
Committee Meeting

of

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

Senate Bill No. 41 and Assembly Bill No. 3
Senate Bill No. 50 and Assembly Bill No. 6
Senate Concurrent Resolution No. 121 and
Assembly Concurrent Resolution No. 4

LOCATION: Committee Room 1
State House Annex
Trenton, New Jersey

DATE: December 7, 2006
10:00 a.m.

MEMBERS OF JOINT COMMITTEE PRESENT:

Senator Bernard F. Kenny Jr., Co-Chair
Assemblyman John J. Burzichelli, Co-Chair
Senator Fred H. Madden
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

Linda Schwimmer
Senate Majority
Kay Walcott-Henderson
Gina LaPlaca
Assembly Majority
Committee Aides

Victoria Brogan
Senate Republican
Joseph Glover
Assembly Republican
Committee Aides

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

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

Welcome to today's Committee meeting.

My name is John Burzichelli, Assemblyman, 3rd Legislative District, Co-Chair with the distinguished Senator Bernie Kenny who, today, will be chairing this meeting. So I'm very pleased to pass the microphone and gavel over to the Senator, who will conduct this meeting involving the business at hand today.

Bernie.

SENATOR KENNY: Thank you very much, Mr. Chairman.

And this is the Constitutional Reform and Citizens Property Tax Convention Committee. We're entertaining a number of proposed pieces of legislation. Today we're going to discuss three of those.

I'm accompanied by, of course, the Co-Chairman, John Burzichelli; Senator Madden, Senator Lance, and Assemblyman Manzo, and Assemblyman Merkt, who have worked very diligently on this Committee for the better part of the last three or four months.

So there are three bills we're going to discuss today. The first one we're going to do is the Concurrent Resolution proposing to amend Article VIII, Section I, paragraph 1 of the Constitution, regarding farmland assessment. This item is sponsored by me -- SCR-121. And Assemblyman Caraballo is the Co-Sponsor on the Assembly side.

We understand that the Department of Agriculture has some issues that it would like to discuss. Because of that, and at the request of

my Co-Chairman, we are going to listen to the Department raise its issues. And as a result of that, we will have to have another hearing on this matter, because it's a constitutional amendment and requires notice to the members and the public before it's voted on, on the floor. And this hearing is required -- or a hearing is required before that happens. And since changes are being proposed, those have to be properly noticed, if there are any changes. And we haven't come to that decision yet.

So on that bill, which is a constitutional amendment, we're going to hear some testimony. The other two bills are not constitutional amendments.

So everyone understands, this is not a voting session. This is a hearing for the public to discuss these bills. The actual vote on these bills will take place in their respective Houses, on the floors of the Assembly and the Senate. They're going to be directly referenced there, based on the judgment of the Senate President and the Speaker. So there will be no votes here today. We're just hearing from the public and from the members.

As I said, the first bill is a constitutional amendment bill. Therefore, it is governed by a different set of rules. So we'll-- I would like the testimony to be brief on this, since we're going to have to deliberate and confer with the administration, and with the members, and with leadership, since these changes only came to our attention at 5:00 last night -- at least to my attention, this morning, actually. But they were very late in arriving from the Department of Agriculture. So we haven't had the chance to fully digest them; but that happens, and we understand that.

I'd like the commissioner (*sic*) -- is that the correct title -- of Agriculture to step forward.

SENATOR LANCE: Mr. Chairman.

SENATOR KENNY: Yes, Senator.

SENATOR LANCE: Thank you, Mr. Chairman.

May I make a statement?

SENATOR KENNY: Yes.

SENATOR LANCE: Would this be the appropriate time?

(affirmative response)

Thank you, Mr. Chairman.

As the public should know, I have chosen to appoint myself to this Committee. As Minority Leader, I appointed all of the Republican Senators to the various special Committees that have been meeting since the Summer.

And I find it very unfortunate, Mr. Chairman, that these bills -- some of which are statutory in nature, and one which is constitutional in nature -- are merely going to be discussed and will not be placed on the Committee agendas of the various Committees that have primary responsibility for these types of matters.

Traditionally in the Legislature, Mr. Chairman, bills and constitutional amendments go through the regular Committee process of the Standing Committees. And I would imagine, for example, that the SCR we are about to discuss would go to the State Government Committee, the Committee that usually deals with constitutional issues.

As I understand the decision of the Senate President and the Assembly Speaker, none of the matters that have been discussed in the four

property tax Committees will be referenced to Standing Committees. And these four Committees, themselves, do not have the authority to report bills to the floor. That is the responsibility of Standing Committees. And so I believe that the process is being short-circuited.

And I state that not only related to the SCR we're about to discuss, but to all of the other bills in the various Committees today -- the various property tax Committees. And I believe, as a matter of policy in the Legislature -- and I speak now on behalf of all of the Republican members of the Legislature, particularly the 18 Republican State Senators -- that all of these issues, and they are many in number -- roughly of 100 in number -- should be referred to standing reference committees so they can be vetted fully.

And I am greatly disturbed, Mr. Chairman -- and I know this is not your decision, or Assemblyman Burzichelli's decision; this is the decision of the Senate President and the Assembly Speaker -- that all of these matters, apparently, are going to be second referenced -- pardon me, are going to be on second reading, so that they could be voted by members in the Assembly and the Senate without having come out of any Standing Committee. And I object vigorously to that. And my objections, of course, will be made known to the Senate President and the Assembly Speaker.

Mr. Chairman, as Minority Leader in the Senate, I believe we should follow the usual course of action on these and all other matters.

Thank you, Mr. Chairman.

SENATOR KENNY: Okay. Thank you, Senator. Your position is observed.

And I cannot speak for the Senate President and the Speaker, but I believe it's their thinking that because this was an extraordinary special session of the Legislature that was convened four months ago, and voluminous testimony has been taken -- probably 50 hearings have been had, with public testimony among the four Committees -- that it's their thinking that these matters are ready for deliberation by the full bodies and do not have to go through the Standing Committees. That's their thinking. And the Co-Chairman and I support their thinking, because these issues have been thoroughly discussed and debated over the past four or five months. But I understand the position that you've articulated.

Mr. Secretary, we would like the testimony on this to be rather limited, since by virtue of the fact that we're going to be considering some of your recommendations, and others, we will have to have another hearing on this matter. And we have not had the opportunity to fully review your suggestions prior to this morning. So you're free to go ahead and offer your views.

Thank you, sir.

S E C R E T A R Y C H A R L E S M. K U P E R U S: Thank you, Mr. Chairmen. We appreciate your time. And recognizing the shortness of your notice, we really appreciate you giving us our time and opportunity to address the Committee this morning.

I have some written testimony. I'm just going to go through it very quickly and answer any questions that you may have.

With me is Erin Simone, my Legal Legislative Affairs Analyst from the Department of Agriculture.

I appreciate the opportunity to speak before you today on SCR-121 and ACR-4, which proposes to change the State Constitution with regards to the Farmland Assessment Program.

Let me say, first, that Farmland Assessment is one of two major policy approaches, along with Farmland Preservation, that help keep the Garden State agriculture viable. Without these two initiatives, we'd likely be staring at many more thousands of acres of developed land throughout the State of New Jersey, instead of the picturesque working-farm landscape that we can still find in most New Jersey counties. By helping the State retain farmland, this program has helped farmers stay on the farm and towns they live in avoid expansive development.

I know I quoted this figure before to you, but it bears repeating. According to the American Farmland Trust, farms require 36 percent in municipal services for every dollar paid in property taxes, while residential development costs 1.15 in services for every dollar paid.

As the Joint Legislative Committee on Constitutional Reform and Citizens Property Tax Constitutional Convention explained in your November 15, '06 Report, the purpose of this proposal -- the proposed constitutional amendment is to help ensure that farmland assessment is utilized properly for the intended purpose of facilitating the retention of as much farmland as possible in agricultural production, so that agriculture, as practiced by true farmers, may continue to exist and thrive as an industry in a rapidly developing state like New Jersey.

Clearly, changing the Farmland Assessment Program in any way that results in more farmers being unable to remain viable, thus causing them to sell off their land to development, would have the effect of actually

raising property taxes, not lowering them. And I know that's not what you want.

The members of this Committee should recognize that there is no one-size-fits-all approach to the changing of the rules of the Farmland Assessment Program. As a result, I am concerned that the proposed constitutional amendments, as drafted, will likely have the unintended negative impacts on the agricultural community that may have not been fully considered.

The impact of any changes to Farmland Assessment should be far -- could be far-reaching, affecting people whose lives and homes are tied directly to their businesses. There are 1.1 million acres of New Jersey farmland covered -- and receive the benefit of Farmland Assessment. This year, there will be 29,000 applications from people seeking to be included in the program. To say that Farmland Assessment is the single best incentive to preserving farmland in New Jersey borders on an understatement.

However, I do understand your concerns over the anecdotal evidence that you've received regarding people using the Farmland Assessment Program to improperly avoid paying their fair share of property taxes. If you feel you must move forward with the proposed changes to the Constitution regarding the rollback period for farmland that changes hands, the Department of Agriculture recommends that you amend the current proposal to reflect the following.

Fairness dictates that new rollback provisions should apply only to those who acquire such land after the effective date of the amendment. Many landowners have made -- would have made different purchase choices

if they knew they would be subject to increased rollback taxes if they were forced to sell early.

Two: Land inherited or transfers from a family member, which due to financial circumstances must then be sold, should not be subjected to the seven-year rollback provision in addition to the inheritance taxes already faced by the new owner.

Three: Farmers expanding their operations by acquiring additional land, who then must sell additional land due to circumstances beyond their control -- such as a change or loss of market, depressed prices, death or major illness of a family, or weather-related disasters -- should not be held to the new, seven-year rollback provision. To do so would chill the ability of farmers to take the business risks necessary to expand their operations.

While the current Farmland Assessment Program has been extremely successful at meeting the original intended goals that have helped New Jersey retain farmland since the 1960s -- which is a very good thing -- we feel that these resolutions should be amended to incorporate the three provisions I just outlined.

I and the Department are ready to assist the Committee and work with the Committee to find an amenable, appropriate amendment to make it work for the agricultural community.

Thank you, Mr. Chairmen.

SENATOR KENNY: Okay. I have some questions.

But do any of the members have--

Senator Lance.

SENATOR LANCE: Thank you, Mr. Chairman.

I have a statement, and I will-- When you suggest that's an appropriate time, I'd like to make a statement.

SENATOR KENNY: You make it now.

SENATOR LANCE: Thank you.

The Farmland Assessment Constitutional Amendment was enacted, I believe, in 1964 -- certainly some time in the early 1960s -- under the leadership of Wayne Dumont, my predecessor as State Senator from Warren and Hunterdon counties -- his greatest legacy to the people of New Jersey, in my judgment.

I am vigorously opposed to changing Farmland Assessment. And Assemblyman Merkt and I dissented vigorously from the recommendation of this Committee when it was suggested that Farmland Assessment be modified. And our dissent is a portion of the final Report of this Committee.

In our dissent, Mr. Chairman, we pointed out that there has been an exhaustive study of this by Cook College, Rutgers University. And the study by Cook College notes that extending the rollback period to six years, as proposed by the Report, would lead to an additional loss of almost 68,000 acres of farmland, 80 percent of which would be agricultural land, rather than woodland. I believe the proposal is counterproductive and would end up doing precisely what we do not want to do in New Jersey. And that is to have overdevelopment. And I think it would end up in meaning that there would be far less farmland than is now the case.

I also think that a conveyance tax would be disastrous. And we have dissented from that vigorously, as well.

The fact that we are discussing this at the last minute and that these are issues that may be voted upon by both Houses of the Legislature as soon as next week, I find to be very unfortunate. And speaking for myself, I would hope that all who are interested in this topic would review the dissent that has been authored by Assemblyman Merkt and me on this Committee.

And also, Mr. Chairman, I would hope that we examine the report from Cook College, which I believe has been done in a nonpartisan basis, a completely fair basis, and demonstrates conclusively that we should continue with the Farmland Assessment Program as it currently exists.

Thank you, Mr. Chairman.

SENATOR KENNY: Okay. Thank you, Senator.

Assemblyman Manzo.

ASSEMBLYMAN MANZO: Thank you, Mr. Chairman.

The statement by Senator Lance of the Cook report has interested me, in that I would have wished we would have had that before Committee at the time we even discussed farmland. I don't think we did it, because we really weren't sure which direction, or how serious we were about doing amendments there.

But having, now, this brought on to the table, I think I would be comfortable -- just a comment -- I know we're not taking a vote on the bill -- but urging the two Chairmen to possibly recommend that this bill -- this particular bill -- because I think there is so much wisdom, if you will, in the Agriculture Committee in both the Senate and the Assembly -- that this bill really deserves the attention of people who represent those issues and understand them.

I'm willing to say, as an urban legislator, I feel very uncomfortable if something about social conditions in an urban area were being debated in an agricultural committee.

This is not a reflection on this Committee, as a whole. We do have an expertise in being able to look at tax policy in the state. That was our charge. But the implications that this policy might have, as raised by the Secretary and as raised by Senator Lance, I'm concerned about. And I would urge both our Chairmen to -- as you go back to leadership -- to urge them that maybe this bill needs to be studied further.

SENATOR KENNY: Yes.

SENATOR LANCE: I want to thank Assemblyman Manzo for pointing out, as I should have pointed out -- and I apologize for not doing so -- that Farmland Assessment -- and in a related matter, Farmland Preservation -- has always been supported in New Jersey in urban, in suburban, and in rural areas. Assemblyman Manzo makes an excellent point. In Farmland Preservation, for example -- a related but not identical topic -- it has received the support of all 21 counties unanimously in the bond issues that have been proposed to the people. And I believe that Farmland Assessment is supported across the board in counties as urban as Hudson, and as rural as Hunterdon. And I want to thank urban legislators who recognize the efficacy of the Farmland Assessment Program, as I hope that we, in more rural New Jersey, recognize programs that are essential for urban New Jersey -- for example, the Fox-Lance legislation on redevelopment in urban areas. And I believe we can work together on issues that confront the people of New Jersey. And I am adamant in my belief that we should not, in any way, fundamentally amend the current Farmland

Assessment constitutional provision that I believe has served the entire population of this state -- almost 9 million New Jerseyans -- very well for more than 40 years.

Thank you, Mr. Chairman.

SENATOR KENNY: Okay.

Assemblyman Merkt.

ASSEMBLYMAN MERKT: Thank you, Mr. Chairman.

At the outset, Mr. Chairman, I would like to associate myself with Senator Lance's comments and frankly, also, Assemblyman Lou Manzo's comments, which I think were well-taken.

I tend to look at this Committee in terms of its original charge, which was to basically find constitutional ways to help reduce the tax burden on the people of New Jersey. This measure, I am concerned, based on the testimony we've received from the Secretary, could actually jeopardize the preservation of farming and farmland preservation in the State of New Jersey.

Now, this is a constitutional change. This is a change of a long-standing and, I think, very productive policy for the State of New Jersey. It is-- It would be a major policy shift. I strongly concur with Senator Lance's comments that this should go through the normal hearing process.

I'm also troubled with the fact that as we speak, I have no idea what the financial impact would be. I don't think it's been identified; I don't think it's been quantified. About the only thing we know is that it's going to have some sort of adverse effect that may reduce the viability of farming in New Jersey, at least to a degree. And I don't think anyone

intends that. But I think that's what's happening as a result of an idea that has not yet been sufficiently explored.

I also am concerned with the fact that, although we're trying to move things forward-- And I certainly understand the desire to see results come out of the deliberations we had over the past several months. But from the public's viewpoint, and particularly from the viewpoint of people in the western part of the state, especially folks involved in farming -- and that's not exclusively in the western part of the state, obviously, also the southern and other portions -- they haven't had time. The people have not yet had time to digest and to comment on these proposals in a meaningful fashion.

And so on behalf of the Assembly Republicans, I would certainly urge leadership to pull back from this at this time, and take more time. I'm concerned that this may end up being, inadvertently, a piece of legislation that would wind up being anti-farmer, anti-farmland preservation, pro-overdevelopment, and, unfortunately, pro-higher taxes. And along with Senator Lance, I must express our caucus' opposition to any discussion regarding the imposition of the conveyance tax, which I think is totally antithetical to the purpose of our Joint Committee. We have worked diligently trying to reduce the burden of taxation on the people of New Jersey. I think we ought to stick to that. And, therefore, I would urge the leadership, when they receive this from us, to step back and decide that this is an issue that needs a lot more study and a lot more development.

Thank you, Mr. Chairman.

SENATOR KENNY: You're welcome.

I don't know if Assemblyman Manzo was present earlier. We are not referring this bill today. We are taking testimony, because it's a constitutional question and it requires a public hearing. And if we're entertaining any changes, then public notice has to be issued as a result of that. So we're taking testimony today so that we will only be required to have one more public hearing, which this was supposed to have satisfied.

But we only heard from the administration last night at 4:00 as to these changes. And the changes proposed are significant. So that's the position that we're in now. We only learned of this very late last night. I only learned of these changes when I walked in here at 9:45 this morning.

So as to the merits of the bill, let's keep in mind that this is a constitutional amendment, which will be voted on by the public, presumably in the appropriate fashion. There will be a vote -- public vote. And the public, ultimately, will decide if, in fact, we go in that direction.

But just so we know what we're talking about: Under the Constitution, when a farmland owner converts his property to another use, he is required to pay the difference between what he paid in property taxes and what he would have paid on the property if it had not been farmland assessed for the prior two years and the current year. This amendment would extend that period from two years to six years. So what would happen is that you would extend the period from two to six years, plus the current year. So if a property got transacted within six years, the property owner would have to pay the difference between what he or she would have paid, had it not been farmland assessed. There are those who believe that this is the deterrent to acquiring farmland, and then flipping it for a significant sum and reaping the benefits.

We are not changing the threshold amount, which is \$500 of farmland activity in order to qualify under this program, because that's a statutory issue, not a constitutional issue. There are many who believe that \$500 number is too low, in today's day and age, to qualify for Farmland Assessment classification. But we're not addressing that here.

Also, the bill says that any -- the proposal, I should say -- any farmland owner who gets the Farmland Assessment, who has owned the farmland for seven years, would be exempt. So anyone who has had their property for seven years -- which is the vast majority of the Farmland Assessment qualifiers of the State of New Jersey -- the vast majority -- they would be exempt. So this would really only apply to recent owners of farmland property. And it would extend to those individuals who have owned the property for less than seven years, and then have a transaction to go to -- to make it a private property. And then they would have to pay the difference which is, as I said before, extended over a six-year period. They would come into the framework of the proposed constitutional amendment.

On the face of it, I don't see that as being particularly onerous. But that is what the bill does. It really affects a very narrow ownership group, going forward, who have not owned the property for more than seven years.

As to your amendments -- there are three. One of those, effectively -- despite our conversation prior to this meeting-- You just reiterated that anyone who has acquired property prior to the effective date of the constitutional amendment would be grandfathered under your proposal, which would take all property owners who are farmland assessed and grandfather them. And despite my conversation with you that it didn't

do that, you just testified that it does, in fact, do that. So I find that rather -- to be inconsistent with your representation prior to this meeting. That, combined with the fact that you notified us at 4:00 last night -- or 5:00 last night -- just, you know, is troublesome.

And your provision that anyone who acquires prior to the amendment would be exempt makes the proposal totally meaningless. And yet, when I questioned you about that before the meeting, you said that was not the case. Then you testified contrary. You know, I think as a Chairman, I take that to be a significant departure from protocol.

The third issue is that if anything goes bad, then you don't come under the bill -- economic hardship, bad weather -- you don't come under the bill. I mean, I'd like to have that provision in my life. (laughter) So, in effect--

And then you have an amendment that transfers within family should be exempt. I mean that, to us, has some merit. Interfamily transfers should not create a transaction.

But two of your proposals would totally gut the bill. Now, regardless of the merits of the bill -- which I agree that there are different views. Regardless of the merits of the bill, that the Department comes before us at 4:00, 5:00 on the day before we're having this hearing -- and we've been-- This has been out there for five months, since the Summer. And that staff gets a memorandum at 4:00, 5:00 in the afternoon -- on a Wednesday afternoon before the Thursday meeting -- that essentially guts the proposal from the administration, when we've been here for five months, I don't think is proper. And I just don't think it's appropriate, regardless of the merits of the bill. That people disagree is fine. But we

should have known this long before having a hearing that has constitutional import. Because the purpose of this hearing today on this bill was to satisfy the constitutional requirement that we have a public hearing on a constitutional amendment.

Now that you come before us as a Department head -- as the Secretary of Agriculture -- and propose major changes, requires that we now have another public hearing. Had you come to us sooner, we could have incorporated this in a discussion and, perhaps, averted that necessity. But that didn't happen. And so I just feel that we have to do better in communicating with the legislative branch, with respect to major issues that have been before the public now for a number of months.

So I think that is my view, as to the procedures that have not been followed before coming here this morning.

SECRETARY KUPERUS: Mr. Chairman, just--

SENATOR KENNY: Yes, sir.

SECRETARY KUPERUS: We only learned of this meeting happening a couple of days ago. And it caused a big rush, in our agency, in order to assemble at least the appropriate data to come to this with an informed opinion.

We recognize this is a deliberative process. And you've mentioned that earlier in this process. And we'd welcome the discussions with this Committee in order to come to some resolution. We apologize if you see us coming at the 11th hour with this information. But, again, we didn't-- We expected something early January, to give us several weeks to have these conversations. And I have had conversations with Assemblyman Burzichelli about these issues already. So it's not something that we

haven't talked about. And we've talked about these issues within the administration already.

Having said that, I apologize. But at the same time, the issues remain. And we will be happy to work with you in order to resolve those differences, in order to come out with good legislation that the voters ultimately need to approve in November of next year.

Thank you.

SENATOR KENNY: Okay.

You have to turn off your microphone, Mr. Secretary.

Thank you.

Yes, Senator.

SENATOR LANCE: Thank you, Mr. Chairman.

I now wish to speak briefly about the constitutional dimensions of what may be occurring in the Legislature.

For there to be a constitutional change in New Jersey, a simple majority of both Houses of the Legislature have to pass a constitutional amendment in each of two succeeding years before it goes onto the ballot to be voted by the people. Or, alternatively, a super majority of the Legislature has to pass the constitutional amendment in one year. And that super majority, under the New Jersey Constitution, is three-fifths. The legislative year will end the second Tuesday in January, at noon. And I believe that is Tuesday, January 9, 2007, several weeks from now.

I have concerns that this could receive a simple majority but not a super majority in the next week or two, and then be voted again, almost immediately, after Tuesday, January 9, by a simple majority -- not a super majority. And then it would reach the people for a vote next

November -- November 2007. And I hope we are not attempting to pass this by a simple, but not a super, majority in the waning days of December and the first week in January, simply to avoid the quite important check and balance of the super majority provision of the New Jersey Constitution. I doubt that this could receive the support of a super majority. That would be 24 votes in the Senate and 48 votes in the Assembly. And I hope that there is no rush to judgment.

And let me indicate, again, this is not a criticism of you, Mr. Chairman, or of Assemblyman Burzichelli. It is a criticism of the presiding officers in both Houses and, indeed, of the administration. And I believe this needs much greater deliberation. And, indeed, I am greatly concerned, based upon these constitutional provisions in the New Jersey Constitution, that we may be trying to rush to judgment on this issue.

Thank you, Mr. Chairman.

SENATOR KENNY: Okay.

Well, I just want to say, for the record, I fully support the Senate President and the Speaker. In no way do I find their conduct -- in any way -- objectionable. They have engaged in a process that has been open, public, very deliberative over the past five months. And whether it's a super majority, or two years of a majority vote, they're both in the Constitution, they're both appropriate. One isn't less than the other, in terms of the quality of amending the Constitution. And the Legislature that is in place, that has been working on these bills for the past four months, is perfectly entitled to vote on this within the coming month. They're perfectly entitled to do so.

But I understand the Senate Minority Leader is making a point. But I feel the Senate President and the Speaker have been more than forthcoming and very, very open and public with both the members of the Legislature -- from both parties. So we will decide what will happen.

My upsetment is the fact that this was to be a constitutionally required hearing on an amendment to the Constitution this morning. And we were unaware of the objections from the administration until very late yesterday. And that is not appropriate. I've said that in more ways than one. I'm not going to repeat it again. So that's that.

Thank you, Mr. Secretary.

SECRETARY KUPERUS: Thank you, members of the Committee.

SENATOR KENNY: Now, we have a number of people to testify on this issue. And I want to hear from them, because this is the opportunity -- knowing that we're going to have another hearing -- we need to hear, to determine whether to incorporate any other changes, or to hear opinions. But I'm asking for a three-minute rule, because we're going to have to come back here. There are two more bills that are going to take time, as well. And since we can't, in effect, dispose of this matter today, for the reasons stated, the important thing is to get your testimony.

If you have statements, please submit them, and please don't read from lengthy statements. We need to be rather concise, because we know what the issues are.

Dena Mottola, Environment New Jersey.

Is Dena here? (affirmative response)

Dena, just identify yourself.

And, again-- I see you have statements with you. But if you could articulate those in a brief fashion, it would be appreciated.

D E N A M O T T O L A: Sure.

Mr. Chairman, members of this Committee, my name is Dena Mottola. I'm the Executive Director of Environment New Jersey, which is the new home of New Jersey PIRG's environmental advocacy.

I wish to speak about strengthening this bill. I do applaud the sponsors for working to end the abuse that -- of the Farmland Assessment Program. I think this bill is going in that direction, but needs to go a little further. And that's what I wanted to address today.

With the changes that I'm going to talk about, I think that this program can be both a true tax credit or tax break for farmers -- as it is intended to be -- but it can also become a program that the public has a lot of support for. Because I think this program should benefit the broad public for people who pay taxes; and, in a sense, because they pay their local taxes, are subsidizing the program, or the farmers. And I think that the benefit that the broad public deserves to get out of this program is more open space, or keeping farming land open to farming for longer; because people, in general, want open space in New Jersey. And this program should meet that demand that the public has.

So the ways that we'd like to see this bill strengthened-- Number one, we'd very much like to see the seven-year loophole removed. We don't think that-- I guess, saying it simply, we feel that many landowners, besides farmers -- anywhere from pharmaceutical companies, to developers themselves -- will hold land for a very long time. And we believe that if we don't eliminate the seven-year loophole, we won't really be doing

what this bill is intending to do, which is to end the abuse of this farmers' tax credit program. So that's the first thing.

The second thing is, we'd like to see the rollback period extended to 10 years, which is nine plus the current year. Again, this is for the two reasons I mentioned before. Number one, because we think that owners of the land who are going to turn it into a development opportunity should be paying their fair share of property taxes, but also because we do think that this rollback will serve as a disincentive to develop the land. In contrast with the Cook report, we actually think that extending the rollback will mean open space will stay open longer.

Third, we'd like to see-- I guess we'd like to see farmers pay back some of the property tax assessment. We don't think that farmers who do sell their land for development, or develop their land themselves, should be totally exempt from paying back property tax, should they use their land for development purposes. And for that, we're just proposing that the rollback be extended to five years -- four plus the current -- for a farmer who is an owner-operator of a farm business on the site for 10 years or more, which we think is a reasonable way to address the issue of what farmers ought to return to the taxpayers.

And, last, we believe that a significant portion of the funding that we get from the rollback should be used for open space purposes. As I mentioned earlier, we do think the public is investing in this program by paying their local taxes, thereby providing the subsidy to the farmer. And we think that the benefit the public should get is true open space preservation, preservation over a permanent period of time. And so we'd like to see a significant portion of this funding go toward an open space

fund, whether it's local -- preferably the statewide Garden State Preservation Trust program.

And I forgot to mention, when I started speaking, that I'm also speaking on behalf of the New Jersey Audubon Society, who is unable to speak today.

And that's all I had.

SENATOR KENNY: Okay. Thank you, Dena.

You have a statement, right?

MS. MOTTOLA: Yes.

SENATOR KENNY: You'll distribute that to staff.

Assemblyman.

ASSEMBLYMAN MANZO: I know we're going to hear a lot of testimony on the rollback. And I just wanted to--

The one concern I had is, I know there is a family transfer allowance. But my question is -- and I hope someone thinks about this in time for the next hearing -- is that, what about in the case of where a family member dies, who was really the business -- the farm business, knew everything about it? And the family just decides that they don't want to go on, and to sell the farm at that point. Is it really fair to roll back six years simply because--

ASSEMBLYMAN MERKT: Ten years.

ASSEMBLYMAN MANZO: --or to 10 years, simply because they -- the prime runner of the business died? I would hope someone would consider that in the provision.

SENATOR KENNY: Well, there is-- Again, we-- The suggestion came to us very, very late. And we're going to deal with that issue. That one, at least to me, has merit.

But thank you very much, Dena.

ASSEMBLYMAN MANZO: Thank you.

MS. MOTTOLA: Thank you.

SENATOR KENNY: I didn't realize there were several public officials who were here. And I usually try to take them first, because they have commitments that -- in this building and elsewhere.

Assemblywoman Marcia Karrow.

Good morning.

A S S E M B L Y W O M A N M A R C I A A. K A R R O W: Good morning.

Thank you, Chair.

Thank you for hearing my testimony on your bill, and my colleague Assemblyman Caraballo's bill.

I'm joined today by a number of elected officials from Hunterdon and Warren County, the district I represent, which is arguably the most rural agricultural district in the State of New Jersey. And I'm honored to serve with my esteemed colleague, Senator Lance. And I echo all of the comments that he made. I have a lot of concerns about the procedures and, in particular, SCR-121, ACR-4 bypassing the Agriculture and Natural Resources Committee of the Assembly, on which I serve.

In particular, regarding this bill -- and why there are so many elected officials here -- is because, in my district, which has 45 municipalities -- the largest number of municipalities in any legislative

district in the state, representing over two dozen townships with Farmland Preservation programs. None of my elected officials are complaining about rollback taxes.

I have served as the township committeewoman for almost a decade. I have been a freeholder for almost a decade in Hunterdon County. Our programs are strong because of the State's Constitution. And I am urging this Committee to not put forth this constitutional question to the floor at all.

We are extremely concerned-- And I also have brought -- which Freeholder Gardner, from Warren County, has in his possession -- testimony from the Warren County Planning Board and Farmland Coordinator. And the Hunterdon County Planning Board Director and Farmland Coordinator are here as well, today, to testify against this bill.

But this is going to have devastating effects -- hugely devastating effects. I don't profess to write legislation about Hudson County and Essex County, because I don't know anything about urban dwelling. I would urge this Committee to send rural legislation to the proper committees.

I have been doing farmland preservation for 15 years in Hunterdon County. And I can assure you that the devastating effects that this bill is going to have are fire sales from landowners who have been stewarding land for a number of years and are going to be extremely afraid about the financial ramifications of this. And, frankly, we have a huge number of farmers in both counties that rely on the ability to lease land in order to maintain large farms. They can't afford the cost of farmland in New Jersey anymore, so they rely on leased property. And there has been a

symbiotic relationship between owners and farm tenants for a very long time in Hunterdon and Warren counties. And the premature sale of this land is going to not only take out a lot of farmland immediately, but it's going to take out the agronomy of Hunterdon and Warren counties immediately, as well. Every land in farmland is precious. It is-- This is an economy -- it's an economy of scale when you deal with agriculture.

And like I said, my elected officials aren't complaining. They understand what the devastating effects of fast development is going to mean when these lands go to fire sale, held by just common citizens that bought the land waiting for some time in the future. They have no plans right now. But if they've been holding the land for three or four years, and they know they're going to have to be paying rollback taxes on seven, they're going to dump the land to Calton Homes, Toll Brothers, and Hovnanian, and to a half-dozen other large developers who can afford to buy it.

So I'm asking you to not put this bill forward, please. Give it some time, hear the testimony, let it lie for a few months, and look at the Cook College study, listen to the testimony from the elected officials today. They don't want this bill to be put forward. The rollback taxes are a fast hit. It's not going to have long-term tax savings for the municipalities. It's going to be tax devastating.

And as far as what my predecessor speaker just spoke -- Dena Mottola -- about sending it statewide to the Garden State Trust Fund-- Well, you're going to have to deal with a constitutional issue on that. Because the rollback taxes go to the municipalities, they don't go to the

State of New Jersey. And if that's what this is really about, then we're going to have real problems.

Thank you.

SENATOR KENNY: Thank you.

I'm just asking everybody to please keep their comments--

You have a question? (affirmative response) I'm sorry.

Assemblywoman, the Senator has a question for you.

SENATOR MADDEN: Thank you, Chairman.

Hi.

ASSEMBLYWOMAN KARROW: Good morning, Senator.

SENATOR MADDEN: The intent here was to exempt or grandfather the current farmers and make this bill prospective, going out.

With that in mind, do you believe the bill is as devastating as you just testified to? Now, just think about it. Everybody here that has ground, now, is whole, except those that held it less than seven years. The people that you referred to when you testified -- three or four years -- were, essentially -- I heard three or four developers' names.

I don't know-- Where I come from, I consider that landbanking. So if you have a developer that owns the ground, and they sell it to another developer, like Toll Brothers -- you mentioned Toll Brothers as one -- what do you think Toll Brothers is going to do with the acreage? I guess I have two questions. What is their intent? Why are they holding the acreage? And then the second part -- if you could express a comment on the prospective piece of the bill.

ASSEMBLYWOMAN KARROW: I would be happy to, Senator. Thank you.

Through the Chair, basically the Farmland Preservation Program is coming under new rules. And it works very slowly, right now. We have a lot of farmers who can't afford to keep their land, and they don't want to go through the Farmland Preservation Program, so they sell it to somebody else. These are not big developers. They're people who are willing to buy it, and see what happens in the market, and hold it for a number of years.

The large developers do have some landbanking land. They don't really have as much as people think they do; at least not in my district. And they go and they usually do direct purchase to farmers when the market allows.

Under this bill, a number of people who have chosen not to sell to the Farmland Preservation Program -- farmers who have sold, instead, to individuals -- in some cases they're still farming their own land -- what used to be their own land that they sold. If they have to dump their land-- If they were counting on rollback taxes for three years, or they're worried about what that means-- I mean, in Hunterdon County, the property taxes are pretty darn high. Calton Homes, and Toll Brothers, and Hovnanian are going to end up with fire sales. And they're going to take that into consideration -- the value of the land where they're maybe not developing so much right now. They're not going to want to hold the land either, which means that they're going to build now, instead of waiting for a more favorable time in the market. If they know that they're going to lose \$120,000 or \$150,000 in profit to taxes -- to rollback taxes -- they're going to do that now, so that they can take their profits now. And that's what the

elected officials are concerned about. They're concerned about premature development.

And, frankly, if five or-- If we have one farm that comes up for sale because one of these "land speculators" -- as the discussion has -- or the bill has referred them-- If a farm comes up for sale, or if elected officials get wind that perhaps one of these land speculators is willing to sell, a municipality can step in, in Hunterdon County. Almost every single one of our municipalities have their own farm and open space tax, as do both counties. And they can purchase and put that farm into Farmland Preservation themselves.

If we get a situation where five or six of those farms come up in a municipality right now, because of this bill, they can't do that. They can't do that kind of triage. They won't have the kind of money to run interference, and grab those lands fee simple, and put them into Farmland Preservation.

And if this sounds like it's Greek, Senator, it's because I know an awful lot about how these programs work. And I don't expect urban legislators to know, frankly. So--

SENATOR KENNY: Excuse me. Let's get back on track. That will be--

Thank you.

Do you have anything further, Senator?

SENATOR MADDEN: Just real quick-- The ultimate, right now, if I'm hearing you correctly-- It pretty much sounds like you have accepted the fact that this land will be developed. It's just a matter of timing. It sounds like your opposition to the bill is that it would speed up

the development, whereby the owner now would dump the ground to another developer, possibly. And that developer would build right away, whereby--

ASSEMBLYWOMAN KARROW: Au contraire. I don't think that this land--

No, what I'm saying is that the municipalities have time, as landowners have been holding it in stewardship-- They have time to approach landowners and talk to them about putting that same farm, that is now being held and farmed by a leased tenant-- They approach them, and they put those farms into Farmland Preservation themselves. And if the market continues to not be a good market, like we saw in the late '80s-- We saw a lot of these land stewards putting the farms into Farmland Preservation who were not, themselves, farmers.

So I don't believe a lot of this land is going to be developed unless we push the point and force people to think that they are going to lose money. As long as they're holding the land, we have the option and opportunity, as elected officials in Hunterdon and Warren counties, to approach any landowner to get them to put it into Farmland Preservation, as long as that land is farmland.

SENATOR MADDEN: Okay. Thank you.

ASSEMBLYWOMAN KARROW: Okay?

SENATOR MADDEN: Thanks, Chairman.

SENATOR KENNY: Thank you.

Yes, Assemblyman.

I hope we try to limit the questions to the people who are testifying, because we have so many people here on this list.

But go ahead, please.

ASSEMBLYMAN MERKT: Thank you, Mr. Chairman.

Assemblywoman, I'm asking this, because there is sort of a disconnect going on for me, right now. We have a lot of local officials from your area who have come here today. As I understand it, they are here in opposition to the bill and -- to the resolution. And, yet, when you think about it-- As I understand it, if this were to be enacted, and the rollback were to happen, they would actually end up, theoretically, with additional money. Why would they be opposed to something that, ostensibly, would put more money into their coffers?

ASSEMBLYWOMAN KARROW: Assemblyman, it's for two reasons. One, it's quick and dirty, and it's not money that they can count on. And the ramification of it going into development is so devastating, that any rollback taxes that are paid are going to be made up in that first school, or the first roads, with six fire hydrants at \$600 a piece to keep them charged, or the extra cop at \$40,000 that's going to be needed for a new population. So, frankly, the rollback taxes -- it's a one-shot deal. A new school, a new infrastructure, and new salaries -- forever are forever.

ASSEMBLYMAN MERKT: Well, I guess my simple comment--

Thank you for your answer. That helps explain it.

And I have to say, when the local officials from the communities that are most affected are opposed to something like that, with all due respect, Mr. Chairman, I think we should listen.

Thank you.

ASSEMBLYWOMAN KARROW: Well, if I could just say, in two-days notice on this bill, Chairman, I've got probably a dozen mayors, deputy mayors, elected officials, and both planning boards and freeholder boards from Hunterdon and Warren counties here. And if you're going to have a second public hearing, I'll pack this room.

Thank you.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Good for you.

SENATOR KENNY: Okay. We have a few more public -- two more public officials -- elected officials.

And let me just say something, because I've heard it, now, several times. Several members of this Committee, both Democrat and Republican, live in areas that have farmland -- be they Democrat or Republican. And urban legislators, such as myself, are perfectly capable -- as I have during my career -- of understanding legislation that pertains to nonurban areas, just as nonurban legislators are very capable of understanding legislation that pertains to urban areas. And issues that I have advocated for urban areas have enjoyed the support of nonurban legislators who understand the issues that we have. Vice versa, I have offered support on many issues that pertain to nonurban, rural areas in the past. In fact, I've been the sponsor of many, many environmental pieces of legislation, including Green Acres and farmland issues, in the course of my career.

So let's not try to be divisive about where someone resides, as to their constituencies where -- in the districts that they come -- that they're not either able or capable of understanding issues that exist in other parts of

the state. That is total nonsense. And as Chairman of this Committee, I'm not going to accept that type of representation. It's polarizing, it's inappropriate. And there are people on this Committee, on the Republican and on the Democrat side, who have supported each other on issues that go to their constituencies, because it's the right thing to do. And I can read a bill on nonurban issues as well as anyone else; and understand it; and form, I think, a position based on judgment. So I do not want to entertain that type of discussion here, in this Committee. I think it's inappropriate.

Freeholder Rick Gardner, from Warren.

F R E E H O L D E R R I C H A R D D . G A R D N E R: Good morning, Mr. Chairman.

SENATOR KENNY: Good morning, sir.

Excuse me, sir. I'm sorry. Could you introduce yourself again?

FREEHOLDER GARDNER: Okay. I'm Warren County Freeholder Rick Gardner.

SENATOR KENNY: Thank you.

FREEHOLDER GARDNER: But I'm before you today as an individual farmer.

SENATOR KENNY: Okay.

FREEHOLDER GARDNER: I am a fifth-generation farmer.

First, I would like to read -- as I indicated I would do so for our Preservation Director -- a statement from the Department of Land Preservation -- Mr. Bob Resker.

"My name is Bob Resker. I am the Director of the Warren County Land Preservation Department. And I offer Warren County's

strong concern and opposition to the proposed Senate Concurrent Resolution No. 121.

“Warren County has over 80,000 acres of farmland assessed lands. We believe the proposed constitutional amendment will have a chilling affect on Warren County’s agricultural industry. Many of our farms are owned by second parties and farmed on a leased basis. Whether the farmer is the property owner or a tenant farmer, this property is productive, agricultural land and is essential to the State’s agricultural economy.

“It is puzzling to me that legislation that is so significant to our fragile farming economy is not before the Agriculture and Natural Resource Committee before being considered by any other Committee.

“Warren County has preserved 139 farms and nearly 15,000 acres since 1985. And there is still over 60,000 acres of farmland-assessed properties within the county. If the owners of these farmland-assessed properties are faced with these additional rollback taxes, it could result in panic selling and thousands of acres of farmland lost to agriculture forever. The resultant bargain prices would be so attractive to developers, they would seize the opportunity to acquire large tracts of land and begin development where development might not have occurred for many years, if at all.

“Warren County joins with Hunterdon County in its concern about how this proposed constitutional amendment will impact both counties and the State of New Jersey, specifically its farming community, by reducing the number of acres available for active farming; its farming economy, by reducing the production of agricultural crops; and its

agricultural heritage, by reducing the number of active farms on our landscape.

“The original intent of this section of the Constitution was to recognize and protect the rich, agricultural heritage of the State of New Jersey. We are the Garden State, and this proposed amendment could change our agricultural community and landscape significantly. Warren County urges you to oppose this proposed amendment.

“Thank you.”

SENATOR KENNY: Thank you very much, sir.

FREEHOLDER GARDNER: I just have some comments, from my perspective.

I also lease land in order to make my operation financially feasible. Do I really want to work 16-hour days? No, I don't -- besides what I do for the public. But I have to, in the State of New Jersey.

While the goal may be laudable to keep more land open -- if that is the true intent -- I believe Senator Lance stated it so eloquently: the unintended consequences, I think, are almost very abundantly -- in my mind -- obvious. There will be people that will sell. And they will, especially in our location. I think there are locations in the State of New Jersey where it will not make a difference. But certainly in Warren and Hunterdon counties, it will make a difference.

Also, I believe that you struck a cord with me. You mentioned the \$500 amount. I would be willing to sit on a panel and work on that issue, because I feel an incumbent responsibility to the intent of farmland assessment. And I don't sell livestock to people if I feel they're just going to flip them over the next day. So there needs to be a timing factor. So all

these issues can add to accountability. But that should be in dialogue in a committee, and not take this action.

And I also would hope -- and urge the State Legislature -- should take a look at what the state of Virginia did, and suspend their estate taxes. Because I'm in the crosshairs of that, as well.

So I may be the last of the Mohicans in farming, but I still enjoy what I do, despite all the arduous and egregious situations that farmers come through. We are less than one-half percent of the State of New Jersey. And, yet, we're still producing-- We're the fourth largest business in the State of New Jersey, when you consider wholesale through retail. It's a significant boost to the overall State budget. And I would seriously urge you to please consider holding the bill. And as I indicated, I'm willing to be respondent to any open questioning further on this matter.

And I just want to thank you for the opportunity to speak.

SENATOR KENNY: Thank you, Freeholder.

Yes, Senator.

SENATOR LANCE: Thank you, Mr. Chairman.

I want to welcome Freeholder Gardner to this Committee.

I, of course, am Senator for every square inch of Warren County; as well as those portions of Hunterdon County, where I live.

The Freeholder lives in the Asbury section of Franklin Township, Warren County. As he has testified, he is the fifth generation of his family to farm. And I want to make public the fact that it is enormously courageous to continue to farm in New Jersey, because it is so difficult, financially, to farm in this state.

For example, the Lances, who farmed in Hunterdon County for 200 years, got out of farming a hundred years ago, because we didn't have the stick-to-it-ness of the Gardners and other families who have farmed multigenerationally.

It is my judgment that if we move forward with this, constitutionally, family farms like the Gardner Farm, and farmland that the Gardners and others lease-- And half of the farm acreage in this state, Mr. Chairman, is leased.

If we move forward with this, as a Legislature, that the inevitable result will be greater development, which no one wishes. And I would imagine that the farmland that exists would almost invariably move toward development.

And I appreciate the calm way and the cordial way that the Freeholder -- formerly the Freeholder Director -- has presented his testimony this morning.

Thank you, Mr. Chairman.

SENATOR KENNY: Thank you.

FREEHOLDER GARDNER: Mr. Chairman, may I just make one more comment?

SENATOR KENNY: Yes, sir.

FREEHOLDER GARDNER: While I spent 17 years on our local planning board, I was one of the individuals who voted for increased acreage, because it was the right thing to do to keep agriculture alive in our township. And as a result of those decisions, as tough as they were at the time, we still have 8,500 acres of gorgeous landscape in our township. And we are the prime agricultural municipality in Warren County.

Thank you.

SENATOR KENNY: Okay. Thank you, Freeholder.

Mayor Frank Van Horn, from Knowlton Township.

MAYOR FRANK C. VAN HORN: Well, thank you very much. It's certainly a pleasure to be here.

I, too, am an old-time farmer. We had our farms up on Swayze Mill Road, in Hope Township. I've been the Mayor, here, of Knowlton Township for about the last 12 or 15 years.

We have a 10-acre zoning. Our 10-acre zoning has cluster zoning, where you have -- you can put your one lot on 60,000 square feet, which is about an acre-and-a-half. That means you have one house on the main tract, which works out to be about 85 acres -- same where you've got a hundred-acre farm -- and you can put nine in cluster zoning, where you can have them as close as you possibly can. That leaves us 85 acres for farming and open space for ever and ever, and no cost to the township or the taxpayers.

We have about \$25,000, equals \$0.01 to us, in-- I don't really know what I'm doing here, to tell you the truth. (referring to PA microphone) But that's all right, my wife tells me that all the time.

The one thing we do have here-- I was actually out this morning picking up milk. There are so few farmers in New Jersey anymore. I think there's only 115 dairy farmers. I actually get out every morning, 4:30 in the morning. We picked up milk this morning. That milk goes into Readington Farms. You see it at QuickChek, ShopRite. We do pick up in Hunterdon and Warren counties. At one time, I had 13 routes a day. I

have one route a day now. Where we had hundreds of farmers, now we can count them on our fingertips.

The way the farming is going today, we have one-large-unit farmers. And these unit farmers actually go out here, and they have their homestead farm, and then they do a lot of leasing here. And these lease farms are people here that actually went out of business. They don't have any other way to do it. They have to farm a thousand acres today. You have to have hundred-acre fields, because we can't get in there and make it efficient at all. We need large blocks of land to farm.

We see here, on this deal, exactly what's going to happen. The farmers that are in this situation, that actually are the Gardners, and the Santinis, and the Van Horns, and the Taylors, and everybody that owns land here now-- They've already got this 10-acre zoning in place. And that's really what we're looking for -- to save that land, keep it in farming, keep it on the tax rolls, and say, "We need to have that one lot that we look for, that's actually going to supply that farm, to keep that." We don't want to sell our farms. We don't want to get rid of that. We want to be able to say that.

So on our local and municipal zoning here, with your Highlands Act and our county -- our Warren County, here, which helps us on our Farmland Preservation all the time. That's exactly what we want. We want Farmland Preservation. We want to be able to take that, continue to farm it, hopefully have our children farm behind us, and say we actually need that money. There's no other way to do it, fellows. Milk prices today are \$12.59; milk prices in 1972 were \$12.59 -- 30 years ago. A bushel of corn is anywhere between \$2.50 and \$3.00. That's not enough to do it.

We just physically and financially can't do it. If we had to go out and buy our farms today, and they weren't handed down through generations, you would never, ever be able to afford to buy a farm today. Your combines today -- \$150,000. We have to farm 2,000 acres of land. We have leased land all over the place, drive these combines 15 miles just so we can get that extra, additional corn.

Farmers are under a lot of stress. That's a known fact. Like I said, there's only 115-- I think there's probably 300 grain farmers.

So, to the Chairman, we'd love to have you come out here, and take a look, and actually talk to my farmers -- the guys that are going to be affected most of all. The farmers that are in it now want to save land. We're very passionate about it.

And I can't think of anything else to tell you.

The one thing that my father told me -- and he was mayor before me. He said, "You know, there's two things in government that you always have to remember." And when we grew up, this was drilled into our heads. He said, "You protect those who can't protect themselves. And you don't make yourself richer by making somebody else poorer." And that's what I hope this Committee considers at the end.

Thank you.

SENATOR LANCE: Mr. Chairman, let me say that this is a bipartisan matter. Mayor Van Horn is a Democrat from Warren County. There are strong Democrats in our part of New Jersey, and Mayor Van Horn is one of them.

Thank you.

SENATOR KENNY: Thank you, Senator.

Dave Pringle, New Jersey Environmental Federation.

And, again, I'm asking everyone to -- people have been pretty good -- the last couple of speakers -- to keep your comments within about three minutes, so we can get the gist of what you have to say. And if you have statements, just distribute them to the staff.

Thank you.

DAVID PRINGLE: Thank you, Mr. Chairman.

My name is David Pringle. I'm the Campaign--

SENATOR KENNY: David, will you turn off that microphone next to you?

MR. PRINGLE: I'm the Campaign Director for the New Jersey Environmental Federation. We have 70,000 individual members, and an additional hundred member groups throughout New Jersey. And we're very pleased the Legislature is taking a look at this issue. We think the Farmland Assessment Program has been in need of reform for a very long time. And we'd like to see the constitutional amendment. And we think this amendment is moving in the right direction. We would like to see it go a lot farther, however.

We think that reforming this legislation will actually slow down development, not expedite it, for a couple of reasons. First of all, it will not-- The only reason you're going to be paying additional property taxes, through this legislation, is if you flip your property and develop in the first place. So if you have no intention of developing, you're not going to be paying additional property taxes. Therefore, there is no reason to sell your property.

That said, if that really is a concern, a simple amendment could address that by making the legislation retroactive to when it was first introduced. We did that in the Highlands Act, last year, to ensure that there wasn't a land rush. So, to a degree, we don't think that concern will pan out. But if folks-- If that idea is truly folks' motivation, it could be easily remedied with that simple amendment. And there is a precedent for it.

There is anecdote on anecdote, and story upon story on how developers, directly and indirectly, have land-banking, profited from it; it's come at tremendous cost to local revenue, as well as to the environment. And we think this amending of the Constitution to correct it will go a long way.

We would like to see the legislation go farther in three ways. One, we think the rollback should be extended to 10 years, not for six. Two, we certainly understand longstanding farmers should be -- catch a break, compared to others. But we think having them entirely exempt -- giving that they're moving on to development, and they're going to be profiting significantly from that -- is a bit too generous. And we're open to ideas, maybe, of rolling it back 10 years; for everyone else, something like five years for those would be more appropriate. Third is, that while this program does come at the expense of local revenue, it also does come at the expense of the environment. And we think it would be entirely appropriate for some of the revenue accrued from this amendment to go towards Farmland Preservation and Open Space. And we would hope that the Legislature considers those thoughts as this legislation moves forward.

And I also note that you're not rushing this legislation. And it has to sit on the desk for 30 days, once -- even before you could vote on it, on the Senate floor. And I understand there may be some amendments that are happening anyway. And the final bill can't be voted on until 30 days after those amendments are done.

So thank you for taking this on. And I look forward to working with you as it continues its journey.

SENATOR KENNY: Could we have--

Thank you very much, David.

We have two individuals from Hudson (*sic*) County. I don't know if they're here -- one from the Open Space, and one from the Planning Department. Sue--

G. SUE DZIAMARA: Dziamara. (indicating pronunciation)

SENATOR KENNY: Dziamara and Kevin Richardson.

Please come forward. You both can come forward.

MS. DZIAMARA: Good morning.

SENATOR KENNY: Good morning.

MS. DZIAMARA: My name is Sue Dziamara. I'm the Director of the Hunterdon County Planning Department. And I'm here today on behalf of the Hunterdon County Board of Chosen Freeholders to voice Hunterdon County's strong concern and opposition to the proposed Senate Concurrent Resolution No. 121.

With over 50 percent of our county lands classified as farmland assessed, we believe the proposed constitutional amendment will have a significant effect on Hunterdon County's agricultural industry. Let me begin by saying there seems to be a grave misconception that owning

property but having another person farm it is somehow taking advantage of the system. It is insignificant who is farming the property, whether the property owner or a tenant farmer, to the agricultural industry. The property is productive agricultural land and is essential to the state's agricultural economy.

An initial concern is, what is the hurry to get this amendment through the system? Why wasn't this proposed amendment sent through the regular channels, through the Agriculture and Natural Resources Committee? It would seem that this Committee would be the appropriate review Committee for an amendment with such a significant effect on farmland.

Furthermore, Hunterdon County has one of the most active Farmland Preservation Programs in the state. We have preserved 163 farms and nearly 20,000 acres since 1985. But there are still nearly 100,000 acres of farmland-assessed properties within Hunterdon County. If the owners of these farmland-assessed properties panic and put their farms up for sale to avoid the additional rollback taxes, it could result in thousands of acres of farmland lost to agriculture forever. I am certain developers would seize the opportunity to acquire large tracts of land at bargain prices, and begin development where development might not have occurred for many years, if at all. Or these property owners might opt to apply for Farmland Preservation, only to overwhelm the funding that is available for the Farmland Program.

Hunterdon County is very concerned about how this proposed constitutional amendment will impact Hunterdon County and the State of New Jersey, specifically its farming community, by reducing the number of

acres available for active farming; its farming economy, by reducing the production of agricultural crops; and its agricultural heritage, by reducing the number of active farms on our landscape.

The original intent of this section of the Constitution was to recognize and protect the rich, agricultural heritage of the State of New Jersey. We are the Garden State, and this proposed amendment could change our agricultural community and landscape significantly. Hunterdon County urges you to oppose this proposed amendment.

Thank you.

SENATOR KENNY: Thank you.

Kevin Richardson.

Again, I'm asking people not to read their statements, but to be succinct. I have 15 more people on this issue, and I'm trying to give everybody an equal opportunity. We have two more bills. So it's almost-- It's 11:50.

Thank you, sir.

KEVIN RICHARDSON: Thank you, Mr. Chairman.

In echoing Sue's comments, and those made before, I'd just like to begin and succinctly remind -- and utilize two tried and true comments. The first being: If it ain't broke, don't fix it. And the second is: Cows don't go to school.

The Farmland Assessment Act, in 1964, has withstood the test of time, has contributed to keeping farming viable and keeping open spaces green, at little or no cost to the taxpayers, all of whom enjoy the agricultural lands and landscape.

Second -- being, cows don't go to school -- is tied to a link with property taxes and school costs. And any disincentive to keep lands in continued agriculture and horticulture uses may have the unintended consequences of forcing landowners to make choices, quick decisions to either maximize profit or reduce potential losses.

Thank you.

SENATOR KENNY: Okay.

I like that: "Cows don't go to school." (laughter) I have to figure out a way to use that in my-- That will require a stretch, but I can do it.

ASSEMBLYMAN MANZO: It's an Elk's club speech.

SENATOR LANCE: Mr. Chairman, knowing that we are one state, where we all work together, I am sure you will be able to use that with good effect in Hudson County. (laughter) I am positive of that, Mr. Chairman.

SENATOR KENNY: Believe me, I will.

SENATOR LANCE: Thank you.

SENATOR KENNY: Thank you, sir.

MR. RICHARDSON: Thank you.

SENATOR KENNY: Okay. Alison Mitchell, New Jersey Conservation Foundation.

Thank you, Alison. And if you could be concise, we'd appreciate it.

A L I S O N E. M I T C H E L L: I will absolutely be concise.

Thank you very much.

I'm Alison Mitchell. I'm the Policy Director for the New Jersey Conservation Foundation. We have long been involved in a lot of farmland preservation work in New Jersey, and have been looking at this issue of increased rollback for a long time. So I understand it's a very tough issue to grapple with because of the nature of agriculture in New Jersey, but also because of the profit to be realized by land speculation and development.

We basically agree with the testimony, in terms of the particular recommendations that we have for changing the proposal, with Dena Mottola. And you have that in writing. I won't go over that, to spare you.

Just a couple of other comments: Basically, the increases that we're talking about -- that Dena explained -- seem appropriate, given the enormous increase in real estate value since the Farmland Assessment Act was passed, which seems to soften the impact that this would have on all landowners, actually. And, certainly, if our proposal is adopted, it would soften the impact on farmers, given that selling for preservation does not trigger any rollback tax. So many people have the option of not paying any rollback tax, and will continue to have that under the Garden State Preservation Trust funding. We feel like that's a further softening of any impact that landowners would realize from an increase in the rollback.

We believe in the subsidy that the Farmland Assessment Program provides. But we want it targeted to help farmers stay farming, not to subsidize speculation and development. And I have one thought about the Cook College conclusion, that Senator Lance raised earlier, about the loss of farmland potentially being huge with an increase in the rollback.

And I'm struggling, honestly, with understanding that, because of the way the real estate market works.

In my experience, and, I think, just from a rational economic standpoint, people don't dump land on the market over a relatively minor increase in the penalty being paid when they're doing so. The market can't sustain that without a major drop in price. And I don't think that-- I think that speculation is just too profitable in New Jersey, even with a rollback increase along the lines even of 10 years, to significantly dampen speculation here. I think that this proposal will not stop speculation. It's just going to enable other citizens to subsidize speculation a little less. And it will protect the farmers, which I think is very important.

Another point I want to make is: The rollback tax, even with an increase, is not that significant, in my mind, in comparison to what people realize when they sell their properties for development. And I think people might be surprised to see what a small proportion of what one gets in profits the rollback comprises in a transaction. Because I don't think it's very much, and I don't think an increase, even doubling or tripling it, ends up being very much in comparison to the money to be realized.

One last point, about the importance of rental land, which has been brought up today. I think that's true -- the rental land in New Jersey for agriculture is critically important. But that land is not secure, anyway. It's not owned by people whose primary purpose is retaining it in agriculture. And a better way, I think, to address that problem is really through the Garden State Preservation Trust. Because, again, if you sell to the Garden State Preservation Trust -- or through the funding mechanism of the Garden State Preservation Trust -- you don't pay any rollback. And

if you increase the rollback penalty for people, and you provide them with an option where they pay none and continue to provide that option, in my mind that's the best way to secure the rental land in New Jersey that is so important for agriculture.

I think we hear a lot about the economics of agriculture and the difficult economics of agriculture in New Jersey, when we come to these sorts of discussions. And I think we all agree that the economics of agriculture are incredibly difficult in New Jersey. But I think what we're trying to hone in on, at least here, is the economics of speculating on and developing land, not the economics of agriculture. So I guess I just would ask people to kind of try to keep those things, to the degree they can, separate.

Again, I just would-- Well, I would just reiterate that I support, completely, what Dena Mottola said, which was seconded by Dave Pringle. And we'd be happy to continue discussions with the Committee over this issue.

And thank you so much for the opportunity to comment.

ASSEMBLYMAN BURZICHELLI: Thank you very much.

SENATOR KENNY: Thank you.

Thank you, Mr. Chairman.

David Bond, Deputy Mayor of Delaware Township, in Hunterdon County.

ASSEMBLYMAN BURZICHELLI: Is there anyone left in the county? (laughter)

SENATOR LANCE: The people left in the county are farming right now. (laughter) Chairman, to answer your question, they're out on

the farm. And I'm sure Dave's family are out on the farm. Does that answer your question?

SENATOR KENNY: Because cows don't go to school.
(laughter)

SENATOR LANCE: Not even in Hudson County.

SENATOR KENNY: Somebody has to be taking care of them. Otherwise, if they were at school, then they could be down here -- the rest of them.

Yes, sir.

DEPUTY MAYOR DAVID BOND: Yes, sir.

I don't understand. Every time I come forward, everyone laughs. (laughter) It's nothing unusual. I'm glad to see it. I'm glad to see a smile.

ASSEMBLYMAN BURZICHELLI: Mayor, hit your button on your microphone. (referring to PA microphone)

DEPUTY MAYOR BOND: Push the button?

ASSEMBLYMAN BURZICHELLI: That's it, yes.

DEPUTY MAYOR BOND: All right.

I won't bother repeating what I said.

Anyway, I'm glad to see everybody smiling.

I don't know anything about procedure, but I hear tell this morning, this opposition is in the procedure of this resolution.

So, in my mind, it brings a question: Why do we have this opposition? Why do some say we're doing okay and some say we're not? And that's as far as I'm going to go. Obviously there is a problem, or you wouldn't be arguing about the procedure.

I've been a Deputy Mayor in Delaware Township for a year. I've been on the Planning Board there for 20 years. I think this bill would be detrimental to the Township and to the entire State of New Jersey for the reasons that have been stated before. Being late on this list here--

The threat-- Basically, the threat of a major change in any bill creates fear among people that have their money invested. Let's face it, that's how it works. All right? And if they've got their money invested in farmland, and they have only owned it for a few years, they could just dump it on the market and say, "That's it."

I farm. I've farmed for my entire life. The farm has been in the family since 1890. I haven't been there quite that long. (laughter) But I rent a lot of land from a so-called -- you can call them *speculators* if you want. But it's been sold many times. From the 40 years that I've been farming on this same land, it's been sold to different speculators. And a lot of times they'll come to me and they'll say, "I'm thinking about buying Joe Blow's farm over there. What do you think? Would you be interested in farming it still?" I say, "Yes, I'd continue." "Well, what about this Farmland Assessment? How does that work." And you talk to them about it, and tell them that, at the end, there would be three-year rollback taxes. And they calculate a little bit. "Okay. Well, I guess, maybe it would work," so forth and so on. And like I said, some of them have only owned it five or six years, and they'll sell it to someone else. This bill -- if it's in there -- would discourage that altogether. They would say, "We're not going to even take a chance." And probably the current owner -- apparently he wants to sell, or he wouldn't have had a buyer -- will sell it to a developer. It will probably scare a lot of people into selling and, possibly -- this is just a

possibility -- but would spur more growth than we need right at this point. And some of these guys also come to you and say, "What about Farmland Preservation," meanwhile, they have time to think. If this comes through, it could possibly scare them.

Like I said once before, it's a threat. Any threat or change spurs people into doing some things that they might not do otherwise.

The Farmland Assessment Act has been one of the most -- or has been the best preservation of farmland that the State has ever known, at the least cost to taxpayers. If it hadn't been for the Farmland Assessment Act, I don't see how anyone could have survived to this point.

So any time you fool with something that's been successful, you're fooling with things that shouldn't be touched. And I just think it's-- Any change to the Farmland Assessment Act creates havoc in the farm community.

And I haven't heard the figure that -- if this bill goes through -- what -- how many extra tax dollars it will create. Does anyone know? Is it really a big deal to the State? I firmly think it's only peanuts to our total budget in the State. But it's a major concern to the landowners.

And other than that-- I threw most of my notes away. I'm just a farmer, as you know. But I'm very interested in this Farmland Assessment bill. And I've talked it up to many people who have come to me over the years and said, "You know, you guys are getting free taxes. I'm going to buy this farm over here, and I won't have to pay any taxes on it." It's totally, totally wrong. People don't understand it. We pay taxes through the nose on our buildings, on everything else. And the farmland is still taxed.

I just oppose the bill, and hope you really take this seriously and just kick this right out.

Thank you.

SENATOR KENNY: Thank you.

SENATOR LANCE: Mr. Chairman, can I ask one question?

SENATOR KENNY: Yes.

SENATOR LANCE: David, may I ask you a question?

The land you farm-- How many acres do you and your family own of the land you farm?

DEPUTY MAYOR BOND: Currently, we own 350.

SENATOR LANCE: Yes, sir. And then you farm other land.

DEPUTY MAYOR BOND: We farm another, about, 500.

SENATOR LANCE: Yes. This is a critical point. And, over time, I hope that all in New Jersey understand it. Half of the land that is farmed in this state is farmed by those who do not own the land. And David is an excellent example of this. He farms an enormous amount of acreage that he and his family own -- 350 acres. He also farms 500 acres owned by others.

And I agree with Mr. Bond, that the result of this constitutional amendment would be the likely development -- if not of David's farm -- of the 500 acres he farms that his family does not own. And farmers provide an essential service in farming not only the land they own, Mr. Chairman, but also the land that they farm that is owned by others. And the work of the farm community continues the tradition of the garden in the Garden State and, of course, preserving the aquifers underneath the land. And I

firmly believe this is an excellent example of why we should continue with the system we have.

Thank you, Mr. Chairman.

DEPUTY MAYOR BOND: Thank you all for listening.

SENATOR KENNY: Thank you.

Senator Lance, explain to me why going from two years to six years, and exempting all those who have owned the property for more than seven years -- how that will increase development, as opposed to deter development?

SENATOR LANCE: For two reasons. Number one, I agree with the Cook College study that concludes that it would lead to greater development. And I rely on experts at Cook College for the rationale of that.

But, number two, the anecdotal information of Mr. Bond is an excellent, excellent example that the land that Mr. Bond does not own goes from owner to owner. And if there were significantly increased rollback taxes, instead of continuing to farm that land, I believe that land would likely be developed. And I recognize that we're not discussing precisely the land that Mr. Bond owns, because he has owned it, obviously, longer than seven years, but the land that is leased by farmers throughout New Jersey -- where title to that land is conveyed quite frequently -- would lead to significantly higher rollback taxes.

That's the anecdotal reason. And there are others in the room who undoubtedly agree with that. It is also the conclusion of the Cook College study.

SENATOR KENNY: Senator Lance, the Co-Chairman has a question for you.

ASSEMBLYMAN BURZICHELLI: Senator, maybe you can help me along.

And for those listening, the 3rd Legislative District -- which I, myself, Senator Sweeney, and Assemblyman Fisher represent -- has the largest acreage of farmland being farmed in the state. So the comments about the mix of this Committee not having a sense of this issue are not necessarily founded.

But just for a point of clarification -- because I am grateful for my Co-Chair and his willingness to steer this Committee to a point of continued discussion in this issue, as opposed to just trying to force something out today, once we recognized that there were some areas that we wanted to work further on, as a group.

A point of curiosity: When you have an individual who is leasing land from a person who owns that land-- And if that person decides to sell that land, if he sells it to another individual who is going to continue it for farming, he's completely out of harm's way with regard to the consideration of a rollback, if I understand it correctly, as it presently works. Because wouldn't the land be continued in the farming vein if the next person buying it shows the continued leasing to a farmer? Do I have that-- Are we okay on that?

SENATOR LANCE: Thank you.

I think the pressure would be enormous to develop the land. And that is, obviously, the conclusion of the Cook College study. And I rely on experts at Cook College to analyze the situation.

Let me also say, Mr. Chairman -- and I have repeated this several times this morning -- I recognize that everybody on this Committee is interested in this issue and that we all work cordially and cooperatively together. And at no time did I intimate that any member of this Committee is any less able than any other member of this Committee to analyze these issues completely.

I try to analyze urban issues as completely as I can. And I have worked cordially with the Chairman, my friend the Majority Leader -- I, as the Minority Leader -- on urban issues. And I'm pleased with the way that we are analyzing this rural issue this morning.

But I do believe the Cook College study conclusively demonstrates why we should not amend the Constitution.

Thank you.

ASSEMBLYMAN BURZICHELLI: Senator, may I--

If I may, through the Chair -- just a continuation.

And I didn't raise that directed at you in any way, believe me. That was just a general statement from some of the tone that was heard earlier. And I didn't take that in an offensive way towards me. It was just a point of clarification on my part.

But I wanted to say this-- And, again, it's in the form of a question, through the Chair.

The farmers I know in my district are pretty smart people. And I happen to think the farm industry is the future, with regard to how corn and products are being used in ways other than just to feed people. Now, I know them to be very smart people, and landowners to be smart. So wouldn't it be within reason that if these new rules were enacted in some

way, and a person who was going to transact his land to sell it to another person-- Isn't he going to take into consideration the additional level of taxes and the rollback and it figuring into the price? He's not going to give anything away. Won't it just drive the value of land up -- or the cost of land up -- with the consideration of taxes? And maybe, in an indirect way, does it not help if an acre of land goes from \$25,000 or \$100,000 to an additional \$137,000, because the rollback tax has to be paid from someone? I can't image a seller is going to pay the additional burden of the rollback tax out of his pocket. I would think he is going to tack it onto the person he's selling to.

That's just an anecdotal thought, and not necessarily what we will weigh today. But I'm just-- Maybe at another time you'll talk to me about that -- of how that fits in and how it affects the cost.

SENATOR LANCE: Mr. Chairman, I conclude otherwise. But, of course, we're debating a matter here. And I'm sure there will be those from the Farm Bureau who will discuss this matter with us further as to why I believe your conclusion is probably not what would occur. But, obviously in a cordial fashion, we will have those from the Farm Bureau analyze the situation.

Thank you, Mr. Chairman.

ASSEMBLYMAN BURZICHELLI: Thank you, Chairman.

SENATOR KENNY: Senator Madden has a comment.

SENATOR MADDEN: Thank you, Chairman.

Just very quick-- For those scenarios, whereby the developer owns the ground currently-- If they've owned the ground three or four years -- if they hold that seven years, then they'll be subject to the two-year

rollback, not the six or seven, or whatever the Committee winds up going at. So the urgency to rush and sell this ground so they can just pay back two years-- It just -- there's a practical sense. And I think there would be business decisions made, as much on the heels of Senator -- or Assemblyman Burzichelli says -- regarding the profit margin, the increase in land value.

So I guess just a point of clarification, so we are all in line with what this bill does. It's if you've owned the ground continuously for more than seven years, then you're subject to the two-year rollback. So, from a practical sense, if I've had ground for five years, and I know if I sell it to get rid of it right away, before it went to a constitutional vote -- I'm going to do that to pay taxes for two years; the flip side is, I just need to keep it two additional years, get the increase in the land value, sell it then, and just pay the two years then.

So sometimes there's a lot of practical stuff, from a business sense.

But thank you, Chairman.

SENATOR KENNY: Thank you, Senator.

I have not read the Cook report. I have seen references to it. I have read their commentary. I have not read the report. I did note that the four environmental groups that testified here today all oppose the bill because it's not strong enough. They'd like a longer rollback. They want 10-years rollback, and they want other protections, and so -- that we haven't gone far enough. And that's four environmental groups that have a lot of expertise in these issues, as well.

So I haven't really been able to get to the hub of the -- the nub, I should say, of the issue as going to the six -- protecting all those who've owned it for six or seven, which is a similar program that Pennsylvania has. I just don't see the economics of some of the objections. And a large part of the testimony has to do with issues other than that.

But that's why we're having this hearing. This hearing does serve-- I want to make a clarification. This hearing does serve as the constitutional--

Assemblyman Manzo, you asked me about this question. I just want to--

This hearing does serve as a constitutional hearing in the event we decide, as a result of this hearing, not to make any amendments. Whether that's likely or not, obviously, we'd have to decide. If we make amendments, then we have to have another hearing. And we'll-- That decision will be made in the aftermath of this. That's why we're taking this testimony today, to determine whether or not another hearing is necessary as a result of having to make amendments to the proposal. If we make no amendments, this serves as a constitutional hearing, which I have asked OLS' opinion on.

Yes, Senator.

SENATOR LANCE: On that point -- and this is a technical, legal, and constitutional point. And I would defer to the nonpartisan Office of Legislative Services. If this constitutional amendment is amended in any way, then does the 30 days, whereby the amendment has to be on our desks, begin to toll when the amendment is made?

SENATOR KENNY: I'll ask Mr. Liloia to answer that.

MR. LILOIA (Committee Aide): When the amendment or amended resolution is again laid upon the desks.

SENATOR LANCE: And so that could occur, arguably, as soon as this afternoon or tomorrow -- the new beginning of the tolling of the 30 days. Is that accurate, Mr. Liloia?

MR. LILOIA: Yes. It's 20 days, sir.

SENATOR LANCE: Twenty days.

So if it were to occur today, December 7, then that time frame would be completed -- this is an amended constitutional amendment -- that time frame would be completed before the end of this session -- the second Tuesday in January, at noon, 2007.

SENATOR KENNY: That's correct.

MR. LILOIA: Yes.

SENATOR LANCE: The reason I'm asking -- because there was testimony, I believe from Mr. Pringle, that it might spill over to the new session. And I am concerned that this not be voted upon with -- lack, then, a super majority. I would much favor a super majority. And I recognize you can have a simple majority in each of two years. But the concerns that I have raised previously still stand.

Thank you.

SENATOR KENNY: Yes, so if we-- If, as a result of this hearing, we make no changes to the proposal that is currently on the desk, then we are literally within our prerogatives to move this to the floor for a vote. And if we do make a change, then the 20 days would start moving from the day we amend the proposal on the desk, which could be this afternoon, or it could be some other time.

SENATOR LANCE: Thank you.

SENATOR KENNY: Richard Nieuwenhuis, is it?

R I C H A R D N I E U W E N H U I S: Nieuwenhuis. (indicating pronunciation)

SENATOR KENNY: Nieuwenhuis. (indicating pronunciation)

That's the only thing I got out of five years of German.

MR. NIEUWENHUIS: That's okay. (laughter)

SENATOR KENNY: I didn't do a bad job.

MR. NIEUWENHUIS: That's okay.

I'll correct you. It's not German, it's Dutch. My dad--

SENATOR KENNY: Okay. Well, I took Dutch, too.
(laughter)

MR. NIEUWENHUIS: My dad's famous line was, he left his country and not his name.

ASSEMBLYMAN MANZO: You were in the wrong class.

SENATOR KENNY: Right. I had a difficult German name a couple of weeks ago, and I got it right. I was very proud of that.

MR. NIEUWENHUIS: Well, you were close enough, believe me.

SENATOR KENNY: Five years of German. (speaking German) is where it ends. (laughter)

MR. NIEUWENHUIS: Senator, just on another light note, I'm the President of the New Jersey Farm Bureau. And the New Jersey Farm Bureau coined that phrase, "Cows do not go to school."

SENATOR KENNY: Really?

MR. NIEUWENHUIS: Yes.

SENATOR KENNY: Now you're taking credit for something I'm going to take credit for. (laughter)

MR. NIEUWENHUIS: I'm sorry.

SENATOR KENNY: You're going to read about it.

MR. NIEUWENHUIS: But we also take credit for the phrase, "No farmers, no food." So that's another, more -- probably on a little bit more of a serious note.

SENATOR LANCE: "No cows, no milk." (laughter)

MR. NIEUWENHUIS: That's right.

SENATOR KENNY: "All hat, no cattle."

MR. NIEUWENHUIS: Let's stop.

Senator, this is the second time I'm basically addressing this issue. I had the privilege, this Summer, to come before you with some testimony from the New Jersey Farm Bureau. And at that point I reiterated to you how very, very sincerely the farmers and the people in agriculture in New Jersey look at Farmland Assessment. It's one of our sacred and abiding things that make farming viable in New Jersey.

SENATOR KENNY: Can I ask-- I don't--

MR. NIEUWENHUIS: Yes.

SENATOR KENNY: I am interrupting. I was going to say I don't mean to interrupt, but--

MR. NIEUWENHUIS: Go ahead.

SENATOR KENNY: It reminds me of the phrase: "If I've offended you, I'm sorry." (laughter) It doesn't mean anything.

I am interrupting you. Could you just-- I mean, I understand-- I've seen your statements before. Could you explain to us how this

proposal would be adverse to the idea of keeping farmland in the community? How would it-- I mean, that's the nub of the question.

MR. NIEUWENHUIS: Okay.

SENATOR KENNY: Because we-- Pennsylvania, many states, have a six-year rollback.

If you could, just answer that question.

MR. NIEUWENHUIS: Senator, let's start with your last question, where you referenced Pennsylvania.

SENATOR KENNY: Right.

MR. NIEUWENHUIS: Pennsylvania's land values are a whole lot less than New Jersey's.

SENATOR KENNY: Right.

MR. NIEUWENHUIS: So, by them being at a six-year rollback, or even a 10-year rollback, the number of dollars that you are talking about are far less than we are at three years in New Jersey. So because of our land values being so high, that's where -- and our taxes, obviously, being so high -- that's where we oppose the increase. Because the dollar amount is so much higher than we're talking -- apples to apples -- in other states, it's not a fair comparison.

Now, one of the other-- I know you've asked this question a few times here today: How does it affect the farmer? The way it's currently written -- and I'll go by currently written, without any amendment at all -- and I'll give you a real life case scenario right here in New Jersey. It happened just a few months ago. As a matter of fact, the Governor was at this farm to announce a program, in the gentleman's name, to feed hungry people.

Neil Robson was a 48-year-old New Jersey farmer, farming 2,000 acres -- wonderful three farm markets, employs well over a hundred people. The man, unfortunately, fell dead of a heart attack. His wife cannot continue the farm. There are parcels of his farm that he has purchased in the last few years. This probably-- It's in Burlington County, Route 130 -- excuse me, Route 202, in the corridor of busy highways -- frontage. I'm sure that that land will be going for some type of development. That is the crux of the issue that we are concerned about.

Now, one of the other points, sir, that I bring up to you is that I personally, myself, just went through the rollback tax payment myself -- personally. Here's the issue: I purchased my piece of property from a farmer. I chose to build my residence on that piece of property. I took-- It was an 11-acre piece of property. I built my residence on that piece of property. Immediately -- in the law -- one acre of that piece of property comes out for my residence. I am assessed full market -- or full tax value on my home and that one-acre lot.

SENATOR KENNY: That remains the same under our -- under the proposal.

MR. NIEUWENHUIS: I understand that.

SENATOR KENNY: Right.

MR. NIEUWENHUIS: My cost for that three-year rollback-- The cost to me was in excess of \$10,000. Multiply that out, and I would have not offered the farmer that sold me that land as much money as I did. Because if I knew I had to pay almost three times as much money in rollback tax, I would have not paid the man that dollar amount that I did, per acre.

So what I'm saying to you is, look at it the other way. When a farmer sells his land-- And contrary to some of the testimony that I've heard here today, 90 percent of the time the developer that buys that land, that has to pay the rollback tax, will definitely take that into consideration in his offer of dollar amount per acre to that farmer. So one of the main reasons why we are opposing this is, we are looking out for our farmers -- that they will get the full value for their real estate when they sell it.

SENATOR KENNY: Well, that's the first time I've heard that articulated in a public hearing. I appreciate it. Because that's really-- The interest here -- And I'm not arguing with this. But the interest here, being sought to be protected, is the farmer's right to sell his land to somebody who is going to change the use and to maximize their profit.

MR. NIEUWENHUIS: Highest and best dollar value.

SENATOR KENNY: Okay. That's fine. And I've been waiting for something like that to be said. And that's fine. I mean, I understand it. The farmers want to be able to sell to a nonfarming use, and the equation of the sale's price factors in the rollback provision of the taxes. That's fine. I understand that. And I appreciate that -- that's the first time that's been -- to me anyway -- articulated in a public hearing. I hear about a lot of things, but I don't hear about--

The purpose of the bill is to discourage or deter farmers selling to nonfarmers for purposes of development, so you have the longer rollback precisely for that reason. And so there's a different policy priority, with respect to that. But that dynamic that you just articulated is what the bill is about.

Now, the person who sold you the farm -- how long had he or she owned that farm?

MR. NIEUWENHUIS: They had owned that farm for years.

SENATOR KENNY: So they would have been exempt. They would have been under the two-year provision under this proposal.

MR. NIEUWENHUIS: Under the three-year rollback tax.

SENATOR KENNY: So they--

MR. NIEUWENHUIS: That's why I paid three years rollback tax.

SENATOR KENNY: Right. So they would not-- Under what's being proposed, that type of person -- which I think is, from the information I've seen in various comments -- the overwhelming number of farmers have property more than six years -- farmers.

MR. NIEUWENHUIS: I understand that.

SENATOR KENNY: Right.

MR. NIEUWENHUIS: And, also, I will concur to you that it's not a change of use. It remains an agriculture. So that's also where it does not apply.

SENATOR KENNY: Right.

MR. NIEUWENHUIS: But--

SENATOR KENNY: Now, are you farming your property?

MR. NIEUWENHUIS: Yes, I am.

SENATOR KENNY: So you're still qualifying for the Farmland Assessment.

MR. NIEUWENHUIS: Yes, I am. On the 10 remaining acres, I am farmland assessed.

SENATOR KENNY: Right.

MR. NIEUWENHUIS: But of course-- Again, I reiterate, that we pay--

SENATOR KENNY: So under this--

I'm sorry to interrupt. But, again, under this proposal -- the one that -- the constitutional amendment -- it would not have affected you in your transaction at all, had that been in place.

MR. NIEUWENHUIS: It would not, but it may within two years. How do I know what's going to happen? I know my wife will not be continuing my agricultural operation on her own. If this gets enacted-- And, again, I don't want to sound like this is a personal plea, but this is a plea from the agricultural community. And that's why we are very much in favor of the amendment that we heard earlier from the Secretary of Agriculture -- that this new rule be going into affect on the date of the enactment of the legislation. This way, we're not changing the playing field in midstream. And I think that that's an important factor to consider. We would appreciate if you would consider that.

SENATOR KENNY: You mean grandfathering all present owners of agricultural land.

MR. NIEUWENHUIS: Whenever this legislation is enacted -- from that day forward, whoever buys agricultural land from there will be subject to the new rules. That way everybody knows, up front and ahead of time, what they're dealing with. Right now, you're going to catch some people in this three- to seven-year period that were unaware of it.

SENATOR KENNY: Okay.

MR. NIEUWENHUIS: Senator, I'm going to do this. I appreciate you asking me questions like this. And I appreciate you being-- I have basically 10 questions here. And they relate to: has there been any study done at all, why seven years, how much money are we talking about? And the other thing is, one thing I think everyone very much needs to realize is that rollback taxes go into the local, municipal, and county coffers. They do not come back to the State. This is not a tax relief bill. This is a bill that's going to change a playing field that's been there for years.

So I don't want anyone in this room here, or any of the distinguished legislators here to think that this is going to help property tax relief. It's going to be a short windfall for local municipalities. And it's not going to do anything for property tax relief.

What I'm going to do is, I'm going to leave you-- I have copies of my 10 questions here. I would appreciate sincerely if all of you would just read them, do some thought-provoking -- in your mind, when you go back and revisit this -- these two resolutions.

SENATOR KENNY: Thank you.

I understand your property tax relief question. But we do a lot of things that affect local taxation, such as the Fox-Lance tax abatement that Senator Lance referred to earlier. And this is a different classification of property taxes under the Constitution, which is why we are looking at it. And, among others, including a later bill that's going to look at other different classifications that we've enacted over the years. This just happens to be the first one.

But thank you very much.

MR. NIEUWENHUIS: Okay. Thank you.

SENATOR KENNY: Jon Moran, from the League of Municipalities.

J O N R. M O R A N: Thanks, Mr. Chairman and members of the Committee.

Mr. Chairman, as we understand it, the purpose of the Farmland Assessment is to preserve farmland, to help the farmers keep on farming. The purpose of the rollback tax is twofold: one, to discourage the conversion of farmland to another use; and, secondly, to provide some recompense to the property taxpayers who shoulder a bit more of the municipal property tax burden because his or her neighbor enjoys the benefit of the Farmland Assessment.

We would vigorously oppose the suggestion, that you've heard today from some interest groups, that any portion of the rollback taxes go to anyone but the local property taxpayer, who has shouldered that burden for whatever number of years.

SENATOR KENNY: Say that again. You would vigorously what?

MR. MORAN: We would vigorously oppose the diversion of any of the proceeds from the rollback tax to any other purpose than to provide some recompense to the local municipal property taxpayer. We would oppose the use of those funds for any environmental or other purpose.

SENATOR KENNY: Okay. I understand your point.

MR. MORAN: Okay.

SENATOR KENNY: But no one is suggesting that, from the Legislature, in these proposed amendments.

MR. MORAN: That's good. I understand that. But the suggestion--

SENATOR KENNY: I understand that there has been testimony that has a different view. But we're not proposing that, certainly not at this time. But I understand your point.

MR. MORAN: Okay.

SENATOR KENNY: Otherwise, you support the measure?

MR. MORAN: We have-- Based on our preliminary analysis, we have supported the bill, because we thought it accomplished those purposes.

SENATOR KENNY: Okay.

MR. MORAN: Based on the testimony we've heard today, we're not going to change that position. But we are going to take a look at the Cook College study. And we're going to speak to a few more people and take another look at the proposal. There might be another way to do this, and there might be a better way to do this that will accomplish, I know, the purpose that you set out to accomplish.

SENATOR KENNY: Okay. Thank you.

MR. MORAN: Thank you, Senator.

SENATOR KENNY: Thank you, sir.

Okay. I want to try to-- We're going to get through this and then take a break, because it's 12:30.

Kelly McNicholas, Sierra Club.

I thought somebody testified and mentioned the Sierra Club before. No?

MR. LILOIA: The Audubon Society.

SENATOR KENNY: Oh, Audubon Society. I'm sorry.

Thank you, Kelly.

You can keep your remarks as--

KELLY McNICHOLAS: I will be very succinct.

SENATOR KENNY: Okay. Thank you.

MS. McNICHOLAS: First, I want to thank this Joint Committee for taking up this measure and reviewing reforms to the Farmland Assessment Program. This is something we've been requesting of the Legislature for quite some time now.

At a time when the property taxes are soaring, and farmland is being lost at 8,000 to 10,000 acres per year, I think it's important that we review this program.

While we believe that most farmers are very dedicated and need the help of the Farmland Assessment Program, we have to be concerned about those who are taking advantage of the benefits of this program. Some of the largest abusers are corporations and developers, including the largest farmer in central New Jersey, Thompson Land Company, and largest farmer in Hunterdon County, Toll Brothers. We believe that this has been used by developers for many years to shelter their lands and their landholdings from having to pay taxes.

We have Jersey Fresh tomatoes, Jersey Fresh peaches. But is Jersey Fresh Paxil or Jersey Fresh Zeneca really appropriate? Some of our largest industries are using this to shelter their land in the Farmland Program. The lawn of the Johnson & Johnson plant, the Roche Pharmaceuticals in Branchburg, Merkt's headquarters in Readington, Merrill Lynch and Bristol-Myers Squibb in Hopewell-- All of those lawns

are put in the Farmland Assessment Program, which only requires five acres and \$500 worth of agricultural commodity. We recognize those are statutory questions, and we hope the Legislature will also take those up.

In 1999, there was a study done that looked at the Farmland Assessment Program and found that it was costing \$300 million in local tax revenue that was not going to municipalities. It is likely that that number, today, is closer to \$500 million. And any studies that have been requested should consider that number.

SENATOR KENNY: Could you restate that--

MS. McNICHOLAS: Yes.

SENATOR KENNY: --that last statement?

MS. McNICHOLAS: Sure.

A study in 1999 discovered that the amount of property tax that was not going to local municipalities was \$300 million. It is likely that that is probably up to \$500 million at this point.

SENATOR KENNY: You mean as a result of the Farmland Assessment?

MS. McNICHOLAS: Yes, the result of the properties that are not paying what they would have if they weren't receiving the benefits of the Farmland Assessment Program.

SENATOR KENNY: But does that apply to farmers -- farming? Or are you talking about--

MS. McNICHOLAS: It applies to all the land that's in the Farmland Assessment Program.

SENATOR KENNY: Including corporately owned property that is leased to farmers. That's what you're referring to.

MS. McNICHOLAS: Of course. Right. Exactly.

With regard to the resolutions that are proposed today, we believe that there needs to be an increase in the rollback. We think this rollback should be extended to 10 years.

I'd like to just remind, and inject this into the debate, that this is a benefit that is being accrued yearly. So when farmers are pulling out of the program, which provides a great public benefit, we believe that that lost use needs to be repaid. Ten years is not going to affect many people who have had generations of farms. It will affect people who have come in recently, however, and may affect many corporate landowners who have recently entered into the program because of its tax-sheltering benefits.

We also oppose any grandfathering into this program, and do not believe that it should be prospective. We've heard debate today talking about fear of these fire sales, and that suddenly all this land is going to be dumped onto the market and taken out of the Farmland Preservation Program. I believe that there are protections that the Legislature and amendments to this resolution could do to prevent that. For example, the rollback assessments could be assessed starting at the date of the introduction of legislation. That would prevent, within the next year or next two years, having to deal with the constitutional amendment being passed by the voters. You could have that date start today.

Additionally, you could also look at a graduated rollback, wherein, in the first year of its -- when it comes into affect, would be a five-year rollback. The second year it could be a six-year rollback, up to a 10- or 12-year rollback, as the Legislature decides.

I would like to reiterate the point raised by Alison Mitchell, that it is not the experience in the real estate market that people suddenly dump land when they recognize that they may have to pay additional and incremental increases in their tax dollars, particularly now when we are seeing that the land market is decreasing, and that properties which have been purchased, and proposals for development which have gone forward, are now being withdrawn in certain areas of the state, particularly areas of the state where lots of farming -- where farming is predominant.

SENATOR KENNY: If you could just sum up, please.

MS. McNICHOLAS: Sure.

Additionally, we oppose the hardship and inheritance provision. Well, the inheritance provision, I think, can be revisited. The hardship provisions -- we would oppose that and do not think that-- This is not something -- a benefit that's extended throughout any other programs, and that it would not be appropriate to extend through this program.

Let me see if I've covered all my points, please.

SENATOR KENNY: I think you did. (laughter)

ASSEMBLYMAN MERKT: That's the Chairman giving you a hint.

MS. McNICHOLAS: I know.

ASSEMBLYMAN MERKT: The hook is coming.

SENATOR KENNY: I'm kidding.

MS. McNICHOLAS: It's not a hint, it's pretty obvious. But that's okay.

SENATOR KENNY: I'm kidding.

SENATOR LANCE: Mr. Chairman.

SENATOR KENNY: You have a question?

SENATOR LANCE: I certainly do.

SENATOR KENNY: I thought it was an excellent presentation.

Senator Lance has a question for you.

MS. McNICHOLAS: Of course.

SENATOR LANCE: Thank you.

I have questions, Mr. Chairman.

I look forward to continuing to work cordially with the environmental community, particularly on the renewal of the Garden State Preservation Trust, which I have taken the lead for more than 10 years.

I have questions regarding your testimony. You indicated that a recent study -- now several years old -- indicates that there is a loss of roughly \$300 million a year because of Farmland Assessment. And you extrapolate that that might be \$500 million in 2006. Was that your testimony, through the Chairman?

MS. McNICHOLAS: It is.

SENATOR LANCE: Yes. Thank you.

Is that based upon all Farmland Assessment in New Jersey, every square inch of farmland in New Jersey, farmland farmed by an owner-occupied farm and farmland farmed by those who lease farmland?

MS. McNICHOLAS: My understanding is that those numbers came from the SEDC, based on the amount of property held, in 1999, in the Farmland Assessment Program. And what -- if you were to assess those properties without the rollback, without the 90 percent reduction in tax payments that those properties are making, that the total is \$300 million.

SENATOR LANCE: Thank you.

So this would be all farmland in New Jersey -- that farmland that is farmed by the farmer, and farmland that is farmed by a farmer who leases the farm.

MS. McNICHOLAS: My understanding is that there is no distinction.

SENATOR LANCE: Yes.

So the \$300 million figure, or the \$500 million figure, includes family farms, as well as the land that is leased by farmers.

MS. McNICHOLAS: Any land that the Farmland Preservation Program has agreed to allow to enter into the Program.

SENATOR LANCE: So the answer to my question is, "yes."

MS. McNICHOLAS: Yes.

SENATOR LANCE: Thank you.

What percentage of farmland in New Jersey -- and you may not know the answer to this -- I believe it's 50 percent. What percentage of farmland in New Jersey is farmed through a lease situation.

MS. McNICHOLAS: I don't know.

SENATOR LANCE: Thank you.

I believe that the Committee certainly should get that information. And I believe that it approaches, or may even be a little more than, 50 percent.

Is it the position of the Sierra Club that we should bifurcate Farmland Assessment so that it only applied to owner-farmed farms?

MS. McNICHOLAS: Not necessarily. There are specific statutory reforms that we have been pushing for that would help push the

program towards it being focused on farmers who are actually farming the land, versus those who are, say, mowing hay for \$500 a year in front of their several-hundred-acre corporate office parks -- is one of our largest concerns.

Now, some of those reforms have included increasing the amount of agricultural commodity that be farmed. At \$500 a year -- it is, I think, very justly argued that people who are actually farming their farms are bringing in a great -- more than \$500 a year in agricultural commodity sales, while those who are not are doing the minimum that they can to meet that very low threshold. So while that's not part of this resolution, it is a statutory reform that we would like to see move forward.

SENATOR LANCE: Thank you.

Mr. Chairman, it is my belief that New Jersey should not ever bifurcate the Program between owner-farmed farms and farms that are leased. Because I do believe, based upon the Cook study and anecdotal information, it would lead to much greater development.

Number two, I believe that any amendment of the \$500 provision can be debated statutorily over the course of time, and we are not primarily concerned with that today.

Number three, I believe the so-called lose of \$300 million or \$500 million pales into insignificance in comparison to the enormous gain at the local level because the land has not been developed, and all of the attended financial obligations of developed land, particularly regarding school children and other obligations.

And number four -- and I hope to have a cordial discussion with the environmental community, including the Sierra Club, as we move

forward on renewal of the Garden State Preservation Trust next year, that that program should be financed through statewide resources, most appropriately the State Sales Tax -- which, of course, was my constitutional amendment a decade ago -- and I am now in negotiations with the Governor on renewal of that. And under no circumstances do I believe that any rollback provision should fund that program, for the reasons expressed by the League of Municipalities and others.

Thank you, Mr. Chairman.

MS. McNICHOLAS: Mr. Chairman, may I just make a final follow-up, please?

SENATOR KENNY: Yes.

MS. McNICHOLAS: Senator, we greatly enjoy working with you and look forward to discussing some of these reforms that we've proposed.

Additionally, I would just like to point out that we're not stating that farmers that want to maybe portion off a parcel of their farm to sell it for development should not be able to do that. We just want them to pay property tax on that portion that they choose to do that with.

Additionally, I would agree with Senator Lance on stating that there is enormous benefit in land that's being held as open space, which is not always calculated in terms of its watershed values, etc., and we do not argue that.

With regard to the Cook report that's been discussed and that many legislators have taken an interest in, I would like to point out that the Cook College is the agricultural and farm college of Rutgers University, and that there was some significant debate over whether or not to release that

report due to some conflicts of who was writing it and whether their interests were partial or not partial.

So thank you very much for this opportunity, and I look forward to working with you.

SENATOR KENNY: Okay.

I'm sure the Cook College report is impartial.

MS. McNICHOLAS: Must be an alum.

SENATOR KENNY: And as to--

SENATOR LANCE: As am I. And I want to defend Rutgers, the great State University.

SENATOR KENNY: Right.

SENATOR LANCE: And since I have not ever--

SENATOR KENNY: Leonard, you didn't ask the Chair for permission to speak. (laughter)

SENATOR LANCE: May I have permission from the Chair to speak?

SENATOR KENNY: Yes.

SENATOR LANCE: I have never questioned the motives of anyone -- legislator or witness -- in 15 years in the Legislature, and I do not believe we should be questioning the motives of Cook College or any other portion of Rutgers University.

Thank you Mr. Chairman.

SENATOR KENNY: Thank you.

ASSEMBLYMAN BURZICHELLI: May I jump in?

SENATOR KENNY: Sure. Jump in.

ASSEMBLYMAN BURZICHELLI: And Senator, I agree. Although I would question the call made on third down against West Virginia, that was first mentioned. (laughter)

SENATOR LANCE: At five-foot-eight, I never played football. (laughter)

SENATOR KENNY: It's always interesting after the play fails that people have opinions.

ASSEMBLYMAN MANZO: To help make the conscience decision not to go to Miami.

SENATOR KENNY: Do you ever listen to Mike and the Mad Dog? And I'm a fan, and it drives me crazy that after the game, they have -- they're experts. Before the game--

ASSEMBLYMAN MANZO: Monday morning quarterback?

SENATOR KENNY: Yes. Oh, God, it's--

ASSEMBLYMAN BURZICHELLI: The most comfortable way to proceed.

SENATOR KENNY: They shouldn't have run on third down; they should have passed.

Anyway, one point that Kelly made about the retroactivity of this bill -- I don't think that's something that we, in general, favor -- making something retroactive, when it ultimately passes the voter, to an earlier date. That's not something we favor, because it has all sorts of consequences. So I don't think that's -- the Committee, I don't think would favor retroactivity. That's very rarely used.

Just so you know, we're going -- we have three more people. We're going to take a break at 1:00. It's now, like, 12:50, and we're going

to come back here around 1:30 to give everybody an opportunity to get something to eat and to have a brief break. So we'll be back -- I asked the Co-Chairman, and he agreed -- so we'll be back here around 1:30.

We're going to do the comptroller bill next. We'll do that at 1:30.

So we have three more people -- well, we have two more, I believe, Hunterdon County people -- Sam Race and Steven Kucinski.

Yes, sir.

S A M R A C E: My name is Sam Race.

SENATOR KENNY: Okay, Mr. Race, from Belvidere.

MR. RACE: From Belvidere address, I'm from White Township in Warren County.

SENATOR KENNY: Oh, Warren County. Okay.

MR. RACE: I'm a member of the White Township Committee. I'm here to express our concern about amending the Farmland Assessment Act. And by the way, I guess if I calculated it properly, I could also consider myself to be either a fourth or a fifth generation farmer -- not that that matters. (laughter)

The situation in White Township is that virtually all our undeveloped land is actually enrolled in the Farmland Assessment Program. We now enjoy what we consider a very stable situation regarding the continuation of agriculture in our Township. We feel strongly there's no need to change the act since it is working very well for us in White Township.

All those lands under the act are being used either for agricultural production or forestry production, and either by owners of that

land or by persons leasing from farmers or from others who own that land. We believe the proposal will likely result in a premature conversion of many acres of land, when owners consider that holding their land for a longer period of time could cost them additional rollback fees. And if this happened, this would have removed significant amounts of land from our agricultural base, which we don't want to happen. And through the Farmland Assessment, Farmland Preservation Program, our Township is vigorously pursuing the preservation of our farms to the extent that we can, and as we can, whether or not finance is available.

We would be very disturbed if a surge of selling, to avoid the additional rollback costs, were to occur, and we would lose the opportunity to preserve some of these farmlands that would be converted at that point. We would not have the funds to do it, and we believe we can keep up with it if the program stays as it is. The Farmland Assessment Act is working well in White Township, and we don't believe it needs to be fixed.

And finally, just as an additional comment, the Legislature, through the Highlands Act, prevented the development of land in about half of our Township. I ask that you not impose another legislative action which would have a further negative impact on our farmers/land-owner base.

Thank you, sir.

SENATOR KENNY: Thank you very much, sir.

The last speaker I have is Thomas Bullock--

UNIDENTIFIED PERSON FROM AUDIENCE: Nope. You got me, too.

SENATOR KENNY: On this issue, John?

UNIDENTIFIED PERSON FROM AUDIENCE: Yes. I'll be there. I'm speaking on all of them.

SENATOR KENNY: Oh, you're speaking on all of them. Well, you'll get your chance. I didn't have you in the list under this bill. Okay?

Please.

Barbara, how are you?

THOMAS BULLOCK, ESQ.: Good afternoon, Mr. Chairman.

Barbara McConnell is sitting to my left, and she has a few preliminary remarks to make that will be very, very brief.

BARBARA MCCONNELL: I'm Barbara McConnell, and I'm the Legislative Representative for the New Jersey Forestry Association.

I would just like to say that whenever we talk about the importance of the Farmland Assessment Program, often, and rightfully so, we talk about the agriculture community and open space. It's important for the Committee to understand that there are thousands of privately-owned acres of forest land, woodlands in the State of New Jersey, and that many of these private woodland owners qualify under the Farmland Assessment Program.

It is obvious to me and obvious to all of you that it is the public policy of this State that our forest and trees and woodlands are very important to our quality of life, otherwise you would not have preserved the Highlands, nor the Pinelands. So I'd just like to--

We thought it was important to come forward to share our views with this Committee on this piece of legislation, and the impact we feel it will have on the continued preservation of New Jersey's forest lands.

SENATOR KENNY: Thank you.

Could you turn off your microphone, Barbara?

MS. McCONNELL: Sure.

MR. BULLOCK: I am the Director and former president of the New Jersey Forestry Association, having been in that position for nine years. I live in an urban district in Camden County. I have a tree farm in a rural district in Atlantic County. I'm a practicing attorney, which is my day job -- and I'm not doing it today -- but I represent a lot of people who are farmers, woodland owners, farmland assessment people, and I've done a considerable amount of that work around the state.

I could tell you that the imposition of the rollback tax that you had set forth here -- based on the clients that I have done, anecdotally, and based on some of our members -- we have about 1,000 members who represent about 350,000 acres of woodland in New Jersey -- will accelerate or cause an awful lot of hoops to be jumped through to try to avoid the imposition of tax. The imposition of a longer rollback tax -- and I haven't heard anything that talked about this -- but the effect of time on money, when you have a heavier weight like that for a longer leveraged period of time, it's going to depress the value of the property. I do not see how the imposition of a longer rollback period is going to protect farmland. Nobody has come up with anything that would say, "This is going to further the purpose of that constitutional program;" which, by the way, I think is one of the best in the country for the way the entire thing is set up. But that should be a different discussion.

What it will do is, it will reduce the options that private property owners have. And one of the growing options that they will have

will be to deal with the Conservation Foundation -- one of the private interest groups, the environmental groups. And why are the environmental groups here in favor of a longer rollback? It will force quite a substantial amount of private property into the ownership of various environmental organizations.

Now, what they do -- they do a nice job for the environment, but they then become-- This gives them a bargaining chip that they don't have right now. So by imposing a longer term rollback on private property owners who are currently paying taxes to support this State, you're going to tie one hand behind their back in negotiating the sale of ground that is probably already environmentally impacted by the Pinelands, by the Highlands, by various DEP regulations, by wetlands' buffers, by quite a number of things, with a group that then will have access to public funds -- the Garden State Preservation Trust funds -- that will use those funds to purchase the properties. But we don't have the type of competition for that ground that would bring the prices up the way they should be.

Now, let me also say that people have been talking about speculators. Speculators come in and provide a-- They're scavengers in one sense of the word. They provide a liquidity function. If a farmer goes broke and files a bankruptcy petition, and his ground is going to be sold at auction, a bankruptcy auction, a speculator will come in, buy that ground, and then lease it back to the same farmer. And I represent three or four farmers who have been bankrupted and they are now farming ground that is owned by speculators -- guys in Florida -- who bought it at the bankruptcy sale. And they have to deal with them to do that. That's where these speculators come from. The speculators can't flip the ground right now

because of the environmental descriptions, and so everybody is an (indiscernible).

If this -- and I'll call it a *tinkering*. I don't mean to diminish the work of the Committee, but if this little piece of a change is going to be made in the Farmland Assessment Act, that it's going to empower certain nonprofit groups to have an advantage in negotiating with my private clients, with my Association members, with farmers around, with people who rely on this liquidity, I think it's fundamentally unfair.

Also, if you look at the basis of property assessment in New Jersey, all land has to be assessed at its highest and best use. Other states don't have that requirement, which is better.

SENATOR KENNY: I'm going to-- We have to wrap up.

MR. BULLOCK: Thirty seconds.

SENATOR KENNY: Okay, 30 seconds. But would you just submit to me -- and I'll get it to the Committee and through the appropriate staff, and I don't want to go into it now -- but this position that extending the rollback is going to create this environmental community leverage issue?

MR. BULLOCK: I'd be happy to.

SENATOR KENNY: Okay? Would you do that, because I'd like to see that argument. And just not -- nothing elaborate.

MR. BULLOCK: Okay. Very quickly, with the balance of my comments. The basis for the assessment of real property in the State of New Jersey is the highest and best use, which is the standard that is placed in our Constitution, and the exceptions come from that. By changing this around, the bill as you have proposed it, has-- Well, there's supposed to be

one uniform standard of assessment. But the bill, as you have proposed it, I think violates the constitutional standard of having a uniform basis for assessing property.

SENATOR KENNY: Well, already farmland is being assessed differently than other property.

MR. BULLOCK: Only because of the constitutional element.

SENATOR KENNY: Right.

MR. BULLOCK: But this puts another--

SENATOR KENNY: We've already deviated from the Uniformity Clause by having farmland assessment be less than true market value, whatever assessed value. So, we're already there. All we're doing is extending the rollback position. We're not altering the fundamental deviation from the Uniformity Clause.

MR. BULLOCK: I would also -- just to point out to the Committee that the Internal Revenue Code has a provision: if somebody is very, very wealthy and they have a farm, and they die, and they want to have it valued for estate tax purposes, they have a rolling assessment. So if you keep it for one year it's a certain amount of *recapture* -- I think they call it -- and if you keep it for five years it's a diminishing amount. So there are other considerations -- other examples, I think, that we could look at, to be progressive.

SENATOR KENNY: Okay. Okay, thank you, sir.

MR. BULLOCK: Thank you.

SENATOR KENNY: If you want to elaborate on that other issue, I'd appreciate that, if you could just get that to the staff.

MR. BULLOCK: Be happy to.

Thank you.

SENATOR KENNY: Okay.

The last person is John Budzash, from Hands Across New Jersey.

J O H N B U D Z A S H: Good afternoon.

SENATOR KENNY: Did I mispronounce your name?

MR. BUDZASH: Budzash -- close enough. (indicating pronunciation)

SENATOR KENNY: Budzash.

MR. BUDZASH: Just remember Budweiser Beer, and *Bud* and *Zash*, and that pretty much does it.

SENATOR KENNY: Okay, that works.

MR. BUDZASH: Anyway, we've got a lot of *Chicken Little* people here today, saying the whole economy is going to collapse if we enact this. And I support the environmental people. Because 15 years ago, I was down here complaining about the farmland assessments and farmland preservation bills, and saying. "Boost it up to 10 years for rollback taxes." It's the smart thing to do. It's not going to have a *Chicken Little* effect -- the sky is not going to fall. And the people -- if every farmer in the State of New Jersey, God bless them, puts their farm up for sale tomorrow, guess what? There is no market for it. The real estate in New Jersey -- the economy there has collapsed. We're dead. I'm a real estate appraiser, and there just aren't sales anymore. Okay? It's flat.

We also suggested a four-tier system -- either a three- or four-tier system for farmland preservation, whereby farmers that are real farmers -- which everybody here today alluded that they are, but somehow I doubt

-- if you're a real farmer and you earn at least 75 percent of your income from farming, you should be completely tax exempt: your house, your buildings, everything. That will give them the incentive to stay a farm. If you earn under 50 percent of your income from your farm, give them 50 percent off of what their property taxes would normally be, not a complete forgiveness the way it basically is done now. Under 25 percent, give them the same -- only 25 percent off their property tax bill. Make it more equitable.

We found, here in New Jersey, a great number of farms are not farms. They're simply people who have an estate, put a horse on it, and they call it a farm. Governor Whitman -- I'll use her as an example -- she was a very, very big farmer. She has 220 acres up in Hunterdon County. She raises cows, chickens, pigs, and goats, and she has a slaughterhouse and she has a farm. Guess what? When I asked her, when she was trying to prove it was a real farm and she was saying, "Look, I got animals, I got crops, I got all this stuff." I asked her one question no reporter did: What do you do with what you grow here? Her answer was, "It's strictly for the Whitman family consumption." So we're not only subsidizing her property tax bill, we're subsidizing her grocery bill.

And farm gasoline that you use for your farm vehicles, and so forth, is also exempt from the road taxes. So if you put a gasoline tax on any farm -- and I'm not accusing her or anybody else -- but I'm just saying, if a farmer puts a gas tank on their property, gets gas in there that doesn't pay the road tax, is there a monitor? Who stops them from putting it in their vehicles?

We need some major reforms in the farm tax assessments. When you get down to-- We had the guy -- I'm sorry, I forget his name, the German guy, who said he paid \$10,000 in farm rollbacks. Well--

SENATOR KENNY: Dutch, Dutch, Dutch. (laughter)

MR. BUDZASH: Okay, Dutch. I'm sorry, I'm sorry. I stand corrected.

SENATOR KENNY: Although I think that--

ASSEMBLYMAN MANZO: The Chairman confused him. (laughter)

UNIDENTIFIED PERSON FROM AUDIENCE: I've been called worse. (laughter)

MR. BUDZASH: Okay. But you paid \$10,000 in rollback taxes. If you're a farmer and you're involved in this stuff, you should have known that, and you should have made your offer contingent on knowing what you were going to be paying for it.

We have so many things here.

SENATOR KENNY: A lowlander. (laughter)

MR. BUDZASH: We have--

SENATOR KENNY: Dikes. (laughter) It's been a long hearing, I'm sorry.

MR. BUDZASH: But anyway, the main thing -- the main gist of the this here is, when you take taxes away from one person to pay for tax relief for another, it's unfair to everybody. If it's a real farm, they should be exempt. If you're not a real farm, let's call it what it is. It's an estate; it's a corporate tax dodge; whatever.

And the study that one of the young ladies was referring to before, for \$300 and \$500 million in lost revenue to the State, if I remember correctly from that study in 1999, that was not for all farms. That was strictly for corporations in the state that have corporate property that they call a farm, using this \$500 minimum sale thing where you could say you're growing sod, or say you're growing trees, or say you're growing whatever it is that you're growing there; and you get your reduction in taxes because of that. It's not a fair basis.

And another person said that any of this tax relief, any of this money that goes in from the rollback taxes is not going to help for property tax relief. It is; every penny that goes to a municipality or to a county is then put into their funds, which helps reduce the amount of money they have to tax us from.

SENATOR KENNY: John, we have to--

MR. BUDZASH: And that's it.

SENATOR KENNY: Thank you, John.

MR. BUDZASH: I got you.

SENATOR KENNY: Senator Lance has -- I hope it's a question.

SENATOR LANCE: It is not a question.

SENATOR KENNY: A comment?

SENATOR LANCE: It is, indeed.

SENATOR KENNY: Yes, sir.

SENATOR LANCE: I'd like the attention of the room, please?

SENATOR KENNY: Yes.

SENATOR LANCE: The farm that is owned by a John and Christine Todd-Whitman, Mr. Budzash, on Felmley Road, in the Oldwick section of Tewksbury Township, has been preserved by the grant on the deed by Governor Whitman's late mother, Eleanor Schley-Todd. There was no compensation from the State of New Jersey. This was a deeded gift by Mrs. Todd, Mrs. Webster B. Todd, before her death, and that land cannot be developed. And it was an enormous gift by Mrs. Todd to the people of New Jersey, and it is simply inaccurate to say that that land should be taxed other than at its farmland value, since it will never be able to be developed, by the gift of deed of Mrs. Webster B. Todd. And I honor the memory of Mrs. Todd.

Thank you, Mr. Chairman.

MR. BUDZASH: Well, that's fine and dandy, but the problem is--

SENATOR KENNY: No, no, no. That's it, John. That's enough.

Thank you, Senator.

Okay, we're going to take a half hour break. It's now 1:00; we'll be back here around 1:30.

(RECESS)

AFTER RECESS:

SENATOR KENNY: Okay. We're going to get started.

We're going to get started on S-41, which is also A-3. And this would establish an independent Office of State Comptroller and would consolidate financial audit, investigations, and performance reviews of State and local government units. The bill would establish an independent Office of the State Comptroller, in but not of the Department of the Treasury. The comptroller will be appointed by the Governor, with the advice and the consent of the Senate, for a six-year term. The comptroller would report directly to the Governor, and could only be removed by the Governor for cause upon notice and opportunity for a hearing. The comptroller will be able to serve for two successive terms, and any vacancy position will be filled as the same original appointment. This would be, in effect, a cabinet level position, since it has the advice and the consent of the Senate.

So we have listed here four individuals listed to speak: From the Governor's office, Mr. Ed McBride -- Edward is it?

EDWARD J. McBRIDE JR., ESQ.: Edward.

SENATOR KENNY: Could be Edwin.

MR. McBRIDE: Edward.

SENATOR KENNY: Edward. Edward McBride.

And I want to say, before Mr. McBride testifies from the Governor's Counsel Office, that the Governor's Office has been very cooperative with the Committee on working on this legislation over the past number of weeks, as recently as yesterday. We've met and we've tried to address some of their concerns, and they've been responsive to us. And Mr. McBride, particularly, has been very, very helpful in representing the Governor's issues. This is the Governor's -- one of his initiatives that he spoke about, earlier in the year, in one of his speeches to the Legislature.

So Mr. McBride, why don't you take it from there.

Thank you, sir.

MR. McBRIDE: Thank you very much, Senator Kenny. And the feeling is mutual. We appreciated the opportunity to share our thoughts and our ideas, along the way, with you and your staff.

Good afternoon. I'm Ed McBride, Deputy Chief Counsel to the Governor. I'm here today to express Governor Corzine's strong support for the State comptroller legislation before you today. We appreciate and applaud the efforts of Senate Majority Leader Kenny, Assembly Majority Leader Watson Coleman, and Assemblymen Burzichelli and Manzo for sponsoring this important legislation.

In his speech to the Joint Session of the Legislature this Summer about property tax reform, the Governor stressed the need for sustainability. He specifically noted that to control property taxes over the long haul we have to create mechanisms to contain spending that will stand the test of time. The independent Office of State Comptroller that would be created by this bill is a critically important component of this effort.

Audit oversight exists in almost every facet of our economy, as reflected in the Federal Sarbanes-Oxley law. Transparency and oversight through regular auditing are the most effective ways to provide basic financial accountability. Regular auditing also strengthens the trust and confidence of shareholders in the management of the companies in which they've invested.

We agree with the sponsors of this legislation that these same principles have to be applied to government, where the taxpayers are the shareholders. As noted in the finding section of the bill, Section I: audit

and oversight function “strengthen public accountability with the goal of increasing public trust and confidence that every tax dollar collected by government is spent wisely and well.” This legislation creates these audit and oversight functions, and places this important responsibility in an independent office that will have the broad, legal authority needed to do the job across all levels of government.

As Majority Leader Kenny has noted, this bill will introduce a strong, powerful, fiscal government oversight presence. Specifically, the bill consolidates the functions of financial audit and performance reviews for the State government, independent State authorities, and local units of government in an independent office of the State comptroller.

We agree with the sponsors on the importance of insuring the independence of this office, and there are several provisions that accomplish this goal. The Chairman mentioned one of them: the six-year term. The other is a prohibition on political activity by the State comptroller and the professional staff in that office, modeled on provisions that limit political activity by prosecutors.

As set forth in the bill, the Office of State Comptroller will be the single, executive branch entity responsible for conducting regular fiscal audits of all State government, independent State authorities, and local units. The State comptroller will also develop remediation plans to correct deficiencies in internal control procedures and monitor compliance with those plans. To avoid any duplication of efforts, the current Office of Inspector General will be folded into the comptroller’s office and will be redesignated as a bureau within the comptroller’s office.

The bill also gives the State comptroller the authority to monitor the award of contracts that involve significant expenditures of funds or that involve complex issues. We agree with the sponsors that this authority is an important mechanism to help prevent problems before it's too late. We also agree that for very large contracts, over \$10 million, it's prudent to have an independent review by the State comptroller before the contract is finalized, to make sure that all proper procurement processes were followed. This idea stems from prior SCI reports regarding the E-ZPass and the Parsons procurements. And we agree with the sponsors that this idea should be incorporated in the bill.

In summary, the Governor appreciates the work of this Committee and its recommendation regarding the Office of State Comptroller, and it strongly supports this legislation that implements that recommendation.

I'd be happy to try to answer any questions from any of the Committee's members.

SENATOR KENNY: Okay.

Do you have a question? Would you like to go?

ASSEMBLYMAN BURZICHELLI: Yes.

SENATOR KENNY: Okay, the Co-Chairman.

ASSEMBLYMAN BURZICHELLI: Thank you, Chairman.

Good afternoon, Ed.

MR. McBRIDE: Good afternoon, Assemblyman.

ASSEMBLYMAN BURZICHELLI: It's easier with first names than last names, even though yours is not difficult.

If you could help, I'd like a little bit of better understanding in paragraph 10 -- of course, they're all new sections -- and you touched on it when you talked about review of contracts. And it speaks about -- it speaks directly about what looks to be steps; but there seems to be -- that's not very clear to me as to criteria. Because this requires, for example, if the unit is contemplating going out for -- involved in the expenditure of public funds -- this is on the contract bidding stuff -- "awarding a contract involved in expenditure of \$2 million or more shall notify the State comptroller before beginning in a contract, proposal, solicitation, or award process."

Now, stopping there, when that notification occurs, how do you envision -- what happens at that point? Will there be a review, based on strictly -- to make certain that the bid process, the solicitation process, the participation is within the structure of law; or will there be a judgment as to the worthiness of the project; or will there be a third component as to the creditworthiness of the entity going out to incur this debt or to award this project?

MR. McBRIDE: Assemblyman, the-- No. The object is--

ASSEMBLYMAN BURZICHELLI: Got to hit that, Ed.
(referring to PA microphone)

MR. McBRIDE: When the-- In the instances where the \$2-million trigger is in play, the agency that's considering doing the contract would send the notice. The comptroller's office would then have 10 days to decide whether it wants to actively monitor, if you will, the awarding process, which has not yet taken place. Because it's meant to be-- Early on in the process, there's a contemplation of doing a contract that is going to be \$5 million. The comptroller would then have the opportunity -- because

he would find out that there is to be a prospective award of a contract -- to determine whether-- And the factors, I would imagine, would include the complexity of the transaction, whether it's an instance where it's a government agency that hasn't had a very good track record about procurement, or whatever -- that those factors would determine. It would not be to second-guess the local government entity about the wisdom of procuring whatever it is they're planning to procure, or creditworthiness, or other things; because those are issues that are -- those are operational-style issues, and government oversight, State oversight exists already on those things through the local finance board if it's an instance of debt, or DCA review processes. So this is meant to be a notice to the comptroller simply to give the comptroller the opportunity to decide whether to play any kind of an active oversight role, and it sets a short period of time to make that decision so as to not hold up the procurement process. So that's the intention.

ASSEMBLYMAN BURZICHELLI: Now, how about in the continuation then, and since now the comptroller office is, in theory, watching this process or makes the decision to watch the process? And then it goes on to say, "The award of any such contract involving an expenditure of \$10 million or more of public funds shall be subject to prior approval by the State Comptroller." What does that mean?

MR. McBRIDE: That's sort of the third tier. You have the whole universe of contracts -- well, any contract that is a significant expenditure, or complex, the comptroller can get involved. The 2 million and up universe, that tier is when the comptroller has to be given notice of the plan to do a procurement. If it's 10 million or more, under this

legislation, the contract couldn't be awarded without the state comptroller signing off.

And again, this notion really does stem from -- I don't know that it's -- I can't say it specifically implements a recommendation of the SCI -- but it stems from that idea of making sure that, for very large-scale contracts like this, that there's some independent look at it by an organization that doesn't have any stake in whether the deal ought to go forward or not, to make sure that the right process has been followed, that the specs haven't been written in a way that favor a particular bidder, or that a professional service exemption isn't being evoked when it shouldn't be -- those sorts of things. So the third tier is a mandatory State comptroller involvement; the middle tier is the State comptroller gets noticed and can get involved; and then the broad scope of authority is in any circumstance of significant-sized contract. So we're not talking \$150; it's larger contracts -- the State comptroller can get involved on those.

ASSEMBLYMAN BURZICHELLI: Let me say, and I should have said it at the top, that philosophically I think when you have a \$31-billion operation -- not to mention the other 20 billion that's collected at the local level for property taxes -- I think we have to start thinking progressively, in a business sense, to have this kind of mechanism in place. My issues are just to the details of language. Do you think the Governor's office -- I don't mean to put you on the spot, because you can't necessarily commit-- I would be more comfortable with a clarification in Section 10 that, as we discussed, that would not be -- the comptroller would not be in a position to say, for example, to the people of Paulsboro (indiscernible) that, that, "No, we don't think you need a new library, so you should not be in

gear to go look to fund a new library, because we don't think you need one." I'm concerned that there may be -- there just may be a drop-off of words here, not making clear that the review process in the engagement of the comptroller would be in areas that you believe that this language says it should be. But I think there's an absence of words here.

MR. McBRIDE: Yes.

Assemblyman, I guess in some instances I would sort of say I would defer to the sponsors, but you're a sponsor, so-- No, we would happily continue the process, that has been ongoing for a while, of working it out, to make sure that this works the way people want it to, and that it does not have unintended consequences; or that it doesn't trample on the ability of local government to make decisions that it needs to make on behalf of its citizens.

ASSEMBLYMAN BURZICHELLI: Very good.

The other questions which I would have, others are going to pose; and I don't want to monopolize the questions -- such as what it's going to cost, how large the group's going to be, and where it's going to live at, and all those kinds of details. So I'll let my colleagues pick that ball up, because we're all anxious to get a sense of what the vision is of what this is going to be. I have a particular interest in Section 10, and I'll be visiting with my Co-Chair to see if there isn't maybe a sentence or two that would help.

SENATOR KENNY: Assemblyman, Manzo.

ASSEMBLYMAN BURZICHELLI: Thank you, Ed, very much.

MR. McBRIDE: You're welcome.

ASSEMBLYMAN MANZO: Ed, I know you -- do you have a ballpark figure on--

MR. McBRIDE: We-- Yes, I guess-- I can't think of the right analogy about how big the ballpark ought to be, because -- not in terms of the size of the estimate, but just in terms of how loose it still is. And we were compiling estimates on staffing needs based on a couple of things. One is the number of audits that we would see happening.

ASSEMBLYMAN MANZO: Right.

MR. McBRIDE: And also looking at experiences of other places, like New York, which has had an Office of State Comptroller for many, many years. That's an enormous office--

ASSEMBLYMAN MANZO: But they were bigger--

MR. McBRIDE: --half of which is -- functions like a treasurer's office in New York. They are bigger, and they do a lot -- they do 400-some-odd audits a year. So we're doing that. We've also been looking at what the staffing is now of the Inspector General's office, and trying to kind of project from there. So I mean, at this point a very tentative estimate, but we think a range of 75 people, including roughly 20 who are in the Inspector General's office now.

As to funding, if all of these positions had to be filled with new hires-- And we don't think that will be the case, because we're going to be consolidating people -- we just don't know how many -- from certain other departments who do similar things or something related to this now, on a limited basis. If the extra 55 or so people had to be new hires, we estimated it's in the range of 7 to 8 million for a total. And that does not include the 2.5 that goes to the Inspector General now. So we're talking about

something that's, again assuming 50-some-odd new people -- and we don't think that's right -- but to give you some idea of math, we're talking about 7 to 8 million.

ASSEMBLYMAN MANZO: I just want to come back with two other questions. But at this point, Mr. Chair, one of the issues that I raised earlier this morning was, in fact, my hoping that the two Chairs would convey to leadership, perhaps, the need to catch our breath. One of the things -- by putting a lot of stuff to the floor right away, what we're not going to have the ability to do is actually get a fiscal note done from Legislative Services on many of the bills; not only this one, but-- And I accept, by the way, Ed's estimation here. But if you look at the whole package, there are other bills out there -- the tax assessor bill consolidating those officers, and other bills, which will have financial impacts. And without having fiscal notes done, at least for OLS, and asking members to vote on the floor on that-- I would hope that you could sort of address those concerns to the leadership over the course of the next few days.

Now, back on this bill. I am very supportive of a concept of the comptroller in the realm of the State agencies. And I think there's enough that's on the plate right there, especially with the agencies that aren't under our direct umbrella -- the autonomous State governmental.

My concern -- and I want to pick up on where Assemblyman Burzichelli left -- is on that Clause 10, where it gives a comptroller the ability to look at expenditures, if you will, and subjects expenditures over 10 million of a local municipality, school district, whatever, to the approval of the comptroller. Before I even get into the question, I don't know whether it's just a mistake in the fact that on the \$2 million limit they put a

10-day time limit, if you will, for review. And with the 10 million, it doesn't seem to mention a time frame. So someone might want to look at that. I don't know if that's unintended or--

MR. McBRIDE: No. I think the 10 day is not the period of time to do the review. It's the period of time to decide whether-- Because this 10-day period would happen very early on in the process.

ASSEMBLYMAN MANZO: Okay.

MR. McBRIDE: It's the period of time when the comptroller would have the opportunity to decide whether to look over the shoulder while the process is happening. With the \$10 million contracts, there's no decision making by the comptroller. If it's more than 10 million, the comptroller's got to look over and make sure the process is a good process, and sign off on it.

ASSEMBLYMAN MANZO: But is there a time frame involved? Because I don't want to wind up with what DEP does with their permit--

MR. McBRIDE: No. But again, because the comptroller would find out -- since the 10 million is automatically covered by the 2 million -- the comptroller would find out at the very beginning of the process.

ASSEMBLYMAN MANZO: Okay.

MR. McBRIDE: So that's why, I think, as it's written now there's no period of time that's set aside just for the comptroller to look at the contract at the end of the process. I think the idea is, along the course of the process the comptroller would be involved in looking at how the specs are being developed and those process issues.

ASSEMBLYMAN MANZO: The--

SENATOR KENNY: Can I clarify what I think the question you asked was? I think one of the things the Assemblyman is getting at is that under the \$10-million rule, where the comptroller has power of approval -- as opposed to power of review -- then the 10 days would obviously apply, because it's more than 2 million. So they would have the opportunity to review. With the \$2 million -- less than \$2 million issue, they would have 10 days to get back to the locals that it's all right, if it's greater than \$2 million?

MR. McBRIDE: Ten days to get back to the agency that's awarding the contract to say whether the comptroller is going to be involved in the award of the contract or not.

SENATOR KENNY: On the 2 million threshold?

MR. McBRIDE: Two million and up, yes.

SENATOR KENNY: They-- Okay. They would have 10 days as to whether or not they're going to get involved.

MR. McBRIDE: Right.

SENATOR KENNY: On the \$10 million issue, that 10 days would also apply?

MR. McBRIDE: Actually, on the \$10 million contract, the 10 days is irrelevant, because a comptroller doesn't have the discretion to decide not to get involved. The comptroller does have to ultimately sign off on a transaction.

SENATOR KENNY: But -- okay, in either case, especially above the \$2 million threshold, is there a time period when the comptroller decides to exercise his review? In the 10 days, right?

MR. McBRIDE: Yes. The 10 days is the period to decide whether to exercise a review.

SENATOR KENNY: Okay. Is there a time limit on when they must come up with a determination as to whether they're going to approve of the-- If they take a review within the 10 days, is there a time frame within which they must let the governmental entity know that the transaction is approved, once they take a review?

MR. McBRIDE: No. There's no explicit timetable on that in the bill as drafted.

SENATOR KENNY: Well, that's a problem.

And then, on the \$10 million issue, where they automatically are required to review, there's no time frame on that as well? There's no time frame to come to a completion of your investigation or a review?

MR. McBRIDE: Correct. The bill doesn't set up this process where the locals complete something and then it gets sent to the comptroller, and a certain amount of time goes by, and the comptroller says, "Yes or no."

SENATOR KENNY: You know -- as you know-- I'm sorry, Assemblyman.

ASSEMBLYMAN MANZO: That's all right. I'm glad you're doing this, because I'd like to know.

SENATOR KENNY: Because we've had discussions about this, prior to it. It's a concern of mine, because there is no point in time where the governmental entity is going to know -- whether it's the 2 million and above issue, where they let you know within 10 days whether they're going to take jurisdiction, so to speak, to review; or \$10 million, where they

automatically must. There's no limitation on how much time the comptroller has to get back to the governmental entities. So I think that's a problem, as the Assemblyman pointed out.

The other, just so the members know -- this is like a cumulative contract. I mean, \$2 million sounds like a lot of money, but it's really not in a contract. A contract could be 10 years, it could be a lease.

ASSEMBLYMAN MANZO: That's right. That's right.

SENATOR KENNY: It could be a lease agreement by a local entity. And a lease agreement is going to hit \$2 million easily, if it's a 10-year lease. That's just \$200,000 a year, and you're at 2 million. And so the comptroller would have jurisdiction over relatively modest leases that hit the \$2 million threshold. So this is a significant oversight, because \$2 million is cumulative. It's not \$2 million annually, it's \$2 million as to the total value of the contract in question.

Those are concerns I think that we've articulated to you, Ed, already; and I think it's a problem.

But I want to let Assemblyman Manzo finish, and then we'll go to Senator Lance.

ASSEMBLYMAN MANZO: I thank you for help, because that clarified where I was going.

SENATOR KENNY: Yes, right.

ASSEMBLYMAN MANZO: On that point, Ed, my question is, does that involve the comptroller? I can understand him having the ability if there's State funding involved, but would this also be if the municipality was totally-- For example, they decided to do redevelopment and float

bonds, and the bonding was going to be over \$10 million to do whatever development. Would this apply to that?

MR. McBRIDE: If it involved -- the way it's written, if it involved the expenditure of more than \$10 million, then yes, this is-- The way it's written, it's public funds -- \$10 million or more of public funds.

ASSEMBLYMAN MANZO: The other thing which Section 7 says is that it doesn't get involved in collective bargaining events. But I'm assuming that, where most larger municipalities -- their health benefits coverage, which is contracted with a carrier, would exceed, easily in some cases, 10 million -- that that would be exempt also, because that's collectively bargained, the benefits? Or would that also now be subject to the review of the comptroller, since it's over 10 million? Are we clear on that?

MR. McBRIDE: I think the way it's written, the selection -- the decision to contract with *ABC* health-care provider -- that would not be-- The way this is written, that would not be considered a labor contract. The labor contract is with the union. The obligation to provide the benefits is not something the comptroller is allowed to get involved in at all, because that's the labor contract. But the decision about who to hire to provide the benefits, that would be a contract, under the way this is written -- that would be a contract the same as any other contract.

ASSEMBLYMAN MANZO: Well, let me give you an example.

Most -- a lot of towns, they couldn't even negotiate away from their unions the fact that they would -- that they're in the State Health Benefits program, for example. They're limited to that, because there would be chaos at the negotiation table. So if that costs 10 million to go into,

does the comptroller then step in and say, “Well, you know what? You can get this coverage in the private market, and probably cheaper. I don’t care what you negotiated with your unions, or whatever, but I’m not going to approve of a \$10 million expenditure just to stay in the State Health Benefits Plan, when you can go to a private market, get the equivalent of the same coverage, but you’re going to have to use different doctors, different networks.”

MR. McBRIDE: No. I’d say the comptroller doesn’t have the authority to do something that would make a local government violate a collective bargaining agreement.

ASSEMBLYMAN MANZO: The other thing, which is why this particular section is so troubling, is it gets into the local philosophy versus a State philosophy. And the reason I brought up the instance of floating a bond or doing redevelopment in a municipality -- in some instances a municipality might want to do something; the voters might approve something to do, even, to that extent. And where a State agency might say, “You know what, for the whole state in the picture, that’s not a good idea. We think that this type of business would be better in the central part of the state, northern part of the state, southern part of the state, and it is not necessarily conducive to the state overall if XYZ municipality gets involved. But since it’s over \$10 million, why don’t we exert the authority of the State comptroller and his authority to get involved in the situation.” And that’s where the philosophical issue of, are we going into what is typically -- I don’t want to classify it as a home-rule issue -- but the right of self-determination. I could understand them complying with DCA and all those other things. But on the philosophy of should a project, yes or no, go, are

we not giving-- My concern is, are we giving this office sort of a veto power over local autonomy?

MR. McBRIDE: And Assemblyman, it gets to the similar issue that Assemblyman Burzichelli raised. That's not the intention. The intention is that the purpose of the comptroller's review is to determine whether the process -- whether proper processes of doing the procurement were followed, not to second-guess people's decision about whether to do the procurement in the first place.

ASSEMBLYMAN MANZO: So it would only be to get things on whether or not-- After the procurement, or whatever they decide to do, is -- the decision is that's final, you're just deciding whether or not the expense is being justified to accomplish that in the best way.

MR. McBRIDE: Yes. And even, I think more so, whether the rules, and laws, and regulations that apply to procurement are being properly followed. Again, not to question the wisdom of whether it's good to enter this contract instead of another one, or to enter this contract instead of doing it in-house, or the amount of money that's being spent on it. Those issues would come into play later on if there's an audit, when people are looking at: "Did you get enough quotes?" and all those sorts of things. But the purpose of the contract review is to ensure-- Broadly stated, it's to prevent the kind of situation that the SCI focused on, where you had contracts where the processes weren't followed the way they were supposed to be.

ASSEMBLYMAN MANZO: One of the things that I would have suggested, at this point, would have been-- A lot of municipalities already devote a lot of resources to having, by State law, audits done on

particular agencies that they have -- whether they're set up for redevelopment, whatever -- that they need to do for State law. And one of the ways which might work better with the comptroller's office would have been-- The municipalities still should do that, but perhaps have those reports filed, instead of to the agency, directly to the State comptroller, as maybe a way to save costs on you doing an audit. Municipalities are still required to do an audit, and you wind up with audits all over the place. And basically, if the comptroller is going to do one, why should the municipality bear the expenses? One thought on maybe a more practical way to achieve that.

MR. McBRIDE: Assemblyman, that point that the bill has -- actually Section 9-c -- it talks about DCA and the Department of Education notifying the comptroller, because that's who gets those local audits, notifying the comptroller when there have been deficiencies that have been found. And that way, that promotes that kind of coordination that you just talked about.

ASSEMBLYMAN MANZO: Yes. So at least that's not being wasted at the local level -- they're doing an order, or whatnot, and getting in touch.

MR. McBRIDE: Yes. It's meant to get at the issue of -- yes, you don't need duplication. You don't need one order running into the other one -- one's coming out the door and the other one's going in the door.

ASSEMBLYMAN MANZO: The final thing. You still would utilize, for example, the other branches of State government, for example, if you felt the need to do an audit in, like, a school system, whatever? You

would still tap the expertise of Education, I assume, in participating in the audit so that it's not just a fiscal audit, but it also looks at-- There's someone of an education background there saying, "Well, the reason this could be an expenditure is because of--" there's an education component needed here, rather than just totally on the fiscal side; or whether it's a DCA issue, a municipality issue. But someone with a flavor for programs that are typically done.

MR. McBRIDE: Yes. The coordin-- Section 9 more broadly talks about that kind of level of coordination, and making sure -- and sort of sharing of information and taking advantage of the fact that you may have people who have a substantive background about the management and operation of the school district, or a municipality, or a public authority, or whatever it is -- sort of the requirement that there be ongoing cooperation, sharing of information and cooperation.

ASSEMBLYMAN MANZO: I basically liked this bill with the State government. I want to salute the Governor for his effort in moving that our State auspices should have that. But my only questions still evolve around whether or not we have the resources to do this locally. I think we should work out all those kinks on detailing -- the fine details of what happens when it goes in a local area, before we move it that way.

Thank you. Thank you, Ed.

MR. McBRIDE: Thank you, Assemblyman.

SENATOR KENNY: I'm sorry.

Senator Lance?

SENATOR LANCE: Thank you, Mr. Chairman.

This bill creates an incredibly powerful office.

Mr. McBride, as an example: Hamilton Township, right outside Trenton, has about 100,000 people, a large suburban township. Its school district undoubtedly contracts for food services each and every year. And I would imagine the food services contract of a large suburban school district -- this would also be true of Dover Township and now Toms River in Ocean County, certainly true of the Newark School district and others -- those contracts undoubtedly exceed \$10 million a year. As I read this, am I accurate that a regular and ordinary food services contract of a large suburban school district or an urban school district, perforce, would have to come before the State comptroller?

MR. McBRIDE: Yes.

SENATOR LANCE: I agree completely with Assemblyman Manzo that, whether it's above \$2 million or \$10 million, Section 10 should be amended so that the comptroller is given a date certain to analyze the contract, fish or cut bait. And we could debate what that should be, and we should look to other similar offices across the country as to whether Comptroller Hevesi in New York, for example, is required to report back to the entity being investigated within 60 days or 45 days, or whatever, number one. So Section 10, from my perspective, should be amended. Not that the current sections aren't good, but they should be improved upon to have a date certain by which the comptroller has to get back to the local jurisdiction.

Number two, as I read this, the Inspector General now comes under the comptroller -- is that what would occur? He or she would be a division within the comptroller's office?

MR. McBRIDE: That's correct.

SENATOR LANCE: Number three, there is a State Auditor, an appointment I believe of both Houses of the Legislature. Is that how that office currently works?

MR. McBRIDE: I believe that's the case, yes.

SENATOR LANCE: And what is the interplay between the State Auditor's office -- a legislative office -- and this new, very powerful, office to be created in the executive branch?

MR. McBRIDE: I believe the concept, Senator, is that the principal focus of the State comptroller would be fiscal audits.

SENATOR LANCE: Yes.

MR. McBRIDE: Now, it has the authority to do other things, too, but fiscal audits are the primary focus. And I think the concept here is that under its recently granted statutory authority to do performance reviews, the office of State Auditor would focus more on the performance review side, giving the Legislature the opportunity to make sure that programs that it creates are doing what they're supposed to do, yielding the results they're supposed to yield.

The bill does not alter any of the statutory powers of the office of State Auditor. It does, however, mandate cooperation, meeting, and consultation the same way it does within any entity in the executive branch that does these activities. But I believe that's the -- though it's not mandated in the statute that that's how things play out, that's the conception that -- the performance review function, similar in the Federal level to the GAO, which focuses principally on that style of investigation.

SENATOR LANCE: Thank you.

And then number four -- and this is through the Chairmen, of course -- certain Cabinet positions are of constitutional dimension -- the Attorney General and the Secretary of State. And I know that we're not making this office of constitutional dimension, this is merely a statute. But given the enormous powers that I perceive the State comptroller will have, I wonder whether this should be of constitutional dimension. I don't think it's required, but as I read this bill, this is very, very powerful legislation. And the State comptroller will have his or her hand in almost every contract -- State, county, municipal, school board, and independent authority -- throughout the state. And one wonders whether this should be of constitutional dimension.

School board, County Improvement Authority, County Park Commission -- who would want to be governor if you could be State comptroller? (laughter) I believe this is a very far-reaching piece of legislation. I do not necessarily oppose it. But I hope the Legislature and the Governor recognize the potency of what may be created here.

Thank you, Mr. Chairman.

SENATOR KENNY: Assemblyman Merkt.

ASSEMBLYMAN MERKT: Wow.

Through you, Mr. Chairman, I have a number of questions for Mr. McBride.

I agree 100 percent with Senator Lance, who agrees with Assemblyman Manzo. I find this very, very formidable. I am extremely uncomfortable with the powers that the administration proposes to give to what I call the *economic czar* or *fiscal czar* over local audits. I just think that we're talking about a huge shift that centralizes power so much in Trenton.

And I also think it misses the point. In my estimation, the real issue is the power of this office to look at State issues, fiscal issues. And I have a huge difficulty with the way the entire thing is established.

Senator Lance makes the excellent point that this is a statutory office, as it has been proposed. I happen to believe that something like this is of sufficient import that it ought to be a constitutional office. And when you think about some of the other offices we have, they are constitutional offices because of their importance, and this office will be at least as important, if not more important than those offices.

I am also-- I think I know the answers, but the appoint of power for this office is going to be to?

MR. McBRIDE: To the Governor, with the advice and consent of the Senate.

ASSEMBLYMAN MERKT: And the reporting on this office will be to?

MR. McBRIDE: To the Governor.

ASSEMBLYMAN MERKT: And so this office will also be housed--

MR. McBRIDE: To the effect -- the reporting requirements exist to the Legislature, as well. But--

ASSEMBLYMAN MERKT: Right.

But the management reporting is to the Governor?

MR. McBRIDE: Correct.

ASSEMBLYMAN MERKT: And this will be housed in the executive branch, correct?

MR. McBRIDE: Correct.

ASSEMBLYMAN MERKT: What percentage of the State employees are housed in the executive branch? Do you know?

MR. McBRIDE: What percentage of the total State workforce?

ASSEMBLYMAN MERKT: Yes.

MR. McBRIDE: I think it's in the range of, out of 90,000 total, 70,000 are in the executive branch. I think -- that's a very rough guess, but I think it's--

ASSEMBLYMAN MERKT: That comports with what I've been told, which is about three-quarters or seven-eighths of the workforce works directly for the executive branch.

And how will this office be funded?

MR. McBRIDE: It would be funded through the appropriation process, which would include, as other offices of this type have shown in other instances, the ability to generate recoveries from contracts and improperly awarded vendors overpaid, or whatever -- recoveries of that sort. But the way the bill is set up, it would be funded the way other agencies are: through the appropriations process.

ASSEMBLYMAN MERKT: Through the Chair, Ed, doesn't this mean that, frankly, a Governor who really got ticked off at this office could essentially defund it through the budget?

MR. McBRIDE: There is nothing legally-- It's the same way with any other agency that is funded through the budget and is not off-budget, that either branch -- either the political branches of government, if you will, can affect the size of the budget.

ASSEMBLYMAN MERKT: So the short answer is yes?

MR. McBRIDE: The short answer is yes.

ASSEMBLYMAN MERKT: Now, also through the Chair -- now, put on your hat as governor for a moment, and you're appointing this individual. What incentive would a governor have, given the power of this office and the ability to audit things and look into places that might be good, might not be good -- what incentive would a governor have to appoint somebody who is really first-rate and aggressive, and a powerful individual? Wouldn't a governor be more inclined -- not this Governor -- but wouldn't any governor be more inclined to perhaps select somebody who might not be as aggressive in terms of ferreting out problems that might embarrass, not just this administration, but any future administration; especially given the fact it's housed in the executive branch and is reporting to the governor?

MR. McBRIDE: I think a lot of it will depend on what is the track record of the office, and the performance of it, and its perception by members of the Legislature and by the public, as well. I think that would-- To get back to your earlier question, Assemblyman, I think that would also constrain the ability of a governor or a future Legislature to say, "They're getting into too many things that we don't like them getting into." If it's an office that's been successful, and is perceived as being a successful, independent fiscal oversight mechanism, then I think there would be constraints in the ability of somebody to try to pull the plug on it and unfund it, or to appoint someone who clearly is not going to be able to do the job very well. But there's nothing statutory that could prevent that kind of scenario from happening, either one of them.

ASSEMBLYMAN MERKT: Thank you.

Through the Chair--

SENATOR KENNY: Yes.

ASSEMBLYMAN MERKT: --were you actually involved in drafting this legislation, by any chance?

MR. McBRIDE: Reviewed drafts of it, yes.

ASSEMBLYMAN MERKT: Okay. Did you review any other legislation that's currently out there and proposed on this subject?

MR. McBRIDE: Yes. I've been aware of proposals, including your proposed constitutional amendment to create a constitutional-elected State comptroller.

ASSEMBLYMAN MERKT: Right. The reason I-- Again, through the Chair. As I look at this idea -- and I do believe, by the way, there are certainly major merits to this idea. This has been an idea I've been following for probably four or five years. And I happen to lean heavily toward the idea of an elected and independent State comptroller. And when I say independent, I mean independent of everybody, including the Governor, and answerable only to the people of New Jersey.

The problem I see is the way this has been done. And here's a bill that was introduced on December 4, and here it is December 7, and already we're reviewing this bill. But we're not considering any of the other legislation that has been proposed and, frankly, I think has some value. And we benefit as a Legislature when we consider not only one idea, but a whole host of ideas that are put before us. So the normal course of action, of course as the Chairman knows, would be for this to go through the State Government Committee -- at least in our House -- and then to be second referenced to the Appropriations Committee.

And so I'm kind of -- I don't know what to say -- I'm disappointed that we're doing this in this particular setting right now, for a couple of reasons: First of all, it's not a constitutional question, not the way we phrased it right now. And so I don't really see how it properly falls before this Committee. It's really another Standing Committee's subject matter. And secondly, the current way we're doing this really doesn't afford us the opportunity to consider what other ideas are out there. In fact, they're shut out -- ideas that have been out there for years and, unfortunately, have not been given any attention.

There's no appropriation in this bill, correct?

MR. McBRIDE: Correct.

ASSEMBLYMAN MERKT: So -- okay -- we don't know the cost factors associated with it, other than the fact there's an estimate of \$7.5 to \$8 million, depending upon how many folks are going to be hired. Is that also correct?

MR. McBRIDE: Correct.

ASSEMBLYMAN MERKT: I guess I'm sort of scratching my head and say, "Why today?" If it's going to be funded through the budget process next year, why not wait until that process is in hand, and then we can consider this in the context of next year's budget, as opposed to creating this thing that's not funded?

MR. McBRIDE: I mean, I would defer an answer to that question to the Legislature, and the leadership, and the sponsors of the bill in terms of the timing of when it's introduced and when it's moved.

ASSEMBLYMAN MERKT: Well, I do appreciate your answers, and I appreciate your candid--

Mr. Chairman, one other comment, if I may?

SENATOR KENNY: Sure.

ASSEMBLYMAN MERKT: It seems to me, based on my years in the Legislature and my years before the Legislature, that one of the interesting things that's happened in New Jersey's State Constitution is that we have an office that was created -- a modern governorship was created in 1947. And at that time, of course, State government was far smaller -- in fact, there were cities that were larger than the State government at that time -- and we opted for a very powerful and centralized governorship. What has happened since then is, the State workforce has grown to 83,000 to 85,000 people, ballpark. The State budget has now grown to \$31, \$32 billion, plus however much we've borrowed, plus what we get from the Feds each year, and we spend that. In other words, we're now a large corporation. We can't eat family style any more.

And here's my problem with this bill, ultimately. This bill does not take us along the road of trying to balance up the extreme powers that the Governor has in the State of New Jersey. He is considered to be the most powerful Governor in the nation. Instead, this actually, if anything, dramatically augments the powers of the Governor, because he appoints. He has this person answering to him, and he controls this person indirectly through funding.

And so I honestly believe that this bill, as structured right now, is taking us in the wrong direction. It is actually strengthening the executive branch. It is strengthening the Governor as an unreviewable -- essentially unreviewable public official; which is why I think that Governor Corzine was right, in the first place, when he said make this an elective

office more along the New York state model, notwithstanding their momentary problems that they're having. And I really, honestly believe that that's something that needs to be reviewed. We need to go back and make sure that we're doing this correctly. And I don't think the answer is to give more power to the executive branch, which this bill clearly does. I think the answer is actually to split up, to some degree, certain authority within the executive branch so that we have other people watching other people.

This is a money business. There's a huge amount of money at stake in the State of New Jersey. And it's been my experience that when you have vast amounts of money going places, the only way to secure and make sure that something bad doesn't happen is to have multiple sets of independent eyes watching the program. In my view, this bill falls short of achieving that. Because the Governor, at the end of the day, still is the one who holds all the cards.

With that, Mr. Chairman, thank you very much for your leniency in letting me make comments.

SENATOR KENNY: Sure.

Thank you.

Senator Lance, and then Senator Madden after him.

SENATOR LANCE: Thank you, Mr. Chairman, for recognizing me again.

I believe, Mr. McBride, that this office would be of constitutional dimension and clearly should involve a constitutional amendment. I, too, favor an elected comptroller, which I know is the Governor's original position. I am firmly of the belief that this bill should

be referenced to the State Government Committee, and second referenced to the Senate Budget and Appropriations Committee. And I believe, along with Assemblyman Merkt, and perhaps others on the Committee, that the bill as currently drafted would increase dramatically the power of the executive branch -- already the most powerful executive branch in the nation. And I believe an independently elected comptroller beholdng to the people themselves would be infinitely preferable. And I certainly hope that this bill is not to rush through the legislation process, based upon a hearing today in this Committee, which does not have the power of referral to the floor. And I am firmly of the belief that this has to go to the State Government Committee, which deals with constitutional issues, and then beyond that and after that to the Senate Budget Committee.

Thank you, Mr. Chairman.

SENATOR KENNY: Okay.

I don't think there are any more questions.

Ed, I think there are a number of points that have been raised here today that we had asked you take back to the Governor. And we're going to take them back to our respective leadership in both Houses and both parties. We know that this is a very important bill to the Governor, a very important proposal for accountability and reform. So we're very mindful of that. To me, the issue of elected versus appointed is not a significant issue. I actually prefer the appointed, with the six-year term and the independence.

I agree with Senator Lance that-- A year or so ago, when he voted against the Lieutenant Governor's position -- and I regret that vote -- that I voted for-- I don't think another election for a statewide office is

necessary. However, I think there are genuine concerns with the legislation for the reasons that people have stated, particularly the open-endedness of the review process, both with respect to the \$2 million threshold and the \$10 million mandatory review. The power to review is the power to delay, and it's the power to actually oppose a contract. And the power to review is everything in government. Even if, as was suggested, we limit the scope of the review, so to speak -- which is one of the things we want to look at, to tighten up what you can review, so that it's limited to various purchasing and whatever other models are out there-- I can just imagine a local entity calling up the comptroller's office and asking, "When are you going to get back to us?" And they say, "Well, we're still looking at the--" You know, they're still looking at these parameters. I mean, you're never going to get an answer. This is not particular to this administration, it's just the way it is in Trenton. So that's very troublesome.

I think that other people are also concerned about the local governments coming under the purview of the comptroller, as opposed to State government. And then, as I said to you yesterday, the idea of the comptroller having the 10-day ability to let the world know that they're reviewing a \$2 million contract, of which there must be hundreds, if not thousands, in a given year around the state -- which ones are they going to choose to review? I mean, they'd have to be selective. How do they -- in a 10-day time frame, let's just say 30 come in. How is the comptroller possibly going to decide which of the 30 he's going to review in a 10-day time frame? How are they going to decide? Because somebody from that town makes a phone call to the comptroller, you know, a political opponent and says, "You'd better look at that contract?" I mean, I just don't

understand how you can do it, other than huge subjectivity. I'm not suggesting anything inappropriate on anybody's part, but how do you possibly do it? You're going to have thousands of contracts coming in here from around the state in the course of the year, and then you would have 10 days to review all these \$2 million contracts, of which there are many, and then you're going to have to decide which ones you're going to exercise your 10-day right to review. I don't know how you do it. Which ones do you pick? It's just loaded with subjectivity. So that's a problem; and the open-endedness of it, the local government side of it.

And I know the Governor wants this for all the right reasons. But I think that this is -- and I agree with Senator Lance and just about everybody who has spoken here -- I think this is probably the most significant piece of legislation that has to do with governmental powers in years. Which is not to say it's not the right thing to do, but it's the most-- I think it's the most significant item before the Legislature right now -- is this (indiscernible) on the comptroller. I think it is the most significant item before the Legislature. Of all the things that are out there, this is the most significant and has the most gravity in the long term.

SENATOR LANCE: Mr. Chairman.

SENATOR KENNY: Yes.

The Co-Chair wants to speak.

Do you want to make a comment?

SENATOR LANCE: Yes.

I noticed there is a reporter from The Easton *Express* here. I'm pleased with that because The Easton *Express* covers me. (laughter) But I wish more of the State House press were here. They were here in force this

morning for the important issue of farmland assessment. But I agree completely with what the Chairman has just said, and I would like this to echo throughout the complex that this is an issue that should be covered exhaustively by the press in this state. Because I agree completely with you that this is of enormous dimension, and fundamentally changes government in New Jersey.

SENATOR KENNY: We'll let the Co-Chairman--

ASSEMBLYMAN BURZICHELLI: Senator, I just wanted to add in, these comments you're hearing being made obviously are not directed towards you; these are to work to complete this process. And I want to say to you, from the Assembly side -- although our prime sponsor, Majority Leader Bonnie Watson Coleman, could not be here today -- I'll be reporting to her, and will be associating myself with the remarks made by this panel today. And as you leave here, I think you can get a sense that away from the philosophical discussion, which is legitimate and has to continue, the work appears to be, in large part, in Section 10. And then the further discussion of whether or not, in this first generation, whether the local government should be included, not included. But I wanted you to hear from me, as you work back with your group, that my report to the Assembly side will be echoing what my Co-Chairman has said about the approach to this. And again, that Section 10 is where I think a lot of the work is, as we move forward.

But I thank you for your time.

MR. McBRIDE: Thank you.

SENATOR KENNY: Are there any more comments from the members? (no response)

So we-- I think the Committee understands the importance of it. We know how important it is to the Governor. We understand that the motivations are correct, in terms of getting stronger fiscal accountability. But I think serious questions remain that have been discussed, and we understand more than-- I think the main point that we were making is that we understand the significance of this: That it's very significant, in terms of all levels of government, and that it must be looked at very, very carefully in the next few weeks.

ASSEMBLYMAN MERKT: Mr. Chairman?

SENATOR KENNY: Yes.

ASSEMBLYMAN MERKT: First of all, I commend you on your comment, because I think that was so on point about the importance of this issue.

With all due respect to everyone involved, I don't think this bill is ready for prime time yet. And I honestly ask that it be held back for a brief period to let us deal with the various issues, and to let it go through the channels. We'll get it done, but it needs to be done right. It's imperative that we get this one right. So I very much commend the people who have made comments today.

And again, Ed, nothing personal involved in any of this. But we do want to see this come out the way it should come out. And if it takes an extra four or six weeks, it's worth it.

Thank you, Mr. Chairman.

SENATOR KENNY: If there's nothing further, thank you.

We have a few people to testify.

Thank you very much, Mr. McBride.

MR. McBRIDE: Thank you, Senator.

SENATOR KENNY: Okay.

We have another bill after this. But there are a few people who signed up -- John Moran, for the League; Art Maurice -- do you want to come up, Art? And Jim Leonard of New Jersey Chamber of Commerce is not available, but he says he's in favor.

So whoever would like to start, please?

A R T H U R M A U R I C E: I'll be very brief.

SENATOR KENNY: Just identify yourself for the record.

MR. MAURICE: Yes. I'm Arthur Maurice with the New Jersey Business & Industry Association.

Senator, if I may, the public employee hearing is beginning now, so if I can just quickly go through this bill, and the next one, and the last one?

SENATOR KENNY: Sure.

MR. MAURICE: Thank you.

Since I didn't know if you'd be holding another hearing, I did want to just mention that I think all your work is going to be the primary resource for future policy makers -- everything you've done the last four months. I want to congratulate you on that.

Regarding the comptroller bill, we support the comptroller bill, although clearly you raise some very important issues.

Regarding the tax policy study commission, I would suggest that you add to the commission's charge the analysis of State and local tax policy impacts on the State and local economies and employment. There's a discussion in the legislation of the charges. One of them is on tax

expenditure, which is how much money we lose because of tax policy, subsidies. I think that would be a useful endeavor as well.

And finally, we support your recommendation on the property tax cap, and we look forward to the legislation being introduced on that.

SENATOR KENNY: Okay. Thank you.

Jon?

MR. MORAN: All right.

John Moran, with the League of Municipalities.

Thanks, Mr. Chairman and members of the Committee.

The members of this Committee have already dealt with a number of our concerns, our procedural concerns, which are centered in Section 10 of the bill.

Just a few other questions that we have on Section 10. What standards would be used to decide if a contract will be subject to prior approval, and by what standards would approval be denied? And is the 10 days, 10 days? What happens if no decision is made within a 10-day period? We have no recourse. A local contracting unit has no recourse if that 10-day period is exceeded.

Our other questions with the bill -- and this is based on a preliminary analysis, Mr. Chairman -- deal with the duplication of effort. And in addition to a fiscal note, which Assemblyman Manzo recommended, we'd also urge you to analyze the cost of the local regulation process of this. Take a look at the cost the State currently bears in regulating local affairs through the Division of Local Government Services, and DCA, and elsewhere. Try to compute what it would cost the State comptroller to do the things that are in this bill as to local contracts. And you might find that

you could get as much benefit by directing half of the expenditure to the Division of Local Government Services to allow them to perform their function more efficiently and more thoroughly, than would be required by extending a local regulation to the State comptroller.

That's it, Mr. Chairman.

Thanks a lot for your consideration.

SENATOR KENNY: Okay. Thank you very much.

Let me see -- where are we? I'm just trying to see if this--

John Budzash, are you on this one?

MR. BUDZASH: Yes.

SENATOR KENNY: Okay.

MR. BUDZASH: Hello again.

I like what I've heard here. This is probably the most responsive government hearing that I've been to, and I've been to quite a few of them over the last 16 years.

There's a big problem in New Jersey, and it's where our money goes. An auditor is probably the most important person that could ever be hired by the State of New Jersey. When Governor Corzine unveiled his plan for his new budget, the headlines in the *Asbury Park Press* showed, "New Taxes in \$31 Billion New Budget," New Jersey budget. Next to it, headline, "Guilty Plea in Theft of \$866,000 from New Jersey," where a State worker had stolen money. It's a common thing. It's something we can't help but read about in the newspapers almost every day, where someone at the State or local level is ripping us off. We need strict penalties. We need an auditor to help catch them.

But as Senator Lance, Assemblymen Merkt and Manzo have said, and as you've said, there's a lot missing in this bill. It's a great idea.

In 1992, I was here. And newly elected Assemblyman Geist came over to me and he introduced himself. He told me he had a bill he'd like me to look at. He said, "It seems really interesting." It was for an elected, nonpartisan State auditor. And that is something we would like to see in New Jersey -- a nonpartisan office of an elected State auditor. Someone who doesn't have to report and worry about the Governor appointing him, who doesn't have to worry about after the Governor leaves in four years -- he's still for two. If he finds the Governor is involved in something shady and wants to bring that out, he owes allegiance to a man who hired him at well over \$100,000 a year, probably.

We're looking at an agency here that's proposed. It's great on paper. But when you think of New Jersey, 21 counties, 83,000 or so State workers. How many State agencies do we have -- 20, 21 State agencies, or whatever, and then you've got the municipalities? How many municipalities -- 535, I believe it is? That's a lot of work. You're creating a whole new government here by giving someone the responsibility of going in and doing all this. I would love to see it. I'd hate to hell to have to pay for it. That's the biggest problem. It's too grand of a scheme. I believe that if we went with an elected State auditor we would be better off. An appointed State auditor will do, if we can't get an elected one.

I object and worry about the Section in here that allows them to hire consultants, which is Page 4, lines 40 to 43. It says, "the comptroller may obtain the services of certified public accountants, qualified management consultants, and other professionals necessary to

independently perform the duties.” My God, if we’re hiring someone in an agency this big, don’t we have these people on board? And most of the stuff that I’ve seen that they catch is not that difficult. You don’t need outside consultants. And when I see outside consultants, most of the time the consultants are politically connected. They’re going to be paid a lot of money to do something that the State workers can do. We’ve got the State workers. Put them in the position to do the job.

Our other concern would be the time limit that’s missing for the comptroller to approve spending, as Senator Lance, and the Assemblymen Manzo and Merkt brought up. You’ve got to have a time limit there. If a municipality is going to spend, say, \$10 million for whatever emergency work may come up, and they put the bill in -- the comptroller sees this, “Oh, we’re going to look into that.” If they don’t have any time limit to approve it, the municipality could be stuck. It could be something important. Only God knows what it could be, and right now I can’t think of anything. But I’m sure there will be certain times when that will happen. It’s got to be addressed. There has to be a time limit. But then again, if you put a time limit in, we’re back to square one with, “It’s too enormous of a job for the State to take.” I believe that the auditor should be in effect; we should have a State auditor, and he should be responsible for State agencies. Let the counties and the municipalities, at least for right now, handle their own dirt. Let them go through their own budget problems, and their own spending problems, and their own audit problems. Right now, the State has enough problems of its own.

And to go and to open up an office like this, you’re going to need -- my God, how many people? You’re going to need thousands of

people. You're going to expand the workforce where one of the big worries-- One of the other Committee hearings today is about retirement benefits and pensions and State workers, and people are complaining about State workers. But here, we're looking to hire a slew more. I can't even imagine how many. It's got to be thousands. It's got to be, to take on an enormous task like this.

We approve of what you're doing, we approve of the thought, and we hope, as has been suggested, that you take a little more time, put together a better bill that's more specific, and downsize it. Don't include the municipalities. I mean, I would love to see it; I really would. Because the biggest loss of our tax dollars is at the municipal level. That's where our property taxes are paid, and that's where we all suffer every day having to keep up with unexpected tax increases that happen to us all the time. But right now, we have to worry about the big picture, which is the State and the State budget. Get that under control and then increase.

Thank you for your time.

SENATOR KENNY: Okay.

You're the last speaker on that bill. You're also listed on the New Jersey Tax and Fiscal Policy Study Commission.

MR. BUDZASH: Okay.

SENATOR KENNY: So while you're here, why don't we do that?

MR. BUDZASH: Basically -- I went from last to first. I like that. That's moving up in the world.

The big problem we have with that bill also is, it seems like it's just expanding the bureaucracy. And a lot of the problems that we're

having in the state, again, repeating what I just said, is the enormous amount of State workers, if we have in here.

And one of the others parts is -- I don't have that bill with me. I didn't bring it in, because I didn't think I was going to speak on it. But one of the problems we have with that is also--

SENATOR KENNY: You don't have to.

MR. BUDZASH: Excuse me?

SENATOR KENNY: You don't have to if you don't want to.

MR. BUDZASH: Okay. (laughter)

One of the other problems was, it also had in there about hiring consultants and so forth. And we just feel that it's just an extra layer of bureaucracy that we don't need right now, when we're trying to trim spending and bring taxes more under control here in New Jersey.

SENATOR KENNY: Okay.

Thank you, sir.

MR. BUDZASH: Thank you.

SENATOR KENNY: John--

This is -- I'm sorry. This is Senator Madden's and Assemblyman Burzichelli's bill.

ASSEMBLYMAN BURZICHELLI: I worked very hard on this.

SENATOR KENNY: I know, and I know you were up all night.

ASSEMBLYMAN BURZICHELLI: Yes.

SENATOR KENNY: Do you want to talk on this?

ASSEMBLYMAN BURZICHELLI: No. I just want to remind you that--

ASSEMBLYMAN MANZO: We're on the policy bill.

SENATOR KENNY: Oh, you're on the policy bill. Okay.

ASSEMBLYMAN BURZICHELLI: And he contributed. He contributed.

SENATOR KENNY: I thought you were the architect of the comptroller bill. (laughter)

ASSEMBLYMAN BURZICHELLI: Only the parts you like.

ASSEMBLYMAN MANZO: It would have been an out-of-control bill, if that was--

SENATOR KENNY: Okay.

We're on the New Jersey Tax and Fiscal Policy Study Commission. We have just a few speakers.

Jon Moran, from the League.

MR. MORAN: Yes. Jon Moran--

SENATOR KENNY: You can turn that one off, Jon.

MR. MORAN: Thanks.

Jon Moran, with the League of Municipalities, again.

Mr. Chairman, thank you.

I think you have our written statement on this bill. Basically, we believe that a tax policy study commission should include formal representation by the League of Municipalities and other affected constituencies with an expertise on these issues. Further, we think that the legislation should include a mechanism whereby the Commission could put its recommendations directly before the voters should the Legislature fail to embrace essential reforms.

Accordingly, we would support a larger Commission representing a broad, cross section of New Jerseyans who have a vital stake

in taxing fiscal policy reform. We refer you to the composition of the State and Local Expenditure and Revenue Policy Commission in the '80s, which was very broad.

Further, we object to the disqualification of elected officials from membership on the Commission. Mayors and local governing bodies have a unique interest in tax reform, a special expertise on local tax and fiscal policy, and a profound commitment to less regressive revenue reforms.

We realize that a constitutional amendment would be needed to permit the Commission to put essential reforms rejected by the Legislature before the voters. But we fear that absent that opportunity, the Commission -- like so many before it -- could produce a great report that includes wonderful recommendations that are never acted on. Accordingly, we would urge you to draft an appropriate amendment to tie-bar it to an amended Commission bill, and to let the people decide if that is what they want.

And I want to thank you again for the opportunity, Mr. Chair.

SENATOR KENNY: Thank you.

Okay.

John Meyerle, from the New Jersey Coalition For Property Tax Reform.

And then I think that's it.

Joyce Powell, from NJEA, but I don't see--

ASSEMBLYMAN BURZICHELLI: She's up at the pensions.

SENATOR KENNY: She's up at the other hearing, so--

Okay. I won't tell you where she stands on it. (laughter)

J O H N A. M E Y E R L E: I've got a copy of her--

SENATOR KENNY: Oh you do? Don't tell us.

MR. MEYERLE: Well, first of all, distinguished Chairmen and Committee members, I would like to applaud you all for-- I have been to every one of these meetings. And as you know, we're a strong proponent of the SMART Bill. And I have to say, a lot of due diligence has been done here. And I really think you need an applause for the work that has been done.

I can say that I represent 10,000 people -- hard-working property taxpayers who have signed petitions urging you to support the SMART Bill; and over 50 local governments representing 1.5 million New Jerseyans that have passed resolutions--

SENATOR KENNY: I thought we were going to have a meeting without the SMART Bill. (laughter) I feel fulfilled. (laughter) Because I didn't want to drive home on that Turnpike--

SENATOR LANCE: Not as fulfilled as Assemblyman Manzo does. (laughter)

SENATOR KENNY: He's always got somebody ready to do the SMART Bill. Because I would have had a withdrawal problem going up on the Turnpike today.

Thank you very much. I feel a lot better now.

MR. MEYERLE: In our discussion of the SMART Bill, actually just to put things in perspective, you see -- because the SMART Bill is a bill you have discussed, but you could not recommend it at this time. And since you, as a group, could not provide the property tax reform that we had hoped for, we'll have to wait to see if the formation of this tax and fiscal policy commission -- without legislators' constraints, if that's possible in

Trenton -- can get the job done. Hopefully, this Commission will be free to address the 800-pound gorilla issues that Governor Corzine said were to be left on the table when he called for this special session.

We suggest that you add a provision to -- not that you think I'm only here to talk about the SMART Bill -- to A-6. We ask that it insures a provision to ensure dialogue with the taxpayers. I mean, we don't want people who are operating in back rooms calling the shots here.

We also ask that you require at least quarterly press releases to keep the public informed. And we also take note that fair taxation and fiscal policies are not rocket sciences. We need to establish specific goals at the onset and set a timetable so that we can get these things done. We would expect meaningful solutions by this time in 2007, or earlier if possible, with looking at when we're going to actually set the Committee up. I'm not certain that that's doable.

New Jersey is at a critical crossroad, and failure to act now may result in further downward spiraling of our economy -- an economy that's losing market share to more competitive marketplaces in the states. The need for change in our tax laws and fiscal policies are clearly demonstrated by some following points:

Now, I've got a table attached here which shows that in 2007 the State will collect over \$5 billion in new revenue from new taxes and fees enacted between 2002 and 2006. And these taxes and fees are mostly regressive, and severely impact our low- to middle-income families. Subtracting out the \$1 billion in revenue from the millionaire's tax, and assuming that corporate taxes trickle down to the consumer, we're left with about \$4 billion in new, regressive taxes and fees that are paid mostly by

the little guy. Add to this about another \$2.7 billion in regressive property taxes caused by the State freezing school and municipal aid, and it becomes clear why many of our young families and fixed-income seniors can no longer afford to live in New Jersey.

So in a few short years, we've added \$6.7 billion of regressive taxes to be paid by our middle-income families. And that's why it's important to have a tax commission. Because we can't allow things like that to continue. Things have to have a certain balance, and that's why this is so important. And to add perspective, it's our wealth that puts us in 35th place when it comes to the return of Federal tax dollars to New Jersey. And it's our wealth that results in only 2.8 percent of Federal school aid, when the national average is 8.8 percent. Other programs are equally hard hit. With \$6.7 billion in new regressive taxes, the leadership, we believe, is playing kind of a shell game here with our tax dollars, in that most of the property taxes-- If you take a look at how this thing is going to be funded, most of the property tax relief is going to be paid for by those getting the relief. When you have most of the regressive taxes pay for these things, that's what happens. And that's what we're uncomfortable about.

We really feel strongly that we need to add income and ability to pay to this picture.

SENATOR KENNY: Okay.

MR. MEYERLE: And we are very hopeful that this tax and policy commission will take that on, and understand that the regressive nature of the taxes in this state is killing us.

SENATOR KENNY: Okay.

Thank you very much, John. I think you've covered it.

ASSEMBLYMAN MANZO: I think that one of our recommendations was that they look at the SMART Bill.

ASSEMBLYMAN BURZICHELLI: That's correct.

SENATOR KENNY: Yes.

It was a very nice tie-in.

MR. MEYERLE: From what I understand, you have been an important role player in actually getting this new Committee to listen to the SMART Bill. And for that, we thank you.

SENATOR KENNY: Thank you.

MR. MEYERLE: And I wish you a real good ride home tonight.
(laughter)

SENATOR KENNY: I'm sated now. (laughter)

I have never used that word in public. (laughter)

SENATOR LANCE: Not regarding tax policy at least.
(laughter)

SENATOR KENNY: Does anybody have anything to add, or are we adjourned, Mr. Chairman?

ASSEMBLYMAN BURZICHELLI: I think we're finished.

SENATOR KENNY: We're finished. Okay.

Thank you all.

(HEARING CONCLUDED)