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PUBLIC HEARING  
before  
ASSEMBLY TAXATION COMMITTEE  
on  
ASSEMBLY CONCURRENT RESOLUTIONS NOS. 110, 111, 112 & 117.

Held:  
June 29, 1972  
Assembly Chamber  
State House  
Trenton, New Jersey

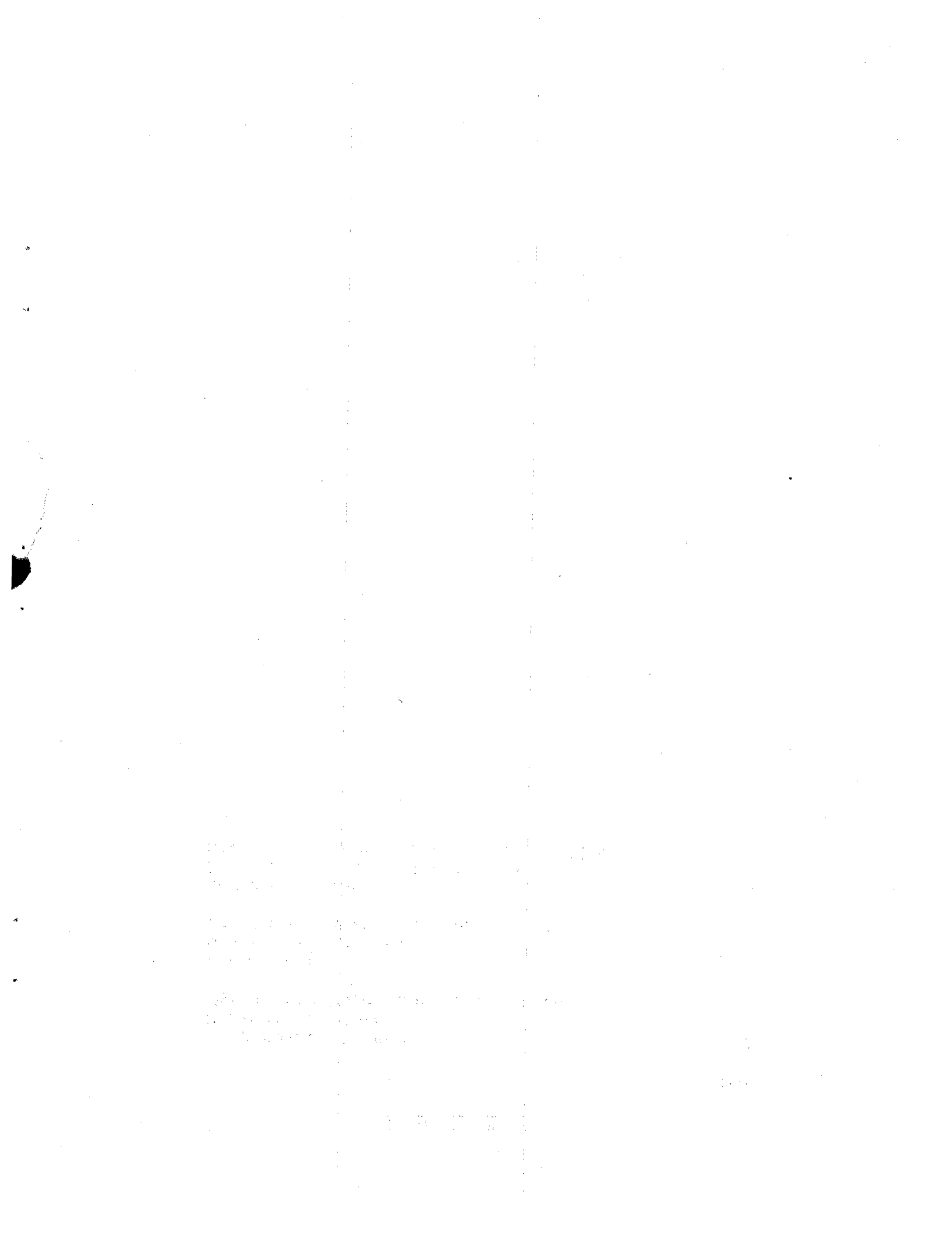
MEMBERS OF COMMITTEE PRESENT:

Assemblyman James J. Mancini (Acting Chairman)  
Assemblyman Francis J. Gorman

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ASSEMBLYMAN JAMES J. MANCINI (Acting Chairman):  
At this time we would like to open the public hearing  
on Assembly Concurrent Resolutions 110, 111, 112 and 117.

Mr. Starkey of the New Jeesey Education Associa-  
tion.

S, H E R B E R T S T A R K E Y: Members of the  
Assembly Taxation Committee, I am S. Herbert Starkey,  
Director of Research of the New Jersey Education  
Association.

First, I would like to raise a couple of questions  
concerning the timing of these Resolutions.

Assuming that action is taken with 60% majority  
vote prior, I believe, to the first week in August, is  
it the intent of the Committee to submit these to the  
people this November, in 1972?

ASSEMBLYMAN MANCINI: Yes.

MR. STARKEY: Thank you.

Now, based upon that information, may I then say,  
is it not true also that, as the Resolutions are prepared,  
normal procedure for effectiveness of the adoption is 30  
days after the referenda are approved, which would be  
approximately December, 1972. Is that a correct assumption?

ASSEMBLYMAN MANCINI: I believe it is, yes.

MR. STARKEY: Then our first major point, in  
regard to the timing of these Resolutions. I believe all  
of the tax package, school financing package, is geared  
for January 1, 1974. As we read these Resolutions, on  
the effective date of Resolution 112 or 117, whichever  
one happens to be adopted - I will comment on those later -  
there would apparently be no way of raising local property  
taxes during the year 1973.

Then, in Resolution 110, you would cut off and put  
a ceiling on a State property tax of \$1.00 which is part  
of the proposed over-all program. And our fundamental  
question is, how are we financing education for one whole

year? I mean, as we seem to see the set-up here on the timing, there would appear to be no money to provide for education of all the children in elementary and secondary education for a whole 12 months period. And we hope that you look into that very carefully in terms of the legal procedures on the adoption of these Concurrent Resolutions to change the Constitution.

In other words, our major concern is timing. We feel that the Legislature has a big responsibility in tax reform and packaged in with that is a complete change in the financing of education from a local responsibility, primarily, to almost a complete State responsibility, at least of providing the money, the distribution of that money. Therefore, it would seem that passing these Resolutions prior to the Resolution on the taxes and the school finance program has the cart before the horse. These Resolutions may be fine providing a new financing program is agreed to by the Legislature, is adopted and is on its way. But to turn around and place these before the people prior to the time we can be sure that an income tax, or whatever other taxes are to be revised, would seem to simply ignore the children of the State of New Jersey and give us no guarantee that we have any viable way of financing education.

In other words, what we're saying, I think, is that these Resolutions certainly should not be placed before the people until at least November, 1973, when we have some kind of agreement on tax revenues. And just as important, I think, is the question of whether A-1272, and in what form, is enacted.

Related to this, may I also address the importance of the Robinson-Cahill decision which hangs over us and over the Legislature. Under that decision it would appear that at some future date, if that decision is upheld, - and we expect that at least the taxation portion will be - we see a problem that debt service and capital outlay

could also, if brought before a court, be ruled out as far as local property tax is concerned. This could happen.

The plan of A-1272 on school financing involves possibilities of local leeway. These two alone could mean up to anywhere from, say, \$130 million to perhaps \$250 million of money that under the proposed program, to date, is still going to be raised under local property taxes. That, in itself, represents an average of about 40¢ of equalized valuation. If the courts should subsequently rule out this method of taxation, then perhaps up to \$250 million additional will have to be found from some other source. And one possible source that would be acceptable to the court could even be a State property tax.

Now this would not be a shift from the over-all program except where, in the equity of receiving this money, rather than from the inequity of local property - there is some equity even though it may be regressive in a State property tax - if this ceiling of \$1.00, which is envisioned in Concurrent Resolution 110, means we have no way to go, should the court decision require a shift, except perhaps to an additional income tax or an additional sales tax or some other tax other than property tax.

So, to us it seems very foolish at this stage of uncertainty to be passing resolutions closing doors when the program has not been spelled out. We don't know at this point what the Legislature has in mind for financing education, the amount of revenue to be provided under tax bills. So our point this morning is a very simple one, that these Resolutions are ill-timed to come in at this point until we have made a responsible solution to the tax revenue picture and the distribution of funds for education.

I want to stress that we're talking about close

to \$2 billion to one of the most important services the government provides and yet restrictions are being put in and placed before the people - at least that's the inference if these are coming out of Committee - without the major problems being resolved.

Now, may I specify a few comments about individual resolutions.

Assembly Concurrent Resolution No. 112, I testified to before and it is not necessary for me to repeat that we were opposed to the restrictions found in 112 concerning the referenda for schools, which is not found in the same provision for ceilings of municipal and county taxes. We feel that 112 should not have the wording beyond the point that you're inferring there will be no local property tax except for capital outlay, debt service, the reference to local leeway. We think it should stop there. We are satisfied that ACR 117 does this. And leave the details to the Legislature as it can be provided in A-1272. We do not see the reason for those details in 112.

Therefore, we support, as a substitute for 112, ACR 117.

Our only comment on ACR 111 is that we note there has been, I believe, an amendment which we think improves it by removing the 50% and allowing, in a sense, the Legislature to determine what that percentage should be. We don't feel this is a particularly important resolution; we think the removal of the 50% to allow for float as the Legislature decides will be a step forward.

Our comment in regard to ACR 110 is a concern about the adequacy of the dollar in view of the indefiniteness of what may happen with regard to capital outlay, debt service and leeway. We feel that this may be an unhealthy restriction when we do not know what may happen in the courts. And, therefore, our basic feeling is that with court action still to come that can help change the financing of education, in ways which we may not want to even have, we should have as many choices open

to the Legislature as possible. And I think these Resolutions, at least at this point, restrict the choices too much and we have faith that the Legislature can make wise decisions. But to close doors when we are uncertain about financing something that costs \$2 billion would be a very unwise move.

If we can be of any assistance in input in terms of these changes -- and we certainly like to know more about the Committee's plans for financing education in 1973.

Thank you.

ASSEMBLYMAN MANCINI: Thank you, Mr. Starkey.  
Any questions?

ASSEMBLYMAN GORMAN: No questions except on this idea of the ill-timing of the Resolutions, it's been pointed out to the Committee that we would have to release these three Resolutions in order for them to be on the ballot this year. Now, the package itself, I'm sure, will be voted on before these Resolutions, you know, by the Assembly. So that if indeed the income tax or some other major revenue bill could not find support, then these Resolutions probably would never go through either.

MR. SHARKEY: But my concern, of course, is, suppose they do find support; suppose the income tax is approved, the whole package is approved, still my question is how you're financing education for one whole year.

ASSEMBLYMAN GORMAN: For 1973.

ASSEMBLYMAN MANCINI: I believe there must be some technical amendment there. The intent is to put this into effect in 1974, as you are aware of, and I think it's a good point - which I've made note of. The rest of the Committee will study the transcript also. I think it's a very good point.

Next, Frank Haines, New Jersey Taxpayers Association.

F R A N K     H A I N E S: Good morning, gentlemen. First, I am Frank Haines, Executive Director, New Jersey Taxpayers Association. I would like to apologize because we don't have a statement prepared in writing for you this morning; I'm working from draft and notes, and I realize the problem but I've been out of town for several days and we had some time limitations in which to prepare these remarks.

I don't have to remind you that we testified before your Committee on the 9th of June and supported the basic principles of tax reform before the Legislature. In our statement at that time we outlined broad areas of agreement with recommendations of both the Tax Policy Committee and the Governor's implementing legislation, as well as listing a number of specific objections.

Probably the most important issue which surrounds the debate over tax reform is the kinds of procedures needed to insure property tax relief. The first and probably most obvious method to provide reduction of property taxes is transfer of costs financed currently from property tax levies, and those are exemplified, as you know, in the program by the State assumption of certain costs of education and welfare, judiciary and county tax board.

A second method is through the technique of State Aid which is also reflected in the proposal; while a third uses a rather more difficult approach, the use of limitation, the creation of legal restrictions to check property tax increases. The latter can be accomplished most effectively by reducing or leveling expenditures while other approaches are to limit tax rates and increases in levies. This latter appears to be the approach which is reflected in several of the amendments being considered this morning.

The New Jersey Taxpayers Association considers a Constitutional Amendment the most extreme procedure by which the elected body of the State and the public can

place its opinions in the law. The Association believes that the State Constitution is the basic law of the State and it should be simple and clear. Every effort should be made to insure that unnecessary specific details are excluded from the Constitution to give the public and the State Legislature the necessary flexibility to meet changing needs of a state like New Jersey. Thus, constitutional change should be very selective, constructive and positive. Amendments should be avoided which include material better handled by a statute and which also include elaborate prohibitions which limit powers. Such provisions provide strait-jackets which are difficult to change.

The New Jersey Taxpayers Association asks that you consider the forementioned principles in relation to the amendments which are the subject of today's hearing.

The four resolutions are inter-related with a large package of tax reform legislation. Thus, bills must be viewed in a larger context. But are the amendments essential to the package? Will the purpose desired be attained?

Now since three of the bills relate to education, before discussing the amendments specifically, NJTA would like to present some basic facts and background.

One, there is some recent evidence suggesting a reduction in the trend of the rapid expansion of State spending in recent years, particularly in the field of higher education; likewise, trends indicate that elementary-secondary public school enrollments across New Jersey are leveling off. This fact could have an important impact on the rise of school costs in the future.

On the revenue side of the State's fiscal picture, we note a marked change has occurred in New Jersey. Historically, the base for levying property taxes tended to rise more rapidly than other tax bases

in the State. Starting in the late 1950's and early '60's, however, the Association's research shows that substantial changes have occurred. Wage and salary disbursements, the primary base for a personal income tax, have been rising at a higher rate than the true value of real property in the State, both in current dollars and in constant dollars. This fact has enormous implication for the future. It particularly raises the question of the necessity to levy a State-wide real property tax in the future, or particularly one with a rate of \$1.00 per \$100 of true value.

Addressing ourselves specifically to the State-wide property tax, as reflected in ACR-110, the Association asks the question: Would inclusion of the statewide property tax in the Constitution imply its continued use in the future, without change?

Generally, it is not considered desirable to place specific tax levies in a state constitution. It is possible that the personal income tax will provide sufficient revenues in the future to make a statewide property tax unnecessary.

Supplementing a statewide state uniform property tax for local property taxes does not necessarily provide property tax relief in the aggregate. NJTA endorses further property tax reduction rather than simply increasing State expenditures. Moreover, placing the statewide property tax in the Constitution would tend to insure its continued use and encourage increased State expenditure. To the greatest extent possible, the property tax should remain an exclusive revenue source for local units of government.

If the Legislature considers it absolutely necessary to provide for a statewide property tax in the Consitution, NJTA would urge elimination of the phrase "except for such taxes which may be in effect at the time of the adoption of this amendment". This

phrase might be interpreted to mean that the Legislature could enact statewide property taxes greater than \$1.00 per \$100 of equalized valuation prior to the effective date of this amendment. Such taxes would not be altered by the amendment.

If the above quoted phrase is included, and it's there so as to protect State debt covenants, you may need to exclude State property taxes to pay State debt from the limitation. By way of explanation, in all bond issues at this time, State general obligation bond issues, there is an alternate provision that if the revenues which are pledged to the debt service of the bond issue are inadequate, any statewide property tax will be levied to cover the debt service. Now this is an historical practice and I don't know how far back it goes; I think it pre-dates the present Constitution. But really that is, in effect, authorizing by statute a statewide property tax at that point. So the question is: Is it necessary to make some provision for this when you consider the \$1.00 rate. Again, it would be much better if this were in the Constitution, then you wouldn't have to anticipate such problems.

Now if the decision here is that ACR-110 is essential to the reform program, a positive approach in the language of the resolution would seem more desirable, and I would quote it this way: "The Legislature shall have power to levy an annual state tax on real property at a rate not in excess of \$1.00 per \$100 of equalized valuation." This is turning the negative language around a little bit and I'm not sure whether you're changing anything drastically, but in terms of our point that the Constitution should be a positive document, this is just a proposal, and I think the negative context at the beginning can create some confusion.

On ACR-111, with Assembly Amendments, site value taxation, we testified earlier that the Taxpayers Assoc-

iation does not favor site value taxation either in principle and particularly not as a constitutional amendment in its present form.

Site value taxation we recognize has been proposed many times in various places in this Country and around the world but has been implemented in very few instances. The problems of classification of real property taxation are often cited. Site value would, in effect, be a form of classification.

There are a number of fundamental reasons why we oppose this concept. It appears to be based on the assumption that New Jersey taxing districts are conforming to the letter of the law with uniform equal assessment on every parcel of real property. The Tax Policy Committee's research showed conclusively that assessment practices in the State are not uniform or fair at the present time; in fact, it is reasonable to say that unconstitutional, non-uniform assessment is still the rule in many municipalities. To enact site value taxation without initial solid guarantees of uniform assessment could be extremely damaging economically.

Point 2. It has been implied that ACR-111, as amended, would apply to only a few municipalities. As written, the Legislature would have full discretion to define "principal urban centers". The history of this State's legislation is complete with modified definitions to meet particular situations. I merely cite the extent to which we classify municipalities by types and populations and counties by classes and population to give them certain powers.

It is conceivable that the Legislature could adopt a definition to include almost every municipality in the State under site value taxation.

Point 3. ACR-111, as amended, should be rejected because of the urbanized, mobile nature of this State.

Modern transportation and new technology would mitigate the intent of site value taxation. Property values are determined on the basis of supply and demand, and demand is created by accessibility. Although New Jersey has many transportation problems, we recognize there are extreme efforts to try to correct them. Continued improvements of transportation facilities, coupled with classified assessment, could contribute to a decline in those municipalities, particularly those where there has been extensive decline already where it has been suggested that site value taxation should be implemented.

Point 4. Site value taxation would counter the State's effort to preserve open spaces. Premature development is one of the problems which the State is trying to counteract today.

Point 5. Finally, we think that action on this amendment is premature because of its complexity and little or no public understanding of the concept of site value taxation, nor is there any extensive professional expertise to implement such a system.

The present reform effort aims at providing extensive reduction in property taxes. No one at this time has a clear understanding of the economic changes that such a reform program would cause to occur. This State should not consider creating an unusual, unknown fiscal tool until the record of other proposed changes has been documented and reviewed.

Next, Assembly Concurrent Resolutions 112 and 117. They are similar and certainly should be considered together.

Both of these resolutions appear to have the intent of giving to taxpayers a degree of assurance that property taxes will not be permitted to return to present levels in the future with respect to the funding of taxation. The objective is desirable but there appear to be a number of problems.

NJTA is really unclear about the specific intent of ACR-117. Although the language is similar to ACR-112, except for the removal of the voting requirement, it would allow local school districts to tax real property for capital outlay, debt service, reserve for uncollected taxes, and the local share of locally funded operating expenses in excess of State per pupil contributions. This appears to reiterate the current situation. If this is the case, NJTA questions the necessity of placing superfluous language in the Constitution. School districts today are already funding operating expenses in excess of State contributions.

We might suggest that in item 4, starting in line 36 of the Resolution that the State would share in the funding of operating expenses of basic State grants. Yet there is nothing in the Resolution that makes this a guarantee. The Legislature could refuse to equalize property tax burdens, as could be required in the Robinson vs. Cahill decision. We recognize that the State should act responsibly in all areas but it's the Association's opinion that ACR-117 does not add constructively to the State Constitution nor change anything and, therefore, is unnecessary.

Assembly Concurrent Resolution 112 provides for a technique to control cost of education. While the Association strongly favors enactment of some type of controls over local expenditures, particularly in the field of education, to prevent, let's say, runaway costs, the Association does not favor limits and procedures for school tax levies in the Constitution, a concern that local school districts and taxpayers should have a moderate degree of flexibility, within limits of judicial and constitutional interpretation, which are much better handled by statute than in the Constitution itself.

Further, it is difficult to understand the rationale for imposing a constitutional vote requirement, as in 112, for certain school levies when the State

presumably would assume the major portion of school operating costs, and there is no language that would treat other governmental units similarly.

Votes in excess of the tax limitation which would be imposed for municipalities and counties - which we recognize would be an innovation in New Jersey law - would be by simple majority of those voting on the question. And it would appear to be an extreme, let's say, case of discrimination to set a different type of requirement for approval of school levies.

Now, if either ACR 112 or 117 again are determined to be essential elements of the tax reform program, we would like to again suggest that the language be worded in a more positive manner, and this again starts positively: "Real property may be taxed locally for school purposes only for capital outlay, debt service, reserve for uncollected tax" and finally, that local share of operating expenses of a school district in excess of State per pupil contributions as determined pursuant to law.

Instead of saying, they may not, we are saying they may. The restriction puts in "only" for these purposes. Again, it may be picking on technicalities but it seems a more positive approach to this matter.

By way of conclusion, we do not view these constitutional amendments as necessary or desirable at this time. And I have to - not knowing what Mr. Starkey said - reflect on his remarks earlier on their position.

The New Jersey Taxpayers Association considers action on either Assembly Concurrent Resolution 112 or 117 to be premature until there is a final decision in the Robinson-Cahill case and, depending on the outcome, subsequent corrective legislation, if needed, is enacted.

Neither of those amendments should be acted on until the final form of the school financing act is

available and the Legislature's position on that measure is known. We understand extensive changes are being considered in the school aid bill and I think it is very difficult to evaluate these constitutional amendments against the specifics of the school aid program even though we recognize that these are very broad in the amendment. We realize that the Committee and the Legislature is currently working on a very rigid timetable if constitutional amendments are to be placed on this November's ballot. Our point of view is that the proposed amendments are not essential for public consideration in November of 1972. Therefore, we would urge that at this point they not be reported out and put on the ballot. We have some apprehensions as to the timetable that you would use in handling these amendments on the floor of the Legislature. I suppose we could assume they might be last in the consideration so that all these other points would be known before you decide to put these on the ballot.

We urge, certainly, that this has to be considered because early action before knowing what would happen to the other would put this on the ballot without any relationship to the rest of the program.

Again, gentlemen, thank you for the opportunity to discuss our views with you. And, again, we recognize the extreme problems facing you in terms of this over-all tax reform program.

ASSEMBLYMAN MANCINI: Thank you.

Any questions, Assemblyman?

ASSEMBLYMAN GORMAN: Yes, I would just like to get this clear with Mr. Haines.

I'm interested and I think I understand your positive approach on ACR-110 where you would change the wording to not more than \$1.00. In other words, your idea there would give the Legislature a chance to reduce this, possibly, if the money is not needed.

MR. HAINES: Yes. Of course, the positive approach - I think we probably have to assume that the power to levy a statewide property tax is there now and, even though in the language I suggested would be a specific grant of power, it would then say "not in excess of" and, therefore, it would give, I think, some leeway up to that point. And I tried to word the whole thing positively within the limitation on the rate.

ASSEMBLYMAN GORMAN: I can understand that.

Now, in ACR-112, where you want to take the positive approach too rather than having 15% or any percentage in there, what was your wording on that?

MR. HAINES: First, the Association doesn't view putting limitations of this type in the Constitution. Next, you are relating the outcome to a voting record of a previous election. This is somewhat unique, a unique approach. I think we can find some situations in municipal law today, which are rather old, where you have to have a specific minimum vote requirement in order to have something become effective. But this would tie the requirement to a percentage of votes cast in a previous election which might be three or four months or a year and some months previous, and it just doesn't seem to be right in there and I don't think that the percentage or the approach is reasonable. And related in terms of consistency with your limitations on municipal and county, you haven't considered anything like that for them and the limitation here is only in the excess operating expenses, and we have no idea at this point how much we're talking about, and this is even more severe, certainly, than what has existed in the past with the State assuming, presumably, a much greater share of financing of education costs.

ASSEMBLYMAN GORMAN: If we did this, if we eliminate the 15% and we eliminated the tie-in with the past, wouldn't this then take us closer to ACR-117 which

you say doesn't change anything so why have this?

MR. HAINES: That's right. So I think we would say that we don't think either of these would be necessarily desirable at this time, a desirable approach. The statutory approach, I think, on limitations is much more desirable. If this turned out to be impractical, you would have to go back to the voters and you could very well have a situation again of the negative voter reaction. Once they've got it in their minds that this may be effective, there may be very great difficulty in changing it.

ASSEMBLYMAN GORMAN: Thank you.

ASSEMBLYMAN MANCINI: Thank you, Mr. Haines.

Mr. Harold Seamon, New Jersey School Boards Association.

H A R O L D P. S E A M O N, JR.: Thank you, gentlemen. I am Harold Seamon, Director of Special Services for the New Jersey School Boards Association.

I would just like to make two points on the Resolutions you are considering today.

I would like to point out that the major educational groups, the New Jersey Education Association, the School Boards Association and the Association of School Administrators worked closely on this implementing legislation as it has been developed, and I think it is refreshing, for a change, for these groups to, in 99% of the case here, share a common concern. So, I would like to just re-echo the thoughts expressed by Mr. Starkey and, to a degree, by Mr. Haines on the timing of ACR 110.

School boards are going to be under the gun with the Robinson vs. Cahill decision. I recognize that this will be a total package and perhaps the eventuality would not arise, but we would like to have assurance that the possibility that unnecessary restrictions would be placed upon school boards could be avoided as this program is

developed. Agreed that it is a total package and this probably will not occur.

The other major point we would like to make is in regard to ACR-112 and ACR-117.

Our membership is strongly opposed, in their testimony on Assembly Bill 1272, to the restriction on the elections for local leeway expenditures. We feel that this would be a rather unique restriction placed on school boards in these elections. It raises the possibility, we feel, for the opposition to local leeway elections for capital outlay or for expenditures above the State unit cost to express their opposition by only staying home. In other words, they would not have to come out and vote "no", they would just merely not have to vote. We could see the possibility of, if the figures worked out because of the previous Assembly election, that the vote in a school district required 900 voters to be a valid election, having 850 voters come out and conceivably voting for the increased expenditure and then having that election declared invalid.

So, because of that restriction, we would support the language contained in Assembly Concurrent Resolution 117 and would ask that you consider removing that restriction on elections.

I think that is all the comment I would like to make on these Resolutions at this time.

ASSEMBLYMAN GORMAN: Would you agree, then, that if we went to 117 then, in effect, we might as well have nothing, you know, because we're right where we are today.

MR. SEAMON: That language would be contained in the statute, I would think, right.

ASSEMBLYMAN MANCICI: Thank you, Mr. Seamon.

MR. SEAMON: Thank you.

ASSEMBLYMAN MANCINI: Is there anyone else present who would like to testify? If not, this public hearing is officially closed. (Hearing concluded)

