$2 billion in personal income and a net loss of over 19,000  
12 jobs by 2015.

13           An increase to the sales tax results in fewer sales  
14 and lost jobs, hurting both retailers and consumers. This begs  
15 the question, is it worth the risk? In a still-fragile economy  
16 after the greatest recession in our lifetime, the risk seems  
17 great, especially when you consider the Commonwealth's low-wage  
18 earners. The sales tax is already a regressive tax, and  
19 considering that most low-income wage earners do not own homes,  
20 they will not receive the benefit of school district property  
21 tax relief but will undoubtedly experience the burden of both  
22 an increased and expanded sales tax.

23           This is evidenced in a 2010 study by John Wong,  
24 Director of the Hugo Wall Center for Urban Studies at the  
25 Wichita State University. Under his tax-increase scenario,

1 he found that low-income earners in Kansas would lose a higher  
2 percentage of their income to the tax increase than a higher  
3 wage earner at rates of 2.43 percent and 0.4 percent  
4 respectively.

5 Pennsylvania's State and local tax burden is  
6 estimated at 10.1 percent of income, which is ranked tenth  
7 highest nationally and is higher than the national average of  
8 9.8 percent. States with high tax burdens are experiencing  
9 major population loss, including Pennsylvania, as demonstrated  
10 in the 2010 census.

11 According to the Tax Foundation, from 2000 to 2009,  
12 New York, as an example, lost 3.4 million people, with combined  
13 annual earnings of \$119 billion. Six hundred thousand of those  
14 people relocated to Florida, which has favorable personal  
15 income tax rates, taking with them nearly \$20 billion in  
16 income.

17 Seeing the drastic budget deficits New York has been  
18 experiencing the past few years, higher tax rates do not solve  
19 the problem of funding basic education but can instead  
20 exacerbate them. Under HB 1776, that loss of personal income  
21 tax and discretionary sales tax revenue would be significant to  
22 school funding.

23 Again, is increasing the personal income tax and  
24 sales and use tax as well as expanding the sales tax worth the  
25 risk? The retail industry does not think so.



1 I'd also like to point out two very specific issues  
2 with regard to retail that are not included in the written  
3 testimony.

4 We have a concern with the \$50 threshold. So most  
5 retailers are very, very price sensitive. In fact, there was  
6 earlier testimony about price points driving the sales. So  
7 there is typically a markdown cadence for any item in retail,  
8 so as the item may become older, we begin to mark it down.

9 We also may have different prices based on the  
10 specific store location, so it's going to be very, very  
11 difficult to manage the assessment, the collection of sales  
12 tax, for each one of the individual items. For example,  
13 Boscov's has hundreds and hundreds of thousands of SKUs that we  
14 manage, so if the price point for that specific item floats  
15 back and forth across that \$50 threshold, it's going to be very  
16 difficult to manage, even systematically.

17 The second issue that we have a concern with is, as  
18 I understand it, there's a cap of \$300 on the sales tax vendor  
19 allowance that's embedded in the bill as well. That's very  
20 concerning. So, for example, today, if a retailer sells a  
21 \$100 item and collects the \$106 and that customer pays for it  
22 with a credit or debit card, on average, merchants pay about  
23 2 percent in interchange fees. So even the 1 percent in the  
24 sales tax vendor allowance that exists today doesn't cover our  
25 cost. So then capping that -- and by the way, in many

1 retailers' cases, those costs can be hundreds of thousands of  
2 dollars. The concern, of course, is that further capping that  
3 at \$300 makes it even more expensive for retailers to be  
4 effectively the sales tax collection agent for the  
5 Commonwealth.

6 In closing, although we understand and respect the  
7 need to address increasing school district property taxes, as  
8 an industry that supports one in four jobs in the Commonwealth,  
9 we respectfully ask that you consider the harmful implications  
10 of increasing and expanding the sales and use tax. The sales  
11 and use tax is not a stable source of funding for schools, and  
12 in a recovering economy, an increase in expansion of the sales  
13 tax will lead to decreases in sales, loss of jobs, and will  
14 hurt Pennsylvania's low-income wage earners.

15 Thank you for your consideration of our position and  
16 your continued support of the retail industry.

17 REPRESENTATIVE DUNBAR: Thank you, Mr. Sheaffer, for  
18 your testimony.

19 Brian, did you want to add anything?

20 MR. RIDER: Representative and Chairperson Mundy, I  
21 just want the committee to know that because of this provision  
22 to all but eliminate the 1-percent sales tax vendor allowance  
23 contained in Representative Cox's legislation, there are many  
24 other statewide business organizations that have very strong  
25 opposition to all but eliminating that vendors' allowance that

1 are not here today, and that would include the Pennsylvania  
2 Food Merchants Association, the Pennsylvania Restaurant  
3 Association, the Pennsylvania Convenience Store Council, the  
4 Pennsylvania Association of Chain Drug Stores, the Pennsylvania  
5 Tavern Association, the Broadband Cable Association of  
6 Pennsylvania, the Pennsylvania E-Commerce Association, and many  
7 large individual businesses that are mandated to collect and  
8 remit the sales tax. So I just wanted Committee Members and  
9 staff to be aware of that fact. Thank you.

10 REPRESENTATIVE DUNBAR: Thank you, Mr. Rider.

11 A brief question: Do you have any data as far as  
12 sales tax remittances from the Retailers' Association, like  
13 over the last 10-year period? I mean, is there a number there  
14 that we can see how the trend went when the economy went down?

15 MR. SHEAFFER: I think we'd have to go back to the  
16 Department of Revenue and request that information, because the  
17 large retailers are filing electronically every month and  
18 smaller are filing quarterly. I take it if we requested that  
19 from the Department of Revenue, that they could provide that  
20 information, and I think, Representative, you would probably  
21 see a downturn in sales tax collection and remittance in more  
22 difficult economic times.

23 REPRESENTATIVE DUNBAR: Yes; that's what I was  
24 trying to at least traditionally see what we're talking about.

25 MR. SHEAFFER: Yes.

1           REPRESENTATIVE DUNBAR:  As far as questions,  
2 Chairwoman Mundy.

3           MINORITY CHAIRMAN MUNDY:  Thank you, Mr. Chairman.  
4           Thank you for your testimony today.

5           I must say that the notion that you pay a fee to  
6 collect through your credit card purchases or your whatever  
7 arrangement you have with the banks for credit cards is the  
8 only compelling evidence or the only compelling argument  
9 against capping the vendor discount that I've heard.  So to the  
10 extent that that is a very valid argument against capping it, I  
11 want to be supportive.

12           You should at least be able to collect, be made  
13 whole as a result of that, because I don't think it's  
14 reasonable to expect that retailers are going to stop taking  
15 credit cards.  That just isn't going to happen.

16           MR. SHEAFFER:  Right.

17           MINORITY CHAIRMAN MUNDY:  So I would be interested  
18 in working with you to try to find a solution to that.

19           I would like to ask you to address the notion of the  
20 benefit that businesses, retailers, will receive as a result --  
21 well, I guess this would only apply to retailers who own their  
22 own properties.  You would be receiving a tax cut for your  
23 property taxes, and the customer is going to be paying the  
24 increased sales tax, not the retailer.  So you will get a  
25 tremendous benefit -- well, those who own their own properties

1 -- but I'm assuming that retailers who lease or rent space are  
2 not going to be getting much of a decrease in their rent or  
3 their lease payments, and then they probably or you're arguing  
4 they would receive less business as a result of the increased  
5 sales tax. So if you'd care to just comment on that.

6 MR. SHEAFFER: Certainly. Thank you.

7 The biggest concern we have, of course, is the  
8 potential reduction in sales that the increased and expanded  
9 sales and use tax would drive. All of our business, you know,  
10 the biggest costs in our business are not the property taxes we  
11 pay; they're our inventory costs, of course they're our  
12 personnel and labor costs. So as sales decrease, really the  
13 only controllable expense that we have, or the largest  
14 controllable expense we have, is our labor force. So that's  
15 where we have to go as a retail community. If our sales were  
16 to decrease, we would decrease our sales force.

17 MINORITY CHAIRMAN MUNDY: So you have the increased  
18 pressure from online retailers---

19 MR. SHEAFFER: Of course.

20 MINORITY CHAIRMAN MUNDY: ---and then you are  
21 convinced that an increase in the sales tax will reduce sales.

22 MR. SHEAFFER: Yes.

23 MINORITY CHAIRMAN MUNDY: Thank you.

24 REPRESENTATIVE DUNBAR: Thank you, Chairwoman.

25 Representative Cox.

1           REPRESENTATIVE COX: Thank you.

2           I want to start with, and seeing as how there are no  
3 other Members, to my knowledge, with some questions, I'm going  
4 to ask a few questions, if I may, Mr. Chairman.

5           REPRESENTATIVE DUNBAR: If we can limit it to  
6 questions.

7           REPRESENTATIVE COX: Pardon me?

8           REPRESENTATIVE DUNBAR: If we can limit to questions  
9 -- limit it to questions.

10          REPRESENTATIVE COX: All right.

11          REPRESENTATIVE DUNBAR: To questions, but make it a  
12 question as opposed to comments.

13          REPRESENTATIVE COX: Absolutely.

14          What does Boscov's and other retailers, what do you  
15 do in an economic downturn in the sense of, I would hope your  
16 immediate response is not to look and see who you can lay off  
17 but rather to say, you know, how can we cut our expenses and  
18 otherwise? Is that an accurate statement?

19          MR. SHEAFFER: We look at every expense, including  
20 our labor costs.

21          REPRESENTATIVE COX: Okay. And so when I look at  
22 the 44-percent increase in education funding referenced by a  
23 previous testifier and then I look at industry, you know,  
24 whether it's business retailers or other kinds of industries in  
25 Pennsylvania, their costs have not -- you have not been able to

1 increase your sales by 44 percent since 1996, I would  
2 imagine.

3 MR. SHEAFFER: Certainly not.

4 REPRESENTATIVE COX: Okay. And so my goal here,  
5 part of my goal here is to bring education spending into a  
6 level of control. So your concern about, you know, whether  
7 this is adequately going to fund schools, I understand that  
8 that is a true concern -- it's my concern as well -- but it is  
9 an effort to control that ever spiking increase in education  
10 funding.

11 So while the sales and income taxes may not keep  
12 pace with what education spending has been, I think it more  
13 accurately reflects the economy, as your businesses are  
14 required to do. You have to respect the ebb and flow of  
15 consumer spending, and so my feeling is that as a  
16 taxpayer-funded body, school districts should follow that same  
17 type of structure.

18 Can I ask, the Arizona and Kansas studies that you  
19 cited on page 4, I believe, of the testimony talked about a  
20 loss of jobs and loss of labor income and so forth. Were  
21 either of those increases in sales tax? Were they accompanied  
22 by a full elimination of another tax of any kind?

23 MR. RIDER: We're looking to our Director of  
24 Governmental Affairs, who helped assist in drafting this  
25 testimony.

1           Alex, could you answer that question for the  
2 Representative?

3           MS. D'ANGOLA: I could look into the studies for you  
4 to verify that for sure. Off the top of my head, I don't want  
5 to give you any specific answer, but I can let you know.

6           REPRESENTATIVE COX: Okay. Thank you.

7           To my knowledge, there has not been any other State  
8 that looked at a sales or income tax increase and on the flip  
9 side completely got rid of another tax. And so I think if  
10 we're talking apples to apples, talking about loss of jobs and  
11 loss of labor income and so forth, I think that's comparing two  
12 different things, because we are not just increasing a sales  
13 tax or increasing an income tax, we are swapping out a  
14 tremendous tax burden on individuals and businesses and  
15 providing them with another way to fund our schools. So I  
16 don't think we're talking to the same things there.

17           The last question, if I could ask you, have you been  
18 with Boscov's for awhile now?

19           MR. SHEAFFER: October will be 25 years.

20           REPRESENTATIVE COX: Okay. So suffice it to say you  
21 probably saw and recall the tax cuts that occurred in, I think  
22 it was 2004---

23           MR. SHEAFFER: Yes.

24           REPRESENTATIVE COX: ---where individuals, you know,  
25 depending on whether you had one, two, three, or four kids or



1 whatever, you received a statement from the IRS saying, you  
2 know, here's the amount of money you're going to be getting in  
3 an upcoming tax credit.

4 MR. SHEAFFER: Yes.

5 REPRESENTATIVE COX: You saw -- and I'm assuming,  
6 Mr. Rider, you saw as an industry -- the retailers, a lot of  
7 retailers seized on the opportunity and said, hey, if you have  
8 that statement from the IRS, bring it in to us and we will  
9 match the credit; we will double that credit; you know, we'll  
10 offer you credit in the amount of double whatever you're going  
11 to get from the IRS. And so a lot of retailers seized on that  
12 as an opportunity to say, these people are going to have extra  
13 money in their pockets; we want some of it.

14 So I'm asking the question, do you foresee a similar  
15 approach here? When you've got individuals with \$4,000 to  
16 \$15,000 in their pockets, do you foresee at least a portion of  
17 that coming into the pockets of retailers with some creative  
18 marketing to say, you're no longer paying property taxes; now  
19 you can afford that flat-screen TV, or whatever item it is that  
20 your retailers sell. Do you foresee a similar boom, and if so  
21 -- to me, it's understandable that you would, but if not, then  
22 can you tell me why that wouldn't play itself out on a larger  
23 scale here?

24 MR. RIDER: Representative, I would think, at best,  
25 you might see a minor increase in sales, even with creative

1 marketing. And even though the industry, after the increase in  
2 Federal dollars back to individuals and families, look what  
3 followed that a couple years later. You had a situation in the  
4 retail industry where it was every other week or every month,  
5 you had a major retailer filing for bankruptcy and/or going out  
6 of business, which Boscov's experienced in 2008 and almost had  
7 to file for bankruptcy.

8 MR. SHEAFFER: No; we did file.

9 MR. RIDER: Well, they did file but were able to  
10 successfully come out of bankruptcy.

11 So I think when consumers are faced with an increase  
12 in the sales tax, broadening the sales tax, increasing the  
13 personal income tax, and again, with a lot of individuals who  
14 are not property owners and are not going to see direct benefit  
15 of this, I think there is going to be real hesitation about a  
16 significant increase in consumer spending.

17 REPRESENTATIVE COX: And can I ask how Boscov's came  
18 out of bankruptcy?

19 MR. SHEAFFER: It's complicated and I'm not  
20 particularly familiar with it, but we merged in about 90 days,  
21 and it was a repurchase of the company by the second  
22 generation.

23 REPRESENTATIVE COX: Okay.

24 MR. SHEAFFER: With a significant personal  
25 investment by Albert Boscov and others.

1           REPRESENTATIVE COX: Were any of the others grants  
2 or other types of State dollars that came toward Boscov's?

3           MR. SHEAFFER: I'm not familiar enough with the  
4 circumstances.

5           MR. RIDER: It was a Federal HUD loan that had to be  
6 approved by the counties where they were doing business, and  
7 there was assistance by the previous administration in securing  
8 -- and this was a loan. It was not a grant. It was a Federal  
9 HUD loan which was secured with Boscov's real estate holdings  
10 and inventory, and they continue to repay that Federal loan.

11           REPRESENTATIVE COX: Okay.

12           I thank you for your testimony, and I appreciate  
13 your time and thought in going over the bill.

14           REPRESENTATIVE DUNBAR: Thank you, Mr. Sheaffer and  
15 Mr. Rider.

16           MR. RIDER: Thank you.

17           MR. SHEAFFER: Thank you.

18           REPRESENTATIVE DUNBAR: Our last testifier will be  
19 Warren Hudak, a member of the National Federation of  
20 Independent Business, and Kevin Shivers is with him as well.

21           If you gentlemen would care to come up to the table,  
22 and I will relinquish here to the Chairman.

23           MAJORITY CHAIRMAN BENNINGHOFF: No, go ahead.

24           REPRESENTATIVE DUNBAR: Anytime you gentlemen are  
25 ready.

1 MR. SHIVERS: Good morning -- or good afternoon now.

2 MR. HUDAK: Good afternoon.

3 My name is Warren Hudak. I own a Harrisburg  
4 area-based accounting firm. I also sit on the Business  
5 Advisory Council for sales tax for COST, the Council On State  
6 Taxation, and I also chair the NFIB Advisory Tax Committee for  
7 the NFIB Advisory Council.

8 For almost three decades, NFIB members have been  
9 testifying and providing input to the General Assembly on  
10 various tax issues. At the local level, business owners  
11 contribute significantly to the local tax base through local  
12 property taxes.

13 We believe that everyone here and the authors of  
14 this legislation were earnest in their efforts to reform a  
15 truly regressive tax. Property taxes are truly regressive and  
16 problematic, but HB 1776 as written contains many shortcomings.

17 The very first thing and most problematic for small  
18 businesses is the administrative costs that would go along with  
19 this. Many of our small retailers have simply a cash register  
20 that they ring in the food, or whether it be retail items,  
21 clothing. The question now becomes, will they now have to keep  
22 a log to determine which was taxable, which wasn't taxable?  
23 For instance, a \$50 threshold on shoes, if you're selling shoes  
24 and you only have a cash register, how do you track those  
25 things that are now taxable?

1           There is a disparity between, you know, basic  
2 categories. We just heard testimony from Boscov's. They have  
3 a point-of-service system that is truly electronic. They can  
4 program this solution. The typical small business owner would  
5 not be able to program this solution into their system. So the  
6 question becomes, you know, does that clerk at \$7.25 or \$10 an  
7 hour, now with the customer in front of him, have to pull out a  
8 piece of paper, look at the formula to determine whether or not  
9 that item is taxable, whether or not it's on the list, and then  
10 have to log it so that from a compliance standpoint, when it's  
11 subject to audit, they're able to prove that these shoes were  
12 taxable, these costs were not taxable, for instance?

13           The other thing that this does is it adds a whole  
14 layer of complexity. We truly don't get rid of property taxes.  
15 There are still property taxes that have to be administered for  
16 municipalities, and the Council On State Taxation did a study  
17 that scored Pennsylvania a D-minus, second to only New York.  
18 We haven't done anything to address the administration of these  
19 taxes.

20           One of the four components of this study was the  
21 burden that businesses share in relation to residents. We  
22 already score a below-average score in the burdens placed on  
23 businesses on property taxes. We looked at a typical sole  
24 proprietor who works out of his home, and in the environment  
25 now, we truly have international companies who are doing

1 business all over the world who are working out of their homes,  
2 a multi-State operation where everyone telecommutes using  
3 technology. Because they're working out of their house, the  
4 tax savings in this bill are not enough to cover the increase  
5 in taxes. We took a sampling of our clients in this situation,  
6 and they're seeing on average a 40-percent increase in their  
7 tax burden when funding property taxes.

8           The other thing this bill doesn't do is it doesn't  
9 eliminate the EIT or PIT. It still gives the option for the  
10 municipalities or school districts to have an EIT and PIT. So  
11 it truly doesn't reform the system.

12           And adding a PIT would add a whole layer of  
13 complexity. We still could literally have a taxpayer, whether  
14 he be retired or a school teacher, who has to complete two  
15 different tax returns at the end of the year if it was a PIT,  
16 because the municipality still has their EIT. So what we've  
17 done is we've increased the burden, not just on individual  
18 taxpayers but the businesses.

19           We further fragment an already disjointed system.  
20 This does not go far enough or do enough meaningful reform in  
21 simplifying the system. We know every time we add more and  
22 more complexity, the tax gap continues to grow, and the wider  
23 that tax gap becomes, the more difficult it is for government  
24 to provide basic services.

25           And then the last point here would be distortion

1 costs. To the extent that this changes the dynamic in the  
2 marketplace, it changes consumer behavior but it also changes  
3 business behavior. Pennsylvania is the only State in the  
4 country that has a tax system like this.

5 From a local tax perspective, there are  
6 practitioners from out of State who refuse to do business in  
7 Pennsylvania. Our firm spends more time on local tax  
8 compliance than we do with the Social Security Administration,  
9 the Pennsylvania Unemployment System, the IRS, the Pennsylvania  
10 Department of Revenue. All other taxes combined, we spend more  
11 time on local tax compliance. It's a burden, and this bill  
12 doesn't do anything to fix those inequities, particularly for a  
13 small business who doesn't have the point-of-service register  
14 system to be able to track these kinds of sales. I can't  
15 imagine how many of our small businesses could possibly comply  
16 with this.

17 REPRESENTATIVE DUNBAR: Thank you, Mr. Hudak.

18 First off all, just a brief question. We've heard  
19 testimony last week and this week about how HB 1776 would  
20 change some of the burden, the shared tax burden of businesses  
21 and individuals onto more of an individual basis because of  
22 elimination of property tax. So wouldn't that help a lot of  
23 your businesses, or are you telling us that the savings that  
24 your businesses are going to have on property tax are going to  
25 be offset by additional costs?

1           MR. HUDAK: Well, I don't believe that they'll  
2 actually be offset. The typical small business, our typical  
3 member, is maybe a home-based business. That multinational who  
4 is leveraging technology, for instance, there are property tax  
5 savings, and their home is the only savings that they would  
6 have.

7           We should spend more time trying to beat the Chinese  
8 to come up with a better widget or a better manufacturing  
9 process than spending our days and nights trying to comply with  
10 taxes.

11           REPRESENTATIVE DUNBAR: Chairman Benninghoff, do you  
12 have a question?

13           MAJORITY CHAIRMAN BENNINGHOFF: You kind of asked  
14 half of it, actually. I was trying to get those same numbers.  
15 I'm looking at some of your comments, and you've talked  
16 specifically that estate planning could be more expensive for  
17 family businesses. While they may have paid hundreds of more  
18 dollars in additional tax revenues for certain arrangements, I,  
19 too, was asking myself, well, if they're looking at losing  
20 \$4,000 in property taxes, has anyone done the math to see  
21 whether or not it's actually going to be a negative offset?  
22 Maybe the property tax offsets of some of these small  
23 home-based businesses may actually be a plus for them.

24           It would be interesting, I think, and you don't have  
25 to do it today, but if you could kind of survey your membership



1 or look what the income categories of your different  
2 associations that you represent -- pardon me, businesses within  
3 the associations that you represent -- I think it would be  
4 better to deal and discuss in hard numbers than a hypothesis of  
5 what could and may or may not happen for us to kind of make a  
6 real decision based on testimony on behalf of a specific  
7 organization.

8 MR. HUDAK: The estate tax problem is a whole  
9 category of different things that relate to businesses. For  
10 instance, we're talking about trust accounts here, and when  
11 we're talking about a trust account, there's a responsible  
12 party. Action could be brought against that responsible party  
13 individually.

14 The question becomes, now all of a sudden, because I  
15 own a company and I'm the responsible party and someone in  
16 accounting made an error, now, and rightly so, I should have to  
17 defend that. Now all of a sudden is that subject to sales tax  
18 because I'm being named personally on a civil action? I don't  
19 know if that's the case or not.

20 So there's a whole bunch of unanswered questions in  
21 the legislation. For instance, the IRS -- we get into this all  
22 the time -- who is the responsible party, and then that  
23 responsible party is named. The Commonwealth is the same  
24 thing; that responsible party is named individually.

25 A sole proprietor. He, or a disregarded entity,

1 someone who says, you know what? I want to be regarded as an  
2 individual for tax purposes -- he's not incorporated; maybe  
3 it's mom or grandmom selling things on eBay part time -- now  
4 all of a sudden does the business, the business exemptions,  
5 apply?

6           Sales and marketing is huge. We have some clients,  
7 small business clients, who have very small budgets, who are  
8 living month to month, week to week. Now all of a sudden  
9 they've got \$10,000, \$20,000 of marketing costs, which might  
10 constitute 30 percent of their entire revenue. Now all of a  
11 sudden all of that is going to be taxable when their  
12 counterpart, let's say, and we can use the previous testimony,  
13 Boscov's. When they have a marketing initiative they want to  
14 do, what do they do? They call the marketing department. What  
15 does the typical small business guy do? The typical small  
16 business guy calls a friend of his, a referral, another small  
17 business in the area; now all of a sudden that's going to be  
18 taxable? Why should a small business pay 7 percent more for  
19 services that a larger business doesn't have to?

20           In this day and age where we're increasingly  
21 becoming a service-based economy, we have to be very sensitive  
22 to this. For instance, we're not just -- we have to look at  
23 ourselves across State lines. Does this bill take into effect  
24 rules and regulations in other States? Are we streamlining  
25 things so that a guy doing business is able to do business the

1 same way in another State?

2 I think, generally speaking, a national solution to  
3 a sales tax involving nexus issues, involving rules and  
4 regulations as far as what's taxable -- I can tell you, on the  
5 Business Advisory Council, Washington State wanted to tax  
6 bottled water, and we had a half-hour discussion, a conference,  
7 a discussion of the ramifications of taxing bottled water.

8 Now, I understand that we want to be masters of our  
9 own domain, that we should decide whether or not a KitKat is  
10 taxed or nontaxable, but that is not acknowledging the reality  
11 of the situation. The reality of the situation is that we are  
12 truly competing with other States for business and we are truly  
13 in a global economy, and this bill does not acknowledge that.

14 MR. SHIVERS: And, Representative, to your point,  
15 too, undoubtedly there are going to be businesses that will  
16 wind up, you know, benefiting under this plan. I mean, I think  
17 we heard from the Farm Bureau in that it's completely expected  
18 with, you know, such large land interests that the cost of this  
19 system, you know, continued in some of the regions where they  
20 are located, undoubtedly they're going to see a reduction in  
21 their costs. But the challenge that we find is that you're  
22 adding a whole layer of compliance and administrative costs  
23 under this plan that is going to dramatically change the  
24 ability of businesses to be able to operate and run in  
25 Pennsylvania.

1           You know, we've dealt -- you as the legislative body  
2 just recently passed HB 2000, which addressed an issue that  
3 many businesses are facing right now. They are required to pay  
4 accelerated sales tax. So right now there's a law in  
5 Pennsylvania that says that even though you haven't sold one  
6 widget yet, you owe the State at least 50 percent of what you  
7 made last month or last year for that sale -- a huge cash flow  
8 problem. Now you're going to have employers who are going to  
9 now -- you're going to add a whole slew of items, you know,  
10 that are subject to sales tax and you're going to tell these  
11 employers that you need to pay that tax up front.

12           Here's the challenge we're facing: Those employers  
13 by far, what we found, are overestimating their payments to the  
14 Department of Revenue because they don't want to be subject to  
15 fines and penalties and audits and so forth. It's taking the  
16 Department of Revenue 120 days to turn those refunds around in  
17 those accounts.

18           Number two, you have to physically apply for a  
19 refund. So even though you've made an overpayment to the  
20 department, you physically have to apply for that refund in  
21 order for that process to start, and even then it's taking  
22 120 days for the Commonwealth to refund that money.

23           Here's where the problem is. So you -- and we've  
24 had this before -- a retailer, or actually not a retailer, just  
25 an industrial equipment supplier, had a \$5,000 balance within

1 the Department of Revenue. He overpaid one month by 5 grand.  
2 So the next month, the next month after that, you know, he's  
3 starting into a cash flow problem, so he underestimates what  
4 he's supposed to owe for that next month by a little bit,  
5 because he figures, well, you know what? They've got \$5,000  
6 from me. Well, his estimate was below what the actual sales  
7 were, not by the amount that he was owed by the government but  
8 by what his estimate was. So then he receives a notice from  
9 the Department of Revenue telling him that he was in arrears.  
10 He lost his vendor credit. He was charged interest. He had  
11 penalties to pay. He had to hire his accountant and his  
12 attorney to have conversations with the department to clarify  
13 that you in fact have \$5,000 of my money somewhere in that  
14 department that you owe me. Could you imagine now if that was  
15 subject to sales tax?

16 So these are the kinds of routine activities,  
17 interactions, that the average Joe Lunchbucket business guy has  
18 with government on a day-to-day basis. Now we're making that a  
19 taxable event. That's why we're concerned. I mean, we think  
20 that this is going to be a massive complicated and costly  
21 system to implement for the average small business owner.

22 REPRESENTATIVE DUNBAR: Representative Cox.

23 REPRESENTATIVE COX: Thank you.

24 Are you -- I want to make sure I understand where  
25 you're coming from here. You make the statement that you feel

1 that accountants, IT professionals, and so forth, that those  
2 individuals who are employed within a larger corporation  
3 provide that service as part of the built-in costs to that  
4 larger corporation, whereas a small business such as those you  
5 represent, they have to go out and seek separate IT or  
6 advertising or accounting services. That's one of the bases of  
7 your concern; is that correct?

8 MR. HUDAK: It is.

9 REPRESENTATIVE COX: Okay. And is it your belief  
10 that under this legislation, that seeking those accounting  
11 services would be taxable for your small businesses that you're  
12 speaking of here?

13 MR. HUDAK: For instance, the sole proprietor who  
14 doesn't have a corporate veil or entity, are they considered a  
15 business? And what's to stop, from a compliance standpoint,  
16 what's to stop people who are not engaged in legitimate  
17 business activity from putting those expenses on a Schedule C  
18 so they can get out of paying sales tax? I mean, down the  
19 road, there could be a serious compliance issue.

20 But yes. I mean, from a disregarded entity  
21 perspective and an S corporation, sure.

22 REPRESENTATIVE COX: Because it was our goal under  
23 the legislation to take out those business-to-business  
24 expenses, and I believe that the language is pretty clear, so I  
25 don't think the scenario you're talking about, sole

1 proprietorship or otherwise -- as a licensed attorney, I do  
2 wills and estate planning for individuals, some real estate  
3 transactions, and when I have those types of years where I have  
4 additional income, I quite often will have some additional  
5 expenses that I otherwise wouldn't have. And I do fill out a  
6 Schedule C, and those expenses are balanced out on some level  
7 there. So I'm having trouble getting my hands around your  
8 opposition to that aspect of things when we are clearly  
9 exempting the business-to-business approach.

10 In sole proprietorships, it's really no different,  
11 because ultimately it can be expensed out in the same way as an  
12 additional cost. But we're exempting the purchase itself, and  
13 sole proprietorships are treated as businesses under every  
14 other area of business law and tax law.

15 MR. HUDAK: Of course. Well, but the advertising,  
16 for instance. If, for instance, you have a large organization  
17 that's able to contract directly with publishers -- for  
18 instance, to get their information, and they're able to push it  
19 out into their own database -- as opposed to a small business  
20 guy who contracts maybe with Google, it's a completely  
21 different scenario. And that's becoming more and more  
22 commonplace, where businesses are using brokers to push sales  
23 through vertical, and then in that case -- and, you know, a  
24 small business would use Google whereas maybe a larger  
25 organization wouldn't use Google -- in that case, there would

1 be an inequity.

2 REPRESENTATIVE COX: But there is no increased,  
3 there's no increased cost there. Sales tax would not be  
4 charged on that.

5 MR. SHIVERS: One thing that may be helpful,  
6 Representative, is to invite the Department of Revenue to  
7 clarify. Because I think the concern is that you reference  
8 business-to-business transactions, but I'm concerned that the  
9 department, when you look at a shareholder in a pass-through  
10 company who reports their business income on that personal  
11 return, that they're now beyond the shield of that  
12 business-to-business exemption and the department would clarify  
13 them as an individual.

14 So, you know, the concern is, as you know, and I  
15 think we've made clear is we don't think the concept of what  
16 you're trying to do is bad, but in the practical sense as it is  
17 written, the concern we have is that it would be applied by the  
18 policymakers or the bureaucrats as, you know, a taxable event.  
19 And so then if you're the taxpayer, if you're a shareholder in  
20 a pass-through company, you file your personal returns and now  
21 they're subject to some type of audit or review or what have  
22 you, that that now would be, again, beyond the business-to-  
23 business entity. Or even if you are an end-user of a product,  
24 a professional service, that you would, again, not be subject  
25 to that business -- you wouldn't be benefiting from that



1 business-to-business exemption; you would be the end-user and  
2 consumer.

3           So, you know, you may want to invite attorneys or,  
4 you know, the policy developers at the department who can offer  
5 that input, you know, how they would view these things.  
6 Because I think that was something we really struggled with,  
7 and we contacted a whole host of folks, attorneys and  
8 accountants and others -- you know, you see what's on paper;  
9 words mean something in what we're doing; how would this work?  
10 -- and we got a lot of gray.

11           REPRESENTATIVE COX: Okay. If we could take the  
12 language that's in this bill and amend it to make sure that  
13 businesses aren't seeing that pyramiding of costs, they're not  
14 seeing the increased costs, whether they're a sole  
15 proprietorship or otherwise, if we could clarify the language  
16 with the assistance of the department or otherwise, would that  
17 change NFIB's overall view of the bill, or is there  
18 something---

19           MR. HUDAK: We can't understate enough the burdens  
20 of the compliance costs. We can't look at this in a vacuum of  
21 just the impact of this bill. We're already burdened with a  
22 myriad of compliance things. Act 32 shifted absolutely all of  
23 the burden of collecting that tax, and it's very difficult.

24           You know, we just appeared in April talking about  
25 that very issue. What was interesting, we found out that many

1 of the people in the room, that their paychecks were paid by a  
2 foreign company. They were not in compliance with Act 32.  
3 We've already got documented cases where the Commonwealth of  
4 Pennsylvania isn't in compliance with Act 32. And then when we  
5 go back and talk to the tax officer in the municipalities about  
6 this, they're like, well, the only way this is going to work is  
7 when we start hammering small businesses and enforcing it and  
8 subjecting them to fines and penalty. Well, who's going to  
9 subject the Commonwealth of Pennsylvania to fines and penalty?

10           What I'm saying is, we haven't done anything to fix  
11 those problems, those inequities. We've actually even put in  
12 the law that we can include a PIT in addition to the EIT. I  
13 can't imagine, for the average guy going to H&R Block, you  
14 know, having to fill out two different tax forms, an EIT local  
15 tax form and a PIT local tax form, and then the taxpayer  
16 actually understanding the difference between the two and the  
17 difference in the income categories. I think it's going to be  
18 very problematic. I think we need to take a step back, take a  
19 deep breath, and look at all of these things together.

20           MR. SHIVERS: You know, I also think,  
21 Representative, that certainly addressing those business-to-  
22 business concerns is something that, you know, would address  
23 many of our concerns. But you also know, and I'll give you the  
24 example, you know, the 30-day hotel occupancy/permanent  
25 residence issue. You have a lot of consultants that will,

1 you know, an IT consultant or maybe a flooring company, that  
2 will go out for a month and work in a facility. Most of what I  
3 have found, at least in my experience in dealing with the  
4 members that I represent, they don't, you know, these  
5 businesses don't have company corporate cards, so they pay for  
6 all of their expenses on their personal credit card or their  
7 whatever. They don't get a voucher. So then the question  
8 becomes, is that a taxable event or not, and whose  
9 responsibility is it to collect that? Is that the  
10 responsibility of the hotel, you know, or motel or wherever  
11 they are visiting, traveling to, to ask how they are going to  
12 keep that? Are they going to be required to keep that record?

13 I mean, there's a lot here that we can sit down and  
14 look at in terms of clarification. I think that would  
15 certainly, you know, make the bill better. What we had -- and  
16 you and I have had conversations about this. I mean, you know,  
17 pure consumption is, I mean, that's a reasonable standard.  
18 When you start adding cost to how business is done, that  
19 becomes a problem. And it's not necessarily just in terms of,  
20 you know, the value-added tax, if you will, but it's also in  
21 those other business services that that could be challenging.

22 The only other thing I would recommend is, again,  
23 doing research on the increase in the personal income tax.  
24 Somebody, I think you had made the point earlier,  
25 Representative, about, you know, the economic benefit of

1 reducing or eliminating property taxes and, you know, an  
2 increase in the personal income tax. I mean, we would love to  
3 see any analysis that the committee has done or maybe even the  
4 Department of Revenue on, you know, what would that impact be  
5 on, you know, employers and on individuals in Pennsylvania?

6 REPRESENTATIVE COX: I'm going to ask you a similar  
7 question that I asked one of the other testifiers, and that is,  
8 what do you estimate the cost of compliance -- I know you give  
9 some rough percentages, but if you can help me to quantify in a  
10 dollar amount, over the course of a year, perhaps, how much  
11 would you say your average small business spends on compliance  
12 and/or litigation or other types of issues that might come up?

13 MR. HUDAK: Well, I can do it in the aggregate and I  
14 can do it on a percentage basis. An actual dollar amount we  
15 wouldn't have. But when I mentioned earlier today that half of  
16 our time is spent on local tax compliance, you could just  
17 basically take any business's accounting bill, divide it by  
18 half, and you have your number.

19 Again, we haven't eliminated property taxes. We  
20 haven't eliminated the EIT. We've added the option for a PIT.  
21 We've created a complicated funding formula which, quite  
22 frankly, I think could turn into an annual nightmare, rival to  
23 only the budget negotiations, quite frankly.

24 We aren't opposed to a consumption tax, but the  
25 taxing system, the ability to do business with the Commonwealth

1 needs to be simpler, easier to understand, easier to expose  
2 fraud, narrowing that tax gap. That really should be the  
3 driving force, giving every accommodation to a taxpayer who  
4 honestly tries to conform with the Tax Code but falls short.  
5 Even the IRS, oftentimes penalties and interest can be -- well,  
6 penalties can be abated very simply by sending a letter saying,  
7 look, this taxpayer's history is stellar; he always tries to  
8 conform to his tax obligations; this time he made a mistake;  
9 forgive him, and they do.

10           The Commonwealth of Pennsylvania isn't so friendly  
11 and we should be. In other States, you can pick up the phone  
12 and say "I've got a problem; I need to fix it," and in  
13 10 minutes on the phone, without appeals, without special  
14 notices, we've brought the client into compliance. We've got  
15 all of the taxes paid, and nobody's interest was prejudiced.  
16 Quite frankly, that's what we're driving for. Any kind of tax  
17 reform, any kind of revenue plan that the Commonwealth has, has  
18 to include simplification, so that someone who can make a great  
19 cheesecake can go to work making great cheesecakes and selling  
20 them all over the world.

21           Right now, that guy -- and many small businesses  
22 fail because of compliance problems. Oh, sure, there's always  
23 a funding problem, that's the number one reason, but the second  
24 reason is, it's just too complicated. They have no idea how to  
25 manage cash flow. We're on different deposit schedules from

1 every agency -- I mean, the Department of Labor, the U.S.  
2 Department of Labor; the IRS; the Pennsylvania Department of  
3 Labor. Each municipality has all different deposit schedules.  
4 It's impossible for the average small business guy who tries to  
5 do this to actually understand it without a significant amount  
6 of advice, and now you've changed the rules so many different  
7 times, and not just Pennsylvania but the IRS with their  
8 changing of the payroll taxes. We are so inundated with  
9 compliance issues on every level, and it's becoming a daunting  
10 task just to keep people -- we actually have a local taxing  
11 authority who, when we tried to upload our files using an  
12 account number, there was no way to verify that it actually  
13 went through, but the second most amazing thing was the account  
14 numbers we used were sent to us on a piece of paper with the  
15 client's name that said "account numbers." We used those  
16 account numbers. Well, it turned out that this local tax  
17 officer uses two different account numbers, one for paper  
18 filing and one for electronic filing, and there was absolutely  
19 no way for anybody to absolutely know that. Where before we  
20 were programming a file to go to one taxing authority, now  
21 we're taking that same information and dividing it in two and  
22 programming in two different formats to have two different  
23 uploads. It has become very problematic.

24 ADP, Paychex, QuickBooks, all the common things that  
25 small businesses use, none of them actually support payment of

1 local taxes. Oh, they'll give you a report, and it might or  
2 might not conform to the local tax officer's requirement. It  
3 used to be that we just used to send a check and W-2s and  
4 reconciliation at the end of the year, and if it matched up,  
5 everybody was happy because everybody got their money. Now  
6 we've got quarterly filings that are very complicated, too  
7 overly complicated, and they're different with every tax  
8 officer. It's amazing, the system that we've got.

9 REPRESENTATIVE COX: I understand the complexities  
10 of the small business world, and I have small business owners  
11 in my office all the time. I've got neighbors three doors  
12 down in each direction that own a small business, and the  
13 complexity of the tax system is a huge problem. And they're  
14 seeing those increases in costs, as you've mentioned. They're  
15 also dealing with a lot of the other things that you point out  
16 at the end of your testimony -- prevailing wage law being a  
17 cost driver for local school districts, local municipalities,  
18 et cetera.

19 Unfortunately, this bill cannot be all things to all  
20 people. And while I understand the concerns that the business  
21 community has and so forth -- I know people have expressed  
22 concerns over not having a funding formula in here, but I tried  
23 to boil this bill down to the simplicity as much as I could of  
24 replacing one form of revenue with another form of revenue.  
25 And so in trying to find the stability there, you really can

1 only look at a handful of sources, income and sales being the  
2 two largest.

3           But I would love to sit down with you and other  
4 business organizations and try to find a way that we can make  
5 this work in order to avoid making it a more complex system.  
6 My goal, as you know, I've got a pretty good business voting  
7 record, I think, which translates to voting for the employee at  
8 the end of the day, because businesses are the true employers  
9 in the Commonwealth, and if we can come to an agreement on  
10 something that will advance the cause of providing the property  
11 tax relief that business owners would benefit from as well, and  
12 whether they're working out of their home or whether they have  
13 a property that they own, or even a property that they're  
14 paying rent at, I think they'd see stabilization or even  
15 lowering of rents over time.

16           You guys believe in the free-market concept as much  
17 as I do, and, you know, I know of that competition there for  
18 rental properties. In the commercial world and otherwise,  
19 you're going to see people lowering their rents because they  
20 have to. So I think businesses will benefit more than we can  
21 even quantify right now, and so I'd love to sit down with you  
22 and figure out ways that those who are doing the employing in  
23 the Commonwealth will be able to benefit and pass that on to  
24 the consumers.

25           Thank you.



1                   REPRESENTATIVE DUNBAR: Thank you, Mr. Hudak and  
2 Mr. Shivers, and thanks to all the testifiers.

3                   I'll turn it over to the Chairman for closing  
4 remarks.

5                   MAJORITY CHAIRMAN BENNINGHOFF: Very briefly, I just  
6 wanted to first thank Representative Dunbar and Representative  
7 Mundy for taking over for my meeting at the Governor's Office.  
8 I left here 30 minutes behind, you guys got 30 minutes ahead,  
9 so I'll go real quick.

10                  I did want to make an editorial note and let you  
11 know that we have written testimony from the League of Women  
12 Voters, the Bankers Association of Pennsylvania, and the  
13 Government Relations Consultant of the Mid-Atlantic Community  
14 Papers Association, as well as a gentleman named Damian Mochan,  
15 Logical Planning Solutions and financial planning.

16                  At this moment, I'd say this meeting is adjourned.  
17 There is a meeting Monday. We look forward to seeing everyone  
18 there. Thank you.

19  
20                  (The hearing concluded at 12:35 p.m.)  
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1                   I hereby certify that the foregoing proceedings are  
2 a true and accurate transcription produced from audio on the  
3 said proceedings and that this is a correct transcript of the  
4 same.

5  
6                   Debra B. Miller

7                   Committee Hearing Coordinator/

8                   Legislative Reporter

9                   Notary Public

10  
11                  Erin E. Miller

12                  Transcriptionist

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