Committee Meeting

of

JOINT LEGISLATIVE COMMITTEE ON CONSTITUTIONAL REFORM AND CITIZENS PROPERTY TAX CONSTITUTIONAL CONVENTION

"Testimony from invited speakers regarding tax sharing, regionalized tax-base sharing, and assessment issues relating to regionalization"

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: September 14, 2006
11:00 a.m.

MEMBERS OF JOINT COMMITTEE PRESENT:

Senator Bernard F. Kenny Jr., Co-Chair
Assemblyman John J. Burzichelli, Co-Chair
Senator Fred H. Madden Jr.
Senator Leonard Lance
Assemblyman Louis M. Manzo
Assemblyman Richard A. Merkt

ALSO PRESENT:

Catherine Z. Brennan
Philip N. Liloia
Office of Legislative Services
Committee Aides

Timothy P. Lydon
Linda Schwimmer
Senate Majority
Kay Walcott-Henderson
Assembly Majority
Committee Aides

Victoria Brogan
Senate Republican
Mary C. Beaumont
Joseph Glover
Assembly Republican
Committee Aides

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ASSEMBLYMAN JOHN J. BURZICHELLI (Co-Chair): Good morning.

We are preparing to convene this Committee. We will begin by having the roll called. And I will announce in advance to those who are assembled that the Senators participating are all delayed -- will be making their way -- but all said, "Get the meeting started, begin to take testimony, and begin working."

Our intention is to hear from the first group, which will be the Association of Municipal Assessors, and League of Municipalities in support of them; then we'll have a break, and then we'll be back for the afternoon session, which will begin at approximately 1:00. We expect this morning session to run until about noon.

We'll have a roll call, please.

MS. BRENNAN (OLS Committee Aide): Assemblyman Burzichelli.

ASSEMBLYMAN BURZICHELLI: Present.

MS. BRENNAN: Assemblyman Manzo.

ASSEMBLYMAN MANZO: Here.

MS. BRENNAN: Assemblyman Merkt.

ASSEMBLYMAN MERKT: Here.

ASSEMBLYMAN BURZICHELLI: Thank you.

This, I think, is our third meeting? Kay? Where are we at countwise -- third, fourth meeting? They've made such an impact, I've lost count. (laughter)

And today, we continue the discussion of how property taxes are working in relationship to the Constitution.

My Co-Chair, Senator Bernard Kenny, as I mentioned, will be joining shortly -- in the next 15 minutes or so. We have been rotating the chairmanships of this meeting, and today it is my turn to chair the meeting. So for those watching at a distance, my name is John Burzichelli, Assemblyman, 3rd Legislative District, who will be joined shortly by our Senate colleagues.

But let's begin by inviting today's first speakers, the Association of Municipal Assessors of New Jersey. We're going to have Bernard Haney; he's President of the Association.

Dorothy -- Dorothy, your last name, please.

DOROTHY KREITZ: Kreitz.

ASSEMBLYMAN BURZICHELLI: Kreitz.

MS. KREITZ: Kreitz.

ASSEMBLYMAN BURZICHELLI: Kreitz. Thank you. And that's spelled K-R-E-I-T-Z.

And then John Lloyd will rejoin us. He was at the last meeting and gave us a considerable length of testimony; and I was able to stay awake for most of it, John.

JOHN LLOYD, ESQ.: I don't know what that says about you, Assemblyman.

ASSEMBLYMAN BURZICHELLI: Well, no. I just want to say that it was so laden with facts and information, that when I finished I wasn't sure what I had heard. It took about three days to digest it, but it was all good. And I say that with fondness, and we appreciate your being here again today. You are a private citizen joining us.

So let's begin. Bernard, did you want to start?

B E R N A R D C. H A N E Y: I do, Mr. Chairman.

On behalf of my Association, I certainly thank you and the Committee for this opportunity.

ASSEMBLYMAN BURZICHELLI: If I may, I should probably set a little groundwork, too, again. Because as this Committee works its way into people's homes, today we hope to learn about how, in a practical way, properties are assessed in New Jersey. Everyone watching, everyone understands the burden of property taxes. We're hopeful that you will refresh us in what's happening, in a practical sense, of how homes are assessed, but particularly how businesses are assessed, and complicated assessments. And how, based on the Uniformity Clause and the interpretation of it over time, whether it be by court interpretation or just practical application, that Uniformity Clause -- for a new set of eyes -- almost doesn't look uniform anymore. But I know that makes a lot of people nervous to hear someone on this side of the counter saying that. But I think that's where our curiosities are -- what's happening out there, and is the Uniformity Clause, and the structure of how your assessors are required to work, fair, functioning, And maybe what happens between taxing districts, which will be a topic this afternoon, because we have municipal boundaries and we have boundaries of taxing districts.

So laying that groundwork, I invite you to join us and please help us.

MR. HANEY: Thank you, Chairman.

Joining me today, as you said, is John Lloyd. And John and I, at the end of my presentation, will get into some of the structural significances of commercial and industrial assessing, and how that works.

I want to start out by saying that the system in New Jersey is an ad valorem system, meaning that we assess property according to its market value. Market value, as you can all suppose, is a very volatile thing. Market value increases, decreases. And I think if we set a groundwork by understanding, not only in New Jersey, but in all of the districts that surround us -- the states that surround us -- that different types of properties increase and decrease in value at different speeds. I think if we start from that parameter, what we're going to do is take a trip up and down the East Coast today and look at different states and how they handle their assessment of property, and then bring those states back to our New Jersey system.

I should add, also, before I begin, that I sit here not only as the President of the New Jersey Association, but as a past-president of the Northeastern Regional United States Assessing Officers Association. That Association covers taxing districts from the Maryland/Virginia border up to and including the Canadian Maritimes. So in that position, I currently had the opportunity to travel throughout the Northeastern United States and learn more about the assessing systems up and down the coast, and that's what we'll share with you today.

We're going to begin with the Maryland system. And in the Maryland system, Maryland is a state-run assessment system that is actually based in the county.

I'm sorry, technical issues. (referring to PA microphone)

ASSEMBLYMAN BURZICHELLI: Does anyone have a ball peen hammer? (laughter)

MR. HANEY: Maryland is a state-run system that is based in their counties. All of the county tax bases are shared for the purpose of taxation in Maryland. But as you will see, significantly different than New Jersey's system.

Assessments in Maryland are updated on a rolling three-year basis. Each county is split into thirds, and one-third of each county is reassessed every year. Maryland has a very differentiated class system, as you will see in a few slides. And each class of property is treated significantly different than any other class. And market value in Maryland is rarely achieved. Maryland's property and their multiple classes make their assessment in the system somewhat onerous, because they literally keep two sets of books. They have a market-value book and they have a taxable-value book, which is significantly different.

ASSEMBLYMAN BURZICHELLI: I have a friend who has a pizzeria who does the same thing. (laughter)

MR. HANEY: No comment, Mr. Chairman.

ASSEMBLYMAN BURZICHELLI: By the way, it's been successful for him. (laughter)

MR. HANEY: One of the main differences between the Maryland system and the New Jersey system is the fact that Maryland doesn't equalize assessments. So even though there is a huge disparity of ratios of market values to assessed value in their counties, they don't use a equalization procedure, and they don't employ a Uniformity Clause. And we'll explain that to you in a few minutes.

Doing the next slide, what I chose was an average county in Maryland. Howard County, Maryland, is 90,000 parcels, and it sits on 252 square miles. If you look at the map in front of you, you will note that it is color coded. The green section of that map, which is a more densely populated area-- Oh, sorry to regress: Each one of those areas contain 30,000 parcels. So you can see in the green area it's more densely populated and packed; and in the yellow area, it's a more rural and farm area; and the red is the middle area. Each one of those areas-- Currently, what's going on is the green area was reassessed for 2006; the red area is being reassessed in 2007; and the yellow area will be reassessed in 2008. If you use round numbers, the green area would currently have a market-value assessment of 100 percent. The yellow area, which was done three years ago, would be somewhere around 60 percent; and the red area would be somewhere around 80 percent. What I'm talking about is the ratio of the sales to the assessments in those areas.

Where Maryland is significantly different is in their class of property. In the next slide, you will see that every class of property in Maryland is assessed and taxed differently.

In Maryland, if you are an owner-occupied property, there is a 5 percent assessment cap on your assessment. What that means, in Maryland, is very, very similar to Proposition 13 in California. When you-- For the sake of illustration, if we assume that the current assessment on an owner-occupied property in that green area, that was just reassessed, is $100,000, and the new value is $400,000, there's a $300,000 disparity between assessment and market value. At the completion of the revaluation, the owner-occupied property assessment would go from 100,000 to 105,000. It cannot increase more than 5 percent. Two exceptions to that rule: If you demolish your house and rebuild a new house, you lose your cap for one year. So your assessment builds the market value in that one year and then you regain it in the year after. If there's a fire, or a storm, or some type of structural damage, as long as you make the repair within one year, you never lose your cap.

Leased residential property: So as you can see, even the residential property's split in the Maryland system. If you have a rental property in the Maryland system, using the same analysis as the $100,000 assessment and the $400,000 market value, the $300,000 in their system -- difference between assessed value and market value -- is incremented over three years. So it would be from 100 to 200, 200 to 300, until the third year, when you are at the market value of three years ago.

If you have vacant land, your assessment is adjusted every three years on the revaluation, and there is no phase in. So vacant land goes from three-year-old assessment to new assessment.

ASSEMBLYMAN BURZICHELLI: Mr. Haney, would it be too distracting for you if we asked questions? We traditionally wait until the end, but because of the level of what you're telling us, Assemblyman Merkt asked if he could ask a question before other stuff falls upon us and we can't ask.

Senator, do you mind that if we have an opportunity to--

SENATOR LANCE: No.

MR. HANEY: No, I have no issue with that at all.

ASSEMBLYMAN BURZICHELLI: Okay.

Rick, go ahead.

ASSEMBLYMAN MERKT: Thank you, Mr. Chairman.

And thank you very much, Mr. Haney, too, for entertaining my question at this time.

As I was looking at that system, as you're describing it, with the 5 percent residential cap in increases in property taxes, something like that has been kind of discussed in New Jersey. The question I have is, doesn't that have the effect of merely transferring or shifting the property tax burden to other properties that don't qualify for the cap, such as businesses?

MR. HANEY: Absolutely, Assemblyman. Absolutely.

The difference between the cap being discussed here and the cap in Maryland is that, as we discussed last Thursday, the difference between the front end and the back end -- the cap is not on tax dollars in Maryland, the cap is on assessment. It absolutely shifts. And if you look at their class system, if you are a vacant parcel, you are not granted any phase in and you get an immediate impact. And as I go on, you'll see in the commercial/industrial sector -- commercial/industrial sector in Maryland can be reassessed at a whim. There is no-- Minimally, it has to be done every three years, but it can be done in one year, it can be done in two years, and there's no phase in on commercial/industrial property. So the tax dollars in Maryland are absolutely shifting to the commercial/industrial sector.

ASSEMBLYMAN MERKT: Thank you, Mr. Haney.

Thank you, Mr. Chairman.

MR. HANEY: As I said, the commercial sector -- there is no phase in. They're maintained at 100 percent value.

We move on -- just for comparison sake, just to show you-- Howard County, Maryland, and their 90,000 parcels are spread out on 252 square miles. What I did for comparison sake is I looked at the northern Ocean County region here in New Jersey. If you take Brick Township, Toms River, and Lakewood, there are 95,000 parcels encompassed in those three towns that cover 70 square miles. If you look at our county system, Ocean County, which is one of our medium counties, is at 290,000 parcels. That is 30,000 parcels larger than the largest county in Maryland.

The Maryland system -- what I would like to go into now is their actual tax system. The average property tax bill in Howard County, Maryland, in 2005, was $4,200. I would say that most of us -- and you'll see throughout my presentation -- we tend to key on the property tax aspect of this thing. We're going to find, as we go through other states, is that there are other revenues, that are generated by other states to offset the property tax burden, that we don't have here in New Jersey.

In Maryland, and again you'll see in Connecticut, there are personal property taxes, both residentially and commercially, that go directly to funding their schools and local governments. The difference in Maryland is that all budgets are submitted to the county. The county sets a mill rate for their entire county. And then, of course, they have their other offsets--

Good morning, Chairman Kenny.

SENATOR BERNARD F. KENNY (Co-Chair): Good morning.

MR. HANEY: And then they have their offset for-- When they do special projects, improvements projects, at the local government level in Maryland, they off set those with special assessments. Also, the bottom portion of my slide -- I have to be honest and tell you that this is a late edition and I haven't wrapped my arms totally around this -- but they have a low-income element to their system. On top of their owner-occupied assessment cap, they have a process that is means-tested, where if you qualify as a low-income party, all of the tax burdens that you have -- be that income, property, personal property, special assessments, special water shore districts -- are added together and compared to your income. And any dollars that are over 8 percent of your income are refunded from the state government.

Now again, I haven't gotten my arms totally around this, but this is the system as best as it was explained to me by the Supervisor in Howard County. The reason that I put that in there is that I think it illustrates both pieces, I think, that we were talking about last Thursday. Maryland has a significant shift of property on, both, the front end, and then a relief program again on the back end of their tax system.

The conclusions of the Maryland system is that, obviously, New Jersey's Uniformity Clause and the related equalization process that we go through would make the Maryland system very, very difficult, if not totally unworkable in Jersey. In Maryland, unlike New Jersey, real property assessments never actually reach market value. So the taxable values are significantly skewed in favor of owner-occupied properties.

So back to Assemblyman Merkt's comment: The -- 70 percent of the property taxes in Maryland are paid by commercial and industrial property owners. And then the actual ratios of market value to taxable value are significantly lower.

The other thing that has to be put in here is that Maryland's reliance on property tax, because of their other revenue generating systems, is considerably less than New Jersey's system. And therefore, their appeal mechanism and their appeal numbers are significantly lower. Most of the assessment appeals in Maryland are appealed by commercial and industrial properties, for obvious reasons.

ASSEMBLYMAN BURZICHELLI: Before we move on to the Pennsylvania system, Assemblyman Manzo had a question.

And the rest of our group has made their way from other meetings to be with us now. And I've been allowing questions, limited questions, as we moved along, because this is so layered, rather than to try and wait to the end. So I just ask that everyone raise the questions through the Chair.

Lou, you have a short question?

ASSEMBLYMAN MANZO: Yes.

The Maryland system, they strike a county assessment rate rather than a municipal rate.

MR. HANEY: Correct.

ASSEMBLYMAN MANZO: Okay.

The other thing I would note is that the RPA looked at examples of doing this in New Jersey, and I believe they came up with some of the -- of just what you said. And it would be tough to work. And actually, if you look at the RPA stuff in our brochures, you will see that there is an inequity that happens where you wind up with winners and losers, big time. Some of the poorest towns pay more, some of the wealthier towns pay more, and some of them shift the burden over without any education equity in there. And I think that proves the point you were saying.

The other thing I would point out is that Maryland, in looking at their income taxes, are way above what New Jersey is. And I assume that's because of the fact that most of the other revenue, besides from coming from commercial property, is being generated to fund things through income tax in Maryland.

MR. HANEY: Correct.

ASSEMBLYMAN MANZO: Thank you.

MR. HANEY: And their relief programs, Assemblyman, come back for their income tax, as well.

ASSEMBLYMAN MANZO: Thank you.

ASSEMBLYMAN BURZICHELLI: Anyone else? (no response)

If not, Bernard, you'll move on to an analysis of the Pennsylvania system.

MR. HANEY: Thank you, Mr. Chair.

ASSEMBLYMAN BURZICHELLI: I'm very sorry.

Senator Lance. Senator.

SENATOR LANCE: Thank you.

I would like, from OLS, an analysis of Maryland's other taxes. I can't imagine the income taxes higher than our 9 percent on gross income. Perhaps it is, but I certainly would like an analysis of that.

Do you know, Mr. Haney? You're not charged with this responsibility -- do you know the tax structure, or the income tax, or the sales tax in Maryland?

MR. HANEY: No, I don't, Senator.

SENATOR LANCE: No.

MR. HANEY: I do understand that it is higher than New Jersey, but I'm sure--

SENATOR LANCE: Higher than New Jersey?

MR. HANEY: Yes.

SENATOR LANCE: Nine percent of gross income? I seek the information from the Office of Legislative Services.

We have an income tax, Mr. Chairman -- a gross income, not adjusted gross income; the difference is enormous. And I'd like to see the total taxation in Maryland, state and local, and based upon a Maryland population in comparison with the total taxation in New Jersey, state and local, based upon our population.

Thank you.

ASSEMBLYMAN BURZICHELLI: Thank you, Senator.

And we'll ask OLS to pull that information together, which, as we reach this juncture, again points out how difficult this whole discussion is because it's very rare that we have -- we've not been able to find an apples-to-apples comparison among any of the states where you can just say, "This is this and that is that."

But, Bernard, if you'll continue.

MR. HANEY: Thank you, Mr. Chairman.

Pennsylvania is a county-based system. Pennsylvania, again, is significantly different than New Jersey and we'll explain that to you as we go. The assessments in Pennsylvania are updated at the whim of the county government. What usually happens -- and you'll see it actually happen in my example -- is that citizens or residents, or a group of residents files suit in Common Pleas Court to compel a revaluation in the county in which they live.

Most of the county ratios -- and by that I mean the ratio of market value to assessment -- are in the teens and single digits. Pennsylvania, like New Jersey, has no class system, everyone is treated equally. And all taxes are based on assessed value.

By way of example, we're using Bucks County, Pennsylvania. Bucks County, Pennsylvania, consists of 54 municipalities, 225,000 parcels. The 2005 assessment-to-sales ratio was 18.01 percent. If you look at the average sale price thus far in 2006, it's $273,000. And I will go back and explain something about that. The average residential assessment in Bucks County is $31,300. You don't have to do the math, I'll do it for you. That equates to about 11 percent of the market value currently in Bucks County. The 2005 average tax bill, which includes their school, their local government, and their county government, was $4,400. And the last revaluation in Bucks County was in 1972.

Bucks County is currently involved in litigation by a group of property owners asking the Court of Common Pleas in Pennsylvania to force a revaluation in Bucks County. Bucks County and Pennsylvania County, not unlike New Jersey, have disparate values within those counties and disparate parcels within those counties. If you look at the map of Bucks County, the southern end of that Bucks County is a boundary with Philadelphia. And on that boundary with Philadelphia, the housing stock and the commercial/industrial base are more urban, mildly suburban. As you move north from Bucks County, you're going to find more corridor commercial property that will service the urban areas of Philadelphia and surrounding. As you get into the middle of the county, you're going to find the rural farmland base that is spread out -- large, large acreage of property, spread out. They have a large contingent of dairy farms in Bucks County. The northern end of their county, which used to be farmland and large, spread out housing, has recently turned into smaller acreage lots with large estate houses. Although you're looking at an average residential sale price, in 2006, at 273,000, it certainly doesn't represent the mean of the county. What you have in their county is that you have more sales of the lower-value property surrounding the Philadelphia marketplace, and less sales of the 600-to-800,000 estate homes that are in the northern part of the county. So when you do averages of a larger number to a smaller number, it does skew it.

What is happening in Bucks County -- it has been happening in Bucks County -- is that the southern end of the county is paying considerably more dollars than the northern end of the county with regard to their fair share of the property tax burden in that county, which is the reason that the southern portion of the county have filed suit to force a revaluation. Revaluations: It is not uncommon for revaluations in Pennsylvania to take -- or the gap between to be 35, 40 years.

The Pennsylvania tax system is somewhat like New Jersey, and at some point very unlike Maryland. The tax rates are -- what they call the *mill rates*, for all entities, are created by that engine. So the towns create their mill rate, the county creates their mill rate, and the schools create their mill rate. Those mill rates are based on countywide assessment, not the individual towns, as the towns prepare their budgets, calculate their portion of the budget, and create their mill rate. The county and the local government bills are mailed separately from the school bill in Pennsylvania. And the school districts also collect their own money.

Not in my presentation -- but I put a caveat in here -- the appeal system in Pennsylvania: Assessments are created by a body known as the Board of Revision of Taxes. That body creates the assessment and sits as the arbiter in appeals. Their appeals are mainly from commercial entities, and recently from school districts who are appealing for acreage assessment. And I'll get into that in a few seconds.

Every entity in Pennsylvania -- meaning, government entity -- has the right to appeal assessments. And there's five assessment laws -- are very, very stringent. On the Pennsylvania's five assessment laws, assessments can only be decreased by the Board of Revision of Taxes and the assessors. And the increase in assessment has to come from the Board of Revision of Taxes or from the Court of Common Pleas.

Recently, there has been a trend by the school districts throughout the county to file appeals against commercial/industrial property, asking the Board of Revision of Taxes and the Common Pleas Court to increase those assessments. The Board of Revision of Taxes are currently in court with a bunch of other entities in the business community challenging the appropriateness of those increases.

Pennsylvania also has other funding sources for local government, including a portion of their sales tax, as well as a wage tax -- a local wage tax in larger municipalities that off sets their property tax burden.

In conclusion, again, a comparison with Pennsylvania to New Jersey: Like Maryland, the Uniformity Clause and its related equalization procedures in New Jersey render the inequality of the Pennsylvania system unworkable. The disparity, as I pointed out in the Bucks County assessment, would be far greater and far more intense if we were to apply this county system to New Jersey. Like Maryland, the Pennsylvania system cannot properly, as I said, account for the diversity within that large area in their counties. So the disparity of the southern end of Bucks County, as compared to the northern end of Bucks County, is never represented in the assessments in that system. And again, the property tax bills in Pennsylvania are significantly lower, as you can see, because there are refunding sources. So for the most part, the inequality in assessment doesn't reflect in appeals by residential property owners until it gets so skewed that they understand that they're paying significantly more than other parts of the county.

Mr. Chairman, that's the Pennsylvania system.

ASSEMBLYMAN BURZICHELLI: Seeing no one raising a question for clarification, Bernard, if you'll continue on to Connecticut.

SENATOR KENNY: Can I ask a question?

ASSEMBLYMAN BURZICHELLI: Oh, please. Please.

SENATOR KENNY: Could you just elaborate on the other local government sources, funding sources, that alleviate the property tax burden, as opposed to New Jersey, what we do.

MR. HANEY: Okay. Red light doesn't mean stop here.

ASSEMBLYMAN BURZICHELLI: It's Trenton. (laughter)

MR. HANEY: Thank you, Mr. Chairman.

For the larger municipal districts, Pennsylvania has a -- or allows municipalities to have a wage tax, that is charged to employees within their jurisdiction. There's also a sharing -- to my knowledge, there's a sharing of sales tax within each individual district.

ASSEMBLYMAN BURZICHELLI: Do I understand correctly, Bernard, that Pennsylvania also allows a municipality to charge up to 1 percent income tax?

MR. HANEY: Yes, correct.

That's relatively new, Mr. Chairman.

SENATOR KENNY: So they allow the sales tax -- which in New Jersey is solely a revenue for the State -- they allow localities to charge a sales tax for local purposes.

MR. HANEY: My understanding, Mr. Chairman, is that a town -- there's 1 percent of the sales tax that is returned locally.

SENATOR KENNY: Thank you.

ASSEMBLYMAN BURZICHELLI: Please continue.

MR. HANEY: Thank you.

Now, we'll look at the Connecticut system. The Connecticut system, I might add, with the state of New York -- with the exception of New York City and Nassau Counties -- and the rest of New York, and all of the New England, are assessed locally. And that is from New York all the way from Maine and one of the provinces in Canada. The Connecticut system is a local-based assessment system. Connecticut, Vermont, New Hampshire, Maine -- I'm leaving someone out, Rhode Island -- do not have a county government. So they all -- the governments in all of New England are local and state. The Connecticut system is very similar to New Jersey. It is a market-value system without classes. Assessments in Maryland (*sic*) are updated by law every five years. The previous law was four years, and that was recently amended, in the last year or two, to extend that to five. That is statute, not constitutional in Connecticut. However, Connecticut, like New Jersey previously, had the problem of lack of uniformity due to irregular revaluation and reassessments in their system. Their legislature, about 15 years ago, passed a four-year law -- certainly works in Connecticut. Their assessments to market value are significantly higher than New Jersey. I think what their law does and what they have shownn to us is that the five-year law and the four-year law eliminates the shift of burden that occurs after long periods of no revaluation or reassessment.

Connecticut's tax relief and abatement programs are very similar to New Jersey's.

Connecticut's tax systems: Again, there is a small element of county -- that is, their clerk and their sheriff -- and there is a small element there that is paid for through the local budget, but the tax rates in Connecticut are actually created by the local government. The local government reviews their own budget and the school budget, and creates the mill rate based on the needs of both entities. And then there is a bill, permitted by the small portion of county that there is, to -- and that is included in that mill rate. The local bills or the school bills are mailed out in a single bill, except that each entity collects their own money.

Connecticut: A significant difference between Connecticut, and most of New England, and New Jersey is that there is a personal property tax. So automobiles, boats, machinery -- the personal property tax affects the commercial/industrial base significantly more than the residential base, but those dollars are used to offset the property tax. And the appeal system in Maryland (*sic*) is very, very similar to the appeal system here. They have a county board and they have a state board, and then they go into their state courts.

My conclusions on the Maryland (*sic*) system, which is again very similar to New Jersey: The Connecticut system and all of New England both function on a local assessment basis and have uniformity standards very close to New Jersey's. There are few exceptions, one of those exceptions being Massachusetts, which is locally assessed but has a class system established for owner-occupied residential property.

The major differences between our system and the Connecticut system is the mandatory reassessment law. The mandatory reassessment law again allows them to maintain property value at very close to market value on a pretty regular basis. The assessment-to-market-value ratios in the state of Connecticut are generally higher than New Jersey because of that law. And they've also instituted, a few years ago, an experimental statute that allows towns to phase in revaluation over a three- to five-year period. To my knowledge and the knowledge of the Assessment Association in Connecticut, that law has never been implemented by any of the 254 towns in Connecticut. They never phased it in. The function of phasing it in, in most opinions, creates more disparity. Because if you're overassessed coming in at revaluation-- When you go into a revaluation, you note that they're overassessed -- come down, those that are overassessed a lot. And the money is appropriately reported within the district. In order to have a phase in, what you have to do is, people that would normally get money back will have a decrease in fiscal tax dollars -- would get less of a decrease, so that those that are getting an increase would get less of an increase. And then there's bound to be disparity. And it hasn't been used in this state to my knowledge.

Chairman, that's our tour. What I'd like to do now is do a brief presentation, based on my conversation with staff, on the New Jersey PAM system, which is a system being developed by the Division of Taxation. It would be a statewide property administration maintenance system.

ASSEMBLYMAN BURZICHELLI: Bernard, before we move to that, I think Senator Madden would like to raise a question.

SENATOR MADDEN: Thank you, Chairman.

Hi, Mr. Haney.

The personal property tax in Connecticut -- autos, boats, etc. -- could you just speak a little bit further about that? Does that include one's furnishings in their home, personal furnishings, or is it a one-time tax purchase? Just how is that assessed?

MR. HANEY: No, it's an annual tax, Senator. And it's not on furnishings. It's on big ticket items -- all of your automobiles, all of your boats. In the commercial/industrial sector, it's huge. Because in the commercial/industrial sector it is all the machinery, all of the desks, all of the chairs -- I mean, literally, everything in the building. The way that is done is, it's done by using depreciation table. So the new is new. And I have to be honest with telling you, I am certainly not an expert on personal property tax. And as a matter of fact, the assessors in Connecticut are not experts either. They actually have a personal property section that deals with this. But all of that personal property is appraised for value and then depreciated according to tables. I believe they're using the IRS depreciation tables. And then there is a mill rate that is applied to that personal property to generate the tax.

SENATOR MADDEN: Thank you, Mr. Haney.

MR. HANEY: Thank you, Senator.

ASSEMBLYMAN BURZICHELLI: The Chairman is going to continue with a question.

SENATOR KENNY: Where is the point of taxation on personal property tax? Where is the point of the taxation? Where is the tax collected?

MR. HANEY: I need my red light on here. (referring to PA microphone)

The tax is collected locally.

SENATOR KENNY: For example, locally, where the purchase is conducted?

MR. HANEY: No, they physically go out. And you fill out a form every year that says you have three cars and two boats. And they physically go out and do spot inspections on certain vehicles and boats. The numbers are generated using tables. So if you tell them that you have a 1965 Corvette, they'll have a table for a 1965 Corvette.

SENATOR KENNY: I understand that, but my question is, where-- So the tax is collected where the personal property resides?

MR. HANEY: Correct.

SENATOR KENNY: Correct. So if I-- If a commercial entity went out and purchased personal property in another jurisdiction and brought it back to its building, so to speak, that's where it would be taxed?

MR. HANEY: Correct.

SENATOR KENNY: At that location.

MR. HANEY: Correct.

SENATOR KENNY: And the same with individual personal property? It would be taxed where the property is located, not where it is purchased.

MR. HANEY: Correct.

SENATOR KENNY: Okay. Thank you.

ASSEMBLYMAN BURZICHELLI: Thank you, Chairman.

Senator Lance.

SENATOR LANCE: Thank you.

Following up on Senator Kenny's questioning--

And again, Mr. Haney, I don't charge you with knowledge of this. And I'm sure we'll be asking OLS about this, as well.

That would mean, in Greenwich -- where automobiles, on average, I assume, are of higher value than in Bridgeport -- Greenwich would benefit from the fact that there are more Lexus's and other expensive automobiles in garages than might be the case in Bridgeport.

It does not impress me as being particularly efficient or fair, number one. Number two, one wonders, on the average automobile -- let's say a $25,000 automobile. I would be interested to know what, in Year 1, the assessment is. I can't imagine it's more than $100 or so. Because this tends to be a huge political issue. For example, in Virginia, there was a mantra a couple years ago about -- "kill the car tax, axe the car tax."

So I would like to know how much is collected in the aggregate on this personal property tax in a state that is similar to New Jersey. That would be Connecticut.

Thank you.

MR. HANEY: That's generally--

ASSEMBLYMAN BURZICHELLI: Thank you, Senator.

Of course-- And by the way, if that location, Greenwich, was in New Jersey, it would be Greenwich. (indicating pronunciation) (laughter)

SENATOR LANCE: It would, and there is a Greenwich in Warren County, where I get quite a few votes. And we pronounce it the way you do in southern New Jersey, as well, Mr. Chairman.

ASSEMBLYMAN BURZICHELLI: There are important consistencies in this process.

Senator (*sic*) Merkt, did you--

Assemblyman Merkt, did you want to--

Because I'm certain that this personal property tax is of interest to you. Maybe you'll be introducing a bill instituting it in New Jersey. (laughter)

ASSEMBLYMAN MERKT: First, Mr. Chairman, I'd like to thank you for the promotion. (laughter)

I have a question for Mr. Haney, and that basically is, what percentage, if you know -- or approximate percentage -- of the Connecticut personal property taxes falls on their business and commercial?

MR. HANEY: I don't know the actual percentage. I can certainly get that for you.

ASSEMBLYMAN MERKT: I would appreciate it.

MR. HANEY: And I can certainly do that.

Mr. Chairman, through you to Senator Lance.

Senator, I would be happy to get you -- no later than the close of business tomorrow -- the personal property tax in Greenwich and in Bridgeport. That's a matter of a phone call. So I--

SENATOR LANCE: Well, that's very kind of you. And I deeply appreciate that. Let me state, again, it's certainly not your responsibility. Your testimony is excellent this morning.

I'm continuing to ask OLS to provide us with that information. And I know you are here as a volunteer, sir. And this is fascinating. And what you are providing right now is just excellent.

Thank you, Mr. Chair.

ASSEMBLYMAN BURZICHELLI: Everybody good?

Assemblyman Manzo with a question.

ASSEMBLYMAN MANZO: Just one final question on the personal property tax. Is there an exemption of people who lease their cars rather than purchase it, or lease office equipment rather than purchase it?

MR. HANEY: There is some type of accounting out there, Assemblyman. But it's not an exemption from that tax. I believe the actuarial-- I'm sorry, I believe the depreciation tables are different on leases than they would be on an owned vehicle. But it's not an exemption.

ASSEMBLYMAN MANZO: Okay.

Back to Connecticut. You mentioned that they have a mandatory reassessment.

MR. HANEY: Correct.

ASSEMBLYMAN MANZO: And as I understand it, in New Jersey, we had something similar, and then we did this Section (*sic*) 101.

MR. HANEY: Correct. We will be addressing that soon.

ASSEMBLYMAN MANZO: Okay. Then I will hold my questions for that.

Thank you.

MR. HANEY: Yes, we will be discussing that at length.

Mr. Chairman, with your indulgence, what I'd like to do now -- before I go into the PAM system, is to maybe have Mr. Lloyd, and then myself and Ms. Kreitz, talk about the actual evaluation process of the commercial and industrial properties as compared to the residential properties. I know that you are interested in that.

And I can start broad-brush by telling you that if you think about valuing real estate, and you think about your own home, and you think about the industrial factory around the corner, I think it goes without question that the -- either the incline of the market or the decline of the market -- those are going to occur much, much more rapidly in a residential property than they will in an industrial or commercial property. And the markets in industrial and commercial property are slower to move. And just that simple caveat will tell you that everything doesn't move at the same speed.

Again, another just small example: The row houses in Paterson and Newark are certainly moving at a slower speed than the oceanfront property on Long Beach Island. And that is happening all over New Jersey, all over Connecticut, all over Maryland, all over New York, quite frankly, all over the United States.

Having a property tax system based on property value -- that acceleration is built into that system. And it's not only our system. It's every system across the nation.

John, if you could expand on that.

SENATOR KENNY: Can I just -- before we go?

ASSEMBLYMAN BURZICHELLI: Oh, please.

SENATOR KENNY: I have two questions, one on what you just said.

When you say *speed*, what are you referring to?

MR. HANEY: Increase in the market. In other words--

ASSEMBLYMAN BURZICHELLI: If you could keep your red light on. You don't have to turn your red light off.

MR. HANEY: The red light goes off.

ASSEMBLYMAN BURZICHELLI: It's a mystery to us. (laughter)

MR. HANEY: The red light is telling me to be quiet.

What I mean is the acceleration in the market, Senator. If you look at-- I can tell you from experience. I am the assessor in Barnegat Light Borough, in Long Beach Island. And in that borough-- In 1993, you could buy a house on the bayside for $300,000. That same house today is worth between $800,000 and $900,000. And that is without a property owner hammering a nail. That is merely the increase in the market over that 13-year period of time.

That acceleration in residential markets will always -- or deceleration, for that matter -- will always be significantly greater and at a different speed than the acceleration of commercial property and industrial property. Because the market in commercial and industrial property is a marketplace based on a business's need for space.

SENATOR KENNY: So I assume the consequence of that is that the residential sector pays more of the share of property taxes, because it's reassessed more quickly, because there are more transactions, and the value is moving faster. Is that the consequence of that?

MR. LLOYD: Am I on? (referring to PA microphone)

ASSEMBLYMAN BURZICHELLI: You're on.

MR. LLOYD: Good morning, Senator, good morning, Committee members.

Mr. Haney just threw that to me. The short answer is, "No." And the reason why is, the system that we have established, flowing from the Uniformity Clause that we talked about last week, precludes that kind of immediate reassessment, if you will.

Let's say-- I'll first give you an example off of, particularly, a sale. It precludes it. It must be a districtwide adjustment. And it contemplates a little bit of the discussion of Chapter 101. But to back up for a second, in that regard--

The way our system is established, Senator, is that the assessments are to be done every year. The statute compels that, technically-- You read the statute literally, and you say, "Well, the assessor has to literally redo the assessments every year." Practically speaking, that's impossible. And now, legally, it's impossible, with 101. Practically, it's impossible because of the size of the tax base and what's involved in doing something that's across the board. So that's the short answer.

And I will try to segue into what-- In talking with Assemblyman--

SENATOR KENNY: Well, what is the consequence of what Mr. Haney-- What was his point?

MR. LLOYD: Well, I think there's several consequences to it. One of--

SENATOR KENNY: To what? Consequences to what? I'm just trying to get at the heart of this.

MR. LLOYD: Well, here's-- And this is-- I'm working hard in trying to distill the system into a few phrases and sentences that can grasp this. But it's not easy. But here's my best guess.

The most-- I think one of the most significant consequences of what Bernie just said was that, because we have a system that everybody is assessed -- pursuant to the Uniformity Clause -- the same standard of value, and because of the practical reality that I just stated, that assessments year in and year out cannot be changed. They're changed pursuant to a districtwide reevaluation. Currently, the system's answer to that dynamic is the equalization process. It is the ratio process. It is the process that says it's okay to assess people at less than market value, as long as it's at the same percentage of market value.

So what you've heard referenced several times over the last two weeks is this concept of equalization -- is done in New Jersey by a ratio. So if you just hang in there for a second with it, I'll try to get back to what the significance is.

The State compiles the ratio. The State calculates the ratio, in essence. But it is done pursuant to a sales study. Meaning, every sale that happens in a town, in a jurisdiction, gets recorded. The deed comes in to the assessor's office from the county. And the first step is, the assessor looks at the transaction and is asked by the State, "Is it a usable transaction?" Simply put, there's 26 reasons why it would not be usable -- some other -- some problem with the sale that means it's not arm's length. Assuming that it is, it goes into the study -- and the *it* that goes into the study is a number. This was the sale price, and here's the assessment. And off of those two numbers, a percentage is calculated.

They get pooled from all of the sale transactions that happened in that municipality for a particular period of time. Say it's a two-year study, you take the current year -- actually goes from June to July -- July to June over a two-year period. Sales get recorded, sent to the division, the ratio is promulgated. And that ratio then is basically stated, from the State to the municipalities, saying, "Here is what your average ratio is for this tax year." That will be the measure that is to be used to determine whether a property owner -- forget their class -- any property owner is fairly assessed.

So, as a practitioner, when the -- defending a town or a taxpayer, if a first issue comes in, "Here's what I'm assessed for. I think it's unfair." "Well, you can't look at the assessment alone. Let's see what the ratio is." And you divide it into the assessment to what we call -- is produced -- the *implied value*, meaning, "This is what the town is basically saying to you your property is worth." That's how it's done.

Now, to Bernie's point: The ratio is compiled with really no reference to, or differentiation among, the class type of sales that occur. Every sale in the town is put into the study. And the ratio is calculated based on all of the sales. Because, numerically, the residential property sales greatly outnumber the commercial, they're predominant. So that in a situation -- and this is just one consequence, Senator. But in a-- But several things flow from it.

In a situation like we've experienced in the last several years, when the residential market is going at such a tremendous clip of increased value, the sales that are coming into the study regularly are below 100 percent, and declining. The property is assessed for $200,000, and it sells for $300,000. That's a 60 percent ratio that gets put into the study.

The issue of that is, okay, that's-- Firstly, are all components of the residential neighborhoods of a town coming in at the same percentages, or is it a function of -- some are really low, some are 80 percent, but some are coming in at 60, and the net of it is, it's a 55 percent ratio?

But when Bernie was making the comparison between market forces that occur in one class of property, like the residentials-- And if you assume, as has been the case, that the market forces in the commercial sector -- the office buildings, the warehouses, even the apartment buildings -- and just, hypothetically, for a moment, say -- let's assume that those values haven't greatly depressed or accelerated. Say they basically stayed the same. The rents are basically the same. The conditions of the market are such that they're pretty flat. But they reside in a town that has a very strong residential base, and the ratios generated in that town are dropping. The same ratio is used for the commercial property owner's assessment to determine what its level -- a fair level of assessment is. If they stay static, and the ratio drops, the implied value of the commercial properties increases. The significance there, most particularly for municipalities, is you are now faced with--

Let me be very specific with it. Two towns I represent -- Millburn Township and Florham Park. During the course of the last three years, because of the dynamic I just identified, with the drop in the ratios, the commercial -- the value -- what we use in the field to-- We go for easily handleable measure of value -- like a house is easy. What did it sell for? Is it under a million, 750? For office buildings and warehouses, what we try to refer to is -- a per-square-foot value is usually the unit of measurement. So a very healthy office building, a Class A office building, in certain sections -- let's say Jersey City, for example -- would have a value -- just to pick a number -- in the range of $200 to $210 per square foot. An office building in, say, a less prominent location, where it is on the Hudson River -- maybe they range from -- there are some office buildings with single users in Morris County -- they could be as low as $125 a foot.

I give that to you for this reason: Let's say in year 2003, office building A, in Florham Park -- when Florham Park had a 90 percent ratio in that year -- had an implied value of $190 per square foot. And let's say that the value of that building stays static in the market -- it's about worth -- it's worth about that still. Three years later, the ratio drops to 56 percent. The implied value of that property becomes $251 a foot. I have the number, because I was just there the other night with the council.

Nothing changed with that property. And now, for the defense of it, and for purposes of fairness -- which you're all about, as well as trying to figure how to enhance the system, aside from reducing the burden on residents -- is that we know we're all concerned about distribution of the tax burden, as well. Everybody is. It's not a partisan issue that we've picked up at all. That town now has, and that taxpayer in that town now has, the reality of a value -- for the town's vantage point -- to defend in court of $60 per square foot higher, nothing having happened to that property.

That's one of the consequences, Senator, to what Bernie is talking about. And we're not saying that this is-- We're not giving any kind of opinion about the good and the bad of this. My understanding of what we tried to prepare for today was, literally, just information about how the system works. We can come to suggestions about it.

But at this juncture, I'll maybe come close to the area of suggestion for everybody, which is similar to what Bernie has already intimated -- is that, to the extent that it is a negative effect, one could say it's a negative effect for that office building owner, because they're being taxed at an improper level and ratio, and that's why they're in court, to try to get it reduced.

It's a negative effect for the municipality, because it's now looking at a tax refund for that commercial property owner that is significant and maybe not budgeted. And you have the consequences of less collections, and the impact that that has on the tax rate. It has, for that municipality, the consequence of--

There's two other-- Well, I've given you one use of that ratio. The two other major ones -- the determination of that municipality's county share -- the share of the county taxes. That's the ratio that's used to determine each municipality's share of the county. Literally, that ratio, that number is taken and it's divided into the aggregate assessment base to give the aggregate implied value for the town. That's the number that's looked at to determine how much a particular town pays of the county share. If the ratio goes down, that town's equalized value goes up. And if it doesn't--

If it goes up at a rate greater than some of the other municipalities in the county, that municipality's county tax share is greater.

And then the third thing that it's used for is school aid -- the dissemination of school aid, along with several other characteristics or calculations.

So the net of it is, this interplay has that consequence to it for a municipality. What it would be connected to, systemically, we would suggest, is the question of: "How is that ameliorated?" Well, in a rapidly rising market, it's hard to catch it and stay with it. In other words, the question would be: "How can we more consistently stay closer to 100 percent?" And if the ratios drop, we can catch it.

The structural realities there are, simply, more frequent reevaluations or reassessments. But that raises questions of resources, time, money, computers, staff, all of which cost something. And it's one of the reasons that it isn't done as frequently as maybe the system might sustain.

There is a political reality as well. Let's not be less than candid about that. There is a political reality, at the municipal level, of committing to a reevaluation or a reassessment. There's two major components. There's the cost. The numbers I see typically presented -- depending on the size of the town and the nature of the task -- a reevaluation could cost anywhere from $300,000 to $700,000, depending on the size of the town.

Then you've got the political reality, which I think, Senator, your question contemplated. When you do a reevaluation, and pull everything back up to 100 percent-- Until you've done that, some areas of the town have literally been underassessed.

Example: Let's say there is 10 major neighborhoods in Millburn -- residential neighborhoods. And let's say three of them get particularly hot in the market. If those sales are coming in at 30 percent and 40 percent, but the seven other neighborhoods are still strong, but not as hot and strong, their ratios are coming in at 80 percent. Well, the reality of it is, those people in those three neighborhoods, buying a house for a million dollars, and having it assessed for $700,000 -- and keeping that $700,000 assessment until there's a reassessment -- they're technically being underassessed. It's just the nature of the beast. So there is always a political reality of when a reassessment and a reevaluation is done, that there is going to be a shift.

And in a situation of static commercial values, and rising residential, that shift usually ends up hitting certain residential neighborhoods. And so that's another structural issue with it.

MR. HANEY: Can I just jump in here quickly?

Just real quickly, one thing that -- and I think it's a political reality -- and a reality.

One thing that I explain all the time, in the nature of the effect of reevaluation, is that in a reevaluation, everybody's question is: "What is the town doing with all the extra money?" There is no extra money. The pot-- As I explain it often, the pot of money is a pot of money. The only thing that we do with that pot of money is we redistribute it. So, from a political standpoint, what you, and the mayors, and the councils hear from are the people who had the significant increase in dollars. What you don't hear from are the people who had a significant decrease in dollars.

Traditionally, we have said that one-third of the town goes up, one-third of the town goes down, one-third of the town stays the same. I'm here to tell you that that is unequivocally not true. In the reevaluation that I did in Barnegat Light, in 2004, 48 percent of the towns went up, and 52 percent of the towns went down. So people had significant tax dollar reductions there, because the market in a barrier island like that shifted to the oceanfront and the bayfront and away from the middle of the properties. It's a small microcosm.

So you-- The best case scenario to avoid the -- what Senator Kenny is talking about, where the dollars are shifted significantly to the residential property taxpayer, is to maintain those ratable bases as close to market value as we can, and give us the tools to do that.

I think in my example in Bucks County, Pennsylvania, what you're going to have in that county, when the reevaluation ultimately comes through, is an outlandish significant shift in dollars to the residential property -- outlandish. I mean, they have-- They're going to be in single-digit numbers by then. And that doesn't mean that everybody's assessed at 11 percent. I mean, you'll have some 40s, some 50s, some 60s, and some 2s. And I think that happened in the city of Newark when they did their reevaluation. And we saw that shift. It had been just too long.

We have to be able to maintain those values. Maintaining those values, eliminating the shifts-- Maintaining those values makes everyone under our system pay the appropriate amount of dollars. In the event that there is a discrepancy in their payment of the appropriate amount of dollars, we have a wonderful assessment -- a field system in place that has actually been recognized by the Supreme Court of the United

States. So if we have the opportunity -- and Ms. Kreitz will be talking about that in a minute -- if we have the opportunity to maintain those assessments as close to the market value as possible, to eliminate the political reality and the fear of the word *reevaluation* -- and merely do it on a regular basis, or maintain on a regular basis -- I think the fiscal shock will be gone, and I think that you will see both sides of the equation. And the shifts will be a lot smaller and a lot easier to handle.

SENATOR KENNY: I'm sorry, go ahead. You go first.

ASSEMBLYMAN MANZO: Thank you, Senator.

Mr. Lloyd, if the ratio is maintained the same through the different classes, then how come there is such a huge disparity in the State between vacant land and developed land, if you will -- or land with homes on it -- in assessment?

MR. LLOYD: Well, first let me try to understand your question. You're talking about the assessed value of vacant land?

ASSEMBLYMAN MANZO: Right.

MR. LLOYD: And you're contrasting it with -- I'm sorry?

ASSEMBLYMAN MANZO: Well, you're saying that even though the -- a vacant land sold at -- or whatever property is selling at -- the ratio-- Even though a town is selling a lot of, say, homes on its waterfront side, not necessarily vacant land, the ratio is going to go across all the classifications, as I understood you say.

MR. LLOYD: That's true.

ASSEMBLYMAN MANZO: But then why is the vacant land not being pulled up by that?

MR. LLOYD: Remember, if we have to look at the assessment-- If the assessment is not moving on something, like vacant land, that's a function of that assessment rule not being changed for whatever reason, which is, typically, there has not been a reevaluation or reassessment in that jurisdiction for some period of time.

ASSEMBLYMAN MANZO: Right.

MR. LLOYD: So it is increasing. It's just maybe not -- it's not visible to the tax rolls. In other words, let's say your -- a hypothetical lot, vacant lot-- I mean, Jersey City -- we'll take an example -- I think they're down into the low 30s -- I think -- in their ratio.

ASSEMBLYMAN MANZO: Right.

MR. LLOYD: I can remember-- I don't-- I'll pick a number -- four or five years ago, let's say, when it was in the 80s -- mid-80s. Let's say your hypothetical parcel is assessed at $300,000. It still is assessed at $300,000. But if that property owner filed an appeal on it, the question that would be faced is, is it worth a million? Whatever that calculation is -- $300,000 divided by 31 percent, which I think is the ratio -- that's the implied value of that parcel.

So it's increasing, Assemblyman, in the sense of what its implied value is. It isn't being taxed-- It technically is being taxed as if it were a million-dollar property, because if it were worth a million, and it filed an appeal, that's what it would be assessed for -- 30 percent of what its market value is.

ASSEMBLYMAN MANZO: But that would be significantly lower than a home in the town, which is at almost paying up to 70 percent.

MR. LLOYD: Well, I guess what the system is--

ASSEMBLYMAN MANZO: Why isn't the lot pulled up to the 70, by what you've described?

MR. LLOYD: Well, what the system is restricted by is what -- (*a*) what the value of the property is; and then what it can be assessed at. So that's all the assessment system can control. If the value of a parcel or a particular class of property outpaces some of the other classes, that's not going to be caught, if you will -- captured -- unless the town does a districtwide reevaluation. Short of something less than that is what has been talked about so far, too -- what is called, in the field, a *maintenance program*, where something less than a reassessment or reevaluation -- that the assessor used to be able to do before Chapter 101 -- which would be to go in and, on a credible basis, say, "A neighborhood or a class of property has had an aberrant market condition occurring, and I want to go in and correct it."

Let's say, in your hypothetical, Assemblyman-- Let's say that the vacant land in Jersey City-- If your hunch is that the value of vacant land in Jersey City has outpaced -- the increase in that has outpaced the increase in residentials or some other property type, that might be something that could be targeted by a maintenance program -- an assessor that could look at it and say, "I'm going to leave the residentials alone for a while. But I would like to go in, and I would like to change the assessment here." The unintended consequences of Chapter 101 are what we're talking about right here, now.

ASSEMBLYMAN MANZO: They prohibit that. Is that correct?

MR. LLOYD: It does.

SENATOR KENNY: I'm going to ask that we end this particular discussion. We have the Commissioner coming in here from the Department of Community Affairs at 12:30. So we're going to take a break, allow people to grab some lunch. And then at 1:00 we have a teleconference with the University of Minnesota Law School. And that has to be done precisely at 1:00. So we have the Commissioner coming in here. And I want to give everybody a chance to take a break.

I think I'd have to take a seminar from Mr. Lloyd to understand this. But what I would like-- I think we may be calling upon you again, officially or unofficially, for one more.

And I think, in a nutshell, what I would like to -- for the Committee to have is, what would we have to do? And I understood what Mr. Haney said. What would we have to do, given that our goal is to primarily-- One of our primary charges here is the residential property taxpayer. What would we have to do with the system, as it currently is, in order to improve their lot? And who would pay the consequence based on the assessment system? Who would pay the consequence in order to improve the residential property taxpayer's standing? That's the question. What would we have to do, and what would be the consequence?

And finally, before we take a break, getting back to the earlier testimony-- You know, we're -- our charge is constitutional here. And what I heard about those other states that we discussed earlier this morning -- and I'm sorry I was 15 minutes late. But Maryland goes to the uniformity clause. That goes to the uniformity clause. And we understand that.

The other states that you mentioned, if I'm not mistaken, are uniformity clause states. And the difference, seems to me, is that those other states give localities more taxing power -- is that a correct statement--

MR. HANEY: That's correct, Senator.

SENATOR KENNY: --than they do in New Jersey.

So that's not a constitutional issue. That's a legislative issue as to more taxing power.

I've always been an advocate that the locality should get more -- a better piece of the sales tax, for example. So the examples that you gave, as to this Committee's charge-- Maryland would fall within the scope of this Committee's uniformity clause analysis. The other states allow municipalities to tax more at the local level. And New Jersey has a tradition of Trenton collecting all the taxes, with the exception of the property tax and very few others. With the exception of the property tax, Trenton collects everything and then sends it back according to various programs and formulas.

So the differences that I saw today with the other states, with the exception of Maryland, were more local taxation opportunities. Is that a fair statement?

MR. HANEY: Yes.

SENATOR KENNY: Okay.

So we're going to take a quick break, have some lunch, and then wait for the Commissioner.

Thank you.

MR. HANEY: Thank you.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN BURZICHELLI: I'd like to bring the Committee meeting back to assemblence of order.

Now, if I understand-- I'll ask OLS and Co-Chair Senator Kenny to help me along here, because I guess we are being joined, via teleconference--

MS. BRENNAN (Committee Aide): Correct.

ASSEMBLYMAN BURZICHELLI: --from the great state of Minnesota.

MS. BRENNAN: Right.

ASSEMBLYMAN BURZICHELLI: Myron Orfield, is that correct?

MS. BRENNAN: That's right.

ASSEMBLYMAN BURZICHELLI: That's if we can get people back in their chairs. We're missing a couple Assembly people. Now we're missing one Assembly person.

Mr. Orfield, can you see and hear me? (no response)

I can't hear you. I can see your lips moving. I feel like Ray Charles. (laughter) No, Ray Charles was the other way around. Ray Charles couldn't see. I'm sorry, I got it wrong.

I sense you can hear me because you're reacting. But I can't hear you. This Committee can't hear you. Let's see if our technology people can make that happen.

Is your mike on? On your end, is your microphone on? Can you tell? (no response)

This briefing will be very interesting if we have to do it by sign language and hieroglyphics.

MYRON ORFIELD, ESQ.: Can you hear me now?

ASSEMBLYMAN BURZICHELLI: That's very good. Thank you, sir.

First of all, let me thank you for participating and joining us. It's greatly appreciated. I wish you were here in person, only so we could meet you in person. But this is certainly the next best thing, and very helpful.

I'd like to give you a sense of this Committee, although, not knowing how the camera works-- My name is John Burzichelli. I serve as Co-Chair with my distinguished colleague Senator Bernard Kenny, who is sitting to my right. And moving down on the senatorial side, we have Senator Fred Madden and Senator Leonard Lance. To my left, on the Assembly side, will be Assemblyman Lou Manzo and Assemblyman Richard Merkt, as things move along.

I guess we should begin -- just some general background. You join us from the University of Minnesota Law School. And I ask you-- My friends from Temple University are visiting your fine state to play football on Saturday. So I'd ask you to go easy on the Temple Owls. We're struggling with a number of freshmen in uniform this year. (laughter) If we could ask for that consideration. Keeping the score under 60 points would be considered a gesture of kindness.

So I guess, Chairman, we should just have him start, shouldn't we? I mean, there's no--

SENATOR KENNY: Yes.

ASSEMBLYMAN BURZICHELLI: Mr. Orfield, we'll just ask you to start. And just know that you're among friends. And we're anxious to hear what you have to say.

MR. ORFIELD: Well, I'd be happy to start.

I thought that the New Jersey Regional Equity (*sic*) Coalition might be speaking before I am. Am I wrong about that?

ASSEMBLYMAN BURZICHELLI: You are.

Let's see who is in the room.

We'd ask the representative from that group to step forward.

Would it help you, Mr. Orfield, for that to occur? What works best for your presentation?

MR. ORFIELD: Well, I think that's what we were planning on.

ASSEMBLYMAN BURZICHELLI: Very good. Then that's how we'll proceed.

So the group joining us now-- Let's see who we have.

Would you identify yourselves, please, folks?

R O H N H E I N: My name is Rohn Hein. I am speaking on behalf of the New Jersey Regional Coalition.

I'd like to introduce--

Oh, now maybe people can hear me. (referring to PA microphone)

My name is Rohn Hein, and I represent the New Jersey Regional Coalition.

And I'd like to introduce my colleagues, who are also members of our organizations. This is Dianne Brake, who is from the Central Jersey Regional Organizing Project -- is one of the founding members of that group. This is Reverend Carl Browne, who is from the South Jersey Regional Equity Organizing Project. He's the Co-Chair of that group. And we also have Paul Bellan-Boyer, who is on the Executive Committee of the Jubilee Interfaith Organization. Together, we represent the New Jersey Regional Coalition.

We are a faith-based grassroots coalition of organizations and policy advocates throughout New Jersey.

ASSEMBLYMAN BURZICHELLI: Rohn, excuse me.

MR. HEIN: Sure.

ASSEMBLYMAN BURZICHELLI: We try to keep the reading of statements to a minimum here. We'd ask that you--

Do we have your statement? What you're going to read us -- do we have that?

MR. HEIN: The statement should be in front of you, yes.

ASSEMBLYMAN BURZICHELLI: Okay. So then if you could just work on paraphrasing it and moving along without reading it to us, we will read it. So if you could move as quickly as you can, that would be helpful. And then we want to get on. We want to hear from our friend in Minnesota.

MR. HEIN: Yes. We've coordinated our testimony here, today, with Mr. Orfield, who is actually our consultant in our efforts here. So if I can indulge the Committee in allowing me to proceed, I think that--

I just want to make sure that we hit on all of the points that we think are salient for this Committee to consider.

We are a faith-based organization who represent people from throughout New Jersey devoted to the idea that everyone who lives here has a stake in the economic and social well-being of our regions, our state, and all of the communities within it. As I said earlier, we represent three different organizations. And I am personally a member from the South Jersey Regional Coalition. And I'm a member of the Unitarian Universalists Church in Cherry Hill, and a resident of Pennsauken.

ASSEMBLYMAN BURZICHELLI: Now, you do realize that we're not-- There's no effort to tax religious properties. You are--

MR. HEIN: Pardon?

ASSEMBLYMAN BURZICHELLI: We're not making any effort to tax churches and religious properties. (laughter)

MR. HEIN: The New Jersey Coalition has dozens of member organizations and congregations, representing thousands of families in each region of the state. We coordinate our activity, statewide, and have a common-issue agenda. The issues are fair housing, equitable school funding, and property tax reform -- are the issues that unify our membership throughout New Jersey.

Some of you have firsthand information. Senator Madden attended one of our public meetings this Summer -- and we want to thank him for that -- where we've been able to mobilize thousands of people throughout the region to express their frustration with these problems and to propose specific solutions to these issues, which divide our people, hurt our families, and destabilize our communities.

This Summer, we held public meetings with our legislators in the 4th, the 6th, the 7th, and the 12th Legislative Districts. These meetings ranged anywhere from 100 to 200 people from each of these districts. In the coming weeks, we're going to be meeting with people in the 2nd, the 15th, the 27th, the 34th, and the 40th district, where legislators will see that there is broad support for the real reform proposals aimed at creating fairness and stability, which we're going to talk about this morning -- this afternoon, excuse me.

Our organization's goal is to change social structures to promote equity, stability, and growth in our communities, within our regions, and throughout the state. We believe that the existence of distressed and impoverished communities within New Jersey affects all residents through increased crime, rising taxes, and reduced economic opportunities. And the economic squeezed felt by the middle-class New Jersey residents with soaring fuel prices, rising health-care costs, mounting insurance rates, increased tuition, and crushing property taxes is threatening the very existence of middle- and working-class families in this state.

The problem of rising taxes is not unique in New Jersey. While New Jersey's crisis is one of the nation's worst, the dilemma facing local government is receiving growing attention as a problem national trend. It's the most unpopular and most regressive form of taxation there is.

New Jersey has taken many bold first steps as a national leader in so many other areas of public policy in this country. It can lead again by taking the necessary action needed to begin to fix our tax problem, and by making our state and our region more stable, unified, and competitive.

One way for New Jersey to lead is through equitable and fundamental property tax reform. Billions of dollars, currently, are being spent to support school districts in the most distressed and poverty-ridden towns, while most of the economically diverse suburban school districts are suffering from rising costs and mounting tax rates. Our current tax-rate structure is unfair. It allows a very small handful of towns to control huge tax revenues that are generated regionally, through retail and business centers, that disproportionately benefit only the towns and school districts they're building.

Everyone agrees that the current system is broken. And the people are demanding solutions. But real and lasting comprehensive reform will not occur if we only look at solutions that are quick fixes or sweet tonics that only respond to the symptoms. Consolidation and shared services, spending cuts or caps, rebates and grants may all be good ideas, but they won't address the structural reasons that continue pushing taxes higher and diminishing services. The failure to address these deeper causes will not only ruin your attempts to stem the rise in taxes, but you will also fail to slow the deterioration in the quality of life in New Jersey.

Those deeper, structural issues, we believe, are the fragmentation in our State; the overreliance on local taxes to fund services and schools; and the increasing costs of pensions, salaries, social services that the State and Federal government place on municipalities and school districts. These three forces combine to not only cause our taxes to soar out of control, but together they intensify urban sprawl and regional segregation, and encourage a general fortress mentality among communities.

We do not believe that a constitutional convention will guarantee fundamental change. In fact, a convention is a huge gamble that will likely not yield results for several years at best.

ASSEMBLYMAN BURZICHELLI: Rohn, if you can-- How much more do you have in reading your statement?

MR. HEIN: I'm very close to telling you what our specific proposals are.

ASSEMBLYMAN BURZICHELLI: We'd be very interested in the specific proposals. Everything leading up to it -- although it was beautifully read -- we're painfully aware of. Proposals will be very helpful to this Committee, particularly in the context of this Constitution, and what you may be recommending we address constitutionally.

MR. HEIN: Thank you, sir.

Despite all these concerns, there are solutions, solutions that can be acted upon now, that address the need for equitable school funding, and the need to reduce regional disparities, and the ruinous ratables chase that drive up property taxes and drive us apart. More importantly, there are solutions that can be acted on now that begin to significantly address the fundamental, underlying causes of our property tax crisis in this state.

We believe that fundamental tax reform must include two things. First, changes that reduce our dependence on local property taxes for schools; and, two, regional tax-base sharing that allows all communities to capture the benefits of the growth of their region.

Most people will agree that our school funding system is not working. But too much of the blame is put on the 30 poorest districts that receive special funding. While it is true that these districts have some of the highest per capita funding in the state, it is also true that the richest districts are getting the biggest slice of the State's school funding pie. In fact, the 30 wealthiest districts--

ASSEMBLYMAN BURZICHELLI: Rohn, I'm sorry. I don't mean to be rude, because we're grateful that you're here. But you've got to bring us to a conclusion. We want to hear from Mr. Orfield on what's happening in Minnesota on the regional sharing concept. And some of the areas you're now talking about are areas for other Committees to consider.

Again, I don't want to appear ill-mannered to you, but we have a lot of people whose time is as important as yours. So is there something specific that you're going to say related to this Constitution and how the Constitution should work in regional sharing? Should we let Mr. Orfield come in, and then you rejoin the conversation when he talks about what's happening in Minnesota and how that could conceivably occur here? What would work best so we here, and those watching this, can understand very clearly what's taking place in another state, which is the theme of our day?

MR. HEIN: One of the concerns that I know this Committee has been looking at has been the thorough and efficient education, which is clearly--

ASSEMBLYMAN BURZICHELLI: No, that's not the case.

MR. HEIN: Excuse me, but my understanding is that that is a constitutional issue. This is something that the Supreme Court has judged as being a concern of theirs -- that they believe that under the State Constitution there needs to be thorough and efficient education.

ASSEMBLYMAN BURZICHELLI: You're absolutely correct that those words appear in the Constitution. This Committee is not working in that area today. The education committee is taking that issue up. And whether or not that committee recommends to us that there should be an advancement of a question related to that language in the Constitution remains to be seen.

Today's committee -- this Committee, today, is working on the continued discussion of the application of the Uniformity Clause, and whether or not there are other alternatives to build upon it or change it. And that's what we're anxious to hear from both your group and Mr. Orfield on -- the circumstances in Minnesota, where you have a regional concept approach to taxation, or sharing some of the tax base, which, presently, our Constitution may not allow to happen because of how the words are structured.

So that being said, do you recommend we go to Mr. Orfield to get his presentation and come back? What would you like to do?

MR. HEIN: No, we would be pleased to move forward to our conversation about regional tax-base sharing. I would just like to add, parenthetically, that we very strongly believe that the T&E aspect of the education approach not only needs to remain, but actually needs to be strengthened. And we would be pleased to appear before one of the other committees to discuss that with you.

ASSEMBLYMAN BURZICHELLI: And I would direct you to the staff and chairs of those to offer that valuable testimony to them.

Now, if we could move on here. If you have a suggestion of regionalization, that sort of thing, with regard to the tax base, we'd like to hear it. I'm particularly interested not only to hear from you. We have the advantage of having you with us in the state. Mr. Orfield is sitting patiently in Minnesota waiting to speak to us. So we're anxious to get to Minnesota.

MR. HEIN: Very good.

One of the things that would work here, we believe, is regional tax-base sharing. Regional tax-base sharing responds to the issues of both equity and efficiency by sharing a portion of the growth in State tax base within a defined region.

Today, when development takes place, it disproportionately benefits a very small number of communities, while their neighbors take on much of the cost. Regional tax-base sharing is a program to balance the costs and revenues more equitably.

In New Jersey, we cannot allow old towns to die when the malls, office parks, and jobs migrate to newer areas and take the tax base with them. For years, we have watched this happen in our cities and we have done nothing to stop it. Now, once thriving first- and second-ring suburbs are also feeling the pinch, as jobs and tax base move even further out. Disappearing tax base affects older towns like Pennsauken, Hightstown, Highland Park, and Bloomfield, as well as newer, built-out communities like Cherry Hill, Woodbridge, Gloucester Township, West Orange, and Wayne. In these towns, taxes are high, and they are rising fast.

Your next set of maps-- We have a set of maps that you should have already received. And these may be out of order now, since we've moved ahead in our agendas. You will see maps that indicate areas of high growth and the tax base -- property tax base from 1993 to 2003. The blue areas indicate those areas of highest growth, while the red areas indicate low growth.

As our towns become built out, and the jobs and tax base move away, communities are forced to raise their taxes to keep up with rising costs as a result of a stagnant or declining tax base. Regional tax-base sharing can relieve the property tax burden in stressed communities, by placing a portion of the growth of the region's tax base into a regional pool. The tax base is then shared among the participating communities and school districts, based upon tax base, population, and other local characteristics. All communities receive something from the program, but some will get more than they put in.

This kind of tax-base sharing has been used in more than 30 -- for 30 years right here in New Jersey. The Hackensack Meadowlands-- I understand you're going to have representatives from them later on today.

ASSEMBLYMAN BURZICHELLI: That's if your testimony concludes in a reasonable period of time so we can have that.

MR. HEIN: Oh, I'm sure it will.

ASSEMBLYMAN BURZICHELLI: Thank you.

MR. HEIN: We've made ample room for that, sir.

Thank you.

The New Jersey Meadowlands Commission oversees a tax-base sharing program that collects 40 percent of the growth in the property tax revenues in portions of 14 Bergen and Hudson County communities. It's also been used on a large scale -- and you're going to hear about it in regards to the Minnesota model -- since 1971. The Twin Cities program reduces tax-base inequalities by about 20 percent. And the program does not simply transfer tax base from suburbs to cities. Most of the places that benefit -- most are in the suburbs. And Minneapolis has roughly broken even over the lifetime of that program. It has switched back and forth from being a net receiver to a net contributor several times during that period.

Some of the immediate benefits from regional tax-base sharing are: It's revenue-neutral, it is the only serious tax reform proposal that does not require new money; it reduces property taxes for a majority of communities, especially those suffering under the most crushing tax burden; three, it reduces the disparities in tax base and tax rates between neighboring communities within a region; it reduces the destructive and wasteful competition between neighboring communities; it protects the current tax base; and it enables build-out communities to provide more and better services.

Some of the long-term benefits of regional tax-base sharing: It increases the efficiency of the regional economy, creating the potential for lower property tax rates for all municipalities; it moves us from competition to cooperation; it encourages regional land use and economic development planning; it transfers the leverage from developers to municipalities and reduces the incentive to offer tax breaks; it reduces the incentive for more sprawl and middle-class flight; it helps to stabilize communities and discourage regional segregation.

What are the steps to implementing regional tax-base sharing in New Jersey? First, we need to define a region. The New Jersey Regional Coalition asked Ameregis -- which is the consulting firm that Mr. Orfield runs -- to produce simulations for tax-base revenue sharing for three regions of New Jersey. You have maps in front of you that show how tax-base sharing might have worked in New Jersey between 1993 and 2003, and where this system would encourage growth. This stimulation -- simulation shows -- shares 40 percent of all tax-base growth within each of the three regions: north, central, and south. As the maps indicate, significant majorities of region residents benefit from this system.

These regions also mirror the areas defined by the Council on Affordable Housing, COAH, which were established in part to address growth disparities. And they describe areas that share employment and housing centers. This means, within each area, many people shop, live, and work.

On our maps, each tax-base sharing area is comprised of two COAH regions. A tax-base sharing region could be broken down into the six individual regions. But what's important about region size is that it includes an area big enough to encompass entire regional housing and labor markets. They shouldn't be drawn too small.

Secondly, you need to establish a base year from which tax-base growth is calculated.

Third, define the tax base by deciding what part of the tax base to share. In Minnesota, they only share the growth of the commercial and industrial tax base, while in the Meadowlands they share growth in the total tax base. Sharing only the growth in commercial and industrial tax base targets the growth in tax base most directly involved in wasteful competition for tax base -- the *ratables chase*, as we call it -- as well as keeping the system simple; whereas the total one encompasses everything.

Four, collect shared tax base. In both the Meadowlands and Minnesota examples, 60 percent of the tax base is kept locally. It's left in tact, it's not addressed. Forty percent is collected into the regional pool. Although other ratios have been tried, this ratio has endured the test of time in both places. It's also a ratio that acknowledges that some costs are borne by the communities in which development occurs, while other costs are spread to neighboring communities.

Fifth, you need to develop a formula and an administrative system for sharing growth that promotes both equity and stability. This formula should consider population, households, tax base per capita, or the number of children eligible for free or reduced lunches, maybe some other factors. Over time, adjustments may be necessary to the percent shared, the regional boundaries, and/or the distribution formulas to account for inflation and other considerations to make it work better. What's important is that it can be adjusted until it does the most good for the most people, and it gets -- can get enough support to succeed.

Our simulations run by Ameregis found that a majority of residents would immediately receive additional resources from this program in 28 of the 40 Legislative Districts. Interestingly enough, of the districts that the people here represent -- on your Committee -- 73 percent of the residents would benefit from this program. This does not mean, however, that residents in the remaining districts and communities are harmed or would see a rise in the property taxes.

Tax-base sharing is a more realistic and comprehensive solution to New Jersey's tax crisis than consolidation or shared services. It encourages both cooperation and regional growth, while preserving local autonomy and character. It's independent of the State budget, and it responds directly to the economic pattern in each region. Since we are recommending only a portion of the growth of revenues to be pooled to share with other communities, no increased taxes are needed. And because of the Meadowlands District, New Jersey already has a successful tax-base sharing system administered by the State that has benefited member towns and has made that region one of New Jersey's most competitive. The experience there would be invaluable while setting up systems in the rest of the state.

That's basically concluding our testimony on the regional tax-base sharing.

I would just like to add that the two proposals that we're talking about actually work together. The reason why we expanded just beyond the regional tax-base sharing is that you understand that the regional tax-base sharing is only part of the way of going about solving this property tax dilemma that you all face today, that we all have to live with. And that's why we wanted to make sure that you understood, that we understood that there is much more to this issue than just the regional tax-base sharing.

Thank you for your time.

ASSEMBLYMAN BURZICHELLI: Rohn, thank you.

Your presentation was excellent. Again, I didn't want to be ill-mannered, but we are very anxious to get this narrowed for the purposes of why this Committee is constituted. What you've explained to us is very helpful.

And I want to make sure-- Do we have your written testimony? Because I -- we'd like a copy of your written testimony, because we know it will be lengthier and more detailed. We have the maps, but we don't have the written testimony, or at least it hasn't made it to us.

MR. HEIN: My understanding was that the staff was requiring that we provided all of this material to you ahead of time. So that was my understanding as it took place.

ASSEMBLYMAN BURZICHELLI: Well, just make sure that we do get a copy, because we want to be able to refer to it, and refer back to it as these weeks progress in this Committee. We'll just make sure we get that from you. If we don't already have it, we'll get it from you. But it's important to us.

Now, you having said that, it's time to bring Mr. Orfield in. He'll then build upon what you've talked about and what has taken place in Minnesota.

MR. HEIN: Correct. And then we're all here to answer questions.

ASSEMBLYMAN BURZICHELLI: Very good. Just stay right where you are.

Mr. Orfield, we'll again welcome you back. You've heard the presentation made locally here to give us a foundation of the idea. And now maybe you'll join us and bring us your presentation.

MR. ORFIELD: Well, thank you very much. I'm delighted to be here. I appreciate the opportunity to testify about the Minneapolis and St. Paul property tax-base sharing system.

Are you able to hear me well? Am I clear?

ASSEMBLYMAN BURZICHELLI: We can hear you. And I'm glad you're delighted to be in Minnesota. We're delighted to be in New Jersey. (laughter)

MR. ORFIELD: Well, that's the way it ought to be. (laughter)

ASSEMBLYMAN BURZICHELLI: Thank you. Well put.

MR. ORFIELD: I'm the-- The testimony that the New Jersey Regional Coalition gave, I think, is a helpful piece of my testimony. It will show, in many ways, how the system that I'm talking about in Minneapolis might function were it to be in place in New Jersey.

Let me talk a little bit about the history of the property tax-sharing bill, and the motivations that lead the Minnesota legislature, in 1971 -- 25 (*sic*) years ago -- to adopt regional commercial and industrial property tax-sharing.

The Minneapolis and St. Paul metropolitan area is an area of 187 municipalities with land use planning powers, a population in aggregate of about 2.6 million people, seven counties, 49 school districts, 187 municipalities. As the Minneapolis and St. Paul region transitioned from a timber- and grain-based economy into a more modern economy, there was a need to coordinate (video malfunction) development, to deal with issues of equity, and to support a nascent and growing system of coordinated land use planning.

Beginning in 1971, the legislature began -- passed a bill that would share 40 percent of the growth of commercial and industrial property tax bases among the seven counties, the 49 school districts, and the 187 municipalities of the Twin Cities metropolitan area. Everything prior to 1971 was grandfathered out of the equation. And what the legislature passed, and was adopted and signed by the governor, was to share 40 percent of the growth of business tax base after 1971. And that tax base would be administered by a formula that would return -- that would redistribute property tax wealth to communities based on their effective net tax capacity per household. It was an effort to equalize, gradually, through a percentage of growth -- a minority of the growth, but a significant minority of the growth -- to equalize the property tax capacities of the 187 municipalities, seven counties, and 49 school districts in the metropolitan area.

This approach was challenged in court by the city of Burnsville on its passage. And the Supreme Court of Minnesota upheld property tax-base sharing under a challenge based on the Minnesota Uniformity Clause in 1974. That case was appealed to the United States Supreme Court, where a petition for cert was denied. So after the application of (video malfunction) and after the upholding of the property tax-base sharing for 25 years, the Twin Cities have shared a quarter of their commercial and industrial tax base.

It has had the effect of reducing inequality quite dramatically between localities, from about 12 to 1, to about 4 to 1. It has reduced the incentive for communities to compete amongst themselves for things that already are in our region, such as shopping malls and other commercial industrial facilities that are already located here. It has created incentives for all of the communities within the metropolitan area of the Twin Cities to compete together as a unit within the global economy. And it has made the administration, both politically and practically, of our land use planning system dramatically easier than it might have been without the property tax-sharing system. In fact, the passage of the property tax-base sharing act in 1971 was equivocal of the passage of our regional land use planning act, one of the most significant and far-reaching in the country.

So these are the basic thrusts of the property tax-base sharing system. It's one of the things that we do that operates most effectively with land use planning -- that creates a community of interest; that reduces unnecessary, unhealthy competition between municipalities; creates equity; and supports land use planning.

One of the things I think that isn't well-understood about property tax sharing is that the vast majority of suburban population receives immediate reduction in taxes and improvement in services based on that. It isn't a cities versus suburbs thing. But large parts of the suburbs benefit by lower tax rates and better services because of this. No one is hurt, no one shrinks in any meaningful sense, as the contributors still keep 60 percent of their growth. It binds the region together. It is in effect even more equitable, more focused. It moves the systems of incentives in line with proper scale of global competition.

ASSEMBLYMAN BURZICHELLI: Mr. Orfield, thank you very much for the beginning of your -- for your presentation.

I think members of this Committee will raise a question or two.

I'd like to begin, if I may, just for--

I guess what I'm sensing from you is, where a municipality would normally have 100 percent of the advantage of the new ratable, since it's a new ratable, losing 40 percent of something you didn't already have is a lot easier to take because they didn't have it to start with. They're just not going to have 100 percent of something they didn't have previously.

I'm just curious to see how you broke down the barriers of county and local municipalities. Philosophically, how was that idea sold?

MR. ORFIELD: Well, I think it was very important. The point that you make is that everything that existed within the property tax (video malfunction), all the assessments that were on the rolls were held harmless. And the property tax-base sharing system would begin to share new growth the year after the bill passed, and would share 40 percent of the new growth with each locality maintaining a majority of new growth.

In that sense, no one had anything taken away from them. What happened, in practical matter, was it reduced the rate with which communities were pulling away from the rest of the pack. Communities-- Often, you see in property tax-base sharing -- 20, 25, perhaps 30 percent of a region contributes to 70 percent of a region. The 20 to 25 percent that is contributing is not becoming poorer, it's just -- it's reducing the rate with which it's pulling away from the rest of the pack.

And you can see, in New Jersey-- We did a study for the New Jersey Regional Coalition that shows these trends. New Jersey (video malfunction) largest collection of low property, wealth-struggling suburbs in the country. And what it would do -- it would gradually, slowly bring these into some measure of equity with a small number of communities that are dominating the commercial and industrial growth in New Jersey.

ASSEMBLYMAN BURZICHELLI: If you could help us maybe get a sense, because what we're finding -- as we look around to compare ourselves with other states -- is that it's never apples to apples, as I said in the earlier session. In New Jersey, presently, we collect a State income tax, we have a State sales tax, and there's a considerable flow of the money collected by this State government here, in our Capital City of Trenton, that flows immediately back to municipalities. A small portion of it actually stays with the State apparatus.

Is Minnesota structured in a similar way, where the state returns to its locales -- whether it be county, state, or school districts -- a significant portion of their budget?

MR. ORFIELD: Yes, that's true. The K through 12 system; and we also have a system of general revenue sharing -- local government aid to municipalities. Tax sharing is different in that tax sharing isn't a redistribution of money, it's a redistribution of property tax-base or capacity.

ASSEMBLYMAN BURZICHELLI: And I raise that question only because, again, as we try to get a sense of how it works, I'd be curious to see what the percentage of money that flows from your state capital back to your municipalities, counties, school districts is as compared to what ours is on this side. So we get a sense, when you talk about the approach of regional, what the benefit of that is. The breakdown our local Coalition has given us in the way of maps, I think, is pretty interesting.

I don't want to dominate the questions. Let me move around and see if the Co-Chair or maybe someone would like to engage the continuation of this thought.

SENATOR KENNY: I have a few.

Thank you very much, Mr. Orfield.

And the Minnesota Twins are doing pretty well.

MR. ORFIELD: Thank you. (laughter)

SENATOR KENNY: As well they should be -- good pitching staff.

Your region-- Is it confined to the Minneapolis-St. Paul-- Is that the region, as defined?

MR. ORFIELD: For tax sharing--

SENATOR KENNY: Yes.

MR. ORFIELD: --the region is defined as the seven counties -- seven metropolitan counties, 187 municipalities, and 49 school districts, which is the--

SENATOR KENNY: So it goes beyond the two -- Minneapolis and St. Paul then.

MR. ORFIELD: Yes, it includes most of our metropolitan area -- our metropolitan area, as it was in 1967. The census would give us four additional counties to that seven.

SENATOR KENNY: And what's the population of the region?

MR. ORFIELD: Two point six million.

SENATOR KENNY: Two point six million.

Now, do you classify properties differently -- different tax, different values -- for different types of properties: commercial, industrial, and residential there?

MR. ORFIELD: Yes, we have different classifications of property. We have different tax rates that are applied to those different classifications of property.

SENATOR KENNY: So, in New Jersey, we have a Uniformity Clause that would prevent us from doing that. Are you aware of that?

MR. ORFIELD: That New Jersey has a Uniformity Clause? I am aware that New Jersey has a Uniformity Clause.

SENATOR KENNY: So we would be, under our current Constitution, prevented from classifying properties differently, according to their values. That would not--

MR. ORFIELD: Yes.

SENATOR KENNY: We would have to amend our Constitution to do that, which is-- Your plan is not possible in New Jersey, under our current Constitution.

MR. ORFIELD: Well--

SENATOR KENNY: Yes, go ahead.

MR. ORFIELD: I think that classifying properties at different rates is one question. But I don't believe that that would affect the-- You could have uniformity of tax rates across different classifications of property but still have property tax sharing. I don't think the Uniformity Clause is a bar toward property tax sharing. It may be a bar toward different rate classifications of different types of property.

SENATOR KENNY: Right.

The other issue is: Who assesses the property in this region -- in these eight counties?

MR. ORFIELD: There is-- The seven counties -- there is a -- there are county assessors that do the initial job of assessing the property. The assessments are equalized by a sales-ratio assessment system. So the tax base that's shared is equalized by an agreed upon form of sales-ratio assessment. But the actual functioning of the assessment is done by the county assessors.

SENATOR KENNY: The county assessors.

And then is there-- Then there's an equalization of the seven counties--

MR. ORFIELD: Yes, there is an equalization.

SENATOR KENNY: --in order to arrive at a base.

MR. ORFIELD: Yes, there is an equalization.

Let me-- Can I say that the Minnesota system of property tax-based sharing was upheld under the Minnesota uniformity clause, which is similar-- I don't have the exact wording, but I have looked at this before. It is similar in wording to the New Jersey Uniformity Clause.

SENATOR KENNY: Well, I'm not familiar with the Minnesota constitution. But did you have to amend your constitution in order to do this?

MR. ORFIELD: No, we did not. The Minnesota Supreme Court found, in part, that municipalities within a single metropolitan area are interdependent, in words that echo very much your Mount Laurel decision and your Abbott decision. But very similar to Mount Laurel, the Supreme Court voted an interdependency of municipal units within a single housing and employment market.

SENATOR KENNY: Right.

The Chairman -- Co-Chairman referred to this issue before. Was there a lot of political-- When did this all happen?

MR. ORFIELD: The tax-base sharing act passed in 1971, so almost 25 years ago.

SENATOR KENNY: Seventy-one.

MR. ORFIELD: Yes.

SENATOR KENNY: Twenty-five years ago.

MR. ORFIELD: Thirty-five years ago. I'm sorry.

SENATOR KENNY: Thirty-five. Well, that's-- Thirty-five years ago is a whole different world. I just wonder how that would impact -- the political impact of regional tax sharing in New Jersey would resonate today. But that's a political question.

MR. ORFIELD: Yes.

SENATOR KENNY: Thank you.

MR. ORFIELD: Can I say that one of the things that has happened is, in the Twin Cities-- In the last decade, for example, the Twin Cities moved from the 14th highest median income in the area -- in the country, to the fourth. And it has had superb job growth in most sectors of its economy. And it has one of the most educated and strong workforces in the United States, and competes as effectively as any region does in the United States, with significant disadvantages in terms of weather and location.

ASSEMBLYMAN BURZICHELLI: Thank you, Senator.

Mr. Orfield, before we move on to Assemblyman Manzo, I'd like to pose a question.

I have a couple curiosities, again, to help us along here. With the success you've had -- and it sounds like it's very, very founded -- how come the rest of the state hasn't moved in that direction? Is it just with the layout? Why hasn't it expanded past the Twin Cities?

MR. ORFIELD: Many other parts of the state -- the Iron Range area of Minnesota, in the early '90s, adopted property tax sharing. And the St. Cloud metropolitan area (video malfunction) considering this as we speak. Challenges under the uniformity clause were also upheld in

2005, in the Iron Range district of Minnesota, for sharing property taxes. And they found it an extraordinarily successful program in the years that they've implemented it.

ASSEMBLYMAN BURZICHELLI: Why would there be continued challenges if the success is so pronounced in the Twin Cities area? Why is it -- moved to expand to other areas, that there would be a renewed challenge?

MR. ORFIELD: Well, I think that under the uniformity clause, the Iron Range municipalities, which were broader, and more diverse, and not part of a single census-designated metropolitan area-- The municipalities -- the contributing municipalities thought that perhaps the analysis that upheld fiscal disparities -- the Twin Cities property tax sharing system -- under the uniformity clause was not applicable.

But the Minnesota Supreme Court, with a conservative and Republican majority, (video malfunction) the constitutionality of Range property tax sharing, saying that although the communities within the Range communities were not part of a single metropolitan area, they were, nevertheless, interdependent as municipalities. Their economies, their workforces, and their housing markets were interdependent, sufficiently, to justify the passage of tax sharing on the Range and uphold it under the Minnesota uniformity clause.

ASSEMBLYMAN BURZICHELLI: If you were to help us -- suggest to us what the single greatest barrier to this was when it was thought about in '71, or presently is in the expansion, is there one area that is the barrier, or is it just the political wherewithal? And I don't mean in a partisan way; I just mean in a local government way. Is it just the wherewithal to consider this is the barrier; or are there technical barriers that we have yet to hear in either presentation, both in our House today or you from a distance?

MR. ORFIELD: I think that when you have a multiplicity of jurisdictions, and lack of understanding about how a program may impact local jurisdictions, there are barriers. When people don't understand the effect on their own communities of a proposal they are usually against it. I think information is a barrier. In places like New Jersey, I think it's not broadly understood, that the overwhelming majority of suburban municipalities would immediately receive lower taxes and better services. I think that's a barrier -- that's not well understood.

It also is a struggle to-- It takes great political leadership and courage to introduce a bill like this. The man that passed our initial property tax-base sharing bill was a conservative Republican, who was very strongly attacked by jurisdictions that didn't like it. He was called names, and discredited, and I think had to weather a storm. Twenty-five, 30 years later, there is a magnificent bust of him in the capitol, and a state park is named after him. (laughter)

ASSEMBLYMAN BURZICHELLI: Senator Kenny is asking me to ask you what his name is.

MR. ORFIELD: Charlie Weaver Sr.

ASSEMBLYMAN BURZICHELLI: Very good.

We're familiar with name-calling in New Jersey. (laughter) But as Senator Kenny just said, not necessarily busts with regard to something in the State House. The kind of busts we have experience with usually involves other levels of government and their agencies. (laughter)

We have a few more questions.

But I want to feed to you-- I get a sense, based on your close working relationship with our local group, that you have a good idea of the landscape in New Jersey. And as Senator Kenny said, as we look to overlay this onto our constitutional discussion -- and none of us at this Committee level are familiar with the Minnesota constitution. Frankly, many of us are just becoming familiar with our Constitution to the detail we are.

But in New Jersey, over the years, efforts have been made to help regions out with regards to areas in need of redevelopment, and various pilot programs -- payment in lieu of taxes and things of that nature. So as we look at these various options, there are a whole lot of other things -- everything we touch requires us to look at several other things to try and pull things together. And that gives us a sense of the task we have here, when you're dealing with a Constitution in place since '47, and municipalities, and locations, and places that have been around for a very long time.

Let me move now to Assemblyman Manzo.

Lou, did you want to jump in with a question?

ASSEMBLYMAN MANZO: Yes.

Thanks, Mr. Orfield.

My question is: What percentage of funding do the schools in the Twin Cities get from state government, as compared to what -- how much they support on their own?

MR. ORFIELD: The state funding is in excess of 65 percent. Somewhere near 65 to 70 percent of school funding is state aid.

ASSEMBLYMAN MANZO: So what was it that drove the-- What were the issues that drove tax-base sharing, since it seems that it wouldn't be school taxes? You didn't have a school tax problem, I assume, at the time that you were driven to even consider revenue sharing. So were there other issues that were problems?

MR. ORFIELD: Reform on both of these problems was simultaneous in the early '70s. We worked both on school aid reform at that time, and have continued to increase support to schools and make it more equitable. But property tax-base sharing was seen to fill the need to reduce the internecine warfare between local municipalities with land use planning problems. Communities that had land use planning powers -- i.e. cities, towns, villages, statutory towns, cities -- were competing amongst themselves and using their land use in ways that were hurting the region.

They were zoning for very expensive houses, overzoning for commercial and industrial property, stealing malls from one another. These were things that seemed to create harms that were greater than the sum of their parts, discouraged our system of coordinated land use planning, and stopped us from competing effectively as a region within the world economy. Very much the same concerns outlined in the Mount Laurel case in New Jersey -- about overzoning for commercial and industrial; underzoning for affordable housing; competition among places that had a high fiscal capacity, winning the war against those that had a low fiscal capacity. So the idea was to deal with municipalities.

ASSEMBLYMAN MANZO: So would it be a fair assessment that, initially, the thrust of revenue sharing in the Twin Cities area was more of a result -- to remedy a problem created by land use issues rather than one created by school funding?

MR. ORFIELD: Tax-base sharing has a remarkable effectiveness across many fronts. It simultaneously (video malfunction) revenue capacity tax base with cities, counties, and school districts. It not only improves land use planning, but it makes municipal finance more equitable, school finance more equitable, and county finance more equitable; while at the same time creating more efficiency in the tax system and creating a system where true regions, true employment markets, true housing markets can effectively compete and gain benefits by global competition.

ASSEMBLYMAN MANZO: Thank you, Mr. Orfield.

ASSEMBLYMAN BURZICHELLI: Mr. Orfield, Assemblyman Merkt is going to join us with a question now.

ASSEMBLYMAN MERKT: Thank you, Professor. I appreciate your presentation for the Committee.

I would like to ask a question that comes out of New Jersey's peculiar situation. And that is, at the moment, our State is not experiencing a lot of economic growth. As a matter of fact, we are actually losing population as of the last year. And we have had, virtually, no private-sector job growth since the last recession.

So the question I have is: It sounds too good. How would this system deliver a property tax reduction to the largest majority of municipalities you're talking about without hurting the remaining municipalities?

MR. ORFIELD: This is a good question. The tax-sharing system would capture 40 percent of the net growth of new capacity to reduce disparity among municipalities. Growing places would still capture and maintain 60 percent of growth. There would be powerful incentives for them to continue to solicit growth. What it would do, however, is it would create powerful economic reasons for all of the municipalities to seek growth in a coordinated economic plan-- (video malfunction)

ASSEMBLYMAN BURZICHELLI: It's like listening to Howard Stern in the morning -- occasionally it freezes up on Sirius Radio. (laughter)

MR. ORFIELD: --by a coordinated economic strategy. The economic development strategy in New Jersey, as I see it now, is generally one municipality stealing them all from another; one municipality competing for something that's already in New Jersey and taking it away from another municipality where it's already there. There aren't any systematic incentives for municipalities to bind together to compete in an increasingly global economy.

In property tax-base sharing, the municipalities would have an economic incentive to get together and to use infrastructure, or whatever economic development policy, to increase the pie of New Jersey. In the Twin Cities, our region has moved from the 14th highest median income to the fourth. It has been effective in competition at the global level because every city, county, and school district benefits by that competition.

ASSEMBLYMAN MERKT: Mr. Chairman, if I may, a follow-up question.

ASSEMBLYMAN BURZICHELLI: Please, please.

ASSEMBLYMAN MERKT: I understand how the mechanism has worked in Minnesota. What I am having more difficulty with is understanding, in a time where New Jersey is not experiencing significant economic growth, where is this pot of money going to come from that suddenly is going to reduce the property taxes in the remaining portion, or in the larger portion, of the state? I don't see it working in the near term. I think it might be a long-term strategy we could look at, but I just don't see that it's going to produce the results you're promising any time soon, because the State's economy is not growing. So you couldn't really just tax the growth portion when there's no real growth.

MR. ORFIELD: There would be-- In a time when the tax base was (video malfunction) wouldn't be much to share and inequality would not be reduced very rapidly. That is true. But it would create incentives for all the municipalities to work together. And when there was growth, it would in short order begin to reduce inequality. In a time of very stagnant economic growth, the changes will be minor. But they will create a framework. Now, that's one of the benefits of property tax sharing, too, is that the changes are gradual. In the first few years of property tax sharing, only a few million dollars were shared. As it reached its full potential in about 10 or 12 years, it was closer to 300 or 400 million. It rapidly grew once the system began to grow and once inflation began to become -- and factored into this. It reduced disparities. In the beginning, the changes are gradual and that is, in some ways -- it doesn't have huge effects at the beginning, particularly in a slow-growth economy. But as soon as the economy begins to grow, it (video malfunction) effects, immediately, strong incentives for communities to work together to create that growth.

ASSEMBLYMAN MERKT: Thank you, professor.

And thank you, Mr. Chairman.

ASSEMBLYMAN BURZICHELLI: Thank you, Assemblyman.

Mr. Orfield, next you're going to hear from Senator Fred Madden.

Senator.

SENATOR MADDEN: Good afternoon, professor.

Can you hear me, professor?

MR. ORFIELD: Yes.

SENATOR MADDEN: Great.

The regional designations, the 100-plus municipalities. How did the Legislature or the governing body determine the regional designation?

MR. ORFIELD: At the time, they looked at the census-designated metropolitan area -- looked for a single employment and labor market, and they used the census definition of what a metropolitan area was.

SENATOR MADDEN: The region that's in place today, is that the original region that was organized in 1971?

MR. ORFIELD: It is.

SENATOR MADDEN: You went from 14th to fourth as far as your national ranking in regional growth. How long did it take you to make that movement? Is that over the past 35 years?

MR. ORFIELD: The talk about moving from the 14th highest median income to the fourth was from '90 to 2000.

SENATOR MADDEN: In New Jersey, there are some regions that are considered to be our fastest-growing regions, particularly in some counties. The question I have on my mind is, in a municipality whereby they are aggressively growing much faster than the pace of other regional areas, there is a need for that to have some economic growth within the town to balance out the cost. Allowing that growing town to only keep 60 percent of its economic growth -- is that fair and reasonable for them to figure-- Can they grow at such an aggressive rate and still sustain their quality of life with only 60 percent of their new revenues?

MR. ORFIELD: I think so. I think it is definitely not -- mutually, the communities that contribute have a much higher than average fiscal capacity. And keeping 60 percent of the growth allows them to increase that capacity. And these communities in turn need major infusions of infrastructure, both in terms of highways and sewer systems and other infrastructure, to support their growth from the larger state. Often that infrastructure aid is more readily forthcoming to wealthy municipalities when some portion of the shared revenue is helping the other cities, counties, and school districts. When they need the freeways, and the sewer systems, and the telecommunications infrastructure to experience explosive growth from the rest of the state, it often -- that infrastructure often comes more readily when they are sharing some portion of the growth that is created (video malfunction) from the community; but also, the labor market that serves that area, the transportation system that is created by the state and multiple jurisdictions. And that wealth and growth is created by many factors that influence it.

ASSEMBLYMAN MERKT: And my final question, professor, would be a little more direct in terms of those who have not been so successful in these initiatives. Can you identify for the members of the sitting Committee an example of a region that made the attempt to do the sharing, but it failed? And let us know why it failed.

MR. ORFIELD: I think Cleveland is an area that failed, in terms of trying to create that equality. It failed because I think it did not have strong leadership. It had very serious racial divisions. It didn't have the infrastructure of political leadership to make that leap.

Detroit (video malfunction) political leadership tried to deal with these kinds of issues and failed. At the same time, these failures by Detroit and Cleveland contributed to the enormous economic growth of Minneapolis and St. Paul, which sits on the far edge of the Great Plains, to be able to dominate that regional economy. Because Minneapolis and St. Paul had the leadership to make these changes when Detroit and Cleveland did not.

SENATOR MADDEN: Professor, you mentioned regional divisions when you spoke of Cleveland. Could you explain in a little more detail what you meant by that.

MR. ORFIELD: I think the Cleveland people didn't realize how broadly so many of the suburbs would gain by a system of regional tax sharing. They didn't realize that the majority of suburban legislative districts would receive lower taxes and better services. They stereotyped, I think, the possibility of change as something that would just help the poor cities and not the (video malfunction) of the suburbs. I think in

Minneapolis and St. Paul the communication was more effective and people understood here that the vast majority of the suburbs would have a benefit.

SENATOR MADDEN: Thank you for you time, professor.

And Mr. Chairman, I'm finished. Thank you.

ASSEMBLYMAN BURZICHELLI: Thank you.

Mr. Orfield, I think -- I'm looking to our members here -- I think our questions are complete. And I want to extend a thank you to you, on behalf of this Committee and the people of New Jersey, for joining us. And I really should have read this at the beginning, but I didn't have this in front of me. I'd like to do this just for those who have listened to your testimony, to get some background. Mr. Orfield is a BA, summa cum laude, from the University of Minnesota. He conducted his graduate work at Princeton University, which I guess gives you a sense of New Jersey, although some would say Princeton doesn't give you a full range of what New Jersey is -- but it gives you a great deal of what New Jersey is. He earned his JD from the University of Chicago, where he served as a member of the Law Review, after working as a law clerk. He worked as a law clerk for a Federal Appellate judge. Mr. Orfield was appointed Assistant Attorney General of Minnesota and appeared in significant cases before the United States Supreme Court, the state, and Federal Appellate Courts. He also has practiced in the private sector, and now, of course, he lives with his family in Minneapolis. And I should also mention that he has served five terms in the Minnesota House of Representatives -- so we recognize you as a colleague -- and one term in the state Senate. So his credentials, not only in the planning side, are significant, but his practical experience in touching the law and in making law is real. And I really am very grateful that you've taken the time; you're working with our local group, which gives us a real sense of where their resources are, and the resources they have to lean upon to talk about this. And I think your testimony today, Mr. Orfield, was very valuable. We look forward to seeing you the next time you visit the Garden State.

MR. ORFIELD: Thank you for having me. I enjoyed it very much.

ASSEMBLYMAN BURZICHELLI: Thank you, sir.

As we turn back now, our next -- and let me thank this group, too, if I may -- the Regional Coalition.

MR. HEIN: Mr. Chairman, thank you very much.

I just also would like to add that with Mr. Orfield working with us on an ongoing basis, he will be in the state again later on this month, on the 28th. And we would like to offer any member of the Committee here the opportunity to maybe raise some additional questions, which you may not have been able to formulate just on this kind of introduction to begin with. And if you'd like to be able to sit down and talk with him on a more one-to-one basis, we may be able to put that kind of thing together also. So we'd like to offer that to the Committee.

ASSEMBLYMAN BURZICHELLI: We thank you very much for that offer, and we do have a copy of your testimony now, which we consider to be valuable.

DIANNE R. BRAKE: Mr. Chairman. Excuse me, I just-- I'm Dianne Brake. Also, I'm an officer of the New Jersey Regional Coalition.

ASSEMBLYMAN BURZICHELLI: Yes, Dianne.

MS. BRAKE: I just wanted to say that we're working with many of the legislative districts--

ASSEMBLYMAN BURZICHELLI: If you would, would you make sure your mike's on, Dianne. (referring to PA microphone) Go ahead.

MS. BRAKE: Thank you.

I just wanted to say that we're working in many of the legislative districts to support this proposal, so it isn't just something academic that we're bringing here today. This is something that we've worked on for the last four years. Myron did this report that analyzed all of New Jersey's municipalities, as well as doing analysis that we showed you today, because we're very serious about this.

ASSEMBLYMAN BURZICHELLI: Dianne, are we in possession of that report? Do we have copies of that as well?

MS. BRAKE: This is a 2003. It is on our Web site, but we have no more copies. If you have the capacity to copy it, I would be happy to loan you my last copy.

ASSEMBLYMAN BURZICHELLI: We do. And if you would entrust that to our staff, I think we'd like to have that. The issue is very engaging. Senator Kenny leaned over to me and said, "Does it work in New Jersey?" The fact is, we don't know. That's why we're listening. So these kind of ideas are important. If we were starting New Jersey over today, would there be 500-and-some municipalities? The answer would probably be, not likely, but that's the framework we're working to promote.

MS. BRAKE: Well, thank goodness, the benefit of this, you don't have to relook at that.

ASSEMBLYMAN BURZICHELLI: And that's all helpful.

Let me ask the other two who have taken time to come: Did either of you care to make a short statement? And the emphasis on short, but we expect an impactful statement.

REVEREND CARL BROWNE: Good afternoon, sir.

I'm Reverend Carl Browne, one of the Co-Chairs of the South Jersey--

ASSEMBLYMAN BURZICHELLI: Reverend, I've never had a Reverend be short. (laughter)

REVEREND BROWNE: I can be quite brief. First of all, we thank you for inviting us here this afternoon. And we want to let you know that we're challenging this Committee to not only look at the short term. What our group and some other agencies around the state are saying is, in order to do fundamental change, you also have to look at the long term. And that's part of your mandate as well. And also, we cannot overlook the fact that regional tax-base sharing works in New Jersey. It has existed there. So we need to start the discussion looking at what already has worked legally and experientially in the State of New Jersey.

Thank you for your time.

ASSEMBLYMAN BURZICHELLI: Reverend, well spoken.

And this Committee takes its challenge seriously from both our Governor, our leadership, and the people of New Jersey who are looking for change.

Yes, sir.

PAUL BELLAN-BOYER: Hi. I'm Paul Bellan-Boyer from Jersey City. And I just want to add, in addition to fully agreeing with the comments of my colleagues, we recognize that there's a political reality here and that some people perceive this as a winner and loser situation. However, we know from our experience and we firmly believe that we share a common good. And that really the best way to benefit the cities is often to stabilize the suburban communities around them -- the first- and second-ring suburbs. And this is also a way to avoid long-term problems in the high growth areas right now. So we commend the Committee for taking a serious look at these proposals, and we look forward to further discussion.

Thank you.

ASSEMBLYMAN BURZICHELLI: Thank you very much.

And also, as the Chair, I'd like to recognize Paul Scully, who is the Executive Director. He's in the audience and made the trip today. We thank all of you for your effort, and I'm certain we're going to be back and forth. And if we find out that this is not a constitutional issue -- it may not be a constitutional fit -- today's time was well-spent because these proceedings are heard by many. It may give ideas to the legislative side of how to approach this. So I say to all of you, it's time well-spent.

I thank all of you.

That being said, is the Meadowlands Commission group here? I know they're scheduled for 2:30. If they're here, we'll move ahead, Senator.

SENATOR KENNY: Yes. Go ahead. Let's do it.

ASSEMBLYMAN BURZICHELLI: The Meadowlands Commission is going to join us, and we'll have an additional PowerPoint presentation on the Meadowlands tax-sharing plan.

And gentlemen, will this include that each third municipalities in New Jersey will have two NFL franchises so they will be healthy -- a healthy economy? (laughter)

If you'd be kind enough to introduce both of you to this Committee and to those watching on the broadcast.

ROBERT R. CEBERIO: Thank you, Mr. Chairman.

My name is Bob Ceberio. I'm the Executive Director of the New Jersey Meadowlands Commission, formerly known as the Hackensack Meadowlands Development Commission. And to my right is Irfan Bora, who is the Chief Financial Officer of the agency and the administrator of the intermunicipal tax-sharing formula for the Meadowlands district. Thank you for inviting us here today. And in fact, just to go to the first slide, just to give you an idea of the area that we're talking about, the Hackensack/Meadowlands district is approximately a 31-square-mile area made up of two counties of -- parts of Hudson, parts of Bergen; and 14 municipalities, no more than eight miles outside of Times Square, New York.

The next slide that you have before you just gives you a flavor of the land use map that we have that has a significant amount of activity on it and future growth. From 1969 up to 2004, we worked under one master plan that allowed for economic development of almost up to $4 billion during that time frame and almost the creation of approximately 76,000 jobs. The document that you see before you right now is our new master plan, adopted in 2004, which still allows for significant economic growth of almost $5.6 billion worth of growth, but at the same time allows for 8,400 acres of open space, primarily wetlands in the Meadowlands district.

The split that we have right now in the Meadowlands district -- wetlands to uplands -- is approximately 60 percent uplands, 40 percent wetlands. The amount of communities that we have are 14: Ten and primarily in the South Bergen area, as you see there from Bergen County; and we have four -- four in Hudson County. Our municipalities range in population from 58, being Teterboro, to, obviously, Jersey City being the largest municipality in our jurisdiction.

I have to point out that in 1969, when the Legislature created this regional district for the purposes of planning, it only carved out portions of those 14 towns. We do not have the zoning authority or the planning authority over the entire town. I think that's an important element. Imagine in this day and age going to a municipality and telling them they no longer have zoning and planning authority over part of their town. I think that would be a very difficult lift today, in the climate we live in.

But these are the 14 towns of the Hackensack/Meadowlands district. Specifically, our legislation was created in 1969, which included what is called the Intermunicipal Tax Sharing formula, or the tax-base formula. But our legislation is a three-part mission, specifically looking at environmental issues of this 30-square mile area, promoting economic development within that area. And the weirdest part of that whole mission is the management of solid waste, which is more a reflection of what it was in 1969, when we accepted almost 40 percent of New Jersey's garbage in the landfills of almost 2,000 acres.

Specifically, the legislative authority that we have, that created the Meadowlands district, was a recognition that the Meadowlands district is a very strategic piece of property -- this 32-square mile area -- considering the infrastructure it had, the roads, the potential for commercial/commerce development, so close to Manhattan.

Prior to 1969, the district, which was -- the zoning and the planning jurisdiction was left to the 14 municipalities, and you had a significant amount of development, a hodgepodge of development, development that did not work or have inner synergy with one another. A major development, for instance, on a border of one municipality that would use the other municipality's roads and some of its infrastructure, and it's water and sewer lines would then obviously-- But the other municipality not having any ratable wealth as a result of that project.

Intermunicipal tax sharing did, in fact, come before the Minnesota experience. It was in the 1969 act of the Commission. I can tell you very clearly, it has been litigated many, many times. It has been taken to the New Jersey Supreme Court in 1971. And in fact, New Jersey Supreme Court found it to be constitutional. What the Supreme Court in 1971 asked is that two elements be changed in that formula. One of the elements of the formula was the element dealing with allowing some of the shared dollars to be set aside for infrastructure improvements for the region. And the other element was an acknowledgement of a retention of tax dollars for the growth district to keep more money, depending upon the daytime population of that community. In other words, if you had a growth center -- a nighttime population of 16, but it grew to 60,000 during the day, there was-- And in the original formula, there was some acknowledgment that that should be recognized. So that was the '72 changes.

The 1989 changes to our formula recognized some anomalies that were found in terms of the mathematics of the formula, but also recognized the issue of tax appeals -- which is, I think, to the Assemblyman's question regarding how do you balance out issues during slow economic times. Tax sharing did not handle very well the tax appeal structures that municipalities faced during recession periods.

And in 1999, one element that we did find that we needed to change was the predictability of tax sharing for our municipalities, that would have to strike their formula. If you went through an economic cycle of recessions and a municipality had a great deal of tax appeals, and all of a sudden those tax appeals were somehow included in the formula, you would have large fluctuations for each municipality. And they didn't know how to budget, so we made those changes there.

Very simple: Tax sharing is the financial underpinning that allows the Meadowlands Commission to do regional planning. We cannot, for instance, create, under our planning or zoning or master plan, a growth center, and at the same time take a thousand acre Kearny area that has sensitive environmental area or park development and tell the town of Kearny that, "Sorry, that's all we're going to zone you for, and therefore you don't create any ratable wealth;" as opposed to a Secaucus that went from a $300,000 or $400,000 million assessed value in 1969 and is very close to $3 billion today as a result of our zoning. So, in essence, tax sharing in the Meadowlands district takes a portion of what is generated in, in this case Secaucus, and transfers some of those moneys over to Kearny, which is designated for open space wetlands and recreational areas.

Now we are different, we are different than Minnesota. We've moved away from the 60/40 -- that is the starting point for us -- so that we do acknowledge and take into consideration various factors of growth as a result of a municipality's growth.

And Mr. Bora will take you the rest of the way. We're going to go through this as quickly as possible and as clearly as possible, because this is boring stuff. (laughter)

I R F A N B O R A: Thank you.

What I'd like to do is just spend a few minutes--

ASSEMBLYMAN BURZICHELLI: Would you make sure your mike -- red light on.

MR. BORA: Okay. Thank you.

What I'd like to do is spend a few minutes going over how the formula actually functions. And this one slide that we have superimposes the Meadowlands zoning onto areas that receive or pay into the pool. What you see is a very unique picture here. You'll see that areas that are zoned green are the receivers, while areas that are zoned for commercial and other ratable are payers into the pool. So what I'd like to do is really very quickly go over what the fundamental concepts are behind this.

Just following up on what Bob had said earlier, you have to keep in mind that the Minnesota plan is quite different from New Jersey's. New Jersey's plan is designed to protect environmentally sensitive wetlands. This is not a fiscal disparity plan. There are many similar characteristics. For instance, they're both based on increments above a base year, for instance, and I'll describe that in a moment. But as Bob said earlier, a regional master plan really cannot exist without a framework for sharing taxes. And this was recognized almost 35 years ago.

So just a couple of quick notes on how it actually functions. The Meadowlands Commission does not have the power to tax. All local taxation is still the sole responsibility of the municipality. What we do is, we collect data on assessments. And what we can do is, because assessment practices vary from town to town, we equalize so everybody is on the same basis by using the State equalization ratio, which allows us to keep things on a level playing field.

Each year, in January, the Commission certifies to each of its municipalities the amount that they will pay in or receive from the pool, which is then carried out three times a year in equal installments. Quickly, going through the key variables that impact payments or receipts: Obviously, the biggest factor here is the growth in ratable, aggregate-assessed valuation, balanced by an equalization ratio. The tax rate comes very much into play here. The higher obviously the tax rate, or as we call it the *effective tax rate*, the higher amount that's shown in the pool. And again, I'll go -- and that's one side of the equation.

But I think a better way to really look at this is to say that what we're doing is: On one side of the equation, we have a pool of taxes generated from this additional growth that has occurred in the Meadowlands since 1970. On the other side of the equation, what we have is a set of credits which are given. So let's go through the first step: The Commission determines the increases in ratables that have occurred. There is a 60 percent retention. There was an earlier question regarding pilots.

The pilots are taken into account in the formula. What we do is, we take the total amount of pilots and come up with a hypothetical ratable based on the municipality's current effective tax rate. So that is taken into the formula itself.

There are credits, as I said earlier, credits for school children, for instance. This is a big credit that's given in the formula. Any growth in school children since the base year, we compensate the municipality for the cost to educate per child, on a formula based on that. And that can amount to quite a bit. One of our municipalities -- Secaucus -- received over a million dollars based on that.

MR. CEBERIO: And it's not based on the school funding formula.

MR. BORA: That's correct.

MR. CEBERIO: It is actually based on the true cost, taking everything into consideration to school that child.

MR. BORA: Now, what happens is, another credit that's given is a credit based on the amount of acreage the municipality has within the Meadowlands district. The higher the acreage, for instance, the higher the credits. Secaucus, which has almost a 20 percent area within the district, receives the largest credit. And those credits, when they're added together, are balanced against the liability that is there, based on the taxes raised from those ratable. If the credits are greater than what's due, obviously the municipality becomes a receiver, and vice versa.

At this point, we have eight municipalities which actually pay into the pool, five receive from the pool. The biggest payer is the town of Secaucus, which pays over $3 million. And we hear from them every year as to -- I don't think either one of us wants to step into that town. It's a very controversial issue for that reason. We have towns, such as Kearny -- Kearny being one of the largest recipients from the pool.

As Bob had said earlier, what we found out was, as we did this each year, there were fluctuations in payments. And obviously, this caused a problem in the municipal budgeting process. Because a tax-sharing payment or receipt goes in as a miscellaneous revenue or payment under a municipal budget. And working with folks from Bloustein -- Rutgers' Bloustein School of Public Policy -- we came up with a unique averaging system which stabilized the payments and receipts from the formula to no more than 5 percent of the previous year's liability.

And in conjunction with that, the Commission also created a stabilization fund which has funded itself, which allows that predictability to occur. Just to give you an idea, when we started with this we had -- the fluctuations amounted to a liability to the Commission of $4 million; today that stabilization fund has come down to less than 200,000.

Now, what I'd like to do is-- Actually, we'll go to this piece just to show you how the receivers and payers have changed each year. This goes back to several years, from 1999. The green areas are the receivers. As you can see, there was a slight change here. There are some municipalities on the fence. Nothing changed in 2001, nothing changed in 2002. In 2003, we had one municipality come up. And what you will see is, over the years, usually the payers and receivers range from 8:5, to 7:6. And that's what we have found out over the years.

I put this slide up because you can see that there's a clear correlation between growth and the payers into the pool. Secaucus, having the largest ratable base in the district, is the largest payer. And Kearny, that's one of the smallest, is one of the largest receivers from the pool.

SENATOR KENNY: How much does Kearny receive?

MR. BORA: It's over $3 million.

MR. CEBERIO: Senator, it's almost equal to what Secaucus pays in.

SENATOR KENNY: Right. That's what I thought.

MR. BORA: Recently, the Commission has embarked on looking at the formula again for several pieces that we feel should be looked at. One is wetland acreage, which is -- our Commission being one of the largest landowners in the district, in terms of acquiring wetlands. We wanted to immunize our municipalities from the agency taking control of wetlands for which no taxes are paid. That's the first piece that you see there.

Several issues, as Bob alluded to earlier, in support of our master plan: One of the biggest complaints that we receive about our formula is its complexity. And I have to tell you, it's a very complex formula, despite how simple the concept seemed. One of the complex cities-- Why it really was made more complex was a provision which allowed retroactive calculation of this formula. And I have a copy of this. It's about 15 pages long, and every page has about six or seven columns of numbers. Fortunately, we have a computer model which calculates it, but it's very complex and difficult for the layperson to understand.

The Commission has also looked at the issue of affordable housing to see if we can provide an additional credit for affordable housing.

MR. CEBERIO: On the affordable housing component, and as you heard prior to our coming up here, our thought process here was to change the formula to acknowledge any municipality that does receive COAH certification -- that they, in fact, receive some kind of additional credit within the tax-sharing formula, especially if it was a growth center and had to satisfy the needs of that particular growth in terms of affordable housing.

MR. BORA: There was a question earlier raised about how much of the taxes does a municipality retain. This is based on actual numbers. The numbers range from 84 cents, to all the way up to 96 cents on the dollar is retained by the municipalities after the tax-sharing payment is made.

MR. CEBERIO: It's much different, obviously, than the 60/40 Minnesota, where you're talking about, at the highest end, 16 cents on every dollar is shared versus a 60/40 split.

MR. BORA: The next slide is the stabilization that we have introduced. And as I said, we have tried to cap that to 5 percent, so no payer pays more than 5 percent of the previous year's liability.

MR. CEBERIO: And this has been a feature which has helped quite a bit on the political side -- of paying in or taking money out, and the fluctuation -- has been the stabilization fund, which each municipality obviously has supported.

MR. BORA: As you can see, this is a cumulative graph of changes in equalized value in Bergen and Hudson towns within our district. Interestingly enough, the lines move together and we have almost $6 billion worth of ratable between the two counties.

And finally, the question of how much is actually shared between the towns. The latest numbers are about $6 million (*sic*), and you can see the change in the growth, the size of the pool. If you go back to the previous picture and you look at this, there is a relationship that can be clearly discerned here.

The last thing that I really want to talk about is, very simply, as the Committee looks at this issue, what we have found out is that I think it's very important to clearly define, in a tax-sharing pool for instance, what should that pool consist of, what should that tax base consist of? In the Meadowlands, it's real estate taxes. How much of the municipalities' tax base should be included in the formula? In the Meadowlands, it's 60 percent. How large an area should it also cover? So that's really the first question.

The second question obviously would be how the costs are shared. As we said earlier, we allow a 60 percent retention for municipal services. Obviously that number changes from town to town, and it would be very difficult for our Commission, for instance, to determine what that number is. So that's another very important question -- is that if you do decide to allow for some costs to be retained, what are those costs and how should they be measured?

And finally, the last issue is, what's the basis for sharing? In our case, it's the percentage of land area that is occupied by each municipality in the district.

Actually, that's pretty much what I have.

MR. CEBERIO: Just a couple of points: What we packaged here in terms of tax sharing and administration of tax sharing -- which by the way, the Commission is the administrator but receives no funding -- we do it each and every year and distribute the checks to the municipalities.

As Irfan said, the pilots are also included. For instance, with future development in East Rutherford, that the East Rutherford municipality will negotiate pilots with the various entities at the Sports Complex. That pilot will also be shared with all the other municipalities.

The other thing is that this has also led -- and I know this is not the scope of this Committee -- but it has led to regionalization of services, where we have worked with the municipalities where we have purchased heavy pieces of equipment, where the Commission holds them, operates them, and shares those pieces of equipment with our municipalities, especially on the DPW side. Pieces of equipment, of almost half-a-million dollars a piece, we have incorporated into our operations as well. And that is something that we've done over the last four years.

Commissioner Susan Bass Levin is our Chair of our Commission and has been striving towards our 14 municipalities receiving regionalization or getting involved. So we're doing that as well.

In addition to that, the one thing that we're very proud of: Most recently, under our new master plan, and tied into this, is what we call a *project impact assessment*, where a new development would come in, and each and every developer that comes in with a certain development over a very specific threshold will have to do a fiscal impact statement -- which is shared with the municipality -- which indicates the number of school children and the impact on municipal services. And a developer's agreement is also entered into in conjunction with the Commission.

So putting that whole package together has made the tax-sharing system, to be very honest with you, easier to swallow for some of our municipalities -- if you take the whole picture of the region as a whole, and not just tax sharing by itself. Because there is no kidding anyone here. Telling a mayor and council of Secaucus that we're shipping -- what could stay of $3 million in our community -- and we're shipping it out, is not a very good pill to swallow at any time, whether it's new-found wealth or not, considering that we live and die on the property taxes. So there are its upsides, there's downsides. But over the four years, we've combined everything together to put a good package together that takes-- Even though we're a regional State agency, we've now taken into consideration the concerns of growth and what that means to school buildings, and what that means to DPWs, or police departments, or fire departments. And those issues are addressed, and they're addressed through tax sharing. So it's a package. And it's almost become -- the 14 municipalities -- has become almost a natural for regionalization in many areas. And that's what we've started to do.

ASSEMBLYMAN BURZICHELLI: Thank you very much.

Just some basic questions. First of all, when I hear Meadowlands, I automatically think of the Sports Complex and everything, everything occurring there. With this regionalization, this tax sharing as it's set up, I looked-- It appears to me, is Teterboro 100 percent in the district?

MR. CEBERIO: Teterboro is not totally in the district. But what has happened is, Teterboro-- The other municipality was able to get a piece of legislation passed to take Teterboro out when there was only 17 people in Teterboro, and the assessed value was well over a million dollars per capita. And Teterboro actually, under the formula, was receiving dollars. So it was a coup d'état, I guess, by the other 13 towns.

ASSEMBLYMAN BURZICHELLI: I guess my base question is, with this kind of degree of regional sharing in place -- as limited as it is, when you consider the entire state -- are property taxes as much of a problem in Carlstadt as they are in other parts, or is the property tax problem significantly less in the participating municipalities here? Are these people looking for property tax relief, or is the Commission delivering property tax relief in its present formula?

MR. CEBERIO: I believe if you look at -- out of the 14 municipalities-- And I've used many of the gauges which I read in the *Star-Ledger*, of which municipalities are under stress and which ones are not. I think out of our 14, we have five with the least amount of stress. But it's the nature of the area. I'm not going to say to you that tax sharing is the reason that that has happened. It is the fact that the Meadowlands being -- having the infrastructure that it has -- is a natural for development. And as long as there is the ability for development and infrastructure, they will come. And, obviously-- Because Carlstadt is a payer, for instance, into the tax-sharing formula, but because of it's ratable wealth, it naturally has a low tax rate.

ASSEMBLYMAN BURZICHELLI: Let me go around to see if anyone else--

Chairman, did you have a point?

SENATOR KENNY: I do. Thank you.

Thank you very much.

Getting back to the equipment used for regional purposes--

MR. CEBERIO: Yes.

SENATOR KENNY: Who pays for that?

MR. CEBERIO: The Commission has been paying for that. What it does-- We recognize the fact that as a regional entity having zoning and planning authority, that if we did not have the sensitivity of our actions on the municipality and its services, then we were doing an injustice to those municipalities. So after the last four years, what we've done is create a purchasing -- equipment co-op, which we add to each year. The Meadowlands Commission does not receive State appropriations.

SENATOR KENNY: So where do you get that money from to pay for that equipment?

MR. CEBERIO: We generate our revenue from four or five different areas -- anywhere from mining methane gas, to permits on development, to our solid waste operations. So we have established at least four or five enterprises at the Commission to pay for these costs.

SENATOR KENNY: Okay. But it doesn't come from the tax-sharing formulas.

MR. CEBERIO: It does not.

SENATOR KENNY: Okay.

MR. CEBERIO: That provision was taken out in '72 as a result of the amendment of '72.

SENATOR KENNY: Okay. The purpose of this Committee is to examine the Constitution as to ways to provide property tax relief by revisiting our Constitution. You did not require a constitutional amendment to create this Commission?

MR. CEBERIO: No.

SENATOR KENNY: Why not?

MR. CEBERIO: It was created by the Legislature in 1969.

SENATOR KENNY: Now, why was this not a constitutional issue? I think I know the answer. I mean, I'm not trying to quiz you, but you're-- The individual communities continue to assess their own communities.

MR. CEBERIO: Yes.

SENATOR KENNY: And you don't have classification of properties, correct?

MR. CEBERIO: Correct.

SENATOR KENNY: Everybody is being assessed according to--

MR. CEBERIO: That's correct.

SENATOR KENNY: --value based on the local assessors.

MR. CEBERIO: Yes.

SENATOR KENNY: So based on those two standards, this does not seem to be a constitutional question.

MR. CEBERIO: Correct.

MR. BORA: The rates within and outside the district are the same.

SENATOR KENNY: Correct. Okay.

Do you think that-- And I admire what you've done there.

By the way, does the Sports Authority pay into this at all?

MR. CEBERIO: No, the 750 acres of the New Jersey Sports and Exposition Authority site is exempt from our zoning and planning authority.

SENATOR KENNY: Right.

MR. CEBERIO: But the pilot that they pay to East Rutherford is, in fact, included into tax sharing.

SENATOR KENNY: They pay a pilot to East Rutherford?

MR. CEBERIO: They pay a pilot to East Rutherford, yes.

SENATOR KENNY: Okay. Now, the Minnesota plan-- I know you were here during that presentation. This model is quite different than the Minnesota plan, is it not?

MR. CEBERIO: Yes.

SENATOR KENNY: They have this 60-40 split, where the community keeps 60 percent of the ratables beyond the base, and then they share in the 40 percent. You don't go by that formula, right?

MR. CEBERIO: No, we do not. As a matter of fact, what we believe is, that this -- the tax-sharing formula is really more geared towards a planning tool -- a land use planning tool.

SENATOR KENNY: Right.

MR. CEBERIO: A tool that hopefully stops sprawl in the wrong areas, preserves wetlands. So we don't look at it as a financial disparity, as Minnesota.

SENATOR KENNY: Right.

MR. CEBERIO: We specifically use it for planning purposes.

SENATOR KENNY: Right. And I understood that from your presentation. Which leads me to believe that the Meadowlands, despite its value for all the reasons that we're aware of, doesn't appear to be a model for property tax relief, in terms of addressing disparity issues. Would you agree with that?

MR. CEBERIO: If only you were going to use it within a bigger context of planning, where you were designating areas that could not develop for preservation purposes. That would be the only way that it could work -- considering growth areas within that whole zone would be sharing with the areas that are preservation zones. So the preservation zones will be receiving some tax dollars, even though they have no ratables or need to chase after ratables. That would be the only case that would work here.

SENATOR KENNY: Okay. So the purpose of the tax-sharing plan in the Meadowlands is really to compensate communities that are not developing so that you can preserve, through your zoning powers, the wetlands and the environment. Is that a correct statement?

MR. CEBERIO: Correct, Senator. Correct.

SENATOR KENNY: Okay. Which I think is very commendable, but I don't know that that's a model for addressing property tax inequities in the state that we're charged to do, number one. And number two, as you, Bob, pointed out, there are no constitutional issues here, from what we can tell. So the genesis of all this, nearly 40 years ago, was to protect the wetlands. And the tax sharing was a tool in order to accomplish that, correct?

MR. CEBERIO: Yes, sir.

SENATOR KENNY: And your zoning power over this region gives you the ability to protect the wetlands.

MR. CEBERIO: That's correct.

SENATOR KENNY: And to compensate accordingly, you provide tax relief to the nondeveloping communities versus the developing communities.

MR. CEBERIO: Correct, Senator.

SENATOR KENNY: Okay. Thank you.

Thank you very much.

ASSEMBLYMAN BURZICHELLI: Thank you, Chairman.

Assemblyman Manzo, did you want to--

ASSEMBLYMAN MANZO: Yes.

ASSEMBLYMAN BURZICHELLI: Maybe a question.

ASSEMBLYMAN MANZO: Bob, it's my pleasure. It's good to see you again.

And I just have to comment on the outstanding job the Commission does in all the interrelations you have with all those different communities.

MR. CEBERIO: Thank you.

ASSEMBLYMAN MANZO: Even with Jersey City, I've experienced that. You do (indiscernible) job.

My question is: In giving the revenue from the other towns into the Commission, is that done on the local, individual person's tax bill, or is it billed to the municipality at the end of a year for them to pay?

MR. CEBERIO: Our Commission certifies it at the beginning of the year and takes payment on a quarterly basis from the tax collector of each municipality.

ASSEMBLYMAN MANZO: Okay. So, for example--

MR. CEBERIO: Either they receive it -- they receive a check or send in a check.

ASSEMBLYMAN MANZO: So each of those towns, then, just has one property tax bill going out to the municipality, and then the municipality takes the revenue, and then they make a payment. And that's even in the case of Secaucus, which is entirely -- as I see -- within your district. They would just collect their local property taxes, and then, I guess, shunt them off to your agency.

MR. CEBERIO: Assemblyman, that's correct. And normally out of -- sometimes out of voter protest, on the bottom of the tax bill, they will indicate how much they're sending the tax-sharing formula.

ASSEMBLYMAN MANZO: But do they ever realize the advantage that they got from the-- I guess the onset of the Commission really led to the growth, I think, of like a Secaucus.

MR. CEBERIO: I will tell you, Assemblyman, that today it's a very, very different world we live in, where there's a significant amount of cooperation among all the municipalities and the Commission. They do acknowledge that.

ASSEMBLYMAN MANZO: And then you mentioned something on a school formula.

MR. CEBERIO: Yes.

ASSEMBLYMAN MANZO: Now, how does that work where-- Jersey City has such a small strip within the district. I don't know if there are any schools within that portion of Jersey City that were in there. But how does that work?

MR. CEBERIO: Assemblyman, what would happen-- If there was a development in the Jersey City part of the Meadowlands District -- specifically a housing development, and that housing development generated, let's say, a hundred children, what would happen is you would do the calculation of that new ratable wealth. But at the same time, Jersey City would get the credit as a result of that development bringing in a hundred school children into the Jersey City system.

So what we would do is talk to your superintendent and ask the question -- not, what are you getting per child, for instance, in aid, but what is the specific and exact cost to educate that child? And that includes everything. So that while their State aid may be $10,000 or $11,000, but the actual cost is $15,000, it's $15,000 times the hundred school children. And that would be the credit to pull back.

ASSEMBLYMAN MANZO: So, in essence, Jersey City being an Abbott district, and having a set formula for kids -- say a non-HMDC portion of the district-- You could be-- Your formula would probably educate the child at a lesser or more economical -- I guess a person would say point, or financial point than the actual city would.

MR. CEBERIO: What it does is, it actually allows the municipality to -- even though there's a growth there--

ASSEMBLYMAN MANZO: Right.

MR. CEBERIO: --acknowledges that that particular development has created school children. And you get the 100 percent premium, or credit, that you would-- You won't have to share that new ratable. In other words, you deduct that whole credit off-- Let's say the building was worth $100 million, and that adds to your property rolls.

Well, that goes into the tax-sharing formula. You do the calculations. And one of the credits would be the hundred school children times $15,000. So we would drop that number down so your share portion is far, far less. And you get to retain it at the actual cost.

It's always the issue, for instance, that we hear all the time, "I don't need housing in my municipality, because my schools are shot." Tax sharing recognizes the fact that development brings in -- housing development can bring school children in. And, therefore, you should receive 100 percent. You should be able to retain that 100 percent, rather than sharing it.

ASSEMBLYMAN MANZO: My point was that your formula seems to educate a child, if it was in that district portion of Jersey City -- in your district -- at a cheaper cost than the school district of Jersey City would in the other. That was my--

MR. CEBERIO: I don't know. I can't answer that question. All I do know is that from a ratable perspective, you're pulling in a lot more.

ASSEMBLYMAN MANZO: Thank you.

ASSEMBLYMAN BURZICHELLI: Thank you, Assemblyman Manzo.

Assemblyman Merkt.

ASSEMBLYMAN MERKT: Thank you, Mr. Chairman.

And thank you very much, Director, for the presentation.

I, frankly, find this to be one of the nice things about being on this Committee -- is I continue to learn more and more about New Jersey and some of its more arcane institutions.

Just for my information, I understand you don't receive an appropriation out of the State budget each year. How large is your staff, and how large is your budget?

MR. CEBERIO: With all our-- Well, our staff is approximately, at this point, 117. And our budget is approximately $10 million. And within that $10 million includes a lot of these other programs that we've referred to. So it's an operating budget, plus aid going out to our municipalities.

ASSEMBLYMAN MERKT: Wonderful. I thank you so much for your presentation.

Mr. Chairman, thank you.

ASSEMBLYMAN BURZICHELLI: Thank you, Assemblyman.

Bear with me one second, gentlemen.

I'm sorry, gentlemen. Thank you.

If there are no other questions, I want to extend a thank you to both of you for stepping forward. You heard the, I'm assuming-- Did you hear some of the testimony from the gentleman from Minnesota?

MR. CEBERIO: Yes, we did.

ASSEMBLYMAN BURZICHELLI: It was an interesting follow-up to seeing what New Jersey has in its limited way. And as Senator Kenny said, it doesn't appear to be the answer, but it's working where it's situated.

MR. CEBERIO: For planning purposes, it is an answer. For property tax relief, it's not really the answer.

ASSEMBLYMAN BURZICHELLI: Yes, I don't think New Jersey-- New Jersey doesn't seem to be afraid to try things. We just haven't done something statewide, I guess, that has brought us a solution -- at least not yet. But we expect, hopefully through this effort, that maybe we'll crack some additional formula that is going to help across the state, to keep everything moving along.

Thank you, gentlemen, very much.

MR. CEBERIO: Thank you.

ASSEMBLYMAN BURZICHELLI: Thank you for helping us.

Now, we were scheduled for a later time to begin. We're actually pretty close. We're only 10 minutes ahead of schedule.

Next up, if she is here, is Donna Lewis, Planning Director of the Mercer County Planning Division.

Donna, you're here. Wonderful.

Hello, Donna. Welcome.

D O N N A M. L E W I S: Hello. Thank you.

ASSEMBLYMAN BURZICHELLI: Donna, I have down that you're going to discuss the typical planning issues that arise under the constraints of the current system of property taxation, which constraints obstruct regional solutions. And that will be a good conclusion to what we've heard, following today. Because we're looking to see where the barriers are if, in the long-term, maybe something like this is pursued.

MS. LEWIS: Thank you for inviting me to speak to you today.

I think, to some degree, what I'm going to do is put real life projects in the context of some of what you just heard. I heard the end of the Meadowlands presentation.

I was-- I think the reason I was invited here is because of a particular project that we initiated in Mercer County a few years ago, that will not be successful in the absence of some form of intermunicipal cooperation, that involves sharing the risks and the benefit of redevelopment, or in the alternative, tax reform.

I've reviewed the transcripts from some of the earlier hearings, particularly the comments from the Regional Plan Association and New Jersey Future. And I will put my comments in the context of some of the issues and proposals that they suggested.

In 2004, Mercer County commissioned an Urban Land Institute Advisory Services Panel to study the area where Ewing, Trenton, and Lawrence meet. The panel assignment was to recommend redevelopment strategies for the area that they dubbed *Mercer Crossings*. This is basically the back door of each of the municipalities, and historically receive the least desirable development. But it is now the location with greatest potential for redevelopment.

The Panel ignored the municipal boundary lines and made recommendations for rational, practical, and sustainable redevelopment based on the best use of each parcel as determined by location, infrastructure capacity, adjacent uses, and market potential. The problem is, of course, that those municipal lines do, in fact, exist. And redevelopment as recommended will not happen in the current system of taxation.

Subsequent to the ULI Panel, Dr. Martin Bierbaum, Director of the Municipal Land Use Center at the College of New Jersey, prepared a white paper analyzing various implementation strategies addressing the "windfall/wipeout" syndrome that's created when redevelopment areas cross municipal boundaries. And I've provided you with a copy of both that white paper and the Panel report. I handed it to somebody.

ASSEMBLYMAN BURZICHELLI: Donna, if I may, we've encouraged those that have been in front of us, that want to be so helpful, not to read their statement, because we have the statement. And that allows--

MS. LEWIS: Okay. That's fine.

ASSEMBLYMAN BURZICHELLI: So if you could just work in general from it. It will probably allow for a freer form of discussion. You'll be more comfortable.

MS. LEWIS: That would be fine.

We have been working with the municipalities over the last two years -- with the three municipalities. And it's been a pretty solid, sustained effort to try and come up with ways to move this development and to get things going. And we've had some conversations about some voluntary version of tax sharing, where everybody takes risks, and everybody benefits. But there's really no incentive for the municipalities to take that risk. And they've been very, very hesitant in doing it.

The only success that we've had so far -- and we've done a lot of work -- but it's really been regional things that the County has taken the lead on. And the municipalities have been cooperating, but have not really jumped in with both feet. And without some form of incentive for them to do that, it just isn't going to happen.

Now, that's one example. And that's really a very small example that-- Most of you probably have never been in that part of

Mercer County. And you have very little reason to go there unless you go to the Trenton Farmers Market.

But a much more substantial issue is going -- much more substantial example of the same issue is going on, on Route 1, which I'm sure all of you are familiar with. And that is, there are 17 municipalities across three counties that have been working together for the last six or seven years to-- And their organizing issue is Route 1, and the development on Route 1, and the traffic on Route 1, which is pretty much an unsolvable problem in the future.

They disagree on almost everything. And the only things those 17 municipalities agree on is that there is a need for tax reform and that there is a need for some real, meaningful, modern transit system on Route 1. In order to make transit work on Route 1-- And this is pretty much from Trenton to New Brunswick -- is the length of the study area. In order to make it work, there needs to be real mix-use development, and there needs to be density, not just of nonresidential development but of residential development, as well. And while there's lots of great, nonresidential development going up on Route 1, there's no residential development. And everybody sees school children and cringes, because of the cost of the system and the cost to educate them.

So while this is -- this Bus Rapid Transit project, that is working its way through New Jersey TRANSIT, and will ultimately work its way to Washington to compete for funding in a very, very competitive environment-- Unless there is an incentive for those municipalities to work together, and for some municipality to be willing to accept -- actually more than one municipality -- to be willing to accept dense housing, that project isn't going to work either.

So some of the-- Two of the suggestions that have been made by the RPA and New Jersey Future-- Bear with me until I can find my spot here. One talked about increasing the taxation rate for nonresidential properties versus residential -- the Uniformity Clause. That's still not going to increase housing opportunities. Just because a municipality can get more money on nonresidential development or land that's developed nonresidentially, they're just going to go for more nonresidential land. They're not going to change their zoning to embrace more houses.

And the split-rate taxation may-- I'm concerned it could discourage land assembly in areas where -- in brownfields and areas that are redeveloping. Because the longer a parcel stays vacant, the higher the tax rate. And this is kind of a long way of saying that this is a-- As you well know, this is an exceedingly complicated problem. And it's not going to be able to have a one-dimensional solution. I think that in order to -- and some of it will be constitutional, and some of it will be legislative -- that it's going to have to have a package of lots of pieces that come together, so that when one problem is solved, another one isn't created. And in that context, I would urge you-- There are many, many examples around the state of different projects like the two that I mentioned. In order to evaluate the various options and various proposals, somebody should take some -- a couple of examples, and really test them, and see what the impact of a split-rate taxation would be -- or of these various proposals. Take them, evaluate them, and see what it would mean on the ground in different places throughout the state.

And that is pretty much all I had to say.

ASSEMBLYMAN BURZICHELLI: Well, thank you very much. And we have the full text of your written statement with us.

Any members of the Committee care to advance a question? If not, I'll thank this individual for being with us and helping us keep an eye on this process.

If you think we hit a point where you could -- should be rejoining us or want to submit something to us, please do that.

Now, that being said, Chair, I'll move that we adjourn. And for those who have paid attention on the broadcast, we thank you for being part of it.

I'm sorry, we have one-- My great close was interrupted by my friend Assemblyman Lou Manzo.

SENATOR KENNY: I was moved. (laughter)

ASSEMBLYMAN BURZICHELLI: Thank you.

Lou.

ASSEMBLYMAN MANZO: Mr. Chairman, I would respectfully request that we get an opinion from OLS on some of the other things that were given in our charge to our Committee. In particular, Section 3D, where we should be reviewing not only amendments to the Constitution but, as well, other proposals the Committee deems appropriate, in regards to property tax reform. I feel we're just going to be painting ourselves into a tighter box if we don't get outside of it to solve this problem.

ASSEMBLYMAN BURZICHELLI: Very good, Assemblyman. I think those words speak for themselves. And if you're comfortable with having them reexamined, we'll ask that that be done.

As I was beginning to say, we thank everyone who participated today, those who took time to listen to this, or watch us on the Internet or broadcast.

Our next Committee meeting will be next Thursday. We will be visiting the State University of New Jersey, Livingston Campus, if I'm not mistaken -- the College Center. Senator Kenny will be chairing that meeting.

MS. BRENNAN: Rutgers, the Livingston Student Center, in Piscataway.

ASSEMBLYMAN BURZICHELLI: In Piscataway, the State University.

MS. BRENNAN: The State University.

ASSEMBLYMAN BURZICHELLI: That's correct. They're playing Ohio this weekend.

I thought that was what I was saying. But, then again, this is Trenton. Often, words you say don't exactly mean what they sound like.

SENATOR KENNY: You were very articulate, Mr. Chairman. (laughter)

ASSEMBLYMAN BURZICHELLI: Thank you.

We stand adjourned at 2:58.

We thank everyone for participating.

(MEETING CONCLUDED)