Committee Meeting

of

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

"Testimony from invited speakers regarding property tax caps and spending caps as mechanisms for providing property tax relief"

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

DATE: October 5, 2006
1:00 p.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
Gina LaPlaca
Assembly Majority
Committee Aides

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

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SENATOR BERNARD F. KENNY (Co-Chair): Chairman Burzichelli, we're going to get started, okay?

ASSEMBLYMAN JOHN J. BURZICHELLI (Co-Chair): Okay.

SENATOR KENNY: This is our fifth meeting.

I'm Senator Bernard Kenny. This is our fifth meeting, as well as having had two public meetings. So I guess it's our seventh gathering. We have, if the Co-Chairman doesn't mind, just a recap.

ASSEMBLYMAN BURZICHELLI: Please.

SENATOR KENNY: We've had extensive testimony about the role of the State Constitution and property taxes. And it comes down to several issues: One of them is the Uniformity Clause, which currently prevents the State from taxing property owners differently based on their classification. So everyone, theoretically -- and I the stress the word *theoretically* -- is taxed at 100 percent of true value. That doesn't happen in reality, because of the nature of local assessors. And when they decide to assess property at true value, it could take sometimes 20 years. So there's a great disparity and inequity in that system. But be that as it may, regardless of what your property is -- be it commercial, residential, or industrial -- it's assessed at supposedly true market value. And I emphasize the word *supposedly*, because in reality there's a lot of inequity in that system. But that's the first issue.

The second issue is the way we assess people, how we assess them. It's all done by local assessors. It's done on the municipal level; it's not done on the county level, it's not done on a regional level. There's regional assessments in the greater metropolitan area of Minneapolis and the eight counties that surround it, and that happened in 1971. But such similar efforts have failed in greater Cleveland and greater Detroit, where you have much more racial diversity.

And if I could just have your -- excuse me, Assemblymen?

So the more diverse your region is with respect to race, ethnicity, income, the harder it is to have a tax-sharing plan. It worked in Minneapolis and St. Paul in 1971, which is -- how long ago was that? Thirty-five years. I was actually in Minneapolis the night Robert Kennedy was killed in 1968. But it's very difficult to have a regional tax-sharing plan in a state like New Jersey. So that's another issue that we've discussed.

Then the nature of assessments and how they're done in the State -- and the Commissioner is here from the Department of Community Affairs, and she knows the difficulty of having equity in that area. And that's a constitutional issue actually, tax assessment. It's in our Constitution. And we could tax regionally and by county if we chose to.

Then the final issue that we've been dealing with is the whole idea of exemptions. And we have four exemptions in our Constitution -- religion; charity institutions/nonprofits; cemeteries; education -- that are not taxed. They're in the Constitution. So to undo that, we'd have to amend the Constitution. I don't think we're going to do that.

Then we have eight constitutional amendments that give special status to certain people, such as veterans, senior citizens -- tax abatements. And we would have to undo that if we were going to change those special classifications. And then we have a whole category of legislative exemptions that have been passed over the last hundred years.

So that's really our mandate. And the Chairman has been running these meetings with me. That's really our mandate. I don't know where we're going yet, and we're now into October. But our goal is, I think -- and I speak for this Committee -- that we're trying to give residential taxpayers, of the primary holdings, a tax break. If it was up to me -- and I know Arthur Maurice doesn't agree with this -- if it was up to me, I would classify; if it was up to me. But I don't think there's a sentiment on this panel. I don't think the Governor favors that. But I would give some sort of classification to a primary residential homeowner. But maybe we can get there another way without attacking the Uniformity Clause. Maybe we can get there another way. But I think we've got to come out of this Committee with something that gives residential homeowners -- certainly those who have lived in the same home for a period of time -- some tax break. That's something that I think the Co-Chairman agrees with me on. I think all the members agree with me on that, without attacking the Uniformity Clause. Because I know that that creates a whole -- it's a whole kettle of fish when you go after the Uniformity Clause. And I understand it. But we have to do something. We have to come out of this Committee with something. Otherwise we go to a constitutional convention, and that's -- I'm full of all these little metaphors today (laughter) -- that's another can of worms that I don't think we want to expose people of the state to.

So that's the summary of where we've been for the last two months. If any of the members would like to say something before we start testimony, we can--

Assemblyman Manzo.

ASSEMBLYMAN MANZO: Senator, I concur with your statements, that on the Committee's -- strive to come forward with something that is substantial. I think the reason we had to listen to everything up to this point is that we would be, I think, negligent as a Committee if we didn't listen to all the options that dealt with the Constitution. And I think we're coming down to the wire and zeroing in on what the problem is. It's the homeowner, the property taxpayer in that primary residence that needs the relief. And how best, hopefully, we can get to that avenue is where we should actually be focusing on, besides doing the other things we can in reducing spending initially, too. But I concur with you.

SENATOR KENNY: Thank you, Sir.

Assemblyman Merkt.

ASSEMBLYMAN MERKT: For whatever reason, it's not going on. (referring to PA microphone)

SENATOR KENNY: I'm sorry. My-- There you are.

ASSEMBLYMAN MERKT: Ah, there we go.

Thank you, Mr. Chairman.

Mr. Chairman, it appears to me that we have two specific tasks on this Joint Legislative Committee. The first one is to, frankly, be reactive to what the other Committees do. Because in some cases, our actions will be necessary to implement their actions and to sustain them. A good example is, if the Committee that is reviewing educational funding decides that there needs to be a change in the formula, we have to make sure that that decision, if ratified by the Legislature, holds up. And it may be necessary for us to actually have some constitutional action to make sure that it holds up. As you know, those decisions over the years have been reviewed and re-reviewed and re-re-reviewed by our Supreme Court, and it's made it very difficult for us as legislators, as elected, accountable representatives, to reach decisions that agree with the opinions of our constituents and meet the needs of our diverse population.

The second function -- and this is the one I find actually more interesting -- is those issues -- and you've enumerated a number of them -- where our own Committee has constitutional issues that we can consider that would impact property taxes for people of New Jersey. There are basically two ways to go about this, and maybe a combination of the two ways: One way is to shift the burden from one particular area of taxation to another. The other way is to look at spending and say, "This is how we got into trouble. This is what we need to fix." And there may be some middle ground.

I have found the hearings that we've had over the last couple of weeks very, very instructive. I'm glad that the public has had a chance to have some input into the process. But what is interesting to me, Mr. Chairman, is that I have not heard a lot of new ideas. And I, for one, believe that the Legislature must act, because I'm not sure there are a lot of new ideas out there that would come up in a constitutional convention. And assuming that the Legislature doesn't act and we then go to a constitutional convention, what if they don't come up with a new and workable solution? Then New Jersey is really in the soup.

So I think it is incumbent on not only our Committee, but all of the Joint Legislative Committees, to succeed in our mission, to be able to present a program to the people of New Jersey that they will find acceptable for general property tax reform. And I look forward to continuing to work with you on this process.

Thank you.

SENATOR KENNY: Thank you, Assemblyman.

Senator Lance.

SENATOR LANCE: Thank you, Mr. Chairman. And I very much appreciate the thoughts that you have conveyed to us this afternoon.

I agree with Assemblyman Merkt that we have a significant challenge, not only based upon the substantive matters we have been discussing, but also I agree completely with the Assemblyman that we may very well be reactive to the work of the other Committees. And our work, because it is a constitutional dimension, can complement the work of the other Committees.

I think we have done an excellent job in discussing the Uniformity Clause over a series of hearings; and I am hopeful and I understand we will be discussing, in the future, the very significant issue of debt in this state. And I appreciate the fact that that is on the discussion list, probably for next week; and that obviously has been an issue that has been of great concern for me.

Also, the issue that we're discussing today, of the fact that some of us believe that we need to have a dimension involved in spending caps. And I appreciate the fact, Mr. Chairman, that you have placed that on the agenda this afternoon. These are issues that we have not discussed to date, and I think that they are central to lowering the property tax burden.

Let me finally say, Mr. Chairman, that the morning press reports -- and I'm sure that many New Jerseyans have read this -- that our property tax burden is very dramatic. The highest counties in the nation regarding property taxes are Westchester and Nassau, in New York state; and then we have six of the top 10 in the nation. In order: Hunterdon, Bergen, Essex; Rockland, in New York; Morris and Somerset; Putnam, in New York; and Union, in New Jersey. Obviously, since I personally live in Hunterdon County, these are very disturbing facts and figures -- not that the people of New Jersey do not already know them, but this merely confirms the obvious. And I hope we can move forward together to address all of these problems, including the very difficult problem that exacerbates our property tax burden -- of State levels of debt and the fact that we do not have spending caps in New Jersey.

I appreciate working with you and the Co-Chair, and will continue to do so.

Thank you, Mr. Chairman.

SENATOR KENNY: Senator Madden.

SENATOR MADDEN: Mr. Chairman, thank you.

I would just like to eagerly get started and listen to the witnesses' testimony today.

Thank you.

SENATOR KENNY: Okay, thank you.

Okay. We have three individuals who are scheduled to speak today. And first is our colleague in the Senate, Senator Diane Allen.

Senator Allen, please come forward and take your place. We're happy to have you here.

SENATOR DIANE B. ALLEN: Thank you very much.

I'd like to thank the--

SENATOR KENNY: Is your microphone on?

SENATOR ALLEN: It is.

SENATOR KENNY: Okay.

SENATOR ALLEN: I'd like to thank the Co-Chairs for allowing me to speak, and I want to thank the Committee for the work that they're doing and all that has been accomplished so far.

I set forth, in Assembly Concurrent Resolution No. 3 -- it's the State admission of this Joint Committee to review and formulate proposals that address property tax reform through amendments to the Constitution of the State of New Jersey. And so I am bringing to the Committee today, for consideration, just such an amendment.

Senate Concurrent Resolution No. 15 attempts to address a portion of the property tax crisis by instituting a major constitutional reform to the matter in which the State government taxes and spends. I understand that some may question why reforming the State budget process is related to solving the property tax situation. And my answer to that question is actually twofold: First, fixing what's wrong with how we spend the people's money will create additional resources that the State can use to assist municipalities and school districts. Every dollar that we can save in Trenton is a dollar that can be provided as funds for education, in particularly our hard-pressed, middle-class school districts, many of which have not seen an increase in State aid for five years. So in short, the more economical a state budget, the more money that we can return to taxpayers and to local governments.

Secondly, I believe that in order for the State government to engage county and municipal governments in a discussion about making sacrifices at a local level, the State must come to that discussion with clean hands. So we have to show freeholders, mayors, and school board members that we are willing to make the hard choices that will also lead to lasting reform.

Most of the members of this Committee have served in elected governmental office during periods of economic growth, as well as economic distress. And we all know what that means when it comes to the enactment of a State budget. During periods of prosperity, tax revenues rise rapidly, often at rates that are higher than the private sector economy. And this is especially true in the case of income tax revenues. Due to the progressive nature of the income tax, income tax revenues increase far faster than the income tax base expands during periods of economic growth. And in a state like New Jersey, which has increasingly relied on income taxes collected from those in the top income bracket, the opposite occurs during economic slowdowns, as the beginning of this decade has painfully illustrated to every one of us.

When tax revenues dramatically fall, as a result of a downward turn in a business cycle, the government finds itself confronted by a budget crisis. In this, it can't afford to maintain the enhanced and unsustainable spending levels. The government responds to this crisis by either increasing taxes, in order to maintain current levels of spending, or by imposing across-the-board cuts in governmental services. Imposing significant tax increases creates a number of problems, not all of which are political. As you may recall, some of those tax increases imposed during the Florio administration, like those levied on heavy truck repairs and construction of large yachts, had unintended consequences that actually resulted in a loss of revenue to the State and a loss of jobs, as well, in the economy.

More recently, the Legislature was forced to repeal the so-called *Air Toxic Tax*, imposed in 2005, because it brought in dramatically more money than the sponsors had intended and, therefore, actually nearly drove a number of businesses out of the state. So if these tax proposals had been vetted under less dire circumstances, likely their flaws would have been exposed much earlier.

Similarly, the experience of making major cuts to government programs under such circumstances has been equally difficult. Decisions to cut spending are made at a feverish pace during the relatively short five-month period that we have between the introduction of the budget and the beginning of the new fiscal year. And that makes a reasoned effort of examining the totality of government spending all but impossible.

The task of imposing cuts by the Legislature can also be made all the more difficult if cooperation from the Executive Branch isn't forthcoming. We have to end this cycle of budget booms and busts. And I believe a new approach is needed that establishes a measure of stability on the revenue and expenditure sides of our collective ledgers, and permits us to put greater resources towards property tax relief. I believe the time has come for the enactment of a tax and expenditure amendment to the State Constitution, which Senator Lance and I have introduced in this session as SCR-15.

SCR-15 proposes to amend the State Constitution to establish an annual State appropriation limit and the State surplus revenue reserve fund. Under the amendment, all appropriations must be made as line items in dollar amounts, and are counted under this limit; and include moneys from all sources, including moneys from the Federal Government. This will require the full disclosure, through line-item display, of all off-budget expenditures that are typically authorized by the several-hundred language provisions in the annual Appropriations Act.

The only major exceptions to the limit would be appropriations for aid to school districts, municipalities, and counties; debt service on the statewide, voter-approved bonds; revenue constitutionally dedicated to finance the Transportation Trust Fund, the Garden State Preservation Trust; PAAD, and other revenues constitutionally dedicated from casino gaming for the purpose of assisting seniors and the disabled.

The appropriations limit allows annual State appropriation increases, but only on a rate that equals the sum of the annual rate of increase, if any, in inflation; and the annual rate of any increase in state population. This will unquestionably impose a measure of fiscal discipline on the State, and it will require us taking a hard look at those portions of the State budget that are subject to the cap. No doubt, some will use the current Appropriations Act to argue that imposing the cap would require a 7 percent reduction in State spending on the $24 billion portion of the budget that's subject to the cap. But New Jersey families are forced to make those decisions every single day about reducing their spending in order to live within their means. And maybe it's time for State government to do the same thing.

The appropriations limit could only be exceeded by passage of the Legislature of a fiscal emergency measure, by the affirmative vote of two-thirds of the authorized membership of each House of the Legislature.

This supermajority provision would permit sufficient flexibility to allow the State to react and appropriate moneys in the wake of a major national disaster, or terrorist attack, or some similar catastrophic event. The constitutional amendment also creates two reserve funds in the State Treasury to annually set aside taxes collected during the prior year that exceed the amounts appropriated. We have called them *unanticipated excess revenues*.

One-half of the excess revenue would be placed in a surplus revenue fund that could only be appropriated for State spending that's within the annual State appropriations limit, or falls within the exceptions to that limit. And when the balance in the surplus revenue fund exceeds 5 percent of the total annual appropriations, the amount in excess of 5 percent must be returned to real property taxpayers as direct real property tax relief.

But it's the other fund that the people really want and that I hear from the folks in my district the most, and I suspect most of you do as well. The other half of the excess fund will be placed in a real property taxpayers dividend fund that would be returned annually to real property taxpayers as real property tax relief. The creation of a constitutionally established, surplus revenue fund may help achieve the illusive goal of sustainability. Supporters of the constitutional convention have spoken of that and say that that's one thing we need in reforming the State's tax system.

It may be argued that direct property tax relief should take a backseat to greater programmatic aid to municipalities and school districts, especially if the new school funding formula being devised by the Joint

Committee on Public School Reform (*sic*) ends up costing more in the aggregate than the current system.

I'm absolutely willing to engage in an open and bipartisan discussion of these and other points. And I do encourage members to discuss their views with me at their convenience. I bring this concept to you simply as a place to start.

I hear from my constituents every day about higher property taxes. I know personally, right now, several elderly residents in my district who are going to lose their homes because of their property tax increase. I'm sure you know similar folks in your own district. So I pray that you look at this with an open mind and an open heart. And again, I look at this as just a jumping-off point for discussion, and hopefully for change.

SCR-15 represents a significant step toward fulfilling that long-forgotten process of changing the way that Trenton does business. Hopefully we can work together to improve the legislation. A constitutionally imposed appropriations limit, coupled with voter approval of bonding, joint executive and legislative revenue forecasting, and other fundamental reforms would establish a new framework for fiscal responsibility that members, I think of both parties, could endorse.

Thank you very much, Mr. Chairman.

SENATOR KENNY: Thank you, Senator. You're very articulate, as always.

Senator Lance.

SENATOR LANCE: Thank you, Mr. Chairman.

Assembly members and Senate members, I think, should examine this proposal in an open fashion. Senator Allen has done, in my judgment, a superb job in pointing out what we believe is an excellent amendment to the Constitution. And we do not wish to be draconian. And as the Senator has pointed out, there are exceptions for certain aspects of the State budget. And roughly, two-thirds of the State budget would come under this proposal. And we recognize that there are portions of the State budget where it should not occur. And we also recognize, importantly, as Senator Allen has indicated, that when there is some sort of extraordinary situation, as occurred across the country and particularly here in New Jersey after 9/11, that it would be the unanimous will of the Legislature to move forward with new levels of spending to fight terrorism and related activities.

This has been tried in other states and we have examined what has occurred in other states, Mr. Chairman, particularly in Colorado. And we want to work in a bipartisan fashion. But we really do believe that this would have the effect of lowering the property tax burdens for the reasons Senator Allen has suggested. And this -- coupled with the discussion later in our proceedings, in coming weeks, on requiring voter approval for all bonding -- we believe would revolutionize the way we budget and would have an excellent, excellent effect regarding the property tax burden.

We commend it to the attention of every member of this Committee, to every member of the Legislature, and we look forward to suggestions to improve it. But this has been drafted with great care, with precision, and not in a draconian fashion; but in a recognition that we have to move forward together, in a bipartisan capacity, to make sure that spending does not continue out of control; and that government should operate the way families here in New Jersey operate. And it is in the spirit of good faith that Senator Allen and I, and in particular under the lead of Senator Allen, presents this proposal to the Committee.

Thank you, Mr. Chairman.

SENATOR KENNY: Thank you.

Anybody on the Committee?

Yes, sir.

Assemblyman Merkt.

ASSEMBLYMAN MERKT: Thank you, Mr. Chairman.

Senator Allen, great proposal. Frankly, there are a number of proposals in the Legislature already -- I'm talking about on the Assembly side -- that come pretty close to your proposal. And I would join in your comments that the important thing is to get the idea on the table so that we can have the discussion. I think you've hit a lot of the important elements, and I really think that the Legislature is missing if we don't seize this opportunity to address this particular issue.

I remember when S-1750 was passed into law that placed the limits -- I think it was a 2.5 percent limit on school districts and also communities. And in that same year, the Legislature itself approved a budget that increased, I believe, between 17 or 18 percent. We can't sustain that kind of growth. So what you're talking about, in my humble estimation, is absolutely indispensable to getting property taxes under control. I think you make a great point when you talk about the squeeze-out effect of the State budget. And whether that squeeze out takes place because the State itself is expending too much money in a given year, or whether that squeeze out takes place because the State has borrowed so much money and its debt service is pushing other things into the background, we still have the same problem. We are not having the money we need to provide meaningful property tax relief to the people of New Jersey, who really desperately need it.

So I am just delighted to hear your proposal. I really hope this Committee takes it under serious consideration, as well as the other proposals that have been put out. I did write a letter to the Chairs and the members of the Committee last week that specifically addressed an ACR -- Assembly Concurrent Resolution that I have proposed. But I would be more than happy to have all these issues come out on the table at the same time. Great job.

Mr. Chairman, thank you so much.

SENATOR KENNY: You're welcome, Assemblyman.

Senator Madden, do you have comments?

SENATOR MADDEN: No, Chairman.

SENATOR KENNY: No other members do? (no response)

I don't claim any expertise on this issue. Senator Lance and Senator Allen have been involved in it for a long time. I'm sure that the legislation being offered is, as Senator Lance articulated, is carefully conceived. I have a concern about limiting ourselves. Because just as September 11th was unanticipated, other things will be occurring to us as a nation, as a State, that we couldn't even possibly predict.

So I'm cautious as to limiting the State's ability to borrow money; cautious about its impact on a variety of sectors of our economy and life that future generations are going to have to deal with. Just a sense of caution about it, not a criticism. But I -- the ability to borrow is an important power of government, and it merges in walks of life that we could never dream of from one year to the next, whether it's the taking care of mentally ill people, AIDS epidemic, helping other countries, helping ourselves dealing with tragedies -- you just don't know. So I'm concerned about it. And I respect the initiative, but--

And on another note, I just want to -- and Assemblyman Manzo was part of a conversation yesterday -- the Governor has approved the 9/11 Memorial for the State of New Jersey in Liberty State Park, which will have the 700-plus names of New Jerseyans who were killed on that day.

Where I live, in Hoboken, 07030, we have the most in our zip code -- 58. But predominantly, the victims came out of central Jersey -- Monmouth and Middlesex -- commuters into lower Manhattan. So the Governor approved this memorial. It's going to be 20 feet high, maybe 30 feet.

Louis, I forget.

Louis and I aren't on full agreement on this (laughter), but it's going to be 30 feet, two slabs parallel, with a view carved where the World Trade Center was. Thirty feet high, 200 feet long, stainless steel, and 17 feet apart, the slabs. And it's going to be on the waterfront. And I'm no expert on monuments, but I think this is going to be one that 50 years from now people are going to come to and look at, walk between these walls, and see what was the World Trade Center -- with the 700 names of New Jerseyans there. It was a tough decision for the Governor, and it was controversial. But he came down in favor of doing it, and I personally think he did the right thing.

Louis felt that it should have moved further inland, and that's a legitimate point of view. But the Governor finally made the decision. But it's, in my opinion -- and I know I'm digressing from what we're doing here today -- in my opinion, it will be a monument that will be compatible with the Statue of Liberty, and Liberty Science Center, and the Central Railroad Terminal. I don't think it will be a detraction from that. I think it will be a complement to it. And I think people will come there for generations to understand what took place there that day in the State of New Jersey, what took place in Jersey City and Hoboken, Bayonne. Seven hundred-plus people died.

I think the Governor made a correct decision. And I just want to recognize it. Mayor Healy, others, had a different point of view. I've been a supporter of that Park for 20 years. In every facet, I've been a supporter of that Park. But we're going to now have a September 11th Memorial for the State of New Jersey, on the Hudson River, that will be with us for posterity. And I think it will complement the Park. And I only bring it up because 9/11 was mentioned as a catastrophe that we didn't anticipate, and such things happen.

But, Senator, you have my respect for your -- as does Senator Lance, on your concern about the borrowing. I just have a reservation about it that -- which is well known in public places.

SENATOR ALLEN: May I just--

SENATOR KENNY: Go ahead. Yes, please.

SENATOR ALLEN: Thank you.

It doesn't seem to want to-- There we are. (referring to PA microphone)

This is the kind of discussion that I hope will occur not just here, now, but among your Committee as you try to make some decisions as to where we're going. I think there probably are ways that we can deal with that. We need to, I think, perhaps-- I would like, if we could, to come to a decision that we need to, in fact, cap spending in some way. And if we make that decision, then we can take the next step of, all right, where do we want to go. We have a supermajority overrule vote, which would in some ways help what you're talking about, if there is some major catastrophe. It's hard to imagine one as awful as 9/11, but certainly, we need to be aware that those things do occur.

Perhaps there is a way to borrow from the fund before we do something. Perhaps we can get something going for people to vote much quicker. There are so many different things that we can look at, but we first need to say that we're going to take a very hard look at capping spending. Because the folks down the line are going to have a tough time accepting caps and accepting their property tax is not going down significantly. And we need to lead the way. And to lead the way, I really believe we need to say that we're going to exercise greater fiscal restraint. It's not going to be easy, but it is something that I feel like we must do. We've told the people we're going to come together, and come up with ideas and we're going to solve this issue, at least to the best of our ability. I think that this is a way for us to start another edge of discussion.

SENATOR KENNY: Thank you.

SENATOR ALLEN: Thank you.

ASSEMBLYMAN MERKT: Mr. Chairman?

SENATOR KENNY: Yes, sir.

ASSEMBLYMAN MERKT: One more comment?

SENATOR KENNY: Sure.

I think Senator Madden had asked me first, if you don't mind.

ASSEMBLYMAN MERKT: Oh, certainly.

SENATOR KENNY: Senator.

SENATOR MADDEN: Thank you, Chairman.

Thanks, Senator.

I just want to discuss, openly, a couple of the points in the bill. One regarding the caps to the State spending, and keeping it in mind with the rate of inflation in conjunction with population growth. Correct? That's the--

SENATOR ALLEN: Yes.

SENATOR MADDEN: And I believe Senator Lance referenced the state of Colorado as a, I guess -- the genesis of the bill to some degree.

SENATOR ALLEN: There are actually about 26 states that have such bills, but we certainly did look at Colorado's, yes.

SENATOR MADDEN: Okay. Just taking from today's statements and testimony, Colorado was referenced; that's how I had picked that one. But with that in mind, if we could just have a dialogue back and forth for a few seconds regarding that, it's my understanding that in, say, Colorado specifically, when they had capped the state to the rate of inflation in conjunction with its population growth, over a nine- or 10-year period, I believe that was voted in by the people in the early '90s, around '92 or so. And somewhere in or around the year 2000 or 2001, there was a reassessment as to the effectiveness of that cap in terms of governmental state services. And the reports had shown that the state services in Colorado had decreased ever so significantly. There was actually, nationally, a decline in uninsured children throughout the nation. Even in the state of Colorado, the uninsured health-care ranks for children had arguably doubled. And I just share that with you for -- with what's going on in today's day and age, regarding a lot of the sector-driven, rising costs, whether it be fuel and transportation-- But if we could focus specifically on health care, since both of us sit on that Committee, it might be a nice place to zero in on this. Those costs to corporations and even our own state governments have risen in double-digit rates over the past couple of years, and they're exorbitantly high. Well, if we keep our spending to the rate of inflation, we're going to have to pick that money up someplace by potentially cutting services to critical areas, whether they be schools, hospitals, or social service programs. And though I believe, in your bill, that they talk about a supermajority to override such issues, from my three years only in the Legislature, I'm not quite sure that's as smooth of an undertaking as it may seem, just when it's written in a bill. But if you could just share a comment with me. Maybe on the Colorado experience--

SENATOR ALLEN: Absolutely.

SENATOR MADDEN: --and maybe follow up on that. But thank you, Senator.

SENATOR ALLEN: Absolutely.

They have the TABOR, which stands for the Taxpayers Bill of Rights -- and they did do this in the early '90s. And it was one of the ones that we looked at. And one of the things that we really gleaned from their bill was the mistakes that they made. And you've brought up quite a few of them. They didn't allow for a supermajority, but more importantly, they didn't permit a rainy day fund. And what we're talking about is taking the -- I'm going to call them *unanticipated excess revenues,* those extra dollars that come in after our capped budget -- and half of those dollars go immediately for taxpayer relief. But the other half go into this reserve fund, rainy day fund -- call it what you will -- the concept being that when we get into bad times, we have something from which to draw. Colorado did not. So that was a big problem for them.

Secondly, you mentioned education. And we're not capping education. Colorado did, and that was a real problem for them. I guess those were the primary things that we got from it, but we saw that what Colorado did do over that period of time was increase jobs in the economy enormously and cut taxes enormously. And had they gone our route, I think they probably would have been okay.

Many of the other states that have such caps have gone the route of making sure that education and state aid for municipalities and counties are not covered. And we really felt that that was very important. We also thought that is was important that TTF moneys not be covered, and some states don't keep that out. Some states do cap all of those kinds of things. We want to make sure that infrastructure doesn't fall apart. We do want to make sure. There's no reason to do this bill if one thinks that we are going to be cutting the life out of the State of New Jersey. What we think we're doing is putting the life back in by letting people have more money to make decisions in their lives. And I think that that's what the end result would be.

SENATOR KENNY: Thank you very much.

Assemblyman Merkt, you have a question.

ASSEMBLYMAN MERKT: Thank you, Mr. Chairman.

First off, I misspoke earlier -- I said S-1750. I should have said S-1701. That was the cap bill, and that one has been the subject of quite a bit of discussion in my district, I assure you.

Mr. Chairman, if I may just address an issue that you raised. You talked about the importance of being able to borrow money under emergent circumstances. And I do think it's worth, just for the good of the order, noting that Article VIII of the Constitution already provides an escape clause in the event of a State emergency. The Legislature does have the right to borrow money on its own without going to the people. And I think that is a very prudent thing and something that we should certainly retain.

Just speaking briefly to Senator Allen's bill and also, frankly, to my own, both of them have a supermajority clause. Because I remember September 11, and all of us do. And on that time -- in that time frame, the Legislature met -- and I believe it must have been unanimous -- voted legislation to deal with the issues that arose at that time. So I really don't think a supermajority requirement -- a reasonable supermajority requirement would act as any kind of impediment to the State being able to react appropriately to an emergent situation. But if we don't have that discipline, then I'm afraid that every (indiscernible) will become an emergency.

So I salute you on that provision.

And I really do think that we have the necessary flexibility, Mr. Chairman, to deal with this problem.

Thank you.

SENATOR KENNY: Thank you.

SENATOR LANCE: Senator.

SENATOR KYRILLOS: Yes, sir, Senator Lance.

SENATOR LANCE: Thank you.

When Diane and I asked our staff, roughly nine or six months ago, to examine all of this, we made clear that we did not want to follow precisely what had occurred in Colorado or any other state, and that we wanted a constitutional amendment that was meaningful but did not constrict us unnecessarily. And to the best of our ability, that is what we have tried to achieve.

We have pride in authorship, but we welcome suggestions to make our proposal, and particularly Senator Allen's proposal, better. And we really believe that this is an exciting way to do what we are all trying to do together.

And in 1947, the framers debated, significantly, the clause related to debt -- Article VIII, Section II, Paragraph 2. And if I hadn't known that as a child, I would not have gotten dessert. (laughter) And there is--

SENATOR KENNY: I was more concerned about the Yankees and the Dodgers. (laughter)

SENATOR LANCE: But, of course, the Dodgers -- I guess based on your age -- they were in Brooklyn, weren't they?

SENATOR KENNY: They were. I was more concerned about that than dessert. (laughter)

SENATOR LANCE: Well, the Yankees are going to win this year, anyway, so--

SENATOR KENNY: They don't have the pitching. They're going to get beat, unfortunately.

Am I blocking you?

SENATOR LANCE: You're blocking me, Senator.

And I would be willing to have a small wager on whether the Yankees win. But I'm not going to borrow any money to pay my debt. (laughter)

SENATOR KENNY: Because you don't need to. (laughter)

SENATOR LANCE: This is not the Menendez-Kean race, Senator. (laughter) This is between you and me.

This is our best proposal. We welcome suggestions. It is not identical with any other state, including Colorado. We are familiar with what has worked in Colorado and what we believe has not worked. And critically important is the rainy day fund and the fact that the Constitution now permits borrowing, without voter approval, in extraordinary situations. And we appreciate the open discussion that has occurred here.

Thank you, Mr. Chairman.

SENATOR KENNY: Thank you.

All I want to add to this-- And I, again, do not in any way question the sentiment by the Senator -- both Senators. But the ability to borrow money is an important function of government. It's critical.

New York City would not have been built without borrowing. And they built that city out of five boroughs: Long Island, Brooklyn, Manhattan, Bronx, Staten Island. They built that city by borrowing and made it the greatest city in the world -- greatest city in the world, New York

City. And it was all done by borrowed money, which eventually got paid back. It got paid back by taxpayers over generations.

So I think it's a simple thing to say that we have to not borrow money except for extraordinary purposes. But so many of America's greatest endeavors have been accomplished by public debt, including the railroads, the Erie Canal, public education. So many of our endeavors have been done by carrying debt over generations -- so many. So I'm cautious about it.

And it's a nice bandwagon to be on, but it's not one that I'm very comfortable with. We would not have the country that we have if we did not incur debt. Sometimes you have to incur debt. And I'm just concerned about it. That's all. That's my point.

ASSEMBLYMAN BURZICHELLI: May I?

SENATOR KENNY: Yes, sir, Co-Chairman.

ASSEMBLYMAN BURZICHELLI: Good afternoon, Senator Allen.

Just a point of curiosity, because as I read the bill in its present state -- and I also applaud the effort. And it's, I think, an appropriate time for this kind of discussion to occur as these next few weeks play out.

But I'm just trying to gather what portion of the State budget would actually, in fact, in the end be capped, when you consider that we're going to exclude, from the cap, the State aid to school districts, municipalities, and counties; to pay the interest in principal due. And there's a significant list and portion of the budget that wouldn't be involved in the cap. And I recognize the amount of present State budget that moves out to these various areas.

Have you got a sense of what percentage of the budget you think would be affected by the cap if this were-- If this were a law today, would it be 15, 20 percent of it? It's not my intention to put you on the spot. I'm just trying to get a sense of what portion we're really talking about capping.

SENATOR ALLEN: I don't have a percentage. I would have to look at this year's budget and figure it out. And I have not done that. But I'd be happy to do that and get it back to you.

ASSEMBLYMAN BURZICHELLI: Yes, because-- And just to continue my thought, and considering a wide range of areas not within the cap -- maybe some of the concerns that we would have may not really be concerns. And maybe there's a portion of the discipline that would be imposed which would benefit us.

So I think it certainly merits a review, in a positive way.

SENATOR ALLEN: If I could just say also, that it does certainly allow for borrowing. It simply allows for borrowing that would be voter approved. And certainly the large projects-- Our voters approve borrowing all the time. They have vision. They understand when we're trying to do something big. So it wouldn't stop that. So I don't think that that should be as much a concern, Mr. Chairman.

And as to other things-- I know that there were -- there are other Committees looking at how to deal with other things. And hopefully, when they come up with their answers, we can kind of put that all together with this and make it work.

ASSEMBLYMAN BURZICHELLI: Thank you.

SENATOR KENNY: Assemblyman Manzo.

ASSEMBLYMAN MANZO: Thank you, Senator.

Senator, I'm a little confused. In the concept of this bill, is there a limitation to debt or bonding?

SENATOR ALLEN: Not--

ASSEMBLYMAN MANZO: Not within this bill.

SENATOR ALLEN: There is a not a limitation except that the borrowing would be approved by voters. And as I say, voters almost always approve the borrowing we put before them. But they would have the opportunity to see what the borrowing was.

ASSEMBLYMAN MANZO: So the only different thing in this bill that-- This would affect the outside agencies that aren't under control right now.

SENATOR ALLEN: We would want everything to be transparent. We would do things a little bit differently in budgeting, yes.

ASSEMBLYMAN MANZO: I would hope-- And I hear what Senator Kenny is saying -- that a lot of the good things we have wouldn't be done outside of debt. But I also feel that we also have to look at our unique circumstance in time, where some of that debt has gone astronomical.

The constitutional concern that I think is worth a starting point here is the fact that in coming -- with how this country was founded and how the Constitution-- We were born on a premise that -- taxation without representation, and shouldn't the people themselves, per se, have a finger in the decision-making process. I'm more acceptable to the fact that at least the Legislature, when we do bonding, now has a say. But it's these outside entities that don't even have all the checks and balances of us, as an institution, in having a say there; which leaves out the people of the state in having that. And I think-- I respect the fact that this is a good starting point -- I think at least for conversation -- on that.

The other thing I would emphasize is that I think the solution to the overall problem of taxes in the state, particularly property taxes, has to be a combination of spending -- doing something about spending -- and also correcting the fairness. Because if we just did something on the spending side, we do nothing to affect the average or the percentage of income that is currently needed to support property taxes or any tax in the state. And that's the thing that's driving so many people out, especially the middle-income. The poor are stranded here.

It's the fact that, right now, it's too great a percentage of income eating up on the poor and middle-income family, than it is of some of our wealthier people. So in moving forward, you have to have the component that puts the check and balance on spending, but, also, we have to address the fairness.

But I think this is a good start. And moving on the two directions, I think, is something that gives equity to everyone in the state. And I commend you for it.

SENATOR KENNY: Okay.

Yes, Senator Madden. And then Senator -- I mean, then Commissioner Levin.

SENATOR MADDEN: Thank you, Senator Allen.

Voter approval on all debt-- Is there a chance, since you and I both represent southern New Jersey districts-- Is there a chance that our districts could be slighted by the sheer fact that we have a lighter population than North Jersey? That's really one of my biggest cautions on this voter approval on debt. Could we possibly wind up geographically receiving the short end of the stick on this issue?

SENATOR ALLEN: I think we often receive the short end of the stick, not just with borrowing, but with lots of things. And I think we continually work to have South Jersey heard. I know your voice is out there, as is mine, and as are others.

I would hope not, because it's something that we continually deal with. If you recall, we were able to put into a bill an economic redevelopment for South Jersey for, I'm going to say, $20 million. I can't remember the number. It's a small deal. But we were able to put that into an overall bond issue. I think it was a dredging bond issue from the late '90s. I can't remember the year. You probably weren't in the Legislature at the time.

But we have always been able to find ways. And our colleagues in the central and the north part of the state have always been very good about understanding when there are things that we need, just as we are understanding when there are things that they need. So I think that while we continually have to maybe bang the drum a little harder, I don't think that it necessarily means that South Jersey would have any tougher time in getting what it deserves.

SENATOR MADDEN: Thank you.

Thank you, Chairman.

SENATOR KENNY: Thank you very much, Senator.

SENATOR ALLEN: Thank you.

SENATOR KENNY: I'll just conclude by saying, the issuance of public debt and private debt has been a part of American economics since the creation of this republic. It's been a centerpiece of the debate for 200 years. And if we weren't able to create debt and invest, we wouldn't be the country we are today. There's no question about it. And I could go on ad nauseam, both in the State of New Jersey and the United States, on how it's important for us to be able to enter into debt agreements in order to finance long-term projects.

So anyway, that's my perk, as the Chairman, to say that. (laughter)

Commissioner Susan Bass Levin, and then we'll have Iris -- is it Lav? (indicating pronunciation)

IRIS J. LAV: Lav. (indicating pronunciation)

SENATOR KENNY: Okay. You're next, Iris.

Thank you very much.

COMMISSIONER SUSAN BASS LEVIN: Good afternoon.

I'd like to first thank all of the members of the Committee for asking the Department of Community Affairs to be here today. I've been asked to come to speak to you about the statutory limits on increases in municipal and county spending, known as the cap laws.

I do want to make clear that I'm talking, today, only about the municipal and county caps. There are also caps on school spending that are under a different statute.

My Department, the Department of Community Affairs, oversees the execution of these limits through our Division of Local Government Services and its approval of local government budgets. I am going to talk today about the history of the cap laws and what they do, to give you a perspective on what has happened here in New Jersey. It's my understanding that you'll be hearing, after I speak, from Ms. Lav, who will talk to you about cap laws in other states and how they have worked.

We should start, first, with why the cap laws were put in place, then we'll cover their basic mechanics, outline the key changes, and then look at how they are implemented today.

The origin of the cap law was in 1976. And it's directly linked to our State's first income tax. When New Jersey's income tax was passed that year, the discussion centered on court demands for greater education spending. To ensure that this new income tax revenue would be used to shift the burden of paying for education away from property taxes, the Legislature established a Property Tax Relief Fund that was intended to manage or lower property taxes, primarily through State aid to schools.

Those who advocated for the income tax were concerned that even with these new funds, it was possible that local governments would continue to levy high property taxes, resulting in a higher, overall, tax burden when you combine the property tax and the income tax, rather than a lower one. Therefore, in '76, a cap on spending increases was passed. And it essentially established a limited -- essentially limited spending increases to no more than 5 percent.

When mayors, and freeholders, and fiscal officers sit down to sort out their budgets, the cap law results in discussions about what is inside the cap and what is outside the cap. The parts of the budget that are inside the cap -- that is, those parts of the budget appropriations that are subject to limits; and then there are those parts of the budget that are outside the cap -- that is, exceptions that are not affected by the limits; and discussions about additions to the cap base, which are additions to the base amount on which increases are allowed.

I want to just take a moment here to say that although there's extensive discussion about inside the caps, and outside the caps, and legislators pass laws about it; the bottom line, from a municipal perspective, really should be: Is there a tax increase or is there not a tax increase. And sometimes the discussion about inside the cap or outside the cap, I would suggest, takes us -- and I'm saying this as a former mayor -- away from what should be our real discussion, which is: How do we keep property taxes in check?

Every year municipal and county budgets must remain within the cap. That means that inside cap, appropriations cannot exceed a cost-of-living increase. Now, the-- In the early law, that was a rate based on a federally calculated State and local government cost-of-living index. And while that has changed over the years-- For the record, the calculation for the State Fiscal Year 2007 budgets was 6.5 percent. For calendar year '07 budgets, that rate will be 5.5 percent. The Division of Local Government Services actually calculates that rate and posts it on our Web site, sends out a local finance notice so that municipalities are aware of what the percentage should be.

The municipal cap is based on the amount appropriated in the budget that is spending. The county cap is based on the tax levy, because of the large amount of pass-through expenditures for social services and State-related costs that appear in a county budget.

Since 1976, there have been many changes to the cap laws, as I know you are familiar, since you make them. Most of the changes center around what parts of the budget are outside the cap and, therefore, not subject to the statutory limitations. There have been exceptions that have moved outside the cap, only, in a subsequent piece of legislation, to be moved inside the cap.

For example, encourage shared services: In 2000, the cost of new shared services agreements were moved outside the cap. That's an example of legislation being used to promote a good public policy initiative, to encourage municipalities to share services. The Legislature wanted to make sure that they were not restricted in their efforts by having to calculate those costs inside the cap. The cost of multi-family solid waste collection, which was mandated by the Legislature -- that is waste collection at apartments and condominiums -- was an exception, as costs were phased in, recognizing that there was a new, additional cost that could well be a very significant cost that a town would not necessarily have anticipated. But once it was phased in and fully funded, that amount was added to the base, and there was no longer an exception. Again, use of the cap laws to implement good public policy. For a period of time in the 1980s, solid waste collection and disposal costs, police cars, and utility costs were all outside the cap, and now they're inside the cap.

Between 1979 and 1989, several study commissions attempted to refine the caps. The result was an index rate -- which we now call the COLA, the cost of living adjustment -- which is used to set the increase in the cap base, and permitted flexibility when inflation increased over 5 percent or was under 5 percent.

Cap banking was also created. That meant that if a local government did not use the cap in a given year, it could carry over the difference to a subsequent year -- essentially bank that amount of the cap -- and then use that cap in a future year. This was designed to eliminate the problem of spending up to the cap -- where a municipality or county might chose to spend to the cap, even though it didn't need the funds that year. Essentially then -- ultimately moved some of those funds into a surplus account. This change to the cap banking law was meant to make the budgets more realistic and more transparent in any given year.

In 1990, another set of initiatives marked a new move to reform the cap laws. Many of the existing exceptions were eliminated and rolled into the base amount. Cap banking was eliminated in 1990, although amendments in 1994 restored cap banking. Flexibility was added to permit add-ons for grants and other new revenues reflecting, with respect to grants, that they might well be moneys that came in one or two years and not permanently. Penalties were added for overestimating revenues in order to avoid the cap problem. Limits were placed on transfers between capped and uncapped appropriations. For municipalities that were deemed distressed by the Director of Local Government Services, an amount of surplus could be anticipated as revenue and offset with an outside-the-cap exception. You can see, as I speak, why fiscal officers became experts on what to put inside the cap and what to put outside the cap.

Today, caps are based on several elements. The tax value of new ratables is an allowable increase to offset population and service growth costs. Transfers between inside and outside cap budget lines are prohibited. The major exceptions are general in nature, and they endure from the first years of the cap and from the 1990 overhaul.

They include the reserve for uncollected taxes; debt service; required library appropriations; municipal court costs; contracts with public authorities for services, such as sewer service; cash deficits of the preceding year, with permission from the Director of Local Government Services; emergencies due to one-time health and safety conditions; grants; the cost of new shared services; Federal, court-ordered, or State mandate expenses; and the sale of assets if used for nonrecurring purposes. And I should just say that this list of exceptions is a smaller list of exceptions than we have had in the past.

In recent years, the Legislature placed expiration dates on new exceptions. The pension -- the PERS and PFRS pension contributions, that have been phased in, are outside the cap until they are fully phased in, at which point they will be part of the base. Insurance costs and post-2003 domestic security costs are exceptions. However, those exceptions are set to expire with Fiscal Year 2007, causing a problem for many of the towns now as they look at their budgets.

The cost-of-living adjustment also endures, but with changes from its initial incarnation. The maximum increase is 2.5 percent, if the cost-of-living rate is 2.5 percent or less. But an ordinance permits an increase up to 3.5 percent if the rate is over 2.5 percent. As I noted earlier, the current rate is 6.5 percent. And that change was made by the Legislature just several years ago. As an option, instead of spending the added amount, an excess can be banked for use during the next two budget years. That is a limit on what had been allowed before.

Finally, there are now some important considerations for revenues. New revenues subject to approval can be added to the cap base, and there are penalties for overestimating revenues as a way of cap avoidance.

A few closing thoughts. As we go into Fiscal Year 2007, there are a number of issues that face towns and counties: the cost of salaries and fringe benefits that exceed the 3 percent cost-of-living adjustment cap; fluctuating energy costs; and the pending phase-out of insurance, homeland security, and pension exceptions.

Finally, to put all this in perspective, you may ask how much of a typical municipal budget is inside the cap or outside the cap. For the last three years, the average percent of expenses inside the cap has been about 70 percent of the total. Prior to that time, it was around 70 percent of the total -- I'm sorry, it was 60 percent in recent years, and 70 percent before that. The apparent difference is probably due to the new exceptions for pensions, insurance, and homeland security that have come online in the past several years.

I have tried to just paint you a picture in broad strokes of how it started, the exceptions in and out, the detail that must be paid -- or the attention that must be paid to the detail in preparing budgets to assure compliance with the cap laws. I know that, as you proceed with your deliberations, you're looking at this in the context of municipalities, and counties, and other areas with respect to schools.

If you have any questions, I will be happy to answer them and provide whatever information I can, with respect to the caps in this context.

SENATOR KENNY: Any questions from members of the Committee at this point? (no response)

No questions.

COMMISSIONER BASS LEVIN: Good. I was sort of hoping you got them all out of your system with Senator Allen. (laughter)

Thank you very much.

SENATOR KENNY: Thank you, Commissioner.

COMMISSIONER BASS LEVIN: And we are available if you do have questions at a later date.

SENATOR KENNY: Thank you very much.

Okay.

Iris Lav (indicating pronunciation), is it?

MS. LAV: Lav. (indiscernible)

SENATOR KENNY: What kind of name is that?

MS. LAV: I don't know. (laughter) My father-in-law is very vague about it.

SENATOR KENNY: It's a Lithuanian name, I bet.

MS. LAV: It's probably more from Poland, but--

SENATOR KENNY: Poland. Well, same area.

So, welcome to the Committee.

MS. LAV: Thank you.

And thank you very much for inviting me today.

SENATOR KENNY: Where are you from? You came to us from Washington?

MS. LAV: Red is good? Okay. (referring to PA microphone)

Yes, I'm sorry.

Thank you very much for inviting me today.

My name is Iris Lav, and I'm the Deputy Director of the Center on Budget and Policy Priorities, in Washington, D.C. The Center is a nonprofit organization -- nonprofit, nonpartisan organization that researches and does policy analysis on how government policies affect people, with special attention to how they affect low- and moderate-income people.

So I'm delighted to come. And I generally work on state policy issues. We have a-- We work on both Federal and state, and I generally specialize on the state issues.

So I was asked to talk today about property tax caps. And that's what I will, although I'm going to talk -- since you brought up the subject of TABOR and caps more broadly-- We've been doing a lot of work and a lot of research on that lately. So I'm going to touch on that as well.

So, first, let's talk a little bit about what kinds of property tax caps there are. You can cap the rate of property tax; you can cap the assessments, which is the percentage by which assessments can increase each year; you can put a cap on how much the total levy -- the revenue collected -- is allowed to increase; or you can put more of a global cap on local government revenue and expenditures; or on state and local, as in Colorado.

There's some distinction as to what you're trying to accomplish. There are caps-- You can put in a cap that is intended to lower the level of services provided -- less money, less services. And there is some theory, in the academic literature, that -- in terms of caps that are voted in -- that when people vote them in, they generally believe that government is bloated, and there's too much bureaucracy -- that that's what people believe. There's also the same theory which says that there tends to be regret after a period of time after they vote them in, when they see the actual cuts in services. And I'll get to that in a minute. Or there are caps -- that it's possible to do a cap when you're trying to shift the payment of services from one level of government to another, or within a level of government to another revenue source, if another revenue source is available. And the cap that you've just been talking about-- You enacted an income tax, and you were trying to make sure that the income tax provided property tax relief -- is sort of about that latter category.

So what are some examples of rate limits? In California and Washington, the rate can only be 1 percent of market value. In Oregon, it can only be 1.5 percent of market value. And Colorado TABOR did a lot of different things. And among the things it did-- It had an existing assessment cap. It froze mill levies at the time of passage.

What are some of the issues with rate limits? Well, if you have property tax values rising fairly rapidly, as they have been in recent years in a lot of places, then a rate limit doesn't do that much good. You still have property taxes rising pretty quickly. That's obvious. If you also limit the assessments, then that's somewhat similar to an overall limit, and you have the problem we'll talk about, about provision of services. According to the National Conference of State Legislatures, the most restrictive rate limits are in California, Colorado, Montana, Oregon, and Washington. But rate limits aren't that interesting.

Let's talk about assessment limits. You can try to limit the growth of assessments to a specific percentage. Assessments can only grow by *X* each year. And when you have that kind of a limit, you generally allow reassessment at full value when the property turns over. Now, of course, there are some issues about when exactly a commercial property does turn over. A company owns a property, it is purchased by another company, and-- Did that turn over? And then maybe three years later, the second company spins off the first company again but keeps the asset. Did it turn over? So it's hard to figure that out.

In California and in Washington -- which I said each had 1 percent rate caps -- the assessment can only increase at the rate of inflation or 2 percent, whichever is less. Those are very tight caps. And in places where you do have split roles between residential and commercial, there may be different limits.

What are some of the issues on assessment limits? Well, you can't control total property tax levies unless rates are controlled by assessment limits, although rates change much less often than assessments. Assessment limits alone really can disproportionately benefit higher-income taxpayers who live in desirable areas, which is where the assessments are going up pretty quickly. I'll show you that in a minute. And they're most useful if you actually have assessments going up quickly.

So the District of Columbia, a couple of years ago, put in a 10 percent assess -- a cap -- which says assessments can only grow by 10 percent per year. And this is the distributional affect of that. Now, obviously, we're talking about D.C. as a city, even though we like to think we're a state. And the-- So 55 percent of the homes in the District were assessed at under $250,000. And D.C. at least tries to assess at full value. And they got 24 percent of the relief. And the 8 percent of homes that are assessed at $750,000 or more got 26 percent of the relief. So, obviously, this was a policy that benefited higher-income people. And this is fairly common from an assessment cap. Now, D.C. mitigated that, in part, by also enacting a big increase in its homestead exemption at the same time. But this is the cap only.

SENATOR KENNY: What did they do at the same time?

MS. LAV: There's a homestead exemption, which in D.C. means the first so many dollars of your -- you don't pay tax -- any property tax on the first so many dollars of your evaluation. And they doubled that at the same time they did that. So doubling that was sort of progressive, and the assessment cap was sort of regressive.

There are a lot of problems with assessment caps though. And largely they're inequities. So there's-- If you've owned your home for a really long time, and your assessment's been capped -- and so you're very far below market value -- then you're going -- on the same block, you are going to pay a very wildly different property tax than someone who's owned their home for less time. It's not-- It may not be very much of a welcome mat to your state. "Welcome. You get to pay the highest property tax on the block if you're just buying a new home." And particularly, people point out it leads to overhousing of the elderly. I live in a five-bedroom house, just my husband and me. And that might not be so good for the society.

So this doesn't really apply to New Jersey, because you can use assessment limits if you do it differentially, for different kinds of property. Iowa got itself in a lot of trouble that way. They ended up putting-- Because they were holding down residential assessments, so much fell on commercial and industrial that they -- that those people got pretty unhappy -- business got pretty unhappy in Iowa about that.

So what about total caps? Some total caps allow a fixed percentage growth in the levy each year. In Massachusetts, the total levy can only grow -- in any jurisdiction -- can only grow by 2.5 percent per year.

Now, TABOR, in Colorado, allows local -- it's not specifically on property. They have another limit -- Gallagher, which is this assessment, and then the millage freeze. But on top of that, they have a lot of pieces. But TABOR allows growth based on this formula: inflation plus population. And if you don't mind, I'd like to take a couple of minutes to talk about what inflation and population -- since it was brought up earlier today.

The TABOR limit uses the Consumer Price Index. And I believe the bill you were talking about earlier today uses the Consumer Price Index. The Consumer Price Index is a market basket of what people buy -- housing, food, clothing -- not a market basket of what state and local governments buy, which is heavily education and health care, in particular. If you-- The Consumer Price Index does not reflect the cost of health care that states face. And, unfortunately, it is not possible to legislate a slowing in the rate of employee health-care costs, or of Medicaid, or a children's health insurance program. Those things can't be legislated, because the problem is health care, generally, in the society and the rate at which it's going up. The research shows that if you adjust for health status, that Medicaid is cheaper per person and grows more slowly per person than private health insurance, for example; but it is, yet, growing at 8 percent or 9 percent per year. And also population -- general population -- doesn't take into account things like the aging of the population. So there are a number of problems -- some of which I will explain a little more a little later -- with inflation plus population growth.

And then you have some places, like Illinois, which had an interesting experiment, because some counties in Illinois are capped, and some are not -- allows the lesser of 5 percent or inflation.

What are some of the issues here? Well, a total levy cap doesn't actually tell you how any individual gets property tax relief. If you know the levy can only go up 2.5 percent, do you cut the rates, do you freeze the assessments, do you leave it as a local option, do you target credit? There's a lot of issues there. And then there's the short-term versus the long-term, which I will return to, also. You can hold down property taxes, but the cost of that would be the deterioration of local services unless there's replacement revenue.

Whenever you cap anything, you're very likely to cap it just below the level. And that's what TABOR did, really, in Colorado. It capped things at a little bit below the level of what you need to maintain services every year. So, over time, you have a larger and larger deterioration of services.

If you have a levy cap, you generally need some override mechanism. So it's completely impossible to anticipate the future. I mean, if you-- What does 2.5 percent mean? This 2.5 percent this year may mean something very different than 2.5 percent 10 years from now, depending on economic circumstances.

SENATOR KENNY: Excuse me, when you say *levy*, are you referring to the assessment or the rate?

MS. LAV: Neither; the amount of revenue collected.

SENATOR KENNY: The total.

MS. LAV: I'm sorry. Levy, here, means the amount of revenue collected.

SENATOR KENNY: All right.

MS. LAV: Sorry to--

SENATOR KENNY: The local property tax--

MS. LAV: Amount -- the amount of property tax the locality collects.

SENATOR KENNY: Let me ask you, if I may-- Do you have a point to make before you go on?

MS. LAV: Yes, there is some more here, I'm afraid. But you're welcome to interrupt.

SENATOR KENNY: But I just-- What-- You studied New Jersey?

MS. LAV: What, your statutory caps? No, I didn't.

SENATOR KENNY: I just wanted to know what you recommended as a course of action for us to consider.

MS. LAV: Well, I was sort of going to get to that at the end. But I actually think that caps don't work. And I was going to explain why they don't work.

I think that you can take a number of-- And one of the things you're going to -- you can see -- and, actually, it's in this next slide -- is that the problem with caps is that people don't really want the service deterioration. It's the regret theory I mentioned earlier. And in Colorado, you can see that, basically, almost every -- 88 percent of municipalities and 94 percent of counties voted to override their caps. They really didn't like the deterioration that occurred in Colorado in local government. And so caps are a problem. And they do not necessarily provide-- They definitely don't provide relief without service deterioration.

And so I think that New Jersey can do a number of different things.

Would you-- Is it okay if I go through this and then go to my conclusions, or did you want to know where I'm going right now?

SENATOR KENNY: Sure. Go ahead, please.

MS. LAV: I just wanted to point out that-- So this slide points out the fact that basically there were a lot of overrides in almost every jurisdiction in Colorado -- that the caps were too tight, and they weren't acceptable.

This shows Massachusetts, Proposition 2½, which has the 2.5 percent per year revenue cap on local government. And this is also a somewhat disturbing chart. I'm sorry it's a little fuzzy, because I took it from a paper. Although the-- Overall, 39 percent of the ballots -- the procedure to override, as in Colorado, was to go to the people to ask for a vote at the ballot. And they-- Only 39 percent -- as opposed to the larger number in Colorado -- 39 percent of the measures presented to the people passed in Massachusetts. But the troubling thing with that was, that many more passed -- 57 percent -- in the highest-income jurisdictions compared to 27 percent in the lowest-income jurisdictions.

So basically high-- It exacerbates the kinds -- the problems that there are. You already have a problem when you support schools by local property taxes, because there is just more property tax wealth in higher jurisdictions. And you get better schools in higher-income jurisdictions. And then if higher-income jurisdictions -- if there are limits, and higher-income jurisdictions are willing to override at greater rates, then it exacerbates those inequities.

But the real issue in all caps is that putting--

SENATOR KENNY: So higher-income people are more likely to vote for caps?

MS. LAV: They're more likely to vote to override caps if they're put in.

SENATOR KENNY: Override.

MS. LAV: They're also-- I think whether-- The literature was not clear whether-- There's some conflict in the literature, as to whether they're more likely to vote for the caps in the first place. But they're more likely to vote to override the caps. And they're more likely--

Because of this issue, when you put a cap on taxes, you don't do anything to change the cost of services. And you don't prevent the cost of services from increasing. And here's one example from Massachusetts, with their 2.5 percent per year allowed increase in property tax revenue. So, in Massachusetts, municipal spending for health insurance increased 63 percent between 2001 and 2005. This was to provide health insurance to local government employees and to teachers. And depending on-- There were a couple of sources of data. But depending on which one you used, that was either 80 percent of all the revenue growth allowed, or 8 percent more than all the revenue growth allowed. So it's particularly the case that you cannot stop health-care costs from growing by putting -- by saying, "I'm going to cap costs." You don't do anything to change the degree to which health-care costs and the economy are growing. And there's not that much that any one state or any one locality can do about that.

SENATOR KENNY: So what does that mean?

MS. LAV: That basically means that you have to have -- allow a reasonable increase in revenue. I mean, it means the government needs to be as efficient as it can. Nobody would argue against that. It needs to be just as efficient as it possibly can. But the cap does not necessarily force efficiency.

Because saying that you're only going to allow something to grow 2.5 percent per year, or 3.5 percent year-- And if health-care costs are growing at 8 or 9 percent per year, and they are a major part of your budget, then all you're saying is that you're going to have to cut something else, or you're going to have to cut health care. And, really, the only way to cut health care is to make health care less adequate, or less accessible to people, or to say that fewer people are eligible for Medicaid or something like that.

So it means that artificial caps do not necessarily make for good government. There's nothing in a cap that says you're actually going to find that allusive waste in government, if there is any waste in government. As you know, most people think that there is a line item that is waste, fraud, and abuse that can be eliminated. There are ways to make government more efficient. But if you want to do it, a cap doesn't help that process. It hasn't been shown anywhere that that actually makes government any more accountable or any more efficient. It just results in budget cuts and services that people care about, which is why you see those huge numbers of overrides in a state like Colorado.

One of the things in caps that was interesting is, both in California, the famous Proposition 13, and in Massachusetts, the

Proposition 2½ -- which of course are the two most famous property tax caps -- what happened was, state aid was substantially increased in the early years of the caps. So they didn't bite for a while. And you had state aid to make up for the caps. But one of the problems with that is, it's not always sustainable.

First of all, when you have an economic downturn -- this is Massachusetts. When you have an economic downturn, you see that the state has less money, and they pass that less money down on to the local governments, and they cut state aid. More recently, in Massachusetts, there were some cuts in state-- I borrowed this chart from someone. I left the original title. Recently there were cuts in state revenue and state taxes, and they cut state aid to pay for it. So it's not necessarily the way things work.

I'm going to skip the next one, because I'm going to talk about it later.

And then another thing that can happen is, under caps, if there is another local revenue source, it's very likely to simply shift the burden to that other local revenue source. People think that TABOR made taxes go down, and I think that was said earlier today. In Colorado, it actually did make state taxes go down; and it cut state aid to localities. But it did not-- Own source revenue for localities, for municipalities, and counties in Colorado did not decline. In 1992, it was 7.9 percent of personal income. In 2004, it still was 7.9 percent of personal income. So it is a myth that Colorado actually cut-- And that's because you had -- in part because you had all of those overrides. And you see that the property tax did go down because of the two kinds of property tax limits. But sales taxes, and fees, and other taxes were increased to make up the difference.

Again, what you end up seeing is that people want services. And services generally grow just about -- the cost of services generally grow, by and large, in tandem with personal income. And what you see here in Colorado is that, one way or another, services were paid for. And if it wasn't with the property tax, it was the sales tax and fees. People did not want their services cut.

So what is the short- versus the long-term impact of caps?

ASSEMBLYMAN MANZO: Is your red -- mike back on? (referring to PA microphone)

MS. LAV: It seems to turn itself off. Sorry.

What is the short- versus the long-term impact of caps? It's a little hard to sort out. You've got some-- State aid makes a difference, whether there are other revenue sources at the local level-- And, by and large, your localities are dependent on the property tax. You don't have a lot of other local revenue sources. You don't have a local sales tax. You don't have much in the way of local fees that are allowed. But without intervening variables, and if people don't vote to override in places where there is possible -- over the long-term, you will see some service cuts.

Illinois is an interesting place, because if you know the city of Chicago -- which is where I'm originally from -- there's Lake Michigan, and then there's the city of Chicago. And all around it -- and that's essentially Cook County -- and all around it are counties which are called the *collar counties*, for obvious reasons. And they're the suburbs and the exurbs of Chicago. And this started out that-- In the early 1990s, the collar counties

-- the legislature capped the property tax growth in the collar counties to Chicago at the lesser of inflation or 5 percent growth, in the amount of property taxes they could collect.

And so researchers said, “Ah-ha, we have a natural experiment. We’re in the same state and we have property taxes in some places and not others.” And they did two studies -- two years after the cap and nine years after the cap. And they did find, in this case, that expenditures grew more slowly in capped counties than in other counties, because there wasn’t any way people could get out of them -- those caps. And there wasn’t an increase in state aid.

But what they found was that, initially, it did-- They looked particularly at education. And they did find, initially, in the first couple of years of the cap, that administrative costs in education were cut. And some people might think that’s a good thing -- that they were able to find efficiencies. But in the second study, they found that those efficiencies ran out really quickly and that there were very significant cuts in instruction costs. They did not look at the implications of those cuts. But basically there were cuts in money spent in classrooms.

I’m sorry, I forgot to play with that. (referring to remote control)

In California -- this is from a book by someone called Peter Schrag, who is really a journalist. But the research behind it is very solid -- and looked from the early 2000s back, at the history of Proposition 13 in California. And also -- they also have a state cap which -- while it’s not like -- not as tight as TABOR, they do have their state revenue capped.

And I know you can't read that. It's too small. But it says, "California schools, which, 30 years ago, had been among the most generously funded in the nation, are now in the bottom quarter among states in virtually every major indicator -- in their physical condition, in public funding, in test scores -- closer in most of them to Mississippi than to New York, or Connecticut, or New Jersey." So California would like to be New Jersey. (laughter) And, basically, it goes on to talk about libraries, and higher education, and social services, all of which have declined very substantially in California.

And just as you heard -- in fact, under TABOR, there have been the kinds of decline that were mentioned somewhat earlier, I believe, by Senator Madden, where the health insurance issue -- where they're 50th in the country in low-income children, they fell to 49th in the country in K-12 spending. Higher education has -- 31 percent. And what wasn't mentioned earlier was that every chamber of commerce in the state of Colorado joined together last year to pass Referendum C, which suspended TABOR. So TABOR is no longer in effect in Colorado, because the business community felt that it was impeding the ability of the state to attract and keep business and employees.

I think that before you go down that road, you ought to look very carefully at what happened in Colorado. And we have quite a number of reports on that on our Web site that I would be happy to provide to you.

Now, this may be a cheap shot about the Massachusetts cap, but this was in the paper this week, so I couldn't resist. And it's about a jurisdiction in Massachusetts that has refused to override their property tax limits. And it says, "Gloucester firefighters took more than 11 minutes to reach a burning house last Sunday, only to find a 42-year-old woman dead inside, one mile from a fire station that had been closed recently because of budget cuts." And the city had been forced to close two fire stations after residents voted against a proposed tax increase. And the decision to close the fire stations goes back to June 2004, "when Gloucester voters rejected… a proposal to override the state cap on property tax, known as Proposition 2½, which limits the annual increases in taxes and forces municipalities to seek voter approval for extra tax increases." So, obviously, they're not always overridden. And sometimes, when they're not, there are consequences.

Proposition 13, in California, also had a lot of unintended consequences. Some of the most important of which, I think, is the middle -- the second bullet I have here -- which nobody understands the finances in California anymore. Because local governments were so tightly restricted in their revenue, they came up with amazingly arcane and strange financing techniques. And public understanding has really suffered. And so they now compute their education funding on three formulas -- three different formulas -- and give each jurisdiction the largest of the three. And there are five factors they take into account. They finance capital facilities by having -- by creating or having nonprofit organizations build the facilities, and then there's very complicated transactions that somehow make them part of the state. Basically, the state partners with private industry in order to get things done, and so forth -- not necessarily in a great way.

So, I think the bottom line is that caps don't assure accountability, and caps don't assure efficiency in government. What they can do, if there is no state aid to make up for the caps, if there is no other local revenue sources, and if people are not allowed to override them, they will push down expenditures. They will not necessarily push down the expenditures you want to push down. They will push down some expenditures. And the longer a cap is in place, the more of a problem it is. And it will have unintended consequences of distorting the way you do things in this state.

So what should you do? Well, there's no magic bullet. I think, as you have been struggling with this, you understand that it's very hard to give people property tax relief and make them understand that it's property tax relief. If you give them property tax relief on the income tax, they may think it's an income tax cut. If you send them a check, they may not know why they're getting the check. It is a problem that every state struggles with.

But I think there are some things that make some sense, one of which is to make your property tax relief mechanisms more comprehensible and understandable. I think New Jersey, like a number of other jurisdictions, has just a lot of different ways it provides property tax-- It provides rebates, it provides what you call your *homestead rebate*, which we would call a *circuit breaker* on the income tax. It has these local caps, it has some reimbursement for the elderly. It is very complicated. And it's probably the case that people don't know how much property tax relief they're getting from the State. They just can't sort it out.

So one of the things I would suggest is maybe consolidating it, maybe making it more rational, making it more comprehensible, and maybe -- and potentially bigger. Circuit breakers-- You do have your homestead rebate. It is possible to do more with that to have it for all ages, up to a higher income level. There are some places where the circuit breaker is the main property tax relief. If you can make it clear that that really is for property tax relief, that can work.

Most big states -- not all of them -- but most of them allow more options for local governments to pay for things. And that's part of what you saw in Colorado -- that even though the property tax came down, sales tax, miscellaneous taxes, and fees rose so that there was no cut in local revenue. There was a cut in the state aid to localities, but there was no actual cut in local revenue as a percent of income.

And people-- The property tax is regressive and falls very heavily on low-- I mean, the sales tax is regressive. It falls heavily on low-income people. I'm concerned about low-income people. I don't love the sales tax. But I also know that people don't love property taxes. And I'm also concerned about adequate service provisions.

And when you divide it up and give people multiple ways of paying for government, they tend to like it better. Diversifying is something that doesn't put so much on any one person. So an older person may be in their home, and have owned the home a long time. And now they're income has dropped, so their property tax feels like a higher percentage of their income. Of course, they may no longer have a mortgage, in which case they probably can afford the property tax. But they might-- On the other hand, older people consume less than younger people -- or consume less things that are under the sales tax -- more services, less goods. So that is another possibility.

Finally, I wrote, "Increase aid for education." What I really should have written there, more, is a swap. In recent years, what is the most popular thing around the states is for states to pick up a larger share -- to relieve property taxes -- is for states to pick up a larger share of the school costs.

Michigan pays, now, for pretty much all of the school costs for local governments. They do have caps on their property tax, but they pay-- They picked up-- They raised their sales tax and their cigarette tax, and they used general revenue, and they pay for all of school out of state money. South Carolina recently raised their sales tax and removed all school operating costs from the property tax. They just took it off. And Indiana, about four years ago -- they also raised state taxes and took out over 60 percent of school funding costs.

I mean, those are all different ways you can do this that are more certain. I mean, a property tax cap is not necessarily going to relieve property taxes. It depends on what else you do. And, again, if I can just reiterate what I've said four times, it will not necessarily increase the efficiency of government. We need to do that directly. And a cap very rarely brings that forward.

Thank you.

SENATOR KENNY: Any members have--

Assemblyman.

ASSEMBLYMAN MERKT: Thank you, Mr. Chairman.

One question I have-- Please don't take this the wrong way, but I'm just curious. Who provides the major funding for your organization?

MS. LAV: I'd be happy to answer that. It's foundations. We are funded by major foundations -- the Ford Foundation, the Charles

Stewart Mott Foundation, the Annie E. Casey Foundation, the Open Society Institute, and the Kellogg Foundation -- to do the state -- and several others -- to do the state work. And we have other funding for other kinds of work that we do. Most of our funding comes from foundations. A portion of it comes from individuals. We do not take any money from governments.

ASSEMBLYMAN MERKT: I appreciate the testimony that you've given us regarding various other states.

My question is: Are you familiar with the State tax structure of New Jersey?

MS. LAV: Generally. I mean--

ASSEMBLYMAN MERKT: Are you aware of how much taxes have increased in New Jersey over the past few years -- State taxes? Not property taxes, State taxes.

MS. LAV: You have just increased taxes, yes.

ASSEMBLYMAN MERKT: Do you know how much?

MS. LAV: I don't have the number in my head.

ASSEMBLYMAN MERKT: Well, for your information, it's about $5 billion. So the idea of moving stuff from local taxes to State taxes is fraught with some difficulties.

Are you familiar with New Jersey's debt structure?

MS. LAV: No. I haven't studied it.

ASSEMBLYMAN MERKT: I will represent to you that our debt has grown over the past 10 years from approximately $8 billion to $33 billion.

I guess what I'm trying to say is, I appreciate your testimony. But I am a little concerned about the fact that testimony that isn't cognizant of certain economic realities in our State, unfortunately, I think may lead to inappropriate conclusions.

You say that caps don't work. You seem to be focusing on caps on property taxes themselves. Would that necessarily-- Would that conclusion also be true with respect to caps on spending?

MS. LAV: Well, I was asked to testify on caps on property taxes, which is why that was what I-- That was my request.

ASSEMBLYMAN MERKT: Okay. That's fine. No, that's fine.

MS. LAV: But I'd be happy to talk about spending caps. I mean, I think -- local or state. I mean, they--

ASSEMBLYMAN MERKT: We already have local spending caps. I was asking about State spending caps.

MS. LAV: Yes, I mean, some of these-- Some of-- I mean, TABOR -- although TABOR limited revenue, it was fundamentally equivalent to an expenditure cap. There isn't-- At the state level, there is not much different between a revenue cap and an expenditure cap, since most states require balanced budgets. So if you limit revenue, you limit expenditures. And if you limit expenditures, you limit the amount of revenue that you can use. So they are basically equivalent, at the state level.

And, basically, there are different kinds of expenditure and revenue caps -- tax expenditure limitations, as they're technically known, or TELs, at the state level. The tightest of which is Colorado's TABOR, because it's constitutional and it has the formula I mentioned earlier, inflation plus population growth, which does not reflect the cost of what it -- of the annual increase in what it costs to run a state. And it -- and because it requires a vote of the people to override. And so that is the test of, certainly, the tightest one. And that one -- what you saw under it were very, very substantial declines in services, to the point, as I said, where all the chambers of commerce in the state got together with other people -- with education interests, and (indiscernible) advocates, and everyone else -- and decided to override it -- to suspend it for five years. And most people think that has to do with the recession, but it doesn't. So you can't fix it with-- You can fix the recession part, in part, with a rainy day fund, although not with a 5 percent of expenditure rainy-day fund. You need a bigger one. But you can-- But most of those declines -- the declines in health care in the state, the declines in education in the state, the declines in higher ed -- occurred prior to the recession. They occurred by 2001.

So you can push down expenditures in the state. I didn't say you can't. You can. If you cap them, you can push down expenditures. Colorado pushed down its expenditures to the point where people were very, very unhappy about it. And business was very unhappy about it. And they overrode it.

But what I did say was, an expenditure cap does not guarantee that the inefficiencies in government will be those things that are cut. It will not necessarily push people to do -- figure out what it is that is excess in government, if anything is excess, and do it. And part of the problem with expenditure caps is that there are some expenditures, like health care, where the rate of growth is not controlled by the state. There's nothing you can do in this state about the fact that health-care costs grow at 8 or 9 percent per year in the economy. You can't make your employee health insurance cost less -- substantially -- without cutting benefits, if you want to do that. And you can't make your Medicaid cost less without cutting eligibility or access.

So that's a fact of life.

ASSEMBLYMAN MERKT: Let me ask you another question then. We've had data presented to us by Rutgers University professors that basically suggest that, in New Jersey, in the last four years, there's been only about 50,000 jobs created -- ballpark. Virtually all of those jobs have not been private sector. They have been government jobs. Do you think that a cap approach might help discourage that kind of growth?

MS. LAV: There's a very good econometric study that was done by Therese McGuire, at the Northwestern University, and Kim Rueben, at the Urban Institute, which looked at whether TABOR improved Colorado's economy. And the conclusion was that it did not.

ASSEMBLYMAN MERKT: That wasn't my question though.

MS. LAV: Well, no.

ASSEMBLYMAN MERKT: My question had to do with the fact that New Jersey's only growth sector, anymore, seems to be government.

SENATOR KENNY: That's not-- Never mind.

Go ahead, make your point, Ms. Lav.

That's not true.

ASSEMBLYMAN MERKT: Well, I'm not being unfair.

MS. LAV: I don't have those numbers in front of me, but the-- Basically, there is no evidence that--

SENATOR KENNY: If there wasn't that den of inequity in Hudson County, that would be true. (laughter) But we have actually saved the State of New Jersey over the last 20 years. Hudson County has been the economic engine for the State of New Jersey -- on the waterfront, Jersey City, West New York, Weehawken, Hoboken, Bayonne. We've been the economic engine of the state, contrary to what Senator Kean Jr. likes to say about Hudson County. And we create the private-sector jobs -- urban New Jersey. Urban New Jersey is creating the private-sector jobs in the state.

ASSEMBLYMAN MERKT: Mr. Chairman, I respect your opinion on that, but I'm just talking about the general overall figures.

SENATOR KENNY: It's the truth. Urban New Jersey has created the economic jobs in the state for the last 20 years.

ASSEMBLYMAN MERKT: Then when why are we losing private-sector jobs?

SENATOR KENNY: Obviously non-urban New Jersey is not doing anything to pick up the slack. It's been us, urban New Jerseyans. It's the biggest success story in the United States of America -- is urban New Jersey. Come look at it sometime. That's where the private-sector jobs are being created.

And how a person can run for the United States Senate and denigrate an economic population of 600,000 people is just mind-boggling to me -- to denigrate a half-a-million people -- hardworking people, many of them immigrants, that have been the economic engine for the State in generating income tax, and sales tax, jobs, waterfront access.

Have you completed your testimony, ma'am?

MS. LAV: Yes.

SENATOR KENNY: Thank you.

We're done.

I'm the Chairman, we're done.

(MEETING CONCLUDED)