

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

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Clean and Green  
PA Farmland and Forest Land Assessment Act of 1974

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House Agriculture and Rural Affairs Committee

Irvis Office Building  
Room G-50  
Harrisburg, Pennsylvania

Tuesday, July 15, 2008 - 1:00 p.m.

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BEFORE:

Honorable Michael Hanna, Majority Chairman  
Honorable Mark Cohen  
Honorable Scott Conklin  
Honorable Richard Grucela  
Honorable Harold James  
Honorable Babette Josephs  
Honorable David Kessler  
Honorable Tom Yewcic  
Honorable Rosita Youngblood  
Honorable Art Hershey, Minority Chairman  
Honorable Bob Bastian  
Honorable Jim Cox  
Honorable Gordon Denlinger  
Honorable David Hickernell  
Honorable Rob Kauffman  
Honorable Mark Keller  
Honorable David Millard  
Honorable Dan Moul  
Honorable Tina Pickett

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1 IN ATTENDANCE:

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Honorable Michael Peifer

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5

6 ALSO PRESENT:

7

Diane Hain

8

Majority Executive Director

9

Alycia Laureti

10

Majority Research Analyst

11

Donna Dedert-Clark

12

Majority Committee Legislative Assistant

13

Kerry Golden

14

Minority Executive Director

15

Jay Howes

16

Minority Director, Policy Development

17

Shelly Echeverria

18

Minority Committee Legislative Assistant

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Independent Oil & Gas Assoc. of PA

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1                   CHAIRMAN HANNA: The hour of 1:00  
2           having arrived, let me call this House  
3           Agriculture and Rural Affairs Committee public  
4           hearing to order. We are awaiting the arrival  
5           of additional members and some of our speakers.  
6           But to get the process started, let me begin by  
7           calling the meeting to order and just giving a  
8           brief overview of our goal here today.

9                   Since its enactment in 1974, Clean  
10          and Green has encouraged preservation of  
11          agriculture and forestlands. The act has been  
12          amended over the years to accommodate changing  
13          times, but the essential purpose remains the  
14          same: land is to be assessed by its use value,  
15          not fair market value, to ensure that farming  
16          remains economically viable.

17                   Since this Session began, this  
18          committee has had three bills that would amend  
19          the Clean and Green Act referred to the  
20          committee: House Bill 960, which is Chairman  
21          Hershey's legislation, and I will allow him to  
22          address; House Bill 656 was Representative  
23          Bastian's bill, which we reported out of this  
24          committee earlier this Session; we still have in  
25          the committee Representative Sonney's bill,

1 House Bill 667.

2 The hearing today will not be limited  
3 to just those pieces of legislation. Our  
4 purpose was to get a broad overview of concerns  
5 that have arisen with the Clean and Green  
6 legislation and to give an opportunity for a  
7 number of issues to be addressed as we try and  
8 develop further legislation to deal with  
9 concerns that have developed with the Clean and  
10 Green legislation.

11 Before I turn to Chairman Hershey to  
12 allow him to talk about House Bill 1960, I would  
13 like to do a little housekeeping for our  
14 members. We do have upcoming meetings through  
15 the summer here that I would like members to  
16 take specific note of. August 19th through the  
17 21st are Ag Progress Days. The House and Senate  
18 Ag Committee dinner will be Tuesday, August  
19 19th. The hearing will be on Wednesday, the  
20 following day, at Ag Progress Days in the large  
21 outdoor -- at the -- I am sorry.

22 Well, of course, it's at the Russell  
23 E. Larson Agricultural Research Center at Rock  
24 Springs. But you all know where the large  
25 meeting building is. We will, I believe, be in

1 the small building where we were last year, is  
2 where we expect to be for Ag Progress Days.

3 So we encourage members to make sure  
4 that you note on your calendars specifically the  
5 hearing date which would be August 20th, but  
6 also there are activities on August 19th and  
7 August 21st the committee members are urged to  
8 attend.

9 Wednesday, September 10th has been  
10 reserved as an opportunity for the Ag Committee,  
11 together with the Game and Fish Committee, to  
12 visit a deer farm. We have had interest both  
13 from our committee as well as from the Game and  
14 Fish Committee about the deer farming and  
15 specifically about what's going on in  
16 Pennsylvania today with deer farming and whether  
17 there are needs for changes in that arena.

18 So both the Game and Fish Committee  
19 and the House Ag Committee at this point are  
20 planning to visit the Mountain Ridge Whitetails  
21 Deer Farm in Hummelstown, PA, on Wednesday,  
22 September 10th. It will be an informational  
23 hearing, and we expect the tour to take  
24 approximately an hour.

25 There is the potential for other

1 activities related with that; the Game and Fish  
2 Committee is looking at an additional hearing  
3 that, well, I am sure Ag Committee members would  
4 be welcome to attend. But that's, right now,  
5 what we are looking at for Wednesday, September  
6 10th.

7 So again, please note on your  
8 calendar the need to reserve Wednesday, August  
9 20th and Wednesday, September 10th for future Ag  
10 Committee hearings and meetings.

11 Before we turn to the actual  
12 legislation, why don't we allow members to  
13 introduce themselves. I will start on my left  
14 with Representative Denlinger.

15 REPRESENTATIVE DENLINGER: Good  
16 afternoon. Gordon Denlinger, Representative of  
17 the 99th District of Lancaster County.

18 REPRESENTATIVE BASTIAN: Bob Bastian,  
19 serving Bedford and Somerset counties, the 69th  
20 District.

21 REPRESENTATIVE HERSHEY: I am  
22 Representative Art Hershey, the 13th District in  
23 western Chester County.

24 REPRESENTATIVE KELLER: Good  
25 afternoon. Representative Mark Keller from the



1 86th District.

2 CHAIRMAN HANNA: Tom.

3 REPRESENTATIVE YEWIC: Tom Yewcic,  
4 Cambria and Somerset counties.

5 REPRESENTATIVE KESSLER: Dave  
6 Kessler, southern Berks.

7 REPRESENTATIVE MILLARD: Dave  
8 Millard, 109th District, Columbia County. Home  
9 to the Honorable Dennis Wolff, our Secretary of  
10 Ag.

11 REPRESENTATIVE PICKETT: Tina  
12 Pickett, Bradford, Sullivan and Susquehanna  
13 counties.

14 REPRESENTATIVE PEIFER: Mike Peifer,  
15 139th District, which is Wayne, Pike and Monroe  
16 counties.

17 REPRESENTATIVE MOUL: Dan Moul, Adams  
18 and Franklin counties.

19 REPRESENTATIVE HICKERNELL: David  
20 Hickernell, Lancaster and Dauphin counties.

21 CHAIRMAN HANNA: Okay. I would like  
22 to thank the members for their attendance today.  
23 And a special welcome to Representative Peifer  
24 who has joined the committee because of his deep  
25 interest in this Clean and Green legislation, as

1 I understand.

2 REPRESENTATIVE PEIFER: Thank you.

3 CHAIRMAN HANNA: Thanks for joining  
4 us today.

5 Chairman Hershey, some opening  
6 comments. And also, on your bill, if you would  
7 like to address that as well.

8 REPRESENTATIVE HERSHEY: Thank you,  
9 Mr. Chairman. I would like to say, I believe  
10 Clean and Green is perhaps the single most  
11 important ag-related program ever initiated by  
12 the state in terms of having a positive impact  
13 on the bottom line for thousands of farmers. It  
14 is probably impossible to calculate, but my  
15 guess is that over 30-plus years that it has  
16 been in place, Clean and Green has saved farmers  
17 literally millions of dollars that would have  
18 otherwise been paid in property taxes. In many  
19 cases, these dollars were the difference between  
20 the farm showing a profit or a loss that were  
21 significant in maintaining that land as a viable  
22 farm.

23 That said, it is also a program that  
24 has of necessity been amended several times over  
25 the years to address changing circumstances or

1 add guidance in areas where the existing law may  
2 not have been clear. That is very important  
3 because when we pass a bill that is signed into  
4 the law as a code, over the years different  
5 things change and we have to revisit it from  
6 time to time to see if it is doing what its  
7 intended purpose was.

8 I view today's hearing as another  
9 step in that process, as we hear from testifiers  
10 what might be further done to improve the act to  
11 address current situations faced by the  
12 landowners and taxing authorities.

13 Now, a little bit on House Bill 1960.  
14 We are going to hear from Mr. Robert Hume, after  
15 2:00, to talk about Octorara School District.  
16 Our school district has a tremendous amount of  
17 land in 319 and we don't have a lot of  
18 commercial taxing properties and so it's a  
19 burden on the taxpayers otherwise.

20 House Bill 1960 will provide state  
21 funds to compensate those taxing authorities by:  
22 that lose 10 percent or more of their assessed  
23 value as a result of this act.

24 April 1 of each year, the local  
25 taxing authority must submit to the Department

1 of Community and Economic Development data that  
2 includes the total normal assessed value of all  
3 real estate in their jurisdiction, the total  
4 normal assessed value of all preferentially  
5 assessed properties, and the total  
6 preferentially assessed values of properties  
7 being taxed at the preferential use value. It  
8 must also provide the current fiscal year tax  
9 rate for that jurisdiction.

10 So that is why I resurrected a bill  
11 that Senator Madigan had introduced in the  
12 Senate several years ago. I can't say that  
13 it got -- It has quite a few co-sponsors,  
14 but we need to do some push to get it further up  
15 the agenda. But we will learn more about that  
16 later.

17 But, Mr. Chairman, thank you for  
18 providing the committee members this  
19 opportunity, and look forward to hearing the  
20 testimony presented.

21 CHAIRMAN HANNA: Thank you, Chairman  
22 Hershey. Before I call on our first testifier,  
23 let me allow Chairman Josephs to introduce  
24 herself. She has joined us.

25 REPRESENTATIVE JOSEPHS: Thank you.

1 Babette Josephs, Philadelphia County.

2 CHAIRMAN HANNA: And Representatives  
3 Conklin and Grucela joined us as well. They can  
4 introduce themselves.

5 REPRESENTATIVE CONKLIN: Scott  
6 Conklin, the 77th District, the western portion  
7 of Centre County.

8 REPRESENTATIVE GRUCELA: Rich  
9 Grucela, 137th in Northampton County.

10 CHAIRMAN HANNA: All right. With  
11 that, let us turn to our first testifier, the  
12 Honorable Dennis Wolff, Secretary of the  
13 Department of Agriculture. Secretary Wolff.

14 SECRETARY WOLFF: Good afternoon. I  
15 have asked Brook Duer, our Chief Counsel, to be  
16 here with me. So he may be -- I am sure he will  
17 be helpful in answering some of the questions we  
18 may have. Also we have Doug Wolfgang who is the  
19 Bureau Director for the Bureau of Farmland  
20 Preservation.

21 But, Chairman Hanna, Chairman  
22 Hershey, it is a pleasure to be here today.  
23 Members of the House Agriculture and Rural  
24 Affairs Committee, it is good to be here to give  
25 some testimony on Act 319, Clean and Green.

1                   In looking at Pennsylvania  
2           agriculture, Clean and Green is one of the most  
3           critical programs that we have for farmers  
4           today. And I might note, as I start into this,  
5           I am going to just make comments on my written  
6           testimony. The written testimony has been  
7           presented. However, I am just going to make  
8           some remarks on that, as it has been handed out.

9                   But the Clean and Green program is a  
10          critical program for farmers today making  
11          property taxes affordable by taxing the land on  
12          use value as opposed to market value.

13                  Property taxes are a major expense on  
14          any farmers income-expense line and Clean and  
15          Green helps farmers to be more profitable.  
16          And when we do a survey on farmers on what the  
17          number one issue as to why they are going out of  
18          business or why their children are choosing not  
19          to come back to the farm, it is without fail the  
20          profitability of the farming operations. So 319  
21          has been a critical part in helping our farmers  
22          in Pennsylvania continue to be profitable.

23                  The current program is a program that  
24          allows ten or more acres or two thousand dollars  
25          in gross revenue to qualify for the program, it

1 is administered by the county assessor's  
2 assessment office, and the land can be taken  
3 out. And if it is taken out, it is subject to a  
4 roll-back of seven years back taxes plus  
5 interest.

6 Pennsylvania Department of  
7 Agriculture has two functions in this. First,  
8 we distribute the annual use values, which is a  
9 ten-year rolling average basically that ties  
10 into the current value in crops and the expense  
11 of producing some of those crops as well as the  
12 soil quality is considered in that annual value  
13 that we assign. It also -- We also provide some  
14 uniform interpretation of the act.

15 Current issues, as we see it in Clean  
16 and Green, would be simply taking a look at the  
17 two thousand dollar gross income that was  
18 established back at the beginning of the act,  
19 see if that's still an appropriate number.

20 And the other area we have that is  
21 concerning is the enrollment of mini-estates.  
22 In many of cases where there is a house on ten  
23 to twenty acres of land, this meets the  
24 requirements of the act but certainly not the  
25 intent of the act.

1                   This shifts the tax burden to other  
2 taxpayers in that district and Act 235 of 2004  
3 addresses some of that and that was basically in  
4 being able to assess the base acre. I think we  
5 call it the homestead acre -- home tract. But  
6 we call it, oftentimes refer to it, as the base  
7 acre in assessing that at fair market value.

8                   There is a timely issue right now  
9 that most of us are aware of. That timely issue  
10 for Clean and Green is the oil and gas leasing  
11 that is taking place and the sign-up that is  
12 taking place in many parts of the Commonwealth  
13 as it relates to Marcellus Shale being  
14 discovered there. The act is silent on that.

15                   And when you look at Pennsylvania,  
16 you realize about two-thirds of the Commonwealth  
17 has Marcellus Shale. You can see the potential  
18 there. And it's a great potential for the  
19 Commonwealth whether you look at it from the  
20 standpoint of energy independence, the jobs that  
21 this great resource will create, or just simply  
22 keeping our farmers profitable, keeping some of  
23 the additional income coming into their farms.

24                   One of the questions--and I think  
25 that we need to talk about and try to address--



1 is should the signing of a lease or a drilling  
2 trigger a roll-back tax?

3 There is some case history in  
4 Commonwealth Court that deals with that, and on  
5 the ruling in that case was the character of the  
6 surface must be changed to trigger a roll-back,  
7 and that was determined by the Commonwealth  
8 Court.

9 A recent survey of county assessors  
10 found some variety and some uniformity. We  
11 found that pretty much all of the counties agree  
12 on a couple of issues; I think with only  
13 actually one county, that being Allegheny  
14 County, where the signing of a lease triggers  
15 the roll-back tax.

16 Fifteen counties, as a result of the  
17 survey, have no roll-back tax whether you lease  
18 the land or drill on the land, six counties have  
19 no roll-back tax unless there is drilling on the  
20 property, and two counties have a roll-back tax  
21 only on the affected part of the land where  
22 there is drilling, which is typically around  
23 five acres.

24 Currently, there are three pieces of  
25 legislation that have been introduced that

1 relate to Clean and Green. One of them is the  
2 bill that Representative Hershey mentioned,  
3 House Bill 1960, that offers what is known as a  
4 assistance payments from DCED to be paid.  
5 Another is House Bill 667 which is -- has to do  
6 with the voluntary withdraw, without change of  
7 use, to get out of the Clean and Green program.  
8 And the third is, I believe introduced by  
9 Representative Bastian, which is House Bill 656,  
10 which provides for windmills. And that  
11 certainly could be easily amended to also  
12 include gas wells, as that House Bill 656 is  
13 currently written.

14 So, in closing, I would just like to  
15 once again say that Clean and Green is an  
16 important program for Pennsylvania agriculture  
17 and has been benefits to Pennsylvania  
18 agriculture far reaching.

19 And I would be glad to take  
20 questions, as well as Brook Duer or Doug  
21 Wolfgang.

22 CHAIRMAN HANNA: Thank you, Mr.  
23 Secretary. Let me allow the members who have  
24 joined us to introduce themselves. I saw  
25 Representative Kauffman.

1 REPRESENTATIVE KAUFFMAN:

2 Representative Kauffman from the 89th District  
3 in Franklin and Cumberland counties.

4 CHAIRMAN HANNA: And Representative  
5 Cox.

6 REPRESENTATIVE COX: Representative  
7 Jim Cox, 129th District, western Berks County.

8 CHAIRMAN HANNA: And Representative  
9 Youngblood. Just introduce yourself.

10 REPRESENTATIVE YOUNGBLOOD: (No  
11 response.)

12 CHAIRMAN HANNA: With that, we will  
13 open it up for questions. Do we have --

14 REPRESENTATIVE PICKETT: Mr.  
15 Chairman.

16 CHAIRMAN HANNA: Representative  
17 Pickett.

18 REPRESENTATIVE PICKETT: Thank you,  
19 Mr. Chairman.

20 Secretary Wolff, thank you for being  
21 here with us today. I would like to talk a  
22 little bit about -- You opened the subject a  
23 little bit of exactly what the law says about  
24 the time to roll out the property on the gas  
25 leasing or gas drilling. If you could talk a

1 little bit more about your understanding of that  
2 or the clarifying of that.

3 I asked my main county today -- I  
4 represent three counties that are involved in  
5 the Marcellus Shale situation. But I asked my  
6 main county today what they are doing and I was  
7 told that they do roll the taxes back at the  
8 point of the rig setting up and they are using  
9 that for their trigger point.

10 I think most of the counties in my  
11 area are in agreement that they are not going to  
12 make a move upon leasing because it certainly  
13 hasn't changed the use.

14 But I am also concerned if you could  
15 comment in your answer about uniformity. I have  
16 always been told that uniformity is so absolute  
17 in the Clean and Green law and yet here we have  
18 a case of counties interpreting things in  
19 different ways. What should we do about that,  
20 in your opinion?

21 SECRETARY WOLFF: Well, I think your  
22 example is a good one because we found that  
23 there is a real lack of uniformity in some of  
24 the specific areas as to how the gas leases are  
25 interpreted.

1                   For the most part, they are not  
2 triggering a roll-back on the signing of the  
3 lease and that's, I think, particularly  
4 important. Because you realize that some of the  
5 properties that signed up for these leases a  
6 year ago, signed up for fifteen or twenty-five  
7 dollars an acre and the roll-back may be many  
8 times what their initial sign-up payment was and  
9 so they haven't been able to take advantage of  
10 any additional income from taking gas out of the  
11 ground at this point.

12                   I think it's important to also note  
13 that the state law of -- the case law in  
14 Commonwealth Court says that if you do not  
15 change the general surface of the land that you  
16 cannot trigger a roll-back tax. So, I mean, I  
17 think that's be pretty well documented.

18                   It appears that where the discussion  
19 probably will focus is what will the roll-back  
20 tax be then if there is a drilling unit on the  
21 property. And I know that there is even some  
22 variety in that, in terms of some of the  
23 counties will impose a roll-back if there is a  
24 building built there, an actual structure that  
25 is built there, and then some of them are, you

1 know, basically looking at it as a no roll-back  
2 period whether there is a well drilled and  
3 whether there is anything that's just put on  
4 there.

5           It is interesting to note that  
6 actually the Farmland Preservation program does  
7 address it and in the Farmland Preservation  
8 program it does not trigger a roll-back. It is  
9 written in there specifically that it does not.  
10 So they are kind of the moving parts and pieces  
11 out there.

12           And I will also give Brook the  
13 opportunity to --

14           MR. DUER: Yeah.

15           SECRETARY WOLFF: -- to comment on  
16 that.

17           MR. DUER: It might be helpful for  
18 the committee to know that our Bureau of  
19 Farmland Preservation who the -- the general  
20 dealing with the county assessor's office across  
21 the state falls under their jurisdiction.

22           They recently conducted a survey sent  
23 out to all sixty-seven county assessment  
24 departments and asked for a response to five  
25 separate questions. Do you trigger a roll-back

1 at all for either signing a lease or a drilling  
2 activity? And the answer to that was, fifteen  
3 of them said, no, we don't trigger, we don't  
4 have a roll-back at all.

5 And then there were various questions  
6 that followed after that, that discussed, if you  
7 trigger it at drilling, is it on the area where  
8 the drilling occurs or it is on the entire tract  
9 enrolled?

10 We can distribute that for you, and  
11 it might be very helpful to give you a  
12 breakdown. We have fifty-seven of the  
13 sixty-seven counties who responded and so we  
14 still have ten that we don't exactly know how  
15 they handle it. But that might be very helpful  
16 to give you a Commonwealth-wide understanding of  
17 how different counties are dealing with it.

18 REPRESENTATIVE PICKETT: But that  
19 brings us back to the question of uniformity and  
20 is everybody expected to do it the same. I  
21 had -- I think we are going to start receiving  
22 phone calls from landowners on this as it  
23 progresses.

24 I have already had a phone call from  
25 a constituent who has three wells on her

1 property; she had received a roll-back tax  
2 notice. She was not arguing that; she was  
3 arguing other properties that had not been given  
4 that notice and the timing of it. And, of  
5 course, at this point she has no revenue from  
6 that gas; it's been -- It's waiting to be tied  
7 into the pipeline. She was only asking that  
8 things be done on a timely basis.

9           So when I inquired about that at the  
10 assessment office, I was told it's very  
11 difficult to get the correct information from  
12 the permits. That they are going to follow the  
13 permits so that they know where the rig is  
14 going. They have a very difficult time in  
15 equating that permit to the parcel of land that  
16 it is actually going to be affecting. And they  
17 said it would really be helpful if, in the  
18 permits that are issued, it would also refer to  
19 the official parcel and identify that site. Any  
20 comment on that?

21           SECRETARY WOLFF: Okay, that sounds  
22 like a good idea. Because, obviously, unless  
23 you are going to have a surveyor out there and  
24 see exactly what parcel it fits on, that would  
25 be, I think, very helpful for everyone to have



1 that.

2 And I think, you know, one of the  
3 questions -- Or the question you are going to  
4 need to answer--and I think it's going to have  
5 to be through legislation because the act is  
6 silent on it--is whether, in fact, if a well is  
7 drilled on a property, whether it triggers a  
8 roll-back. And if it does trigger a roll-back  
9 is it just on the footprint that the five acres  
10 or the gas well is setting or is it on the  
11 entire property.

12 So I think it does need to be  
13 answered, and I think that people are looking to  
14 us. We get calls also on that, looking for some  
15 direction as to how we interpret it. And it is  
16 hard for us to interpret it when the law is  
17 silent on it so we are looking to the  
18 legislature to make some changes so that it's  
19 very clear.

20 REPRESENTATIVE PICKETT: Thank you,  
21 Mr. Chairman and Mr. Secretary. I have a bag  
22 full of questions, but I will keep them.

23 CHAIRMAN HANNA: I am going to have  
24 to readopt my question at a time. I mean, we  
25 were so wildly successful last time.

1                   But before we do that, let me  
2           introduce Mark Cohen, Representative Cohen who  
3           has joined us, as well as Chairman James who has  
4           joined us as well. Welcome. Thank you for  
5           being here. And then next on my list of  
6           questions was Representative Bastian.

7                   REPRESENTATIVE BASTIAN: Thank you,  
8           Mr. Chairman.

9                   Mr. Secretary, good to see you again.  
10          You mentioned that the value changes every year,  
11          which I understand that. But I always  
12          understood it was in the price of corn; you said  
13          it was in the price of crops and the energy  
14          related to get those crops. Explain it, if you  
15          would.

16                  SECRETARY WOLFF: It's a formula that  
17          was developed by Penn State, and it has to do  
18          actually with -- On corn, it is the price of  
19          corn and the cost of production, then it entails  
20          a group of other commodity crops that are grown  
21          in that county.

22                  And then one of the -- Actually, the  
23          expense item has to do with an interest factor  
24          number that is put in there, has kind of the  
25          denominator to divide it by.

1                   Probably Doug Wolfgang could explain  
2                   that a little bit better. Doug.

3                   MR. WOLFGANG: Basically, the simple  
4                   formula is the ten-year rolling average of the  
5                   state crop profit percentage of the corn  
6                   production times the ten-year rolling average of  
7                   crop receipts per county for field crops. You  
8                   take that out of the PASS manual, the  
9                   Pennsylvania Agricultural Statistical Summary,  
10                  times the soil index factor adjusted for the  
11                  cost of production by a county and divide it by  
12                  a capitalization rate and that gives you what  
13                  the use values are every year. And they are  
14                  tagged to actual soils within its county.

15                  SECRETARY WOLFF: We think that is  
16                  simple, but it may not come across quite that  
17                  way.

18                  REPRESENTATIVE BASTIAN: It would be  
19                  easy (phonetic) to do that. Thank you very  
20                  much.

21                  REPRESENTATIVE KESSLER: Would you  
22                  e-mail that to us, please?

23                  CHAIRMAN HANNA: I heard the request  
24                  that people would like that.

25                  MR. WOLFGANG: Sure.

1                   CHAIRMAN HANNA:  If you could share  
2                   that formula that would be --

3                   MR. DUER:  Oh, yeah.  Sure.  
4                   Certainly.  And it is ready to be a code.  You  
5                   know, it is part of the regulation promulgated  
6                   under the program, the equation is right there.

7                   CHAIRMAN HANNA:  Thank you.

8                   MR. DUER:  And I can also pass this,  
9                   though.  This is the survey, we would just like  
10                  to serve.

11                  CHAIRMAN HANNA:  All right.  Our next  
12                  questions are from Chairman Hershey.

13                  REPRESENTATIVE HERSHEY:  Thank you,  
14                  Chairman Hanna.  I wanted to ask Secretary  
15                  Wolff -- First of all, thanks for coming.  I  
16                  wanted to ask:  of the three bills that you  
17                  listed in your comments, would any one of them  
18                  rise to the top?

19                  SECRETARY WOLFF:  I think, you know,  
20                  House Bill 656 would be pretty easy to amend  
21                  because it basically looks at windmills being  
22                  located on farms in Clean and Green.  And I  
23                  think the way that that is written, it is  
24                  specifically the footprint of the windmill.  And  
25                  it does not trigger a roll-back; it would just

1 be taking that parcel that the windmill is  
2 located on out of the Clean and Green  
3 enrollment.

4 REPRESENTATIVE HERSHEY: Thank you.

5 CHAIRMAN HANNA: And next is  
6 Representative Conklin.

7 REPRESENTATIVE CONKLIN: Thank you,  
8 Mr. Chairman.

9 Mr. Secretary, I am going to open up  
10 to a multi question--one question--to stay with  
11 the guideline. As a county commissioner and we  
12 have heard from the counties many, many times is  
13 that we were hurt very much by the Clean and  
14 Green, especially in my area where we were  
15 fortunate to have what we call the McMansions.  
16 We have the house built on that twelve-,  
17 fifteen-acre plot that was able to reap the  
18 benefits.

19 But one step further than that,  
20 recently with the court ruling when we were  
21 talking about gas wells is that the gas wells  
22 were unable to be taxed because of the recent  
23 ruling that the gas can move, which has hurt not  
24 only counties but local school districts.

25 My question is, is we talked about

1 Clean and Green, and one of the problems we are  
2 having is that the landowner doesn't reap the  
3 benefits of the profit from the gas well when it  
4 is put onto the property because they don't  
5 own -- they don't own the mineral rights, they  
6 only own the property, and they were either  
7 unable with the new laws or using a lot of the  
8 existing laws to be able to reap any of those  
9 benefits.

10 How are we going to be able to come  
11 up with a good formula, the way the law is  
12 written today, that although the gas well is  
13 very profitable in itself, the landowner  
14 themselves, if they don't have the mineral  
15 rights, are still not reaping the benefits of  
16 the gas well?

17 SECRETARY WOLFF: Well, that's a  
18 easement that's right on their deed, I am sure,  
19 that someone else owns them, and obviously when  
20 they purchased the property that was pointed out  
21 to them. The problem, as you point out, which  
22 is very important, that if it triggers the  
23 roll-backs and the roll-back tax and they do not  
24 own it, there again that's a problem.

25 I don't know, Brook, whether you have

1 any.

2 MR. DUER: Yeah, I am not sure that  
3 the question you are asking is the scenario  
4 whereby the surface owner doesn't own the  
5 mineral rights, and depending on what part of  
6 the state you are in and what the history, of  
7 course, of the property is that's not applying  
8 to much of the people that for example would be  
9 affected by the Marcellus Shale.

10 REPRESENTATIVE CONKLIN: Like I say,  
11 in our part of the world --

12 MR. DUER: Right, I understand.

13 REPRESENTATIVE CONKLIN: -- nobody  
14 owns the mineral rights; they own the property.

15 MR. DUER: Right. That obviously --  
16 We experience these problems with the coalbed  
17 methane extraction and now this is another  
18 version of that when if, in fact, the mineral  
19 rights were severed a long time ago. And that's  
20 a -- I am not sure if that's an issue that many  
21 of us can get into, in the sense that we are  
22 tampering with private property rights, and that  
23 has its own constitutional values that sort of  
24 goes with it.

25 CHAIRMAN HANNA: Anything further,

1 Representative Conklin?

2 REPRESENTATIVE CONKLIN: No. Thank  
3 you.

4 CHAIRMAN HANNA: On that note, I  
5 would say that there is legislation not before  
6 this committee but before the Finance Committee  
7 that would impose a property tax on severed oil  
8 and gas and that may address the issue that --  
9 that you raise, Representative Conklin, where  
10 there is a property tax imposed on those who own  
11 the oil and gas.

12 It would only -- The way I understand  
13 the legislation, it would only be on oil and gas  
14 in production, not oil and gas -- I mean, it  
15 wouldn't, there would not be an attempt to  
16 assess the value of oil and gas in the ground  
17 but only oil and gas in production.

18 In fact, it was the law as recently  
19 as at least eight, ten years ago, but was  
20 reversed by the Pennsylvania Supreme Court in a  
21 case I think sometime within the last five or  
22 six years, and there is legislation to correct  
23 that decision, at least that's the way I see it,  
24 and that would address the issue that you raise.

25 SECRETARY WOLFF: I appreciate the



1 question. It is one that I hadn't been  
2 presented with. That's the first time I have  
3 heard that scenario and that's a legitimate  
4 concern for sure.

5 CHAIRMAN HANNA: Representative Moul.

6 REPRESENTATIVE MOUL: Thank you,  
7 Chairman Hanna.

8 Mr. Secretary, very good to see you  
9 again.

10 SECRETARY WOLFF: Yes, sir.

11 REPRESENTATIVE MOUL: We had  
12 mentioned that would this be eliminating from  
13 Clean and Green just the parcel where the actual  
14 well construction took place. And, lucky me, I  
15 sat through a oil and gas seminar just last week  
16 and come to find out that they cannot only go  
17 down the six thousand or so feet that they need  
18 to, but now they have horizontal drilling that  
19 they can go four thousand feet in all directions  
20 much like a spoke -- or a wagon wheel, spokes on  
21 a wagon wheel. And if someone owns the surface,  
22 they not only own the surface, but they own to  
23 the center of the earth. So would it be  
24 right--and I am just throwing this out there--  
25 would it be right to not take that out of Clean

1 and Green when you are actually mining  
2 underneath of it, it is still your land?

3 SECRETARY WOLFF: Well, I think it  
4 kind of goes to the Commonwealth Court case  
5 where it doesn't trigger a roll-back if you  
6 don't change the surface of the land. So I  
7 think that's what it would probably come back  
8 to, in terms of, you know, to whether you are  
9 taking something out from under the topsoil or  
10 not.

11 The Commonwealth Court case, that has  
12 been determined, says that unless you are  
13 changing the face of the surface of the land, it  
14 would not qualify for a roll-back. Is that  
15 right, Brook?

16 MR. DUER: Yeah. And I -- I think I  
17 understand the question right, where you were  
18 asking about the logic of not having a roll-back  
19 on the remainder of the property and only on the  
20 portion where the drilling might occur, is that  
21 what you are getting at? And how consistent  
22 that may be?

23 REPRESENTATIVE MOUL: Right, we are  
24 talking about exempting just the area where the  
25 well is located --

1 MR. DUER: Yes, I know.

2 REPRESENTATIVE MOUL: -- and the pump  
3 and whatever else they need to do.

4 MR. DUER: Right.

5 REPRESENTATIVE MOUL: But yet we are  
6 actually pulling minerals from --

7 MR. DUER: Right.

8 REPRESENTATIVE MOUL: -- a mile and a  
9 half in diameter from that well and it's --

10 MR. DUER: One thing -- I understand  
11 the question. If it's okay, I think I can help  
12 you answer it.

13 One of the things that Clean and  
14 Green does is it doesn't necessarily say that a  
15 property cannot be the source of income; it  
16 simply says that it must not be prohibited -- or  
17 permanently altered, I should say, from the use  
18 under which it was enrolled, whether it's forest  
19 reserve, whether it's ag use.

20 So, in other words, that's why the  
21 attention may be made in certain views of this.  
22 The attention is simply made to how did you  
23 alter the surface versus whether the bigger  
24 question of did you generate income from the  
25 property from all corners of it, so to speak.

1                   So they get that, then that's an  
2                   inherent issue with the -- sort of the  
3                   legislative intent of the act, was it really  
4                   intended to prohibit income-producing activity  
5                   from the property or was it really just to  
6                   maintain its character as essentially open space  
7                   that is consistent, the use, under which it was  
8                   enrolled.

9                   And as long as you don't permanently  
10                  inhibit its ability to be agricultural land,  
11                  what you are doing underneath it isn't  
12                  necessarily what the Clean and Green Act is  
13                  centering on. Does that help you answer the  
14                  question?

15                  REPRESENTATIVE MOUL: I understand.  
16                  I can just hear the comments or read them in the  
17                  paper now. This guy is taking a big discount on  
18                  his taxes, but yet making millions on the land  
19                  that he's taking the discount on the taxes on.  
20                  That's the conundrum we are going to face here,  
21                  before long, is what I am afraid of. And we  
22                  ought to have some answers ready at that point,  
23                  other than, well, this is just the way it's been  
24                  set up.

25                  Something to think about. Thank you.

1 MR. DUER: Thank you.

2 CHAIRMAN HANNA: Thank you,  
3 Representative Moul. Not to harp on the  
4 legislation before the Finance Committee, but  
5 once again that legislation addresses what you  
6 are saying. If we actually taxed severed oil or  
7 gas that's in production, you would be taxing as  
8 a property tax. This would be taxed, the entire  
9 area that is in production, not just the  
10 footprint.

11 So I would say there is a different  
12 bill that's unfortunately not before our  
13 committee that I think helps address that. I  
14 would be glad to -- I don't have that bill  
15 number, but I will be glad to share that with  
16 members and -- with a summary of the bill, so  
17 you have a better understanding of it.

18 Do we have other members who have  
19 questions?

20 (No response.)

21 CHAIRMAN HANNA: I had received from  
22 members a couple of questions, members who  
23 weren't on the committee. In advance of the  
24 hearing, I was written to by Representative  
25 Wansacz, and also by Jon Eich, Chairman Jon Eich

1 of the Centre County Board of Commissioners.

2 He's --

3 They contacted us about the hearing  
4 and asked that I address a couple of questions,  
5 one of which I would like to address to you  
6 gentlemen and that you touched on this in your  
7 testimony, the whole issue of the ten-acre size  
8 limit.

9 We are hearing from and these  
10 representatives are hearing from their counties  
11 that they believe, as Representative Wansacz  
12 heard, that it should be increased to at least  
13 twenty or twenty-five acres. And in the current  
14 case of Chairman Eich, I heard that they thought  
15 it should at least be increased to at least  
16 twenty acres. And I thought I heard you say,  
17 Secretary Wolff, that you felt that would be in  
18 line with the original intent of Clean and  
19 Green.

20 I guess my question to you is, if we  
21 were to address this particular feature of Clean  
22 and Green and look at increasing the size, are  
23 there issues that we need to be aware of that we  
24 would be impacting beyond the idea of just  
25 trying to get back to the original intent where

1 we are not creating exemptions for mini-estates?

2 SECRETARY WOLFF: No, I don't think  
3 so because you also have the provision in there  
4 that allows you for your gross revenue that is  
5 generated. So if you have a small fifteen-acre  
6 farm that is growing products for a roadside  
7 stand, they would still qualify on this if you  
8 raised it up to twenty acres. So I think it --  
9 You know, you can still meet the intent of what  
10 the act was by looking at that and making sure  
11 that number is correct and then setting your  
12 base acre, whatever you think their base acre  
13 should be.

14 But there is no question that the  
15 requirements qualify those smaller tracts, but  
16 certainly the intent wasn't to exempt them. And  
17 as I know from northern Pennsylvania, there is a  
18 lot of subdivisions that actually market the lot  
19 as a Clean and Green potential lot and that  
20 doesn't have anything to do with agriculture or  
21 forestry.

22 CHAIRMAN HANNA: Thank you. Any  
23 other questions for Secretary Wolff? Okay.  
24 Seeing none, we thank you for your testimony.  
25 It's been very helpful. And next --

1 COURT REPORTER: Excuse me, Mr.  
2 Chairman.

3 (Off-the-record discussion occurred.)

4 CHAIRMAN HANNA: Thank you. Next we  
5 have John Bell, Legal Counsel for the  
6 Pennsylvania Farm Bureau. John.

7 Joel, you look comfortable back  
8 there, but you're always welcome at the table  
9 here as well when the Farm Bureau is testifying.

10 JOEL: He can handle it.

11 CHAIRMAN HANNA: All right.

12 MR. BELL: I appreciate that vote of  
13 confidence. Good afternoon, Mr. Chairman and  
14 members of the committee. I am John Bell and I  
15 am Governmental Affairs Counsel for Pennsylvania  
16 Farm Bureau on whose behalf I appear before the  
17 committee today.

18 Pennsylvania Farm Bureau is a  
19 statewide general farm organization that  
20 represents more than forty-four thousand farm  
21 and rural families in the Commonwealth. And we  
22 appreciate this opportunity to offer testimony  
23 today to provide you with our views regarding  
24 Pennsylvania's Clean and Green Act and issues  
25 that the General Assembly should focus on as it



1 considers legislation to further strengthen the  
2 act and accomplish the act's purposes.

3           Let me state at the outset that our  
4 organization strongly believes that this act has  
5 been good for Pennsylvania and its agriculture.  
6 Ownership and use of large amounts of land is a  
7 necessary component to the economic viability of  
8 Pennsylvania farm operations.

9           Certainly, many farm families are  
10 substantially burdened by the high level of  
11 property taxes that they pay. But the ability  
12 to the receive preferential tax assessment value  
13 lessens the even harsher tax bite that farm  
14 families would otherwise have to endure if their  
15 farms were assessed at fair market value.

16           And you should not forget the real  
17 economic opportunity that preferential  
18 assessment provides in facilitating the rental  
19 of productive farmland to farmers. The Clean  
20 and Green Act has helped to make rental farmland  
21 a viable economic option for landowners and  
22 affordable to farmers who need additional  
23 production to sustain their businesses.

24           We also believe that the General  
25 Assembly has historically done a good job both

1 in providing reasonably clear direction of  
2 intended statutory interpretation within the  
3 act's statutory provisions and in making timely  
4 amendments to the act in response to changing  
5 circumstances and skewed interpretations that  
6 may lead to unreasonable and unfair results.

7 In 1998, this General Assembly made  
8 major changes to the act to eliminate a number  
9 of creative interpretations of the act made by  
10 administrative officials that, in our opinion,  
11 violated the act's spirit and severely negated  
12 the act's intended benefits to farmers and  
13 landowners. The 1998 amendments also provided a  
14 rural enterprise allowance for use of Clean and  
15 Green land with minor tax penalty to help farm  
16 families economically sustain themselves through  
17 additional family enterprises on their farm.

18 Other amendments to the act  
19 recognized and reasonably accommodated access  
20 and use of limited areas of rural land for  
21 particular public benefit and use. Without  
22 these amendments, Clean and Green landowners  
23 would have had to bear harsh tax penalties for  
24 allowing any portion of their land for  
25 governmental use, use by fire companies, use by

1 churches, use as cemeteries, trail use, or  
2 mobile communications use. None of the uses  
3 accommodated through these amendments destroy  
4 the essential character or use of Clean and  
5 Green property as farmland, forestland or open  
6 space land.

7           The most recent amendment to the act,  
8 Act 235 of 2004, which accommodates landowners'  
9 ability to use Clean and Green land commercially  
10 for agritainment and recreational enterprises,  
11 is another example of the legislature's earnest  
12 effort to keep the act in a workable statute.

13           While very few statutes are perfect  
14 and fair in every application, the General  
15 Assembly has done a responsible job in keeping  
16 the Clean and Green Act current with the  
17 practical realities of farm and land ownership  
18 and reasonably balancing the often conflicting  
19 objectives for landowners not to be onerously  
20 burdened with property tax with the needs of  
21 communities to receive sufficient tax revenues  
22 through property taxation.

23           I would like now to identify several  
24 areas for this committee and the General  
25 Assembly to give particular attention in any

1 future legislative amendments to the Clean and  
2 Green Act.

3 And the first subject relates very  
4 much to much of the commentary that Secretary  
5 Wolff had provided with respect to gas and oil  
6 exploration. Secretary Wolff summarized very  
7 well what's going on in the northern and  
8 southwestern counties with the Marcellus Shale  
9 discovery and the flurry of activity that is  
10 going on in leasing land and activities related  
11 to gas exploration.

12 I think it is worth noting, though,  
13 that in the 1990's if these activities would have  
14 occurred, there wouldn't have been a problem in  
15 understanding how the act would have been  
16 applied to gas or oil activities conducted on  
17 Clean and Green land.

18 In the 1990's and before, the  
19 regulations then existing clearly recognized  
20 that gas and oil exploration was allowed on  
21 Clean and Green land without reservation so tax  
22 penalties would not have been imposed if a Clean  
23 and Green landowner allowed or provided for gas  
24 or oil wells on the property. However, the  
25 governing regulation was deleted in regulatory

1 amendments promulgated in 2001, creating a legal  
2 limbo for interpretation and, as we see,  
3 differing legal interpretations among counties  
4 administering the act.

5 Farm Bureau would encourage the  
6 General Assembly to prescribe in the statute the  
7 legal position reflected in the regulations  
8 before 2001 which recognizes that use of Clean  
9 and Green land for gas or oil extraction is  
10 authorized under the act and that no tax  
11 consequences will befall a Clean and Green  
12 landowner who authorizes or conducts gas or oil  
13 well drilling or extraction activities on his or  
14 her land.

15 You should also consider enacting  
16 provisions to give clearer statutory guidance to  
17 county officials in their analysis and  
18 determination of how to classify working farms  
19 under the act. Although thousands of farms  
20 enrolled in Clean and Green are legitimately  
21 operated as farm businesses -- as farm business  
22 enterprises, the land characteristics of  
23 operating farm enterprises may distinctly vary  
24 from one area of the farm to another and from  
25 one acre to the next.

1                   It is not uncommon, for example, for  
2                   a hundred-acre farm to have significant portions  
3                   of land area in which existing characteristics  
4                   of woods, soils or slope make the portions  
5                   unfeasible for direct use in agricultural  
6                   production. But these portions play a positive  
7                   role in defining the farm and providing buffer  
8                   and natural protection to those portions that  
9                   are more directly used in production. To the  
10                  farmer and to most reasonable-minded persons,  
11                  the entire hundred-acre area would be considered  
12                  part of a single working farm unit.

13                  Historically, county officials  
14                  applied the spirit of the act in viewing the  
15                  hundred-acre farm as a single farm unit and  
16                  classifying the entire hundred acres in the,  
17                  quote, agricultural use category. But with the  
18                  advent of Act 235 of 2004's amendment to remove  
19                  preferential assessment of curtilage--which  
20                  Secretary Wolff referred to as the farmstead  
21                  portion--within areas not classified in the  
22                  agricultural use category, some officials have  
23                  attempted to scrutinize agricultural use  
24                  classifications originally assigned by the  
25                  county to working farms and apply an

1 area-specific approach, rather than a  
2 working-unit approach, in determining whether  
3 curtilage on a working farm is to be assessed at  
4 the higher fair market assessment value.

5 We firmly believe that neither the  
6 original Clean and Green Act nor any amendments  
7 to the act including Act 235 was ever intended  
8 to cause officials to perform an intricate  
9 analysis of function and classification of each  
10 acre of a working farm. Officials' attempts to  
11 do so violates the general spirit of the act to  
12 provide meaningful tax assessment benefits to  
13 those owning and operating productive  
14 agricultural enterprises.

15 We would also ask for your  
16 consideration of amendments to the act that  
17 would establish more constant application of  
18 Clean and Green values by counties from year to  
19 year. For properties not enrolled in Clean and  
20 Green, assessment values do not normally change  
21 from year to year and do not normally change at  
22 all until the occurrence of a countywide  
23 reassessment. But with Clean and Green  
24 properties, the act allows for annual  
25 adjustments in tax assessment values.

1                   We have been concerned in recent  
2                   years with the constant upward creep in annual  
3                   assessment values from application of formulas  
4                   for determining use values of Clean and Green  
5                   land. And with this year's drastic increase in  
6                   corn prices and the fact that the value of corn  
7                   is a major factor in determining use value  
8                   assessments, under most formulas we would have  
9                   even greater cause for concern.

10                   Regulations to the Clean and Green  
11                   Act authorize counties to apply a base year  
12                   method for assignment tax assessment values to  
13                   Clean and Green properties. This method allows  
14                   counties to keep assessment values constant in  
15                   succeeding years until a new base year is  
16                   established. Wholesale changes in values of  
17                   Clean and Green properties would likely occur at  
18                   some time as wholesale changes -- at the same  
19                   time as wholesale changes to properties other  
20                   than Clean and Green during a countywide  
21                   reassessment. We would encourage you to  
22                   consider changes to the act to maintain  
23                   constancy of tax assessment values of Clean and  
24                   Green properties from year to year.

25                   We also believe the provisions of the



1 Clean and Green Act need to be modified to  
2 facilitate the growing effort for development of  
3 alternative and renewable sources of energy  
4 generation. Legislation such as House Bill 656,  
5 which this committee favorably reported last  
6 year, would impose limited and more financially  
7 manageable tax consequences for the use of Clean  
8 and Green lands for development of wind-powered  
9 energy generation.

10           The use of limited areas of Clean and  
11 Green land for alternative energy infrastructure  
12 will help satisfy a serious energy need for  
13 Pennsylvania without jeopardizing the integrity  
14 of agricultural, forest and open space uses that  
15 the Clean and Green Act intended for enrolled  
16 land.

17           Now, with respect to House Bill 1960  
18 and House Bill 667, which I understand the  
19 committee is looking for some specific comment  
20 on, we don't believe that we have sufficient  
21 direction in our policy positions to express a  
22 definitive position on either bill. Each bill  
23 has features that may be viewed positively or  
24 negatively by our members. However, if and when  
25 those bills would move, we would try to provide

1 a more specific input should there be further  
2 consideration on this bill.

3 We do want to thank you again for  
4 this opportunity to provide you our views on the  
5 Clean and Green Act and what we would suggest to  
6 improve this act. And I will try to answer any  
7 questions you may have.

8 CHAIRMAN HANNA: Thank you, Mr. Bell.  
9 Let me start with a question. If I am reading  
10 and understanding your testimony correct on the  
11 allowance for gas and oil leasing and  
12 exploration, you are suggesting that there  
13 shouldn't be any triggering of any roll-back  
14 taxes for the development of oil and gas, and I  
15 think you indicated that it was your  
16 understanding that prior to 2001 that that was  
17 the case?

18 MR. BELL: Yes.

19 CHAIRMAN HANNA: Let me ask you then:  
20 in light of what we heard earlier about the  
21 original intent of Clean and Green, and also  
22 considering what I am hearing from township  
23 officials that oil and gas development,  
24 particularly in the Marcellus Shale, is bringing  
25 in much larger vehicles and is impacting

1 townships, specifically their roads, in light of  
2 the original intent of Clean and Green and in  
3 light of townships concerned that this  
4 development is having an impact, do you believe  
5 that, in fairness, we should not look at whether  
6 there should be some taxing of oil and gas  
7 development in these areas?

8 MR. BELL: Mr. Chairman, I would  
9 point out that the income that would be  
10 generated to landowners from rental or sharing  
11 of royalties would be taxable. And,  
12 anecdotally, it's my understanding that many  
13 municipalities already impose a local income tax  
14 and that would be -- That that would be the type  
15 of tax. That that would be subject to taxation.

16 CHAIRMAN HANNA: It would be my  
17 understanding that most townships are only  
18 authorized about an earned income tax, and I am  
19 not sure that any of the royalties or lease  
20 amounts would be considered earned income. And  
21 then there's, of course, the state would tax any  
22 personal income that may be generated by these,  
23 but that doesn't benefit either the county  
24 school districts or the municipalities.

25 But thank you for the response to the

1 question. Other members who have questions?

2 Representative Keller.

3 REPRESENTATIVE KELLER: Thank you,  
4 Mr. Chairman. Mr. Bell, a couple of questions  
5 here. Can I add two?

6 CHAIRMAN HANNA: Certainly. Chairman  
7 Hershey just gave you his question so you now  
8 have two.

9 REPRESENTATIVE KELLER: All right.  
10 Thank you. One of the things that I would like  
11 to ask is whether or not the Farm Bureau would  
12 be receptive to the fact of extending the  
13 ten-acre limit on the Clean and Green to more,  
14 larger? Instead of just ten acres, if ten acres  
15 or larger can qualify for Clean and Green, would  
16 the Farm Bureau be -- be advantageous or would  
17 they be receptive to the thought of increasing  
18 that acreage amount?

19 MR. BELL: I think generally our  
20 policy would not be supportive of increasing the  
21 acreage. Certainly with respect to the  
22 qualifications for agricultural use, we would  
23 not necessarily be supportive. But I think  
24 generally our policy would not be supportive of  
25 extending the minimum acreage even in other

1 categories.

2 I think historically you need to  
3 consider the potential for larger landowners who  
4 may originally fall within the agricultural  
5 reserve category to qualify, none the less, for  
6 Clean and Green under agricultural use.

7 Historically, landowners who have had  
8 some questions of whether they qualify or not  
9 have been able to devote portions of their land  
10 for agricultural production and qualify their  
11 land that way. And even if you increase the  
12 minimum acreage for agricultural reserve, what  
13 you may well see in the case of open space land  
14 that has any sort of productivity in -- for  
15 agricultural purposes, that those landowners  
16 look to requalifying their land as agricultural  
17 use. So you may be creating a paper tiger here.

18 REPRESENTATIVE KELLER: Okay. Thank  
19 you. The other question I have, it's kind of  
20 along the same lines as our Chairman here, you  
21 know, talking about the Marcellus Shale. As I  
22 see in page six of -- I believe it was page six.  
23 No, page four of your testimony. You talk  
24 about, in the 1990's, there was no problem  
25 identifying, you know, what Clean and Green

1 talked about. And, of course, as it says in  
2 your -- It says exploring, which I personally  
3 don't have a problem with the exploring, but  
4 it's when it's extracted and there is a windfall  
5 at that point.

6           So it's -- You know, I am taking  
7 there's kind of contradictions here, as  
8 paragraph two and three kind of contradict  
9 themselves as to one says exploration and the  
10 other one says extracting. You know, where are  
11 we going with this?

12           MR. BELL: Well, I use the term  
13 exploration to include extraction. Obviously,  
14 when -- And I am certainly not a petroleum  
15 hydrologist, but under normal course of events,  
16 those gas companies that are looking for  
17 development of gas reserves, I think would be  
18 doing some exploration to figure out locations  
19 of wells that are feasible and then trying to  
20 plot the locations of wells to be drilled for  
21 extraction purposes and I think I was using the  
22 term exploration to include those true  
23 exploration activities but also extraction  
24 activities.

25           Let me give you one additional

1 thought. The wells that will have to be  
2 drilled, as I understand, in the Marcellus Shale  
3 area are going to be very deep wells and they  
4 are going to be very expensive wells to be  
5 drilled. I would think--although I won't speak  
6 for gas companies--but I would think, as a  
7 matter of course, they are going to plot their  
8 wells in a way that is very economical to space  
9 their wells, to drill as few of wells as  
10 possible.

11           You may well have a situation where a  
12 number of landowners have gotten together and  
13 negotiated leases and royalty arrangements with  
14 a gas company, only to have that gas company  
15 drill on one property owner's property and that  
16 one property owner is going to bear the brunt of  
17 the benefit that a number of property owners  
18 receive. And I think part of the concern here,  
19 and I think it is a very legitimate concern, is  
20 that few landowners are going to have to bear  
21 the potential brunt of the benefits of many.

22           REPRESENTATIVE KELLER: Thank you.  
23 Thank you very much for your testimony. Thank  
24 you, Mr. Chairman.

25           CHAIRMAN HANNA: Thank you.

1 Representative Pickett.

2 REPRESENTATIVE PICKETT: Thank you,  
3 Mr. Chairman.

4 Mr. Bell, in going back a little bit  
5 to Mr. Keller's first discussion on the ten-acre  
6 sizes of the Clean and Green parcels, we made  
7 the change a while back, or the legislature made  
8 the change a while back, that the base-acre  
9 concept could be adopted by a county or not  
10 adopted. Am I right on that? It was their  
11 choice.

12 MR. BELL: Well, no, actually that's  
13 not correct. The change under Act 235  
14 statutorily -- (Cell phone ringing.) Excuse me.  
15 I apologize.

16 Act 235 actually removed even the  
17 discretion, the -- It removed Clean and Green  
18 assessment of base acres within forest reserve  
19 and ag reserve class areas, but then gave the  
20 counties the option to re-establishment  
21 preferential assessment on base acres in forest  
22 reserve and ag reserve areas by ordinance.

23 REPRESENTATIVE PICKETT: So, in  
24 effect, it gave them a choice. They could go  
25 back and reinstate that, am I right?



1 MR. BELL: If they actively did so.

2 REPRESENTATIVE PICKETT: Okay. So my  
3 thought on that at the time, and I kind of  
4 watched that, to say, to my knowledge, that was  
5 the first time that counties really had an  
6 option of something legally different from  
7 another county on Clean and Green. Even though  
8 we know interpretations go on, they are not  
9 necessarily the law. What we have in my main  
10 county, Bradford County, eighty-one hundred and  
11 sixty-four parcels in Clean and Green, I don't  
12 know how many of them are small parcels around  
13 ten, eleven, twelve acres, but I know that a  
14 high number of them is.

15 And I also have come to learn that  
16 the concept of land sizes are different in  
17 different regions. Montgomery County versus  
18 Bradford. So forth. It's just a different  
19 concept of what open-space acreage is. And so,  
20 I have been sort of contemplating the county  
21 being able to make its own choice on the acreage  
22 size for a minimum, making -- allowing it to be  
23 different in different regions.

24 Because I -- You -- We talk about the  
25 use. This is all about use and these smaller

1 parcels having some agricultural use, but I  
2 could walk you through an awful lot of them  
3 right now who have only grass and flowers and a  
4 house as the use of this land. And is that what  
5 we intend? Would you think at all about the  
6 counties being able to make a choice on what  
7 they are going to make bridges (phonetic)?

8 MR. BELL: I think counties have the  
9 ability to reclassify lands that aren't being  
10 actively used in Clean and Green.

11 Secondly, I think with respect to  
12 those lands that should be classified as  
13 agricultural reserve lands, you know, the open  
14 space, the McMansion type property, the Clean  
15 and Green Act requires those property owners to  
16 open their lands for public recreation, and  
17 that's another area of the law which may well  
18 not be very well enforced.

19 And I would say, if you told a number  
20 of landowners that they had to open their lands  
21 for public recreation, they might be a little  
22 shocked and they might be a little gun shy in  
23 enrolling their lands in Clean and Green if they  
24 could only classify their lands under  
25 agricultural reserve.

1                   REPRESENTATIVE PICKETT:  Mr.  
2   Chairman, forgive me for one more comment.

3                   But, Mr. Bell, you have been to  
4   Bradford County.  You don't really think that's  
5   going to work up there, do you?  I mean, people  
6   do not recreate on other people's property as an  
7   open understanding that they can do that, and  
8   nobody knows who's in Clean and Green and who  
9   isn't.  I mean, it is just not workable.  Just  
10  my comment on that.

11                  MR. BELL:  And if I can offer one  
12  other comment, I believe -- Please don't hold me  
13  to the county, but I believe it's Erie County  
14  has done an effort, a number of acreage in Erie  
15  County is agri-serve.  And I think Erie County  
16  has done a job of trying to identify those lands  
17  that are available for public recreation.

18                  CHAIRMAN HANNA:  Thank you.  
19  Representative Bastian.

20                  REPRESENTATIVE BASTIAN:  Thank you,  
21  Mr. Chairman.

22                  John, you mentioned that despite the  
23  corn prices, is going to increase the value,  
24  although a ten-year average should buffer that a  
25  good bit.

1 MR. BELL: I will agree with you  
2 there. But certainly the concern is there, it  
3 is going to minimize the spike. But if you have  
4 a pretty large jump in one year out of ten,  
5 there is definitely going to be an impact.

6 REPRESENTATIVE BASTIAN: Okay. Thank  
7 you.

8 CHAIRMAN HANNA: All right. I don't  
9 see any other questions. All right. We thank  
10 you, Mr. Bell. We thank you for your testimony.  
11 It's been very helpful.

12 MR. BELL: All right. Thanks.

13 CHAIRMAN HANNA: Next is Kristen  
14 Goshorn, Government Relations Manager of the  
15 County Commissioners Association of PA, as well  
16 as Eric Brown, Immediate Past President,  
17 Assessors Association of PA. We welcome you  
18 both.

19 MS. GOSHORN: Good afternoon,  
20 Chairman Hanna, Chairman Hershey, members of the  
21 committee. Thank up for the opportunity to be  
22 here this afternoon. To my right is Eric Brown,  
23 he's the immediate past president of the  
24 Assessors Association of Pennsylvania. And the  
25 AAP, as we call them, is an affiliate of the

1 county commissioners association. He's going to  
2 give you some separate remarks a little bit  
3 later.

4 As the Chairman introduced me, I am  
5 Kristen Goshorn. I am the Government Relations  
6 Manager for the county commissioners  
7 association. We represent all sixty-seven  
8 counties in the state. We provide a variety of  
9 services to the counties, including legislative  
10 services, and insurance and technology, and  
11 those types of things.

12 As you are all aware, the property  
13 tax is the only source of revenue that is  
14 available to the counties and that distinguishes  
15 us a little bit from the other local taxing  
16 jurisdictions which have alternatives such as  
17 the earned income tax. And we are the  
18 administrators of the Clean and Green program at  
19 the county level, so this issue takes on  
20 particular significance for us, and that's why  
21 we appreciate the opportunity to be here today.

22 Historically, CCAP has opposed  
23 granting special tax status to certain classes  
24 of property, but we believe that when special  
25 tax status is granted by the state, the state

1 should fund the loss of revenue to local  
2 municipalities. Special tax status for some  
3 property owners impacts taxpayer equity because  
4 it inevitably shifts the tax burden around and  
5 that becomes a concern for the county officials.

6           However, we have been actively  
7 involved in negotiating some language related to  
8 Clean and Green over the last ten to twenty  
9 years, and our members are generally supportive  
10 of Clean and Green as an agricultural and  
11 agriculture industry land preservation  
12 initiative.

13           Aside from some complaints that we  
14 have heard from the public and media regarding  
15 owners of mini-estates who are also obtaining  
16 tax breaks through this program in the  
17 agricultural reserve and forest reserve  
18 categories, many commissioners believe that  
19 Clean and Green is an important support for the  
20 agricultural industry.

21           You have already heard a little bit  
22 about the oil and gas issue from the previous  
23 testifiers. But I want to highlight, this is  
24 really an issue on our agenda now as well. As  
25 the exploration is really booming now in

1 Pennsylvania and leasing is booming, this is an  
2 issue that the county assessment offices are  
3 facing more and more frequently.

4 And, in fact, it became, it rose to  
5 the level of the commissioners and the  
6 commissioners had asked us to contact the  
7 Department of Agriculture and seek whether they  
8 could give us any clarification on how the  
9 counties should be handling this issue.

10 We contacted the department. Their  
11 response to us was they didn't feel they could  
12 give us guidance based on the current statutes,  
13 so now we are turning to you today to ask for  
14 your support to clarify that issue.

15 The law has been amended to deal with  
16 the issue of cell towers in recent years. And  
17 as I talked about oil and gas, I will also bring  
18 up the issue of assessing for Clean and Green  
19 for wind towers, possible solar panels, in the  
20 very new future. These are all developing  
21 technologies that could probably use some more  
22 clarification in the law.

23 And if we looked at how the cellular  
24 towers were handled, the law was amended to  
25 clarify for leases of land covered by

1 preferential assessment to be used for wireless  
2 or cellular telecommunications. Lands leased  
3 for these types of purposes remain eligible for  
4 Clean and Green as long as the tract of land  
5 leased does not exceed a half an acre containing  
6 only one tower, it is accessible, and the tract  
7 is not sold or subdivided.

8 A lease is not considered a  
9 subdivision for purposes of cellular and  
10 wireless towers. Preferential assessment for  
11 the land which is not leased is not affected,  
12 but roll-back taxes are imposed on the tract of  
13 land that has been leased with fair market value  
14 of the lease tract being adjusted accordingly.

15 We seek uniformity and believe that  
16 any change to the statute dealing with lease  
17 types must recognize and delineate when a change  
18 in the use of the land has occurred. That would  
19 cause all or any part of the tract to be  
20 ineligible for preferential assessment.

21 For example, we know that with  
22 extraction methods being used in the Marcellus  
23 Shale, developers are trying to do more  
24 horizontal drilling to actually reduce the  
25 number of wellheads that will be on the surface



1 of the land. So when you look at that, there  
2 may not necessarily be a change in use on the  
3 surface of the land and therefore you can debate  
4 whether that has any impact on Clean and Green  
5 at all.

6 Other properties will be disturbed  
7 for roads, buildings and wellheads, which all,  
8 we think, could constitute a change in the use  
9 for at least a portion of some tracts enrolled  
10 in the Clean and Green program. We think that  
11 better clarity to the law will benefit not only  
12 the county commissioners and the assessors in  
13 administering the law, but it is also going to  
14 benefit the landowners so that they know how  
15 they need to proceed as they negotiate their  
16 leases with the developers.

17 House Bill 656 is Representative  
18 Bastian's bill, and it's a bill that attempts to  
19 clarify how assessment and Clean and Green and  
20 how that interacts with wind towers. This  
21 legislation seems to be pretty closely modeled  
22 after what's in place for the cell towers. It  
23 allows imposition of roll-back taxes on the  
24 tract that has been leased without invalidating  
25 the preferential assessment of the land that has

1 not been leased.

2 We have taken a look at this  
3 legislation. We think it's a pretty good  
4 approach to this issue. The one thing that it  
5 kind of leaves on the table that isn't really  
6 specified is what could occur if you have more  
7 than one wind tower on one particular tract of  
8 land where you are carving it up quite a bit.  
9 Is there a point where the number of leases or  
10 the percentage of the particular tract that have  
11 been leased in a preferentially assessed tract  
12 would actually change the use and possibly  
13 trigger ineligibility for Clean and Green?

14 We have been asked to talk about two  
15 bills before the committee today, House Bill 667  
16 and House Bill 1960. We are generally  
17 supportive of House Bill 1960. Legislation  
18 would provide for assistance payments to local  
19 municipalities which lose ten percent or more of  
20 assessed value as a result of Clean and Green.

21 If the taxing authority meets this  
22 requirement, it would apply to the Department of  
23 Community and Economic Development for relief.  
24 The taxing jurisdiction will be reimbursed by  
25 the state for the difference between the use

1 value and the assessed value multiplied by the  
2 tax rate. This addresses the CCAP policy which  
3 states that tax revenues, foregone or lost by  
4 any grant of special status, should be  
5 reimbursed by the state.

6 On House Bill 667, we have some  
7 concerns. This includes language that would  
8 allow a landowner to remove entire tracts from  
9 preferential assessment at any time by providing  
10 notice to the county by July 1st of the year and  
11 paying roll-back taxes for the tract of land for  
12 which removal is requested. We are okay with  
13 this portion of the legislation. The second  
14 half of the bill is the part that we find to be  
15 problematic.

16 Section 8.1(b) allows the landowner  
17 receiving preferential assessment to remove the  
18 property without penalty, any time a statutory  
19 change becomes effective, which results in an  
20 increase in the use value assessment.

21 We believe this issue should be  
22 addressed by the General Assembly on a  
23 case-by-case basis as the Clean and Green  
24 statute is amended so that policymakers can make  
25 judgments about whether a change should trigger

1 any kind of grace period to allow affected  
2 landowners to withdraw without penalty.

3 Section 8.1(c) provides that for  
4 purposes of Clean and Green, the county cannot  
5 adjust the assessed value at any time other than  
6 the beginning of a tax year. This treatment is  
7 different from that of any other taxpayer whose  
8 assessed property values can be adjusted at any  
9 time.

10 The most problematic part of the bill  
11 for us in House Bill 667 is Section 8.2, which  
12 provides that if a statutory change becomes  
13 effective which causes an already-enrolled  
14 property to be ineligible for Clean and Green,  
15 no breach has occurred and no roll-back taxes or  
16 penalties can be imposed.

17 This section also states that the  
18 tract shall continue to receive preferential  
19 assessment under the terms that were applicable  
20 at the time the preferential assessment was last  
21 recorded for the tract. This language will  
22 force counties to administer different versions  
23 of the Clean and Green law based on when the  
24 property was last enrolled, and this will be a  
25 very problematic and time-consuming mandate for

1 assessment offices.

2 Over the long term, you will have to  
3 rely on historical records, rather than  
4 statutes, to remember the terms of enrollment on  
5 various parcels, which could create significant  
6 title and legal hurdles for property transfers  
7 as well as creating equity problems among  
8 similar properties.

9 Those will be the conclusions of my  
10 remarks. And do you want to hold questions  
11 until Mr. Brown is complete? Okay.

12 CHAIRMAN HANNA: Okay.

13 MR. BROWN: Good afternoon. My name  
14 is Eric Brown, and I am Chief Assessor of the  
15 County of Wyoming, and I often tell people that  
16 I have been in this predicament for  
17 approximately twenty-three years now.

18 The Assessors Association of  
19 Pennsylvania, commonly known as the AAP, is an  
20 affiliate of the county commissioners  
21 association, which is a nonprofit, a nonpartisan  
22 association providing mainly education to all  
23 persons throughout Pennsylvania's sixty-seven  
24 counties that deal with ad valorem valuations of  
25 real property; that is, putting values on

1 property for purpose of taxation.

2 I certainly want to thank you for the  
3 opportunity of being here and presenting my  
4 thoughts and the opinions of the assessors  
5 association as well as those of CCAP, the county  
6 commissioners association, and be able to  
7 comment on topics relating to the Clean and  
8 Green program including the legislation that is  
9 currently referred to this committee, and more  
10 important on issues involving the oil and gas  
11 leasing, particularly the leasing situation  
12 right now.

13 And that has dominated much of the  
14 life of most of our assessment offices for over  
15 the last one-and-a-half years. And when I say  
16 most of our assessment offices, I am talking  
17 about the northeast section with the Marcellus  
18 Shale and a lot of the -- some of the drilling  
19 that is actually taking place now in northern  
20 counties such as Susquehanna. There is quite a  
21 bit of drilling going on up there right now. No  
22 production. Just drilling at this particular  
23 point.

24 The production and harvesting of  
25 energy and fuels is a dominant issue worldwide

1 and, of course, it's reached significant levels  
2 in many parts in Pennsylvania just because of  
3 this Marcellus Shale. But the legislation to  
4 help us uniformly address these issues as they  
5 relate to the Clean and Green program is  
6 essential and should lead toward taxpayer relief  
7 and, of course, tax fairness.

8 I would like to begin with the oil  
9 and gas situation that relates to Wyoming County  
10 and add some information that I have gained from  
11 some of my surrounding counties.

12 I would first of all like to present  
13 and show you a map of Wyoming County and how  
14 many properties in Wyoming County that are  
15 enrolled in the Clean and Green program.

16 The light colored areas as indicated  
17 by the legend down below are properties that are  
18 enrolled in Clean and Green. And that's just my  
19 county. And that's not -- That is very typical  
20 of most of the counties up in this --  
21 Representative Pickett was saying a large  
22 percentage of her county in Bradford up there  
23 alone has occupied most of the land mass of the  
24 program.

25 For instance, Wyoming County, we have

1 a total of two hundred and fifty-four thousand  
2 acres, a little more than that, a hundred and  
3 forty-seven thousand, of which are in the Clean  
4 and Green program. That amounts to about 58  
5 percent of the total land mass. So you can  
6 imagine any decisions that we make on the Clean  
7 and Green can have a far, wide reaching and  
8 sometimes dangerous effect for our persons.

9 Out of that, another 14 percent can  
10 be attributed to State Game Land areas. There  
11 is approximately, in Wyoming County, thirty-five  
12 thousand plus State Game Land areas there which  
13 are currently negotiating with also leasing  
14 their land for oil and the gas situations.  
15 Which I see in the paper, this morning, is  
16 another topic that is going to be hot here  
17 really soon. So.

18 But spurred by projected enormous  
19 yields of natural gas locked in the Marcellus  
20 Shale, land leasing companies began converging  
21 on our counties in mass quantities, you know,  
22 trying to get as many people signed up as  
23 possible, particularly large landowners.

24 And they would go around and, like  
25 Secretary Wolff was saying, that fifteen to



1 twenty dollars, typically twenty-five to fifty  
2 to fifty-five dollars per acre was not uncommon,  
3 a year, a year and a half ago, to lease much of  
4 this land. And that was pretty good money for a  
5 lot of these landowners, a lot of the farmers.

6 And not only with that, they had also  
7 promised -- or wrote into the lease,  
8 twelve-and-a-half percent royalties out from  
9 that. So if a gas well was put in, you could  
10 possibly see twelve-and-a-half percent royalty  
11 on a per acre basis across the board.

12 Now, most of these leasing situations  
13 involve six hundred and forty acres of one  
14 square mile. So if you happen to be a landowner  
15 within the six hundred and forty acres that is  
16 designated by the gas drilling, gas/oil company,  
17 you could possibly see some royalties all from  
18 that one particular well.

19 And most of those leases were, at  
20 best, maybe two-pages long and not really  
21 landowner specific so landowners signing these  
22 leases really opened themselves up to some  
23 serious ramifications, implications, and just  
24 leaving themselves wide open to all kinds of  
25 situations.

1                   They really didn't -- You know,  
2                   because the money was there. They handed them  
3                   the money almost on the spot. A lot of people  
4                   sign these leases without any regard to, in  
5                   particular, how does it affect their Clean and  
6                   Green situation.

7                   Now, gas leasing is not a new thing  
8                   in northeastern Pennsylvania. Back in the '50s  
9                   and '60s, there was a large amount of gas  
10                  leasing going on. And a lot of people, farmers,  
11                  went into that. Large landowners leased their  
12                  land, getting a dollar, two dollars, five  
13                  dollars an acre, maybe, at the most. That was  
14                  pretty good money just for -- and for a five  
15                  year. And in most cases back then, it was a  
16                  ten-year lease, which is what a lot of these  
17                  current leases are, of which now they have  
18                  dwindled those down to five years.

19                  But, I mean, leasing, there was no  
20                  extraction of oil back then or gas. They came  
21                  in and drilled. But technology back then, even  
22                  though the technology showed that there was a  
23                  larger reserve down there, the technology didn't  
24                  allow them to extract it or didn't allow them to  
25                  extract it at a reasonable cost.

1                   And most of the drilling back then --  
2           In fact, all of the drilling back then was  
3           vertical, all vertical drilling. Now with the  
4           advent of the horizontal drilling, because of  
5           the technology that was developed probably out  
6           of the Texas and the Barnett shales down there,  
7           they have had quite a good success with the  
8           horizontal drilling, they can now assume that  
9           they can apply that technique here with this  
10          Marcellus Shale and cost-effectively remove  
11          large amounts of gases locked in those shale  
12          areas.

13                   Now, that shale area is probably  
14          somewhere around six thousand feet vertically.  
15          So they will drill down six thousand feet and  
16          then, under pressure, they will move these pipes  
17          in a horizontal, kind of an arc type situation.

18                   CHAIRMAN HANNA: Mr. Brown, I don't  
19          mean to interrupt you.

20                   MR. BROWN: Yes, sir.

21                   CHAIRMAN HANNA: But most of us have  
22          received presentation on the development --

23                   MR. BROWN: Okay.

24                   CHAIRMAN HANNA: -- of the Marcellus  
25          Shale and we are familiar with that. We are

1 really interested --

2 MR. BROWN: Okay.

3 CHAIRMAN HANNA: -- in staying  
4 focused on the impact on the Clean and Green  
5 legislation. And in fairness to those who we  
6 have scheduled to testify afterwards, I think it  
7 would be best for you to just focus on the Clean  
8 and Green implications. Thank you.

9 MR. BROWN: Thank you. As a result  
10 of that, of course, thousands of people have  
11 signed up on these leases and the amount of  
12 people coming in to have their lands enrolled  
13 under the Clean and Green have asked if there is  
14 going to be a violation.

15 In many situations when the  
16 legislation doesn't really dictate, such as in  
17 the Clean and Green as to how a county is  
18 supposed to administer this, because of the  
19 economic impact, which is kind of what I was  
20 getting at, getting toward the monies and stuff  
21 here, a county has got to make a decision one  
22 way or the other.

23 So the decision was made to, well, we  
24 have leased land before, farmers lease their  
25 land for other farmers to take crops off, there

1 are other lease situations that go on maybe for  
2 shale, stone quarries and things like that so  
3 why should the lease really be considered a  
4 violation, when in most cases, in counties, we  
5 look at subdivisions of land under Clean and  
6 Green, we pay particular attention to and try to  
7 abide by the law and land disturbance.

8 So we assumed that and made the  
9 decision that leasing the land would not  
10 constitute a violation for gas and oil drilling.

11 However, as soon as they did drill in  
12 Wyoming County and several of the counties  
13 around me, the entire tract would be subject to  
14 violation, not just the area where the  
15 disturbance takes place.

16 A lot of these drilling sites are  
17 anywhere from two to five to six acres in size.  
18 It involves extensive amount of earth moving and  
19 preparation and stuff just to bring these rigs  
20 in. As you said, the damage and stuff to the  
21 township roads, municipal roads, state roads, et  
22 cetera, let alone the environmental impact of  
23 how much water it takes to draw, all comes into  
24 play.

25 So our decision was to do it that

1 way. Some counties like it. Further testimony  
2 had, or previous testimony, that some counties  
3 only roll-back the actual area where the site  
4 preparation is. We decide that -- Of course,  
5 there is no drilling in Wyoming County yet, but  
6 our opinion is and our stance is going to be  
7 that it will affect the entire property.

8 Now, when landowners started coming  
9 in, we suggested seek counsel about your lease,  
10 make sure that it's going to cover and protect  
11 you as much as possible, and see if you can't  
12 have that violation written in your lease that  
13 the drilling company or gas and oil company will  
14 take care of that burden.

15 So, in most cases, most of the leases  
16 that you are finding in Wyoming County and I  
17 think you are finding in Susquehanna County and  
18 I think a lot that you are finding in Bradford  
19 County, a lot of those leases take care of that  
20 situation, in that any violations will be taken  
21 care of by the gas and oil company.

22 But it still is being interpreted in  
23 many different ways across the state, and with  
24 the onslaught of so much of this taking place  
25 right now, we had no other course of action

1 than, of course, make a decision that is going  
2 to be economically -- make economic sense within  
3 each of our counties and particularly in our  
4 county.

5           So, yes, we are in favor of having  
6 some legislation that dictates exactly how we  
7 should further proceed into this. But the  
8 urgency of the situation, the onslaught of  
9 people--I mean, our offices are absolutely  
10 crammed with gas and oil people doing title  
11 searches on all of these properties--we don't  
12 have room for it. It is tough to maintain our  
13 daily operations of our offices and stuff. It's  
14 just not -- It's unbelievable what is going to  
15 happen. It's predicted it's probably going to  
16 go on well into 2010, 11, 12 and 13 and that's  
17 just the leasing process. But.

18           And, of course, the economic effect.  
19 In my testimony, you will see in there how much  
20 some of these landowners could stand to gain  
21 from oil and gas exploration.

22           House Bill 1960, and the census of  
23 the association, in my opinion, is that we feel  
24 that it's very adequate. I think there needs to  
25 be some means of being able to reimburse

1 counties for the, quote, unquote, loss of  
2 revenue that occurs through the Clean and Green  
3 program.

4 And in my testimony--I am not going  
5 to read through it, but it's one of my examples  
6 that I have there--it takes you through a county  
7 that has implemented Clean and Green after a  
8 countywide revaluation has occurred, and then it  
9 takes you through when a countywide -- when a  
10 county undergoes another revaluation in the  
11 years to come as to what can possibly happen.  
12 And the basic effect of that is that the use  
13 values, as distributed by and determined by the  
14 Department of Agriculture, do not really change  
15 that much over a period of years, certainly not  
16 in the amount that market values of land change.

17 So when a county undergoes another  
18 revaluation, the total assessed value goes way  
19 up, and, of course, the millage rates have to  
20 drop way back down so that there is no windfall  
21 gain a year after a revaluation.

22 So with that millage rate dropping  
23 down on the new values of market, that same  
24 millage rate is applied against virtually the  
25 old values of Clean and Green, creating even



1 more on the savings under the Clean and Green  
2 program.

3           We don't have a problem with that.  
4 It's just showing you what kind of a snowball  
5 effect this really can have. If you are going  
6 to take money out of the General Assembly to try  
7 to pay back some of the counties for this loss,  
8 just understand, when a revaluation happens,  
9 that county may not just have a twelve-percent  
10 loss the next year, you may say fifteen, twenty,  
11 twenty-five, thirty percent. In fact, the  
12 example I showed you is a 48-percent difference  
13 in the revenue gain off the Clean and Green land  
14 from the year prior to a revaluation. So these  
15 are certainly interesting situations that have  
16 to be taken into account.

17           The AAP doesn't feel really there is  
18 any necessity for further legislation such as  
19 House Bill 667 to define the role of a removal  
20 of a tract from the program. We feel that the  
21 current Clean and Green program pretty much  
22 adequately well defines that situation.

23           Legislation to allow a landowner to  
24 remove their property from Clean and Green  
25 because of the statutory change increasing the

1 total use value does not appear to serve us  
2 well, unless, of course, that statutory change  
3 was so drastic that it just kind of made the  
4 Clean and Green values and the purpose of being  
5 in Clean and Green as pretty much useless.

6 So that's kind of where we are at. We feel that  
7 House Bill 667 is not really serving a purpose  
8 for us at all.

9 House Bill 1960, yes, we certainly do  
10 agree with it.

11 And I did have another map showing  
12 how many areas out of the Clean and Green land  
13 in Wyoming County are actually being leased,  
14 just to show you what kind of an effect that is,  
15 and this was just as of two months ago.

16 Everything that is colored and  
17 everything that is not white is lands that are  
18 currently leased. Those values per acre right  
19 now are running up to twenty-five hundred and  
20 three thousand dollars for signing bonuses on a  
21 per acre basis. So everybody that has any chunk  
22 of land whatsoever is jumping in on the oil and  
23 gas situation, so not just Clean and Green  
24 lands. But it gives an idea of, how busy the  
25 map is, that's how busy the Recorder of Deeds

1 Office is and assessment offices are.

2 I thank you.

3 CHAIRMAN HANNA: And we thank you.  
4 Particularly with your testimony on House Bill  
5 1960, you noted in the beginning that you  
6 supported the legislation and then you outlined,  
7 I think, what would have to be considered a  
8 concern. Do you have any suggestions on how we  
9 could address that concern?

10 MR. BROWN: No, I don't. I honestly  
11 don't have. And my concern is that it is not  
12 just taking care of the situation as it is if it  
13 adds to that situation and monies are actually  
14 going to compound with the advent of counties  
15 trying to keep within their due bounds of why a  
16 county undergoes a revaluation of keeping within  
17 the common level ratio.

18 So there has to be some -- there has  
19 to be some source of the revenue set aside to be  
20 able to accommodate that kind of an increase and  
21 I am not exactly sure how that would go.

22 CHAIRMAN HANNA: Thank you. Other  
23 members? Representative Grucela.

24 REPRESENTATIVE GRUCELA: Thank you,  
25 Mr. Chairman. Thank you for your testimony,

1 both of you.

2 But, Mr. Brown, when was the last  
3 time Wyoming County reassessed?

4 MR. BROWN: We implemented ours in  
5 1988.

6 REPRESENTATIVE GRUCELA: So twenty  
7 years since you have reassessed.

8 MR. BROWN: Yes. And the ratio  
9 change, but that really doesn't constitute a  
10 valuation change.

11 REPRESENTATIVE GRUCELA: And I don't  
12 know if this is a fair question to you, but I am  
13 sitting here--since Representative Moul asked  
14 this--I didn't know you could drill  
15 horizontally. How do you know that? How  
16 does -- I mean, there could -- It may not be  
17 relevant, but depending upon location and how  
18 contiguous you are to your neighbor, it might be  
19 relevant. How do you know if you are going  
20 horizontal?

21 CHAIRMAN HANNA: I guess I spoke out  
22 of turn when I said most of us had been to the  
23 presentations.

24 REPRESENTATIVE GRUCELA: No, I  
25 wasn't. I am sorry.

1                   CHAIRMAN HANNA: No, that -- I guess  
2                   that was a different committee. The Game and  
3                   Fish Committee had a presentation --

4                   REPRESENTATIVE GRUCELA: Oh.

5                   CHAIRMAN HANNA: -- on the whole new  
6                   development of Marcellus Shale and I thought  
7                   most folks were familiar with it.

8                   That's a fair question, and if you  
9                   feel qualified to answer it, please feel free to  
10                  do so.

11                  MR. BROWN: Well, actually they have  
12                  to apply for a permit from the state in order  
13                  to -- And they have to dictate exactly how far  
14                  they are going to drill.

15                  REPRESENTATIVE GRUCELA: And which  
16                  direction.

17                  MR. BROWN: And which direction.

18                  REPRESENTATIVE GRUCELA: Well, that  
19                  answers it. Okay, thank you.

20                  MR. BROWN: You understand that there  
21                  is a lot involved with it. It has to do with  
22                  the fracking of the layers, et cetera. So they  
23                  do horizontal drilling and they hope that they  
24                  can more or less suck the gas out of the veins  
25                  and stuff that they frack by using a water and

1 sand mixture that goes in there and blows the  
2 veins apart and sucks the gas back out.

3 They just don't know yet, via  
4 metrics, as to how far, how wide they are  
5 actually going to be able to extract this gas.  
6 But right now just with the -- with vertical  
7 drilling, the amount of gas is point eight. You  
8 know, point eight to one million cubic feet per  
9 well per day which is a phenomenal amount of  
10 revenue gain.

11 REPRESENTATIVE GRUCELA: Thank you.

12 CHAIRMAN HANNA: Representative  
13 Pickett had a question.

14 REPRESENTATIVE PICKETT: Thank you,  
15 Mr. Chairman.

16 Eric, thank you for being here today  
17 from Wyoming County. And I like your maps. Do  
18 you happen to have any feel, even in your own  
19 county, Wyoming, what percent of the roll-back  
20 taxes have been included in gas leases?

21 MR. BROWN: What percent have been in  
22 leases?

23 REPRESENTATIVE PICKETT: What percent  
24 of leases are -- is the roll-back tax being  
25 covered by the gas company?

1 MR. BROWN: According to the leases  
2 that they -- Well, see, we don't see copies of  
3 the leases, really. But from the landowners'  
4 remarks, excess of ninety.

5 REPRESENTATIVE PICKETT: Okay. I was  
6 just wondering. It really is, that roll-back  
7 money, is in most cases then coming from the gas  
8 company?

9 MR. BROWN: That is correct.

10 REPRESENTATIVE PICKETT: Thank you.  
11 Mr. Chairman, could I just ask a quick question  
12 of CCAP?

13 CHAIRMAN HANNA: Oh, absolutely. I  
14 didn't -- We didn't mean to limit the questions  
15 to Mr. Brown. You certainly can.

16 REPRESENTATIVE PICKETT: That's okay.  
17 On House Bill 667, I am not totally familiar  
18 with the intricacies of the bill, but would it  
19 be correct to believe that if that bill were  
20 enacted that someone could know, full well, in  
21 the future, that they intended to change the use  
22 of the land and they would have roll-back taxes  
23 so they just now say, well, I just want to take  
24 my land out and then they avoid the taxes by  
25 doing that ahead of the use change?

1 MS. GOSHORN: I am not sure if I can  
2 follow the scenario through. Do you?

3 REPRESENTATIVE PICKETT: Eric?

4 MR. BROWN: Yeah, that's another fear  
5 of that particular bill there, is why. First of  
6 all, why would somebody want to get out of Clean  
7 and Green when they have such a massive savings.

8 If they want to get out of Clean and  
9 Green, there is a reason for it. They either  
10 want to subdivide their land for some purposes  
11 or whatever, of which and then the roll-back  
12 gets assessed on everybody.

13 But if they want to get out of the  
14 program, it doesn't make economic sense on a  
15 personal level to do that, unless you have some  
16 future plans that don't agree with it, the  
17 program as well. And there is no -- there is no  
18 guards in this particular bill, as it is  
19 written, to stop that.

20 REPRESENTATIVE PICKETT: So two years  
21 from --

22 MR. BROWN: So -- so -- Or five  
23 years, seven years, eight years down the road,  
24 if they want to subdivide that land, then there  
25 is no course of getting any money back. But in



1 particular, one or two years down the road,  
2 there is nothing in there stating that, okay, if  
3 it happens within five years, you are going to  
4 pay a roll-back anyway even though you elected  
5 to get out of the program.

6 REPRESENTATIVE PICKETT: Right, if  
7 you are going to turn it into a mini-mall in  
8 three years, and you know that, you could get  
9 out early and avoid those taxes if this bill is  
10 reading that way.

11 MR. BROWN: That's our fear with the  
12 ramifications of it.

13 REPRESENTATIVE PICKETT: Thank you.  
14 Thank you, Mr. Chairman.

15 CHAIRMAN HANNA: Thank you. Just a  
16 clarification. And we are having a discussion  
17 here, and we will research this and verify it  
18 for you, but it is our understanding that  
19 Representative Sonney's bill does require a  
20 roll-back tax when they elect to get out. We  
21 will make sure we have that answer. But, I  
22 mean, I -- We believe that's correct.

23 Other questions? Chairman Hershey.

24 REPRESENTATIVE HERSHEY: I think it  
25 is important to note, Representative Sonney,

1 from Erie County, who could not be here today,  
2 introduced House Bill 667 to address some  
3 problems, specifically Erie County. Under a  
4 previous county assessor, Erie County  
5 distributed misinformation about the details of  
6 enrollment and many landowners enrolled with  
7 false expectations about withdrawal from the  
8 program. House Bill 667 was introduced as an  
9 attempt to address this in similar situations.  
10 I just wanted to note that, this information for  
11 the record. Thank you.

12 CHAIRMAN HANNA: Thank you, Chairman  
13 Hershey. Do we have any other questions?

14 (No response.)

15 CHAIRMAN HANNA: All right. We thank  
16 both of you for your participation, and your  
17 testimony has been very helpful.

18 And before I turn it over to Chairman  
19 Hershey for the next introduction, I did want to  
20 mention for those of you who are interested, the  
21 bill that I keep referring to that is before the  
22 House Finance Committee is House Bill 1373.  
23 That's House Bill 1373. That's the one that  
24 does provide for a property tax on severed oil  
25 and gas.

1                   We, the committee, will distribute  
2 information to committee members about that  
3 legislation. I think there is an analysis of  
4 record as well, but we will make sure we get  
5 that out to everybody as well.

6                   Our next presenter, we will call on  
7 Chairman Hershey for the introduction.

8                   REPRESENTATIVE HERSHEY: Our next  
9 presenter will be Robert Hume, a super volunteer  
10 from the Octorara School District. He lives in  
11 Parkesburg. He is a member of the Octorara  
12 School Board. He also represents and assists a  
13 lot of seniors in the area.

14                   I am not sure if he's a leader in the  
15 Oxford Senior Citizen Organization or not, but I  
16 know that he was one of the long-time members.

17                   And we have a lot of people in  
18 Parkesburg and Oxford who live on Social  
19 Security, don't necessarily have a pension, so  
20 he'll tell you what the problems are. Plus he's  
21 on a lot of other boards, also, which he will  
22 tell you.

23                   But, Bob, thank you for coming and  
24 you may take your seat.

25                   MR. HUME: Good afternoon. My name

1 is Robert Hume. I reside in the Borough of  
2 Parkesburg. It's located in the western end of  
3 Chester County. I want to thank the Agriculture  
4 and Rural Affairs Committee for allowing me to  
5 address the Clean and Green program at today's  
6 hearing.

7 I am very pleased to be given the  
8 opportunity to speak here today. I am also very  
9 nervous, as I feel what I say today can affect  
10 the adult residents and the children of our  
11 area, of the Octorara area.

12 How did I ever get in this position?  
13 Well, I am a member of the Octorara Area School  
14 District, a member of the Chester County  
15 Department of Aging Advisory Council, and  
16 co-founder and board member of the Octorara  
17 Communities That Care. And these are all  
18 volunteer positions. And I love living in the  
19 Octorara area. Yes, it is terrific. And  
20 additionally, I am here because of a request by  
21 a friend of the Octorara residents,  
22 Representative Art Hershey.

23 I am here today to speak about Act  
24 319, Clean and Green. When our legislators  
25 addressed the need to provide tax relief for the

1 farm community, they recognized that unless they  
2 put something in place to make up the lost  
3 revenues that the relief the farm community  
4 would realize would place, become a burden on  
5 someone else. That burden fell directly into  
6 the property owners of the school district.

7 As noted on page one of the handout  
8 titled, Act 319, Clean and Green, the Octorara  
9 Area School District had over a hundred and  
10 sixty million dollars in 319 exemptions. This  
11 resulted in a loss of 4.7 million dollars in  
12 revenue.

13 With the present Clean and Green  
14 program, that loss must be made up by the  
15 property owners of that district. It seems our  
16 legislators understood this situation would  
17 happen and, in 1999, Senate Bill 1155 was  
18 proposed to help fill this gap for the school  
19 districts that are heavily agricultural. Today,  
20 this legislation has the opportunity to follow  
21 through on this concept and provide supplemental  
22 funds from the state general fund as presented  
23 in House Bill 1960.

24 The Octorara Area School District,  
25 according to Chester County Planning Commission

1 figures, has the lowest per capita income, the  
2 lowest household income of all the districts in  
3 Chester County and we are the most heavily  
4 taxed. Yes, Act 319 is a contributing factor in  
5 creating the financial situation in the Octorara  
6 area that the property owners can no longer  
7 fund.

8 As a school director, I look at the  
9 effect Clean and Green has on our educational  
10 system. The yearly report card on Chester  
11 County schools clearly shows a struggle that our  
12 district has, due to the financial problems in  
13 our area. How can we compete with neighboring  
14 schools? They have many more programs to offer  
15 the students, which mean a better education.

16 Our county government has the  
17 Landscapes program which assists Clean and Green  
18 by giving an incentive to boroughs for having  
19 residential construction built in the boroughs,  
20 and the results of this program has the  
21 Parkesburg property owner paying the highest  
22 property tax of all the boroughs in Chester  
23 County. Yes, providing services comes at a high  
24 cost.

25 I went to our county commissioners a

1 decade ago and asked for assistance. They had  
2 an economic development study completed. They  
3 funded this study which outlined where a  
4 commercial development could be located without  
5 compromising open space.

6 What has been done with this study?

7 It is collecting dust on the township  
8 supervisors' shelves of these townships which  
9 they do not need any commercial development.  
10 They do not need or want any commercial  
11 development.

12 I feel our superintendent,  
13 administrators and teachers are doing a fine  
14 job. Our superintendent has held meetings in  
15 all areas of the district, and the response in  
16 each area was the same, please lower our taxes.  
17 One example, in the West Chester School District  
18 area, is it has one half of the tax that -- one  
19 half that of the Octorara area and they offer  
20 many more student programs.

21 Why? Because West Chester is not an  
22 agricultural-based district and the Octorara is  
23 an agricultural-based district.

24 Octorara athletic programs are  
25 getting close to a pay-as-you-play program when

1 our neighboring schools are playing on AstroTurf  
2 fields. Yes, we are a rural agricultural area.  
3 And I am extremely hopeful that our legislators,  
4 after reviewing the information presented today,  
5 will clearly understand they must address the  
6 very difficult financial burden that has been  
7 placed on the property owners of the Octorara  
8 Area School District.

9 I hope I have not lulled anyone to  
10 sleep. But let me finish with these three  
11 things that are extremely important to our area:  
12 first, House Bill 1960; second, a hundred and  
13 seventy million dollars lost in property  
14 valuation; and third, four point seven million  
15 dollars lost in revenues that must be made up  
16 each year by the residents of the Octorara Area  
17 School District.

18 Thank you for letting me speak, and  
19 thank you for having the discussions on this  
20 bill.

21 CHAIRMAN HANNA: Thank you, Mr. Hume.  
22 Let me start by commenting that I think your  
23 testimony is right on point here. Obviously  
24 every preferential assessment that we provide  
25 does cause a loss in revenue to those municipal



1 entities that rely on property tax as revenue,  
2 and then, as a result, when they make that up,  
3 the burden does fall on other property tax  
4 owners.

5 MR. HUME: Um-hum.

6 CHAIRMAN HANNA: And I think if we  
7 look back at Mr. Brown's map, he -- I am not  
8 sure how it works out in Chester, but Mr.  
9 Brown's map, I think, showed us that, what was  
10 it, some fifty percent, fifty percent or more  
11 was in Clean and Green. And I thought I heard  
12 him say that there was another significant  
13 percentage that was publicly-owned lands, either  
14 game or bureau forestry lands, further reducing  
15 the amount of lands that are actually paying  
16 property taxes to benefit those municipal  
17 governments.

18 So I think that highlights what you  
19 are saying, that it leaves a huge burden on a  
20 small number of taxpayers to pay for the  
21 services that are provided by those municipal  
22 governments.

23 Chairman Hershey, do you have  
24 comments or questions?

25 REPRESENTATIVE HERSHEY: I do. Thank

1 you, Mr. Hume, for coming. I wanted to ask, did  
2 the school district ever calculate -- You know,  
3 we were talking about should we raise the  
4 acreage to twenty. Is there a, in your memory  
5 or discussion with the superintendent, is there  
6 a number of how many McMansions are on ten  
7 acres? I am not so sure.

8 We have pretty strict zoning in our  
9 township in West Fallowfield, in Highland. But  
10 I do know people really look at ten acres when  
11 they are buying a property, or not too many  
12 people I don't believe are buying ten acres to  
13 build a house, because it is so expensive.

14 But do you have a comment on that?

15 MR. HUME: The only comment I have, I  
16 haven't delved into it a great deal, but we  
17 certainly, we do have some small plots in Clean  
18 and Green and they certainly are wealthy people.

19 We -- Chester County is one of the  
20 wealthiest counties in the state, I believe.  
21 And we do have some wealthy people that are  
22 living on small plots. I don't know how many  
23 or -- But I --

24 Yes, looking over the actual acreage  
25 that is in Clean and Green and things, I have

1 reviewed that several times. And I do have a  
2 copy with me. If the Chairman would want that,  
3 why, I will leave it with you.

4 But I did, I included in my packet a  
5 couple of maps that show our area. I am sorry,  
6 I don't have a big -- But I think it should be  
7 in the information that I showed. And it does  
8 show, I don't know --

9 REPRESENTATIVE HERSHEY: Now, what  
10 are the colors? Can you explain what the colors  
11 indicate?

12 MR. HUME: Green is Clean and Green.

13 REPRESENTATIVE HERSHEY: Okay.

14 MR. HUME: Yes, green is Clean and  
15 Green.

16 CHAIRMAN HANNA: Now, is that just  
17 your school district or is that all of the  
18 county?

19 MR. HUME: That's our school  
20 district. That's what makes up our school  
21 district.

22 REPRESENTATIVE HERSHEY: Hold it  
23 again.

24 MR. HUME: I don't think I am too far  
25 off when I say eighty-five percent--that might

1 include woodlands also--is Clean and Green.

2 Yes, we have a very large amount.

3 And we are an old community. We --

4 And we're -- Our neighbor is Coatesville. They

5 had Lukens Steel Company; Bethlehem Steel bought

6 it. Many of us steelworkers moved into the

7 Octorara area. And we know the history of

8 Bethlehem. That we, all of us, ex steelworkers,

9 lost our insurance.

10 So many of those people reside in the

11 Octorara area. Because we didn't -- We have

12 some special problems. We have no real

13 industry. We have Cuba Corps, World Cuba Corps

14 (phonetic), which is a large printing concern.

15 And I think they just went into some form of

16 bankruptcy. I know a couple of fellows that

17 work there. There are no more Sunday work and

18 things.

19 So we really -- We don't -- We would

20 like to keep things just the way it is. It is

21 beautiful country and we don't want to do

22 anything to disturb what's there, but we do want

23 to make sure that you do understand that we are

24 way in over our heads funding the school

25 district, yes.

1                   And I want to thank -- We did get our  
2 slots money showed up in our tax bill this time,  
3 and I did get some money. And I accepted them.  
4 Thank you for it. Which we had, as a school  
5 board member, we had nothing to do with it,  
6 really.

7                   But we have some special concerns.  
8 As I stated, our superintendent has gone around  
9 to all of these districts, the municipalities  
10 and held community meetings. And they just  
11 can't handle it any more. It's -- it's --

12                   I would like to say then, when you  
13 have one area, Londonderry Township, it's great.  
14 They have some high-priced residential areas  
15 coming in there, but no commercial. And we had  
16 our economic development study made. The  
17 gentleman that took care of it made the  
18 presentations. He said, you want to get your  
19 commercial properties put in one area. Well,  
20 our planning commission put a little here and a  
21 little there and a little there, which is not  
22 big enough for any business to come in and  
23 develop. It is just not enough of land there.  
24 So we have some real needs for Act 1960.

25                   And as I stated, I believe, this

1 didn't just happen. It's been -- I know I put a  
2 little bit of information in there that looks  
3 old, and it is old, and things have not gotten  
4 better for the Octorara area.

5           And our students are -- We have a  
6 couple of districts that have five or six world  
7 languages that they present to their pupils.  
8 And we have two, both languages that we present,  
9 and we don't start until middle school. So  
10 certainly -- So we are at a real, real  
11 disadvantage.

12           And so, thank you very much. I  
13 really -- I greatly appreciate being able to  
14 come to an area like -- to a meeting like this.  
15 I am not used to it, so.

16           REPRESENTATIVE HERSHEY: Thank you  
17 for coming. You know, since I got elected, I  
18 wanted to change the way we run our schools,  
19 from property to either income or sales. And  
20 more and more support now is coming from other  
21 parts of the state, but it is difficult to make  
22 that change. There seems to be more income,  
23 interest now to income tax than -- I mean, sales  
24 tax than income. But our district is really  
25 unique, and you presented it very well. Thank

1 you.

2 MR. HUME: Thank you very much.

3 CHAIRMAN HANNA: We have, I believe,  
4 a comment from Representative Kessler as well.

5 REPRESENTATIVE KESSLER: Thank you,  
6 Mr. Hume, for your testimony, and mostly thank  
7 you for all of your volunteer work you do and  
8 make a difference.

9 I think you hit the nail on the head  
10 here. It comes down to zoning with commercial  
11 and industrial. Penn State did a study a while  
12 back where they took an acre of agriculture,  
13 they took an acre of commercial, they took an  
14 acre of retail, and they took an acre of  
15 residential and calculated what cost the  
16 taxpayers the most. Of course, the acre of  
17 residential cost the taxpayers the most and the  
18 commercial cost the taxpayers the least amount.

19 So in reference to Clean and Green,  
20 Clean and Green, by preserving open space, helps  
21 the taxpayers. I did a quick calculation on  
22 math that if there were four hundred and fifty  
23 homes built in your school district, that would  
24 bring in more of a debt than the four point  
25 seven that you -- the four point seven million

1 dollars that you are losing based on what's in  
2 Clean and Green, and that's based on the state  
3 average of one point seven children per home.  
4 So it does come down to zoning to help the tax  
5 base, as far as commercial.

6 And I would be more than willing to  
7 share that Penn State study with you. Thank  
8 you.

9 CHAIRMAN HANNA: Thank you, Mr. Hume.  
10 Any other questions? Representative Denlinger.

11 REPRESENTATIVE DENLINGER: Thank you,  
12 Mr. Chairman. And welcome. It's good to have  
13 you here.

14 Just a couple of questions. I  
15 don't -- I am eastern Lancaster County so I am  
16 not too far away from you. I am wondering--it  
17 is sort of related to this discussion we are  
18 having about the broader issues of taxation--are  
19 your enrollments growing or are they declining?

20 MR. HUME: They are not declining.  
21 But we -- As we did some new construction, of  
22 course, you have to have all kinds of studies  
23 done and things. We have to have the group  
24 things on these studies. And we are almost on  
25 track with what the study projects us. But we



1 are -- We have seen no real increase yet. So, I  
2 mean --

3 REPRESENTATIVE DENLINGER: So they  
4 are flat.

5 MR. HUME: Yes, when everyone -- when  
6 everyone said -- When we got our study, they  
7 said, well, that cannot be true because of  
8 what -- the development that's coming. Well, we  
9 haven't reached that problem yet, yes. We are  
10 staying very -- rather stable. And so, yes.

11 REPRESENTATIVE DENLINGER: Then one  
12 other question, if I may. You had one of those  
13 districts that straddles two different counties  
14 so you would have Representative Hershey on the  
15 Chester County side and Representative Cutler, I  
16 believe, on the Lancaster County side?

17 MR. HUME: Yes. Lancaster, yes.  
18 Salisbury Township in Lancaster County, yes.

19 REPRESENTATIVE DENLINGER: Do you  
20 have two different millage rates for those two  
21 separate areas?

22 MR. HUME: Yes. Yes, we do. Yes.  
23 Lancaster County, now, they have just had  
24 reassessment, and they got that jolt to them,  
25 added to them. And then, yes, and their millage

1 rate was lower than ours. But due to the --  
2 their real estate values and things, they are  
3 getting -- we are getting very close to being  
4 equal.

5 REPRESENTATIVE DENLINGER: And then,  
6 lastly, between those two counties as far as  
7 Clean and Green participation, more on the  
8 Chester County side or more on the Lancaster  
9 side? That you note on the map. And I should  
10 know; I should have studied that.

11 MR. HUME: Well, I -- I don't think I  
12 included a -- I just forget offhand. I think --

13 I will pick out Clean and Green. I  
14 think fifty-eight hundred thousand in Salisbury  
15 Township is in Clean and Green, and one million  
16 and something in ours, to a total of a hundred  
17 and seventy million. Yes. So it's -- Salisbury  
18 Township is not as large as our area, but they  
19 do have a great deal of Clean and Green, yes,  
20 yes, by a large percentage.

21 REPRESENTATIVE DENLINGER: Good.  
22 Thank you, Mr. Chairman. Thank you.

23 CHAIRMAN HANNA: Any other questions  
24 or comments? All right. Seeing none, we thank  
25 you, Mr. Hume. That was very helpful.

1 MR. HUME: Could I make one comment?

2 CHAIRMAN HANNA: Certainly.

3 MR. HUME: Off of, to deal with,  
4 agricultural and rural affairs. I am active a  
5 little bit with the Department of Aging and we  
6 just completed handing out the farm and  
7 produce -- the farmers' market produce vouchers  
8 and I would like to thank you very much. It  
9 means a great deal to the senior residents in  
10 our area.

11 Yes, we have a representative from  
12 Chester County. The Department of Aging comes  
13 and hands out those vouchers. So keep it  
14 coming. It means a great deal to us. Thank  
15 you.

16 CHAIRMAN HANNA: Thank you. And we  
17 always appreciate thank you's.

18 CHAIRMAN HANNA: All right. Next we  
19 have Marc McDill, Doctor and Associate Professor  
20 of Forest Management; Michael Jacobson, Doctor  
21 Michael Jacobson, Associate Professor of Forest  
22 Management; both from the Penn State University  
23 School of Forest Resources.

24 Gentlemen, welcome and please  
25 proceed.

1                   MR. McDILL: Well, thank you all for  
2 giving us the opportunity to comment on the  
3 Clean and Green program as it applies to  
4 Pennsylvania's private forestlands. For the  
5 past ten years, Mike Jacobson and I have been  
6 studying the program and working with assessors  
7 and members of the forestry community to find  
8 ways to improve the program.

9                   In 1999, we revised the formula that  
10 is used to determine the Clean and Green  
11 assessed values for land enrolled under the  
12 forest reserves part of the program, and we  
13 recalculate those values using the formula for  
14 the DCNR and the Department of Agriculture each  
15 year.

16                   In 2001, through funding from the  
17 Pennsylvania Hardwood Development Council, we  
18 surveyed county assessors and county  
19 commissioners and one thousand landowners about  
20 their experiences with and attitudes towards the  
21 Clean and Green program.

22                   In 2003, we completed a national  
23 survey of property tax programs in other states  
24 as they apply to forestland.

25                   So all of these projects together

1 have led to our current work with an informal  
2 group of landowners, assessors, and other people  
3 from the forest products industry to try to  
4 develop a shared vision for specific  
5 improvements on how to improve the way that  
6 forestland is treated under the program.

7           However, I should add here, as a  
8 caveat, we don't represent any of those groups.  
9 We are just here giving our personal opinions,  
10 so we don't represent forest landowners, the  
11 forest products industry or any other group.

12           As you, as legislators, undoubtedly  
13 know, many different perspectives need to be  
14 considered when crafting changes to a program  
15 like Clean and Green. For example, while some  
16 program-related issues apply to both agriculture  
17 and forestry, many of the problems forest  
18 landowners perceive with the program are quite  
19 different from those perceived by the farmers,  
20 so remedies that address agricultural issues  
21 tend to do little to address forest landowners  
22 issues, and vice versa.

23           So in that regard, we particularly  
24 appreciate the opportunity to speak here today  
25 to present that perspective. Although again, we

1 don't represent any particular group of people.

2 But when Act 319 was originally  
3 passed and most of the subsequent modifications,  
4 it's our impression that agricultural issues  
5 tended to receive more attention than forestry  
6 issues.

7 Forestry has benefited from the act,  
8 but it's not always been an ideal fit. Even for  
9 forest landowners, the issues vary a lot from  
10 different regions of the state, and we have  
11 heard some of that already today. So, for  
12 example, remedies that address concerns in the  
13 southeastern part of the state may not address  
14 those faced by forest landowners in the  
15 northwestern part of the state, and in fact may  
16 make things worse for them. So, it is  
17 challenging to find solutions that address one  
18 group's issues without harming some other group.

19 Clean and Green has been, as has been  
20 noted here, was originally conceived as a way to  
21 help preserve open space. This open space  
22 provides a host of benefits to all the citizens  
23 of Pennsylvania while the costs are borne -- or  
24 have been borne largely by counties and school  
25 districts in which the land is located.

1                   So, in this regard, we support the  
2                   intent of the House Bill 1960. It's more  
3                   appropriate for the costs of the program to be  
4                   borne by the general fund, rather than by  
5                   primarily rural local governments and school  
6                   districts where the land is located.

7                   Furthermore, I want to point out that  
8                   there are good policy reasons for forest  
9                   landowners to get special treatment with regard  
10                  to property taxation. Forestlands, and I would  
11                  argue even more so than farmlands, provide a  
12                  host of important public values including  
13                  scenery and open space, wildlife habitat, water  
14                  quality, carbon sequestration, biodiversity and  
15                  now increasingly bioenergy. As undeveloped  
16                  forestland becomes increasingly scarce, these  
17                  values will become increasingly important.  
18                  Landowners generally receive little benefit,  
19                  other than personal satisfaction, for producing  
20                  those values.

21                  Forestland ownership in Pennsylvania  
22                  is not generally a highly profitable enterprise.  
23                  It's important to keep in mind how long it takes  
24                  to grow timber, and that the occasions when  
25                  significant revenues are earned in forestry

1 typically come only once in a generation, at  
2 best. Because of the long time between earning  
3 significant income from forestland, the annual  
4 property tax is especially burdensome for forest  
5 landowners because in most years there is little  
6 to no income to offset the cost of the taxes.

7           There are also many -- So those are  
8 some of the general problems with property  
9 taxes, but there are specific problems with the  
10 Clean and Green program. One that has received  
11 a fair amount of attention, even here today, is  
12 the so-called mini-estate problem, where larger  
13 parcels are subdivided into ten-acre parcels,  
14 each with a large, expensive home on them.

15           The unfairness of this situation is  
16 obvious, with significant tax breaks often going  
17 to relatively well-to-do households while less  
18 well-to-do households with less land and smaller  
19 houses pay more in taxes.

20           But the problem is also significant  
21 from a conservation point of view, because the  
22 program itself ends up encouraging less dense  
23 development than would otherwise occur without  
24 the program and more land actually gets consumed  
25 in development than would have occurred without



1 the program.

2 Thus, perversely, the program may in  
3 some cases have the opposite effect from that  
4 which was intended. And while the ten-acre  
5 parcels undoubtedly do provide open space, the  
6 ecological values of these areas is considerably  
7 lower than that of larger tracts.

8 Another significant problem with the  
9 treatment of forest reserves under Clean and  
10 Green is the difficulty of assessing large  
11 acreages and large numbers of forestland tracts  
12 accurately. County assessors are not generally  
13 trained to assess forestland values, and if even  
14 if they were, they would not have the time to  
15 collect the appropriate information on the  
16 thousands of forested tracts that many of them  
17 have in their counties.

18 We provide each county with an  
19 assessed value for six different types of  
20 forests which vary a great deal in their values.  
21 But because of the need for mass assessments of  
22 large numbers of properties, most counties use a  
23 single weighted average of those six values for  
24 all forested properties within the county. As a  
25 result, two very different properties in the

1 same county will be assessed at the same value.

2 On the other hand, because detailed  
3 local data often are not available, broad  
4 regional averages are used in some of the  
5 assessed value calculations. As a result, very  
6 similar properties which happen to fall on  
7 different sides of county boundaries, with one  
8 county in one data region and another county in  
9 another data region, may be assessed at very  
10 different values.

11 The amount of benefit, that is, tax  
12 savings, that a landowner gets from being in  
13 Clean and Green also varies considerably from  
14 one region to the next. Where development  
15 pressures are less significant, there may not be  
16 a large difference between a use value and a  
17 fair market value.

18 In fact, if forestland is the highest  
19 and best use of the land, then theoretically  
20 there should be no difference between a use  
21 value and a fair market value. Yet landowners  
22 enrolled in the program expect to receive a  
23 substantial tax break from being in the program.

24 This problem is exacerbated by the  
25 fact that assessed values of most properties in

1 the county are set once, at the time of  
2 reassessment, and then not changed for many  
3 years, while Clean and Green are updated  
4 annually. As a result, over time, Clean and  
5 Green assessed values can creep up to the point  
6 where they are actually higher than the  
7 so-called fair market values.

8 Potentially, then, landowners might  
9 be perversely penalized for being in the  
10 program. And this is one reason in which -- as  
11 why landowners might want to get out of the  
12 program. Of course -- And this is why they have  
13 been frustrated, if they have not been allowed  
14 to withdraw from the program. And then if they  
15 are allowed to withdraw from the program under  
16 those circumstances, then they have to pay a  
17 roll-back tax. So it's easy to see how  
18 landowners might be frustrated with this  
19 situation.

20 The solution, however, is not  
21 necessarily to make it easier to get out of the  
22 program, as House Bill 667 seems to do, but to  
23 correct the problems with the program that are  
24 driving people out.

25 Finally, the Clean and Green program

1 does little to encourage responsible stewardship  
2 of forestland. Clearly, properties that are  
3 well managed will provide more of the public  
4 benefits that the program was designed to  
5 preserve.

6           Furthermore, our survey of county  
7 commissioners and assessors found that few  
8 thought that the program actually does anything  
9 to encourage the preservation of open space in  
10 Pennsylvania.

11           So, given all of these problems, what  
12 should be done to improve the program? While we  
13 support House Bill 667 and 1960, they do little  
14 to address the issues we have identified. In  
15 our forest property tax group, we have discussed  
16 several solutions which can be applied in part  
17 or in various combinations. The first change we  
18 would recommend is to only update Clean and  
19 Green assessed values when a reassessment is  
20 done for the entire county. This is a  
21 relatively simple change that we believe makes a  
22 lot of sense and we think should be broadly  
23 acceptable.

24           Another relatively simple change that  
25 could be put in place would be a cap on Clean

1 and Green assessed values at some fixed  
2 percentage, say fifty percent, of fair market  
3 value. And again, these numbers are just  
4 examples. This would ensure that there is  
5 always a real advantage to being enrolled in the  
6 program.

7           Furthermore, we recommend that  
8 additional reductions be applied for having an  
9 approved management plan, being Green certified,  
10 or for having a conservation easement on the  
11 property.

12           To address the mini-estate problem,  
13 we recommend increasing the minimum acreage for  
14 being in the program. And again this is an  
15 example, but, for example, to twenty acres  
16 rather than ten. We believe this should only  
17 apply to the new properties enrolling in the  
18 program. Because it's like, you know, once you  
19 have a deal with the government and then the  
20 government changes the deal on you, that doesn't  
21 really seem fair. So that is just our opinion.

22           We also recommend applying a single,  
23 low tax rate, such as one dollar per acre, to  
24 all forested properties in the program, rather  
25 than having a calculated value at all. Such a

1 tax would eliminate the need for complex  
2 assessment process and recognizes that there are  
3 many other values besides just timber that  
4 matter to forest landowners.

5           Such a tax could be combined with a  
6 yield tax which would tax a proportion of the  
7 timber sale revenue. A yield tax could offset  
8 other tax reductions and would have the  
9 advantages of taxing forestland at the time when  
10 timber is sold when there is income and of being  
11 proportionate to the actual income that is  
12 earned.

13           As stated at the beginning of our  
14 testimony, we recognize that modifying tax  
15 programs is a complex process. Any change to  
16 the system will involve winners and losers and  
17 will find opposition with someone. In fact, we  
18 have been seeking funding for a study to analyze  
19 more closely the winners and losers, who they  
20 would be for each of our proposed solutions, and  
21 what the revenue implications would be for local  
22 governments and school districts.

23           Our objectives are to help develop a  
24 tax program for forestland that is as fair as  
25 possible, easy to administer, provides a fair

1 share of revenues for local governments and  
2 school districts, and helps to promote  
3 well-managed, sustainable private forestland.

4 Thank you again for giving us the  
5 opportunity to provide our comments and  
6 suggestions on the Clean and Green program.

7 CHAIRMAN HANNA: Thank you. Let me  
8 start the -- And I apologize to Representative  
9 Pickett, if this was going to be one of your  
10 questions. But you specifically addressed  
11 increasing the acreage from ten to twenty and  
12 said that you thought that may be a solution to  
13 the mini-estate. But we heard earlier, I  
14 believe at Representative Pickett's suggestion,  
15 that maybe that should be a county-by-county  
16 determination because of the vast differences in  
17 the parcel sizes that are deemed appropriate in  
18 different counties across the state.

19 I mean, obviously, ten acres is  
20 considered huge in the southeast corner, while  
21 when you got up in Representative Pickett and my  
22 neighborhood, ten acres is not considered all  
23 that large.

24 Having heard, and her suggestion on  
25 that, do you have an opinion on whether that

1 maybe should best be left to the counties? Or  
2 do you think that the simple uniform increase to  
3 twenty or twenty-five acres across the state  
4 would be more appropriate?

5 MR. McDILL: I think that's a great  
6 idea.

7 CHAIRMAN HANNA: Well, I like that  
8 answer. Other questions? Since I kind of  
9 jumped and took her question, I am going to turn  
10 to Representative Pickett next, Bob, and then  
11 I'll come to you.

12 Representative Pickett, I suspect I  
13 did take your question.

14 REPRESENTATIVE PICKETT: That's okay.  
15 I liked the answer.

16 Am I right, the use values that come,  
17 they come annually and they come from Penn  
18 State?

19 MR. McDILL: Yes, we calculate the  
20 values for forestland and the department of --  
21 and some people in the Department of Rural  
22 Sociology and Ag Economics calculate the values  
23 for the farmland.

24 REPRESENTATIVE PICKETT: And that  
25 arrives per county?



1 MR. McDILL: Yes, it can.

2 REPRESENTATIVE PICKETT: So would you  
3 have available, in some of your backup work,  
4 maybe a list of those values that have come to  
5 each of our counties over, say, the last ten or  
6 fifteen years? Could we see those values and  
7 the variations in them over a given time period  
8 for our county?

9 MR. McDILL: I didn't bring them with  
10 me, but I would be happy to provide them for  
11 you.

12 REPRESENTATIVE PICKETT: You could  
13 provide that?

14 MR. McDILL: (Nods affirmatively.)

15 REPRESENTATIVE PICKETT: Thank you.  
16 Because I am just wondering how much it really  
17 does jump around. That would be interesting to  
18 me. Thank you.

19 Thank you, Mr. Chairman.

20 MR. McDILL: Well, I can comment on  
21 how they jump around because, again, we use  
22 moving averages. And so, they don't generally  
23 jump around a lot, but they can change by as  
24 much as ten, fifteen percent from one year to  
25 the next.

1                   REPRESENTATIVE PICKETT: Forgive me,  
2 Mr. Chairman.

3                   Then does that mean the value of what  
4 was harvested also changed? How does it relate  
5 when someone harvests a big crop of trees?

6                   MR. McDILL: Well, we use -- Well,  
7 the assessed value does not depend on the age of  
8 the timber so if you -- The idea of harvest is a  
9 conversion from an older stand of timber to a  
10 younger stand of timber so it is still  
11 forestland and the assessed value would be the  
12 same.

13                  So I think it is actually important  
14 not to assess the actual value of the timber  
15 because otherwise it creates an incentive, as  
16 your trees get older, then your property taxes  
17 go up and so you would want to harvest your  
18 timber just because the property taxes are  
19 getting high. So I think that having a tax  
20 which is actually based on the value of the  
21 timber that's there could cause people to  
22 harvest their timber a lot earlier than they  
23 would otherwise.

24                  REPRESENTATIVE PICKETT: But it's  
25 good management to harvest your timber at some

1 point. But it doesn't tie in with those values  
2 that you get at all. It is just standing  
3 equity, in other words, in your trees?

4 MR. McDILL: Yeah, I just don't think  
5 the tax system should affect people's decisions  
6 about when they harvest timber.

7 REPRESENTATIVE PICKETT: Thank you,  
8 Mr. Chairman.

9 CHAIRMAN HANNA: Thank you.  
10 Representative Bastian.

11 REPRESENTATIVE BASTIAN: Just a  
12 comment, more than a question. I have gotten to  
13 know Mike through the forest landowners  
14 association. I appreciate his economic advise  
15 on a lot of things.

16 But a statement was made about  
17 forestland versus crop land. I don't go out and  
18 plan my crop land; I go out and plan the woods.  
19 And there is a lot of reasons for that. If it's  
20 hiking, if it's camping, if it's hunting, if  
21 it's identification of flowers or trees, or if  
22 it's getting firewood, a whole different  
23 ballgame you are dealing with here and a more  
24 complex situation, a lot more complex than crop  
25 land, because you have the value of that crop

1 every year.

2 You guys are talking about once every  
3 forty years or maybe longer.

4 It's just a comment to say welcome  
5 and thanks for coming down here.

6 MR. McDILL: Well, we appreciate the  
7 opportunity to be here and to have the  
8 opportunity to talk specifically about forestry  
9 issues.

10 MR. JACOBSON: I will just add that  
11 forty years is an understatement. The values  
12 that we set annually are based on an eighty-year  
13 rotation so that creates a much larger amount of  
14 annual payments before, technically, they get  
15 revenue.

16 CHAIRMAN HANNA: I think someone said  
17 earlier, once in a generation, then, I think is  
18 what's reasonable to expect.

19 MR. JACOBSON: Yeah.

20 CHAIRMAN HANNA: Other questions or  
21 comments?

22 REPRESENTATIVE BASTIAN: Just another  
23 comment. Some people at forty years see a tree  
24 like that and another tree might be like that at  
25 forty years depending on a lot of factors. It's

1 a whole different ballgame than the crop land.

2 CHAIRMAN HANNA: Representative  
3 Peifer.

4 REPRESENTATIVE PEIFER: Thank you,  
5 Mr. Chairman. It's nice to hear about open  
6 space and timber. Something I have been  
7 fighting for in Potter County is that timber is  
8 not really considered an agricultural product  
9 and many of the rules and regulations and monies  
10 that go towards agriculture do not include  
11 timber. So I would like to hear your testimony.

12 I have had a number of people talk to  
13 me about your taxation scheme. And the only  
14 problem that I have with your taxation scheme is  
15 that the problem is government runs every day,  
16 we have employees, we have prisoners, we have  
17 court systems that need to run. And, you know,  
18 the sale of timber, you know, is very, can we  
19 say, it changes from day to day, people, the  
20 market changes every day, it's something that's  
21 not guaranteed and we just can't run government  
22 that way given the costs that we have every day  
23 in government.

24 I mean, I like the idea as a  
25 supplement. But to run our systems, whether it

1 be municipal or county or state, we just can't  
2 do it, you know, cutting timber every forty  
3 years.

4 MR. McDILL: Well, first of all,  
5 that's one of the reasons why we recommend a  
6 flat tax rate that all of the acres pay every  
7 year in addition to then combined with a yield  
8 tax then which is paid when they harvest timber.  
9 We would recommend that -- Well, frankly, both  
10 of those, neither of those, be particularly  
11 high. Again because, not -- not because of any  
12 particular bias towards forestry, but because  
13 again we think that forests provide a lot of  
14 important social values and that society should  
15 help to reward forest landowners for producing  
16 those values.

17 On the other hand, every -- You know,  
18 while one person might just harvest timber every  
19 forty or fifty years, across the state there's  
20 timber being harvested every year, and all the  
21 time, and so there are states that do this and  
22 they have programs for evening-out the revenues  
23 from that over time, that it is somewhat  
24 complicated, but there are ways to address those  
25 concerns. But that's a legitimate concern about

1 the yield tax type of approach.

2 REPRESENTATIVE PEIFER: And one more  
3 question, Mr. Chairman.

4 When you talked about the assessment  
5 of the timber values last year, last year I  
6 noted a number of Clean and Green tax bills,  
7 there was a decrease in those bills and I am  
8 assuming because they were timber properties?

9 MR. McDILL: Well, the value -- Or  
10 the assessed values that we produced could go  
11 down for a number of reasons. But definitely,  
12 in the last few years, prices for stumpage for  
13 timber have been down.

14 Because of the moving average, they  
15 are not -- Our assessed values, that's not  
16 making a huge difference yet in the assessed  
17 values. But. As interest -- Interest rates are  
18 also an important factor in the formula and so  
19 as interest rates go up then that also tends to  
20 make the value go down. So.

21 REPRESENTATIVE PEIFER: But that  
22 would be the reason why my tax bill would  
23 actually be going down, if I hold a Clean and  
24 Green property with timber. Because of timber  
25 allocation from the state, the timber values are

1 going down and that's why the timber land value  
2 is less. Is that why the assessed value is  
3 less?

4 MR. McDILL: Yes, that would be one  
5 of the factors.

6 REPRESENTATIVE PEIFER: One of the  
7 factors?

8 MR. McDILL: Right.

9 REPRESENTATIVE PEIFER: Thank you.

10 CHAIRMAN HANNA: Any other questions?

11 (No response.)

12 CHAIRMAN HANNA: Again, we thank you  
13 very much. It's been very helpful.

14 MR. McDILL: Thank you.

15 MR. JACOBSON: Thank you.

16 CHAIRMAN HANNA: Next, we have Lou  
17 D'Amico, the Executive Director of the  
18 Independent Oil and Gas Association of  
19 Pennsylvania. Lou, welcome.

20 MR. D'AMICO: Thank you. Good  
21 afternoon, Chairman Hanna, Chairman Hershey and  
22 members of the House of Representative  
23 Agriculture and Rural Affairs Committee. Thank  
24 you for allowing me to present testimony on  
25 behalf of Pennsylvania's oil and natural gas



1 producing community on Clean and Green.

2 Our industry is very dependent on  
3 Pennsylvania landowners, particularly on large  
4 tracts of land such as farmland. In much of  
5 western Pennsylvania, this partnership between  
6 farmer and oil and gas producers dates back over  
7 a hundred years. With the current, rapidly  
8 expanding interest in developing the Marcellus  
9 Shale, it would appear that much of the central  
10 and eastern Pennsylvania will also be entering  
11 this partnership.

12 The industry has experienced several  
13 boom-bust cycles over the last four decades.  
14 Economic factors at home and abroad, the global  
15 geopolitics as well as shockingly inept federal  
16 government policy, has contributed to the wildly  
17 volatile commodity prices for crude oil and  
18 natural gas. We have felt the sting of losing a  
19 staggering three quarters of a million American  
20 jobs in our industry in the 1980's, yet now we  
21 are experiencing another round of high prices  
22 and high activity.

23 Yet as volatile as our industry has  
24 been and as much as our industry has struggled  
25 at times, nothing in our experience compares to

1 the struggle of the family farmer in the United  
2 States has. We know from the experiences of  
3 farmers we work with every day, the extent of  
4 their struggle. We have often been told by  
5 these farmers that the difference between  
6 keeping the family farm, often one that has been  
7 in the family for generations, has been the oil  
8 and natural gas royalty check received each  
9 month.

10 The General Assembly has been very  
11 aware and sympathetic to the plight of the  
12 farmer in our state. And over the years, the  
13 legislature has done whatever it could to ease  
14 that burden.

15 Act 319 and its amendments helped by  
16 addressing the pressure of taxation on farmland  
17 that could have forced farmers to sell off  
18 property at market value in areas where  
19 nonfarming uses made their land desirable.

20 Originally, as the Farm Bureau  
21 indicated, drilling and production activity was  
22 considered acceptable use under Clean and Green  
23 and would not trigger reassessment of  
24 agricultural land.

25 This certainly made sense in that the

1 impact on the surface land was temporary during  
2 drilling and development stages. The land is  
3 quickly restored under state law and DEP  
4 specification and can be quickly returned to  
5 pasture or crop land. The remaining surface  
6 impact, a wellhead, separators and tank occupy  
7 minimal areas. In return, the farmer receives a  
8 stream of revenue and, in many cases, free gas  
9 to help in reducing at least his home heating  
10 costs.

11           Clearly, this has not changed the  
12 character of the land, nor its agricultural use.  
13 The royalty income actually helps the farmer  
14 maintain the land as farmland, thus reducing the  
15 temptation to sell his farmland for commercial  
16 or industrial development.

17           If drilling a natural gas or oil well  
18 forces reassessment and the loss of a property's  
19 Clean and Green status, there is no incentive  
20 for the landowner to continue holding the  
21 property for this use. The end result could be  
22 and probably would be to undermine the whole  
23 concept of Clean and Green in the Commonwealth.

24           The Commonwealth of Pennsylvania as  
25 well as the nation as a whole benefits from the

1 production of American natural resources. Many  
2 Americans realize the need for our own energy  
3 development with a focus on clean natural gas  
4 production. Even the Sierra Club head Carl Pope  
5 has spoken of encouraging natural gas production  
6 in the U.S.

7 With the royalty income helping to  
8 support the agricultural heritage of our state,  
9 such activity is a win-win for the Commonwealth.  
10 IOGA of Pennsylvania urges the General Assembly  
11 to amend the Clean and Green Act to preserve the  
12 right of landowners to have drilling activity on  
13 their lands and receive the benefits of their  
14 leasing without being subjected to loss of Clean  
15 and Green status.

16 We urge the General Assembly to  
17 extend this hand to the farming community while  
18 doing something that benefits every citizen in  
19 the Commonwealth.

20 At this time, I am eager to entertain  
21 your questions and address your concerns. Thank  
22 you.

23 CHAIRMAN HANNA: Thank you. Let me  
24 start. We heard testimony earlier about the  
25 roll-back taxes actually being covered by leases

1 and in --

2 MR. D'AMICO: Yeah, that, I think  
3 recently or it has been some. Though, I  
4 question the ninety percent. And I am not sure  
5 how much of the land, it's already been leased  
6 over the last year and a half, in the Marcellus  
7 clay, has been affected by this. And I am  
8 certain that there is very little of that kind  
9 of work in western Pennsylvania, where we have  
10 the traditional oil and gas operations in  
11 places.

12 So, for the most part, I think that's  
13 still -- burden is still going to be held by the  
14 landowner rather than the operator.

15 One other thing that came up, and I  
16 was, you know, not really aware of it until  
17 listening to some of the discussions here today,  
18 one of the problems with the roll-backs on  
19 severed properties where -- And I understand, in  
20 your district, you mentioned you have quite a  
21 few severed properties. If I am an oil and gas  
22 producer, I have rights to drill on a -- your  
23 surface property. You should not lose the  
24 benefit of the Clean and Green because I have  
25 the right to develop natural gas reserves under

1 that property. I think that's patently unfair.

2 You know, frankly, if we are going to  
3 have a Clean and Green program, it should be  
4 applied throughout the state in the same manner.  
5 I think we already have a Commonwealth Court  
6 case that says, indeed, if there is no change in  
7 character, there should be no change in the  
8 Clean and Green status.

9 CHAIRMAN HANNA: I thank you. And  
10 you did address a second concern that I had  
11 there, when you talked about the severed  
12 property and the taxation and the well.

13 When on the subject of the leases,  
14 placing the burden of taxes on the gas or the  
15 gas developer --

16 MR. D'AMICO: Um-hum.

17 CHAIRMAN HANNA: -- you addressed the  
18 question of roll-back taxes in the lease. What  
19 about, are there any leases -- If there was an  
20 actual taxation of the severed gases, as is  
21 contemplated by House Bill 1373 and as actually  
22 was the law before the Supreme Court decision of  
23 a few years ago, are there leases out there that  
24 obligate the developer to pay those taxes?

25 MR. D'AMICO: Not to my knowledge.

1                   CHAIRMAN HANNA: All right. Would  
2     you --

3                   MR. D'AMICO: Which was one of the  
4     problems that we have and the Farm Bureau has  
5     with 1373, that very issue, because it's not  
6     just the oil and gas developers who are paying  
7     their taxes; it would be the surface owner, if  
8     it is not severed.

9                   CHAIRMAN HANNA: Okay. Other  
10    questions? Representative Pickett.

11                  REPRESENTATIVE PICKETT: Thank you.

12                  MR. D'AMICO: I thought you might  
13    have a question or two.

14                  REPRESENTATIVE PICKETT: Thank you.  
15    Thank you.

16                  I would just comment that I refer to  
17    it as the gas rush in my district. And I think  
18    within probably the last, oh, if you went back  
19    at least maybe only as far as nine months,  
20    though, every -- the word is put out: put it in  
21    your lease to have the Clean and Green  
22    roll-backs in the lease. So I think you are  
23    going to find a huge number of those leases have  
24    the roll-backs going to the gas company.

25                  MR. D'AMICO: Yeah, I am sure, in the

1 future, that will be followed.

2 REPRESENTATIVE PICKETT: Well, I  
3 think it's here now. I think if you start  
4 looking at it, yeah.

5 MR. D'AMICO: Well, yeah. But. The  
6 service. It might be that we are taking a  
7 little bit of last year and half of it  
8 (phonetic).

9 REPRESENTATIVE PICKETT: Absolutely.  
10 Absolutely. Just one of your comments. And if  
11 the reassessment is made and the Clean and Green  
12 status is changed that the landowner would not  
13 have any incentive to continue to hold the  
14 property in that state of use, they can  
15 roll-back in the remainder of the land. The  
16 only thing that remains out of Clean and Green  
17 is the determined acreage that is involved with  
18 the well area so they certainly have incentive  
19 because they can put it back into Clean and  
20 Green right after that.

21 MR. D'AMICO: If -- if they --

22 REPRESENTATIVE PICKETT: In fact,  
23 some counties are allowing them to just -- They  
24 aren't even making them reapply; they are just  
25 putting it back in.



1 MR. D'AMICO: Um-hum. Well, I have  
2 also heard today, people say that it was  
3 specific that they were taking the entire tract  
4 and -- and the oil --

5 REPRESENTATIVE PICKETT: The entire  
6 tract comes out.

7 MR. D'AMICO: Yeah.

8 REPRESENTATIVE PICKETT: The only  
9 part that remains out of Clean and Green is the  
10 part that is determined to be the well site. So  
11 if you have two hundred acres and your well site  
12 is five acres, it would be one ninety-five can  
13 be immediately rolled-back into Clean and Green  
14 and retain that preferential treatment.

15 MR. D'AMICO: If that is possible.

16 REPRESENTATIVE PICKETT: Yeah. Well,  
17 it is possible.

18 MR. D'AMICO: And that's one of the  
19 issues, too, that was brought up. Five acres is  
20 probably a large size operation in the initial  
21 drilling phases where you are drilling the well  
22 and you have a pad and the site is leveled.

23 The reality is that you are not  
24 looking at five acres for the full life of that  
25 well. Once the well is drilled and completed,

1 it's restored. For the most part, it's restored  
2 to grade and you are really then looking at just  
3 a wellhead and production facility so you are  
4 looking at really a facility that's not much  
5 bigger than your living room and family room  
6 together.

7 REPRESENTATIVE PICKETT: Understood.  
8 That's a discussion. Perhaps we need to  
9 standardize that, such as we did the base acre.  
10 Everybody doesn't have their home on an acre,  
11 but it is an acre that is considered.

12 MR. D'AMICO: Right.

13 REPRESENTATIVE PICKETT: Could you  
14 just explain one thing for me, this is one thing  
15 I don't know. When we are talking about the  
16 lateral drilling --

17 MR. D'AMICO: Um-hum.

18 REPRESENTATIVE PICKETT: -- from the  
19 well site, lateral drilling, and there are  
20 several landowners that have come together to  
21 bargain their lease situations; they all have  
22 individual leases, though, right, per their  
23 ownership about those properties?

24 MR. D'AMICO: Well, they have  
25 individual leases. But what happens in the case

1 where you would have horizontal drilling is the  
2 properties are actually unitized together so  
3 that the -- You know, it's -- There's --  
4 They're --

5           Virtually every lease that I have  
6 seen in Pennsylvania has a unitization clause.  
7 It's a voluntary unitization clause that allows  
8 the leases for adjacent property owners to put  
9 together to equally share in the production of a  
10 well. I say equally, that's -- actually that's  
11 a misstatement. It's a proportional share based  
12 on their acreage.

13           REPRESENTATIVE PICKETT: That's part  
14 of my question. They -- If they each have a  
15 lease with about a twelve-and-a-half percent  
16 royalty in it, they don't -- How does that work  
17 out? How do they get to that?

18           MR. D'AMICO: It's twelve and a  
19 half -- It's not only the twelve-and-a-half  
20 percent. If you have -- If I have a hundred  
21 acres, you would have fifty acres, somebody else  
22 has fifty acres; two people with fifty acres  
23 would share basically a half of the royalty from  
24 that property, the one with the hundred acres  
25 would get the other half, so it is proportional

1 on the acreage rather than the unit.

2 REPRESENTATIVE PICKETT: Okay. So  
3 then would it be fair to do something like that  
4 with the Clean and Green? I am just wondering.  
5 I am not asking you to answer that.

6 But I am thinking, you know, only the  
7 guy with the well on his property is paying the  
8 roll-back, maybe it has to be shared within that  
9 land unit if that's the way it's signed up. I  
10 am just throwing that out for thought. I  
11 haven't really gone any further in my head than  
12 that.

13 MR. D'AMICO: I think that's an issue  
14 for the --

15 REPRESENTATIVE PICKETT: Clause.

16 MR. D'AMICO: -- agricultural  
17 community.

18 REPRESENTATIVE PICKETT: Thank you,  
19 sir. Thank you, Mr. Chairman.

20 CHAIRMAN HANNA: All right. I am  
21 looking for other questions or comments.

22 (No response.)

23 CHAIRMAN HANNA: We thank you -- Oh,  
24 I am sorry. I forgot Chairman Hershey. I  
25 apologize.

1                   REPRESENTATIVE HERSHEY: Thank you,  
2 Mr. D'Amico. This isn't a tax question. This  
3 is a drilling question. I hunt in the county  
4 where Tina Pickett represents. We have some  
5 hunting clubs. Some have eight acres, twelve  
6 acres, twenty acres, one brother has ninety  
7 acres and another has four hundred acres.

8                   Now, this drill, where I know they  
9 are not going to put a well on five or eight  
10 acres but a lot of us have signed up, what is  
11 the average section where you would benefit on a  
12 percent of the gas? And I read, in one, that it  
13 was a square mile from the wellhead.

14                  MR. D'AMICO: Well, I think the units  
15 will vary, and we are really early in the game  
16 for the Marcellus to say what the final -- the  
17 spacing is going to be.

18                  I know one of the things that I was  
19 told that -- In the Barnett Shale down in Texas,  
20 they originally have spacing at two thousand  
21 feet, thinking that that would adequately drain.  
22 Well, they ended up, you know, moving from two  
23 thousand to one thousand to five hundred feet  
24 and finding the formation still wasn't  
25 completely being drained effectively. So I

1 think it's a little early to tell that.

2 I would think, in most cases, the --  
3 depending on what the unit sizes are, and I  
4 think six hundred and forty is very common, my  
5 guess is that the companies will, you know, and  
6 as much as possible, try to adhere to a -- as  
7 large the unit that they can do because there  
8 will be multiple wells probably on these units  
9 as they decide what its actual spacing should  
10 be. And the best way and fairest way for  
11 everybody to participate is to do it, you know,  
12 that way.

13 REPRESENTATIVE HERSHEY: Thank you.

14 CHAIRMAN HANNA: All right. Now, I  
15 think that wraps it up, and we appreciate your  
16 testimony.

17 Any closing comments other than my  
18 own?

19 (No response.)

20 CHAIRMAN HANNA: All right. With  
21 that, let me just remind members, once again,  
22 that we do have further hearings this summer.  
23 The August 19th, 20th and 21st is Ag Progress  
24 Days, and we will be meeting on the 20th, and we  
25 will be informally meeting on the 19th in State

1 College.

2 In addition, we have our visit to a  
3 deer farm on September 10th.

4 And let me also take this opportunity  
5 to thank all of the members who attended today.  
6 My rough count was that we had over twenty  
7 members here, which is an excellent turnout on a  
8 non-Session day.

9 And I certainly appreciate all of the  
10 members coming out for this hearing. And I  
11 think it probably reflects well on the subject  
12 matter, and those who testified, how important  
13 that all of this is to all of us. So we want to  
14 thank the presenters as well for the testimony  
15 and the information that they shared with us as  
16 we try and address Clean and Green. So again we  
17 want --

18 REPRESENTATIVE KELLER: Mr. Chairman.

19 CHAIRMAN HANNA: Yes, Representative  
20 Keller.

21 REPRESENTATIVE KELLER: Our August  
22 meeting, can you share with me what the content  
23 of the hearing may be?

24 CHAIRMAN HANNA: No, I don't know.

25 REPRESENTATIVE KELLER: Okay. I am

1       sorry.

2                   CHAIRMAN HANNA:  We are in  
3       discussions with Penn State, and we haven't  
4       fully agreed as to -- If I knew, I would share  
5       it with you --

6                   REPRESENTATIVE KELLER:  Thank you.

7                   CHAIRMAN HANNA:  -- but I am not  
8       prepared, just yet, to tell you that.

9                   REPRESENTATIVE KELLER:  Okay.  Thank  
10       you very much.

11                  CHAIRMAN HANNA:  Any other questions  
12       that I can't answer?  Any other any other  
13       questions I can answer?  Chairman Hershey  
14       suggested auctioneering issues, so then we can  
15       put you in --

16                  REPRESENTATIVE KELLER:  I can talk to  
17       you about that.

18                  CHAIRMAN HANNA:  And either that or  
19       dog law.  All right, on that note, we will  
20       adjourn this meeting.  We thank you all for your  
21       participation.

22                  (AT or about 3:05 p.m., the hearing  
23       was adjourned.)

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C E R T I F I C A T E

I, Roxy C. Cressler, Reporter, Notary Public, duly commissioned and qualified in and for the County of York, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript of my stenotype notes taken by me and subsequently reduced to computer printout under my supervision, and that this copy is a correct record of the same.

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