

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
FINANCE COMMITTEE HEARING

CENTRAL PENNSYLVANIA INSTITUTE
OF SCIENCE AND TECHNOLOGY
PLEASANT GAP, PENNSYLVANIA

AUGUST 15, 2013

10:00 A.M.

PRESENTATION ON
PURELY PUBLIC CHARITIES ACT

BEFORE :

HONORABLE KERRY BENNINGHOFF, MAJORITY CHAIRMAN
HONORABLE MADELEINE DEAN, MINORITY VICE CHAIRMAN
HONORABLE STEPHEN BLOOM
HONORABLE GORDON DENLINGER
HONORABLE ELI EVANKOVICH
HONORABLE KEITH GREINER
HONORABLE SETH GROVE
HONORABLE R. LEE JAMES
HONORABLE FRED KELLER
HONORABLE JOHN LAWRENCE
HONORABLE MIKE PEIFER
HONORABLE KATHY RAPP
HONORABLE BRAD ROAE
HONORABLE MARY JO DALEY
HONORABLE RICHARD MIRABITO

1 COMMITTEE STAFF PRESENT:

2 TAMARA L. FOX,
3 MAJORITY EXECUTIVE DIRECTOR

4 CHARLES W. QUINNAN,
5 MINORITY EXECUTIVE DIRECTOR

6 I N D E X

7 <u>WITNESS</u>	<u>PAGE</u>
8 JEFFREY ENGLE, 9 DAUPHIN COUNTY BOARD OF ASSESSMENT SOLICITOR	7
10 CARL MEISS, PRESIDENT, 11 PENNSYLVANIA STATE GRANGE	42
12 SCOTT BISHOP, SENIOR VICE PRESIDENT, 13 LEGISLATIVE SERVICES, 14 MOUNT NITTANY MEDICAL CENTER	59
15 RICHARD WISNIEWSKI, 16 SENIOR VICE PRESIDENT FOR FINANCE, 17 CHIEF FINANCIAL OFFICER	64
18 JOHN FLYNN, PRESIDENT/CEO, 19 PHILADELPHIA FREEDOM VALLEY YMCA, 20 VICE CHAIRMAN, PENNSYLVANIA STATE ALLIANCE OF YMCAS	112
21 DAVID JOHN, 22 EXECUTIVE DIRECTOR, PENNSYLVANIA STATE ALLIANCE OF YMCAS	125

23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SUBMITTED WRITTEN TESTIMONY

* * *

PENNSYLVANIA ASSOCIATION OF COMMUNITY HEALTH CENTERS

PENNSYLVANIA ASSOCIATION OF SCHOOL BUSINESS OFFICIALS

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

2 * * *

3 MAJORITY CHAIRMAN BENNINGHOFF: As the
4 members get their seats, I want to give a couple of
5 intros. First of all, we will open this hearing. Thank
6 you very much for joining us. I'd remind everyone to
7 turn your cell phone off or put them on vibrate. We're
8 not being video-taped. The stenographer will be taking
9 minutes. To the members, the microphones are live at
10 all times; so be careful and please don't roll them off
11 the table.

12 I want to take a couple of minutes to thank
13 our friends here at the Central Pennsylvania Institute
14 of Science and Technology. For those not familiar with
15 the school, they do a tremendous job teaching our young
16 people, as well as adult learners, in the facility in
17 multiple areas of education; and we can't thank you
18 enough for letting us use your building.

19 I want to thank Dr. Makin himself for a
20 great job and for accommodating us and having always
21 been very receptive to legislative hearings throughout
22 the Commonwealth and conducted here in Central
23 Pennsylvania.

24 Those of you visiting Centre County, we're a
25 very proud county. We welcome you here. We encourage

1 you to come and spend your money. Also, I want to thank
2 the Grange for being gracious enough to provide
3 refreshments at the beginning of the meeting. There's
4 nothing better than fresh coffee and homemade pie from
5 the Grange.

6 Last, but not least, if you're bored, come
7 back to Centre County next week and you will be able to
8 enjoy the greatest, largest and last tent camp at the
9 Grange Fair in the little town of Centre Hall, which
10 some of you drove through, where people live, about a
11 thousand families, in Army-style tents and a thousand
12 campers. And our little town of Centre Hall consists of
13 a city of about 30 to 40,000 people promoting
14 agriculture and things that are applicable to that.
15 That's enough of my advertisements for the day.

16 But anyhow, thank you for joining us. This
17 public hearing is regarding the Public Charities Act.
18 Some of you are requesting that we debate Senate Bill 4.
19 I apologize, Representative Mundy is not able to join us
20 today because she has some conflicts of her own; and we
21 wish her the best on that. But we are blessed to have
22 Madeleine Dean filling in for her as the Minority Chair.
23 We're appreciative of that.

24 Anything, Madeleine?

25 MINORITY VICE CHAIRMAN DEAN: Thank you for

1 welcoming us. And thank you, Dr. Makin, for welcoming
2 us to this impressive school. And I'm pleased to sit in
3 for Phyllis. She had a conflict in the district, and
4 I'm pleased to sit in for her.

5 MAJORITY CHAIRMAN BENNINGHOFF: Thank you.
6 Before we begin Committee, I am going to ask each member
7 to introduce yourself and tell us where you're from.
8 And that is as much for the stenographer as it is for
9 the audience, so please speak into the microphones.

10 We'll start with Representative Eli
11 Evankovich.

12 (Whereupon, roll was taken.)

13 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
14 everyone. As a reminder again, today's hearing is on
15 the Purely Public Charities Act of 1977. Probably the
16 only one that was in the Legislature. When we did that,
17 we felt that it was prudent that we review that and
18 decide who is considered to be tax exempt and what
19 organizations are not.

20 Some of these organizations don't exist
21 anymore, so therefore we would be having those hearings,
22 with probably at least two more subsequently across the
23 Commonwealth.

24 With that in mind, we will start first with
25 County Commissioner Association of Pennsylvania, Jeff

1 Engle, Dauphin County Board of Assessment solicitor.

2 Sir, when you're comfortable, pull the
3 microphone up and begin at your leisure. Thank you.

4 MR. ENGLE: Thank you, Mr. Chairman. I
5 appreciate the opportunity to be here and discuss this
6 very important piece of legislation with you all.

7 I want to first preface any statements I'm
8 making that I'm a practitioner; I'm not a scholar. So
9 anything that I tell you is based upon my own
10 experiences over the course of the last five years that
11 I've been working with the Dauphin County Board of
12 Assessment and Appeals.

13 I want to start out by explaining a couple
14 of things which I think maybe will help some of my
15 comments. Recently, as you're all aware, in April of
16 2012, in the Mesivtah case, some folks called it the
17 Jewish summer camp case, the Supreme Court essentially
18 said that the broadening of the definition of what is a
19 Purely Public Charity by the Legislature under Article
20 VIII, Section II, essentially went too far, and it had
21 the potential to create some disparity under the
22 uniformity provisions of Article VIII, Section I.

23 With that in mind, the Court said that we're
24 going to abide by what's known as the HUP test, the
25 Hospital Utilization Project, a case that came out in

1 1985. That was based on a large number of holdings and
2 past precedent of both the Supreme Court and the
3 Commonwealth Court and in some Superior Court holdings
4 prior to 1977 and the creation of the Commonwealth
5 Court. So that's kind of where I'm starting from, my
6 starting basis.

7 Couple things that I want to dispel. And
8 I've given lectures before to the Assessors'
9 Association. And I'm always surprised to find out that
10 they don't know these things when I'm giving these
11 lectures.

12 First of all, exemption is not immunity.
13 Those two things are completely different concepts.
14 Immunity is something in the Constitution that we're
15 not -- the Legislature is not given any authority to
16 tax, such as federal buildings, Commonwealth entities,
17 anything owned by the Commonwealth, and such things as
18 any sort of parcel or real estate owned by municipal
19 authority under the Municipal Authorities Act. Things
20 owned by a redevelopment authority are not -- are immune
21 from taxation.

22 Things which are exempt are those things
23 which the Legislature has essentially said, okay, we're
24 going to allow these particular entities to have an
25 exemption. Everything is presumed taxable, and we keep

1 everything on that's taxable, even Commonwealth -- but
2 it is presumed taxable unless and until you show you
3 you've met one of these exemptions that the Legislature
4 or the courts have handed down.

5 So in order to prove the exemption under the
6 status of the law right now, one must first meet the
7 constitutional test. And that is the five-part test
8 announced by the Supreme Court in HUP, which is, number
9 one, that it advanced as a charitable purpose; number
10 two, donates or renders gratuitously a substantial
11 portion of its services; number three, the entity
12 benefits a substantial and indefinite class of persons
13 who are the legitimate subjects of a charity; number
14 four, it relieves the government of some of its burden;
15 and five, it operates entirely free from a private
16 profit motive.

17 What the Legislature did in 1997, I believe
18 was laudable and it tried to codify that test. And that
19 is what Act 55, Title 10, Section 375 essentially is, is
20 a codification. And within that codification, they
21 attempted, or the Legislature attempted, to set forth
22 some right-minded standards for each one of these tests,
23 if you will.

24 Now comes the practical perspective that I
25 was talking about. I'm not an academic. I'm more of a

1 practicing attorney dealing with these things. Simply
2 because someone comes in to our Assessment Board and
3 says, We're a 501(c)(3) entity; here's our approval from
4 the IRS; give us an exemption. That does not end the
5 dialogue. That's only the start of the dialogue. That
6 creates a rebuttable presumption that they are tax
7 exempt. However, now they need to meet the
8 constitutional test, Act 55, and any county assessment
9 law criteria that's set forth under Title 53, which is
10 now the consolidated county assessment law.

11 In order to properly assess whether or not
12 an entity is, in fact, exempt, there's a lot of things
13 that we have to do as a Board of Assessment Appeals.
14 And usually there's three members appointed by the
15 county commissioners. There's an attorney, myself.
16 Sometimes a smaller county may not have a full-time
17 assessment solicitor. It may be the general solicitor
18 for the county, and they're not at every one of these
19 hearings. I typically go to every one of these
20 hearings. You will have some very well-heeled, exempt,
21 and I'll put that in quotes, exempt entities, coming in
22 before you: hospitals, universities. And I'm not
23 discouraging any of them. But some of them, you know,
24 they have a team of attorneys, they have CPA's, they
25 have CFO's, CEOs; and they will have mounds of documents

1 to present to us to show that they are, in fact, exempt.

2 Among those documents that we have to be
3 cognizant of as a Board of Assessment Appeals, first of
4 all, the 501(c)(3) filing. Second, the bylaws. What is
5 their charitable purpose? For instance, in the YMCA
6 cases, we've seen that the promotion of health is a
7 charitable purpose that the courts have recognized.

8 Interestingly, the legal reform and
9 clarification and simplification of the law has been
10 held to benefit society and is a charitable purpose.
11 The care of elderly is a charitable purpose. So those
12 are things that we have to be cognizant of.

13 Also, the entity chart, we have to take a
14 look at that. In most instances, they're going to have
15 financials; and we're going to have to look at five
16 years worth of financial documents, 990 forms for
17 charitable organizations. We may have to look at
18 independent audits that they have, look at their payroll
19 data. And it gets to be very difficult and unworkable
20 sometimes for some of these smaller counties and even
21 the ones that are, you know -- Chester County,
22 Philadelphia County, Allegheny County, that are more
23 capable, I would say, of dealing with these types of
24 scenarios. So that's one of the problems.

25 We also have to look at, you know,

1 government grants and subsidies. Under the Act, you
2 know, if they receive greater than 75 percent but not
3 more than 95 percent. We have to determine these types
4 of things. And when we talk about the care of the
5 elderly and the retirement, the assisted living and
6 skilled facilities, we have to really look at these
7 forms. And looking at the 990 form doesn't necessarily
8 aid you in determining what portion of services are
9 donated or rendered gratuitously.

10 You'll see some of these assisted-living
11 facilities that may have a fee that is nonrefundable
12 that a community has to pay upfront. And if they want
13 to bump up to, say, a better type of living facility,
14 they have to pay another fee. So those types of things
15 have to be examined. And that was an actual case, the
16 Dunwoody Village cases.

17 Colleges and Universities, when we get into
18 looking at those things, we have to look at the
19 admissions criteria. We have to look at some of the
20 enrollment limitations. Do those criteria, those
21 limitations, violate nondiscrimination under the federal
22 law and under the PA Human Relations Act? Enrollment
23 data may also be important under Section 375(d)(3).
24 Educational costs is a very important factor in looking
25 at what the level of community service is in determining

1 whether or not it meets the criteria set forth in
2 section 375(d)(4), Sub(2).

3 And lastly, we find that when we get the
4 most pushback from these types of organizations is when
5 we ask for the data of the top paid executives. We ask
6 for -- for instance, we want to know what the top ten
7 paid executives are. They are not too comfortable in
8 turning that type of material over. Particularly,
9 hospitals, if there's bonuses paid to the top executives
10 and so forth, that may disqualify them from a charitable
11 exemption.

12 So those are things that are important to
13 us. And as a background, I will also tell this
14 Committee that in the assessment world, the rules of
15 discovery don't apply to tax assessment appeals. So in
16 many cases, I have to go into court and I have to sort
17 of get permission from the court to get this type of
18 material. So that's one of the things that we have
19 difficulty with, and it hampers our ability to examine
20 some or all of these documents.

21 Copies of deeds need to be looked at, copies
22 of operating pieces, copies of trust agreements.
23 Recently we had a case out of Philadelphia, Girard Trust
24 was an organization founded based upon money left behind
25 by the Girard family. It was organized and run by

1 municipal officials as the board. They had leased a
2 building in Dauphin County and actually Cumberland
3 County to some Commonwealth agencies and had argued,
4 number one, they're immune as a Commonwealth entity; and
5 number two, if not immune, they were exempt. So, you
6 know, that was a bit of a difficult type of case to get
7 into and look at a trust agreement. That case is
8 presently on appeal up to the Supreme Court, I believe.

9 The lower court ruled that they were, in
10 fact, immune. I believe the Commonwealth Court ruled
11 that they were not, and now it's for the Supreme Court
12 to decide.

13 So those are some types of issues that we
14 face. I'm not sure what the answer is to help us have a
15 better tool to utilize that. Perhaps some sort of
16 centralized entity under the Department of State that
17 could potentially review exemption requests from these
18 types of organizations that may have forensic
19 accountants, for example, CPAs, attorneys, would allow
20 for a more uniform and detailed examination of some of
21 these organizations.

22 And, you know, that's really where it comes
23 down for us, with these local board of assessments. Any
24 questions?

25 MAJORITY CHAIRMAN BENNINGHOFF: No, I think

1 that's a good place to get started from. I'm going to
2 go back to the beginning where you said something about
3 the fact that Act 55 was kind of vague, broad, or
4 perhaps I'm not hearing that correctly. And are the
5 specific things that we can look at, amend or redefine
6 within that Act that would make your job any, I don't
7 want to say easier, but better able to define or
8 delineate what is exempt and what is not?

9 MR. ENGLE: Chairman, I don't necessarily
10 think that it's vague.

11 MAJORITY CHAIRMAN BENNINGHOFF: I thought
12 you said the court or somebody said that. I was curious
13 as to what you meant by that.

14 MR. ENGLE: Well, I think -- what my -- my
15 premise was that I think the HUP test itself was overly
16 broad. And what we've seen is, we've gone from, in
17 1985, from less exemptions, to now moving towards
18 perhaps more exemptions. That's just sort of the
19 general trend now.

20 I don't know of anything that I would
21 specifically put in there that would make it easier for
22 us as a tool. I think it's a creature of -- we need
23 certain documents; we need to know certain things from
24 these entities before we even get to the table to review
25 those types of things. Because when they come in to the

1 Board of Assessment Appeals and literally have maybe two
2 or three banker boxes full of materials, we have 15, 30
3 minutes to assess that. And normally what happens is,
4 the appeal gets denied, unless it's something that we
5 know we've exempted in the past, for instance. The
6 exemption gets denied, and now the can's kicked down
7 into the court and we may or may not get it resolved
8 there.

9 So I don't know that the law itself is
10 vague. I'm just saying, in practice, it becomes very
11 difficult on a localized level to deal with the
12 regulations. And maybe putting more regulations into it
13 would make it harder. I don't know. But there's a lot
14 for us to look at.

15 MAJORITY CHAIRMAN BENNINGHOFF: Thank you
16 for that. One of the earlier reasons why we decided to
17 have this hearing is what gives us something statutorily
18 we need to look at, or is it a matter of you're not
19 having access to information? It seems as though it's
20 the latter of the two.

21 MR. ENGLE: It's the latter.

22 MAJORITY CHAIRMAN BENNINGHOFF: Okay. Some
23 of the members have questions. We'll start with
24 Representative Gordon Denlinger and then Representative
25 Evankovich.

1 REPRESENTATIVE DENLINGER: Thank you, Mr.
2 Chairman. Thank you, Jeff, for your testimony. We
3 appreciate it. You've laid out for us a sea of
4 complexity that you're dealing with, and I think we're
5 grappling with that.

6 I do want to go back now to answer the
7 Chairman's question a little bit. Within the HUP test,
8 I'm wondering if you can help us to zero in on what, in
9 your experience with the Assessment Board, has been the
10 one of the five that is the most problematic to manage
11 and deal with. And secondarily, I'm wondering -- and
12 you're very plugged in, you know, beyond Dauphin County
13 into this whole area. Which has caused the most
14 lawsuits, you know, which point of contention really has
15 driven that out?

16 MR. ENGLE: I pause only because, you know,
17 every case that comes in is like a snowflake; they're
18 all a little bit different. I will tell you that
19 recently the cases that we've seen dealing with perhaps
20 the assistance of the elderly, the assistance of folks
21 suffering from some sort of mental handicap, that prong
22 4, that it relieves the government of some of its
23 burden, becomes one of the more difficult areas for us.

24 I know that, for instance, if you take a
25 large portion of funding from the government, whether it

1 be federal, state, otherwise, and you take that money
2 and you utilize it in a way that is better than the
3 state could do it -- there was a prior decision --
4 Firetree was a case that we dealt with many years ago in
5 Dauphin County; my predecessor Carl Ross dealt with it.
6 It was held that that was not relieving the government
7 of some of its burden by essentially utilizing
8 government money in a better way.

9 So now we get into this standard where we
10 have -- okay, if you take more than 75 percent but less
11 than 95 percent and utilize that money, that's okay.
12 It's very difficult sometimes to make those assessments
13 and those judgment calls; because, again, simply looking
14 at it on paper doesn't give you the whole story. You
15 actually have to go put boots on the ground and go to
16 the facility, do a walk-through, figure out, okay, do
17 they have elderly folks working in the gift shop? You
18 know, is that a part of rendering services gratuitously?
19 If that person's working there maybe for a reduced
20 salary, maybe for minimum wage to keep them occupied,
21 those are all sorts of things that we've seen in cases
22 in the past where, you know, depending on the
23 percentages, they may or may not qualify.

24 REPRESENTATIVE DENLINGER: I appreciate
25 that. And, I guess, as a follow-up, if I can, when we

1 put into the statute as we did in 1997, typically case
2 law helps us define that.

3 MR. ENGLE: Right.

4 REPRESENTATIVE DENLINGER: Have the cases
5 that have come forward helped to clarify? Or in some
6 cases, case law can kind of blow it wide open and create
7 confusion. What's your experience there?

8 MR. ENGLE: Over the years -- I think since
9 this legislation has been passed, I think that there has
10 been a narrowing somewhat of the bases for exemptions.
11 And when I say that, it's easier to define the
12 exemption. More entities have been exempt since the HUP
13 test in 1985, and since the time, I believe, of this
14 particular legislation in '97.

15 But it gets -- it gets very difficult to sit
16 there and analyze individual cases that come through
17 utilizing both the HUP test, which is now based on
18 precedent and then looking at Act 55. So there's --
19 essentially, there's two separate parallel tracts of
20 precedent that one has to look at right now rather than
21 Act 55.

22 REPRESENTATIVE DENLINGER: Okay. All right.
23 Thank you. Thank you, Mr. Chairman.

24 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
25 Representative Gordon Denlinger. We are also joined by

1 Representative Mirabito at the hearing.

2 Next, is Representative Evankovich.

3 REPRESENTATIVE EVANKOVICH: Thank you, Mr.
4 Chairman. Appreciate your testimony, Mr. Engle. You
5 may have answered this question to Gordon's last
6 question. But you had mentioned in your testimony that
7 the number of exemption cases that you guys are hearing
8 is going up or that the number of exemptions is going
9 up. What's the root cause of that? Is it because tax
10 exempt status is becoming a more desirable business
11 model for some companies, or is it -- you may have
12 answered that.

13 MR. ENGLE: I don't know that I specifically
14 answered that question. That's a good question. I've
15 seen -- we've seen it typically as a function of the
16 economy. Recently, we had a case that we dealt with a
17 facility that helped mentally-disabled persons. They
18 had, previously, 10 exempt properties in our particular
19 county. Five of those entities were not exempt. They
20 were on the tax rolls and they were paying taxes. They
21 came into us and said, Now we want an exemption on these
22 other five. We simply cannot continue to function and
23 pay real estate taxes.

24 So, you know, it's six on one hand, a half
25 dozen on the other. I mean, if we take those real

1 estate taxes and plug those back in and they're going to
2 pay those to the county, the school district, the
3 township, borough or whatever, those monies are
4 essentially going to be passed through to potentially
5 consumers, if we're talking about colleges or hospitals.
6 But it is -- it's a function of economics right now;
7 that's what we've been seeing. A lot of cases, they
8 just come in and say, We just simply cannot continue to
9 pay our real estate taxes.

10 REPRESENTATIVE EVANKOVICH: Thank you. And,
11 you know, my perception of what you just told us in your
12 testimony is that the -- at least my interpretation,
13 your interpretation, is that the current system is
14 unwieldy and inadequate in some ways and really possibly
15 could be made better.

16 So I think, you know, part of what we did
17 before the end of session is passing a constitutional
18 amendment to give us the authority to try to make some
19 of the -- make changes. Is it fair to say that amending
20 the Constitution to allow us to make some changes to how
21 these exemptions are administered would be a good thing
22 for improving the current system?

23 MR. ENGLE: I will -- again, I'm not an
24 academic; I'm a practitioner. But I think it's better
25 to have more specific definitions. I think that's

1 always -- you know, to have a bright-line test in the
2 law is always better. There's more predictability.
3 There's more understanding on both of the part of the
4 taxpayer and the taxing entity as to what will and will
5 not be exempt.

6 But again, wading into the vastness of all
7 those things that we have to consider and make a snap
8 judgment, that gets unwieldy. And if there was -- and
9 I'm not advocating that we do this; but, you know, if
10 there was some centralized way of, you know, -- again, I
11 know the Department of State looks at whether or not to
12 grant taxable or tax exempt status of somebody. But
13 they -- after that, there's no follow-through as far as
14 looking at 990s, financial criteria and so forth, to
15 determine whether or not that entity meets real estate
16 tax-exempt status. So that's, perhaps, where there
17 could be some assistance.

18 REPRESENTATIVE EVANKOVICH: Thank you.

19 MAJORITY CHAIRMAN BENNINGHOFF: Thank you.
20 Representative Daley and Representative Dean.

21 REPRESENTATIVE DALEY: Thank you, Chairman
22 Benninghoff. Thank you. You made a comment in your
23 testimony that the rules of discovery do not apply to
24 the Board's -- okay. You made a comment in your
25 testimony that the rules of discovery do not apply to

1 the Board's assessment. But you also listed a long list
2 of documents that you need to see. So is this what you
3 mean when you say that they're bringing boxes into the
4 actual hearing, that you don't have an opportunity to
5 review them ahead of time? I mean, is that your only
6 opportunity for --

7 MR. ENGLE: We have local rules in place
8 that provide that they are supposed to bring certain
9 documents with them or provide those things ahead of
10 time. Obviously, the 501(c)(3), charter bylaws. A lot
11 of these organizations will bring in their independent
12 audits. They'll bring in the last five years worth of
13 financials.

14 But when we get down into the nitty-gritty,
15 if you will, of, okay, well, what do your top paid
16 executives make? Now it gets a little bit more
17 difficult, because those types of things are not
18 necessarily provided in that bulk of documents. And the
19 general Rules of Civil Procedure do not apply to tax
20 assessments or tax assessment appeals.

21 Now, the courts have said that you can do
22 those by local rule. You can have local rules allowing
23 for those types of things. Dauphin County, we do not.
24 I've noted, you know, -- and I can only speak to Dauphin
25 County, but the judges will most likely grant a request

1 if we file a request to say, Judge, we'd really like to
2 look at these documents. But we usually get into
3 somewhat of a fight back and forth between whether or
4 not those are actually going to be provided, whether
5 they're confidential. And sometimes you end up entering
6 into some sort of a protective order that I'm not going
7 to disclose them to anybody but the Board or the court.

8 REPRESENTATIVE DALEY: Okay. I thought I
9 had read in one of the documents -- I read a lot in
10 getting ready for today. It's actually a lot to absorb,
11 quite honestly, that salary of the top paid executives
12 in the organization were actually something that was
13 required. So then I'm not sure why it's not being
14 provided to you, why it's an argument.

15 MR. ENGLE: I'm not sure either, but I am
16 just telling you, I've had to go into court and say,
17 Judge, under 375(d)(4), sub whatever, these are things
18 we are allowed to consider. Now make them give it to
19 us, you know; so it --

20 REPRESENTATIVE DALEY: And 375(d)(4) is part
21 of Act 55?

22 MR. ENGLE: I was -- yes. I'm sorry. And I
23 was just --

24 MAJORITY CHAIRMAN BENNINGHOFF: For the
25 members' sake, there is a copy of the Act in here.

1 MR. ENGLE: I apologize. I was just --

2 REPRESENTATIVE DALEY: And I realize this is
3 something --

4 MR. ENGLE: It's actually 375(c)(3) -- sub
5 3, I'm sorry.

6 REPRESENTATIVE DALEY: Okay. But it is part
7 of Act 55?

8 MR. ENGLE: It is, ma'am.

9 REPRESENTATIVE DALEY: So is that something
10 that could potentially be amended in the Act to give you
11 more authority? Do we have that authority as a
12 Legislature to amend the Act? And is that kind of
13 amendment actually -- or other amendments like that, to
14 provide you the information you need? Would that be
15 helpful?

16 MR. ENGLE: That would be, to have something
17 in there that says that they shall provide, they must
18 provide, upon application for an exemption.

19 REPRESENTATIVE DALEY: Okay. And I'm just
20 curious, since we're in Centre County today, if you know
21 what percentage of the County's property is tax exempt?

22 MR. ENGLE: In Centre County?

23 REPRESENTATIVE DALEY: Uh-huh. Or in
24 Dauphin County where you're from?

25 MR. ENGLE: I did not actually look at that

1 number. And I've asked my Assessor. I said, Can you
2 tell me what's immune versus what percentage is exempt?
3 And all the codes -- the coding in the computer is
4 essentially the same, so there would be no distinction
5 between immunity and exemption. I would venture a guess
6 to say it's roughly between 5 to 7 percent.

7 REPRESENTATIVE DALEY: Is exempt?

8 MR. ENGLE: Is exempt.

9 REPRESENTATIVE DALEY: Okay.

10 MR. ENGLE: Because either -- you know,
11 Commonwealth, because Harrisburg we've got a lot of
12 exempt area there, or immune area rather, I should say.
13 I don't want to get those two things confused. But
14 colleges, universities, hospitals. You know, our tax
15 base in Dauphin County, we probably have an assessment
16 base of about 10 million -- or \$10 billion. So out of
17 that, maybe there is, you know, five percent that's
18 exempted.

19 REPRESENTATIVE DALEY: And just the last
20 piece of my question is, How is the municipality or the
21 different taxing exempting data make that up with what
22 they're not getting from the exempt entities?

23 MR. ENGLE: Well, they would -- you know, a
24 lot of times, I guess they would just increase their
25 millage rates.

1 REPRESENTATIVE DALEY: Okay.

2 MR. ENGLE: I mean, and under Act 1,
3 obviously school districts are, you know, restricted on
4 how much they can increase in a year; so --

5 REPRESENTATIVE DALEY: Right.

6 MR. ENGLE: -- we've seen -- and I don't
7 want to get into my other life; but I work for a school
8 district, too. But, you know, we've seen inflation
9 increase; we've seen those fixed costs increase, but
10 we're sort of restricted on how much we can actually
11 increase our millages; so --

12 REPRESENTATIVE DALEY: Okay. Thank you.

13 MR. ENGLE: Uh-huh.

14 MAJORITY CHAIRMAN BENNINGHOFF: I want to
15 make two quick comments. One is a question for you to
16 toss in your head a little bit before I start making
17 another comment. If you can give the definition of
18 exempt -- your opinion of exempt versus immune, I think
19 that might be helpful for the rest of today's dialogue.

20 For the members, I'd encourage you also to
21 research your own districts as far as what factors are
22 considered exempt. There are some entities that pay in
23 lieu of tax payments to municipalities and their
24 counties.

25 My question of you, sir, is, How often are

1 these properties reviewed? How long have they been
2 labeled exempt in your own county? Do you guys do an
3 annual review, every once in a while, or a spot-type
4 thing?

5 MR. ENGLE: Let me answer the latter
6 question first.

7 MAJORITY CHAIRMAN BENNINGHOFF: Okay.

8 MR. ENGLE: Typically, if a property
9 transfers ownership, it goes from one exempt party and
10 it transfers to ABC corporation. We will put it back on
11 the tax rolls unless and until they then show that they
12 are, in fact, exempt.

13 We've had that happen where one church
14 transfers a deed to another church. The new church will
15 have to come in and say, We conduct regular worship
16 services here; we should be exempt. There is no spot
17 checking, so to speak. We look at particular cases -- I
18 know that in some instances we've entered into what's
19 known as pilot program, payment in lieu of taxes, with
20 certain entities like the Hershey Med Center. We'll
21 look at that agreement from time to time and determine
22 whether or not we're going to put them back onto the
23 nonexempt status once that contract is essentially
24 ended.

25 MAJORITY CHAIRMAN BENNINGHOFF: Would that

1 mean that these contracts have some kind of sunset date?

2 MR. ENGLE: Yes. Yes. Sometimes they do.
3 Well, most of them do. It's usually when our successors
4 go out and will physically look at a property and see
5 that it's not being used for its exempt purpose. So
6 it's really kind of subject to chance.

7 You know, for instance, and this is -- I
8 don't want to name names, but I have to. The
9 Pennsylvania Mental Health Consumers' Association came
10 in and got an exemption, and it was one of those places
11 that I would drive by on my way to church. And I saw,
12 in frequent times, that there was nobody in there. So I
13 called up my assessors and I said, Let's go to this
14 building and find out if they're actually using it.
15 Because you not only have to be seized of ownership, you
16 have to have title, but you have to have use. So to sit
17 vacant is not a use; it's not a charitable use. So it's
18 back on the rolls.

19 MAJORITY CHAIRMAN BENNINGHOFF: Right.

20 MR. ENGLE: But there's no automatic
21 mechanism in place for review, other than if they
22 transfer ownership or a contract sunset.

23 MAJORITY CHAIRMAN BENNINGHOFF: And lastly,
24 your interpretation of exemption versus immunity, I
25 think, would be helpful for the rest of today's

1 dialogue.

2 MR. ENGLE: Sure. And I'll give you the
3 rogue definition, if you want that. That will probably
4 help. A property that is exempt is presumed taxable
5 unless and until it meets the statutory criteria. An
6 immune property is one that the Legislature, under the
7 Constitution, has not given the municipal bodies the
8 authority to tax, such as state, federal government or
9 municipal authorities that has been properly
10 incorporated under the Municipal Authorities Act, Title
11 53, Sections 5601 to 5623. Municipal government, such
12 as cities, counties, townships or boroughs are taxable
13 but exempt as long as they can show both ownership and
14 use of the parcel in question.

15 MAJORITY CHAIRMAN BENNINGHOFF: Okay. Thank
16 you. That's helpful.

17 MR. ENGLE: Okay.

18 MAJORITY CHAIRMAN BENNINGHOFF: Chairwoman
19 Dean has a question.

20 MINORITY VICE CHAIRMAN DEAN: Thank you,
21 Mr. Engle, for your testimony today.

22 MR. ENGLE: Sure.

23 MINORITY VICE CHAIRMAN DEAN: It's very
24 helpful. I'm interested in following up on what you
25 talked about as sort of the historical trend toward I

1 think both applications for exemption and also the
2 grants of exemption for purely charitable purposes. Can
3 you flesh that out a little more in specific, you know,
4 when -- what's the timeline on this trend, and maybe
5 what is the percentage? Because it seems to me part of
6 the internal conflict here is something else you talked
7 about, which is many times entities are coming before
8 boards asking for the exemption or expansion of their
9 exemption because they're looking for property tax
10 relief.

11 MR. ENGLE: Right.

12 MINORITY VICE CHAIRMAN DEAN: And other
13 times I'm sure it's just a fresh application, new
14 entity, or something comes into the community seeking
15 relief because of their charitable purposes. So can you
16 flesh out that trend a little more? Can you give us any
17 more specifics in terms of time and maybe dollars or
18 percentages?

19 MR. ENGLE: That's going to be difficult for
20 me to do for across the Commonwealth. I don't have
21 statistics. I can only tell you in my practice and what
22 I've seen is that since 1985, since HUP, the courts have
23 interpreted that five-prong test very narrowly. Until
24 about maybe after '97, after the instillation of this
25 particular piece of legislation, I think more entities

1 were then coming in, and I would say maybe out of --
2 between 1985 and 1997, maybe, you know, 6 out of 10
3 entities that applied for exemption would get it.

4 Now, with this particular test in place, I
5 think we're seeing more of a trend that maybe it's 9 out
6 of 10 that meet these qualifications. And again, they
7 come in and they've gone through this Act with
8 a fine-tooth comb to make sure that they're meeting
9 these qualifications. So the devil's in the details for
10 us as an assessment board to go out and make sure that
11 what we're looking at and what they're looking at are
12 the same thing. But I think the trend has increased
13 towards exemptions for an entity under this Act. Does
14 that help?

15 MINORITY VICE CHAIRMAN DEAN: It does help.
16 And I'm sure it must be difficult. I'm wondering if the
17 County Commissioner Association, do they have any
18 collective data for the 67 counties to see -- I'm almost
19 picturing an overlay map of the Commonwealth to show
20 where are these data and where are these -- that is
21 available?

22 MR. ENGLE: I don't know.

23 MAJORITY CHAIRMAN BENNINGHOFF: I've seen
24 maps like that in prior discussions on property taxes.
25 I think we can probably get those.

1 MINORITY VICE CHAIRMAN DEAN: I think that
2 would be very interesting. And then you talked about,
3 you know, the possibility -- and since you are a
4 practitioner, --

5 MR. ENGLE: Right.

6 MINORITY VICE CHAIRMAN DEAN: -- it's really
7 useful as a practitioner. What would be a better
8 bright-line-kind of set of guidelines for you as a
9 practitioner, you know, in terms of fairly granting
10 these exemptions or assessments of whether the exemption
11 should be granted?

12 MR. ENGLE: Well, I think that was similar
13 to one of the questions that I got. And I don't know
14 the answer to that particular question, except that, you
15 know, these guidelines are only as good as the entity or
16 the organization that are looking at them and utilizing
17 them to try to ferret out what's true and what's
18 actually not true.

19 I guess my biggest concern is the amount of
20 time that it would take me and the folks that are on my
21 Assessment Board or working under that office to go out
22 and look at these things and make sure that they're
23 meeting these details. It's not necessarily that your
24 legislative bullet points aren't good or aren't finite
25 enough.

1 It's making sure that -- it's almost like an
2 audit to make sure that, you know, we're like an IRS
3 agent going out there and making sure, okay, now you've
4 said 95 percent. I want to see it. And actually making
5 them show me the number and going through it.

6 Where, you know, I don't have that resource.
7 I'm not a numbers guy. That's why I went to law school.
8 Okay. Yeah, I was led to believe there'd be no math
9 when I went to law school. Oddly enough, I'm in this
10 area now and I do work with a lot of numbers. So, you
11 know, we would almost need like a forensics accountant
12 to work with us; and that's a resource that, you know,
13 we could end up spending hundreds of thousands of
14 dollars to determine whether or not an entity was
15 actually qualified for the exemption.

16 And those entities that are coming in with
17 exemptions, they have auditors; they have financial
18 accountants and the wherewithal, probably most of the
19 time, to confront what we're going to do.

20 MINORITY VICE CHAIRMAN DEAN: And just a
21 final sense then. Just for Dauphin County, do you have
22 a sense of, in the time of your practice, between lost
23 revenues as a result of granting exemption?

24 MR. ENGLE: It varies from municipality to
25 municipality. But I would say, roughly, lost revenues,

1 especially for the city, which again is immunity not
2 exemptions, probably across the board, I would say
3 between 3 to maybe 5 million.

4 MINORITY VICE CHAIRMAN DEAN: That's just
5 for the immunity side.

6 MR. ENGLE: A year.

7 MINORITY VICE CHAIRMAN DEAN: Right. That's
8 just the immunity side. How about the exemption side?

9 MR. ENGLE: That's what I mean by the
10 exemption side.

11 MINORITY VICE CHAIRMAN DEAN: Oh, I'm sorry.

12 MR. ENGLE: I was taking immunity out of
13 that. I was not thinking about the Capitol building and
14 --

15 MINORITY VICE CHAIRMAN DEAN: No, no. So 3
16 to 5 million a year. Thank you. Thank you, Mr.
17 Chairman.

18 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
19 Chairwoman Dean. Seeing no other questions, --
20 Representative Mirabito.

21 REPRESENTATIVE MIRABITO: I apologize for
22 arriving late. And I do have a question about
23 compensation, and you sort of touched on it. I know
24 that you spoke about it in your testimony.

25 Do you think, from your experience, that the

1 compensation that people make should be a factor in
2 consideration of whether it's a purely public charity?
3 In other words, can you pay someone a million dollars a
4 year and still be an institution of a purely public
5 charity, or is it nearly that the board has decided we
6 have a million dollars and we're going to put it into
7 the sally as opposed to putting it into real estate
8 taxes or something else?

9 And I'm asking more of your opinion as a
10 practitioner and as someone who's extremely involved
11 with this. Because, ultimately, what it does is, in a
12 lot of these areas, we're pitting these institutions --
13 and by the way, don't get me wrong, I mean, in many of
14 our communities, without these institutions the
15 communities would literally be dead; because we have
16 changed from a manufacturing-based economy to a
17 service-based economy, particularly in the area of
18 hospitals, where 47 out of our 67 counties, the major
19 employer is the hospital.

20 But how do we reconcile now 20 years after
21 these laws have changed that we have -- in order to
22 attract people to do the job, you have to have a certain
23 level of compensation? If you're going to run an
24 institution with 4,000 employees and a budget of \$200
25 million and at the same time we have entrepreneurs and

1 business people out there who are struggling trying to
2 keep small businesses alive.

3 So how do we reconcile that, in your
4 opinion?

5 MR. ENGLE: Right. And I completely
6 understand where you're coming from, and I agree with
7 you that if we're going to attract the best and the
8 brightest, you're going to have to provide them with the
9 salary commensurate with what they're going to provide
10 to that exempt entity. I don't think there's any
11 bright-line test for me, as far as, well, this person's
12 compensated as a CEO at 600,000 a year. However, we
13 have to look at what the services that they're
14 providing. Are some of those services being rendered
15 gratuitously? Are they being compensated in addition
16 with some sort of pension plan that far exceeds what we
17 would consider them to be willing or able to get? Do
18 they get bonuses for performance of the entity over
19 time?

20 So I don't necessarily think that there's a
21 cutoff point. But I think if somebody's making a
22 million, that they shouldn't be compensated. Because,
23 you know, as you said, if they're providing a useful
24 service to the community and there's three or four or
25 five hospitals that's under their auspice that they're

1 dealing with, I think that's commensurate with that
2 responsibility.

3 But then if they're receiving, you know,
4 some sort of a bonus at the end of the year for having
5 reduced costs or not providing certain things to certain
6 qualified or needy people, then it starts to become more
7 of an issue. And that's why we have to get out there
8 and sort of parse through these 990s and figure out,
9 what are you getting; how is that figured when we look
10 at the total?

11 REPRESENTATIVE MIRABITO: Because I guess
12 one of the thoughts that I'm having is that, if, for
13 example, in my community the median income in the county
14 is \$41,000, half of our families are living on less than
15 41,000 and someone's being compensated 10 times, 15
16 times the median income, at what point have they -- has
17 the institution sort of crossed the threshold and
18 although they may provide a public and charitable
19 purpose, by the actions it's taken, it's somehow morphed
20 itself into something else.

21 I think you make a good point that it's
22 compensation based on performance and based on bonuses,
23 and the statute even says that. But I think that even
24 beyond that, if we don't want the public to continue to
25 have a rising level of anger about their property taxes

1 going up and other people in the community preparing to
2 be making a lot of money at that expense, I think we
3 have to begin to look at a number like that, at what can
4 10, 15 times the median income -- that means that in
5 Central Pennsylvania you'd pay somebody half a million
6 dollars and you still would be in the -- just a thought
7 I --

8 MR. ENGLE: That's a good thought. But then
9 again, if you were dealing with Lycoming County and you
10 could potentially lure a doctor that is at Penn to
11 Lycoming County that is the best and the brightest at
12 heart surgery, you're not going to get him; because he's
13 limited in his income to maybe only 10 to 15 times the
14 median income, which would be 200 to 250; and he could
15 make 600,000 to 900,000 in Bucks County.

16 I don't know the answer. And that's why I
17 don't think there's a bright line for me as far as
18 income level. I need to look at what the services are
19 being provided at the hospital and then look at pension
20 plans, bonuses, other compensation. Are they giving
21 them a car? Is he getting a beach house?

22 REPRESENTATIVE MIRABITO: And I guess I
23 wasn't thinking so much of the individual. I was
24 thinking of the top officers. But you raised a good
25 point about that.

1 MR. ENGLE: Right. There are, you know,
2 pension plans and profit-sharing plans for doctors that
3 come into play, not just the CEOs.

4 MAJORITY CHAIRMAN BENNINGHOFF: Mr. Engle,
5 you've done a great job. We appreciate it. I have one
6 last quick question. And that is, I'd like to know,
7 what's your interpretation of your ability as an
8 assessor of a county agency to implement these pilots or
9 the tax payments with different entities throughout your
10 community; or do you see that as only being able to be
11 done by the General Assembly giving you the authority to
12 do so?

13 MR. ENGLE: I think a lot of entities
14 realize, such as Hershey Med Center, that they need to
15 pay their fair share to the community, and they want to.
16 But again, as I pointed out in some of my remarks, that
17 in the financial times when it's difficult, they're
18 trying to cleave off some of the fat and run at a profit
19 or as close to break-even as they can. Most entities --

20 MAJORITY CHAIRMAN BENNINGHOFF: That's a
21 double-edged sword. Because in tough times in
22 municipalities, when people are also looking for other
23 revenue sources or all the -- you don't look at the
24 charitables.

25 MR. ENGLE: Exactly. I completely agree

1 with you.

2 MAJORITY CHAIRMAN BENNINGHOFF: Is that
3 statutory when we need to empower you, or do you believe
4 the flexibility is there for entities like yourselves to
5 already engage in those types of -- in lieu of tax
6 payments?

7 MR. ENGLE: I think it's already there, but
8 certainly some clarification in the law would not hurt.
9 You know, that if -- and I don't know exactly how to
10 implement that, but if they don't quite meet this
11 particular test under 375, then they may also qualify
12 alternatively for a pilot program at, you know, a
13 reduced tax rate. That at least gives the
14 municipalities, gives the government something to take
15 back to their constituents and say, look, they are
16 paying part of their fair share.

17 MAJORITY CHAIRMAN BENNINGHOFF: And that
18 would not be used against them later if someone said,
19 Well, jeez, they're paying in lieu of taxes, they must
20 think of themselves as not being charitable anymore?

21 MR. ENGLE: No. And I don't think that's --
22 they could waive that constitutional right to -- under
23 Article VIII, Section II, to ever come back and say,
24 We're no longer charitable. As long as they could meet
25 that test in the future, I think they could meet the

1 test.

2 MAJORITY CHAIRMAN BENNINGHOFF: Okay. Well,
3 we appreciate everything you've done. If you want some
4 homework, that would be great. If you want to put
5 together a list of suggestions, the Committee would be
6 willing to look at them.

7 MR. ENGLE: Okay. Thank you.

8 MAJORITY CHAIRMAN BENNINGHOFF: Thank you
9 very much. Next up, we have the Pennsylvania State
10 Grange. We are joined by Carl Meiss, the President of
11 the Pennsylvania State Grange. I apologize if I didn't
12 annunciate that properly.

13 MR. MEISS: Meiss.

14 MAJORITY CHAIRMAN BENNINGHOFF: Meiss. My
15 apologies. When you're comfortable, sir.

16 MR. MEISS: Thank you, and good morning. I
17 am Carl Meiss, President of the Pennsylvania State
18 Grange. Thank you, Chairman Benninghoff, Representative
19 Dean, and the members of this Committee for allowing me
20 to testify on behalf of our great organization.

21 I'd like to give a very brief Grange history
22 that I think will provide some background information
23 relevant to this hearing. Immediately following the
24 Civil War, Oliver Hudson Kelley was recognized as the
25 Father of the Grange, Order of Patrons of Husbandry, was

1 tasked by Isaac Newton, then US Secretary of
2 Agriculture, with travelling throughout the country to
3 identify the needs of farmers.

4 He returned to Washington with a
5 recommendation to form an organization to help farmers
6 develop a more unified voice. Kelley began to pursue
7 this objective; and in 1867, received his first dues
8 from a handful of people in the Harrisburg, Pennsylvania
9 area. However, this was shy of the number he deemed
10 necessary to start a local grange. So he then moved
11 north to Fredonia, New York, where the first local or
12 subordinate grange in the country was chartered.

13 However, Kelley soon returned to
14 Pennsylvania when Eagle Grange No. 1 in Lycoming County
15 was founded in 1871. Eagle Grange No. 1 sits along
16 Route 15 just south of Williamsport and continues to be
17 an active grange in the local community.

18 The Grange, which operates under the 501
19 (c)(8) tax status, has evolved from an organization with
20 a solely agricultural focus to one centering on
21 community service, ranging from ongoing projects like
22 our deaf awareness campaign to emergency assistance,
23 including the recruitment of work crews to clear debris
24 from farm fields after Campbelltown tornados and
25 modifying a family's home to meet the needs of a

1 brain-damaged child.

2 Further, Granges host an array of groups and
3 activities such as Scouts, Cub Scouts, Boy Scouts,
4 Brownies, Girl Scouts, 4-H clubs, FFA chapters, blood
5 drives, town hall meetings, rabies clinics, sports
6 practices and community banquets.

7 While this service is vital to the economic
8 and social health of Pennsylvania communities, it is not
9 easily quantified. Throughout its history, over 2,000
10 Grange halls line the rural landscape of the
11 Commonwealth. Currently, there are 240 local community
12 Granges. Further, the membership peaked at about 82,000
13 members during the mid-20th Century, while today there
14 about 9,000 Granges in the state.

15 Although these figures are alarming, there
16 is good news to share. When I began to work for the
17 State Grange just over 10 years ago, membership was
18 dropping by almost 2,000 members per year. That has
19 slowed dramatically, and for the first time in decades
20 we actually showed a net gain in membership for the
21 third quarter of last year and see an increase in
22 membership largely due to a resurgence of youth
23 engagement, helped along by social media and savvy young
24 members.

25 Eighteen counties in the Commonwealth offer

1 tax exempt status to Grange properties. These include:
2 Allegheny, Beaver, Berks, Butler, Centre, Clarion,
3 Clearfield, Cumberland, Forest, Greene, Huntingdon,
4 Juniata, Northampton, Northumberland, Perry, Potter,
5 Susquehanna, and York.

6 Many Granges in the remaining counties have
7 been forced to sell their properties due to the tax
8 burden, and are presently delaying sales pending the
9 potential of tax relief.

10 A survey of annual property taxes among
11 Granges throughout the Commonwealth shows a typical
12 range of \$500 to \$1500 annually with a few outliers on
13 either end of the spectrum.

14 The Pennsylvania State Grange respectfully
15 asks the Committee to examine means and ultimately move
16 legislation that would extend tax relief to all Grange
17 properties in the Commonwealth so the rich tradition of
18 Grange community service can continue.

19 Thank you, and I will be glad to answer any
20 questions.

21 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
22 sir. We appreciate that. Questions from the members?
23 Chairwoman Dean and Representative Lawrence.

24 MINORITY VICE CHAIRMAN DEAN: Thank you, Mr.
25 Chairman. And thank you, Mr. Meiss, for your testimony.

1 Your historical perspective is very helpful.

2 MR. MEISS: Thank you.

3 MINORITY VICE CHAIRMAN DEAN: I'm interested
4 and happy to hear your membership is probably starting
5 to come back. I'm interested in, you said there's about
6 240 Granges currently. Would you know how many of those
7 have a tax exempt status at this time?

8 MR. MEISS: I don't know the exact number.
9 I can say that the two largest Grange counties, which
10 are Centre and Berks County, each have 12 Granges
11 themselves; so there are 24 between those two. The
12 other thing that -- I can't answer that question
13 specifically, because out of those 240 Granges, we only
14 have about 160 that actually own properties or own their
15 own halls.

16 MINORITY VICE CHAIRMAN DEAN: Very good.
17 And in part of your testimony, you're describing the
18 history and so there's a shift from purely an
19 agricultural pursuit as members to one that is more
20 community-service oriented. When did that shift take
21 place? Are some Granges now purely agricultural in
22 their efforts, or are they all interested in
23 community-service kinds of things?

24 MR. MEISS: As a national organization,
25 there's been a shift pretty much with society to more of

1 a community-service organization. Yet we see within the
2 Commonwealth, obviously, we've got some counties such as
3 Lancaster County, York County, that are much more
4 agricultural and have much more agriculture in them than
5 some of the other counties. So it's very dependent upon
6 the community itself.

7 With our local Granges, they look at the
8 communities that they're in; so it could be a Grange in
9 the Borough of Hamburg in Berks County or a Grange in
10 the middle of nowhere in Bradford County. So they look
11 at their communities to see what the needs are. The
12 needs may be a voice for agriculture, or the need may be
13 something totally different in a rural area that doesn't
14 have much agriculture.

15 MINORITY VICE CHAIRMAN DEAN: Okay. And
16 finally, as it depends, you know, where the location is,
17 what the needs are, would your suggestion be that
18 Granges, if they can set up that they are substantially
19 for charitable purposes, should engage in a tax exempt
20 status or that they are substantially for agricultural
21 benefit purposes, they would maybe not, or something
22 reduced?

23 MR. WEISS: The problem that we've had with
24 the Granges since they are throughout the Commonwealth
25 is that we've had many who have attempted to get the tax

1 exemption through the counties as Mr. Engle spoke of,
2 and each county is totally different and seems to have
3 totally different requirements even though we know
4 what's set in the law, that some have been able to get
5 this very easily and some have not been able to get it
6 no matter what they present. And what we're looking for
7 is something throughout the Commonwealth that all of our
8 Granges are on equal footing.

9 Part of the other problem comes in because
10 we're a 140-plus-year-old organization, traditionally,
11 up until the last decade, our membership had been
12 growing older and older. We did a survey actually about
13 6 or 7 years ago with Grange members, and at that time
14 found that 70 percent of our members were over 70 years
15 old. I have many Granges that only have 13 to 15
16 members, who many of them are over 70. Sometimes
17 they're over 80 years old. And it's next to impossible
18 for them to even gather all this information from five
19 years together that they don't even understand some of
20 it, to be able to even attempt to get exemption.

21 MINORITY VICE CHAIRMAN DEAN: Thank you very
22 much. Thank you.

23 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
24 Representative Dean. Representative Lawrence.

25 REPRESENTATIVE LAWRENCE: Thank you, Mr.

1 Chairman. And thank you, Mr. Meiss, for your testimony
2 today. I appreciate you being here today.

3 MR. MEISS: Thank you.

4 REPRESENTATIVE LAWRENCE: I'm from part of
5 Chester County that has, I believe, the only remaining
6 Grange Hall in Chester County. And I certainly
7 appreciate Betsy Huber; she's one of my constituents,
8 and she's been very active in the Grange over the years.
9 And I appreciate the fact that the Grange Hall has been
10 open several times for town halls and things like that,
11 so I appreciate that.

12 And Chester County does not give them any
13 tax exempt status. I know that to be the case.
14 Certainly, as policymakers, one of the challenges when
15 we're looking at something like this is that there are,
16 you know, at its heart, the Grange is a fraternal
17 organization; and there are a number of fraternal
18 organizations across the Commonwealth. And, you know, I
19 think in particular some of the, I won't call them the
20 competition, but just some of the other fraternal
21 organizations that are out there, you know, there may be
22 larger memberships; some of them small games of chance.
23 You know, I don't want to call them profitable; because
24 they're maybe not profitable, but they're sizable
25 organizations.

1 So what I'm saying is that as we as
2 policymakers look specifically, you know -- we have to
3 be careful about constitutionally, not picking and
4 choosing one organization over the other. I really
5 think the challenges that are in place at least when
6 looking at assessing this kind of a fraternal
7 organization -- and that also applies to the Moose Lodge
8 or the Masons or whatever, the Lions, whatever else it
9 may be.

10 So could you give a picture, you know, your
11 perspective of, you know, and I don't want to ask you to
12 speak for -- I'm not calling them your competition. I
13 don't want you to speak for anyone but the Grange,
14 obviously. But do you have any advice just how
15 policymakers might look at the challenge that would
16 arise when looking at one organization versus another
17 organization that might technically fall into a similar
18 bucket that has a different, you know, operating
19 structure, maybe a different --

20 MR. WEISS: Well, I think the Grange is
21 unique from the other community service organizations in
22 particular and the ag organizations in the fact that
23 we're a total grassroots organization. All of our
24 policy comes from our local members and filters up to
25 both the state and the national Grange.

1 In that aspect, I think we're very
2 different. But in addition to that, we are not a
3 single-focused organization. Where many of the other
4 organizations focus on one thing that they raise money
5 for that is their charity or whatever it may be, the
6 Grange is based on, again, our local Granges and what
7 the issues of importance to our local members are.

8 So our community involvement especially can
9 vary from anything from education to transportation to
10 healthcare or anything in between in addition to
11 agricultural issues and things like that. So I think
12 we're unique in that aspect. We're also a very unique
13 organization in that, to the best of my knowledge, we're
14 the only organization outside the church that includes
15 the entire family. We have junior Grange for our
16 children age 4 to 14; we have youth Grange for our kids
17 from 14 to 35; and we have the regular Grange. And at
18 age 14, in the Grange, an individual can become a
19 full-fledged voting office-holding member.

20 So I think we're very unique in those ways
21 from all the other, some of what I call the animal
22 organizations: the Elks, the Moose that you had
23 mentioned, and all those, as well as the Kiwanis and the
24 other organizations such as that.

25 So I think that's the main focus of where

1 our difference comes from any of the others that might
2 fall into the same realm.

3 REPRESENTATIVE LAWRENCE: To your knowledge,
4 has the Grange ever had a conversation with some of
5 these other organizations about how you might approach,
6 kind of tackle this issue together before the
7 Legislature?

8 MR. MEISS: I've been with the state office
9 for a little over 10 years, and not to my knowledge, at
10 least not since I've been the president of State Grange,
11 which I was elected three years ago; so --

12 REPRESENTATIVE LAWRENCE: Thank you very
13 much, and thanks for coming.

14 MR. MEISS: Thank you.

15 MAJORITY CHAIRMAN BENNINGHOFF: Thank you.
16 Representative Mirabito and Representative Denlinger.

17 REPRESENTATIVE MIRABITO: Thank you. Thank
18 you, Mr. Meiss, for your testimony. Lycoming County
19 doesn't have a tax exemption?

20 MR. MEISS: Pardon me?

21 REPRESENTATIVE MIRABITO: Does Lycoming
22 County have a tax exemption?

23 MR. MEISS: To the best of my knowledge,
24 they do not. Well, to the best of my knowledge, they're
25 not at this point.

1 REPRESENTATIVE MIRABITO: Okay. You know, I
2 know a lot of the members of your organization. And
3 it's my understanding that all the participants are
4 volunteers; is that correct?

5 MR. WEISS: Yes. The only paid members at
6 all in the State Grange are myself and two other
7 full-time members in our state office. No one at the
8 local level is paid at all.

9 REPRESENTATIVE MIRABITO: So at the local
10 level, when people are going out and assisting after a
11 flood or doing any of these things, it's always on a
12 volunteer basis? No one in the organization is being
13 paid?

14 MR. MEISS: Correct.

15 REPRESENTATIVE MIRABITO: And without that,
16 they -- presumably, we would be paying some public
17 servant one way or the other when we've had the floods
18 in Lycoming County and other places?

19 I guess, do you know -- like, can you give
20 us some examples of some of the charitable -- you
21 mentioned some, but some examples of some of the
22 charitable purpose that some of the Granges have engaged
23 in, in addition to flood relief and so forth?

24 MR. MEISS: Just -- today's Thursday --
25 Monday, my Grange, I belong to Valley Grange in northern

1 York County. We donated money to a local family whose
2 barn burnt down the Monday before.

3 We also annually donate and support a group
4 called New Life for Girls, which is a church-run rehab
5 center just for women who also have their children with
6 them. We've got other Granges that, as I said, sponsor,
7 particularly in the western part of the state because of
8 the rabies problems, sponsor different rabies clinics.
9 Some are free clinics; some are reduced-cost clinics.

10 As I said, with the Campbelltown tornado,
11 and Lancaster County folks know that Campbelltown's been
12 hit twice, I think, in the last six years. We have
13 actually organized Grangers to go out and not help with
14 any of the harvesting, but the two farms that I went on
15 myself, the amount of debris from the local developments
16 was so great that they could not harvest any of their
17 crops without cleaning the fields, which sounds kind of
18 odd. But we spent days just going through and cleaning
19 their fields so that they could eventually harvest those
20 crops.

21 Granges throughout the state provide their
22 buildings for community meetings. Many times, if a
23 local township has an issue of some kind and doesn't
24 have the facilities and they've got a large group that
25 is going to show up, the Grange will donate their

1 building for those kinds of meetings, various different
2 functions and events like that.

3 REPRESENTATIVE MIRABITO: Thank you very
4 much.

5 MR. MEISS: Thank you.

6 MAJORITY CHAIRMAN BENNINGHOFF:
7 Representative Denlinger and Representative Daley.

8 REPRESENTATIVE DENLINGER: Thank you, Mr.
9 Chairman. Thank you, Mr. Meiss, for your testimony. We
10 appreciate it.

11 Recalling history, the Grange, of course,
12 was a dominant political force in this nation back in
13 the -- literally able to sway national elections. And
14 that's a rich history that the Grange holds. And I was
15 sitting here thinking, I wonder if in maybe the 1940s,
16 50s and 60s, when there were still folks who had
17 memories of that time in place, maybe that became a
18 challenge in the conversion of the organization from
19 some of those aspects into the more purely charitable
20 function.

21 Do you have a thought on that or a comment?

22 MR. MEISS: Number one, I guess you're
23 correct in saying that we have had political influence,
24 but the Grange is, and always has been, a totally
25 nonpartisan organization. We have influence through the

1 Legislature through issues that we support, but we do
2 not support any candidates or any parties at all. It's
3 totally issue driven.

4 As far as the change or the transition, I
5 believe most of that came about simply because of
6 society. Our largest membership here in Pennsylvania
7 was during the 50s. During the 50s, our farm --
8 percentage of the population that was farmers was
9 probably in the 20 or 30 percent. Today, we have less
10 than two or very close to only one percent of the
11 population being farmers.

12 So I think you had to see a transition come
13 about or a death of the organization simply because
14 there weren't enough people. So I think that was
15 probably, at least in my mind looking at the history of
16 the organization, that was the biggest influence to
17 transition from strictly an agricultural organization to
18 a community service organization.

19 REPRESENTATIVE DENLINGER: And then one
20 other question. In my area of Lancaster County, the
21 fraternal ag organization is the Young Farmers, which,
22 of course, has statewide chapters. And I was kind of
23 enjoying your descriptions of, you know, the ages;
24 because a young farmer in the local chapter is 80 and
25 above in most cases. So it's a state of mind, not

1 necessarily age.

2 But I'm wondering, does your organization
3 interact with them, do you know? Do they have exemption
4 or immunity? Do they actually own the properties in
5 your experience? Our local chapter does not. Can you
6 share with us anything about the Young Farmers?

7 MR. MEISS: We do interact with them. We
8 interact with a lot of the different agricultural
9 organizations: Farm Bureau and Young Farmers, and
10 things like that. To the best of my knowledge, I'm not
11 sure of any of the other organizations that actually own
12 any properties. They don't have halls, meeting places,
13 other than their state offices and things like that.
14 But I'm not familiar with any of the other ag
15 organizations that I deal with at least, from the State
16 Grange aspect, that own any properties.

17 REPRESENTATIVE DENLINGER: Okay. Very good.
18 Thank you. Thank you, Mr. Chairman.

19 CHAIRMAN BENNINGHOFF: Representative Daley.

20 REPRESENTATIVE DALEY: Thank you, Mr.
21 Chairman. Actually I'm going to wait.

22 MAJORITY CHAIRMAN BENNINGHOFF: Very good.
23 Thank you. Other members, questions of the Grange?

24 (No response.)

25 MAJORITY CHAIRMAN BENNINGHOFF: Seeing none,

1 sir, we thank you very much for your testimony. It was
2 very helpful. Again, thank you and your fellow Grangers
3 for your service.

4 MR. MEISS: Thank you very much. I
5 appreciate the time.

6 MAJORITY CHAIRMAN BENNINGHOFF: We're going
7 to take a short break here and let our stenographer
8 stretch and the members stretch, but your leashes are
9 short. If we could be back at 11:30, I would appreciate
10 it.

11 (Whereupon, a brief recess was taken.)

12 MAJORITY CHAIRMAN BENNINGHOFF: If the
13 Finance Committee would reconvene, I know our local Vice
14 President has a lot of work to get back to. Again, we
15 are joined by the Hospital & Healthsystem Association of
16 Pennsylvania, their Legislative Services Director and
17 Senior Vice President, Scott Bishop. And along with
18 him, our own Mount Nittany Medical Center, our local
19 medical center, who takes great care of all of us, Mr.
20 Wisniewski. Am I pronouncing that wrong?

21 MR. WISNIEWSKI: That's perfect.

22 MAJORITY CHAIRMAN BENNINGHOFF: Senior Vice
23 President of Finance and Chief Financial Officer, we
24 thank both of you for joining us and we look forward to
25 your insight on the impact at looking at Act 55 and the

1 benefits it would provide to our local community.

2 And whatever order you two want to testify,
3 we will question you in reverse.

4 MR. BISHOP: Perfect. Well, I'm going to
5 start. Thank you, Chairman Benninghoff, Representative
6 Dean. I've been the guy right before lunch. I've been
7 the guy right after lunch. I've never been the guy
8 between pie and lunch, but we'll try that.

9 Thank you for the opportunity to allow us to
10 be here today to talk a little bit about why HAP
11 supports not only the provisions of Act 55 but also a
12 little bit, too, as to why we support the process to
13 amend the Constitution to further clarify or make sure
14 that it's the Legislature that has the ultimate
15 authority to make sure the definitions and what
16 determines an institution of purely public charity has
17 put forth for organizations.

18 You have our testimony. And really what I
19 want to do is, I'm not going to read the testimony. I'd
20 like to share a couple of thoughts, a couple of points,
21 and really allow most of this time for you to hear from
22 Rich, who can talk to you about a very specific example
23 of how a hospital impacts a local community in the
24 things that they do.

25 But as it's been discussed already, in the

1 mid-80s, the Pennsylvania Supreme Court came up with the
2 HUP test to establish, you know, criteria to define an
3 institution of purely public charity. Unfortunately,
4 that test, instead of providing clarity and consistency,
5 really generated better part of decade or so of
6 litigation, uncertainty, and conflict between local
7 governments and institutions such as hospitals as to
8 what a purely public charity is all about.

9 And, in fact, it wasn't until Act 55, in
10 support of the Legislature at that time, signed by the
11 Governor, that provided that clarity. And one of the
12 reasons we think that happened was because it took the
13 broader prongs of the HUP test and then did what a
14 Legislature should do, which is to provide clarity to
15 each of those prongs. So they didn't dispute what the
16 Court came up with regard to the categories. They
17 simply said, if you're talking about a charitable
18 purpose, here are the six ways in which an entity can
19 meet that.

20 So for the better part of 15 years after the
21 passage of Act 55, we saw largely kind of a consistency,
22 clarity, kind of a calmness in this area of the law that
23 was, I think, well received, of course, by our members
24 and by the institutions across the Commonwealth.

25 So that 15 years, unfortunately, was kind of

1 broken with the Supreme Court's decision last year in
2 the Mesivtah Case, in which they, in essence, in our
3 view anyway, moved away from the specificity of Act 55
4 and returned to that kind of broader base of their
5 initial HUP test in the mid-80s.

6 And that, for us -- we're fearful that that
7 decision is going to take us backward in this area of
8 the law and take us back to a time where there isn't
9 consistency and there isn't, you know, kind of an
10 expectation of predictability, a measurability about
11 what these institutions do.

12 I mean, it's clear from the prospective of
13 hospitals, we do take care of Pennsylvania's most
14 vulnerable citizens, no matter how you want to define
15 that group of individuals, families, children,
16 whatever -- however that definition is defined for you,
17 hospitals take care of those citizens. And we do it
18 24/7, 365; right? So it's in our emergency rooms; it's
19 in our clinics; it's inpatient, outpatient, all those
20 things is what hospitals do.

21 And when you think about the funding
22 complexities of a hospital, most of what we do is put
23 stressors on a hospital or a health system. Whether or
24 not it's a billion dollars now, it's more than a billion
25 dollars across the Commonwealth that we deal with in

1 terms of uncompensated care, whether or not it's
2 Medicaid or Medicare payments not necessarily matching,
3 where they need to be. All those financial stressors
4 are at place. And one way for hospitals to help balance
5 all these things is through tax exemption and by their
6 ability to meet the provisions of Act 55.

7 And just one last point from the hospital's
8 perspective that -- and Rich will give you a sense of
9 when we talk about the charitable benefit, the
10 charitable investment that hospitals do, that goes
11 beyond the healthcare that folks receive in an operating
12 room or when they come to a community clinic or whatever
13 the case is. All the things we do with regard to, you
14 know, things in the community, social services, all the
15 services that hospitals provide, I think the one thing
16 to remember is that at some point making decisions about
17 all this, those stressors come into play, the stressors
18 from all the different parts of the payment process,
19 that it's tax exemption that really is important.

20 And hospitals -- what I want to leave you
21 with for sure is that hospitals understand that that tax
22 exemption is not a right. And one of the reasons we so
23 strongly support the provisions of Act 55 is that we
24 know that tax exemption is not a right. It's a part of
25 the responsibility that -- it comes with the

1 responsibility that we have to our communities. And so
2 we need to make sure that we demonstrate that we meet
3 those prongs of the test.

4 And by the way, when it comes to 990s and
5 salary information, there may have been a time at some
6 point in history where hospital salary information was
7 not well known or readily available or the like. But I
8 can tell you in my short time here at HAP that is no
9 longer the case. So there's not a municipality, a local
10 newspaper, a county, a community that doesn't have quick
11 and ready access to the top ten, for sure, salaries for
12 their local hospital; and they're typically talked about
13 at least once a year in some regard.

14 So with that, I'll turn it over to Rich who
15 can, again, talk more specifically about what Mount
16 Nittany Health does in this region and then really look
17 forward to your questions about the hospital's
18 perspective on Act 55, as well as, Chairman
19 Benninghoff's House Bill 724, which this Committee
20 reported, as well as Senate Bill 4, which the House and
21 Senate both passed that would, in essence, amend the
22 Constitution to make sure the Legislature has the full
23 ability to determine what an institution of purely
24 public charities is.

25 MAJORITY CHAIRMAN BENNINGHOFF: Rich, do you

1 want give us some background really to the role of the
2 Hospital? It would be helpful.

3 MR. WISNIEWSKI: Sure. I certainly will.
4 And before I do that, I'd like to thank everyone,
5 Chairman Benninghoff, Representative Dean, and members
6 of the Committee, for the opportunity to be here. But
7 it's not about me.

8 In the way I view my purpose here today is
9 to help you in doing your work. So whatever I can do
10 through your questions and things I don't address,
11 please let me know and I will respond to the best of my
12 ability.

13 So a little bit about my background. I've
14 been the Chief Financial Officer at Mount Nittany Health
15 for a little over 10 years. In that role, I'm
16 responsible, obviously, for the finances, to make sure
17 that the organization is financially sound and healthy
18 and that we're looking ahead to the future so that we
19 have the funds available to take care of the community.

20 I am a certified public accountant. I'm a
21 member of the Healthcare Financial Management
22 Association, a national organization. I serve on
23 several local boards in the community through the
24 Chamber of Commerce, CVIM, Centre Volunteers in
25 Medicine, Centre Crest Nursing Home, a new nonprofit

1 organization, and also a hospital insurance company that
2 was formed by hospitals to keep the cost of hospital
3 insurance low; and that being malpractice insurance as
4 an example.

5 So I've been involved in healthcare my
6 entire career, and that spans 40 years. I just had my
7 anniversary recently. So nobody celebrated it, other
8 than myself; but that's my problem.

9 MAJORITY CHAIRMAN BENNINGHOFF:
10 Congratulations.

11 MR. WISNIEWSKI: Thank you. Our mission at
12 Mount Nittany Health is pretty simple and
13 straightforward. We are here to make people healthy,
14 and that's it. We are here to make people healthier.
15 We consist of really five corporations. The parent
16 corporation is Mount Nittany Health. It is really just
17 an oversight organization. It is run by a group of
18 volunteers, the board of directors. It doesn't even
19 have a bank account. Okay? So it's really just an
20 oversight organization.

21 The other four are Mount Nittany Medical
22 Center, Mount Nittany Physician Group, Mount Nittany
23 Surgical Center; and the last one is the Foundation for
24 Mount Nittany Medical Center. So we got a little
25 creative on the last one.

1 Mount Nittany Health, all the entities are
2 not-for-profit organizations, headquartered and founded
3 in Pennsylvania. We operate 207 beds in the hospital.
4 We're licensed for 260 beds. We're an acute care
5 facility. We offer medical, surgical, diagnostic, and
6 community services.

7 The organization employs over 2,000
8 healthcare professions. We have approximately 70
9 employed physicians in our organization, and we have
10 approximately 250 physicians on or medical staff.

11 We have approximately 754 volunteers that
12 contribute 64,000 hours to the organization. We
13 maintain an open admissions policy, which is pretty
14 straightforward. Basically what that is stating is that
15 we will take care of anyone regardless of their ability
16 to pay, their race, religion and so on.

17 We also provide uncompensated care, and we
18 provide support to our other nonprofit organizations in
19 the community. So as I look back over my 10 years with
20 the organization, we certainly have grown. When I came,
21 we provided care to about 10,500 inpatients in a year.
22 Now we're just under 13,000. When I came, we provided
23 about 39,000 emergency room visits in a year. Now we're
24 just under 50,000. We did 169,000 outpatient visits.
25 This past year was about 260,000, so that has grown

1 almost a hundred thousand.

2 So we certainly have grown. We've been
3 responding to the community need. We recognize our
4 mission is to obviously make people healthier, and
5 that's what we're doing. And we take that very
6 seriously.

7 We also take our tax exempt status very
8 seriously. And what I'd like to do is just describe for
9 you how we do that. All right? And we provide free
10 care, and I'm going to give you a whole series of
11 numbers here. But bear with me. Please don't slumber
12 as I give the numbers. Okay? Free care, at cost, at
13 our cost of providing, is about \$1.6 million per year.
14 Now, to qualify for free care, we have some guidelines.
15 We have a policy that states how a person can qualify.
16 We publicize that on our website. We publicize it at
17 the time of admission. When a person comes in, we
18 provide them with information about that, to every
19 person that comes in.

20 So if we look at a family, let's just pick a
21 family of three, a parent with two dependents, the
22 federal poverty guideline is around 19,500. Our
23 threshold to qualify for free care is 48,800. Okay? So
24 by being two and a half times the federal guidelines,
25 it's easier for our community members to qualify for

1 free care. And so that's how we provided that 1.6
2 million in free care.

3 Now, our challenge in providing free care is
4 very often the patient. It's pretty simple. We need
5 some information to make sure these people qualify. And
6 our biggest challenge is to get them to fill out the
7 application. We go through several processes to ask
8 them for information and we pursue them, we call them,
9 we contact them. But very often, we do not get a
10 response. And that's unfortunate, because we're here to
11 serve those people. We serve them, but we just can't
12 call them free care at that point in time; because they
13 didn't go through the process.

14 The other item we have is that there are
15 some people whose income exceeds the threshold for free
16 care. However, they have no insurance. And we all know
17 a hospital bill can be very large. And what we have is
18 a policy in place that if a person doesn't have
19 insurance, we will write off and adjust their charges
20 down by 50 percent so that it makes it easier for them
21 to qualify.

22 Now, people that don't have insurance
23 sometimes are people that have taken a new job. They're
24 employed, but they haven't met the time period
25 requirement with that employer to qualify for the health

1 benefits; so that's just one example.

2 There are other people who have exhausted
3 their health benefits. For example, they've used up all
4 their physical therapy limits. And we will use this
5 uninsured policy to help them qualify for their care.

6 There are some things that we do not allow
7 to be in this uninsured discount program. And it's
8 cosmetic surgery, bariatric surgery, high-deductible
9 plans or high-coinsurance plans. Now, I must say, we do
10 not provide bariatric surgery at our organization; so
11 it's kind of meaningless, in case we ever do in the
12 future. So we're really trying to get at those critical
13 healthcare needs of an individual through this policy.

14 Some of the other items that we do for the
15 community to earn our tax exempt status, we provide
16 subsidized health services, such as mental-health, pain
17 clinic, Suboxone clinics. These things we lose money
18 on. It costs us more than we get paid from the
19 insurance companies, and that costs us a million dollars
20 a year. We provide health professional education.
21 That's about a half million dollars a year. This is for
22 medical students, students in their medical education
23 who become physicians. They rotate through our
24 organization as part of that academic experience.

25 Nursing students, as well, as part of their

1 on-the-job training, they come through, laboratory
2 students. And we're working on a program with Penn
3 State Hershey Medical to have residents here in our
4 community in the next couple of years.

5 We also provide community health improvement
6 services, such as education outreach, health screening,
7 transportation for patients that can't get to the
8 medical center. Perhaps they live in a rural area; they
9 don't have transportation or they're not well enough to
10 drive themselves; we'll go out to their home, pick them
11 up and bring them in. That costs us about \$300,000 a
12 year.

13 We provide cash and in-kind donations to
14 other organizations, such as Centre Volunteers in
15 Medicine, a free clinic here in town; and we spend about
16 \$250,000 a year for that. We provide community building
17 activities, such as community health improvement
18 advocacy programs. That's about 57,000 a year. And we
19 also have bad debt, all right, where we get no payment.
20 Some of these people are people that could qualify for
21 the free care program, and as I mentioned earlier, they
22 just haven't filled out the paperwork for it.

23 And some of these people are those people
24 who have the resources to pay their healthcare bill but
25 choose not to, and that's \$2.7 million a year. Our

1 Medicaid shortfall is around \$7 million a year, and what
2 that represents is our cost in excess of the payment we
3 received from the Medicaid program to care for those
4 patients.

5 So I've gone through a lot of numbers. I'm
6 happy to answer any of your questions. When we total
7 all these numbers, it's about \$13-and-a-half million a
8 year. That's more than 3 percent of our total expenses.
9 It's around 4 to 5 percent, in that neighborhood. And
10 \$13-and-a-half million, we take it very seriously; but
11 that's what we do to give back to the community. So
12 I'll be happy to answer any questions you may have.

13 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
14 Scott and Rich, both for your good testimony. We're
15 going to start with Representative Rapp, Representative
16 Greiner, and Representative James.

17 REPRESENTATIVE RAPP: Thank you for your
18 testimony. Thank you, Mr. Chairman. I represent Warren
19 General Hospital and Kane Hospital, and I am very
20 appreciative of those facilities being in my district.
21 And I know that their reimbursement is just as much a
22 shortfall as it is for this area.

23 And going back to previous testimony,
24 Representative Mirabito brought up the perception of the
25 public -- and by the way, Warren General is in a battle

1 with the county commissioners regarding their status.
2 With the perception of the public when they see this
3 ongoing battle, they see the salaries of the CEO of the
4 hospital and the bonuses; and what they don't see is all
5 the services that are provided by the facility.

6 Is there anything that the organization is
7 doing -- and we provide mental-health services as well,
8 and I do -- have supported the legislation. But is
9 there any ongoing dialogue as to how you're justifying
10 the salary and the bonuses? And, Scott, I'm probably
11 talking more to you as far as the Association. What
12 kind of PR are you doing? What are you doing with the
13 public to show the public -- you know, and I know what
14 our CEO makes; because it's been published in the paper.
15 But I have the same situation. The average income, you
16 know, in Warren is 40-some thousand; and certainly
17 people making more and certainly people making less.
18 And when they see those salaries, you know, listed in
19 the paper and the bonuses and they don't necessarily see
20 everything else, the services provided.

21 What are you doing PR-wise within your
22 organization that justifies comparing those services to
23 the salaries?

24 MR. BISHOP: Right. So it's a difficult
25 issue, and it's one -- I mean, it's clearly in the

1 hospital realm because most of our members are
2 not-for-profit organizations.

3 But, you know, the issue of trying to
4 justify salaries, no matter what the industry is, is
5 always difficult, especially when there could be a wide
6 gap between leadership posts in a hospital and when
7 that's the median income or anything else in a
8 community.

9 What we encourage our members and what we
10 think our members do is, one, to put a priority on
11 transparency when it comes to the salaries they pay
12 their top leaders and then to always try to do exactly
13 what you're suggesting, which is to make sure the
14 community understands all the things that they do. So
15 many hospitals, most hospitals, have very active
16 community relations, public relations folks who try to
17 make those arguments.

18 It comes to a point where you have to --
19 you're never going to potentially convince someone that
20 a salary is not too high, it's just right; but what we
21 try to do is make sure that our members understand that
22 you need to explain to your communities what the
23 responsibilities are on your hospital leadership staff.
24 Right?

25 In some cases -- Rich gave you a sense of

1 the numbers here at Mount Nittany. But when you think
2 about -- and back to Rich's point about hospitals as
3 employers, actually 55 of 67 counties, hospitals are one
4 of the top five employers in that county. So you think
5 about it, these are major -- these are major structures
6 that require a certain level of leadership that
7 compensation becomes a part of it. I mean, to make sure
8 that a hospital does all the things it's supposed to do,
9 you demand a certain level of leadership, a certain
10 caliber of leadership. And it's that caliber of
11 leadership that allows the hospitals to not only do all
12 the things they need to do in healthcare, but to make
13 sure that they're doing all the kinds of things as a
14 community citizen that folks understand.

15 So we do our best to make sure our members
16 stay in front of it, are transparent about it. We
17 provide as much information as we can to them about the
18 various fiscal components of what they do in their
19 region to help them understand, your Medicaid shortfall
20 is this, your investment in health services is this; so
21 that they can have that complete picture.

22 But we do our best to the point that we can
23 try to help folks understand, you know, why compensation
24 is what it is; but there's only so much we can do. Some
25 of it is just the tried and true, you know, conflict

1 sometimes between, you know, when there's a gap.

2 But Rich can talk a little bit about what
3 they do at Mount Nittany specifically in that regard.

4 MR. WISNIEWSKI: The compensation's always
5 tough, and it's never enough money when somebody else is
6 making more than I am, and it's never enough -- it's
7 always subjective to the individual who's looking at it,
8 obviously; so that's that point.

9 But at Mount Nittany, the board of trustees
10 takes it very seriously. Okay? They have a process
11 where they go through, looking at the compensation. And
12 it's very tough; it's a tough decision process they go
13 through. They spend a lot of time on it. What they do
14 is, and I'll just briefly describe it, is they use an
15 outside organization to provide comparable information;
16 and they compare that information, the salary, as well
17 as all the benefits, so that it's a comprehensive
18 package. Because, obviously, I think earlier this
19 morning somebody mentioned about some other benefits,
20 you know, maybe a car or whatever it could be. So this
21 is a total package comparison to comparable-sized
22 organizations. And with that information, then the
23 board makes their decision within a range of the 40th to
24 the 60th percentile of the compensation.

25 And so it's a very fair process. The

1 individuals involved don't set their own salaries.
2 They're accountable. They're measured by their
3 performance and their goals. And that's all part of it.
4 And our performance is based on clinical items,
5 financial, customer service. I'm drawing a blank.
6 There's five of them. I should know them all, but I
7 don't.

8 REPRESENTATIVE RAPP: I just had one more
9 question. It was also brought up earlier, a possible
10 payment in lieu of taxes. Have you had any discussion
11 like that within your organization or a willingness to
12 pay --

13 MR. WISNIEWSKI: Discussions in that area
14 predate my time at the organization. It was in the 90s.
15 I think it was late 90s.

16 MAJORITY CHAIRMAN BENNINGHOFF: Yes.

17 MR. WISNIEWSKI: But there was an agreement
18 reached with College Township where the Medical Center
19 provides an annual payment, and it's pretty much for
20 services that are provided; and we provide that payment
21 every year in the springtime. I see the check go out
22 the door.

23 REPRESENTATIVE RAPP: Thank you. Thank you,
24 Mr. Chairman.

25 MR. BISHOP: And, Representative Rapp, we do

1 -- I mean, we do encourage our members -- because Act 55
2 encourages consideration of those things, for hospitals
3 to look in their community, you know, the local issues;
4 and to see if that makes sense to them to always be open
5 to that possibility based on, you know, their local
6 circumstances. Because as you all know, representing
7 the diverse districts that you do, things are different
8 from community to community.

9 REPRESENTATIVE RAPP: Thank you.

10 MAJORITY CHAIRMAN BENNINGHOFF:
11 Representative Greiner and Representative James.

12 REPRESENTATIVE GREINER: Thank you.
13 Appreciate you, Rich, and also, Scott, for being here.
14 I'd like to thank Representative Rapp for her question,
15 because I actually think -- I've seen it in Lancaster
16 County. Our largest employer is Lancaster General, and
17 they do an impressive job. I mean, you're talking over
18 7,000 employees from Lancaster County. It's a very
19 generous in lieu of tax payments. I think they're
20 well-deserving.

21 I know I had a kind of off conversation with
22 Representative Denlinger here and I had talked about
23 they just printed their CEOs salary; and it's, you know,
24 well over a million dollars; and there was nothing in
25 the paper. There was no pushback, no letters. I think

1 people understand that. I think that's why I like to
2 see these hospitals remain not-for-profit.

3 Last week, I visited another hospital in a
4 reclusive part of my district. They, too -- he came right
5 out and he said, We provide taxes -- I mean, in lieu of
6 taxes, we provide them because we know it's a big part
7 of the community. So that's great to see.

8 I guess my question is, we have two other
9 hospitals in Lancaster County that are for-profit; and I
10 think this is a discussion people, in their minds -- and
11 I've done a lot of auditing. Actually, I've done a lot
12 of auditing of not-for-profits.

13 What's the difference between a for-profit
14 hospital and a not-for-profit hospital in that, you
15 know, what type of hospital is paying taxes -- that are
16 paying real estate taxes versus a hospital such as this
17 one or perhaps and -- and I might follow up with another
18 question after that.

19 MR. BISHOP: Well, it varies. Are you
20 talking about the investment in the community in terms
21 of services and things like that or --

22 REPRESENTATIVE GREINER: Yeah. I think what
23 I'm -- what I'm referring to is, LGH is filing a 990.

24 MR. BISHOP: Right.

25 REPRESENTATIVE GREINER: Whereas, the other

1 hospital up the road is filing probably an 1120 or, you
2 know -- they're paying taxes. They make a profit. And,
3 hey, we all understand -- I understand as a CPA, the
4 not-for-profit organizations need to make a profit in
5 order to sustain their viability.

6 MR. BISHOP: Yeah. You know, the model's
7 obviously different for investor-owned hospitals; and we
8 -- it's a little more difficult for us to track as
9 closely as we do for not-for-profits, because the 990s
10 provide a tremendous amount of information.

11 But I can tell you, you know, Pennsylvania
12 does have a large number of investor-owned hospitals
13 across the Commonwealth; and we continue to draw
14 interest from companies who want to invest here. It
15 varies by community. It varies by hospital. And I --
16 obviously, it would be difficult for me to make a
17 comparison between the benefit to, you know, Lancaster
18 Regional and Lancaster General. But we do -- we work
19 with our investor-owned hospitals, and they do tell us
20 and they report to us the kinds of things that they do
21 for their communities. And they do similar things. But
22 again, it clearly -- it's different, especially when you
23 have counties where you have a system the size of LGH.

24 REPRESENTATIVE GREINER: Jeff spoke earlier
25 -- that's what I'm saying. Hospital comes to him and

1 says, Hey, my competitor's not-for-profit -- I mean, I
2 understand these are usually bigger hospitals.

3 MR. BISHOP: Right.

4 REPRESENTATIVE GREINER: I mean, based --
5 the for-profit hospitals still give free care. I mean,
6 they can't turn somebody down, can they? I mean, let's
7 just say -- my dad had a -- he cut himself very badly
8 and the blood was gushing out of his hand. We went to
9 LGH. But, you know, there are some people that would've
10 been -- Lititz would've been a hospital right next
11 door -- Hey, we've got to get this fixed; and they
12 probably would've fixed it.

13 MR. BISHOP: Right.

14 REPRESENTATIVE GREINER: And I think they're
15 for-profit. My dad had the means to pay for it, but
16 some people don't. I mean, that's what I'm saying.
17 They're not saying, Oh, we're not going to run through
18 finding out -- for-profit institutions aren't going to
19 run through during an emergency and say, Well, he can't
20 afford to pay; we're not going to -- right?

21 MR. BISHOP: No. I'd say, when anyone
22 presents to an emergency room, whether you're an
23 investor-owned or not-for-profit, the hospitals are
24 required to assess the situation; and largely that leads
25 to treatment there.

1 But there's definitely a difference --
2 there's sometimes a difference in the decision making
3 with regard to the care that's given in an
4 investor-owned setting versus a not-for-profit. And
5 again, it's difficult to make -- and I wouldn't want to
6 make any broad-sweeping generalities about it, --

7 REPRESENTATIVE GREINER: No, I understand.

8 MR. BISHOP: -- other than to say that it
9 can be different.

10 REPRESENTATIVE GREINER: Well, you know, we
11 mentioned the salaries. And I have no problem, because
12 I think you get a high-quality -- you made -- before,
13 there was a comment made about getting a high-quality
14 individual into a rural -- I think Representative
15 Mirabito -- I think it was just to get somebody, you
16 know, from Penn or whatever, in his county. It might
17 make sense and great for the community.

18 Anyway, I just think from a PR perspective,
19 I do think there's going to be questions maybe in the
20 future, you know, why we have not-for-profit hospitals
21 and for-profit hospitals, and is that fair -- that's all
22 I'm saying.

23 And I think that's part of the argument
24 where people are looking here. And like I said before,
25 I think what LGH does, I think they're deserving of

1 theirs. I think in all the not-for-profit auditing work
2 I did, I think they're deserving of their status; but I
3 just wanted to kind of throw that out there, the thought
4 process --

5 MR. BISHOP: Right. And that's fair. But
6 remember, the distinction you have to always keep in
7 mind is what happens in an emergency department versus
8 what happens in other inpatient environment settings and
9 things like that, so --

10 REPRESENTATIVE GREINER: Exactly. There's a
11 difference.

12 MR. BISHOP: The federal law -- yeah, so
13 that's a difference.

14 REPRESENTATIVE GREINER: Well, I appreciate
15 both of your testimony. Thank you.

16 MR. WISNIEWSKI: If I could just make a
17 comment. Obviously, we -- as I stated, we have an open
18 admissions policy, so we're going to take care of
19 everybody. Your insurance card doesn't dictate that to
20 us. We try to contract with every insurance company we
21 can that we know of in the area.

22 Now, we don't contract with some insurance
23 company from California; because we don't see those
24 people here, obviously, but as many that we can in this
25 area. That's what we do.

1 One of the things -- and we're fortunate.
2 Our organization does have an excess in -- most
3 recently, this past fiscal year we did. And we're very
4 fortunate in that situation. But what we do with that
5 excess is we put it back into the facilities, and we
6 have spent a lot of money to respond to the community
7 need by growing the facility.

8 So each year, the excess goes back to the
9 facility. The excess goes back to our employees in
10 terms of next year's pay raises, to keep up with
11 inflation. It also goes back to cover the cost of the
12 increased prices. I mean, we all know that prices go up
13 every year; and so we deal with that. We also try to
14 save some for the rainy day. And right now, it's
15 obviously not raining; but we expect in the next three
16 years or so it's going to be really tough for us
17 financially and for all healthcare organizations.
18 Because of the changes in the healthcare landscape, the
19 environment is changing.

20 REPRESENTATIVE GREINER: Yeah, absolutely.
21 I think I mentioned that before, that not-for-profits
22 need to make a profit in order to sustain their
23 operations, whether it's raising awareness or whatever
24 it is, I think the public needs to be educated on that.
25 I think they have been, for the most part, in my county.

1 But thank you very much for those answers.

2 MAJORITY CHAIRMAN BENNINGHOFF:

3 Representative James.

4 REPRESENTATIVE JAMES: Thank you, Mr.
5 Chairman. A comment about fairness in compensation: I
6 think a person's perception of what's fair is entirely
7 dependent upon the state of its health, so --

8 But if my math is right, your emergency
9 room, on average, sees about -- somewhere in the
10 neighborhood of 140 people a day.

11 MR. WISNIEWSKI: Uh-huh.

12 REPRESENTATIVE JAMES: What percentage of
13 them would be eligible, typically, for free care?

14 MR. WISNIEWSKI: I'm sorry. Off the top of
15 my head, I don't have a number. But the emergency room
16 is one of the areas that has the highest percentage of
17 free care.

18 REPRESENTATIVE JAMES: Uh-huh.

19 MR. WISNIEWSKI: And I would venture to
20 guess, just ballpark number, probably 15 percent. It's
21 a pretty good-size number. Because what happens is,
22 people, when they're not well, that's where they seek
23 their healthcare from if they don't have insurance.

24 Now, that's part of our reason for
25 supporting financially, and in another ways, Centre

1 Volunteers in Medicine in this community, to help keep
2 these people out of the emergency room, which is a
3 high-cost setting. So we're trying to help them get
4 care in a clinic setting where they can see a physician
5 and keep those costs down.

6 So that's what we're trying to do as an
7 organization.

8 REPRESENTATIVE JAMES: I think you started
9 to make a comment about the looming Affordable Care Act,
10 the effect of that. If you want to comment on that.
11 That was the other part of my question. What are you
12 doing to prepare?

13 MR. WISNIEWSKI: Sure. As an organization,
14 obviously, we never want anybody to avoid having
15 healthcare or obtaining healthcare because of their
16 insurance or lack of. So the Affordable Healthcare Act,
17 increasing the number of people that have health
18 insurance, we view as a good thing.

19 The difficulty is, is the payment amount,
20 obviously. As I had mentioned, Medicaid, if we get paid
21 Medicaid rates for other types of people -- people
22 through the Affordable Care Act, I mean, that will
23 increase our losses and be a financial burden. But we
24 don't want people to shy away from getting healthcare
25 because of finances.

1 MAJORITY CHAIRMAN BENNINGHOFF: Chairwoman
2 Dean.

3 MINORITY VICE CHAIRMAN DEAN: Thank you, Mr.
4 Chairman. And thank you both for your testimony today.
5 I think really I wanted to get a little more information
6 in terms of the numbers. And I think, Scott, my first
7 question goes to you. How many hospitals are there
8 across Pennsylvania, profit and not-for-profit?

9 MR. BISHOP: Well, we -- there are probably
10 -- our membership is 240 acute and specialty hospitals.
11 There are -- of that number, I'd say I think it's a
12 little over 160 general acute care hospitals that, you
13 know, places like Mount Nittany Health. I don't -- I'll
14 need to get back to the Committee on the breakdown of
15 the for-profit -- for the investor-owned and the
16 not-for-profit hospitals. And part of that is, the
17 number continues to change. As a state, we continue to
18 see investor-owned hospitals continue to grow here. But
19 I'll get that number back to the Committee of what that
20 breakdown is.

21 And in many communities, there's a mix.
22 There's clearly a mix of the not-for-profit and the
23 investor-owned.

24 MINORITY VICE CHAIRMAN DEAN: And from your
25 knowledge, what percentage or numbers are qualified as

1 exempt, Purely Public Charities exempt?

2 MR. BISHOP: With the exception of Warren,
3 who's going through a struggle now, I'd say that
4 number's a hundred percent of the general acute care
5 hospitals that are tax exempt.

6 MINORITY VICE CHAIRMAN DEAN: And we heard
7 from the first testifier about trends. Would you say,
8 in your experience with the Hospital Association, is
9 there a trend -- what would have been exempt 10 years
10 ago and what would've been exempt 20 years ago?

11 MR. BISHOP: As far as I can tell, at least
12 in my short tenure here, for the better part of the last
13 decade or so, there's been relative stability with
14 regard to traditional general acute care not-for-profit
15 hospitals being tax exempt. So I think for us, really
16 Act 55 was a real start of that stability. It's not to
17 say that with the HUP test, you know, hospitals were
18 constantly under fire, per se; but I think it was Act 55
19 that really kind of brought stability there.

20 So, generally speaking, it's not an area
21 that we would expect -- you know, we expect Warren to be
22 an outlier in the sense of communities going after their
23 hospital.

24 MINORITY VICE CHAIRMAN DEAN: And then do
25 many of your members participate in pilot?

1 MR. BISHOP: Some. Some do pilots. And
2 again, it varies by community.

3 MINORITY VICE CHAIRMAN DEAN: Okay. And
4 then, Mr. Wisniewski, I was interested in -- of course,
5 I admire both of you. I admire your work. I think
6 everybody up here does.

7 MR. WISNIEWSKI: Thank you.

8 MINORITY VICE CHAIRMAN DEAN: I think our
9 communities are well-served by our hospitals.

10 And you described really a laundry list of
11 donated or partially-donated care. And so -- and I
12 think you came up with 13.5 million annually?

13 MR. WISNIEWSKI: Correct.

14 MINORITY VICE CHAIRMAN DEAN: What is the
15 annual budget for your --

16 MR. WISNIEWSKI: It's approximately 300
17 million, so just a little over 300 million.

18 MINORITY VICE CHAIRMAN DEAN: Okay. And you
19 talked a little bit about the upcoming change in lieu of
20 the Affordable Care Act. And do you have an opinion,
21 either of you, as to Medicaid expansion and what
22 difference that would make for you and your
23 organizations and your financial structure?

24 MR. BISHOP: So, I mean, generally speaking,
25 HAP, along with the American Hospital Association, I

1 mean, we generally support Medicaid expansion as a way
2 to improve access to care for more Pennsylvanians. I
3 mean, that's part of what we believe.

4 We, through our own research, through the
5 research done by organizations outside of HAP, and
6 looking at the potential economic impact of the
7 Commonwealth, we stand by those numbers. We stand by
8 the benefit that we think it brings to hospitals, to
9 individuals, you know, by and large. I mean, that's our
10 view on it, and recognizing it's an issue of many
11 perspectives.

12 I think that it's important, though, to add
13 to the context of your question to Rich about the 13 to
14 his budget, before we talk too much about expansion,
15 just to remember and understand that when you think
16 about the hospital industry across the Commonwealth,
17 we're close to a hundred billion dollar industry. And
18 when it's all said and with all the things that we do,
19 Rich's example is clearly -- it's consistent with what
20 we look at statewide when, you know, a hundred billion
21 dollar industry, when we total what all of
22 Pennsylvania's hospitals do, doing the kinds of things
23 that Rich outlined that Mount Nittany does, we go just
24 above \$5 billion all in.

25 So it's reflective of -- a substantial part

1 of that impact is going through charitable care and
2 charitable investments to the Commonwealth. So I think
3 that's the context which we -- when we think about the
4 tax exemption status of hospitals and we think about all
5 the different fiscal pressures.

6 And I lay that context out, Representative
7 Dean, just because it's -- whether or not you talk about
8 one aspect of payment of expansion or you talk about one
9 help, which is tax exemption, you know, it's a
10 complicated landscape with a lot of different things
11 that put pressures on hospitals. So I think it's always
12 important to keep the full picture in context.

13 MINORITY VICE CHAIRMAN DEAN: I appreciate
14 that. And I wonder, from the hospital's point of view,
15 did you want to share your thoughts?

16 MR. WISNIEWSKI: Yeah. Our minds are
17 consistent in this area. We're thinking the same way.
18 Again, if it improves access, that's what we're after.

19 MINORITY VICE CHAIRMAN DEAN: And it will
20 also improve in terms of the uncompensated care dollars?

21 MR. WISNIEWSKI: Yes, it should help. It
22 definitely will.

23 MR. BISHOP: It's a percentage. You know,
24 our estimates, it's about a 25-percent improvement in
25 what hospitals face in terms of uncompensated care. So

1 it's not a panacea for fixing that problem. But, you
2 know, 25 percent of a billion dollars is -- it's a large
3 part of it.

4 MINORITY VICE CHAIRMAN DEAN: And my last
5 question, -- one more?

6 MAJORITY CHAIRMAN BENNINGHOFF: Sure.

7 MINORITY VICE CHAIRMAN DEAN: Thank you, Mr.
8 Chair.

9 MAJORITY CHAIRMAN BENNINGHOFF: As long as
10 it stays on the issue.

11 REPRESENTATIVE DEAN: My last one is, do you
12 know that we as policymakers are grappling with the
13 arguments on the other side of the aisle, which is
14 individual property owners and their concerns over their
15 property taxes, their real estate taxes.

16 From your perspective, if you put yourself
17 in the moccasins of homeowners, what do you think we as
18 a Legislature can do to more equitably balance property
19 tax?

20 MR. BISHOP: I mean, one way in which you
21 help that issue is to ensure consistency and
22 accountability where you can. And so, in Act 55, you
23 have a tool, you have a resource that you can use to
24 make sure that facilities like hospitals or any number
25 of the not-for-profit entities that support Act 55 --

1 you know, there is that checklist for municipalities to
2 use to determine whether or not an entity is deserving
3 of tax exemption status.

4 And when it comes to Act 55, it's clear;
5 it's measurable. We think it's fairly rigorous when it
6 comes to making sure that an entity meets all those
7 things. So that if you provide, I think, stability and
8 consistency in that area, that provides the Legislature
9 with opportunity and options to maybe dive into some of
10 these other issues with regard to property tax issues,
11 as opposed to community by community, court decision by
12 court decision, trying to figure out all these, you
13 know -- these big issues, whether or not, you know --
14 I'm from Lancaster County as well -- that next week, all
15 of a sudden, Lancaster General's now going to have to
16 go to court to protect its tax exemption status. What
17 does that mean in terms of the County's -- you know,
18 what is the County trying to budget on, things like
19 that.

20 I think that if you're able to stick with
21 something that provides you some of that clarity like
22 you have in Act 55, that can be helpful. It's not a
23 great answer with regard to individual property tax
24 issues, but it's the best we can do in terms of our
25 industry.

1 MR. WISNIEWSKI: Just a quick comment.
2 Obviously, compensation is a tough issue; because it's a
3 question of fairness always. And taxes is a tough
4 issue. Boy, you have a tough job. And any elected
5 official has a tough job, because every one of us are
6 experts in taxes because we pay taxes. And it's always
7 too much, right? It's a hard job, I know.

8 But I think Act 55 is very important,
9 because it lays out the criteria; and it's something
10 that we can respond to whether or not we need it. And
11 then that's fair, and that's all we ask.

12 MINORITY VICE CHAIRMAN DEAN: Thank you very
13 much.

14 MR. WISNIEWSKI: Thank you.

15 MAJORITY CHAIRMAN BENNINGHOFF: We thank you
16 both. And I want to remind our members that a larger
17 percentage of our hospitals are actually generally big
18 land owners. There are other entities that are included
19 under the Charitable Exempt Act that had a once larger
20 -- and we can look at that at a later date.

21 MR. BISHOP: And to that point, Chairman,
22 you know, when hospitals have split purposes, they do
23 pay taxes on property that is not part of their
24 not-for-profit mission. So, I mean, we do have examples
25 where there is split -- some property tax paid and some

1 isn't; so, I mean --

2 MAJORITY CHAIRMAN BENNINGHOFF: I know I
3 triggered that thought in your head.

4 MR. BISHOP: Well, we try.

5 MAJORITY CHAIRMAN BENNINGHOFF:
6 Representative Mirabito and Representative Daley.

7 REPRESENTATIVE MIRABITO: Thank you. And
8 thank you for what you do and for being here today. I
9 know also that obviously a hospital plays a very
10 important role in this economy.

11 So I'm wondering, listening to the numbers
12 you gave out, does the nonprofit exemption, from an
13 economic point of view, distort the economics of
14 healthcare delivery? In other words, by not paying the
15 real estate taxes, which is a cost of you doing business
16 which is being shifted to other businesses and other
17 working families, does it distort the economic model and
18 is it a good way for us to run our economy?

19 MR. WISNIEWSKI: Well, I'll just give you an
20 honest response here. That's a heavy question. Because
21 if we were to pay these taxes, obviously, we would have
22 to pass it on to our consumer of our services; and
23 somebody's got to pay for it.

24 I mean, it's kind of like the balloon, you
25 squeeze it here, it's going to pop out somewhere else.

1 REPRESENTATIVE MIRABITO: Right. But is it
2 better to pass it on to the consumer of your services
3 than to pass it on to the entity that doesn't utilize
4 the services at all?

5 MR. WISNIEWSKI: Sure. Well, --

6 REPRESENTATIVE MIRABITO: And just a
7 follow-up to you.

8 MR. WISNIEWSKI: Sure.

9 REPRESENTATIVE MIRABITO: What would you pay
10 -- what does your institution pay in taxes?

11 MR. WISNIEWSKI: Oh, my. I don't even have
12 an idea. I mean, if you think about 300 million; and
13 about half of that is salaries. So you back out, and
14 you're down to 150 million. If you just figure sales
15 tax on 150 million, it adds up pretty quick.

16 REPRESENTATIVE MIRABITO: And what about the
17 property tax assessment? Have you sat down
18 and calculated --

19 MR. WISNIEWSKI: No, no; I really haven't.
20 I'm sorry.

21 REPRESENTATIVE MIRABITO: So, I mean, this
22 is what I mean by economic distortion in the law. In
23 some ways, what we do is incredible, \$13 and a half
24 million given out in free services. But if you look at
25 that next to what is now passed on in the economic model

1 to other people, it's actually a very small amount,
2 right?

3 MR. WISNIEWSKI: Yes, in some ways.

4 REPRESENTATIVE MIRABITO: And, Scott, on a
5 statewide level, if you took what hospitals would pay if
6 they were not tax exempt, have you ever calculated how
7 much it would be?

8 MR. BISHOP: We haven't. But the slight
9 issue with the premise, though, is that, remember, it's
10 the -- all the things that a hospital does to help in a
11 community. So whether or not it's their subsidized care
12 to help those who just don't have insurance, whatever,
13 or the things they do broader to the community. I mean,
14 at some point -- I'm not sure we would agree that that
15 cost -- it's a good idea to shift that cost to someone
16 -- to some other entity in the community to pick that
17 up. So, you know, if there's a need for a mobile clinic
18 because it's a part of the Commonwealth that, look, you
19 got to take medicine to folks as opposed to asking them
20 to come to you, that's a service that the hospitals are
21 contributing to that community; and I'm not sure who you
22 would want to charge to pick up that cost.

23 REPRESENTATIVE MIRABITO: And I agree with
24 that a hundred percent. Because in the case of an
25 emergency room in the community, it may not benefit me

1 today; but five years from now when I'm having a heart
2 attack, it's going to benefit me. I agree with you a
3 hundred percent.

4 I guess what I'm suggesting is, somehow we
5 have to figure out and get the public to understand that
6 there's a benefit that comes that's beyond the fact that
7 I cut my finger today and I went to the ER, you know.

8 But the concern I have, and the reason I
9 have concern about looking at what's happened in
10 third-class cities across Pennsylvania, and Williamsport
11 is a great example, we have a shrinking tax base. We
12 have an effort to try to save tax dollars by eliminating
13 prevailing wages, eliminating pensions to public
14 workers, basically getting workers to take less money.

15 And let's say we do all those things, I
16 still submit to you that what's going to happen is that
17 because of the sheer economics of things like -- those
18 third-class cities are not going to have the revenue and
19 you're going to see flight from the cities. Because as
20 the real estate taxes go up, people are going to leave
21 those cities; and the cities -- you know, another part
22 of what I'm afraid is going to happen is sort like in
23 the 70s and 80s when New York City went bankrupt, is
24 that as those cities -- the very institutions are
25 located in them: Susquehanna Health, Penn College of

1 Technology.

2 And as people leave the cities, middle-class
3 families are left to pay the taxes, and you will see
4 those institutions surrounded by poverty. You know, and
5 with poverty comes crime and so forth.

6 So I guess what I'm suggesting is this
7 problem, to me, is more complicated than whether or not
8 -- and we just picked hospitals because you're here
9 today. It's really sort of a poor tenet of what is
10 coming down the road.

11 And part of it is, you know, there's a piece
12 that I have here from when the Bill was first passed,
13 you know, when the Legislature in the 1800s first said
14 we're going to do something about public charities to
15 try to help them. And have you changed -- have our
16 institutions changed so much that maybe we need to
17 relook at the whole concept of it, the whole concept of
18 it?

19 MR. BISHOP: Well, I can -- to your point, I
20 mean, while we -- and that actually upsizes why we
21 believe that the Legislature -- and why we believe
22 amending the Constitution's so important to make sure
23 that the Legislature makes those determinations.

24 So while we as a hospital community support
25 Act 55, support the provisions of it, think it's the

1 right direction for an institution of Purely Public
2 Charity, provides the right measures, is rigorous,
3 believe all that firmly and strongly, we also know we
4 can't have our cake and eat it, too, in the sense that
5 if the Legislature deemed it to be that that Act needed
6 to be evaluated, looked at, you know, tweaked, whatever,
7 then, look, that's why we want the Legislature to have
8 that role and responsibility; because we want to have
9 the conversation with committees like this, with your
10 colleagues on the floor, to try to make sure that we can
11 emphasize or make the right points as to why the
12 Legislature -- Act 55's in place despite changing
13 whatever with regard -- we still think this is the right
14 set of measurements for the hospital industry, for the
15 not-for-profit community and we want to, you know, make
16 that argument as opposed to having the Courts kind of
17 make that decision for you. And that's why we believe
18 so strongly in the Chairman's language that was passed
19 in Senate Bill 4, as well as the current Act 55.

20 MAJORITY CHAIRMAN BENNINGHOFF: Thank you.

21 REPRESENTATIVE MIRABITO: And I know the
22 Chairman doesn't want us to delve into Senate Bill 4 too
23 much --

24 MAJORITY CHAIRMAN BENNINGHOFF: I'd actually
25 like to move on, unless you have a specific --

1 REPRESENTATIVE MIRABITO: Well, I guess the
2 specific question I'd like to ask is, Could you get us
3 the information on how much Mount Nittany would pay if
4 it were subject to taxation and how much the hospitals
5 would collectively?

6 I think that, you know, it would be helpful.
7 Because especially as a nonprofit, I can't imagine that
8 there isn't tension between for-profit hospitals and the
9 nonprofits, where the for-profits say, Hey, we're
10 playing by all the same rules and we're subject to --
11 and I guess the reason I'm asking for the information is
12 I think the problem is bigger than just this Act, when
13 we have to figure out a way, as you said, Mr. Bishop, to
14 make -- to get people to realize the benefit that comes
15 from having a hospital in a rural community that inures
16 to everyone who lives within the service area.

17 MR. BISHOP: Fair point.

18 MAJORITY CHAIRMAN BENNINGHOFF: I appreciate
19 that; and if you want to provide that information, if
20 you could. I think Representative Mirabito raised a
21 good question, on a global level; it's not just isolated
22 to hospitals. I think there's a lot of other entities
23 that we should ask that same question to.

24 Rich, we actually did have a dialogue back
25 in 1996 before the 1997 Act 55 got passed, for the same

1 very reasons.

2 REPRESENTATIVE MIRABITO: Yeah. And I don't
3 want you to think -- I'm not singling out hospitals as
4 the biggest --

5 MR. BISHOP: I understand.

6 MAJORITY CHAIRMAN BENNINGHOFF: Yeah, I
7 think it's important to keep in mind that's exactly why
8 Act 55 got passed. It delineated very specific language
9 the Courts could follow, be their guide, and
10 unfortunately that they are arbitrarily to decide when
11 and when not to apply them. Henceforth, Senate Bill 4.

12 We now have Representative Daley, Lawrence,
13 and Roae.

14 REPRESENTATIVE DALEY: Thank you, Mr.
15 Chairman. You raised this briefly, but I just wanted to
16 go back to it. Do any of the hospitals that you
17 represent have for-profit subsidiaries, and would you
18 talk a little about that, how they enroll that along
19 with their nonprofit?

20 MR. BISHOP: Well, I'm not an expert in all
21 the different -- and maybe Rich can talk a little bit
22 more about how a hospital might break down. But as a
23 for instance, if a hospital owns a parking facility
24 that's separate from its main hospital or its main
25 structure, that property is taxed. They pay property

1 tax on that.

2 If they were to have -- if they were to be
3 part of a for-profit kind of enterprise, that part of
4 what they do, they're subjected to property tax. And by
5 and large, while there may be a process to determine
6 whether or not it's an extension of their primary
7 mission, largely those hospitals then pay tax on that
8 portion of what they do.

9 So it's -- I make the point just to make
10 sure that we all understand that it's not that when it
11 comes to the tax exemption part of what not-for-profit
12 hospitals receive, it's that protection given to that
13 specific part of their mission that enables them to meet
14 the criteria under Act 55.

15 So it varies by hospital. Some are
16 obviously more complex bodies than others. Some are,
17 you know, really traditional. You've got the hospital
18 building, you might have a physician practice plan, but
19 largely it's your building; and then others are far more
20 complex.

21 REPRESENTATIVE DALEY: So, you know, when
22 the hospitals are expanding, which a lot of them are
23 doing and take on physician practices, are the physician
24 practices prior to being absorbed into the hospital
25 system, are they for-profits or not-for-profits?

1 MR. BISHOP: It depends. I mean, it depends
2 on the structure. You know, some of them are. I mean,
3 some of them would be considered, you know, a for-profit
4 entity for the physicians who are in that building. And
5 some maybe might not be, depending on what services are
6 provided in the facility, what outpatient -- you know,
7 what other services, procedures, are provided might
8 impact that a little bit.

9 And again, Rich, you've got some experience;
10 because you guys have a --

11 MR. WISNIEWSKI: Yes. And we have acquired
12 a number of physician practices that were for-profit
13 individuals; so, in other words, at the end of their tax
14 year, if they had any excess, it went into their pocket
15 as profit.

16 Right now, those are -- we've acquired them,
17 so they work for us. They are non-profits. But we do
18 pay real estate taxes, because all of our physicians are
19 now currently located in leased office space, and every
20 one of those leases pass through the real estate taxes
21 to us and we pay that tax. So it's an indirect, but
22 that's how the situation is handled. Frequently that's
23 what happens.

24 REPRESENTATIVE DALEY: Okay. And is that
25 typical of when -- because that's what I'm thinking, the

1 offices -- that these satellite offices that would have
2 been previously taxable properties. What you're saying
3 is, they remain as a tax on the tax roll --

4 MR. WISNIEWSKI: That's right. Yes, that's
5 correct.

6 REPRESENTATIVE DALEY: And do you think
7 that's fairly typical?

8 MR. WISNIEWSKI: I think it is, based on my
9 experience working in Ohio and elsewhere. That was a
10 similar practice there, too.

11 REPRESENTATIVE DALEY: Okay. Thank you.

12 MINORITY VICE CHAIRMAN DEAN: Thank you,
13 Representative. Next, we have Representative Lawrence.

14 REPRESENTATIVE LAWRENCE: Mr. Wisniewski, I
15 appreciate your testimony; and I appreciate the good
16 work that you're doing.

17 MR. WISNIEWSKI: Thank you.

18 REPRESENTATIVE LAWRENCE: With regard to --
19 you had said it was \$13 million in what you've referred
20 to as free care.

21 MR. WISNIEWSKI: Yeah, 13-and-a-half million
22 is our community benefit. Some of it is free care; some
23 of it is education programs, other outreach activities
24 and so on.

25 REPRESENTATIVE LAWRENCE: So my question is,

1 and I think this is material to the concept of a Purely
2 Public Charity, when it comes to the free care you're
3 providing, where -- nothing is free, right, so
4 everything comes -- there's no free lunch.

5 MR. WISNIEWSKI: That's right.

6 REPRESENTATIVE LAWRENCE: Everything's paid
7 for somehow. So where does the money come from to pay
8 for the free care? Is it donated time on behalf of
9 medical staff? Is it fundraising? Do you raise -- I
10 imagine it's a percentage of all these things, but I'm
11 curious for your take on this. Is it fundraising? Is
12 it charging other patients a little bit more to cover
13 that free care? Where does the money come from for the
14 free care?

15 MR. WISNIEWSKI: Well, it comes from all
16 those sources you identified. It's, you know,
17 fundraising. We have donors that have given money that
18 have been earmarked for patients that can't afford to
19 pay their bill or can't afford their coinsurances,
20 deductible amounts; so some of it's donations. Some of
21 it is -- it's from our earnings. Our surplus in the
22 previous year, we'll use for that purpose in the next
23 year. And some of it is just through our operations.
24 There are some volunteer activities.

25 For example, I serve on the Centre

1 Volunteers in Medicine Board, as I mentioned. That's a
2 volunteer thing. That's my evenings, you know, a couple
3 times a month. So that's how we give back. And there
4 are doctors that give their time for various programs
5 and services.

6 REPRESENTATIVE LAWRENCE: Is there a way you
7 can get us maybe a hard copy that kind of delineates
8 into a little bit of specificity kind of the percentage
9 of what you're doing in free care and, you know, what it
10 specifically entails and just some details about that?
11 Because I think it would be very helpful as we're
12 looking at this issue.

13 MR. WISNIEWSKI: Okay.

14 MAJORITY CHAIRMAN BENNINGHOFF:
15 Representative Brad Roae.

16 REPRESENTATIVE ROAE: Thank you, Mr.
17 Chairman. And thank you, folks, for your testimony. I
18 just had a quick question about how you value the
19 uncompensated care. I had a woman bring a bill to my
20 office for a procedure at a hospital in Erie, and it
21 said that the cost would be \$97,000. But her health
22 insurance company, like most of them do, negotiated a
23 lower price; so it was like \$3,000.

24 I know, you know, it doesn't seem fair that
25 one person pays \$97,000 and another pays 3,000; but

1 that's a different topic. But would the hospital report
2 that -- say the person didn't have health insurance and
3 they didn't have any money, would you mark that down as
4 \$97,000 worth of uncompensated care or \$3,000? Or if
5 Medical Assistance would only pay you 2,000 for that
6 procedure, would you mark it down as 2,000 in
7 uncompensated care? I mean, how do you value that
8 number?

9 MR. WISNIEWSKI: We value it at the cost
10 incurred to take care of that patient. So, in other
11 words, the cost of the nurse, the medications, the
12 x-rays, and so on. It doesn't include any profit or any
13 excess. It doesn't include anything else. I mean, it's
14 our pure cost, basically, in effect, what we wrote the
15 check for.

16 So if a patient comes to us and the bill is
17 \$97,000 and they qualify for free care, we will reduce
18 that 97,000 when we count that as free care back down to
19 cost; so it won't be the 97. We don't consider that.

20 If a patient comes to us with a \$97,000 bill
21 and don't qualify, we give them that uninsured discount
22 if they qualify; and that would be written down by 50
23 percent. And that would be comparable to what the other
24 insurance companies do.

25 REPRESENTATIVE ROAE: They pay, like,

1 \$46,000?

2 MR. WISNIEWSKI: Yeah, right. And that's
3 comparable --

4 REPRESENTATIVE ROAE: Although, they charge
5 somebody else 3,000. Not you, the hospital -- the whole
6 thing's confusing.

7 Now, the cost that the insurance company --
8 if you have an insurance company like Highmark or UPMC,
9 the price that you negotiate with them for a certain
10 procedure, is that above what those costs are? I mean,
11 there's all kinds of accounting stuff involved.

12 MR. WISNIEWSKI: Sure.

13 REPRESENTATIVE ROAE: Is it a real actual
14 cost, or is it just numbers --

15 MR. WISNIEWSKI: No, it's real actual. We
16 have a very detailed cost accounting system that tracks
17 everything we do for every patient, and we charge for
18 16,000 different items in the organization; and we can
19 tell you how much it costs for each one of those items.
20 You know, that's from the basic Band Aid supplies all
21 the way to the complex surgical implants. So we really
22 get down into a lot of detail. I mean, we track this.

23 REPRESENTATIVE ROAE: Okay.

24 MR. WISNIEWSKI: And I hope I'm answering
25 your question.

1 REPRESENTATIVE ROAE: Yes, that's very
2 helpful in knowing how you calculate uncompensated care.
3 I appreciate that. Thank you.

4 MR. WISNIEWSKI: You're welcome.

5 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
6 Representative Roae. Representative Keller, I believe,
7 is our last question.

8 REPRESENTATIVE KELLER: Thank you, Mr.
9 Chairman. And thank you, gentlemen. I appreciate your
10 time. Just a question. You mentioned the free care,
11 and I just want to go back to Representative Roae's
12 question. On the Medicaid reimbursement rates, they
13 aren't -- they don't reimburse for the total cost,
14 correct?

15 MR. WISNIEWSKI: That's correct. It's below
16 our cost.

17 REPRESENTATIVE KELLER: Below your cost?

18 MR. WISNIEWSKI: Yes.

19 REPRESENTATIVE KELLER: So that cost is
20 included in your free care?

21 MR. WISNIEWSKI: No, that is a separate line
22 item. That's that \$7 million number I had mentioned.

23 REPRESENTATIVE KELLER: Okay.

24 MR. WISNIEWSKI: Okay? So, in other words,
25 our costs are \$7 million higher than what Medicaid pays

1 us for that care.

2 REPRESENTATIVE KELLER: And that's not
3 included in that \$13 million?

4 MR. WISNIEWSKI: Well, it is included in
5 that 13 million. I'm sorry.

6 REPRESENTATIVE KELLER: It's included in
7 that?

8 MR. WISNIEWSKI: Yes, that's correct.

9 REPRESENTATIVE KELLER: Now, did the
10 Medicaid reimbursement rates change recently? Are they
11 lower?

12 MR. WISNIEWSKI: Yeah. If I -- I looked
13 back over the last couple years. There was -- I think
14 it was two years ago, the rates, in effect, went up,
15 which we're very grateful for; and, obviously, we used
16 it very wisely and judiciously. I don't know if you
17 want to comment.

18 MR. BISHOP: Yeah. So the Legislature
19 modernized the way Medicaid reimbursements function; you
20 know, 30,000-foot level, increased opportunities to
21 match federal funds. So we're at a point now where
22 Medicaid reimbursements, on average, across the
23 Commonwealth are somewhere around \$.83 on the dollar, up
24 from \$.75, \$.76, prior to the Legislature basically
25 imposing the hospital tax, hospital assessment, which

1 you all gratefully, thankfully reauthorized this past
2 June, to help do that. But, by and large, on average,
3 the Medicaid reimbursement is, you know, still just
4 about \$.83, \$.84.

5 REPRESENTATIVE KELLER: And you got that
6 because you guys pay that tax --

7 MR. WISNIEWSKI: Yeah.

8 MR. BISHOP: Correct. That's right.

9 REPRESENTATIVE KELLER: But as far as what
10 the government kicks in, did the government increase or
11 decrease their portion that they pay of that?

12 MR. BISHOP: It's about the same. Maybe it
13 was a modest decrease, but not night and day. It's
14 about the same.

15 REPRESENTATIVE KELLER: Okay. Thank you.

16 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
17 gentlemen. You have been very thorough and helpful in
18 providing information as we address Act 55 and in lieu
19 of tax payments and everything else affiliated with the
20 property tax.

21 Richard.

22 MR. WISNIEWSKI: If I could make one
23 comment, Chairman, if I may?

24 MAJORITY CHAIRMAN BENNINGHOFF: Sure.

25 MR. WISNIEWSKI: This will help protect me

1 in my job. At the beginning, the adrenalin was going
2 and I forgot to express apologies for my boss, the CEO
3 and President of Mount Nittany, Steve Brown, who wanted
4 to be here today but he had a conflicting speaking
5 engagement, so he couldn't. So I just wanted to get
6 that out to protect my job. And thank you very much.

7 MAJORITY CHAIRMAN BENNINGHOFF: We are aware
8 of that. Actually, I should have mentioned that
9 earlier. You and Steve do a great job in the service
10 you provide to our community.

11 MR. BISHOP: Thank you.

12 MR. WISNIEWSKI: Thank you.

13 MAJORITY CHAIRMAN BENNINGHOFF: Very good.
14 If the members would like a stretch break, we'll take
15 one at this time.

16 (Whereupon, a brief recess was taken.)

17 MAJORITY CHAIRMAN BENNINGHOFF: Next, are
18 our final testifiers. We have Pennsylvania State
19 Alliance of YMCAs. We have David John, and also John
20 Flynn, President and CEO of Philadelphia Freedom Valley
21 YMCA.

22 David, I don't know who's going first or if
23 John --

24 MR. FLYNN: I guess I'm going to. So I'll
25 get started, if it's okay with you.

1 MAJORITY CHAIRMAN BENNINGHOFF: Yes.

2 MR. FLYNN: Good afternoon, Chairman, and
3 Representative Dean, and members of the Committee. I'm
4 John Flynn. As was mentioned, I'm the President and CEO
5 of the Philadelphia Freedom Valley YMCA; and I'm the
6 Vice Chairman of our State Alliance of YMCAs.

7 I'm joined today by David John, who's our
8 Executive Director of the State Alliance. And just as
9 some background information, our State Alliance consists
10 of 69 YMCAs and 105 branches. We have more YMCAs in
11 Pennsylvania than any other state in the nation, and
12 we're very proud of that. We serve 900,000 people in
13 the Commonwealth, and that's about 7-and-a-half percent
14 of the residents in the Commonwealth.

15 So on behalf of our Executive Committee and
16 members, I want to thank you for the opportunity to
17 present testimony; and I want to let you know that our
18 members really strive to demonstrate each and every day
19 the institutions of Purely Public Charity Act, commonly
20 known as Act 55.

21 I'd like to begin by sharing with you some
22 important information about the YMCAs in Pennsylvania,
23 which will give you some perspective of my testimony
24 today. First, Pennsylvania Ys serve more than 17,000
25 volunteers. And they range in their volunteer service

1 from childcare age, camp and after-school workers, teen
2 program volunteers, to those who serve on boards and
3 committees.

4 All of our volunteers offer various skills,
5 talents, and knowledge to our Ys. And when translated
6 into dollars, these represent in excess of \$5 million of
7 value. And really simply put, our Ys could not afford
8 this kind of activity and do our work effectively
9 without these dedicated volunteers.

10 Second, YMCAs are the largest provider of
11 childcare services in the Commonwealth. We provide
12 preschool, before- and after-school care, summer day
13 camp, and resident camp programs. One in five children
14 participating in our programs receive subsidized care
15 valued at \$12-and-a-half million.

16 Without the support from the Y, parents
17 might not be able to work or children may be home
18 without supervision during critical after-school hours.
19 Third, the Y does not turn away any individual for their
20 inability to pay based on economic hardship.

21 In 2011, Pennsylvania Ys raised over
22 \$8-and-a-half million in annual support, 4-and-a-half
23 million from United Way, 900,000 in bequests, legacies
24 and other general contributions, and \$14.7 million in
25 support for Capital projects.

1 All this money raised is returned to our
2 communities through financial aid and the offering of
3 programs and services under our three areas of focus,
4 which are youth development, healthy living, and social
5 responsibility.

6 I share all of this background information
7 to help you understand why it's so critically important
8 to the mission of the Y to preserve our tax exempt
9 status. Without it, we simply could not afford to do
10 what we do to serve our communities.

11 Neither the State Constitution nor the
12 general county assessment law define what constitutes a
13 public charity. In 1985, the State Supreme Court
14 established the 5-prong test to determine whether an
15 entity qualifies as a public charity, thus subject to
16 tax exemption.

17 Known as the HUP test, the Court stated that
18 in order for an institution to qualify as a purely
19 public charity, it must meet the following criteria:
20 advance a charitable purpose, donate or render
21 gratuitously a substantial portion of its services;
22 three, benefit a substantial and indefinite class of
23 persons who are legitimate subjects of charity; four,
24 relieve the government of some of its burden; and five,
25 to operate entirely free from private profit motive.

1 Throughout the years following the Supreme
2 Court decision, nonprofit organizations faced court
3 challenges in which they were compelled to demonstrate
4 how they met each of these five criteria. The resulting
5 case law was inconsistent, vague, and left a trail of
6 confusing opinions as to how institutions were expected
7 to demonstrate compliance with these provisions.

8 When the Legislature enacted the
9 Institutions of Purely Public Charity Act in 1997 after
10 many months of deliberation, it placed in statute the
11 five prongs of the HUP test. However, it also included
12 objective definitions and provisions intended to clarify
13 and tighten the language enabling public charities to
14 have a full and complete understanding of the
15 expectations for maintaining their charitable status.

16 A YMCA in western Pennsylvania was one of
17 the first entities to be subject to a challenge
18 following the enactment of Act 55. In 2001, the case
19 Appeal of Sewickley Valley YMCA of the Decision of the
20 Board of Property Assessment, Sewickley Borough
21 challenged the Y's tax exempt status, suggesting that it
22 was not an institution of purely public charity from
23 1993 through 1997 under the HUP test and that it failed
24 to meet the community service requirements under Act 55.

25 First, the Commonwealth Court determined

1 that the Sewickley Valley Y had a charitable purpose in
2 reviewing broadly the members of the community who were
3 served by the Y.

4 Second, the Court determined that the Y met
5 the charitable purpose section of Act 55 through its
6 educational, religious, social, moral, and physical
7 objectives.

8 Third, the Court recognized the value and
9 numbers of volunteers providing free services to the
10 community at the Y; and declared that it rendered
11 gratuitously a substantial portion of its services.

12 Fourth, the community service requirement of
13 Act 55 was met when the Court determined that volunteer
14 boards of directors should be included when calculating
15 the number of volunteer hour rendered.

16 Fifth, because the Sewickley Valley YMCA
17 allowed school districts to use its facilities free of
18 charge, the Court determined that school districts were
19 relieved of their governmental burdens. Finally,
20 because the Y reapplied its surplus revenue to maintain
21 its facility, the Court determined that the Y
22 demonstrated it is free from private profit motive.

23 Act 55 provides clarity to Y's and other
24 nonprofit organizations as to the intent of the Court
25 under the HUP test standards by including specific

1 criteria defining what institutions must demonstrate to
2 meet each of the HUP standards.

3 For the Charitable Purpose criterion, Act 55
4 provides six specific purposes, any one or more of which
5 would qualify as an institution having met the
6 charitable purpose provision. Using only the broad HUP
7 language, the Y and other charities would have to
8 speculate on what a government entity would determine
9 constitutes a charitable purpose, rather than relying on
10 specific language of Act 55.

11 To meet the Private Profit Motive criterion,
12 a public charity must meet all four of the very specific
13 and rigorous provisions contained in this section of Act
14 55 in order to demonstrate they operate free of profit.

15 Again, without this specific language and
16 relying on the interpretation of the term private profit
17 motive by governmental bodies, YMCAs and other charities
18 would be challenged to ascertain what evidence would be
19 required to provide they meet this standard.

20 The Community Service section of Act 55
21 affords Ys and other charities with multiple avenues to
22 demonstrate how they donate or render gratuitously a
23 substantial portion of their services.

24 Charities need only meet any one of the
25 provisions in the section to meet the community service

1 standard. As stated previously, in the Sewickley Valley
2 YMCA case, the Commonwealth Court determined that the
3 volunteer members of the board of directors should be
4 included when calculating the number of volunteer hours.
5 Without that language in Act 55, the Sewickley Valley Y
6 may have lost their appeal and suffered severe economic
7 consequences.

8 The Charity to Persons section of Act 55 not
9 only clarifies in detail what constitutes a substantial
10 and indefinite class of persons while legitimate
11 subjects of charity, it also states which institutions
12 would not be in compliance with the standard.

13 The language helps distinguish YMCAs and
14 other charities from organizations with a more narrow
15 purpose and scope of membership. Where Ys and other
16 charities are unable to rely on this statutory language
17 to demonstrate how they serve legitimate subjects of
18 charity, this standard would likely not be one of the
19 easiest for governmental entities to identify in
20 challenging the tax exempt status.

21 The Government Service standard states that
22 an institution must relieve the government of some of
23 its burden. The language of Act 55 requires
24 institutions to meet only one of the six specific
25 criteria contained in the section.

1 Again, the Legislature, in its wisdom,
2 recognized the importance of clarifying ways in which a
3 charity could demonstrate how it relieves government of
4 some of its burden and includes these criteria in Act
5 55.

6 The language in Act 55 allows the Y and
7 other nonprofits to examine the ways in which they
8 operate and to ensure they are in compliance with the
9 broad intent of the HUP Test criteria.

10 YMCA of the USA, our national organization,
11 has developed and shared with member Ys what is called a
12 community benefits toolkit to help local Ys be able to
13 consistently demonstrate how they benefit the
14 communities they serve.

15 The State Alliance is working tirelessly
16 with our member Ys to ensure that they are completing
17 and updating their community benefit statements, as well
18 as sharing them with stakeholders in the community,
19 including their local elected officials. This proactive
20 effort is intended to serve as both an accountability
21 tool and an information tool.

22 Unfortunately, the State Supreme Court
23 decision rendered last spring reaffirmed its authority
24 under the Pennsylvania Constitution to determine whether
25 a charity qualifies for tax exemption. Interestingly

1 enough, it did not address the constitutionality of Act
2 55. In fact, it ruled that charities must meet the
3 broad provisions of the 1985 HUP decision before the
4 more specific provisions of Act 55 are applied.

5 The State Alliance expressed its concerns
6 about this decision to lawmakers immediately, as we knew
7 it would surely entice tax challenges from governmental
8 entities who could use the broad language of the HUP
9 standards to pick apart the work of Ys.

10 Sure enough, the Warren County YMCA received
11 notice less than three months after the Supreme Court's
12 decision that they were being stripped of their tax
13 exempt status and would now be subject to property tax
14 levies potentially by the county, the City of Warren,
15 and the Warren County School District.

16 The CEO of the Y described the potential hit
17 to his budget as catastrophic. He estimates the cost of
18 the assessment to be approximately \$172,000 or 11
19 percent of his annual budget. Warren County officials
20 revoked the Y's tax exempt status, as well as that of
21 other not-for-profit organizations, in an attempt to
22 generate additional revenue for their budget.

23 The Warren Y immediately appealed this
24 ruling to the County's Board of Assessment Appeals. At
25 the hearing, the CEO was asked, and I kid you not, Why

1 does the YMCA provide swim lessons for children? The
2 CEO responded by reminding the board that two rivers run
3 through the town, and the Y considers teaching kids to
4 swim a public safety issue in the city and the county.

5 Probing further, the CEO was asked by the
6 board members why he needed to provide parking for his
7 patrons. In case you were wondering, Warren County is
8 898 square miles, only 130 fewer than the entire state
9 of Rhode Island. The need for parking spaces seems
10 rather evident when you consider the geography of the
11 area that the Warren County Y serves.

12 Not surprisingly, the appeal was denied in
13 spite of the Y submitting considerable documented
14 evidence of its compliance with the provisions of the
15 HUP Test, including that the Warren Y returns
16 approximately \$310,000 per year to the community in
17 programs, services, and financial assistance.

18 Presently, the Warren Y has spent in excess
19 of \$16,000 in legal fees just to prepare a legal defense
20 of its charitable status in county court. The money the
21 Y is being compelled to spend is money that is not being
22 used for financial aid for families or to provide
23 programs and services for families in Warren County.

24 The CEO has made it clear that if the
25 challenge is successful and the Y loses its tax exempt

1 status, he and his board will have little choice to
2 eliminate programs. One of the programs he has
3 indicated could be eliminated is the 7th grade
4 initiative, which provides free memberships to all 7th
5 grade students.

6 One of Warren's Y's key after-school
7 programs, which serves many young children, could also
8 be eliminated, meaning children would no longer have
9 access to the Y's safe and nurturing after-school
10 program.

11 The State Alliance is monitoring this
12 situation carefully, as is the YMCA of the USA, as the
13 case has implications for YMCAs all across the country.
14 History demonstrates that the HUP Test resulted in
15 wildly different interpretations and applications of
16 whether charities met the criteria. There is nothing to
17 indicate that returning to this process will have
18 different results this time around.

19 Therefore, if YMCAs and other charities
20 remain confused about what constitutes compliance with
21 the HUP criteria, as was the case prior to Act 55, and
22 they lose a challenge at this stage, then the second
23 tier comprised Act 55 criteria is rendered moot.

24 Simply put, our local YMCAs cannot afford
25 endless legal challenges to their tax exempt status by

1 governmental entities seeking new resources of revenue.
2 The resources our Ys generate through annual support and
3 capital campaigns, the gift of generous benefactors,
4 government resources, and other fundraising tools, do
5 not sit idly somewhere in a big pile. They are returned
6 immediately to the communities and families we serve in
7 the form of financial assistance, programs and services,
8 and safe facilities for them to gather in together.

9 The Legislature acted wisely in enacting the
10 Institutions of Purely Public Charity Act in 1997. We
11 wholeheartedly agree with the first clause in the
12 Legislative Intent section of the Act which states, It
13 is in the best interest of the Commonwealth and its
14 citizens that the recognition of tax exempt status be
15 accomplished in an orderly, uniform, and economical
16 manner.

17 Act 55 has accomplished this intent by
18 providing the clarity to institutions sorely lacking
19 prior to its enactment. In the 16 years since it became
20 law, charities such as the Y have been able to use the
21 language of Act 55 as a measuring stick to evaluate
22 their status as a charitable institution in the
23 Commonwealth and to ensure the retention of their tax
24 exempt status.

25 The Supreme Court decision of last spring

1 has opened Pandora's Box to legal challenges that most
2 public charities cannot afford to defend and cannot
3 afford to lose. Governmental bodies cannot be permitted
4 to balance their budgets on the backs of charitable
5 organizations like the YMCA who provide millions of
6 dollars in programs and services these governments
7 would have to pay for themselves in the absence of the
8 charities.

9 The Pennsylvania State Alliance of YMCAs
10 respectfully asks this Committee and your colleagues in
11 the General Assembly to take whatever action is
12 necessary to ensure that the YMCA and other institutions
13 of purely public charity are fully able to continue
14 delivering the quality programs and services by
15 preserving our tax exempt status.

16 Thank you for the privilege of addressing
17 the Committee. And myself and Mr. John are happy to
18 respond to any questions or comments that you might
19 have.

20 MAJORITY CHAIRMAN BENNINGHOFF: Do you have
21 any additional comments, or are you here as backup to
22 any questions?

23 MR. JOHN: Yeah, backup.

24 MAJORITY CHAIRMAN BENNINGHOFF: Good answer.
25 I'm curious if you folks would be having this dialogue

1 if you were back in the economy of back in the 1990s, or
2 is this as a result of local entities looking for new
3 revenue --

4 MR. FLYNN: Well, the clarity of Act 55, I
5 think, is tremendous, and it has been. And,
6 unfortunately, the challenge has made it a little bit
7 more confusing. But it has allowed us to do our work
8 consistent with our resources, whether they're plentiful
9 in a high economy or strained in a low economy. And we
10 like that clarity, and it allows us to do what we need
11 to do.

12 Paying taxes would certainly burden the
13 organization and put us in a case where we couldn't
14 provide as many services, especially those free of
15 charge and those that replace what otherwise might be a
16 governmental responsibility.

17 MAJORITY CHAIRMAN BENNINGHOFF: Do you think
18 dwindling tax revenues to local governments is
19 increasing the number of challenges or court cases
20 against your type of organization?

21 MR. FLYNN: Absolutely.

22 MAJORITY CHAIRMAN BENNINGHOFF: Thank you.
23 First question comes from Representative Rapp, then
24 Representative Greiner.

25 REPRESENTATIVE RAPP: Thank you for your

1 testimony. As you may have heard, I am from Warren
2 County.

3 MR. FLYNN: We knew that.

4 REPRESENTATIVE RAPP: Okay. This whole
5 situation has been, you know, disturbing to me; because
6 it's been our hospitals, the Y, our county grounds home,
7 which is our county home which our commissioners sit on
8 as the board of trustees, and a church, which has won
9 their legal battle against the assessments.

10 And in full disclosure, I've been a longtime
11 member of the Y. My twin grandsons went to preschool
12 there and gym and swim last year. And as 4 year olds,
13 they'll be attending again. And my one grandson will be
14 in 7th grade this year, so he'll be eligible for a
15 scholarship.

16 So I've been a longtime supporter of the Y.
17 But I just want my colleagues to know that it is a
18 wonderful organization that does do a lot for the
19 community, including the scholarships. And I do want to
20 make a comment and let my colleagues know that, on page
21 10, when it talks about the exempt status, of course we
22 know that some of the taxes would go to the Warren
23 County School District, which is a one-county school
24 district. We are consolidated.

25 However, what you don't know is that the Y

1 parking lot is used by that school district at no
2 expense to the school district; because the school
3 district has their football field and their track field
4 right next to the Y, and the Y does not charge them for
5 parking. Which when I saw that that parking issue was
6 part of the issue, why do you need a parking lot? I
7 mean, please, especially when the school district uses
8 that parking lot for their football games or track and
9 field events.

10 And, also, Warren High School has a swim
11 team. And none of my schools -- high schools or middle
12 schools have swimming pools. We're not a school
13 district that has a tax base to afford that. So when
14 the swim team practices and have their meets, it's at
15 the YMCA.

16 So I find it disturbing, you know, at the
17 same time I see, you know, what the counties and our
18 third-class cities are going through as far as tax
19 revenue. But this whole issue with the Y and the
20 hospital has been disconcerting to me, which is why --
21 one of the reasons, much to my commissioners'
22 disappointment, I am supporting Representative
23 Benninghoff's legislation.

24 These are entities that have contributed to
25 our communities. And, also, many of our churches, we

1 have active youth groups in our churches. And on Sunday
2 nights, they meet at the Y for activities. And I just
3 wanted to add a little bit more light onto that.

4 And I know the director very well. I think he
5 does a wonderful job for the community in finding ways
6 to serve the community more and more. So I am
7 disappointed that the Y is on the list for our county to
8 go after for more revenue.

9 So thank you for your testimony. I really
10 appreciate it. Thank you.

11 MAJORITY CHAIRMAN BENNINGHOFF: Thank you,
12 Representative Rapp. It's also a great opportunity for
13 your organizations to highlight the good things that you
14 do. Long before their athletic benefits, they also
15 provide good things for our young people. So that's a
16 positive. Representative Greiner has a question or two.

17 REPRESENTATIVE GREINER: Or a comment.
18 Thank you, Mr. Chairman. I promise I'll be very brief.
19 I just want to thank both of you for coming here. I
20 think it brings to light -- I think my adjective to
21 describe this is horrific. I mean, what the judge did
22 is absolutely so out of bounds. It's so frustrating to
23 see these entities such as yourself and others, as
24 Representative Rapp said in her county, even in
25 Lancaster County. And I'm glad we're trying to deal

1 with this.

2 Because if people don't understand that
3 these organizations provide a service that they would
4 otherwise have to pay for, they're delusional. You
5 know, we need to nip this in the bud. The Legislature
6 needs to deal with it.

7 I think Representative Benninghoff has done
8 a great job with that bill, and I'm very supportive of
9 it. And it's very frustrating. I've been a township
10 supervisor; I've been a county controller. I get it.
11 But I also understand that you would never pay for these
12 services with the government that you guys otherwise do.
13 I just wanted to tell you that.

14 You have a strong supporter here. I
15 appreciate everything you do. I wish you the best. I'm
16 disgusted that not-for-profits have to spend their
17 profits on legal fees, of all things, to defend this.

18 I thank you for your time.

19 MR. FLYNN: Thank you.

20 MAJORITY CHAIRMAN BENNINGHOFF:

21 Representative Mirabito, then Representative Grove.

22 REPRESENTATIVE MIRABITO: Thank you. In
23 full disclosure, I have to tell you that my family's a
24 member of the Y, too.

25 MR. FLYNN: We love YMCA members, so thank

1 you.

2 REPRESENTATIVE MIRABITO: Do you think --
3 you know, we've heard such diverse testimony today from
4 the Grangers who have, I think, only two people -- and I
5 asked him afterwards what they pay him, and he makes
6 \$40,000 a year as the President of the Grange.

7 We've seen such a diverse range. And I know
8 from talking to the executive director of the Y where I
9 live in Williamsport -- do you think that salary should
10 be considered in the question of whether or not, you
11 know, someone -- they didn't -- the Court didn't put in
12 the HUP Test. But do you think that the amount of
13 salaries an institution pays and the perks and so forth
14 should be considered?

15 MR. FLYNN: Well, it certainly is disclosed;
16 and it should be weighed. We have organizations that
17 are very small and serve their community well, and we
18 have large organizations that also serve their
19 communities well. So they dictate different salary
20 ranges, but it's certainly in our 990s that are filed
21 and --

22 REPRESENTATIVE MIRABITO: Oh, no, I
23 understand that it's disclosed in the form of a 990.
24 But do you think that when we determine whether or not
25 an entity is a nonprofit that we should take into

1 account how much they're paying their officers and the
2 people who run the institutions?

3 MR. FLYNN: Honestly, I'm not smart enough
4 to figure that out.

5 MAJORITY CHAIRMAN BENNINGHOFF: Keep in
6 mind, folks, this is about the property of these
7 institutions -- as part of their costs, I realize that
8 there are salaries. This is not a debate on the
9 salaries of the members that work for the organization.

10 REPRESENTATIVE MIRABITO: Oh, no, no. I
11 understand that --

12 MAJORITY CHAIRMAN BENNINGHOFF: That was
13 part of your quick question.

14 REPRESENTATIVE MIRABITO: No, I guess at
15 some point you have to reconcile the fact that by
16 granting this status to them we're freeing cash flow up.
17 And, I mean, all these institutions, they're private
18 sector businesses that provide childcare services -- and
19 don't get me wrong, what the Y does is fantastic. The
20 private sector businesses that are doing all these
21 things that some of these nonprofits do, but they are
22 doing it and they're also paying real estate tax, sales
23 tax, etc.

24 MR. FLYNN: But they aren't doing it for
25 everybody, and they aren't building aquatic centers that

1 will help everybody learn how to swim. If you're an
2 African-American and you live in the City of
3 Philadelphia, you're 700 percent more likely to drown
4 than you are if you live outside.

5 There is no private entity coming into
6 Philadelphia to build a pool to help African-American
7 kids learn how to swim, except the Y. We're doing it in
8 suburban communities. We accept everybody. Twenty-five
9 percent of our members are subsidized. There's nobody
10 else competing for that population, believe me. And
11 we're there for the benefit of the community, not for
12 the inurement of a profit or an investor and then when
13 salary gets included, I guess it would be -- you know, I
14 have a board of directors of 38 people who look very
15 closely at whether I'm worth how much they pay me.
16 They're pretty smart people. And could they pay someone
17 less? Probably. Would they do this same job? I don't
18 know.

19 But they've determined that it's the right
20 amount of money and that our business is a fairly
21 intricate business. So I would assume that somebody
22 could figure that out outside of the not-for-profit
23 test.

24 But as I said, I'm not smart enough to
25 figure out what's the right salary and what's not. But

1 there are a lot of people measuring this. And as the
2 hospital said and as other speakers said, our wages are
3 all compared to a national standard, a local standard,
4 other entities. And they're complex businesses, and I
5 don't know that a not-for-profit standard could prove
6 whether it was the right salary or not.

7 MAJORITY CHAIRMAN BENNINGHOFF: Thank you.
8 Representative Grove. Thank you, Representative
9 Mirabito.

10 REPRESENTATIVE GROVE: Thank you, Mr.
11 Chairman. I appreciate your testimony. A lot of what
12 I've been hearing today is a lot about consistency and
13 ensuring we have consistency within our laws of trying
14 to dictate what is or what is not a purely public
15 charity.

16 Is there anything that you would feel needs
17 clarified more under the current Act that would be --

18 MR. FLYNN: Well, we like Act 55.

19 REPRESENTATIVE GROVE: Uh-huh.

20 MR. FLYNN: And when we go for tax-exempt
21 financing, for instance, we give them the form that says
22 we're a wholly charitable institution. And it cuts out
23 a lot of debate. It cuts out a lot of information that
24 needs to exchange. And we like the consistency. I'm
25 not aware of what else might be included or what might

1 be clarified.

2 Are you, Dave?

3 MR. JOHN: The only other issue -- and we
4 have not as an alliance discussed this as part of our
5 public policy yet, but I know it came out during the
6 discussion over the legislation. Our YMCAs are very
7 diverse. John represents the largest association in
8 Pennsylvania. You and I happen to be on the same board
9 of the smallest association, and the diversity is
10 incredible.

11 We see the same thing when you look
12 statewide at nonprofit organizations. There are some
13 huge nonprofits, and there are some very tiny
14 nonprofits. So I think, in general, what I would raise
15 as a rhetorical question is, Should those all be treated
16 equally? Should there be some discussion about that?
17 I don't know. I know that has been discussed in
18 meetings that I've had with some of you and your
19 colleagues, so I know that that issue is out there. But
20 we wrestle with that even within our alliance, with
21 having Ys that are very large and Ys that are very small
22 and how we set our policy in having them have access to
23 grants and so forth.

24 So that's the only thing, off the top of my
25 head, that I could think about that would be something

1 that might be subject for discussion.

2 REPRESENTATIVE GROVE: Thank you, Mr.
3 Chairman.

4 MAJORITY CHAIRMAN BENNINGHOFF: Thank you.
5 In closing, I want to thank both of you for your
6 testimony. I think your written testimonies will
7 delineate some things, and we will have it for our
8 review.

9 Committee members, I'd remind you that there
10 are written comments in there from the Association of
11 Community Health Centers and also the Association of
12 School Business Officials. Please read through that.

13 I want to thank the State Grange, the
14 stenographer for all your hard work, and again, Dr.
15 Richard Makin and CPI for providing this facility to us
16 today.

17 Thank you. This meeting's adjourned.

18 (Whereupon, the hearing concluded at 1:25 p.m.)

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

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

Tracy L. Markle,
Court Reporter/Notary Public