

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

FINANCE COMMITTEE
HEARING

STATE CAPITOL
HARRISBURG, PA

RYAN OFFICE BUILDING
ROOM 205

TUESDAY, OCTOBER 6, 2015
8:32 A.M.

PRESENTATION ON ACT 32 OF 2008
LOCAL EARNED INCOME TAX
COLLECTIONS

BEFORE:

HONORABLE BERNIE O'NEILL, MAJORITY CHAIRMAN
HONORABLE STEPHEN BLOOM
HONORABLE GEORGE DUNBAR
HONORABLE ELI EVANKOVICH
HONORABLE MATTHEW GABLER
HONORABLE SETH M. GROVE
HONORABLE LEE JAMES
HONORABLE AARON KAUFER
HONORABLE JERRY KNOWLES
HONORABLE JOHN A. LAWRENCE
HONORABLE DUANE MILNE
HONORABLE MIKE PEIFER
HONORABLE THOMAS QUIGLEY
HONORABLE KATHY L. RAPP
HONORABLE BRAD ROAE
HONORABLE THOMAS SANKEY

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*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

BEFORE (continued):

HONORABLE JAKE WHEATLEY, DEMOCRATIC CHAIRMAN
HONORABLE LESLIE ACOSTA
HONORABLE MARY JO DALEY
HONORABLE MADELEINE DEAN
HONORABLE SID M. KAVULICH
HONORABLE STEPHEN KINSEY

COMMITTEE STAFF PRESENT:

TAMMY FOX
MAJORITY EXECUTIVE DIRECTOR
CONNIE McCLURE
MAJORITY LEGISLATIVE ADMINISTRATIVE ASSISTANT
JEREMY KIEHL
MAJORITY RESEARCH ANALYST

MARK FOREMAN
DEMOCRATIC EXECUTIVE DIRECTOR
STEVEN WILLIAMS
DEMOCRATIC RESEARCH ANALYST

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SUBMITTED WRITTEN TESTIMONY

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P R O C E E D I N G S

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MAJORITY CHAIRMAN O'NEILL: Good morning, everyone. I would like to bring the House Finance Committee hearing meeting today to order.

I want to thank everybody for coming at an earlier-than-normal hour than when we normally start. I want to especially thank the Members, and I want to apologize because we moved up the time to 8:30 to accommodate one of our testifiers who asked us to do that, and then we were told yesterday that they will not be testifying. So lesson learned. So I apologize to everybody for that, but we try to accommodate everybody.

I'd like to begin by having the Members introduce themselves. I am Representative Bernie O'Neill from Bucks County, and we'll start to my right.

REPRESENTATIVE ROAE: Representative Brad Roae, Crawford County.

REPRESENTATIVE RAPP: Representative Kathy Rapp. I represent the 65th -- Warren, Forest, and parts of Crawford.

REPRESENTATIVE DUNBAR: Representative George Dunbar, Westmoreland County.

REPRESENTATIVE GROVE: Seth Grove, York County.

1 REPRESENTATIVE PEIFER: Good morning.

2 Mike Peifer, the 139th District, which includes
3 Pike and Wayne Counties.

4 REPRESENTATIVE SANKEY: I'm Tommy Sankey from
5 Clearfield and Cambria Counties.

6 REPRESENTATIVE JAMES: Hi. I'm Lee James. I
7 represent all of Venango County and parts of Butler.

8 REPRESENTATIVE GABLER: Good morning.

9 Matt Gabler, the 75th District, Elk and Clearfield
10 Counties.

11 REPRESENTATIVE BLOOM: Good morning.

12 Stephen Bloom from the 199th District, which is
13 Cumberland County.

14 REPRESENTATIVE QUIGLEY: Representative
15 Tom Quigley, the 146th District in Montgomery County.

16 REPRESENTATIVE DALEY: Mary Jo Daley, the
17 148th District in Montgomery County, and my mic is not
18 working, so. But I have a good voice.

19 REPRESENTATIVE ACOSTA: Good morning.

20 Representative Acosta from Philadelphia County.

21 REPRESENTATIVE KAUFER: Aaron Kaufer, Luzerne
22 County, and another mic that's not working, too.

23 MAJORITY CHAIRMAN O'NEILL: And I just want to
24 point out that Chairman Wheatley, who is our Minority
25 Chair, is on his way, so he should be here shortly.

1 And I want everybody in the audience to thank
2 Representative Sankey, who got up at 4:30 this morning to
3 make sure that he got here. He must want something. I'm
4 only kidding.

5 Today we are holding a hearing to begin the
6 discussions and review the changes that were made by the
7 limitations of Act 32 of 2008 relating to the consolidation
8 of collection of local earned income taxes throughout the
9 Commonwealth.

10 We understand that the Legislative Budget and
11 Finance Committee will be issuing a report sometime next
12 year, and we thought of a hearing to get everybody,
13 especially the Members, up to speed and to begin the
14 process of analyzing the changes to see what may be needed
15 or necessary. And we do have a few bills, both Senate and
16 House bills in our committee, that are addressing what they
17 believe are some of the changes that they believe are
18 needed.

19 Before we begin, I would ask everybody to just
20 silence their phones and all their electronical devices.
21 And I would ask that you be concise so we can move the
22 hearing along; the same, along with our Members, to make
23 sure that their questions are very concise so that we can
24 move the process.

25 Our first testifiers who were scheduled at 8:30

1 are running a little bit late. They just notified us. So
2 we're going to go to our next testifiers, and that's the
3 Institute of Accountants, Certified Public Accountants.

4 So gentlemen, if you would introduce yourselves
5 and begin. Thank you.

6 MR. CAPLAN: Good morning.

7 I am David Caplan. I am a sole practitioner and
8 CPA from Lafayette Hill, Pennsylvania, which is the
9 148th District. I am a member of the PICPA State Tax
10 Committee and the head of the Earned Income Tax Task Force
11 for them.

12 With me, I have Steve Geisenberger, who is also a
13 CPA. He is a tax principal for the Walz Group in
14 Lancaster, Pennsylvania, and he is a member of the AICPA's
15 governing body and a member of the PICPA's Legislation
16 Committee for 20 years.

17 I'm going to turn it over to Steve at this point
18 to talk about what earned income tax collection was like
19 before Act 32 and after Act 32, and then I will talk about
20 some of the improvements that we're looking to do.

21 MR. GEISENBERGER: You're going to have to turn
22 over the mic as well, apparently---

23 MR. CAPLAN: Uh-oh.

24 MR. GEISENBERGER: ---because it's not working.

25 MR. CAPLAN: Okay.

1 MR. GEISENBERGER: As Dave said, I'm a CPA
2 from Lancaster County, and our firm prepares about a
3 thousand-plus individual tax returns, and we also have a
4 payroll group, so we prepare 200 payrolls. So we're kind
5 of consistently dealing with the tax collection agencies.

6 I represent the PICPA. We have more than 20,000
7 members across business, industry, and public accounting
8 and government. We are trusted advisors to thousands and
9 thousands of Pennsylvania businesses and individuals and
10 industries.

11 We advocate for the public interest, and we
12 articulate on positions that are important to the
13 profession. In addition, we are typically the bridge
14 between the taxpayer and the collection bureaus.

15 Before Act 32, in a technical term, local tax
16 collection was pretty much a "disaster" throughout the
17 Commonwealth. Not everywhere in the Commonwealth, but many
18 places in the Commonwealth.

19 DCED said the system is fragmented,
20 dysfunctional; local earned income tax collections are lost
21 to the tune of about \$100 million to local school districts
22 and local governments because of the inefficiencies in the
23 system.

24 There were 560 tax collectors prior to Act 32.
25 There are now 69 county jurisdictions. I believe there are

1 somewhere in the vicinity of about 24 tax---

2 MR. CAPLAN: 19.

3 MR. GEISENBERGER: ---19 tax collectors --
4 thanks, Dave -- that we now have to deal with instead of
5 560. So a huge improvement, and on behalf of the PICPA and
6 the taxpayers in the Commonwealth, all the local taxpayers,
7 we thank you for Act 32, which became effective in 2012.

8 Act 32's goals were fourfold:

9 • Establish uniform withholding, remittance, and
10 distribution requirements.

11 • Provide more accountability, transparency,
12 oversight and enforcement, and a strengthened
13 reporting requirement to better track the dollars.

14 • Develop uniform forms, notices, reports,
15 schedules, and codes for school districts,
16 municipalities, and TCDs. The uniform forms and
17 procedures required by Act 32 add to consistent and
18 uniform collection. Again, this was a very key
19 provision from the PICPA's standpoint.

20 • And to consolidate and streamline the EIT
21 collections process across the Commonwealth.

22 The post-Act 32 streamlined local EIT collection
23 system is much more efficient and uniform. It allows
24 revenues to transfer more expediently to the appropriate
25 municipal destination. In addition, collection costs to

1 municipalities and school districts are down significantly.
2 PICPA members and thousands of business and personal
3 clients have been well served throughout the Commonwealth
4 through the benefits of Act 32.

5 I want to add that, again, from the perspective
6 of our company who does a lot of payrolls and a lot of
7 payroll tax reporting, that the reports that I received
8 from our payroll department is that it's working very well,
9 especially from an employer standpoint. At least it is in
10 Lancaster County in terms of the -- of everything. I mean,
11 outstanding marks.

12 There are some suggestions for change, though,
13 and especially on the personal, on the personal side, and
14 Dave is going to address some of those suggested changes to
15 the act.

16 MR. CAPLAN: Thank you.

17 Before I get into that, I think it's important
18 also to note that Steve had mentioned a \$100 million
19 shortfall in the 2004 survey that was done. From what I
20 understand, in Montgomery County where I am and was
21 chairman of the TCC there and also across the State, we are
22 looking at an improvement of about 5 percent. Now, not all
23 of that is due to Act 32; some of it is due to the economy
24 picking up, but with a total tax take of \$2 billion for the
25 year, 5 percent is \$100 million.

1 So clearly not only has Act 32 done what was
2 necessary, but it has sped the collection and distribution
3 of the money so the employees are being handled in a better
4 way, the money is getting to the jurisdictions faster and
5 more of it, and fewer people are slipping through the
6 cracks. So I really think that it has done its job at this
7 point.

8 Now, as in most things, nothing is perfect the
9 first time around -- witness the divorce rate -- and
10 because of that we have House Bill 245 that is in, and we
11 are addressing six or seven points in that bill. I am
12 going to cover three or four of the major things that we
13 feel are deficient in Act 32 as we've seen so far.

14 The first is the lack of an oversight board.
15 DCED in the beginning was given the job of coordinating and
16 implementing Act 32. They were not given the authority to
17 make decisions. And where we went from 560 different
18 collectors who disagreed with each other, we now have
19 19 collectors who disagree with each other.

20 And unfortunately, there is no body to regulate
21 those decisions. If one collector believes in one thing
22 and another collector believes in something else, there's
23 really no way to reconcile that. We are suggesting that
24 DCED be given the authority to act as an oversight board to
25 get in the middle of those disagreements. So that's one

1 major issue there.

2 The second major issue is the application of
3 out-of-State credits. This is a little complicated. I'm
4 going to try to make it as easy as possible.

5 The default rate essentially in a jurisdiction is
6 1 percent. There have been many laws that have been passed
7 to increase that, such as open space, which is an extra
8 quarter percent; Act 47, which is distressed communities;
9 and Act 205, which is distressed pension plans. If you
10 fall -- if you as a jurisdiction fall into one of these,
11 you were allowed to increase the EIT rate over 1 percent.

12 Now, in the original Act 511, there was a
13 Chapter 3 and a Chapter 4. Some of these increases were
14 under Chapter 3, some of them were under Chapter 4. The
15 collectors have decided that those in Chapter 3 can have
16 out-of-State credits applied against the entire rate,
17 including the increase; Chapter 4, you can only apply it up
18 to the original 1 percent.

19 So, for example, if you work in Delaware or
20 New York and you have excess tax taken out over the
21 Pennsylvania rate, you can use that excess to offset local
22 tax that you owe, but in a Chapter 4 situation, only up to
23 1 percent, and in Chapter 3, all of it.

24 It is inconsistent. It doesn't make any sense,
25 because all of these laws have said, stated in the law, an

1 increase to the EIT rate. So what we're trying to do is in
2 House Bill 245, make that across the board that you can use
3 out-of-State credits against everything.

4 The third issue that I want to bring up is what
5 is known as the contractor rule. And again, this is a
6 complicated provision, but it relies on the issue of where
7 you work.

8 Act 32 had specified that withholding is at the
9 higher rate of where you work, the nonresident rate where
10 you work or the resident rate where you live. It sounds
11 very easy to say that, but if you have a contractor who is
12 working for a construction company, for example, and they
13 go to different jobs all the time, where do they really
14 work? Or if you have a doctor's office or you have a nurse
15 working in a hospital and they cover five different
16 hospitals at different times, where do they really work?

17 So there was a kind of gentleman's agreement when
18 Act 32 was originally passed as to what the description
19 would be of where you worked. It was never set in stone,
20 and it really, at this point, relies on the employer and
21 the collector to make the decision, but there's nothing in
22 the law that says this is what it should be or this is what
23 it shouldn't be, and you get into disagreements.

24 So one of the things in 245 is for us to nail
25 down where you really work. Normally it's going to be like

1 a 3-month thing. If you're on a job for 3 months or more,
2 that's going to be your workplace. If it's less than
3 3 months, then it reverts back to the home office.

4 So if you have somebody that goes out to a
5 different place every day, it's still going to be the home
6 office, but if you have someone sent out on a 4-month job,
7 that's going to be their workplace.

8 The fourth thing that I want to cover is the
9 requirement to file a return when you have no tax due or
10 you have no income that is taxable, things like retired
11 people, students who don't have a job during the summer.
12 The way it is right now, if you ever filed, you have to
13 file unless you tell the collector that you don't have to
14 file. And if you don't file, even though you really didn't
15 have to, you could get hit with a \$25 penalty or something
16 like that.

17 For parents, certainly, that are doing tax
18 returns, they get these notices from Berkheimer or Keystone
19 are some of the other bureaus for their children and they
20 just throw it away, because the kids don't have a job and
21 they don't need to do anything. Well, then the next thing
22 you know, they are bombarded with notices. So we want to
23 build in some kind of safe harbor in there for that.

24 Those are the main provisions of 245, and we
25 really feel that, as I said in the beginning, nothing is

1 perfect. Act 32 is very, very good, but there is certainly
2 room -- there is room for improvement there, and we think
3 we have come up with the things that will actually improve
4 it and take some of the heat off.

5 So having said any of that, Steve, do you have
6 anything else to add?

7 MR. GEISENBERGER: No, I think you covered it
8 all.

9 MR. CAPLAN: Okay. I'd be happy to take any
10 questions that you have.

11 MAJORITY CHAIRMAN O'NEILL: Great. Thank you.

12 Before we go on, I just want to state that we
13 have been joined by Representative Evankovich,
14 Representative Knowles, Representative Dean, and
15 Representative Milne. Did I miss anybody coming in? Oh,
16 and Representative Kavulich.

17 MS. FOX: Do you want me to pronounce it?

18 MAJORITY CHAIRMAN O'NEILL: No. Representative
19 Sid.

20 Do any of the Members have any questions? Oh,
21 Grove and Dunbar are here as well.

22 MS. FOX: No, they have questions.

23 MAJORITY CHAIRMAN O'NEILL: Oh, they have
24 questions. I was going to say, well, then explain that.
25 It's too early. I don't function before 9.

1 Representative Grove.

2 REPRESENTATIVE GROVE: Thank you, Chairman.

3 Gentlemen, thank you so much for your testimony.

4 There is a recent Supreme Court case on double
5 taxation dealing with the State of Maryland and working
6 outside of a State but living in it.

7 A couple articles I read, it affects Philadelphia
8 particularly. Is that going to affect any other local
9 jurisdiction without State tax credits, as I hail from a
10 border county and a lot of my residents do work in
11 Maryland. I'm just curious on the implication of that
12 Supreme Court case and local tax collection.

13 MR. CAPLAN: Well, first, may I say that I am
14 duly impressed that you guys know that case. We're talking
15 about the *Wynne* case, which was a U.S. Supreme Court case.
16 It does change the out-of-State credit applications.

17 The guts of the *Wynne* case were that a taxpayer
18 worked, I believe in Delaware, and wanted to offset the
19 Delaware tax against not only the Maryland State tax but
20 the Maryland local tax as well. The State of Maryland said
21 no, the Supreme Court said yes.

22 Now, it will affect a lot of things.
23 Philadelphia is certainly one that is up for grabs on that,
24 but you have things like Wilmington, is another one,
25 because Wilmington has a local tax. This is going to have

1 repercussions across the country.

2 And I believe that there will be some sort of
3 effect on local tax in Pennsylvania outside of
4 Philadelphia. We're not really sure where that's going to
5 land at this point, but certainly it is in the realm of the
6 out-of-State credit issue that I discussed earlier, that
7 everything is in play right now, and nothing is going to
8 change unless there is a test case that makes it change,
9 including Philadelphia. But I wouldn't be surprised if
10 there is some effect on local taxes.

11 REPRESENTATIVE GROVE: And would that affect
12 commuter taxes at all or is it just particularly
13 out-of-State?

14 MR. CAPLAN: Conceivably, it could affect
15 anything, because the ruling was very general that credits
16 that are applied can also be applied to local tax as well
17 as State tax.

18 Now, Act 32 already has out-of-State credits
19 applied to the local tax, so that's why I'm not sure that
20 it is going to affect us drastically as it will in
21 Philadelphia. In Philadelphia, you owe the Philly tax no
22 matter where you work. As long as you work in Philadelphia
23 or you live in Philadelphia, you're going to owe
24 Philadelphia city wage tax, and if you work in New York,
25 you can't apply it against that.

1 In local tax, it's not quite that way. So I'm
2 not sure that it's going to have as much of an effect, but
3 it's probably going to have an effect of some sort.

4 REPRESENTATIVE GROVE: Okay. Thank you.

5 Thank you, Mr. Chairman.

6 MAJORITY CHAIRMAN O'NEILL: You're welcome.

7 Representative Dunbar.

8 REPRESENTATIVE DUNBAR: Thank you, Mr. Chairman.

9 Thank you, gentlemen, not only for your testimony
10 but all your work with me on this, on HB 245.

11 A couple quick questions.

12 First off, the zero returns. It is something
13 that as Legislators we hear a lot more about than a lot of
14 the other issues we discussed today. A lot of the other
15 issues are a small percentage of our people, but we do hear
16 a lot from people that get these notices -- whatever, it's
17 \$25. And a lot of individuals, especially seniors, will
18 get a notice and they think they've done something wrong,
19 so they automatically just pay the \$25 because they think
20 they've done something wrong.

21 It seems like anybody that has filed a return in
22 the past is getting these notices from the tax collection
23 companies. Is there any pushback from them? Have you
24 heard any pushback from them about zero returns, that
25 they're going to somehow not catch as much revenue as they

1 should be catching?

2 MR. CAPLAN: I'm very friendly with the heads of
3 Berkheimer, who are the largest collectors in the State,
4 and what I have found from them is that they are very
5 lenient on this. In fact, we as CPAs make it a rule to
6 tell our clients never to pay that \$25 and they never go
7 after that.

8 They are -- the collectors are stuck in a very
9 difficult place, because they are being hired by the TCDs.
10 The TCDs want the money, and the collector has to do what
11 they're told because they're being hired. Their job is to
12 follow the law, and the law says that they have to send out
13 these \$25 things. I don't think they want to, and that's
14 why there really is very little pushback on that.

15 But you stated it correctly that the problem is
16 that people who get these notices, \$25 is not enough for
17 you to call your CPA and say, what should I do? So they
18 just pay them, because they think they've done something
19 wrong. And in a lot of cases they say -- they blame the
20 CPA. They think we did something wrong, and then they fire
21 us and go with somebody else. So clearly, from our
22 perspective, we don't like it either.

23 But it's a nuisance, and I don't think there's a
24 whole lot of pushback on that, to be honest with you.

25 MR. GEISENBERGER: My experience in Lancaster is

1 a little different. Now, unless I hear something different
2 from my compatriot later on, they push pretty hard on the
3 \$25 penalties and done follow-up and basically, you know,
4 until they collect them, they're not satisfied.

5 And the other issue that is pushed pretty hard is
6 if you fail to file a local extension, even if you owe no
7 tax, they will push pretty hard to get that same \$25
8 penalty. So your Federal extension, which is good for the
9 State if you don't owe any tax, is not good for the local,
10 and that's probably one of the areas that we should have
11 raised in our testimony that we didn't, where there are
12 penalties where it seems like the application is unfair.

13 Obviously, if you owe tax, you should owe
14 penalties and interest. If you don't and you have a
15 legitimate Federal extension, filing a separate extension
16 to the locals is a -- can be quite a trap.

17 So obviously, if we are a preparer and, you know,
18 we file a hundred extensions, they've been accommodating
19 and you can file all 100 together. On the other hand, for
20 the individual taxpayer who is filing their own return,
21 they're not going to know to file a local extension if they
22 owe no Federal tax.

23 REPRESENTATIVE DUNBAR: In just one brief
24 comment, Mr. Chairman.

25 In your testimony, your written testimony, you

1 didn't speak to it but you did mention about a statewide
2 collection of all local taxes. For those of us that
3 prepare taxes -- and I'm again going back to Maryland as an
4 example.

5 In Maryland, you go online and you file your
6 State return, and your local return just generates right
7 off the information from the State return. It's a great
8 deal of savings for the consumers. The taxpayers as well;
9 they're just filing, essentially, one return. I would hope
10 that someday Pennsylvania can get there as well, and if you
11 have any comments on that.

12 MR. CAPLAN: Yeah, I do actually.

13 We get this question every single time we present
14 this, and it's a good one. It's a very valid comment that
15 certainly it would be a lot easier if everything could be
16 done at one time, just like Maryland.

17 The main difference -- there are two main
18 differences.

19 Number one, Pennsylvania has close to 2,900
20 different jurisdictions for the local tax. That is twice
21 as many as every other State combined. And because of that
22 and the collection process of coming in to the Department
23 of Revenue and then having them decide how to divvy
24 everything up and get it back to the local jurisdiction, it
25 is extremely complicated.

1 So for the Department of Revenue to do that is a
2 stretch, and given the fact that they are currently going
3 through a computer upgrade and it's not part of that
4 computer upgrade, it's a bigger stretch.

5 But the bigger issue is that the State tax here
6 is a PIT, a personal income tax; the local tax is an EIT,
7 or an earned income tax. So what that means is that not
8 everything that is taxable for Pennsylvania is going to be
9 taxed for the local, which means that there needs to be a
10 reconciliation.

11 In Maryland, everything is taxed for both, State
12 and local. In Pennsylvania, there is a different threshold
13 for what you pay tax on in the two taxes, and that makes it
14 extremely difficult, because now you have to add a
15 reconciliation schedule to the Pennsylvania tax and then
16 pay local tax on one thing and State tax on something
17 else.

18 Not to say it's impossible, and we would
19 certainly love to see that. I think it is much more
20 difficult in Pennsylvania to do than in other States, and
21 that's really the issue that's involved.

22 REPRESENTATIVE DUNBAR: Thank you.

23 MR. GEISENBERGER: I also believe that in
24 Maryland, they do not have nonresident taxes. I believe
25 it's residency; it's based on your residency.

1 MAJORITY CHAIRMAN O'NEILL: They have a special
2 nonresident local tax. I'm not sure how that works, but
3 that's what they have there.

4 MR. GEISENBERGER: Someday. We can hope.

5 REPRESENTATIVE DUNBAR: Thank you, Mr. Chairman.

6 MAJORITY CHAIRMAN O'NEILL: Thank you.

7 Before we move on, I just want to say that we've
8 been joined by Chairman Wheatley.

9 Do you have anything to say? No? Okay.

10 Representative Gabler.

11 REPRESENTATIVE GABLER: Thank you very much, and
12 these issues with the returns are one thing we hear in our
13 offices.

14 The other thing that I wanted to bring up and to
15 see if you guys or your organization would have any
16 feedback on it is, the other, I think, growing pain that
17 we've heard from Act 32 is just simply the fact that you
18 are taking different jurisdictions, putting them together
19 into one tax collection district, one tax collection
20 committee. There has been, you know, and this was kind of
21 more of the early on we had the growing pains, wrangling
22 over how to do the weighted vote, that sort of thing. You
23 got a small township, you got a large school district, and
24 the small township might as well not even show up to the
25 meeting because they don't have enough votes to affect the

1 outcome.

2 Have you guys had any feedback or have you guys
3 seen anything as far as feedback on how well that has
4 worked out? Are there -- I guess the concern would be if
5 you've got, if we're putting jurisdictions across a county
6 into one tax collection district with one committee, are we
7 seeing issues within a tax collection district where one
8 size does not fit all and where one jurisdiction is not
9 getting what they need? Do you have any feedback on that?

10 MR. CAPLAN: Yeah, I do.

11 First of all, I understand what you're saying,
12 and you certainly have a point. Case in point was
13 Lackawanna County. That was a huge issue, because Scranton
14 and the Scranton School District are the 800-pound
15 elephants in the room. You had a lot of problems with the
16 smaller jurisdictions that were very angry at this. That's
17 kind of an outlier.

18 I mean, in anything, it makes sense that the
19 people that are most affected by the law should have the
20 most say in the law. It's not always fair. It doesn't
21 always seem fair, but you've got to hope that the big
22 people have everybody's interests at heart and not just
23 their own.

24 I will tell you that while that may be part of an
25 issue, the other issue is economies of scale and where you

1 had, certainly in Montgomery County and I believe the rest
2 of the State, the average commission collection was 3 to
3 3 ½ percent.

4 Right now in Montgomery County, we have just
5 signed a new contract with Berkheimer at 1.3 percent. So
6 if you're talking about a commission on \$2 billion of
7 collections that drops by a percent and a half, that is a
8 huge amount of money, and that affects everybody in the
9 TCD, not just the big people.

10 So yes, there is an issue where some of the
11 smaller ones don't have a say, but they can also band
12 together in an alliance if they need to and all vote the
13 same way, just like anybody else does in politics, and
14 they are also benefiting from the purchasing power of
15 everybody.

16 MAJORITY CHAIRMAN O'NEILL: Thank you.

17 Representative James.

18 REPRESENTATIVE JAMES: Thank you, Mr. Chairman.

19 Just to prolong the agony, one more question.

20 MR. CAPLAN: This is not agony. This is fun.

21 MAJORITY CHAIRMAN O'NEILL: Well, we are running
22 a little behind, so--- Go ahead.

23 MR. GEISENBERGER: We don't have a budget to
24 pass, so we're fine.

25 REPRESENTATIVE JAMES: Berkheimer in Montgomery

1 is now 1.3 percent.

2 MR. CAPLAN: Yeah.

3 REPRESENTATIVE JAMES: Is that universal across
4 the Commonwealth?

5 MR. CAPLAN: No.

6 REPRESENTATIVE JAMES: Or does every
7 municipality---

8 MR. CAPLAN: No. Every TCD is run by a TCC, a
9 tax collection committee, which is made up of delegates of
10 every jurisdiction inside that TCD.

11 REPRESENTATIVE JAMES: Like a---

12 MR. CAPLAN: Well, what happens is that every TCD
13 does a contract with their collector and they do a deal.
14 Now, obviously, Montgomery County is one of the largest in
15 the State, so we have a little more pull. Some of the
16 smaller ones don't have the pull that we do.

17 But it varies. But I can tell you, in almost
18 every case, it's lower than it was before.

19 REPRESENTATIVE JAMES: That's good to know on any
20 basis.

21 So I'm kind of a good capitalist. If I got
22 the timeline right, you've gone from 500 collectors to
23 19 collectors, and now you're thinking maybe 1 collector is
24 right.

25 MR. CAPLAN: Possibly.

1 REPRESENTATIVE JAMES: What happens to
2 competition then when only one is running it?

3 MR. CAPLAN: Another very good question.

4 So what I had proposed in the past is if the
5 State can't handle it, pick one collector and use an
6 outside collector for the State. And that's a wonderful
7 idea, except for the fact that if you sign a 3- or a 5-year
8 contract with let's say Berkheimer, in that 3- to 5-year
9 period, all the other ones go out of business because
10 there's nothing for them to do. So when that contract is
11 over, there is no competition. That is an issue, which is
12 why, if it's going to be done statewide, it pretty much
13 needs to be done by the State.

14 REPRESENTATIVE JAMES: Okay. Thank you.

15 MAJORITY CHAIRMAN O'NEILL: Thank you.

16 One quick, I mean really quick question.

17 The contractor issue you were talking about. I'm
18 sitting here thinking, if we simplified it and stated that,
19 you know, we'd come up with some sort of defined definition
20 of what a contractor is who travels, that works in multiple
21 taxing districts, would it be just easy if those
22 contractors who fall under that definition just file their
23 home taxing agency and leave it at that?

24 MR. CAPLAN: No. It all has to be done in the
25 same system, because they are a company inside a TCD with a

1 collector under Act 32 and everybody has to be the same.
2 The issue is, who gets the money? That's really what the
3 issue is here.

4 Now, the money goes back to your home
5 jurisdiction, wherever you live. So even if you work
6 somewhere or you work somewhere else, the money goes back
7 to your home jurisdiction, unless your home jurisdiction's
8 rate is less than the rate where you're working.

9 For example, if you live in King of Prussia,
10 which does not have an EIT, and you work in Abington, which
11 has a 1 percent, if your home office is in King of Prussia
12 but your job is in Abington, there's a big difference as to
13 which one is yours. If you say, well, it's King of Prussia
14 because that's my home office but you're always in
15 Abington, Abington is losing out on the 1 percent. So
16 that's why it -- there has to be some sort of rule across
17 the board.

18 MAJORITY CHAIRMAN O'NEILL: Okay. Great.

19 MR. GEISENBERGER: Unless we're all residency
20 based. So, for instance, a contractor lives in Lancaster.
21 Almost all the municipalities -- there's one exception, or
22 actually two exceptions -- are 1 percent in Lancaster
23 County. If you're working in Harrisburg and you are a
24 contractor and you're on a job for 3 months, Harrisburg
25 wants that extra increment over and above the 1 percent.

1 So unless you had a strict rule that it's where
2 you live---

3 MAJORITY CHAIRMAN O'NEILL: Across the board.

4 MR. GEISENBERGER: ---and that was the basis and
5 you only had resident taxes, you'd have to -- as long as
6 you have the nonresident tax, you're going to have that
7 issue.

8 MAJORITY CHAIRMAN O'NEILL: Right.

9 MR. GEISENBERGER: But it would be nice if it
10 weren't on -- if it were uniform throughout the State, the
11 Commonwealth.

12 MAJORITY CHAIRMAN O'NEILL: Right. Gotcha.

13 Thank you very much. Thank you, gentlemen.

14 MR. CAPLAN: Thank you very much.

15 MAJORITY CHAIRMAN O'NEILL: Thank you for coming
16 today.

17 MR. GEISENBERGER: Thank you.

18 MR. CAPLAN: And I would like to thank
19 Representative Dunbar especially for sponsoring our bill.

20 MAJORITY CHAIRMAN O'NEILL: I'm sure he's much
21 welcome.

22 Are our friends from DCED here? They are. Okay,
23 gentlemen.

24 We are about 10 minutes behind, so we're going to
25 try to speed it up.

1 Our next testifiers are from the Department of
2 Community and Economic Development, and we have Deputy
3 Secretary Joe Meade and Sean Sanderson, who is the Local
4 Government Policy Manager. So begin.

5 DEPUTY SECRETARY MEADE: Thank you.

6 MAJORITY CHAIRMAN O'NEILL: Thank you for being
7 here today.

8 DEPUTY SECRETARY MEADE: Thank you, Chairman
9 O'Neill and Chairman Wheatley.

10 Most importantly, to the Members of the House
11 Finance Committee, thank you for taking the opportunity to
12 listen to myself. I'm Joe Meade, Deputy Secretary for the
13 Department of Community and Economic Development. My
14 deputate area is community affairs and development.

15 And with me, I am thrilled to have him with me
16 because he has been involved with the Act 32 legislation
17 from the outset and, more importantly, helped prepare the
18 study which helped formulate and move forward with the
19 enactment of the amendment to the actual act.

20 With that, and in advance, we have been able to
21 provide and share our testimony, which has been written and
22 provided to you in advance. But in regard, and my comments
23 will be rather brief, because fortunately the panel before
24 me, which spoke so eloquently relative to all the aspects
25 of the legislation, we are actually on the same page with

1 that, with some of the comments that were made previous to
2 that.

3 And once again, I apologize for my delay and
4 tardiness this morning. I will blame that on Amtrak. It
5 figures when I would have the opportunity to testify before
6 you that I would arrive a little bit late, so I apologize
7 once again for that.

8 Directly to the legislation.

9 First and foremost, and a couple of bullet
10 points. And like I said, I'll open it up for some direct
11 questions for you to engage Sean and I directly as it
12 relates to the implementation and oversight of Act 32.

13 But primarily, it has reduced overhead and
14 transferred tax revenues more efficiently and
15 exponentially. We have consolidated the collection of the
16 earned income tax on a countywide basis.

17 As you have heard, one thing that has been
18 paramount and important for us moving forward is that no
19 longer do we have to work with 560 taxing authorities. We
20 have been able to streamline that and reduce that number to
21 69, which, as you can imagine from a government standpoint
22 and also working with limited staff, and the Governor's
23 Center has been of ultimate and extreme benefit for us in
24 being able to coordinate and, more importantly, communicate
25 the receipt of those revenues within the department.

1 Collection forms and procedures. Once again, to
2 support my previous comments, it really, really has
3 uniformed the entire process and allowed us, more
4 importantly, to create a way for us to communicate using a
5 toolkit, which has actually been a benefit for us, being
6 able to make sure that folks are aware of the processes of
7 moving forward and how to collect.

8 Secondly, improved accountability and added
9 financial safeguards, which I know that is something that
10 each of you will be excited or at least pleased to hear. I
11 think with limiting the scope of the taxing authorities,
12 more importantly, we will be able to collect some lost
13 revenue, which has actually been, you know, realized in my
14 conversation with Sean, and nonetheless, those things have
15 now been able to be received into the coffers of State
16 Government through our department.

17 I think with that, you know, I'll close my
18 comments, but I just wanted to share. But finally,
19 tracking, auditing, and oversight requirements have
20 provided accountability and added, once again, the
21 financial safeguards needed to restore the integrity and
22 transparency of the system.

23 This legislation has made collection forms and
24 procedures uniform, and the administration of the taxes --
25 because of the administration of the tax being fragmented

1 and oftentimes confusing and unfair to taxpayers, we feel
2 that Act 32 as it stands today has resolved and alleviated
3 most of, all of those concerns.

4 Thank you, and I'm more than willing to answer
5 any of your questions that you may have this morning.

6 MAJORITY CHAIRMAN O'NEILL: Great. Thank you
7 very much.

8 Very quickly.

9 DEPUTY SECRETARY MEADE: Sure.

10 MAJORITY CHAIRMAN O'NEILL: You have on your
11 testimony Suggestion #2---

12 DEPUTY SECRETARY MEADE: Yes.

13 MAJORITY CHAIRMAN O'NEILL: ---making the LST
14 withholdings reflective on a W-2. That kind of surprised
15 me, because all my W-2s always, and my wife's, it's on
16 there. So that's just something that employers do
17 optionally or---?

18 MR. SANDERSON: No.

19 MAJORITY CHAIRMAN O'NEILL: Okay. So it's not
20 mandated?

21 MR. SANDERSON: No, it's not required. Correct.

22 MAJORITY CHAIRMAN O'NEILL: So you're suggesting
23 we mandate all employers put it on a W-2 to make it easier.

24 MR. SANDERSON: It's standardization. We receive
25 a lot of questions, particularly at tax filing time, about

1 what should go on that form. And because they are already
2 preparing their payroll and reconciling everything, they
3 just assume it should go on that form.

4 So it can go on the form; it's just not
5 particularly relevant to that form. So it doesn't hurt
6 anything, but it would alleviate a lot of questions through
7 the standardization process to make it standard for all
8 payroll preparers, for employers, and then ultimately the
9 employee, because they could move from job to job and would
10 know exactly how much local service tax had been paid.

11 MAJORITY CHAIRMAN O'NEILL: Sure.

12 MR. SANDERSON: So it would be a beneficial thing
13 from an administrative perspective, from a financial
14 perspective, and ultimately for our reconciliation.

15 MAJORITY CHAIRMAN O'NEILL: Makes sense to me.
16 Thank you.

17 Representative Gabler.

18 REPRESENTATIVE GABLER: Thank you very much.

19 Thank you for your testimony this morning.

20 I wanted to ask a question. There have been some
21 stakeholders that have identified identity theft as a big
22 concern within the tax realm.

23 Because filing taxes involves the sharing of
24 taxpayer information and there are a lot of people that get
25 their hands on that information through the course of

1 filing it, I was wondering if you could provide a
2 perspective from DCED as far as what standards that you
3 have or what standards are in place that would protect
4 taxpayer information from being susceptible to identity
5 theft through local tax collectors and through the
6 different people who would get their hands on that
7 information.

8 MR. SANDERSON: Certainly.

9 A very common question arose when Act 32 took
10 effect, because since 1965 when Act 511 was written, a lot
11 of filing was very standard. People went to work; they
12 went home. It was a very standard work environment, and
13 everything was filed in paper.

14 When Act 32 went into effect, many people assumed
15 that it was a new law and a new tax, and with the
16 electronic filing technology that had arisen, we were very
17 concerned about protecting their financial information,
18 their personal identity information.

19 We spent many years explaining to a lot of
20 corporations, a lot of employees, put on many, many
21 presentations, that Act 32 did not create a new tax, did
22 not create new filing requirements, did not do anything
23 that hadn't been required under Act 511. It just
24 consolidated the number of collectors, standardized the
25 process, and made the process modern.

1 So the collection process I think has become much
2 more familiar to people who never filed in the past. And
3 of course we've heard testimony that the people who never
4 filed are now filing, which is why revenue has increased
5 without actually increasing the tax or establishing new
6 taxes.

7 So the tax collectors themselves were an
8 integral part of the preparation -- there were 3 years
9 leading up to implementing Act 32 -- and the CPAs, the tax
10 collectors, many interested parties. We actually have an
11 advisory committee, and we're going to be getting together,
12 I think at the end of this month again, to review the
13 forms.

14 They all weighed in from their professional
15 perspectives to determine the best course of collection, to
16 make it easy not just for the employees and the employers
17 and payroll companies but also the sharing of information
18 between and amongst themselves. And ultimately it has to
19 be reconciled with the individual tax districts and the
20 municipalities.

21 To my knowledge, there has been no increase in
22 identity theft because of the new collection requirements
23 and procedures. Each tax collection committee has
24 oversight authority over the collector that it has engaged,
25 and the collectors are very modern. They institute a lot

1 of software, which was already very robust but became
2 integrated with the other collectors' software so that
3 there was very, very little question about how much money
4 was owed to whom.

5 For example, there is in the law a requirement
6 for mediation if collectors disagree with each other over
7 how much money was collected and where it was disbursed.
8 No collector has filed for mediation with DCED because of a
9 dispute that couldn't be reconciled at the local level for
10 your tax collection.

11 So as far as I know, this is actually a better
12 thing. The electronic filing process is accurate. It's
13 just like filing with the State or the Federal Government.
14 It has reduced the amount of paperwork, which I think has
15 reduced the number of errors. And now that there is a
16 sense of familiarity with the filing process, employees and
17 employers alike are much more comfortable.

18 REPRESENTATIVE GABLER: And I appreciate that.

19 And I suppose the intent of my question is kind
20 of parallel with Act 32, not necessarily a critique of it.
21 I would agree that I wouldn't suspect that anything within
22 Act 32 would have increased the risk. I think it's more
23 just that in the same timeframe as the implementation of
24 Act 32 is when we have seen, as you mentioned, the
25 technology and everything else.

1 So I suppose it was kind of more of a general
2 question of DCED's, you know, policies, procedures,
3 whatever; just if it is a question or if it has been
4 something that has come up within DCED's discussions of
5 local taxes generally, not specific to the implementation
6 of Act 32 but in the broader context of local tax
7 collections and the handling of personal information. If
8 there's anything else that you have.

9 MR. SANDERSON: Because DCED doesn't have the
10 software expertise and doesn't actually deal with the
11 collection and disbursement of the funds, we don't have
12 firsthand accounts.

13 REPRESENTATIVE GABLER: Gotcha.

14 MR. SANDERSON: But our close working
15 relationships with the collectors, the professional
16 advisors such as the CPAs and other payroll providers,
17 including many Fortune 500 companies, indicates that this
18 is a concern that arises but is not a very, very strong
19 concern. It is working very well. And among the
20 opportunities for improvement, as we have been discussing,
21 I'm not sure this rises very, very high.

22 REPRESENTATIVE GABLER: All right. I appreciate
23 the opportunity to discuss, and thank you for what you're
24 up to.

25 Thank you, Mr. Chairman.

1 MAJORITY CHAIRMAN O'NEILL: Thank you.

2 Representative Grove.

3 REPRESENTATIVE GROVE: Thank you, Mr. Chairman.

4 Gentlemen, thank you for your testimony.

5 When you receive data on EIT collections, is that
6 directly from municipalities and school districts or does
7 it come from the tax collectors themselves?

8 MR. SANDERSON: Both.

9 REPRESENTATIVE GROVE: Both?

10 MR. SANDERSON: Yes. The office, the Governor's
11 Center for Local Government Services, which is what we
12 represent within DCED, has a specific office for municipal
13 statistics. Municipal Statistics collects a great deal of
14 local data, including 16,000 local government officials in
15 Pennsylvania, who they are and where they are and their
16 phone numbers.

17 Municipalities are required to file, and that
18 gives us information about their revenues and expenditures.
19 So they do file information, but in the case of Act 32, the
20 audits are also filed with us. We hold them as a library
21 of sorts so that each tax collection district has an audit
22 conducted every year, and then we receive those audits.

23 Those audits are public record. They are
24 presented at the local level. We are required to receive
25 them, and of course we make them available upon request.

1 But I would say the main source of detail, if you
2 really want to get into a line item on a particular
3 municipality, what they bought and what they spent, is
4 available through our Municipal Statistics.

5 REPRESENTATIVE GROVE: Still, when I look up
6 your municipal data and I look at EIT collections for
7 whatever municipality---

8 MR. SANDERSON: Yes.

9 REPRESENTATIVE GROVE: ---do you take that and
10 apply it against an actual tax collector to make sure what
11 the municipality is reporting and what the tax collector is
12 collecting for that municipality, do you match them, or is
13 that within the audit?

14 MR. SANDERSON: That's within the audit.

15 REPRESENTATIVE GROVE: Okay.

16 MR. SANDERSON: Yes. We are not an auditing
17 agency. The Municipal Statistics data that we collect is
18 self-reported. There are 2,561 local governments---

19 REPRESENTATIVE GROVE: Yeah.

20 MR. SANDERSON: ---and thousands of authorities
21 and so forth. So what is reported to us is collected and
22 reviewed for accuracy, but we are not auditors, so we are
23 not footing the information.

24 REPRESENTATIVE GROVE: Okay.

25 MR. SANDERSON: We are looking at it for correct

1 reporting and then, of course, if greater detail does
2 require professionals to go into a municipality and perform
3 an audit, which happens annually.

4 REPRESENTATIVE GROVE: The last question.

5 Do the collectors send periodic updates on EIT
6 collections back to school districts and municipalities for
7 budgeting?

8 For instance, the Department of Revenue will give
9 us an analysis monthly of how revenues are coming in. Is
10 that done at the local level so local governments and
11 school boards can see how revenues are coming in throughout
12 the year to make better budgeting decisions?

13 MR. SANDERSON: Yes. The electronic filing that
14 Act 32 enables is actually so accurate that municipalities
15 and school districts often receive weekly deposits.

16 REPRESENTATIVE GROVE: Okay.

17 MR. SANDERSON: Certainly monthly deposits.

18 The law does require two standard types of
19 deposits. If there is a consolidated collection, it would
20 be electronic and monthly. Otherwise, it would be
21 quarterly, which was the standard prior to Act 32.

22 But as we've heard, because the collectors are
23 under contract to all of the school districts and
24 municipalities within the tax district, they are
25 essentially employees and must provide any technical data

1 that is required.

2 The tax collection districts operate
3 independently. Some operate and meet very frequently,
4 others meet once or twice a year. It's a matter of local
5 control. So the review and the oversight of the collector
6 is due to the call of the chair, essentially, at the tax
7 collection committee level.

8 REPRESENTATIVE GROVE: Thank you.

9 Thank you, Mr. Chairman.

10 MAJORITY CHAIRMAN O'NEILL: Thank you.

11 Does anyone else have any other questions?

12 Thank you, gentlemen. We appreciate you coming
13 today.

14 DEPUTY SECRETARY MEADE: Thank you.

15 MR. SANDERSON: Thank you.

16 MAJORITY CHAIRMAN O'NEILL: Our next testifier is
17 Stuart Knade, Chief Counsel for the Pennsylvania School
18 Boards Association.

19 Thank you, Mr. Knade.

20 MR. KNADE: Good morning, Chairman O'Neill,
21 Chairman Wheatley, and Members of the Committee.

22 As said, I'm Stuart Knade. They changed my
23 title. Now it's General Counsel for the Pennsylvania
24 School Boards Association, a position I have been in for
25 quite a number of years, and I'm pleased to be before the

1 committee today to offer some brief perspectives from the
2 School Boards Association about Act 32 and the current
3 proposals.

4 Beginning with asking everybody to remember how
5 collaborative the process was that led to the development
6 back in the years leading up to 2008 of Act 32. At least,
7 that's the way I recall it. We were deeply involved. I
8 personally did a lot of drafting and offering of
9 suggestions and refinements. And I think that the reason I
10 asked us all to recall that is because I think that we have
11 an opportunity to, or certainly opportunities to improve
12 Act 32, but our point of view is that piecemeal tinkering
13 is probably not the way to go.

14 There is a comprehensive review that is required
15 by Act 32 to be done within the next 14 months by the
16 Legislative Budget and Finance Committee to take a more
17 holistic look at all of the moving parts working together,
18 and our belief is that if we can replicate the
19 collaborative process that led to Act 32 in the first
20 place, in the course of that study we'll come up with a
21 better set of improvements that haven't been examined in
22 isolation.

23 And that, you know, pretty well sums up where
24 we're coming from on this. We see some technical concerns
25 with the specific bills that are there today. They are

1 much more ably addressed by the Lancaster County Tax
2 Collection Committee that has provided extensive written
3 testimony with regard to those, so I don't want to repeat
4 that or presume to be as studied.

5 You know, having been deeply involved in the
6 early years and through the implementation process, that's
7 not the case anymore for the School Boards Association
8 because it has been working so well. Act 32 issues just
9 aren't lighting up our phones anymore, and that, to us, is
10 a very good sign.

11 And I think, you know, we want to make sure that
12 before we tinker with it, we're doing it in a more
13 comprehensive fashion and not getting ahead of what is
14 already required to happen within the next 14 months.

15 MAJORITY CHAIRMAN O'NEILL: Great. Thank you.
16 That's basically the purpose of this hearing, to begin that
17 process---

18 MR. KNADE: Excellent.

19 MAJORITY CHAIRMAN O'NEILL: ---instead of
20 piecemealing.

21 If you could -- I don't know if anyone has
22 questions -- but if you could, if you have suggestions of
23 tinkering it or whatever, you know, the bills that are
24 already in our committee or any other suggestions, if you
25 could get that to me, I would really appreciate it.

1 MR. KNADE: We'll be happy to offer our
2 suggestions.

3 MAJORITY CHAIRMAN O'NEILL: If you can get that
4 to me in writing, if you get the time.

5 Does anybody have any questions?

6 Mr. Dunbar.

7 REPRESENTATIVE DUNBAR: Good afternoon.

8 And of course I do have some ownership here, so
9 "piecemeal" and "tinkering" don't sound like good terms to
10 me. I would prefer "corrective actions."

11 Under Act 32, isn't there originally supposed to
12 be a Legislative Budget and Finance Committee report that
13 comes out, and when is that due?

14 MR. KNADE: The act says before 2017, so that
15 would be by the end of next year.

16 REPRESENTATIVE DUNBAR: Yeah. So along those
17 lines, I just want to make the point that what we're trying
18 to do here is, we are expecting that report next year.
19 Let's start the conversation now of improvements that are
20 necessary, improvements that I don't consider tinkering. I
21 think, you know, we need to fix some of the shortcomings
22 that are there.

23 They are not huge problems, but it is, you know,
24 as a practitioner as well as a taxpayer, it's something
25 that we've heard about many times. So I don't look at it

1 as not looking at it holistically. I believe we have
2 looked at it holistically. And when we get the report
3 from, I believe it's the Legislative Budget and Finance
4 Commission, and we will be prepared to act quickly. So
5 just my comments.

6 MR. KNADE: And I certainly don't mean to suggest
7 that there's anything wrong with starting the conversation
8 and looking at some specific things that should be
9 considered. But, you know, our point of view is that when
10 it comes time to actually put them all into the law, if we
11 have the benefit of looking at how all the moving parts
12 work together before we isolate certain things, frankly, I
13 think it will improve the quality of the information we get
14 from the Legislative Budget and Finance study, just as with
15 any study of how something is working. If you changed it
16 late in the game, your review of the data over the years
17 gets skewed by that.

18 REPRESENTATIVE DUNBAR: And just, we are working
19 towards that and we appreciate your input on it. And
20 somehow when I hear the term "holistic," I get shivers down
21 my back right now because I've sat through a ton of
22 Appropriations hearings where all I heard about is the
23 budget has to be looked at holistically.

24 MR. KNADE: I'll find another term,
25 Representative Dunbar.

1 REPRESENTATIVE DUNBAR: So let's use something
2 other than holistic, if we could.

3 MR. KNADE: Sure.

4 REPRESENTATIVE DUNBAR: Thank you.

5 MAJORITY CHAIRMAN O'NEILL: Thank you.

6 And Representative Dunbar is correct. I've had
7 conversations both with him and Senator Folmer, and, you
8 know, there are some recommendations that both those
9 gentlemen are making that are simple corrections that I
10 don't think would have any impact on the study but would
11 have a huge impact, positive impact, on constituents and
12 the local tax associations. So we will be looking at them
13 to see how we're going to move forward.

14 Anybody else have questions?

15 Mr. Knade, well, thank you very much. We
16 appreciate it.

17 MR. KNADE: Thank you.

18 MAJORITY CHAIRMAN O'NEILL: Our next testifier is
19 Ed Troxell. Did I pronounce that properly?

20 MR. TROXELL: Correct.

21 MAJORITY CHAIRMAN O'NEILL: Yes; thank you. From
22 the Pennsylvania State Association of Boroughs.

23 MR. TROXELL: Thank you.

24 MAJORITY CHAIRMAN O'NEILL: Welcome.

25 MR. TROXELL: Good morning, Mr. Chairman.

1 Representative Wheatley, Representative O'Neill,
2 Members of the Finance Committee, thanks so much for having
3 me up here, Ed Troxell with the Boroughs Association. I'm
4 the Director of Government Affairs, and Act 32 is very
5 familiar to us. Actually, the association was very much
6 involved.

7 It should be on, unless I might be a bit of a low
8 talker this morning. I haven't had enough coffee.

9 But anyway, basically, one of the largest things
10 that we are interested, that we were interested in was that
11 we were going to have an efficient system created that
12 would create all or that would enable all our
13 municipalities to have the representation that they really
14 deserved.

15 I'm not going to read through the testimony; you
16 already have that. What I will do, though, is point out a
17 few things that I've heard here and then also that are
18 within the testimony that I think bear some relevance to
19 when we start to talk about the discussion of changes,
20 areas like that, because what I think is important is that
21 some of the questions that our association and our boroughs
22 had when Act 32 was put together, would we have the ability
23 to manage those core revenue streams that were important to
24 our boroughs? Would we have access to the information
25 that's really needed regarding this, because a lot of our

1 local services are provided with the revenues they need to
2 perform their functions through the EIT. Would we also
3 have appropriate representation, was a question we had. We
4 feel there are some areas that might need some work in
5 there.

6 Measures of accountability. We're hoping that
7 whatever is created as we move forward, that 32 still has
8 that ability to give all our municipalities the ability to
9 hold accountable those tax officers that, you know, that we
10 actually use for the tax collection committees.

11 And also, we hope to continue to actually be able
12 to collect at an efficient rate, like we are doing. It has
13 been increased. The claims, early on when we did 32, were
14 that we were going to see upwards to \$300 million
15 recovered, and I believe some of those numbers are getting
16 pretty close to that. I don't have exact documentation,
17 but what I'm hearing, you know, in places is that it's
18 getting upwards to 250, 270s maybe. So that's a good
19 thing.

20 So those are some of the things that were
21 important to us. What I wanted to do in presenting some
22 comments is basically look at how some of our entities that
23 are affected by Act 32 are functioning under Act 32.

24 Now, the four of them that I pointed out in my
25 testimony were the municipalities, how they react. The tax

1 collection committees and the tax officers that are created
2 by Act 32, how they are functioning under the current law.
3 I would also like to look at a little bit of DCED and how
4 they are complying, putting regulations together, areas of
5 communication like that. And lastly, some of the things
6 that I've noticed on a personal basis.

7 You know, on this local government thing, for
8 those of you that have actually served in local government
9 and elected office, you know that you learn, pick up little
10 tidbits and learn little things just from the basis of
11 being an elected official at the local level, and there are
12 some things that we've learned from private employers that
13 will be helpful.

14 So we just hope for what we do, what I'm
15 providing you in that testimony, is to just give you some
16 insights on what is happening within these little solar
17 systems, or shall we say a broader universe of Act 32.

18 So one of the big things for municipalities --
19 and it was pointed to earlier by Representative Gabler, I
20 think, in some of your questioning -- was the fact of these
21 tax collection committees and creating for municipalities a
22 sense of a leveling effect.

23 What was one of the more difficult things,
24 bringing my membership along when we put Act 32 into
25 action, was basically helping the folks, that some of my

1 boroughs are relatively small compared to the larger school
2 districts, et cetera. So we had to really work on an
3 education effort to help them understand that a lot of
4 really economies of scale would be available to them should
5 they join in the whole.

6 So while they did hem and haw -- we did -- with
7 the weighted voting, we understand that also within that
8 weighted-voting aspect that we could pass bylaws at the
9 tax collection committee that would actually jettison that,
10 and some tax collection committees have done that. They
11 have jettisoned the weighted vote, and they've worked by a
12 one municipality, one vote.

13 I know for one, actually where I reside, the tax
14 collection committee itself has jettisoned everything and
15 made it one municipality, one vote except for the selection
16 of the tax officer. That is something that we have seen
17 work out. So the flexibility you have within those tax
18 collection districts to do that works out for the
19 municipalities. We like that.

20 One of the biggest things, you know, I know
21 everyone is going to say, well, there are 2,900
22 municipalities or, you know, entities that you are
23 collecting the EIT from. But you know what? We tend to
24 think they work best. They have been around Pennsylvania
25 for years, and we support them.

1 So basically from the municipal point, also one
2 of the things that kind of gets in the way is the split LST
3 and EIT collection. If there is something we address in
4 there and make them the same collectors, I don't know. But
5 that tends to always be a kind of a little bit of an
6 anomaly for folks to work with.

7 Because some municipalities that have that
8 antiquated business privilege tax, you know, which folks
9 had gotten -- some folks carried that through, okay? --
10 they have a whole business privilege office that really
11 deals with a lot of the businesses and everything in their
12 municipality that can provide a lot of information to the
13 tax collection committee. And so we have been able to hear
14 some things from those groups that really indicate that,
15 you know, let's try to make this as uniform and have a
16 singular collection as possible.

17 But overall, from a fiduciary perspective, I
18 would like to say that Act 32 is working well. And I don't
19 want to bring that term "tweak" up, Representative Dunbar,
20 because, you know, some of the changes, some of the things
21 we need to do to make it a more effective law because times
22 have changed, technology has changed. I mean, so as we
23 move along, I think there will be good things we could do
24 to the act, but the basic foundation of it is working well
25 at this point within them.

1 Moving to the tax collection committees and tax
2 officers. Some of those areas really probably would be
3 more -- my municipalities really need to understand they
4 play a role within the TCC. Sometimes they have felt kind
5 of alienated because of the weighted schedule that, you
6 know, it doesn't really matter I'm here, you know, because
7 here's Scranton or here's Harrisburg and they have most of
8 the influence there. If there's something we can do that
9 enables municipalities within the tax collection committee
10 itself to feel more in touch with the committee and the tax
11 officer, that would be helpful.

12 Some of the things the tax collection committees,
13 it would be helpful to do is to be able to document all
14 the bylaws that each TCC has. So now we have -- what? --
15 19 collectors. We have 60, was it mentioned 69 TCDs? Why
16 don't we -- I hate to give DCED more work, but if DCED
17 could actually document and provide a website and archive
18 all those bylaws, it would be extremely helpful if you want
19 to work towards a very uniform system.

20 You know, sometimes you can attract more with a
21 little bit of honey than, say, the vinegar of a mandate.
22 And so if they see the practicality of that out there, that
23 would be helpful for folks. It would more or less help
24 develop a best practices catalog, too, for the folks
25 there.

1 I guess lastly, in the tax collection committees,
2 one of the things that I'm unfortunately getting familiar
3 with is this mandatory-mediation aspect and areas like
4 that.

5 Some of those things, I think our smaller
6 municipalities don't know the law well enough to understand
7 that the mandatory mediation probably should have been
8 triggered more than once since the law has been passed, but
9 no one has really understood how to bring it forward.

10 It's clear within the law what takes place, you
11 know, when it is brought forward. But basically, how do
12 you get there and bring it forward, and how do you help a
13 municipality, a small municipality, you know, who may be
14 losing over 15, 20 percent of his EIT?

15 Rightfully, it should be triggered, but does the
16 solicitor or the tax collection committee know well enough?
17 That's another area. I mean, are they educated well enough
18 to know that this gets triggered and then you need to move
19 down that route? And a lot of that also, I know, will kind
20 of start to kick in to what the DCED does when regarding
21 those mediations when they get there.

22 One of the things, lastly I guess, the appeals
23 board. You know, in that Section 505(j) and (k) they have
24 appeals and mediations, the appeals board. For
25 municipalities, over in our building codes and et cetera,

1 you know, we do joint appeals boards, you know, for
2 building codes. That's something that you may want to
3 consider, maybe TCCs, especially in the rural areas or
4 whatnot. Maybe the TCD wants to get together and form,
5 let's say, an appeals board that is multi-TCD, you know,
6 taking advantage of things like that. That could be an
7 option. It could be something to look at down the road for
8 folks. That way, everyone would be also sharing the
9 information and learning through that.

10 I want to say for DCED, there are a lot of things
11 that the association, the Boroughs Association, would love
12 to work close with them, helping them on -- their website
13 is awesome so far. It's a great start to what they have
14 been doing. There are so many other things we see that
15 could be worked into there.

16 But I want to put a plug in, too, I guess for
17 DCED and the resources it needs to really perform, you
18 know, a top level Act 32 website and service to everybody,
19 because this, Act 32, this can be a really awesome law if
20 it's implemented and expanded to the point, you know,
21 taking advantage of the technology that is out there.

22 So that idea earlier, an oversight board, was
23 interesting. That's something fascinating to look at,
24 because that can probably give a little bit of the push we
25 need to start to really get some significant changes that

1 we are hearing from the folks that are out there under
2 Act 32.

3 And lastly, the private employers and some of the
4 things they may be seeing. While we are municipals, we are
5 also employers. So, you know, a lot of times businesses
6 will come into municipalities, into the boroughs, and if
7 they're having trouble with, okay, what's your PSD code?
8 You know, where do I send my payments here? Where do I
9 send this and that? They'll ask our people, and basically
10 our people, from what they've responded and letting us
11 know, it's like, they feel like, well, don't these
12 businesses, aren't they aware of what they need to do? And
13 the PSD coding is something that probably could use a
14 little bit of work, a little easier for folks to use, a
15 little more clear.

16 I've had actually some tell me that they go to
17 the U.S. Census Bureau American FactFinder and actually use
18 that to get the more accurate place of where people are
19 residing in it. So the PSD coding I think really, boots on
20 the ground-wise, really makes it all kind of happen. So
21 getting something like that and helping folks understand
22 that would be extremely helpful.

23 So I guess just to close, because I could
24 probably -- there are so many things here. Some of the
25 things here are more robust reporting and an accessible,

1 timely archive for reports -- you know, we do our monthly
2 reports and also our SOC reports -- and raising
3 accountability standards and accurate coding for better
4 collections.

5 While I do have in here that a Moody's "March
6 2015 Sector In-Depth" report indicated that we are now
7 collecting 20 percent more municipal revenues as a result
8 of this, I feel we can do even better. I think it's not so
9 much the idea of collecting more revenues; it's collecting
10 those revenues that belong to the rightful parties that are
11 out there.

12 So with that, I'll be more than happy to help
13 with any questions the committee may have.

14 MAJORITY CHAIRMAN O'NEILL: Thank you.

15 I just have one suggestion. You had mentioned
16 that, you know, your ideas for DCNR. If you can -- or
17 DCED.

18 MR. TROXELL: DCED; yeah.

19 MAJORITY CHAIRMAN O'NEILL: If you could get them
20 to me, I'd appreciate it, because we intend to sit down
21 with DCED, you know, to review some of that.

22 MR. TROXELL: Certainly.

23 MAJORITY CHAIRMAN O'NEILL: So if you have any
24 specific changes, we can talk to them about it.

25 MR. TROXELL: That's what we're finding in a lot

1 of this. I feel really -- you know, DCED has been great
2 working through a lot of this, but it's really, there's a
3 lot in that act. At that time when we did 32, we put a
4 lot, through municipalities and school boards, you know,
5 put a lot of focus on DCED doing these things.

6 MAJORITY CHAIRMAN O'NEILL: Yeah.

7 MR. TROXELL: Now, that was another
8 Administration, you know, at a time long, long ago.

9 MAJORITY CHAIRMAN O'NEILL: Does anyone have any
10 questions?

11 MR. TROXELL: I'll take that as a good sign.

12 MAJORITY CHAIRMAN O'NEILL: Oops; all right.

13 Before I go to you, I just want to point out that
14 Representative Lawrence has joined us.

15 Representative Dunbar. Thank you.

16 REPRESENTATIVE DUNBAR: Thank you, and thank you,
17 Mr. Troxell.

18 Just a real quick question. Your group deals
19 with everybody across the whole entire State, so you have
20 seen different TCDs, you know, all the different TCDs.
21 Would you say some are more effective than others? Some
22 are more prepared to deal with all the Act 32 issues?

23 MR. TROXELL: Yeah. You see some that are
24 functioning with a high degree of sophistication, the
25 technology, you know, and they have the practices put down

1 on paper well, and then you see others that are struggling,
2 kind of just accepted this as just another -- I hate that
3 "m" word -- mandate as something else we got to do, and
4 they accept it as just a fait accompli. And a lot of times
5 it's those municipalities and school districts within those
6 TCCs whose TL isn't working as hard as possible or doesn't
7 have access to those sophisticated guidelines that, you
8 know, the bylaws that were written by another, say,
9 Montgomery County or Lancaster County, you know.

10 So, yeah, there needs to be a real outreach like
11 that, because you're having all this growth now up in the
12 northern tier with all the gas and everything that is
13 taking place there. So their EIT revenue should be driving
14 up even more. So the need for them to be professionalized
15 is higher.

16 REPRESENTATIVE DUNBAR: Thank you.

17 MAJORITY CHAIRMAN O'NEILL: Thank you.

18 Any other Members?

19 If not, thank you very much. We appreciate your
20 testimony.

21 MR. TROXELL: Thank you.

22 Our next testifier is from the Lancaster Tax
23 Collection Bureau, Terry Hackman, the Executive
24 Director.

25 Welcome, and the mic is yours.

1 MR. HACKMAN: Good morning. I want to thank you
2 for the opportunity to present here on behalf of the
3 bureau.

4 Just a little bit of background:

5 The Lancaster County Tax Collection Bureau was
6 established as a countywide EIT collection bureau in 1959
7 by the 16 school districts in Lancaster County and the
8 Octorara School District in Chester County. The bureau has
9 been and still is a local governmental agency and has
10 always operated on a nonprofit basis.

11 Prior to Act 32, the bureau was the only true
12 countywide EIT collector in the Commonwealth, as noted in
13 Act 32, because we did have a little bit of special
14 treatment in that act. Under the act, the bureau was
15 reconstituted for legal purposes as a tax collection
16 committee, but no change was made to the bureau's
17 countywide structure.

18 Today, the bureau is the largest single county
19 publicly owned collector in the State as well as the fourth
20 largest overall EIT collector in the Commonwealth.

21 From the perspective of the bureau and all of
22 its member school districts and municipalities, Act 32 has
23 been a huge success. The bureau's members have seen a
24 25 percent-plus increase in annual school district and
25 municipal EIT revenues from the end of 2010 through the

1 estimated 2015, going from about 100 million in
2 distributions to expected distributions of about
3 \$134 million in 2015.

4 Just as important is the fact that local
5 administration collection costs have been maintained flat
6 since 2010. Our estimated operational costs for 2016 will
7 be the seventh consecutive year without an increase in our
8 operating budget. This is due in large part to our highly
9 sophisticated and efficient tax processing software, staff,
10 processes and procedures, including electronic filing,
11 which is noted in Senate Bill 356. It has also resulted
12 without an increase in tax rates or an expansion of the tax
13 base.

14 Looking at Senate Bill 356, we have some comments
15 on that:

16 The bureau's primary objection in that bill is
17 Section 512(c). We are not at all opposed to the
18 provisions that provide relief for self-employed taxpayers
19 or farmers. Our understanding is that the intent behind
20 Section 512(c) is to prevent tax collection committees from
21 implementing mandatory employer e-filing programs.
22 Employers are already filing with the Pennsylvania
23 Department of Revenue. Indeed, the department doesn't even
24 publish tax forms anymore.

25 DCED also supports the locally mandated employer

1 e-filing program, as is evidenced by including language in
2 their published policy and procedures manual. Local
3 employer e-filing facilitates cost efficient, error free,
4 and prompt tax return processing and brings local practice
5 in line with national trends and State practice.

6 Our e-filing program has been implemented since
7 2010. It was authorized by the local board of
8 representatives from the Lancaster County tax collection
9 districts, which includes schools and municipalities. The
10 format is based on the Pennsylvania Department of Revenue's
11 e-filing format. Before we implemented that, we invited
12 major payroll companies, such as ADP and Paychex, to our
13 offices to review our format and our e-filing requirements
14 and requested their input to help us create a better
15 system, which they have fully embraced.

16 Our e-filing standards in Lancaster County:

17 We are the only collector that we are aware of
18 that mandates e-filing for employers, and the employers in
19 our county have been very supportive of that. We do have a
20 hardship exemption in our standards, so if an employer
21 would like to apply for that, they can. To date, we have
22 never had anybody ask for an exception.

23 Important to note, Lancaster County is one of the
24 largest if not the largest areas for the Anabaptist
25 community, mostly the Amish. We have made special

1 provisions for them. They do not use electronic filing,
2 obviously, but we have made provisions for them with
3 separate forms. They do file on paper, and we accept that
4 very easily.

5 Again, it facilitates our automated, error-free,
6 48-hour processing of our tax returns. We can turn money
7 around in less than 48 hours, but we use 48 hours as kind
8 of our benchmark.

9 To answer one of the questions that was asked by
10 a Representative earlier as far as information on e-filing
11 and security, we do have an annual SOC audit which looks at
12 our internal programs, and we have proven to our auditors
13 that we can track every bit of money that comes in the
14 door, from the time it comes in to the time it goes out the
15 door, including the data that we have that is very secure
16 in our system.

17 Several large multi-site employers in
18 Pennsylvania, such as the Pennsylvania State System of
19 Higher Education, or PASSHE, files with Lancaster County
20 for all of their statewide employees, and that would be
21 the universities and educational institutions in the
22 State.

23 If the e-filing program would be eliminated, we
24 would be forced to revert back to manual processing. This
25 would increase staffing costs, processing errors,

1 processing time, and distribution windows. It would create
2 much more cost to our local municipalities and school
3 districts, thereby reducing the net revenues that they
4 would receive.

5 As mentioned, no employer to date has challenged
6 the format or our program of e-filing.

7 Interestingly, in the last legislative session,
8 Senate Bill 356 was proposed as Senate Bill 491. At that
9 point in time, I was part of a meeting with the House
10 Finance Chair at that point in time, and an agreement was
11 put in place that that section would be eliminated. To our
12 dismay, Senate Bill 356 came back as it was originally
13 proposed, as Senate Bill 491, with the e-filing section
14 contained in, again, Senate Bill 356.

15 We did propose in our written testimony an
16 amendment to Senate Bill 356 that would look at
17 accommodating employers that simply cannot e-file for
18 whatever reason, whether it be lack of Internet access,
19 lack of a computer. What that amendment would do would
20 basically codify the authority of TCCs to implement
21 employer e-filing programs if the local decisionmakers
22 choose to do so. It exempts any employer with religious
23 objections, Internet service, or small businesses from
24 their program, and it makes clear that no collector can
25 charge an employer for using an e-filing program.

1 We believe that our proposed amendment would be a
2 win-win compromise based on the real-life experience of
3 what we have seen in Lancaster County if accepted.

4 Regarding House Bill 245:

5 We are concerned with several items in House Bill
6 245. We also, as previous testifiers have stated, we think
7 that some of these changes should be left for a review of
8 Act 32.

9 Some of the areas where we have concerns are the
10 changing of the EIT crediting rules. As mentioned, it
11 would expand the crediting rules. A prime example: In
12 Lancaster County is the Solanco School District. Several
13 years ago it implemented a .65 EIT tax to replace their
14 occupation tax. By allowing credit for that, they would
15 see a reduced income under this new crediting proposal.

16 New employer withholding rules would require
17 retraining of some employers. One of the big issues that
18 you have heard earlier is asking taxpayers who previously
19 filed returns to file tax returns. This is one of the main
20 ways that tax collectors have to know which taxpayers have
21 income, don't have income.

22 We do have as part of Act 32 the requirement to
23 get data from the Pennsylvania Department of Revenue to
24 make comparisons to fine taxpayers who may have filed with
25 the State and not with a local entity. One of the problems

1 with that is, data from the Department of Revenue is
2 2 years old. So we are looking at 2 years before we can
3 make any kind of comparison.

4 Having taxpayers file tax returns, even if they
5 have no income, allows them to notify tax collectors that
6 they do not have any income. They may be retired; they may
7 be a homemaker, and that allows us to update our records to
8 do that.

9 As mentioned, Lancaster County is very aggressive
10 in contacting people that don't file tax returns. If they
11 inform us that they are retired, don't have any income,
12 they are not charged a fee. However, we do contact them
13 and ask them to make contact with us.

14 Regarding the casting of DCED as the enforcement
15 agency, our concerns with that would be that it would put,
16 potentially put DCED in an adversarial relationship with
17 TCCs and local collectors.

18 Each TCC currently has a tax appeal board that is
19 set up to review taxpayer complaints. If the taxpayer is
20 still not happy after that board reviews their complaint,
21 they can take it to the court system. In Lancaster County,
22 no one has ever done that. We have had several appeals.
23 No one has taken it to the court.

24 It would also create another situation where one
25 governmental agency, DCED could fine another governmental

1 agency, such as a TCC.

2 I would just like to summarize here:

3 Again, it has been a very big success. From the
4 viewpoint of Lancaster County, we have seen a significant
5 increase in distributions to our local school districts and
6 municipalities.

7 The bureau understands that neither DCED or any
8 TCC, school district, municipal group, specific school
9 district or municipality, has been consulted prior to the
10 drafting of these two bills, and that raises a concern for
11 us.

12 As it was mentioned before, there is a review in
13 place under Act 32, and we fully support that review coming
14 up next year, and we would be more than happy to
15 participate in any way we can in providing input to that.

16 With that, I would like to thank you for giving
17 me the opportunity to provide you with our perspective.

18 MAJORITY CHAIRMAN O'NEILL: Thank you very
19 much.

20 Does anybody have questions?

21 Representative Dunbar.

22 REPRESENTATIVE DUNBAR: Shocking, I know, that I
23 have a question.

24 Good afternoon, and thanks for being here.

25 Thanks for your comments.

1 And I do have to commend you and Lancaster --
2 Lancaster, however I say it -- for being way ahead of the
3 curve. I mean, as a delegate to the TCC back home, I know
4 a lot of the struggles we have. And as Mr. Troxell had
5 testified to earlier, not all TCCs are created equal; that
6 you guys are way ahead of the curve and have implemented a
7 lot of things that we would like to strive to throughout
8 the State.

9 I do have some issues with a couple of the
10 comments. First off, the zero tax returns.

11 You have the ability to partner with the State to
12 find out if someone did not file with the State; that's
13 correct. And there is nothing on a State return -- if
14 somebody does not file a State return, there is no, and
15 correct me if I am wrong, but there is no income that they
16 could have that would be taxed at a local level that
17 wouldn't be taxed at a State level.

18 MR. HACKMAN: I would say basically that's
19 correct, since we do follow Department of Revenue
20 requirements.

21 REPRESENTATIVE DUNBAR: Yeah. So in combining
22 with the State, you would be able to track everybody who
23 did not file with the State, and just your concern is that
24 it would take 2 years.

25 When do you send out the notices for failure to

1 file?

2 MR. HACKMAN: Well, because we are very
3 efficient, under Act 32 the requirement is to have all
4 prior years' tax returns processed by July 31st. We have
5 been consistently processing all of our tax returns by
6 June 30th of every year. So within probably 2 months of the
7 end of our processing, we are looking for individuals that
8 have previously filed tax returns with us for a prior year
9 but have not filed for the immediately preceding.

10 REPRESENTATIVE DUNBAR: So a year or so later you
11 would be able to get that information off the State and
12 still get the same results.

13 MR. HACKMAN: We would potentially get the same
14 results of finding out that they didn't have any income.
15 However, one of the mandates that we have, and we feel very
16 strongly about, is that our purpose is to get as much money
17 as quickly and as cheaply to our municipalities and school
18 districts, because that is, particularly for
19 municipalities, that is an important part of their revenue
20 stream.

21 REPRESENTATIVE DUNBAR: And I do appreciate that,
22 and like I said, I do commend you for the work you guys do.
23 But I would say, in your written testimony on page 6 you
24 alluded to the fact that, the changes, "...the net effect
25 of House Bill 245 would be to...dramatically decrease tax

1 revenues for Pennsylvania school districts and
2 municipalities, and (2) destroy a successful state-local
3 government partnership." Wouldn't you say that's a bit of
4 an overstatement?

5 MR. HACKMAN: I think the local bureaus and
6 local communities work very well with the State, and I
7 think it has the potential of eroding that working
8 relationship.

9 REPRESENTATIVE DUNBAR: And the concerns you
10 have with the oversight committee. I can see where in an
11 efficient, effective organization like your own it may not
12 be such an issue, but in a lot of the other counties in
13 Pennsylvania and their TCCs, don't you see that as a
14 benefit to those areas?

15 MR. HACKMAN: I obviously can't speak for the
16 other TCCs. Again, we do have under Act 32 that a tax
17 appeal board is required. I can't speak that every TCC has
18 a tax appeal board and follows those requirements. But I
19 am speaking---

20 REPRESENTATIVE DUNBAR: Or have the quality of
21 individuals that you may have on your board.

22 MR. HACKMAN: I am speaking for us; correct.

23 REPRESENTATIVE DUNBAR: Okay. Thank you.

24 MAJORITY CHAIRMAN O'NEILL: Thank you.

25 Representative Lawrence.

1 REPRESENTATIVE LAWRENCE: Am I on? The light is
2 off.

3 Thank you, Mr. Chairman.

4 And thank you for coming to testify today.

5 I represent a part, a very small part of
6 Lancaster County, but it happens to be the part of
7 Lancaster County that includes the Octorara School
8 District, and I have spoken with individuals in the past on
9 this issue and on this legislation.

10 I guess, and the previous gentleman kind of hit
11 on some of the same thoughts here, but I have to say I
12 don't see any issue. We get a lot of calls in the office
13 from a lot of folks in the Octorara School District
14 complaining about the fact that they have been sent what
15 appears to be a violent hate letter, which is not really a
16 hate letter, right? But they get a -- it's scary -- right?
17 -- when you're a senior citizen and you get a letter from
18 the government saying, you haven't paid your taxes, and if
19 you don't pay up now, the end of the world is going to
20 come, right? And they call our office and say, you know, I
21 didn't have any income last year; why am I getting this
22 hate letter, right?

23 And we get involved, and, you know, obviously it
24 gets addressed. But it does seem -- I don't think it's
25 very difficult to argue against the concept that if you

1 don't owe any taxes, you don't have to pay -- you don't
2 have to file a tax return.

3 So I do agree with, maybe it's more of a comment
4 than a question, but I have to agree with that. I don't
5 see the issue with that.

6 Also, I have heard, and I think I might be the
7 only Member, at least at the moment, here who represents
8 part of Lancaster County. And certainly the part of
9 Chester County that I represent is the part of Chester
10 County where the majority of Amish who live in Chester
11 County happen to reside.

12 I have had pushback from that, the e-filing
13 requirements. They are nervous about that. The first
14 thing off their lips is, they don't even print tax forms
15 anymore, right? And I guess my thought is that e-filing
16 for the vast majority of folks makes complete sense. Any
17 business that has any sort of major operation is of course
18 going to e-file, because it's cheaper; it's more efficient;
19 for a million reasons, right?

20 We don't have to convince anybody into it at this
21 point, right? But putting stumbling blocks in the way of
22 people paying their taxes, who have a legitimate and
23 long-held view, I think is challenging, right? It is
24 challenging, and of course this is an issue that goes
25 across the Commonwealth, again, because the tax forms are

1 not being printed and we have plain-sect communities across
2 the Commonwealth.

3 With that, I will shut up. I am very interested
4 in your thoughts on those comments.

5 Thank you, and thank you, Mr. Chairman, for your
6 indulgence.

7 MR. HACKMAN: If I could clarify.

8 The e-filing that we are talking about and what
9 we interpret 356 to include is the employer e-filing. We
10 do not mandate individual e-filing.

11 REPRESENTATIVE LAWRENCE: Sure, but, I mean, we
12 have plenty of Amish employers.

13 MR. HACKMAN: Okay. We do, and we work with
14 Chris Blank, who is one of the people that I've met with
15 several times. We have created special forms for him to
16 use. The feedback I get from him is they are very pleased
17 with what we are doing in working with them and we
18 understand their needs. And there are other groups similar
19 to the Amish or the Anabaptist community that have
20 restrictions, and we do work with them in any case.

21 So I would ask you that if you have contacts for
22 them, please have them contact us, because we are more than
23 willing to work with them. We are looking at the majority
24 of the employers. And as I said, we do have that
25 Anabaptist base in Lancaster County, which is a unique

1 situation that we have found ways to work with to make that
2 happen for them.

3 REPRESENTATIVE LAWRENCE: Would you have any
4 additional thoughts on not filing a tax return if you don't
5 owe any taxes?

6 MR. HACKMAN: We still believe it's probably --
7 it is the best way to make sure that we're notified that
8 you don't have income. And we do waive the fee if they
9 report to us they don't have income.

10 You mentioned the letters. I understand -- it's
11 not the first time we have heard this. It's a fine line,
12 and we walk it every day on, does the letter sound
13 threatening? Doesn't it? Some people think it does; some
14 people think it doesn't. We have tried in the past,
15 probably 5 years ago, just writing a general letter asking
16 them to file. Without some stronger language, there were
17 many people that would ignore that letter.

18 And quite frankly, one of the main problems that
19 we have, and I'm sure the State has it at their level, too,
20 is that unfortunately the minority in these cases are being
21 penalized, if you will -- or the majority is being
22 penalized by the minority.

23 There are people out there, we have several
24 taxpayers that absolutely will not file a tax return until
25 they get a notification that they have to file a tax return

1 with that letter every year, and they are -- it is just
2 something that is out there.

3 So we still think it's the best way. The 2-year
4 delay, getting information from the State, just delays the
5 process of collecting that money. And we've had very good
6 response with our letters. Are there concerns from some
7 people? Absolutely, but we've had a very good response and
8 very positive.

9 MAJORITY CHAIRMAN O'NEILL: Thank you.

10 Very quickly on that subject. If you have on
11 your records someone who has filed the previous year of
12 no income, do you still send them a letter if they don't
13 file?

14 MR. HACKMAN: No. Once we are notified they
15 don't have income, I mean, they are taken off the rolls.
16 So if you have filed a tax return -- two reasons you would
17 get it: if you had filed a tax return the prior year, or
18 if, with all of the information we are now getting from
19 employers, we know a lot of cases, we know most cases where
20 people have had W-2 income. If you receive W-2 income that
21 we have information about, you will get a letter if you
22 didn't file, because that says, obviously, you had income,
23 so.

24 MAJORITY CHAIRMAN O'NEILL: I mean, ever since I
25 heard about this, I've been throwing it around in my head

1 and having conversations with Tammy, you know, maybe
2 somebody should just file one time "I have no income" and
3 then that's it.

4 MR. HACKMAN: Yeah. If they file one time and
5 say, we are retired; we have no income, then you're not on
6 that list, active list anymore, what we call an active
7 list.

8 MAJORITY CHAIRMAN O'NEILL: Great. Thank you
9 very much.

10 Anybody else have questions?

11 Great. Thank you very much for coming out today.

12 MR. HACKMAN: Thank you.

13 MAJORITY CHAIRMAN O'NEILL: Our last testifier is
14 the Pennsylvania School Business Officials, Joe Lubitsky.

15 MR. LUBITSKY: Very good.

16 MAJORITY CHAIRMAN O'NEILL: Did I pronounce that
17 properly? I'm horrible with names, so I apologize. Thank
18 you.

19 And Hannah is not going to join you, huh? Okay.
20 All right, Hannah; I see you hiding back there.

21 Thank you.

22 MR. LUBITSKY: Thank you.

23 You have received my written testimony, so I'll
24 just summarize some of the major points.

25 My name is Joe Lubitsky. I am the Director of

1 Administration with the Chester County Intermediate Unit.
2 I've had that position for about 14 years. And prior to
3 that, I was the Business Manager with the Kennett
4 Consolidated School District for about a decade, so I have
5 been involved in all types of tax collection issues, both
6 working with PASBO and as a local school official for close
7 to 25 years.

8 My written testimony outlines the administrative
9 and finance and kind of coordination role I play with the
10 Chester County Tax Collection Committee. You know, we have
11 monthly meetings. We have a website. We have created an
12 appeals board. We were an early implementer of Act 32.
13 These days, we receive better reporting and more accurate
14 information from our tax collectors than we ever had before
15 Act 32.

16 I shared my testimony with the 11-member
17 management committee of the Tax Collection Committee, and
18 that management committee is made up of municipalities,
19 representatives, two school officials, and at-large
20 members.

21 To a person, they wanted me to convey to the
22 House Finance Committee here that if at all possible,
23 respectively, leave Act 32 alone. We have worked hard in
24 the implementation and to figure how to do it efficiently
25 and effectively, and it is working very well for us. I

1 will highlight some of the different aspects of that.

2 You know, we were an early implementer. We
3 actually implemented it a year early in an effort to kind
4 of get out ahead of the curve, and it was a difficult
5 transition. But we also recognized immediately a
6 \$1 million savings in our tax collection costs.

7 The fees charged by previous tax collectors were
8 all over the board. The larger school districts were
9 enjoying substantially better fee structures than the
10 smaller municipalities and boroughs through a very well
11 structured request-for-proposal process. It was
12 extensively administered. We were able to bring our
13 collection costs down to 1.3 percent of current tax
14 collections, where some municipalities were paying over
15 3 percent prior to Act 32.

16 The delinquent tax collection fees were brought
17 down from 4 or 5 percent to zero. So our municipalities
18 and school districts now pay zero in delinquent tax
19 collections. So in my testimony is an aggregate savings
20 over 4 years for each of our members. These have been
21 substantial savings of well over \$4 million.

22 In addition to the savings and collections,
23 there is more uniformity, and our collections have
24 increased dramatically to over \$165 million in the 2014
25 calendar year. This was an increase from \$125 million in

1 Chester County prior to Act 32.

2 We also have combined the collection of local
3 service taxes with the earned income tax collector, and
4 again, just bringing us some uniformity with that and
5 lowering our collection fees for the municipalities that
6 levy that particular tax.

7 We have worked with tax collection committees
8 from around the State to negotiate an arrangement for the
9 SOC 1 audit that is saving us over \$50,000 a year in that
10 particular requirement.

11 So in closing, my suggestion is that the earned
12 income tax under Act 32 has been an overall success. It
13 has helped increase our collections. Likewise, the
14 cooperative efforts of the municipalities and school
15 districts have resulted in a reduction of over \$1 million
16 in annual collection costs during that same time period.

17 The need for a continued and coordinated
18 communication and education campaign by the local TCC is
19 paramount. This needs to be done in conjunction with the
20 selected tax collection agency to be successful. The
21 person or organization responsible for the management of
22 the TCC must be able to disseminate accurate information on
23 a timely basis.

24 The lessons learned and success achieved through
25 EIT collections under Act 32 could be applied to the

1 consolidation of real estate tax collection on a countywide
2 basis. The current system of county, municipal, and school
3 district tax collection agencies is both confusing to the
4 taxpayer and inefficient and expensive for the government
5 agencies.

6 Overall, if you review and evaluate the impact of
7 Act 32, I would suggest that no changes are necessary. The
8 law is working as it was intended and to prevent
9 well-intended efforts that would inevitably lead to
10 confusion and complication. It should just simply be left
11 alone. In fact, it is working so well that the lessons
12 learned and success achieved through EIT collections under
13 Act 32 could be applied to the consolidation of real estate
14 tax collections on a countywide basis.

15 Thank you for your consideration of my thoughts.
16 I'd be happy to answer any questions.

17 MAJORITY CHAIRMAN O'NEILL: Does anybody have any
18 questions?

19 Representative Grove.

20 REPRESENTATIVE GROVE: Thank you, Chairman.

21 Thank you. I appreciate your testimony.

22 MR. LUBITSKY: Sure.

23 REPRESENTATIVE GROVE: I have been asking about
24 data collection, and this probably really doesn't have
25 anything to do with Act 32. But when I look at my school

1 districts' preliminary budgets and final budgets going
2 through the Act 1 process, I always notice most of my
3 school districts plug in the exact same number for EIT tax
4 collection -- \$3 million, \$3 million, \$3 million. EIT
5 either increases or decreases, and it's never the exact
6 same number year in and year out.

7 So if you could go back to your organization and
8 kind of ask them for a little more transparency in their
9 data collection. We're often asked to deal with local tax
10 issues, particularly property taxes. It's tough for us to
11 deal with that without good data moving forward.

12 I also noticed, I tried to do an analysis of EIT
13 growth between a few years. There was a spike in one year
14 of like a 13- to 16-percent increase. When I looked back
15 at the data -- and this was pulling from PDE data --
16 Hazleton School District never reported their EIT revenue
17 for one particular year, which was a couple million
18 dollars. And I assume there is probably some other missing
19 data in there, but it entirely skewed that amount.

20 So if you could just go back and maybe request
21 from your organization a little more accuracy in their data
22 with those budget filings so we have a better understanding
23 of what's happening locally with revenue collections.

24 MR. LUBITSKY: I appreciate your comments. I
25 don't agree with them when it comes to Chester County.

1 Three of our members received national awards for
2 distinguished budgeting. And I can tell you with the
3 revenue constraints placed on school districts under Act 1
4 in the levy of real estate taxes, the data and your
5 projections are more and more accurate, have to be more and
6 more accurate, both on the revenue side and on the
7 expenditure side.

8 You know, in terms of spikes in earned income
9 tax, I can tell you that when I was at the Kennett School
10 District, one year there was a tremendous spike in earned
11 income tax, and we figured it was a mistake, money from
12 another area was applied. But, you know, we had an
13 executive from a large Fortune 500 firm retire, a huge
14 payout, and we had a one-time windfall of several hundred
15 thousand dollars due to just one taxpayer.

16 So those are the types of things that you have to
17 really drill deep into as a school business official in
18 doing your projections. But I recognize your comments and
19 will pass those along.

20 MAJORITY CHAIRMAN O'NEILL: Anybody else?

21 Representative Dunbar.

22 REPRESENTATIVE DUNBAR: Just one quick question,
23 and thank you for your testimony.

24 In your testimony, you mentioned in Chester
25 County your TCC collects your LST tax as well. Is that

1 correct?

2 MR. LUBITSKY: That's correct.

3 REPRESENTATIVE DUNBAR: And I know earlier DCED
4 was advocating for a similar type of thing. Out of
5 curiosity, do you know how many tax collection districts
6 actually have their LST collected as well?

7 MR. LUBITSKY: I do not.

8 REPRESENTATIVE DUNBAR: Okay. And you say it is
9 working very well?

10 MR. LUBITSKY: Yes, it is.

11 REPRESENTATIVE DUNBAR: Okay. Thank you.

12 MAJORITY CHAIRMAN O'NEILL: Thank you.

13 Anyone else?

14 Well, thank you for your testimony and for coming
15 today.

16 This will conclude our hearing, but before that,
17 Chairman Wheatley, do you have any comments?

18 MINORITY CHAIRMAN WHEATLEY: Thank you,
19 Mr. Chairman.

20 First, I wanted to thank all the presenters, and
21 I wanted to take the opportunity to recognize a former
22 colleague and former Chairman of this committee,
23 Dave Levdansky, and the work of the committee and other
24 stakeholders to, back in 2008, to create this law.

25 And I think, well, one of the things that is good

1 to hear is, after that creation, that it's actually working
2 out there. It's doing some of the things that we thought
3 it would do, and I just support it.

4 And what I've heard over and over again from some
5 of the presenters, I support the idea of allowing for the
6 process to play itself out and let the Legislative Budget
7 and Finance Committee kind of go through its work, I guess
8 next year, and give us a clearer picture, because from, at
9 least from where I'm sitting, Mr. Chairman, it seems as if
10 there is some tweaking or corrective actions that need to
11 happen, I think it is probably miniscule comparative to the
12 whole system change that took place when we created Act 32.
13 So that's something that is very positive to hear, and we
14 actually did something right around here and that people
15 appreciate.

16 So I just wanted to say that and recognize the
17 good work that has happened thus far, and hopefully when we
18 come back from that review, that if there are some
19 corrective actions, that we take it seriously and implement
20 that so that this continues to grow and flourish.

21 So thank you, Mr. Chairman, and thank you for the
22 stakeholders.

23 MAJORITY CHAIRMAN O'NEILL: Thank you.

24 I want to thank all of you for coming to
25 Harrisburg and for your testimony, and, you know, we'll be

1 waiting to hear the report and we'll be moving forward with
2 some other legislation and so forth and looking into that.

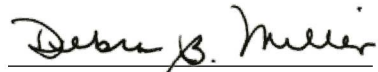
3 And we will be meeting, the Chairmen will be
4 meeting with DCED concerning this as well.

5 Thank you.

6

7 (At 10:18 a.m., the hearing concluded.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

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8 *Debra B. Miller*

9 *Transcriptionist*

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