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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
INTERGOVERNMENTAL AFFAIRS COMMITTEE

IRVIS OFFICE BUILDING
ROOM G-50
HARRISBURG, PENNSYLVANIA

MONDAY, MARCH 9, 2009
10:08 A.M.

BEFORE:

- HONORABLE W. CURTIS THOMAS, MAJORITY CHAIRMAN
- HONORABLE MATTHEW D. BRADFORD
- HONORABLE H. SCOTT CONKLIN
- HONORABLE DANIEL J. DEASY
- HONORABLE DAVID R. KESSLER
- HONORABLE KATHY MANDERINO
- HONORABLE JOSEPH F. MARKOSEK
- HONORABLE TONY J. PAYTON, JR.
- HONORABLE JAMES R. ROEBUCK, JR.
- HONORABLE CHRIS ROSS, MINORITY CHAIRMAN
- HONORABLE JIM CHRISTIANA
- HONORABLE FRANK A. FARRY
- HONORABLE MATT GABLER
- HONORABLE KEITH GILLESPIE
- HONORABLE SETH M. GROVE
- HONORABLE TIM KRIEGER
- HONORABLE DUANE MILNE
- HONORABLE DONNA OBERLANDER
- HONORABLE WILL TALLMAN

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ALSO PRESENT:

HONORABLE BABETTE JOSEPHS
DAVE CALLEN, REP. DALEY'S CHIEF OF STAFF
PATRICIA A. CUSTIS, EXECUTIVE DIRECTOR (D)
SEITU STEPHENS, RESEARCH ANALYST (D)
VALERIE WHITNEY, SECRETARY TO REP. THOMAS
JOYCE FRIGM, RESEARCH ANALYST (R)

BRENDA J. PARDUN, RPR
REPORTER - NOTARY PUBLIC

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P R O C E E D I N G S

1
2 CHAIRMAN THOMAS: I'm going to say
3 good morning to everyone.

4 It's Monday. We can do better than
5 that. Good morning.

6 AUDIENCE: Good morning.

7 CHAIRMAN THOMAS: My name is W.
8 Curtis Thomas. I'm the majority chairman of
9 the House Intergovernmental Affairs
10 Committee.

11 I'd like to thank Representative
12 Ross, who is the minority chairman of the
13 Intergovernmental Affairs Committee, and I'd
14 like to thank all of the members here this
15 morning. I notice some people are here
16 representing members, and I'd like to ask them
17 to come forward if they're here on behalf of a
18 member.

19 We are not going to take roll. We're
20 going to go on and get started.

21 The purpose of this hearing today is
22 to look at this Economic Recovery Act that
23 Pennsylvania and all other states will
24 hopefully benefit from and allow the
25 commonwealth of Pennsylvania to make sure that

1 the pain is not as bad as it was anticipated
2 at the beginning of this economic crisis. And
3 we know that we're somewhat thankful that we
4 have not had the mortgage foreclosures and
5 some of the other issues that many other
6 states have been dealing with.

7 Unemployment is too high. We have
8 people all across Pennsylvania that have been
9 laid off, need to be retrained. We have an
10 educational system that needs as much
11 intervention and support as possible. So
12 economic recovery and assistance from the
13 federal government is a big thing to
14 Pennsylvania, because we know that if we don't
15 make the right decisions this year, then we
16 will look back in later years and be upset
17 because we missed this opportunity.

18 So I want -- unless Representative
19 Ross has some comments, I'd like to begin to
20 go right into our agenda for this morning.

21 Representative Ross.

22 REPRESENTATIVE ROSS: Thank you,
23 Mr. Chairman. And I want to thank you for
24 scheduling this meeting. I think it was
25 really a critical and timely effort on your

1 part to do that.

2 The American Recovery and
3 Reinvestment Act of 2009, as it's known, is
4 very long, very complex. It has a number of
5 interesting and confusing features associated
6 with it. And in order for us to make the best
7 possible decisions, we first have to get good
8 information about the elements within this
9 complicated piece of legislation so that we
10 can make sure that we take proper advantage of
11 it here in Pennsylvania and understand the
12 implications of all the actions that we're
13 going to need to take in order to implement
14 it.

15 And I have had a chance to hear the
16 Council of State Governments' program already,
17 and I think you'll find that very informative,
18 and I'm also very much looking forward to
19 hearing from National Conference of State
20 Legislatures as well as our school board in
21 the school admission and also borough
22 testifiers today.

23 So with out any further ado, I'd be
24 happy to turn it back over to you, and thank
25 you again for scheduling this.

1 CHAIRMAN THOMAS: Thank you,
2 Representative Ross. Also want to extend
3 personal thanks and appreciation to our
4 subcommittee chairs, who really took the lead
5 in making sure that we had this public hearing
6 as soon as possible.

7 So to that end, I was looking around
8 for Representative Bryan Lentz, who's the
9 subcommittee chair of our subcommittee on
10 federal-state relations. I do not see him,
11 but I do see Representative Duane Milne, who
12 is the sub minority chair of the subcommittee
13 on federal-state relations, and I'd just like
14 to ask Representative Milne if he has any
15 comments.

16 REPRESENTATIVE MILNE: Thank you,
17 Mr. Chairman.

18 I too would commend Representative
19 Lentz for his leadership in helping arrange
20 this forum this morning. I think all of us
21 are really looking forward to taking in the
22 testimony. The idea of the stimulus package
23 has really quickly entered the vernacular of
24 American society, so I think most of the
25 public, as well as us, is very anxious to get

1 a better understanding of what specifically is
2 in the stimulus package and how it may or may
3 not affect what we want to do here in
4 Pennsylvania.

5 So I do anticipate the very
6 informative session this morning, and I do
7 look forward to hearing from our testifiers.

8 Thank you, Mr. Chairman.

9 CHAIRMAN THOMAS: Thank you.

10 And at this particular time, we're
11 going to start out with Mr. Chris Whatley,
12 Washington director from the Council of State
13 Governments.

14 Good morning, Mr. Whatley.

15 MR. WHATLEY: Thank you,
16 Mr. Chairman.

17 Thank you, Chairman Thomas, Chairman
18 Ross, for the opportunity to be here, and all
19 the committee members. Basically, my task
20 here today is in broad brush to try to take
21 what is eleven hundred pages of turgid
22 legislation that is poorly understood in the
23 halls of Washington much less in state
24 capitols, and try to narrow that down to
25 something that is approachable,

1 understandable, and hopefully actionable
2 within the legislative context.

3 And to do that, I just want to touch
4 a little bit upon the history that brought us
5 here, give some specific examples of what this
6 means for states, but more in concrete terms
7 what it means for Pennsylvania. And then also
8 touch upon some legislative priorities that --
9 that this committee and other committees
10 around the country need to keep in mind as we
11 go forward in implementing this, but I do
12 think that this committee is -- has been out
13 front in taking this on as a topic. You've
14 already established Pennsylvania as a leader
15 in trying to wrap your heads around the
16 Recovery Act; I commend you for that.

17 But in terms of how we got here, if
18 we think back to September when Lehman
19 Brothers was falling and everyone was
20 wondering whether the ATMs machines were going
21 to dispense cash, it was about that time that
22 Speaker Pelosi came forward, at least
23 publicly, with her proposal that she shared
24 with the state community and the local
25 community on the need for a stimulus package.

1 And at that time it was a fifty billion
2 dollar, eye-popping number that seemed
3 politically unfeasible.

4 A fifty billion dollar package that
5 included twenty billion for transportation
6 funding, about fifteen billion for Medicaid,
7 and a host of other social services, but
8 basically that bill spun off as the economy
9 spun down, and we were soon talking about a
10 hundred fifty billion, three hundred billion.
11 The election gets there and we're talking
12 about six hundred billion. And by the time
13 the inauguration rolls around, the Obama
14 administration talks in terms of a seven
15 hundred and fifty billion dollar package.

16 But really we didn't have any -- much
17 more detail on the proposal other than what we
18 were -- we were discussing back in September.
19 So when the final bill or the house version
20 dropped, I should say, seven, eight weeks ago,
21 we were all surprised to find the content.

22 The discussion in that intervening
23 period was really about transportation. It
24 was about shovel-ready projects and paving
25 over America and putting people back to work.

1 But ultimately, transportation turned out to
2 be about 5 percent of this total eight hundred
3 billion dollar bill.

4 So what we have here is a very
5 complicated, huge piece of legislation that
6 involves everything from fiscal relief for the
7 state, something very important to us in the
8 state community, a lot of transportation
9 funding and other stimulus-generating
10 activities that is still there, a lot of other
11 pure federal spending, weatherizing state --
12 or weatherizing federal buildings and doing IT
13 improvements at the US State Department, other
14 things that might be good policy but won't
15 necessarily have a trickle out effect beyond
16 the Washington metro region, and then, of
17 course, a huge tax title, which if you take
18 that off the top, you're really talking about
19 a five hundred billion dollar bill instead of
20 an eight hundred billion dollar bill if you
21 round up to the nearest one hundred billion.

22 But what does it mean specifically
23 for the states? We partnered with Latham
24 Watkins, a major law firm in Washington and
25 all over this country, to do kind of a

1 comprehensive analysis to vacuum the bill and
2 look for opportunity for states in terms of
3 their own budgets.

4 And the number they came up with was
5 basically about three hundred billion dollars,
6 give or take ten billion dollars, of state-
7 related funding, either directly to states or
8 to state-related entities like state
9 university systems.

10 And of that, Pennsylvania's specific
11 share, if you just take the fiscal relief
12 flexible elements of the funding and the
13 formula funding, if you just take those two
14 elements, the number that gets thrown around
15 is around 9.5 billion, with four billion of
16 that coming in flexible fiscal relief, the
17 Medicaid money that's already started flowing
18 in, and then the flexible component, the
19 general purpose component of the state
20 stabilization fund, which is a confusing title
21 within this bill. It's really a big, huge
22 fund of education money for the states. But
23 within it, 18.2 percent, a total of eight
24 point eight billion for all fifty states was
25 specifically dedicated for general purpose use

1 in the states. It can be used to displace
2 your own state tax dollars.

3 And as of Friday, we're starting to
4 get a sense of how that money is going to
5 flow. We already saw the money flowing into
6 the states on the Medicaid side, so it's easy
7 for folks to figure out how that's going to
8 affect your budget cycles. The state
9 stabilization funds, which is about 10 percent
10 or so of the amount of physical relief that
11 you'll get under the Recovery Act, was a much
12 more difficult piece to understand.

13 We're starting to see how that's
14 going to flow. By the end of the month, the
15 first tranche of funding is going to flow out
16 of the stabilization fund, about 67 percent of
17 the total, which for Pennsylvania would add up
18 to about two hundred and ten million dollars
19 in terms of your first hit on the general
20 purpose side of the state stabilization fund.

21 So that gives you that sense of how
22 and when you might get the four billion
23 dollars in money that can supplant your own
24 tax dollars. But the bigger share that you're
25 going to get that you can actually wrap your

1 head around right now is the money that will
2 supplement it. And that's five point five
3 billion flowing through traditional formula
4 grant -- formula-funded program dating back to
5 the Eisenhower administration on
6 transportation, and all the great society
7 programs of the Johnson administration.

8 So these are things that you have
9 existing statutes, that show how the formulas
10 are going to work, that you can easily wrap
11 your head around.

12 On that side, we -- once again, we're
13 starting to get a sense finally, really over
14 the last week, in how this is going to flow
15 out. Transportation allocations started being
16 announced broadly last Tuesday. On Friday, we
17 got announcements out of the Department of
18 Education on how the education component of
19 that confusingly called stabilization fund
20 will flow out to the states.

21 And on that side we're anticipating
22 that your first -- it's installment, your
23 first -- the 67 percent first payment that
24 you'll be eligible for by the end of the month
25 would be about nine hundred and thirty million

1 in education spending.

2 And I also have to make a mea culpa
3 at this moment. We've been updating
4 information on how this affects Pennsylvania
5 this weekend based on the announcement that
6 came out from the Department of Education.
7 You have some information in front of you
8 which I've had to correct the formulas on, so
9 the numbers are little bit different in what
10 I'm giving you now, and I will give you a
11 corrected version thereof.

12 And also, I have to make another
13 apology, and that's just, the last state I
14 spoke to on Friday was Mississippi, and you
15 might find a reference to the state of
16 Mississippi in the summary that you get. All
17 the numbers are Pennsylvania specific, and I'm
18 delighted to be in Harrisburg. So thank you
19 very much for that.

20 CHAIRMAN THOMAS: Glad to you have
21 you here.

22 MR. WHATLEY: Thank you,
23 Mr. Chairman.

24 But that gives you a sense of the
25 easily -- of the easier elements of the huge,

1 complicated piece of legislation, the easier
2 elements to wrap your head around. You know,
3 nine point five billion for the state of
4 Mississippi, four billion to supplant your tax
5 dollars, five point five billion to give you
6 added support, you know, the helping hand
7 programs.

8 The bigger challenge, I think, on the
9 executive side, and for legislatures as well,
10 is wrapping your head around the competitive
11 grant cycles. We estimate that there are over
12 a hundred billion dollars in competitive grant
13 cycle opportunities in the Recovery Act. And
14 that number is changing all the time, because
15 just getting the guidance in the Department of
16 Education, we can see that even elements that
17 we thought would be purely formula-funded are
18 going to have a competitive grant element to
19 them.

20 The competitive grant cycles are
21 marbled throughout thirty-six separate
22 accounts plus in this bill, and as a result,
23 for a state to maximize the total amount of
24 funding that you're going to get to do things
25 that you view as critically important to your

1 citizens in this dire economic situation, your
2 agencies are going to have to be
3 entrepreneurial.

4 States are already starting to set up
5 structures, kind of advisory board structures
6 where you have interagency representation from
7 across the state to get together and think
8 about what type of grant opportunities, be
9 they in work force development, in energy
10 efficiency and elsewhere, where the state can
11 find those opportunities and to come together
12 with a collective strategy on how to take
13 advantage of these grant cycles.

14 And one of the most important dates
15 in this many -- in the long list of dates and
16 deadlines attached to the Recovery Act is, as
17 of March 19th, the agencies are supposed to
18 have their grant guidelines up on
19 www.grants.gov (sic). Department of Justice, a
20 few other agencies have already started
21 putting their information up there.

22 We at CSG are tracking all of that.
23 We've got a grant section of our
24 staterecovery.org website in which we're
25 tracking those as they end up on the federal

1 agency sites.

2 But to get your full share is going
3 to require an aggressive approach by your
4 executive agencies who are charged with going
5 out getting these funds under competitive
6 grant cycles, and you won't know ultimately
7 what you're going to get until those agencies
8 pursue those strategies.

9 You can wrap your head around the
10 fiscal relief. You can wrap your head around
11 the formula funding. But getting the full
12 measure of benefit under the bill is going to
13 require complex interagency structures and
14 great legislative oversight on them.

15 I will say, just in terms of some
16 funding categories which are both formula and
17 competitive grant but have been subjects of
18 controversy in a lot of the state capitals
19 that I've visited over the last five days or
20 so, on the unemployment insurance side,
21 certainly this is the one element that lots of
22 states are wrestling with. Do they take
23 unemployment modernization funds? Because
24 there is something called the Unemployment
25 Modernization Act that was started by Senator

1 Kennedy back in 2007, and it was really
2 stapled to this bill like other pieces of
3 domestic legislation were ultimately stapled
4 onto this big Recovery Act to create the
5 multifaceted piece of legislation that we
6 have.

7 For Pennsylvania, if you were to
8 abide by the requirements of Unemployment
9 Modernization, if were you in essence to
10 ensure that your state unemployment laws are
11 favorable to part-time workers through your
12 qualification and disqualification standards,
13 you would be eligible to receive a -- through
14 formula, about two hundred ninety-one million
15 dollars.

16 The other side that I think is
17 particularly germane to Pennsylvania, given
18 the discussion you have in your legislature,
19 is the State Energy Program. Under the State
20 Energy Program, states who make a couple of
21 certifications can potentially receive, by
22 formula, extra money to promote energy
23 efficiency. For Pennsylvania, that would be a
24 hundred and twenty-five million dollars.

25 And as the legislation was originally

1 making its way through the house and senate,
2 it looked like you would have to have concrete
3 legislation on the ground decoupling your
4 utility rate system, basically making it so
5 that your public utilities didn't earn more
6 money for selling more megawattage hours. Now
7 it looks like you just have to have a
8 certification in that direction.

9 It's still unclear. We're awaiting
10 guidance from the Department of Education --
11 from the Department of Energy, excuse me. But
12 the bottom line is, that if the state makes a
13 commitment to adopting a rate structure that
14 encourages energy efficiency and makes a
15 commitment both on a state and local level to
16 adopting energy efficient building codes, that
17 you're eligible for these funds.

18 Now, we got to get that final
19 guidance, but other states are already
20 starting to act. The state of West Virginia
21 has already sent its certification. The
22 governor sent in a certification letter on
23 this State Energy Program in the last week.

24 The state of Colorado hasn't done
25 their certification yet, but they've already

1 announced on their recovery site what they're
2 going to do with the money once they get it.
3 They're going to be doing a capital fund to
4 help people fund their own energy efficiency
5 improvements. They're going to have some
6 services to do energy audits for business and
7 for residences, and they're going to do a big
8 public outreach campaign around it.

9 So people are moving forward on the
10 assumption that they're going to get these
11 funds on the basic -- on the basis of
12 certifications offered.

13 With that, I'll just close with some
14 legislative priorities going forward. On all
15 of these funds, the first step is to ask. And
16 the entire bill is a dialogue between
17 Washington and the governors. You know, it
18 was created out of the tension that exists
19 between the executive and legislative arm in
20 Washington, but they assume that same tension
21 doesn't happen in state capitals. But
22 ultimately, accessing the funds depends on
23 your governor submitting certifications.

24 I'm sure that the basic certification
25 has either been made or is en route. As of

1 the end of last week, it wasn't up on
2 recovery.gov, but the first step is your
3 governor just simply has to make a
4 certification saying: We want Recovery Act
5 funds, and we want -- and we're going to use
6 those for -- to create and retain jobs and
7 support economic recovery.

8 But beyond that, every single one of
9 these titles require a separate certification
10 document, all of them tied to statutory
11 requirements and guidelines that come out of
12 the agencies. So in terms of legislative
13 oversight, riding herd, making sure
14 certifications are offered and they're offered
15 on a timely basis linked to the statutory
16 deadlines in the bill, is a huge priority for
17 states.

18 The second one is just because this
19 whole Recovery Act was a dialogue between DC
20 and governors, just that, there is potential
21 tension in dozens of states between the
22 requirements of the Recovery Act and their own
23 state constitution.

24 The majority of states require
25 funding like this to flow through legislative

1 appropriations. In states even where it isn't
2 spoken to in the state constitution, often
3 case law requires a similar legislative
4 involvement in appropriation. But the
5 Recovery Act itself simply puts the authority
6 in terms of allocating funds in the hands of
7 the governor.

8 And they're also under a very, very
9 tight time line to get money out, so even in
10 the best of circumstances, they would have --
11 they would have tremendous incentives to begin
12 allocation, even without legislative
13 involvement. But in this case, because
14 there's potential tensions with constitutions
15 and case law, if the states themselves don't
16 wrap their head around the issue of
17 legislative involvement in the allocation of
18 funds, you can find a lot of states locked up
19 in litigation after the fact.

20 So we are looking at lots of
21 different models of how states are doing that,
22 through executive order in the case of Maine
23 and Idaho; through legislation, it looks like,
24 in the case of Missouri. We have all these
25 different models available for review.

1 And a final thing is just as you go
2 forward, there are going to be a tremendous
3 number of reporting deadlines which will also
4 require legislative oversight, and my
5 colleague from NCSL, I believe, is going to be
6 addressing a lot of the transparency and
7 accountability elements in the Recovery Act.
8 All of these are elements that are going to
9 require strict legislative oversight, and your
10 committee is in a great position to offer
11 that.

12 Thank you very much.

13 CHAIRMAN THOMAS: Thank you. Let's
14 give him a big hand.

15 Now, let me ask the members, would
16 you like to hold questions until we have heard
17 from all of our presenters, or do you want to
18 ask questions as we go along?

19 Please, don't everyone speak at once.

20 REPRESENTATIVE ROSS: I think asking
21 questions as we go through this would be
22 easier.

23 CHAIRMAN THOMAS: Okay. All right.
24 Is that the general feeling?

25 All right. We're now ready for

1 questions, and I will start with
2 Representative Josephs.

3 REPRESENTATIVE JOSEPHS:

4 Mr. Chairman, thank you for letting me to sit
5 here to begin with, and, second, for having --
6 for having this hearing. Very important and
7 huge amount of information here.

8 I've been thinking some, and some of
9 the advocates from Philadelphia have been
10 talking about using some of this money for --
11 that goes to TANF families or goes to people
12 in poverty who are defined as they are in, I
13 don't know, our law, state law, to paid work
14 programs. And I'm very interested in seeing
15 that happen.

16 If we can put a great deal of money
17 into the Pennsylvania work -- I think it's
18 PWE, work experience programs, can you explain
19 to folks how we might end up reducing cash
20 grants in that same transaction? Our
21 advocates think that we can and still give
22 people a very good work experience, which is,
23 I think, what we all want to do.

24 MR. WHATLEY: I wish I could -- I'm
25 going to have to get back to you with a

1 specific response. We -- on the TANF side, I
2 believe it's twelve billion and change in
3 total money in the Recovery Act. I have not
4 seen the final guidance come out of agencies
5 on the money for it. So I can certainly get
6 into the statutory guideline and give you a
7 final response on the match there and what
8 your maintenance of effort would be, but
9 unlike the education side, which as of Friday
10 we're starting to get a real sense of what --
11 of what states can and can't do with their
12 Title I money and their idea, special
13 education money.

14 On the TANF side, I'm still fuzzy. I
15 can get back to the agency and see if we can
16 get a sense of when -- when guidelines will be
17 out and get back to you on that.

18 REPRESENTATIVE JOSEPHS: If you would
19 forward whatever you have to the chair of the
20 committee, it's usually our custom that he
21 will then let us all have that piece of
22 information.

23 Is that right, Mr. Chairman?

24 CHAIRMAN THOMAS: That's correct.

25 REPRESENTATIVE JOSEPHS: Thank you.

1 CHAIRMAN THOMAS: Thank you.

2 Representative Kessler.

3 REPRESENTATIVE KESSLER: Thank you.

4 Thank you for educating us on this.

5 Thank you for being here.

6 In your flier it says here

7 Pennsylvania could also receive almost a
8 hundred twenty-five million in energy
9 efficient grants if they adopt the utility
10 rate system. Could you define "utility rate
11 system"? And also it says standards and
12 building codes.

13 MR. WHATLEY: Um-hum.

14 REPRESENTATIVE KESSLER: I'm assuming
15 that's a state-wide building code. Do you
16 have models of building codes? Because that
17 could take some time to change building codes
18 for the whole state.

19 MR. WHATLEY: I think at this point
20 in the game, since we're still awaiting
21 guidance from the Department of Energy, the
22 example that Governor Manchin in West Virginia
23 has offered is very instructive, in that it is
24 in the state's interest to -- if there is any
25 general -- general interest in pursuing this,

1 and for Pennsylvania, where there's already
2 legislation that's potentially in the works
3 and a great deal of public interest in the
4 subject, West Virginia's example is probably a
5 good one.

6 Governor Manchin's simply says: We
7 will adopt a utility rate structure that
8 promotes energy efficiency, point one. Point
9 two, in his case it's the fire board, state
10 fire board, that deals with energy codes, the
11 state fire board will -- that deals with
12 building codes. The state fire board will
13 look at energy efficiency standards in the
14 building code.

15 So nothing's been enacted. There
16 isn't a commitment to a specific course of
17 action, there's just an acknowledgement that
18 the state will -- will pursue these efforts.
19 And right now, I think that's a no-risk
20 strategy.

21 You know, ultimately, the Department
22 of Energy may come back with a far more
23 prescriptive definition, but for now, that
24 seems to meet the statutory requirement to
25 certify, and, therefore, at least keep you in

1 the game.

2 And certainly with all of these kind
3 of -- these funds where you ultimately have to
4 certify an action on the state's behalf,
5 whether it's unemployment insurance or whether
6 it's the state energy side, there's going to
7 be reapportionment for the states who don't
8 take advantage of it. You know what you'll
9 get under the formula. Not everyone's going
10 to take advantage of these funds, and
11 ultimately those who do will potentially
12 receive more funding after the fact.

13 REPRESENTATIVE KESSLER: Do you have
14 any examples of some type of building codes
15 that we could -- Local Government Committee
16 could take a look at to try to institute to
17 get some of these moneys?

18 MR. WHATLEY: I can -- I can get
19 examples for you and share them. On the --
20 and I apologize for the roundabout answer on
21 the question. So certainly we will commit to
22 get you information on building codes that
23 would be broadly compliant at least in the
24 spirit of the statute.

25 And then on the utility rate

1 structure, there is a lot of existing
2 legislation that can be pointed to. New
3 Jersey has a decoupling law. There's a number
4 that we can point to specifically as you
5 pursue those.

6 But so we'll give that you specific
7 information, and then, in the interim, is
8 certify, if you're interested. Because you
9 haven't made a specific commitment on the
10 course of action.

11 CHAIRMAN THOMAS: Thank you.

12 Representative Christiana.

13 REPRESENTATIVE CHRISTIANA: Thank
14 you.

15 My question is in regards to the
16 fiscal stabilization funds. There's some
17 requirements here, and my question is
18 pertaining to the fifth requirement. It
19 says: Support struggling schools. It seems
20 very ambiguous. What does that specifically
21 mean and are there specific things in place
22 for -- to achieve that?

23 MR. WHATLEY: We've got some added
24 specificity on the stabilization fund as of
25 Friday. And basically they've kind of taken

1 those five certification requirements and they
2 still stand, but then there is a four-part
3 specific clarification on it. And some of it
4 echoes what's already -- those five
5 certifications. That -- basically there needs
6 to be a commitment to robust, college-ready,
7 career-ready education systems that have
8 strong assessment elements attached to them.
9 That you have to have a data system that
10 tracks from preschool all the way to college,
11 so when they talk about longitudinal data
12 systems, they're just saying that -- that you
13 look at the outcomes over the life cycle of
14 education throughout the education system.
15 That you have to have -- a commitment to -- to
16 teacher performance and equitable distribution
17 of teachers, and that you also make a
18 commitment to struggling schools.

19 On the struggling schools side, we've
20 got to get even more clarification on this.
21 Certainly we know definitions of what a Title
22 I program is. But that still remains a pretty
23 wide door to walk through.

24 I think the important point is, once
25 again, it's a case of there's such huge

1 pressure to get this money out that
2 certification is going to be the first step
3 for every state. In this case, to get your 67
4 percent of the fiscal stabilization fund, the
5 governor's going to have to certify that those
6 are important commitments.

7 Now, to get the remainder, there's
8 going to be a discussion as to whether you met
9 those certifications and what actions, but in
10 the short term, your governor's just got to
11 write a letter, you know, saying that those
12 are important to the state, and then there is
13 going to be a big discussion as to what they
14 mean.

15 Hopefully, we are going to be able to
16 siege you with new and improved information on
17 exactly what that definition is as we go -- as
18 we go forward.

19 But right now, the funding is flowing
20 out through the existing formulas you have.
21 That is the other part of this first
22 distribution. It's supposed to be used
23 through your existing state/local
24 suballocation formula. So for the most part,
25 they're giving you a big slug of education

1 money and saying: Distribute it out the way
2 that you normally distribute your education
3 spending.

4 How that relates to meeting the
5 special certifications, you know, there's
6 going to be a lot of back-end focus on taking
7 pots of this money and using to it create data
8 systems like that preschool to higher
9 education system, and you can use money under
10 the act to do that. But the impetus right now
11 has been on act quickly, and the certification
12 from the governor seems to be the trigger
13 document right now.

14 CHAIRMAN THOMAS: Thank you.

15 Representative Payton, I know you
16 just came in. Do you have any questions?

17 REPRESENTATIVE PAYTON: No,
18 Mr. Chairman.

19 CHAIRMAN THOMAS: Representative
20 Grove.

21 REPRESENTATIVE GROVE: Thank you,
22 Mr. Chairman.

23 Thank you for coming in and going
24 over this. I have two questions, first one is
25 pretty easy. What grant funding sources do

1 our local municipalities, school districts,
2 county government need to apply for directly?
3 Do you have a list of them, or can you provide
4 the committee a list?

5 MR. WHATLEY: I will. Our specialty
6 certainly is the state side, and we work for
7 you so that needs to be our focus. But the
8 analysis that we asked Latham and Watkins to
9 perform, we wanted them to take a broad brush
10 on it; so I will e-mail you the full analysis
11 on it, but we asked them to look at local
12 funding opportunities as well, especially if
13 there's a state touch in it, and even
14 territorial and tribal issues for states that
15 have a -- have interactions between tribal
16 governments and the state. But I'll provide
17 that to you.

18 REPRESENTATIVE GROVE: That would be
19 great. I know it's a small chunk of money.
20 We have a lot of local municipalities
21 nationwide that are eligible for that. We
22 want to make sure that our local communities
23 have that to go ahead with.

24 Now, this is a two-year funding
25 cycle, so the next two years we're going to

1 see an influx of money. The initial basic
2 subsidy for education that the governor
3 brought out was three hundred million
4 dollars. And I have a copy of this press
5 release here with me where he's now using
6 federal economic stimulus money at four
7 hundred eighteen million for basic subsidy and
8 flexing that three hundred billion -- three
9 hundred million dollars.

10 My fear is long-term. This money is
11 going to run out. And we're going to have a
12 huge budget shortage long term. What are
13 other states looking at in relation to short
14 falls? Have any of the governors come out and
15 said, We're not accepting this? Any negative
16 analysis?

17 MR. WHATLEY: I think the only -- you
18 know, there's certainly been some high profile
19 cases of a governor saying: We're going to
20 turn down a component, Governor Sanford in
21 South Carolina and Governor Jindal in
22 Louisiana. But if you burrow down into it,
23 what they're saying is: We won't take the
24 unemployment insurance modernization money,
25 tiny, little segment within all of this. And

1 even that, it's not clear whether they will
2 ultimately hold to it.

3 In the case of Jackson, Mississippi,
4 where I was, Governor Barbour has said he
5 doesn't want the unemployment modernization.
6 The house has already passed a resolution to
7 request it, even if he doesn't certify for
8 it. So they're using that legislative
9 override that in the case -- that's included
10 in the Recovery Act.

11 I think, in the end, there are going
12 to be very few states who don't request the
13 maximum amounts of funding available to them.
14 In that this is -- this is flawed legislation,
15 certainly. Anyone can -- regardless of what
16 aisle you stand on, if you had the time to
17 read the eleven hundred pages, you'd find a
18 lot of those pages you don't like, but it's
19 public law now. And the money's going to be
20 spent, and states are bleeding, so I think
21 you're going to see, with very, very few
22 exceptions, states going for the majority of
23 funding available to them. And those
24 exceptions that I'm talking right now are just
25 on that unemployment modernization side.

1 But the greater question of how you
2 avoid the fiscal crisis on this, I think most
3 states are balancing their budgets first.
4 They're taking their flexible fiscal money,
5 and they're using that to avoid the crisis in
6 their state budgets.

7 It's the supplemental funding that's
8 kind of scary to wrap your heads around. And,
9 in fact, if you read the Department of
10 Education guidance on Friday, it's clear
11 they're worried about that too. They're
12 talking about avoid the -- the, you know,
13 fiscal cliff of committing to programs that
14 you're only going to have funded for two
15 years, and then come 2011, you're going to
16 fire a bunch of teachers and stuff like that.

17 They give kind of, you know, little
18 bullet points of how you might use this money
19 to not do that. Do you want to do a whole
20 bunch of teacher training for everybody? Do
21 you want to invest in new curriculums and
22 technology?

23 There's a lot money that can be used
24 for school modernization, you know, things
25 that are -- may not be building a school but

1 it's a capital improvement nonetheless. I
2 think that that's going to become a focus
3 particularly on the education side, because so
4 much of this money that really states are
5 going to get is -- is the education
6 components. It's really almost -- if you take
7 the formula stuff, the competitive grant side,
8 all of it together, it's a little less than a
9 hundred billion that's education related. So
10 just getting a sense of how you use that slug
11 of money without creating a huge commitment to
12 new teachers you've hired in who are going to
13 be headed out the door come the end of 2011,
14 is a huge challenge.

15 REPRESENTATIVE GROVE: Thank you.

16 Thank you, Mr. Chairman.

17 CHAIRMAN THOMAS: Thank you.

18 Representative Ross.

19 Representative Milne.

20 REPRESENTATIVE MILNE: Thank you,

21 Mr. Chairman.

22 Two interrelated questions. One, I
23 did actually also want to ask about the
24 modernization and the unemployment program.
25 And I just raise that in the context of our

1 fiduciary interest as a legislature to keep
2 the public as informed as possible about what
3 the bill requires, doesn't require.

4 I do find that is probably the policy
5 area where there's been the most public
6 awareness of a controversy or there may be
7 ongoing contentious dialogue. I was just
8 wondering if you could flush that out a little
9 bit to give everybody kind of a broad-brush
10 understanding of the assertions that are being
11 made, pro and con.

12 MR. WHATLEY: Exactly. I think --
13 and there are very worthy arguments being made
14 on both sides of the issue of this in state
15 capitals. On the one side, you have states
16 who are in horrific circumstances
17 economically, like South Carolina, where this
18 is playing out, one of the highest
19 unemployment rates in the country. So
20 certainly there is this sense of any added
21 dollars of unemployment insurance is going to
22 help.

23 On the other side, the unemployment
24 modernization act, the one that was started by
25 Senator Kennedy and ultimately ended in the

1 Recovery Act, is designed to get states to
2 make permanent changes in state law. That's
3 the whole focus of it.

4 There are seventeen states that
5 already have unemployment insurance laws that
6 would be in compliance with it. And those
7 seventeen states are, you know, almost
8 automatically going to qualify for about two
9 billion dollars in funding, but the act was
10 designed to create a carrot to get as many
11 other states through the door so that part-
12 time workers, in particular, could benefit
13 from unemployment insurance. So it
14 specifically says: You've got to make
15 permanent changes in state law.

16 Now, that was how the legislation was
17 written. Ultimately, it's going to be a
18 certification process, once again, where, you
19 know, the governor's going to write a
20 certification saying, We want this money, and
21 after the fact, at some point, someone's going
22 to say, Did you make the changes in law
23 necessary to meet this?

24 Now, for some states, like
25 Mississippi, where I just came from, and

1 there's an active heated debate between the
2 governor and the legislature, the legislature
3 is trying to move forward without the
4 governor's consent, but there's a discussion
5 as to whether they put a repealer on the
6 change.

7 Well, ultimately, your law's going to
8 be certified by the secretary of labor. And
9 it's pretty clear in the statute that it says
10 "permanent change in state law." Now, if four
11 years from now if the state wants to go back
12 and change its unemployment eligible
13 requirements to go back to a standard that
14 existed before the Recovery Act, I don't see
15 what the federal government can do to keep
16 from you doing that.

17 But if you want to do it right now,
18 you want to get the advantage of -- get the
19 advantages of the Recovery Act, get the money
20 flowing, but you want to be fiscally
21 responsible and not commit yourself to a new,
22 more generous benefit beyond the life of this
23 bill and you decide to do that by putting a
24 repealer into your legislation, I'm guessing
25 you're not going to get certified by the

1 department of labor.

2 REPRESENTATIVE MILNE: Sure.

3 MR. WHATLEY: So it does mean to take
4 the money, you are -- you are making a
5 commitment to something that is going to exist
6 beyond the life of the Recovery Act. And
7 there are very important fiscal responsibility
8 issues tied to that, and there are many
9 legislators who are reluctant to do this
10 because they're very concerned about their
11 state budgets.

12 The bigger question is, can states,
13 after the life of this bill, go back and
14 change? In general, it's hard for the federal
15 government to bind you to that, but, quite
16 frankly, may be difficult politically. Once
17 you put these in place, laws tend to stand.

18 REPRESENTATIVE MILNE: Sure. And in
19 interim, though, I agree with you that the
20 focus on extending coverage to certain
21 categories to part-time workers probably has
22 gotten the most attention. But could you just
23 identify what other sorts of permanent changes
24 could be mandated by this?

25 MR. WHATLEY: It is -- I mean, we're

1 awaiting final guidance, but basically there
2 is a two-part certification. One involves
3 your -- you know, calculating the -- your
4 earnings, your previous period earnings for
5 your qualification standard. And then the
6 other is the elements used to disqualify
7 people who are already receiving unemployment
8 insurance.

9 So it's a two-part, complex standard,
10 which I can give you, and the weighting is
11 one-third for the first certification and
12 two-thirds for the second. But all together,
13 if you take -- the intent of the legislation
14 is designed to do two things: Make it easier
15 for part-time people to access funding; and
16 then also for folks who have left work because
17 of domestic violence at home or an illness in
18 the family, to allow those categories to
19 continue to receive unemployment insurance as
20 well.

21 So, it's a complex weighting in
22 terminology, but ultimately that's the intent
23 of the legislation, is to benefit those two
24 group categories.

25 REPRESENTATIVE MILNE: Thank you very

1 much.

2 Thank you, Mr. Chairman.

3 CHAIRMAN THOMAS: Thank you.

4 Representative Ross.

5 REPRESENTATIVE ROSS: Thank you,
6 Mr. Chairman.

7 And I have a quick comment to follow
8 up on Representative Kessler's questions about
9 the energy requirement and how it plays out in
10 Pennsylvania. This is something I was pretty
11 interested in anyway before this bill came
12 down.

13 And I have had a chance to have a
14 conversation with Public Utilities Commission
15 staff and some of the other staff members that
16 are familiar with this area, and we actually
17 have some legislation in place right now in
18 Pennsylvania as a result of the energy
19 conservation bill that we passed just last
20 session that that language actually appears to
21 block the qualification or certification. So
22 we're going to have to probably take some
23 legislative steps in order to get in a
24 position to potentially qualify for that.

25 So I'm looking into that and talking

1 to the PUC staff and trying to figure out
2 specifically what we're going to need to do in
3 order to address that problem. But I just
4 wanted to bring that up.

5 And, of course, we have green
6 building codes and some other legislation that
7 might help us in the other piece of that.

8 Just a general comment. I've spent
9 as much time as I can over the last month or
10 so, month and a half, trying to understand
11 this whole process. And if some of our
12 colleagues are feeling a little bewildered
13 today, I'm entirely in sympathy with them and
14 share their anxieties in this regard.

15 This is, I think, sort of an
16 unprecedented piece of legislation in terms of
17 how it impacts the states. First of all, the
18 pressure, the speed with which we are supposed
19 to react to it is certainly unprecedented in
20 my experience. The potential constitutional
21 challenges that it presents us in terms of
22 needing to catch up with appropriations to
23 properly stay in line with our state
24 constitution.

25 The idea that the governor can just

1 choose to open up new spending opportunities
2 that we haven't previously legislated for, we
3 may not have in our code at all, certainly
4 raises some very serious questions for us. I
5 know that we've had some conversations at
6 Council of State Government meetings between
7 senate presidents and governors who see this
8 thing slightly differently.

9 And so we're going to have to try to
10 figure out how to mediate our way through that
11 and do it in a very short period of time.

12 And then the third piece is the high
13 scrutiny, unprecedented scrutiny, I'd say, in
14 terms of what is expected in reviewing the
15 expenditures to make sure that we behave well,
16 that we don't distribute inappropriately or
17 with excessive political concern or with an
18 opportunity where some may take advantage of
19 the moneys or even commit fraud.

20 So we have to go very fast. We have
21 some complexity. And then we also are going
22 to be checked carefully after we act very
23 quickly. And so I think those all really
24 create a tremendous amount of challenge for us
25 here.

1 The one thing I did want to
2 highlight, Mr. Chairman, is the website, which
3 I think is going to be absolutely critical in
4 two ways. One, as more clarification comes
5 forward from the Office of Management and
6 Budget, I think, where much of these rules and
7 rulings will come from, those will be posted,
8 and we need to be paying attention to that.

9 And, secondly, reviewing what other
10 states are doing, because basically they're --
11 we're all in the same boat, and as somebody
12 comes with up with a good idea, we are going
13 to have to be able to react quickly, absorb
14 that, decide whether we want a copy of whether
15 it fits for our individual state.

16 And then finally we're going to have
17 to stay closely in touch with the
18 administration, various different departments
19 who have the opportunity to compete for some
20 of these grants that are competitive rather
21 than formula driven. So we are going to be
22 busy, I think, Mr. Chairman.

23 Thank you.

24 CHAIRMAN THOMAS: Thank you,
25 Representative Ross.

1 The one thing that I have to
2 appreciate, and that is that in Pennsylvania,
3 we will rise to the occasion. We are at our
4 best when our backs are against the wall. And
5 so, given the complexities, given some of the
6 obvious challenges, when you put that next to
7 how Pennsylvania can benefit from rural to
8 urban to suburban, I'm ready. And I think as
9 a committee, we're ready. And we're one
10 committee that has both intra- and interstate
11 jurisdiction, so to that end, we can take some
12 steps to make sure that folks do what they're
13 supposed to do and maximize this benefit.

14 And in the interest of time, I have
15 one question. Could you give us a brief
16 overview of the recovery accountability and
17 transparency board and how that is going to
18 impact?

19 MR. WHATLEY: In fact, that's a
20 question I think that is going to be best
21 answered by my colleague from NCSL. We've
22 done some dividing out, and there's been new
23 information on how that is specifically going
24 to flow. This has been one of the biggest
25 challenges for us.

1 I think you're right to note that,
2 Mr. Chairman, as a top priority for you, and
3 Chairman Ross also alluded to the fact that
4 you're under these -- under the gun to spend
5 quickly but ultimately you're going to have
6 GAO auditors parachuting into the state and
7 holding you to account, and then the
8 publicly -- even the public can hold you to
9 account and sue the state after the fact if
10 you don't follow your own state constitution.

11 So I would prefer to defer that to my
12 colleague from NCSL to make sure that you get
13 the best response on that, but I would like to
14 just add that there is no greater priority for
15 the Council of State Governments right now in
16 helping states wrap their head around this.
17 So certainly the website mentioned there,
18 staterecovery.org, we have twelve people who
19 are working full time on ensuring that we know
20 what's going on in all the states in
21 implementing the Recovery Act.

22 And in addition, if there are
23 specific follow-up measures that we can take
24 on behalf of this committee or the state of
25 Pennsylvania, we would be delighted to do so.

1 It's an honor to be here. And this is the
2 biggest thing to hit the states since the New
3 Deal, and we look forward to working with you,
4 wrapping your heads around it.

5 CHAIRMAN THOMAS: Thank you.

6 One last question. I understand that
7 there's a conference on March 12 of CSG.

8 MR. WHATLEY: I wish it was us
9 hosting. It's actually the vice president
10 who's going to host it. That -- yes, there's
11 a -- Vice President Biden and the recovery
12 board are hosting a conference to outline a
13 number of these issues that we've discussed
14 today. So by the end of this week, we're
15 going to have even more information, but it's
16 rolling out on a day-by-day basis.

17 In fact, one of the biggest
18 challenges for this is here is this most
19 complex piece of legislation in the history of
20 Washington parachutes into an administration
21 that is just getting its feet up. The
22 Department of Transportation, when fully
23 staffed, has two hundred political
24 appointees. Right now it has twenty.

25 The same holds true for every single

1 executive agency, and, as a result, most of
2 these decisions are stuck in OMB, the Office
3 of Management and Budget, which is usually
4 just on the perimeter, is doing a lot of the
5 heavy lifting. So we're going to have a
6 better sense, I think, coming out of Thursday,
7 as to some of the rule-making actions we're
8 awaiting.

9 CHAIRMAN THOMAS: Okay.

10 And I notice a couple members have
11 requested some information. Would you send
12 that information to my office? And then we
13 will make sure that individual members get
14 that information.

15 Representative Ross.

16 REPRESENTATIVE ROSS: Yes, just one
17 other thing. For the members here, all the
18 members that are here and staff as well, I did
19 want to mention that the Council of State
20 Governments, particularly the eastern region
21 office -- I believe Chris is going to be there
22 too -- will be at a breakfast meet and greet
23 opportunity tomorrow morning at 7 o'clock,
24 Room 39 East Wing, so if any members want to
25 learn more about the organization or maybe

1 have some other follow-up questions that occur
2 to them in the middle of night, they will be
3 up by then, that will be available to them.
4 And I hope you all will be able to join us
5 there.

6 CHAIRMAN THOMAS: Thank you,
7 Representative Ross.

8 Again, Mr. Whatley, we want to thank
9 you for coming and providing us with some very
10 thought-provoking information.

11 MR. WHATLEY: Thank you, sir.

12 CHAIRMAN THOMAS: Thank you.

13 Next on our agenda, Miss Jane
14 Billings, Swarthmore Borough manager,
15 Swarthmore, Pennsylvania.

16 Good morning.

17 MS. BILLINGS: Good morning. So I
18 wanted to thank you very much for giving me a
19 chance to talk to you today, Chairman Thomas
20 and Ross.

21 This came about -- I was with
22 Representative Bryan Lentz, who unfortunately
23 can't be here, had a family emergency, we were
24 at that traditional thing you've probably all
25 been to, the annual firemen's banquet, the

1 local fire company, and we were talking
2 about -- I was talking incessantly about my
3 idea for a very small portion of the stimulus
4 package, part which we hoped would be bigger,
5 but the transportation portion of the stimulus
6 bill. And he said, Why don't you come and
7 talk about it because there is a meeting
8 coming up in March. So I'm more than glad to
9 have the opportunity to do that.

10 I was at a very quick weekend in
11 California for my parents' eightieth
12 birthday. And I think I could have paid for
13 the trip if I had dollar or two or every time
14 somebody said, When do you think you'll see
15 the money in Swarthmore? When will you see it
16 in Pennsylvania?

17 And when I said, It is a little
18 slow. We don't know exactly when it will
19 happen. You see people are disappointed. I
20 think at this point the average person on the
21 street doesn't really know when they'll see
22 that money. They want to be sure that they
23 know where it's spent. They want to see it.
24 They want to feel it. And you can just get
25 that sense that they just don't know what's

1 going on.

2 So this is a great opportunity to
3 start getting the word out to people, to let
4 them know that you're taking people's opinion
5 and that you're trying to get the money out
6 there as quickly as possible.

7 As most of you probably know,
8 municipal managers are the bottom tiers of
9 local government. I'm sure you've all met
10 your municipal managers. You've probably
11 heard from us many times about the many
12 challenges we face in our jobs, which most of
13 us love, because we do have some constant
14 contact with your constituents and our friends
15 and neighbors.

16 But it is a challenging job. You
17 know what we have to do. You know, we're
18 fixing the streets, picking up trash,
19 enforcing the codes. Those things that make
20 people's lives a little bit better. And as
21 you've probably heard from all of your
22 managers, nothing is more challenging than
23 keeping up with our infrastructure, absolutely
24 nothing.

25 And that's why we were so excited to

1 hear as this stimulus bill was moving along,
2 how much money there would be for
3 infrastructure.

4 In Swarthmore, I spend between forty-
5 two and sixty thousand dollars annually on
6 repaving roads and rebuilding bridges. That's
7 about an eighth of what I spend on health
8 insurance in the borough every year.

9 I have not really increased that
10 number in twenty-two years I've been a
11 municipal manager in Swarthmore. I pave maybe
12 four to six blocks of street a year. That
13 probably means that I'm paving 2 percent of
14 the roadway in Swarthmore.

15 And in the next month, we'll have
16 what all municipal managers call spring paving
17 season, when we start to see those holes open
18 up in the roads after the winter, and I know
19 once again we probably lost four percent of
20 our roads, and we will not have any way to
21 really fix them as much as we'd like.

22 So I, as I said, was tremendously
23 excited about the idea of infrastructure money
24 coming to Pennsylvania, particularly roads.
25 People can see when roads are paved quickly.

1 It's money that is spent that's very visible
2 to everyone.

3 So I had a specific proposal which is
4 one that I was talking to Representative Lentz
5 about for highways and bridges that would
6 allow municipalities to pave more roads and
7 fix more bridges into 2009. It was a very,
8 very simple plan. And I'd like to say it is a
9 simple plan, I just don't know if it will
10 work.

11 Managers are always looking at simple
12 plans. I have to tell you, when I listen to
13 people talk about more grant programs, I have
14 to tell you, for Pennsylvania, that's not
15 going to favor rural Pennsylvania. It's not
16 going to favor municipalities that don't have
17 full-time municipal management.

18 It is much more difficult than you
19 might think to find those grants, write those
20 grants, get them done on time, turn around and
21 do another one. My plan was way simpler than
22 anything having to do with a grant.

23 It was to take a portion of those
24 stimulus dollars and distributed them across
25 the entire commonwealth in the same formula

1 currently used for allocation of liquid fuel
2 taxes. I don't know if most of you are
3 familiar with those distributions, but every
4 municipality in Pennsylvania gets an
5 allocation based on the roadway miles and on
6 their population of fuel tax money, gas tax
7 money.

8 And in Swarthmore, I get a little
9 over a hundred thousand dollars a year. That
10 number actually has not gone up in my twenty
11 years with the borough either, substantially.

12 And the plan made sense for several
13 reasons, the most exciting of which was it got
14 this money to every single municipality in
15 Pennsylvania, across the entire state. And
16 there were no grant applications, nobody got a
17 bigger or no arguing over who got what share
18 of the pie, no -- you didn't have to decide
19 what project was really worthy or not. You
20 could simply tell the state that a
21 municipality that was expecting a hundred
22 thousand dollars in fuel tax that through the
23 allocation, same formula, of stimulus money,
24 they were getting a hundred fifty or two
25 hundred thousand dollars.

1 That money would be put to use
2 immediately. Every single resurfacing and
3 most bridge projects are shovel ready.
4 They're not very complicated plans. You don't
5 have to buy right-of-way. All you really need
6 to do is send the plan out to bid. And, in
7 fact, most of us have our plans ready to go
8 anyway for this year. We would simply be able
9 to add more streets to the mix.

10 And, again, it would be everywhere
11 throughout the commonwealth, because really,
12 no matter how small, everybody is out there
13 paving something every single spring or maybe
14 in the summer.

15 It would seem consistent to me, with
16 the federal government's idea of getting money
17 out to places quickly and in as wide-spread a
18 manner as possible. I don't know about you
19 guys, but for me in Swarthmore, in Delaware
20 County and southeastern Pennsylvania, these
21 are very small companies that do your local
22 paving jobs.

23 And these companies are going to go
24 out of business. They're just not surviving.
25 They're calling our offices every day, asking

1 whether we are ready to pave this year,
2 whether we're going to have any work. I think
3 they're frankly worried that we're going to
4 pull the plug on what we normally do.

5 They employ maybe six to eight
6 people, which is the backbone of Pennsylvania
7 business, that are buying equipment, that are
8 making loan payments. They're buying tar and
9 asphalt and concrete to do their work. They
10 have maybe a few people in the office to act
11 as bookkeepers. When they're out in our
12 communities, they're buying lunch, they're
13 buying clothing.

14 And I really worry that these
15 companies will not survive this economic
16 downturn. I think it will be extremely
17 difficult for them. And to get the type of
18 work that they need, nobody's paving parking
19 lots. The small jobs that they do are just
20 not going to be there that they depend on.

21 So to me, this was a wonderful way to
22 just -- I just felt like it was spreading the
23 money across the commonwealth in a really
24 quick and easy way that people would see in
25 the ground.

1 I also have to tell you that when we
2 get money from PennDOT, which we do every
3 year, we are required to account for every
4 single penny that we spend already. We have
5 to send in an annual report at the end of the
6 year. You could not ask for more transparency
7 and accountability than what we do with our
8 money from PennDOT.

9 And after that, it's audited by
10 PennDOT, and it's actually audited by the
11 auditor general, so it would be a way to spend
12 those federal infrastructure dollars without
13 setting up a complicated way to figure out
14 what you did with the money. And every
15 manager, every state rep, every senator, the
16 governor could say where the money went and
17 what road it was spent on. That's how
18 specific the information is that we give to
19 PennDOT.

20 So, you know, I shared my idea with a
21 variety of folks, including state senator and,
22 as I said, Representative Lentz.
23 Unfortunately, I'm not sure how feasible --
24 and I did talk to people at PennDOT who feel
25 that the plan is not feasible. And I believe

1 that they actually have, in some of their
2 district offices, already allocated the money
3 from preexisting projects. I believe it was
4 their understanding that the American Recovery
5 and Reinvestment Act, which requires these
6 funds to be spent quickly, could not be spent
7 at the local level, that they were legally
8 constrained to spend the money on projects
9 that would be eligible under federal aid or
10 highway surface transportation program.

11 This is a much, much smaller number
12 of roads than what I'm talking about. It also
13 means that what has happened in southeastern
14 Pennsylvania is the projects have been
15 narrowed down to a very, very, really small
16 number of projects. I think there's maybe
17 fifteen projects, maybe a few more, spending
18 about four hundred twenty-two million
19 dollars. And most of that will not be seen by
20 any of your constituents.

21 And I just think it's a lost
22 opportunity to have really done something with
23 a fairly substantial chunk of money that's
24 coming in to the commonwealth.

25 At this point, I don't know what

1 options there might be. I did talk to
2 Representative Lentz and say, you know, I'm
3 not -- I just don't know where PennDOT stands
4 on being able to spend the money in this way
5 of allocating it through the liquid fuels
6 formula, not an increase, of course, in liquid
7 fuels taxation.

8 And it's really important to let
9 people know what those needs out there, the
10 commonwealth's working through its various
11 funding opportunities to see what might be
12 there and present it as an opportunity,
13 because really, the stimulus fund, one billion
14 dollars coming in just for transportation,
15 you're just not going to see most of that at
16 the local level. And I just -- you're just
17 not going to see to any great extent what
18 could be done to help projects throughout the
19 commonwealth and finding a funding source.
20 And using the funding in that way would, I
21 believe, truly benefit an enormous number of
22 Pennsylvanians.

23 Thank you.

24 CHAIRMAN THOMAS: Thank you.

25 Any questions?

1 Yes, on behalf of Representative Pete
2 Daley.

3 MR. CALLEN: Good morning. I'm Dave
4 Callen, Representative Daley's chief of
5 staff.

6 Is Swarthmore a CDBG entitlement
7 opportunity?

8 MS. BILLINGS: No.

9 MR. CALLEN: Too much population.

10 MS. BILLINGS: Too much money.

11 MR. CALLEN: Too much money? Okay.
12 Because there will be CDBG money.

13 MS. BILLINGS: Right. And some of
14 the money that PennDOT is spending on curb
15 cuts, but, again, they have limited those
16 particular curb cuts to those who are listed
17 on the highway system, so it is fairly
18 limited.

19 And I don't know if you're aware, but
20 the federal government has changed their
21 construction of curb cuts, so curb cuts now
22 most are not in compliance with law anymore so
23 have to be changed. So you'll see now when
24 roadways are paved in their communities, that
25 often the curb cuts will be changed at the

1 time. So they are using some of the money for
2 that. And CDBG money was used for that
3 originally. So I wouldn't be surprised if
4 they did that again.

5 But, again, a lot of that money is
6 grant application money. And that's always
7 tougher. When I think of Pennsylvania and I
8 think of southeastern Pennsylvania with paving
9 for municipal managers, that's great, but you
10 want to be sure this money is getting out
11 throughout the commonwealth, and those are the
12 municipalities that it's going to be difficult
13 if it's all based on grant applications and
14 your transportation engineers having to come
15 up with a program for a large bridge
16 rehabilitation or something like that. It's
17 just going to -- it's going to pocket the
18 money in a much smaller area.

19 MR. CALLEN: Thank you.

20 CHAIRMAN THOMAS: Thank you.

21 MS. BILLINGS: Thank you.

22 CHAIRMAN THOMAS: Thank you, again.

23 Let's give her a big round of applause.

24 And I'm going to change the agenda a
25 little bit because I've -- and I'm presuming

1 that the superintendent of the Octora --
2 Octorara School District is going to present a
3 similar testimony, so what I'm going to ask,
4 if Mr. Newcome, II, can allow Miss Ramsdell
5 from National Conference of State Legislatures
6 to testify so long as somewhere in her
7 testimony she adds a little caveat on how
8 local municipalities can deal with of some
9 these stimulus dollars, because I think our
10 past presenter raised an excellent point.

11 So at this particular time, we want
12 to hear from Miss Molly Ramsdell, who's the
13 senior committee director for the National
14 Conference of State Legislatures. And I have
15 to say that as a member of the executive
16 committee of the National Conference of State
17 Legislatures, NCSL has definitely taken a
18 leadership role in conjunction with the
19 Council of State Governments. We have
20 excellent people representing us on the
21 national level.

22 I know before there was any talk of a
23 stimulus proposal, NCSL was meeting with
24 Valerie Jarrett out of the president's office
25 and with the president's intergovernmental

1 affairs people to begin trying to shape the
2 outcome of this stimulus conversation. And
3 they have been real aggressive on that. And
4 we look forward to working with NCSL and
5 working with CSG, because I don't want to
6 leave them out. We need all the help we can
7 get.

8 So at this particular time, we want
9 to hear from Miss Ramsdell, senior committee
10 director for NCSL.

11 MS. RAMSDELL: Thank you,
12 Mr. Chairman, and thank you for the kind words
13 on the NCSL.

14 I did want to add that while Chris
15 mentioned about the dialogues between the
16 governors and congress, NCSL was heavily
17 engaged with congressional leadership as they
18 were developing the stimulus package, and
19 there was a letter that we asked for about
20 seven or eight different items, everything
21 from state fiscal relief, Medicaid, TANFs,
22 food stamps, infrastructure investment, we
23 were very pleased that the final package
24 contained at least seven or eight of our asks,
25 if you want to call them that. So we were

1 pleased with that.

2 As you know, the American Recovery
3 and Reinvestment Act -- I'm going to call it
4 ARRA -- was signed into law February 17th, and
5 it weighed in at seven hundred ninety billion
6 dollars. And I want to take a different
7 approach and kind of look at not just the
8 state component, but look at the entire
9 package.

10 And if you break that down, there are
11 basically five components. One being, as
12 Chris talked about, the supplemental -- it's
13 kind of like a supplement appropriations bill,
14 where there were -- there is additional
15 funding for a host of existing programs. And
16 we talked about some of them today, but
17 there's funds for special ed, title ed --
18 Title I education funds. There is money for
19 the COPS program, the justice assistance
20 grants, and some money for some new programs.

21 The second being assistance for
22 individuals. There's money for programs such
23 as food stamps, unemployment insurance, Cobra
24 subsidies.

25 The third pot is basically what we've

1 talked about also is investments in
2 infrastructure. And it depends how broadly
3 you want to define infrastructure. There's
4 money for roads, bridges, rail, transit, but
5 there's also money for broadband. There's
6 money for health IT, clean water and drinking
7 water state revolving funds.

8 The fourth being the tax provisions.
9 The legislation includes a host of tax
10 credits, a number of them energy related.
11 There are tax breaks for individuals and
12 businesses. There is provisions regarding
13 bonds and other investment tools.

14 And the fifth provision is the
15 accountability and transparency provision.
16 And today since you've already heard from
17 Chris about a large number of the other
18 appropriations and funding issues, I'd like to
19 focus my comments on the accountability and
20 transparency provision, which are extremely
21 critical to the successful implementation of
22 this act and sometimes really not discussed
23 probably as much as they should be.

24 The first requirement in this section
25 in the legislation requires the governor,

1 mayor, or other chief executive as
2 appropriate, to certify that the
3 infrastructure investments have received the
4 full review and vetting required by law and
5 that they accept responsibility that the
6 investment is an appropriate use of tax
7 dollars. The certification is required to
8 include a description of the investment, the
9 estimated total cost, and the amount of
10 covered funds to be used, and it will be
11 posted on www.recovery.gov.

12 This certification is in addition to
13 the certification that Chris mentioned where
14 the governors are required to recertify no
15 later than forty-five days after enactment,
16 that the state will request the funds and that
17 they'll be used to create jobs and promote
18 economic growth. And again these are in
19 addition to any other additional
20 certifications that are required for -- by the
21 state to receive separate pots of money.

22 And, again, there are over, you know,
23 a hundred different funding streams in this
24 legislation. So there are lots of
25 certification requirements that are going to

1 have to be coordinated.

2 The legislation also contains general
3 reporting requirements for states and other
4 recipients of funds to -- for funds. For the
5 purpose of this reporting, the law defines
6 recipients as states and any entity that
7 receives funds directly from the federal
8 government under the "other than individual."
9 So individuals that receive some type of
10 individual benefits such as food stamps or
11 something like that, they obviously would not
12 have to do a reporting.

13 As for some of the general reporting
14 requirements, at the end of each calendar
15 quarter -- and this will begin a hundred
16 eighty days from that February 17th enactment
17 date -- each recipient of the recovery funds
18 is required to submit a report to the
19 appropriate federal agency, so this means your
20 state's going to have to submit reports that
21 talk about the amount of recovery funds
22 received from every federal agency, the amount
23 of funds that have been expended or obligated,
24 a detailed list of all the projects or
25 activities funds are being used, and this

1 includes the name, description, the status of
2 the project or the activity, an estimate of
3 the number of jobs created, the number of jobs
4 maintained; and in particular for
5 infrastructure investment, the purpose, total
6 cost, and rationale for the agency funding
7 this investment, and the name of the person to
8 contact at the agency if there are questions
9 about the investment.

10 So there are very significant
11 reporting requirements going on here. There
12 are also detailed information regarding
13 subcontractors or subgrants required as well.

14 Within thirty days of the federal
15 government -- each agency at the federal
16 government receiving this information, this
17 too will be posted and made available for
18 everyone to see on www.recovery.gov.

19 The federal agencies, in consultation
20 with the director of the Office of Management
21 and Budget, is supposed to work to provide for
22 a user-friendly means for recipients of
23 covered funds to meet these reporting
24 requirements.

25 So while these requirements exist,

1 there currently remain a number of unanswered
2 questions to -- as to how all of this will
3 actually be done. I mean, there's a lot of
4 questions as to the connectivity and all the
5 processes by how states will submit this
6 information, how the agencies will then get
7 it, and how it will get posted on
8 recovery.gov.

9 I should also mention, while we've
10 talked about some of the provisions and some
11 of the general provisions, that, you know,
12 there are some overarching provisions that
13 apply to the -- to projects paid for with this
14 money, that being "buy America" and prevailing
15 wage requirements apply to all the funds being
16 used under ARRA.

17 The legislation also creates, as the
18 chairman had asked, a recovery accountability
19 and transparency board. And they're to
20 coordinate and conduct oversight of covered
21 funds to prevent fraud, waste, and abuse. The
22 board is or was responsible for creating the
23 website www.recovery.gov.

24 The law outlined the content and the
25 function of the website. This includes

1 printable reports on covered funds, obligated
2 by month to each state and congressional
3 district, so there's going to be very detailed
4 information. The website will also provide a
5 means for the public to give feedback on the
6 performance of contracts, and to the extent
7 possible, the page will provide links to
8 information about local employment agencies
9 and job banks operated by state work force
10 agencies. So there's an effort there to also
11 potentially help people find employment
12 through the use of these funds.

13 ARRA also creates a recovery
14 independent advisory panel, whose duties
15 include making recommendations to the board on
16 actions, again, looking at fraud, waste, and
17 abuse. And the panel will be composed of five
18 members appointed by the president on the
19 basis of their expertise in economics, public
20 finance, contracting, accounting, and other
21 relevant fields. This panel will hold public
22 hearings. They'll take testimony such as, you
23 know, this committee is doing today.

24 I should also mention that the
25 legislation requires the Council of Economic

1 Advisers to submit reports to the house and
2 senate appropriations committees that detail
3 the impacts of programs funded under the act
4 on employment, estimated economic growth, and
5 other key economic indicators. So, as you can
6 tell, there's going to be a lot of information
7 out there and available. And I guess what's
8 really important is it will be available to
9 everyone, to all citizens to access through
10 recovery.gov.

11 The legislation also outlines reviews
12 by agency inspector generals and also has very
13 specific language on whistle-blower
14 protection, to make sure that if there are
15 people out there who think that something may
16 not have been done correctly, that the law
17 does provide protections for them.

18 So having said all of that, what's
19 next? As the chairman mentioned and brought
20 up, the meeting this week, at the request of
21 the president, Vice President Biden is heading
22 up the oversight of the Recovery Act's
23 implementation. Recognizing that state
24 governments play a crucial role to ensure that
25 implementation is effective, transparent, and

1 efficient, each state has been asked to
2 appoint a state implementation czar to oversee
3 the dollars spent in their state.

4 And this Thursday, as, again, the
5 chairman mentioned, there will be an all-day
6 White House Recovery and Reinvestment Act
7 implementation conference. Two
8 representatives from each state have been
9 invited. This may include the state
10 implementation czar and another person from
11 the state that will be intimately involved in
12 the implementation of the act.

13 As well, representatives from the
14 National Conference of State Legislatures will
15 be there, the National Governors Association,
16 and the national organizations representing
17 the treasurers, the auditors, the chief
18 information officers, and the national
19 association of state budget officers.

20 The purpose of this meeting is to
21 begin the process of answering questions about
22 how implementation oversight will work. I,
23 fortunately, do have the pleasure of being
24 able to attend that meeting with one of my
25 colleagues in the DC office, and I would

1 encourage you, over, you know, the next
2 twenty-four hours, as you sleep tonight,
3 please either stay or tomorrow send me any
4 questions you would like NCSL to raise at this
5 meeting as the relates to implementation.

6 The meeting will include
7 presentations from a number of -- excuse me --
8 cabinet secretaries as well as the gentleman
9 Earl Devaney, who has been named chairman of
10 the Recovery Act Transparency and
11 Accountability Board.

12 I would like to also mention that
13 there was kind of a pre-meeting that happened
14 last Thursday between White House
15 intergovernmental and staff from some of the
16 national organizations I mentioned. And the
17 purpose of this meeting was to come up with a
18 common list of questions that could be
19 submitted to the federal agencies in advance
20 of the meeting that's taking place this week,
21 at least to kind of have a starting point for
22 the discussion for the meeting. Again that
23 will start -- that will be this Thursday.

24 While my comments today have
25 primarily focused on transparency and

1 accountability, NCSL has created a webpage
2 dedicated to tracking the stimulus activity,
3 which can be accessed from NCSL's home page,
4 www.ncsl.org. The page includes information
5 on the issues we've discussed here today, but
6 also other issues such as community services,
7 law and justice. It has summaries of minority
8 provisions, nutrition assistance, just to name
9 a few. I mean, it kind of shows you, you
10 know, the range of issues that this
11 legislation touches.

12 I'd also like to announce that later
13 this week, NCSL will be launching a stimulus
14 discussion board where legislators and
15 legislative staff can not only post questions
16 to NCSL staff to answer, but we're hoping that
17 this board will be able to facilitate a
18 discussion between states. So if you would
19 like to know how another state is dealing with
20 something or you'd at least like to find out
21 or ask questions of other legislators and for
22 your legislative staff as well, that this
23 board will provide that opportunity.

24 NCSL looks forward to being a
25 resource to you on fiscal stimulus package and

1 on other issues, and, again, I thank you for
2 the opportunity to be here today and I welcome
3 the opportunity to answer your questions.

4 Thank you.

5 CHAIRMAN THOMAS: Thank you.

6 Excellent testimony.

7 And at this particular time, I'd like
8 to start with Representative Ross to ask if he
9 has any questions.

10 REPRESENTATIVE ROSS: Thank you.

11 I just really have an observation. I
12 was trying to imagine this reporting for staff
13 people who have full-time jobs and also are
14 trying to organize actually the applications
15 to pull in money, and then have to give their
16 names so that if anybody in the citizenry at
17 large has questions, that they could contact
18 that person and, you know, question them about
19 the performance. It sounds like a tough job
20 that maybe I wouldn't want to have
21 personally.

22 Do you have any thoughts about that?

23 MS. RAMSDELL: That happens to be one
24 provision that I've gone back and I've read
25 numerous times. And what I cannot figure

1 out -- and we're going to try to clarify this
2 at this Thursday -- is whether that agency
3 contacts is the federal contact person or the
4 state contact, because the way that they talk
5 in the legislative text, they usually refer to
6 the federal government as the agency. So I --
7 on first read without having clarification for
8 this, I am just going to go out a limb here
9 and say that I believe the point of contact
10 would be a federal point of contact, like the
11 state's federal point of contact. But it is
12 something that we're going to need to
13 clarify.

14 I mean, as Chris mentioned, it's an
15 enormous piece of legislation, and there are
16 good parts and bad parts. And if you kind of
17 compare things, there's sometimes different
18 terminology and not everything kind of lines
19 up perfectly, so there are some -- I'm not
20 going to say inconsistencies, but there are
21 some things that need to be clarified as it
22 relates in particular to the reporting
23 requirements, because it isn't necessarily
24 clear sometimes whether they're talking about
25 whether they say an agency or a department,

1 whether that's state or federal.

2 REPRESENTATIVE ROSS: But did you say
3 that everybody outside of an individual has to
4 report, basically?

5 MS. RAMSDELL: Direct recipients of
6 federal funds, correct.

7 REPRESENTATIVE ROSS: Which sounds
8 like states.

9 MS. RAMSDELL: Yes. So states will,
10 but I guess what I'm trying to clarify, I'm
11 not sure that the state has to include the
12 name and phone number of their person that
13 would be point of contact.

14 But, no, state as a recipient --

15 REPRESENTATIVE ROSS: Still plenty of
16 work though.

17 MS. RAMSDELL: Yes. There is plenty
18 of work.

19 REPRESENTATIVE ROSS: -- get the
20 phone call.

21 MS. RAMSDELL: There are definitely a
22 lot of requirements tied to acceptance of the
23 funds. And like I said, I'm just talking
24 about the general requirements. I mean, for
25 the boost in appropriations, there's already

1 the requirement states to have do for those
2 programs, and then for any additional, you
3 know, the additional funds for the
4 discretionary or competitive grants that we
5 don't even know what requirements there are
6 there. And, you know, it may depend, until we
7 get grant guidance, if there's actually any
8 kind of administrative funds that the states
9 can take off the top to assist them, but,
10 again, given the speed at which they expect
11 this money to be spent, I mean, it's really
12 going to be -- it's going to be a challenge.
13 It's not going to be simple.

14 REPRESENTATIVE ROSS: And just
15 clarification on the meeting that's coming up,
16 the two representatives are representatives of
17 the state; is that being coordinated through
18 the governor's office?

19 MS. RAMSDELL: To the best of my
20 knowledge, the letter went to the governor's
21 office.

22 REPRESENTATIVE ROSS: Thank you.

23 CHAIRMAN THOMAS: Thank you,
24 Representative Ross.

25 Before any other members leave, let

1 me at least take a minute to ask each and
2 everyone of you to keep Representative Bryan
3 Lentz in your prayers. He's dealing with a
4 major family situation, and we want to put our
5 arms around him at this particular time. So I
6 didn't want anyone else to leave without at
7 least getting that information because I just
8 received it.

9 Now, to continue. We have several
10 people who would like to -- several members
11 who would like to raise some questions, but
12 I'd like to get a couple out there early on.

13 One, we've talked about the time
14 line. But is there a time line for completing
15 the projects?

16 MS. RAMSDELL: So far as I -- I know
17 only as of the transportation, the funds have
18 to be -- 50 percent of the funds, for
19 transportation now, have to be obligated
20 within a hundred twenty days, and this is a
21 hundred twenty days after the federal
22 government makes the allocations or
23 apportionments available, which was last
24 week. So that clock is ticking.

25 And then a hundred percent of the

1 funds have to be obligated within one year.
2 And then, I'll go back and check, and I
3 believe all of the funds have to be expended,
4 and this is within transportation, obligated
5 balances are available for expenses incurred
6 until September 30th, 2015.

7 I also want to mention, and, I mean,
8 this may not be the situation in Pennsylvania,
9 I've talked about the clock started ticking,
10 is that there has been some caution that
11 states should not go out and sign contracts
12 before the apportionments were actually made,
13 because, given the guidance that has come out
14 from at least the Department of Transportation
15 so far, the reimbursement -- remember, this is
16 a reimbursement program for transportation --
17 can only be a expenses -- expenses incurred
18 after funds are obligated. So you can't pay
19 for things in the past or even last week. I
20 mean, if that's --

21 CHAIRMAN THOMAS: Once there's some
22 more clarification, can I ask NCSL and CSG if
23 they would be willing to provide Pennsylvania
24 but other states with, as close as possible,
25 the time line for completion, because that

1 time line is going to impact two areas. One,
2 it's going to, one, determine whether we get
3 100 percent of the dollars allocated, but the
4 second thing is sustainability. A couple
5 members have raised a question of making the
6 investment this year while things are pretty
7 bad, but two years out or three years down the
8 road, are we going to have to lay those people
9 off or terminate their particular program?

10 And so, it is real important that as
11 early as possible we consider the question of
12 sustainability before we make these
13 investments. So the time line will be real
14 helpful.

15 MS. RAMSDELL: And Mr. Chairman, if
16 I may, I mean, Chris talked about this, but
17 especially in the education funding area,
18 that's one of the things that we have heard a
19 lot from state legislatures about their
20 concern about kind of falling off the cliff in
21 two years when all that money dries up. I
22 mean, it is -- it poses some significant
23 challenges for how a state can best use those
24 funds and not experience that kind of falling
25 off the cliff. And, I mean, Chris mentioned a

1 lot of this as far as the training, some of
2 the options you could pursue instead of, you
3 know, hiring new teachers who then you may
4 need to let go.

5 Now, there is the thought that
6 potentially and hopefully the economy is going
7 to be better two years from now and that, you
8 know, there would be the revenue or the
9 resources to potentially continue any new
10 teachers you hire, but that is, you know a --
11 you know, a choice a state would have to make.

12 CHAIRMAN THOMAS: Thank you.

13 Would you advise states that they
14 should best tackle this issue of economic
15 stimulus funding through legislation or rely
16 on executive order?

17 MS. RAMSDELL: Being from NCSL, of
18 course I would say through legislative
19 activity.

20 CHAIRMAN THOMAS: Because I've
21 heard -- I've heard some states say that
22 should be a combination, since some of the
23 moneys deal with what we're calling shovel-
24 ready projects, and given how long it takes
25 sometimes before you can get something to the

1 governor's desk --

2 MS. RAMSDELL: Right.

3 CHAIRMAN THOMAS: -- that a
4 combination of executive order and legislative
5 prescription would be good.

6 MS. RAMSDELL: To address your answer
7 really, I think that no matter what, there has
8 to be a really good working relationship; I
9 mean, the executive branch and the legislative
10 branch really need to work together to make
11 sure that these funds are spent in the
12 appropriate way. I mean, given the magnitude
13 of the funding, I mean, it really will take
14 cooperation through both branches of
15 government.

16 I apologize that you don't have my
17 written testimony -- because actually Michael
18 Bird from our office was supposed to be here,
19 and I'm filling in for him -- but one of the
20 pieces that you have there in your packet is,
21 we have received a lot of questions because
22 there has been this discussion of who has
23 control over these funds. Is it just the
24 governor has control, or is the legislature?
25 And what we like to tell people is, you know,

1 in most cases most of these funds are going to
2 flow through your normal channel of funding,
3 because these are boosts in existing programs,
4 you know, and if in Pennsylvania, you know,
5 legislature appropriates federal funds, then
6 that process will continue, because that's how
7 federal funds are dealt with in the state of
8 Pennsylvania.

9 There are some states -- I mean, why
10 the question has come up is there are some
11 states that don't necessarily have legislative
12 authority over federal funds. So I think
13 that's why in -- sometimes this discussion has
14 come up. Or it may be that, for example, some
15 of the competitive or discretionary grants
16 come in after a legislature has adjourned. So
17 maybe there are unanticipated federal funds,
18 and they may be handled differently.

19 But, you know, in Pennsylvania's
20 case, I believe it's pretty clear that the
21 legislature appropriates, you know, federal
22 funds.

23 CHAIRMAN THOMAS: Well, I know during
24 my tenure, the federal line items of our
25 budget are items that have generally been left

1 to the governor's discretion. We have not had
2 a lot of conversation on those line items of
3 our budget.

4 But given the impact of this Recovery
5 Act, we probably could need to start having a
6 conversation around those federal line items.

7 MS. RAMSDELL: And if I may add one
8 more thing, Mr. Chairman. One of the things,
9 like, for example, on transportation, you
10 know, because there's been a lot of discussion
11 over, again, who decides how the money gets
12 spent, I mean there's very clear criteria, you
13 know, on the transportation that, you know,
14 projects have to be completed within three
15 years in economically distressed areas, that
16 they have to be expeditiously delivered, but
17 they also have to be on a state plan.

18 So, you know, there are -- for a lot
19 of these funds, there is a process in place
20 that obviously involves your executive branch
21 government as to how they spend, for example,
22 your highway funds, or, your clean water
23 revolving funds. I mean, they already have a
24 process in place for dealing with that.

25 CHAIRMAN THOMAS: One other question

1 is, you've indicated and CSG indicated that
2 there's a website and there's a telephone
3 number that you can call. Has it been your
4 experience that this is a real number where
5 you can get a real person who can answer real
6 questions?

7 MS. RAMSDELL: To be honest with you,
8 I didn't know about the phone number. That, I
9 don't know about. If you'd like, though,
10 Mr. Chairman, I'd be more than happy to look
11 into it and follow up on the phone number.

12 CHAIRMAN THOMAS: Thank you.

13 Representative Payton.

14 REPRESENTATIVE PAYTON: Okay. Thank
15 you, Mr. Chairman.

16 Thank you for your testimony. And
17 what I wanted to ask was that you went over a
18 lot of things about the transparency, and are
19 there any noncompliance penalties that are
20 built into the legislation currently?

21 MS. RAMSDELL: The one that comes to
22 mind, I know that, for example, on the
23 transportation, there is a maintenance of
24 effort requirement. And the maintenance of
25 effort is that the state has to basically send

1 a letter saying what funds it's going to spend
2 from the date of enactment through September
3 30, 2010, on transportation projects. And it
4 has to maintain that level of effort. It can
5 move funds around, but the overall level of
6 effort has to maintain to the same.

7 If they don't maintain that level of
8 effort, they risk losing funds that would be
9 reobligated in the future, and I don't
10 think --

11 REPRESENTATIVE PAYTON: So they don't
12 turn off the faucet, if you will? If you're
13 not --

14 MS. RAMSDELL: To be honest with you,
15 we've kind of talked about that internally.
16 No, not in that case.

17 Now, there are -- I assume, in other
18 areas -- while the transportation may be a
19 little bit different, I assume, like, let's
20 say in the Medicaid area, there are criteria
21 as to the state can't put the funds in a
22 rainy-day fund, or that a state can't change
23 their eligibility. So if a state did do that,
24 I'm assuming they would no longer receive the
25 increased bump in the Medicaid.

1 I mean, unfortunately, there's
2 probably not a clear answer because it's not
3 one big pot of money. It's, you know, a
4 hundred different streams, so we probably have
5 to walk through each one. But it's a really
6 good thing, good question to ask, and, I
7 think, maybe what I'll do is I'll go back to
8 our NCSL staff and maybe we can put together a
9 document that outlines what some of the
10 penalties are or -- penalties are as it
11 relates to the different pots of money. A
12 list that puts together all of them in one
13 place, as opposed to having -- you having to
14 go to multiple documents.

15 REPRESENTATIVE PAYTON: Thank you.

16 Also, do you know if the -- if
17 Pennsylvania has appointed a czar? I mean,
18 I've read several articles from the governor
19 saying he would be responsible for every bit
20 of stimulus money, but if the legislation
21 calls for appointing a czar, have we done
22 that?

23 MS. RAMSDELL: Actually, the
24 legislation didn't appoint for calling a
25 czar. The vice president, in his letter that

1 he sent out to the governors, asked that
2 everyone appoint a czar. I don't not know at
3 this point if Pennsylvania has, or if they
4 have, who that person is.

5 REPRESENTATIVE PAYTON: Okay. And
6 also, if you know, does NCSL or CSG have a
7 stance on -- from my understanding there isn't
8 much thought given to sort of long-term --
9 long-term projects when the emphasis is on use
10 it or lose it. Everything. The most that you
11 can do is sort of roadway surfacing or what-
12 have-you; while that's great, you know, the
13 longer term projects would really improve a
14 region, wasn't much thought given to that. Is
15 there a stance that CSG or NCSL has on --

16 MS. RAMSDELL: No. NCSL hasn't
17 really taken a position on that. But just in
18 general kind of on the stimulus, thinking that
19 the idea of this was to create -- obviously
20 create jobs and, you know, the idea of
21 stimulus is, you know, kind of to get the
22 money spent quickly. It doesn't necessarily
23 facilitate, you know, unfortunately the long-
24 term spending on jobs. I mean -- I mean, on
25 road projects or repair and maintenance.

1 I mean the one thing about the
2 funding is, depending on what states can do,
3 is maybe it can allow them to potentially -- I
4 mean, although they have a maintenance of
5 effort required on transportation, it could
6 allow them to do some additional long-term
7 planning, or they could potentially use or
8 plan to use some of the funds freed up through
9 some of the other fiscal money --

10 REPRESENTATIVE PAYTON: Shifting the
11 state resources. Either way, you're creating
12 jobs, whether they're blue collar or white
13 collar jobs in the creation of long-term
14 projects. So thank you that all that you're
15 doing and look forward to working with you.

16 Thank you.

17 MS. RAMSDELL: Thank you.

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

20 CHAIRMAN THOMAS: Thank you.

21 Representative Kessler.

22 REPRESENTATIVE KESSLER: In reference
23 to transportation, I have been a township
24 supervisor for sixteen years, and Miss
25 Billings' idea I found as an excellent idea.

1 Of course, we can't give all that money back
2 to liquid fuels, but could we actually do a
3 small portion of that money back to liquid
4 fuels so that way all the municipalities and
5 all the townships get a piece of the money
6 rather than some of these moneys just going to
7 specific areas, which, in turn, would help a
8 lot of people more directly, I think, because
9 they are the ones that are paying the local
10 taxes in order to improve the roads?

11 MS. RAMSDELL: I'd be more than happy
12 to talk to you. But I believe the way the
13 guidance is written, besides some of those
14 requirements that I've mentioned, is that a
15 large -- that the transportation projects have
16 to be on the state plan in order to be -- to
17 receive some of the funding. And I've got the
18 details on it in here. I was going to try to
19 dig it out, but I can look it up and get back
20 to you with the exact details.

21 I understand -- you know, I
22 understand that challenge, but I guess it's
23 one of those things that if it's not on the
24 stip or the -- you know, one of those state
25 plans, that it's not -- it's got to be on that

1 list in order to be eligible to receive some
2 of these funds and gone through all the
3 necessary reviews and vetting.

4 One thing that would be potentially
5 available is, again, some of the resources
6 freed up potentially by, you know, the
7 increase in Medicaid money or your truly
8 flexible assistance within the state fiscal
9 stabilization fund. If the state chose to,
10 they could obviously, you know, pass some of
11 those funds through.

12 REPRESENTATIVE KESSLER: Thank you.

13 MS. RAMSDELL: But I can get you the
14 exact details.

15 REPRESENTATIVE KESSLER: Thank you.

16 MS. RAMSDELL: You're welcome.

17 CHAIRMAN THOMAS: Thank you.

18 Representative Grove. Okay.

19 Representative Milne.

20 REPRESENTATIVE MILNE: Thank you.

21 Thank you, Mr. Chairman.

22 Just wanted to return to the notion
23 of accountability with the public funds being
24 used here. In particular, I wanted to focus a
25 little bit on the oversight and transparency

1 board which has been charged with ferreting
2 out waste, fraud, and abuse in this process.

3 And just an observation/question.
4 That mantra of combating waste, fraud, and
5 abuse is attached in some way, shape, or form
6 to almost every federal dollar that comes out
7 of Washington anyway. So I don't mean this in
8 a flip manner, but I'm trying to just get a
9 better sense of what is it that this board
10 offers, brings, can do that somehow is
11 qualitatively different than the procedures in
12 place currently to combat waste, fraud, and
13 abuse?

14 MS. RAMSDELL: To be honest with you,
15 I have given you all the details that are
16 currently available as to what the board is
17 going to do. I'm hoping that at this meeting
18 on Thursday we will have some additional
19 details on, again, how this is all going to
20 work. And I'd be more than happy, after the
21 meeting on Thursday, to send some additional
22 information to the chairman to share with the
23 committee. There is --

24 REPRESENTATIVE MILNE: I appreciate
25 that.

1 MS. RAMSDELL: Sure.

2 REPRESENTATIVE MILNE: And I know
3 you're just bringing as much information as
4 you can, but that is a question that has
5 entered my mind, listening to your very
6 eloquent testimony and the other testimony.

7 And the other question I would have
8 is I do observe, quite correctly, that the
9 degree of reporting requirements here is
10 substantially greater than is normally the
11 case. Can you give us a sense of how much
12 greater you find these reporting requirements
13 compared to our normal patterns in
14 intergovernmental affairs?

15 MS. RAMSDELL: You know, I'm not
16 exactly sure. I -- no, I'm not sure I could.
17 I could try and get some information and get
18 back to you. I think probably the best
19 people -- I mean, it's probably going to vary
20 state agency by state agency. And I'm not
21 necessarily familiar with what their reporting
22 requirements are currently regarding any
23 federal funds they receive.

24 So -- but I'd be more than happy to
25 look into it and kind of see what kind of

1 boost in requirements -- I mean, I have heard
2 from some states that --

3 REPRESENTATIVE MILNE: It goes back
4 to the overall notion of accountability and
5 what can the public expect from this.

6 MS. RAMSDELL: I have heard from some
7 states that some of the requirements may not
8 be that bad because they do track some of this
9 data already so as far as number of jobs
10 created and wages paid and things like that.
11 I think the question here really is -- and we
12 probably don't know the answer of how
13 difficult this is going to be because we don't
14 know what format this is going to be submitted
15 and how it's going to be submitted. You know,
16 is it each agency? Is it going to go up to a
17 centralized office, you know, in the state?
18 Is it going to go -- I mean, does the state
19 post it and can it just link it to
20 recovery.gov? I mean -- I don't have an
21 answer for you. I'm sorry.

22 REPRESENTATIVE MILNE: Thank you very
23 much. Appreciate that.

24 MS. RAMSDELL: We seem to be doing a
25 lot of that, saying, Well, we just don't have

1 the answer right now.

2 REPRESENTATIVE MILNE: We are in
3 unchartered terrain. I can certainly
4 appreciate that.

5 Thank you, Mr. Chairman.

6 CHAIRMAN THOMAS: Thank you.

7 Mr. Callen on behalf of
8 Representative Daley.

9 MR. CALLEN: Thank you,
10 Mr. Chairman.

11 While I had noticed when I was
12 blowing through this -- the eleven hundred
13 pages, that I saw the "buy American" section
14 for iron and steel in the transportation
15 section. I didn't see it in anything that
16 told me it applied to everything. And that
17 is, I think that is encouraging that it does.
18 Do you happen to know where that is?

19 MS. RAMSDELL: I can get it to you
20 after. It is actually in the general
21 provisions.

22 MR. CALLEN: And that includes
23 services and -- as well as --

24 MS. RAMSDELL: I have it marked. Let
25 me see. Whistler blower. Buy America: None

1 of the funds appropriated or otherwise made
2 available by this act may be used for a
3 project for the construction, alteration,
4 maintenance or repair of a public building or
5 public works unless all the iron, steel, and
6 manufactured goods used in the project are
7 produced in the US.

8 MR. CALLEN: That's for construction
9 services. But, for instance, you were talking
10 about alternative uses for educational
11 dollars, so we don't create positions that we
12 can't then sustain. If they started buying
13 software, they started buying other kinds of
14 classroom additions, it doesn't seem to apply
15 to those.

16 MS. RAMSDELL: I guess we would have
17 to find out the interpretation of
18 "manufactured goods." If that applied broadly
19 to software, then I would assume it would
20 apply.

21 MR. CALLEN: Additional thing is,
22 that only seems to apply to public buildings.

23 MS. RAMSDELL: Public works.

24 MR. CALLEN: Public works. So, for
25 instance, all the money that's being driven

1 out for new, affordable housing construction
2 would not -- most of that would be contracted
3 with private developers through the state
4 housing agencies and so on. That's really not
5 public works, is it?

6 MS. RAMSDELL: I would have to
7 check.

8 Do you have any thought on this,
9 Chris?

10 I'm sorry. Do you mind me asking --

11 MR. CALLEN: No, no. I know that you
12 actually acknowledge Chris's presence.

13 MS. RAMSDELL: Yes. I'm sorry.
14 That's okay.

15 MR. WHATLEY: I would say that the
16 biggest thing to look at on that is the second
17 part after what Molly read. I mean, it
18 provides that blanket provision, but then it
19 says: Subject to existing US trade agreement
20 obligations.

21 And if you look at the government
22 procurement chapter of the World Trade
23 Organization, basically any project over five
24 million on construction or any -- I believe
25 it's five hundred thousand on services, you

1 know, is subject to the government procurement
2 chapter of the WTO. So I believe that this is
3 a big political dodge.

4 MR. CALLEN: It is -- the WTO
5 requires that they're basically open markets.

6 MR. WHATLEY: Yes, exactly. You
7 are -- you have to provide most-favored nation
8 status to all bidders on those projects over
9 the -- I believe it's five-million-dollar
10 threshold and five hundred thousand threshold
11 for services, so if the legislative intent is
12 that this is designed to only give you
13 discretion where you are not in a variance
14 with an existing US trade obligation, then
15 your latitude is pretty small.

16 Now, that's all got to be
17 interpreted, but that's how it reads to me.

18 MR. CALLEN: Thank you, Mr. Chairman.

19 CHAIRMAN THOMAS: Thank you.

20 I want to acknowledge the presence of
21 Representative Kathy Manderino. And we'll
22 give her half a minute to see if she has any
23 questions.

24 REPRESENTATIVE MANDERINO: I'm good.
25 Thank you, Mr. Chairman.

1 CHAIRMAN THOMAS: Okay. Thank you.

2 I just have three brief questions
3 because some of these other questions raised
4 other concerns.

5 Number one, is it your understanding
6 that the Recovery Act provides threshold but
7 that legislatures can broadly interpret the
8 threshold? For example, if the provision of
9 the act speaks of "buy America" within a
10 context of construction and publicly owned
11 projects, could a legislature not redefine but
12 expand that "buy America" provision, so -- in
13 the certification, so long as the state agrees
14 to the basic threshold, that it would be free
15 to expand on that particular section of the
16 act? Is that your understanding?

17 MS. RAMSDELL: No. No.

18 CHAIRMAN THOMAS: For example, can
19 Pennsylvania decide to expand the "buy
20 America" provision in the act to services on
21 projects other than --

22 MS. RAMSDELL: Other than --

23 CHAIRMAN THOMAS: -- other than
24 construction, so long as it satisfies the
25 basic tenet of the act?

1 MS. RAMSDELL: I don't know.

2 MR. WHATLEY: We're speculating here.

3 MS. RAMSDELL: We're speculating.

4 MR. WHATLEY: That's the bottom
5 line. The way trade agreement obligations
6 work is that the trade agreements that the
7 federal government signed binds the federal
8 government. So penalties paid are paid by the
9 federal government. Tariffs that are levied
10 have to be resolved by the federal
11 government. There is an inherent tension
12 already between kind of the Tenth Amendment of
13 the US Constitution and the treaty making
14 power of federal government as it relates to
15 these trade agreements.

16 So I would say that what would
17 probably happen is, as you introduce your own
18 more restrictive "buy American" elements to
19 your own program planning, there certainly
20 would be a dialogue between the United States
21 trade representatives office and you, with the
22 dialogue saying, Please don't do this. Please
23 don't to this.

24 Because, ultimately, your actions
25 could lead to a court case in Geneva where the

1 federal government could be on the hook for
2 hundreds of millions of dollars. So, quite
3 frankly, there isn't anything the federal
4 government can do necessarily to say, Don't do
5 it, you know. In fact, there are a number of
6 cases already pending in the WTO about things
7 like that, but you usually have this -- you
8 have a -- you have a tremendous amount of
9 pressure coming from Washington for states to
10 abide by our existing -- our existing trade
11 obligations.

12 CHAIRMAN THOMAS: Okay. Thank you.

13 My second concern, oftentimes federal
14 dollars are used to modify the behavior of
15 states. And I'm thinking about the Motor
16 Voter law, that there have been some
17 transportation projects that carry conditions
18 that states have to satisfy before they could
19 access those dollars. And what came to mind
20 is most states have indicated that they would
21 either be prepared to comply or non-comply on
22 the -- by December of this year on -- on the
23 drivers licenses.

24 And I guess my question is, is
25 whether or not transportation stimulus dollars

1 can or will be used to enforce compliance of
2 the licensing law.

3 MS. RAMSDELL: No. But there are
4 also no funds in here directly to assist
5 states in implementing the REAL I.D., unless
6 they chose to use some of the funds freed up
7 with some of the flexible assistance.

8 CHAIRMAN THOMAS: That was going to
9 be my second question. Such funding has been
10 a big issue with REAL I.D. Is it your
11 interpretation of the Recovery Act, will allow
12 states to secure stimulus dollars that can
13 then be used for implementation of REAL I.D.?
14 Since Homeland Security dollars are very
15 limited in implementing REAL I.D.

16 MS. RAMSDELL: Some of the states, in
17 general revenue funds that could be made
18 available with the increase in the Medicaid
19 funds, the State could choose to put towards
20 implementation of the REAL I.D., or some of
21 the very flexible assistance portion of the
22 state fiscal stabilization fund potentially
23 could be used for state implementation of the
24 REAL I.D.

25 CHAIRMAN THOMAS: And my last

1 question, and you can probably submit this to
2 the committee if it's one of them -- if it's
3 going to require some additional research. We
4 would like to know what parts of the Recovery
5 Act will be directly available to local
6 municipalities where local municipalities will
7 not have to deal with state bureaucracies in
8 being able to access stimulus dollars for
9 shovel-ready projects. If we can get a list,
10 especially those areas that will -- because
11 somebody said that there's a part of the act
12 that might allow a dollar-for-dollar-match
13 projects that -- another part that might allow
14 for some direct grants, some other cases that
15 might allow for some loans.

16 But if you can just give us an
17 overview of what parts of the Recovery Act
18 will provide dollars directly to local
19 municipalities.

20 MS. RAMSDELL: Be more than happy to
21 get back to you on that, Mr. Chairman.

22 CHAIRMAN THOMAS: Thank you.

23 Okay. We have another hour, which
24 I'm sure we will not use all of that time, but
25 for our last presenter, it will be Dr. Thomas

1 Newcome, II, who is superintendent of the
2 Octorara Area School District, and --

3 REPRESENTATIVE HOUGHTON: I'm
4 Representative Houghton.

5 CHAIRMAN THOMAS: How are you doing
6 this morning?

7 REPRESENTATIVE HOUGHTON: Good.

8 If I may, before Dr. Newcome gives
9 his testimony, I would like to thank Chairman
10 Thomas and Chairman Ross and subcommittee
11 Chairs Duane Milne and Bryan Lentz for
12 allowing me to bring one of our
13 superintendents here today to testify.

14 I spent seven years as a supervisor
15 in London Grove Township, and my school
16 district, Avon Grove School District, we have
17 a good mix of commercial and industrial
18 development, a good tax base to provide
19 revenues to our school district. So I think,
20 as a direct result of that, our taxes have not
21 been raised for about six or seven years --
22 about six years, by our school district.

23 Now, Chester County is perceived as
24 an extremely wealthy county, but as I'm sure
25 Chris and Duane are aware, Octorara is

1 incredibly rural. Other than a few small
2 boroughs with I'd say a slight commercial and
3 industrial base, it is primarily an
4 agricultural community. And -- now, of
5 course, saving farmland is really crucial in
6 my district. It's not only environmentally
7 sound, it's actually a fiscally responsible
8 fight that we've been in in Chester County,
9 and when it comes to Act 319, Clean and Green,
10 that really has benefited the Octorara School
11 District in some ways, since it costs twice as
12 much to educate each child as the average
13 household tax collected, again it is crucial
14 to prevent sprawl.

15 But there are some downsides to
16 saving farmland, and specifically through
17 testimony in July of 2008, from school board
18 member, Robert Hume, in front of the ag
19 committee, brought by Representative Hershey
20 brought Mr. Hume to testify, and he indicated
21 that there was a hundred sixty million dollars
22 in loss under 319 -- I'm sorry, in evaluations
23 under 319 extensions, of which that -- that
24 ended up being a loss of revenue of four point
25 seven million in revenues to Octorara School

1 District.

2 And let me just end, before I
3 introduce in Dr. Newcome, with a quote from
4 Robert Hume: The Octorara School District,
5 according to Chester County Planning
6 Commission figures, has the lowest per capita
7 income and household income of all the school
8 districts in Chester County, but they are the
9 most heavily taxed. Then he ends by saying,
10 Yes, Act 319 is a contributing factor in
11 creating the financial situation in the
12 Octorara area that property owners can no
13 longer fund.

14 So with that, I will pass it to
15 Dr. Newcome. Thank you.

16 DR. NEWCOME: Thank you, Tom.

17 Mr. Chairman, thank you for the
18 opportunity to speak today.

19 CHAIRMAN THOMAS: Is the mic on?

20 DR. NEWCOME: I need to get closer to
21 it. Thank you.

22 And as a school district, we have
23 been represented over the years by Mr. Cutler
24 and Mr. Hershey, and have taken our concerns
25 and interest, and I'm real pleased to see

1 Representative Houghton, he's interested
2 enough to ask me to come to speak today.

3 I must say that after hearing the
4 testimonies of Mr. Whatley and Miss Ramsdell,
5 I'm thinking that most of my testimony is a
6 no. But I'm going to give it anyhow. You
7 didn't lift my spirits today. But Mr. Whatley
8 did say to ask. So that is what we are today
9 to --

10 CHAIRMAN THOMAS: And they
11 acknowledged that more information is coming.

12 DR. NEWCOME: Yes, sir, because we're
13 making this up as we go as we're learning
14 about the eleven hundred pages, so I'm hoping
15 there's something we can learn in there as we
16 go through.

17 The -- there are four areas that the
18 Octorara School District would be impacted by
19 the stimulus money that I believe that would
20 also fit many school districts around the
21 commonwealth.

22 First is, and Representative Houghton
23 indicated, the Octorara School District is a
24 school district that's -- while we're in
25 Chester County, we're the highest rate of

1 poverty in Chester County, and with that, it
2 becomes very difficult to fund schools.

3 I will say that the funding system
4 for schools in Pennsylvania, as a
5 superintendent, I would say that at some point
6 in time in the not-so-distant future we're
7 right there with all the other systems in our
8 country that are crashing. I don't see how we
9 don't fall on our heads and have a collapse on
10 us if we don't do something with funding
11 systems in Pennsylvania to make sure that we
12 take something off our local taxpayers.

13 That being said, the first thing that
14 I'd look at in our situation is the
15 infrastructure and the financing of building
16 projects and keeping up infrastructure. I've
17 heard that most of that money is
18 disappearing. I'm not sure this morning, I
19 got confused messages with the modernization
20 and renovations and repairs, whether there's
21 money there or not or whether there's ways in
22 which the state legislature -- legislation
23 could -- legislators could impact that.

24 In the Octorara School District we're
25 presently -- we're not shovel ready. We are

1 in the process of shoveling. And I heard that
2 even if you did it last week, it doesn't
3 count. That's discouraging. It's
4 discouraging as much as school districts like
5 Octorara that are poor, rural school districts
6 that their citizenry has been stepping up, has
7 been paying the price, has been -- has been
8 putting the good foot forward to make sure
9 that we're trying to keep things modernized
10 and up there and we're killing the taxpayer in
11 doing that.

12 If we took the thirty-seven-million-
13 dollar project that is presently under shovel
14 in our school district, and we eliminated
15 along with that in our present debt service
16 from other projects that we tried to do to
17 keep ourselves modernized, we could give the
18 average taxpayer a break in our school
19 district of eight hundred dollars this July.
20 That's money immediately in the taxpayers'
21 pockets.

22 You take on top of that the notion of
23 Act 319 that Representative Houghton talked
24 about, when 319 was passed -- and obviously in
25 Octorara School District 319 is something that

1 we believe strongly in. There needs to be
2 some farm, rural agricultural lands. There
3 needs to be green space in our commonwealth.
4 But if all the green space is created by small
5 portions of people in the commonwealth, it
6 puts an undue burden on that small portion of
7 people.

8 And if we took just the lost revenues
9 from 319 in our school district, we'd give our
10 taxpayers another five hundred dollars, so I
11 just described thirteen hundred dollars in
12 that July, on July 1, the average taxpayer in
13 Octorara School District could realize.

14 And to me, I was asked to come today
15 to talk about the stimulus package, that would
16 stimulate a whole lot of folks. It would help
17 them to hold onto their homes. It would do a
18 lot of good for taxpayers. In the national
19 dialogue, it certainly, I think, would be
20 consistent with what the national dialogue is
21 with who we're trying to help in the stimulus
22 project.

23 My third point would be that we do a
24 poor job -- and school district takes
25 responsibilities for it, municipalities

1 probably take responsibility, and I imagine
2 the legislators do also -- do a poor job of
3 communicating amongst the different entities
4 that actually run things in the state. We --
5 the townships -- the townships don't talk to
6 the districts much. The communication between
7 state and local is rough.

8 The game that's played at our board
9 meeting tonight will be to blame the state.
10 The -- when I talked to my representative --
11 representatives and state senators, sometimes
12 I hear that it's because we're out of control,
13 so that's the blaming of us. The townships
14 get blamed. And so we all just spend our time
15 blaming each other instead of working
16 together.

17 And we've tried very hard -- that's
18 partly why I guess I'm here today is because
19 I'm trying very hard to get our
20 representatives with our township people. And
21 I think that, legislatively, if you'd pass
22 some laws that make us all sit down together
23 on a regular basis and come up with things
24 that impact on the local level, what good
25 legislation that would be.

1 I'm trying to do that as one person.
2 I can't mandate it, but I sort of browbeat
3 people into coming to those meetings, and
4 we've actually got some dialogue happening in
5 our school district. Hopefully it'll result
6 in some economic development in our poor area.

7 The final thing would be that I've
8 listened to President Obama's talks about
9 infusing our schools with technology, and I
10 would say that that's a wonderful idea, but as
11 long as it doesn't mean just we're going to
12 have stuff thrown out to us, that we're going
13 to stimulate by putting a manufacturing
14 together to put computer or handhelds or
15 whatever together and we get those and it's
16 like Christmas in July. That puts a burden at
17 the local level, because the training -- the
18 staffing, I heard training was one of the
19 major things that you could push out there.

20 Training is wonderful as long as it's
21 sustained and as long as there's -- technology
22 is moving so fast in our business, all
23 business, that training over the next two
24 years will get us through two years and one
25 month. A month after that, there's going to

1 be a need for more training, and if we have
2 not spent the money real wisely, we don't make
3 sure it's sustainable, and, Chairman Thomas, I
4 believe I heard you use the word "sustainable"
5 multiple times, and sustainable is a real
6 thing.

7 We talk about that cliff, scares the
8 heck out of me to put a whole bunch of
9 money -- our present budget that we're working
10 on over the next few months calls for us not
11 replacing six teaching positions over this
12 school year, so we're going the opposite
13 direction. Why? Because we can't sustain
14 them. We just cannot afford to have those
15 teaching positions in place.

16 So if I got a gift coming down, and I
17 got to keep those six positions this year,
18 where am I going to be in two years? The
19 exact same spot. And that's a real concern
20 for us at our level. And what we can afford
21 to do in the future.

22 And on top of that, and I did see
23 something in one of my readings about a
24 legislative brief, there is some discussion
25 about what we can do as far as actually our

1 ability to lose staffing. We can't -- we
2 can't cut teaching positions because we're not
3 legally allowed to for financial reasons. So
4 through attrition and through some magic,
5 sometimes we're able to not replace. That's
6 what we're going to do this year, perform some
7 magic so we don't replace those positions.
8 I think six will probably end up being two
9 because that's all we'll be able to do.

10 But, you know, that legislation is
11 certainly a legislation that and a direction
12 that I have some trepidation over, at least
13 ought to look at it. We're hamstrung.

14 We have Act 1, and I'm not someone
15 who's going to sit here today and argue about
16 Act 1. I think it's like all legislation.
17 There are many, many good points about Act 1,
18 and I think the effects of Act 1 are what was
19 intended. It is stopping people making --
20 stop, think about how they're spending money.

21 The -- but there are parts of that
22 is, while we're looking at how we're spending
23 money, we're also stuck on some ways we have
24 to spend money, we are legally bound to spend
25 it. And I'll stop there, because -- and I

1 thank you, Mr. Chairman, for your time. And
2 it was informative today, as depressing as it
3 might have been.

4 REPRESENTATIVE HOUGHTON: If I may
5 real quick, Chairman Thomas, Avon Grove School
6 District that I mentioned, my school district,
7 has maybe thirty million dollars in reserve,
8 and Octorara has maybe ten times less.

9 DR. NEWCOME: We have -- we have a
10 total of about three million dollars in
11 reserve, about half of that we'll be using
12 this year to balance our budget or else we
13 won't have a balanced budget under Act 1.
14 Next year, we'll use the other half of that,
15 and we'll be back to where we were two years
16 ago where we'll have zero fund balance. I'm
17 talking all. I'm not talking general. I'm
18 talking general and designated. I'm talking
19 not a dime available for the next funds.

20 So two years is a real cliff for us.
21 We're going to be out of money in two years.
22 When I say start off with the house that's
23 going to fall on our heads, it's there. It's
24 falling on our heads.

25 REPRESENTATIVE HOUGHTON: And you're

1 looking at a two mils property tax raise to
2 makes up for this project that is currently
3 underway.

4 DR. NEWCOME: Total, it's about two
5 mils.

6 REPRESENTATIVE HOUGHTON: And I've
7 talked with several thousand residents,
8 households that are paying upwards of eleven,
9 twelve, thirteen thousand dollars a year in
10 property taxes in the Octorara School
11 District.

12 DR. NEWCOME: These aren't elaborate
13 -- these aren't elaborate places.

14 CHAIRMAN THOMAS: Okay. Before we
15 turn to my colleagues, let me say a couple
16 things.

17 Number one, you know, thank you for
18 your testimony. Very informative. But I need
19 to ask, if you have not, you should be doing
20 all that you can to try and get your
21 information to the education people on the
22 house and senate appropriations committee.
23 They're going through those hearings now. And
24 I think they need to hear that on both the
25 property tax side and on the operational

1 side.

2 The second thing is, I'd like to ask
3 you and the rep, if you would, as soon as
4 possible, to provide us with some
5 recommendations on how we can strengthen our
6 relationship with local municipalities,
7 because we realize that there is a big gap
8 between what goes on back home in our
9 municipalities and the commonwealth of
10 Pennsylvania. And the gap broadens when you
11 start talking about the federal government and
12 how state government for the most part is the
13 single pass-through of reason of what is to
14 local municipalities.

15 I'd like to think that we're the one
16 committee that has that responsibility, and
17 we're the one committee that is going to take
18 that responsibility very seriously. So, as we
19 continue to talk to members about ways in
20 which we can strengthen that, we definitely
21 would like to hear from you on ways in which
22 we can strengthen that.

23 Information is powerful if you get it
24 in time and if you're in a position to do
25 something with it. But the first step is to

1 get the information. And that's part of what
2 this was about this morning and something
3 that's going to continue.

4 Representative Ross.

5 REPRESENTATIVE ROSS: Then
6 Representative Milne has a question too.

7 CHAIRMAN THOMAS: Representative
8 Milne.

9 REPRESENTATIVE MILNE: Thank you,
10 Mr. Chairman.

11 I would just ask, if I could,
12 organizational representatives to comment on
13 something that Dr. Newcome raised, which I
14 think is an excellent point to raise, because
15 I have heard it echoed in -- in the midst of
16 all the depressing news; I have actually heard
17 it echoed in other settings and from other
18 types of capital projects that are being
19 contemplated or in various stages of
20 development. And that really is this bright
21 line of what is the bright line between shovel
22 ready, shoveling, and is there an incentive
23 for an organization -- and this is not how
24 Dr. Newcome put it, but I'll put it this
25 way -- is there an incentive for a capital

1 project to actually wait, to try to delay, if
2 at all possible, knowing that you're somewhat
3 actually hurting yourself if you're already
4 moving along with the project, it would
5 appear, at least in some cases.

6 And Dr. Newcome's excellent
7 observation, I have heard replicated many
8 times in other settings. So I'd just be
9 curious if you have any thoughts or
10 observations on this matter, what the
11 definition of "shovel ready" is and what an
12 organization should be prepared to try to do
13 to take advantage of when the shovel hits the
14 ground.

15 MR. WHATLEY: We've been trying to
16 discuss this to react to this. It actually --

17 REPRESENTATIVE MILNE: I saw a frenzy
18 of activity.

19 MR. WHATLEY: And we hear from Miss
20 Billings as well as from this panel, certainly
21 it appears that the Recovery Act funding is
22 going to be for things that you obligate after
23 getting your allocation, and so the state got
24 the transportation or -- or the transportation
25 allocation last week, you're going to get your

1 education money starting to flow now, so
2 there's some sense that there is some
3 advantage of putting money into programs that
4 are new obligations as opposed to trying to
5 find some way of funding things that are
6 already running.

7 Now, if you have modifications in a
8 contract or something like that so there's
9 some new cost occurred after money has been
10 allocated, then that may be something where
11 you could look at a way of recapturing and
12 using some federal new money to support what
13 is in an existing ongoing project that's
14 shoveling right away.

15 So, we're trying to borrow language
16 from the transportation side in restrictions
17 there and apply them on how the education side
18 may ultimately play out. So we are
19 speculating, but I think that there could be
20 opportunities there.

21 The other thing I would just add is,
22 the flex -- the full money that you're going
23 to get, the full share of the stabilization
24 funds -- so both the education money, and the
25 flexible money, that combined as a big chunk

1 of change for Pennsylvania; it's one point
2 five billion for just the education alone for
3 the state -- that can be used for
4 modernization and renovation. You can't build
5 new schools, but you may be able to achieve
6 some capital improvement principle with that.

7 MS. RAMSDELL: And I will, just to go
8 back from what Chris was saying, again, it was
9 transportation money. They do allow what we
10 talked about, you can't go back and pay for
11 projects that are already under contract. You
12 could write, I guess, what you would call an
13 addendum to the contract, as long as -- so you
14 put money towards a project that was already
15 under contract, as long as the costs were in
16 addition to the costs that are under the
17 existing contract, if that makes sense.

18 DR. NEWCOME: Making too much sense.

19 MS. RAMSDELL: I'm sorry. But there
20 is the flexibility, but you have to increase
21 the cost of the project.

22 REPRESENTATIVE ROSS: Maybe he can
23 summarize, because that was off mic for the
24 camera, for the audience.

25 REPRESENTATIVE MILNE: It sounds as

1 though the bottom line conclusion would be
2 that new programs or new projects would not be
3 covered prior to the disbursement or the start
4 of the stimulus process. However, an entity
5 could probably find ways to modify the
6 existing contract or produce addendum to the
7 existing contract, maybe could enhance the
8 initial work that has already been approved
9 and started and contracted. And perhaps
10 that's the most desirable routes or the best
11 conditions an existing project can try to be
12 taken to at this point. And no retroactive
13 application of the stimulus package, but try
14 to build upon as best you can, perhaps
15 improve, enhance what has already been
16 approved and contracted.

17 So maybe any pieces that perhaps, in
18 trying to be budget conscious initially, which
19 I salute, I'm sure you left some things out of
20 the initial project, trying to be budget
21 conscious. Maybe that's the way to go back
22 and try to add them into the project at this
23 point. Just an observation.

24 DR. NEWCOME: I appreciate that. I'm
25 not sure I could -- no matter where the money

1 comes from, I'm not sure I could survive
2 but --

3 CHAIRMAN THOMAS: Technical
4 assistance.

5 MR. WHATLEY: Miss Ramsdell I think
6 has an additional comment.

7 MS. RAMSDELL: Mr. Chairman, if I
8 could just add one thing. It doesn't relate
9 so much to education, but on some of the
10 shovel-ready projects, there were a lot of,
11 you know, national organizations that were up
12 on Capitol Hill with lists, you know, as they
13 were moving forward with the development of
14 this legislation, saying: There are X amount
15 of projects that will cost this much money in
16 the fifty states, and we are ready to go.

17 So while there is this thought that
18 wouldn't it be better to delay and this, and
19 the reason why these projects are kind of that
20 way is because there are these lists that are
21 floating out there that supposedly there are
22 worthy projects sitting ready to go that
23 haven't been put under construction yet,
24 because that's kind of the thinking behind why
25 these limitations or the legislation may have

1 been written the way it is.

2 REPRESENTATIVE MILNE: Thank you.

3 Thank you, Mr. Chairman.

4 CHAIRMAN THOMAS: Thank you.

5 That's one of the reasons I suggested
6 that as quickly as possible you should get
7 your information to the appropriations
8 committee on both the house and senate side,
9 because they are talking now about spending
10 and how the stimulus dollars will impact what
11 it is that we're planning to do.

12 Representative Ross.

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

15 And I just wanted to make a general
16 comment that this hearing is all about the
17 federal stimulus program, ARRA, but we had
18 problems before that passed -- that act got
19 passed. We will have problems after that is
20 gone. Your problems are not new. They are
21 serious.

22 I'm familiar with them, even though
23 you're not in my district. And they're sort
24 of almost on the more extreme side of some of
25 the problems that many of our other districts

1 have, but I often quote your example when I'm
2 talking about some of the challenges we have
3 in the current funding formula, and I'm not
4 satisfied with the modifications to the
5 funding formula that were generated in this
6 last go-round with the studies that were done.
7 I think that they don't make it, as far as I'm
8 concerned, and need to be further modified and
9 the way we distribute from state to the local
10 school districts needs to still be fixed
11 further, and you're a good example of why.

12 The other point I would make is there
13 was a bill actually introduced that went to
14 the Local Government committee last session
15 requiring municipalities, neighboring
16 municipalities, to meet with each other once a
17 year, and if I'm not mistaken, it also
18 included school districts and representatives
19 from the county.

20 They got some negative feedback from
21 the municipality organizations. And, you
22 know, I guess the question of mandating it by
23 state law, forcing people into a room that
24 don't want to be sitting next to each other
25 has its challenges, but your point is very well

1 taken that if neighbors don't know what each
2 other are doing and they do take actions that
3 affect each other, that's really -- creates
4 more difficulties in terms of managing the
5 government correctly and effectively for the
6 citizens at large.

7 So I encourage you to, you know,
8 maybe try and reach out to your
9 municipalities, get them to your school board
10 meetings, send a representative, and vice
11 versa, try to get somebody to go to theirs, so
12 you have more things to do, but nothing's
13 stopping this from voluntarily occurring. And
14 the more conversations you have to tune each
15 other in and understand each other's problems,
16 the better, because you all serve the same
17 people.

18 REPRESENTATIVE HOUGHTON: And
19 actually, we will be -- my staff will be
20 inviting several municipalities along with the
21 local school boards to my office for monthly,
22 bimonthly breakfast meetings.

23 CHAIRMAN THOMAS: Thank you.

24 One last question for Chris and
25 Molly. And that is, is there anything in the

1 act to encourage regional cooperation or
2 regional collaboration? And what I'm thinking
3 about is I know with the Homeland Security
4 dollars that come into Pennsylvania,
5 Pennsylvania distributes those dollars based
6 on regional goals and objectives, especially
7 on the procurement side. So that unless
8 Philadelphia sits down with Delaware, Chester,
9 Montgomery, and Bucks County, and they come up
10 with a single request, then there are no
11 Homeland Security dollars for procurement
12 that come into southeastern Pennsylvania.

13 That was partly encouraged by the
14 federal law that state law picked up on this.
15 So I'm curious as to whether there's any
16 encouragement or mandate of regional
17 cooperation or collaboration on some of
18 this -- some of these projects or on any of
19 the stimulus dollars.

20 MR. WHATLEY: I'm not aware of any
21 explicit references to regional cooperation in
22 the statute. Now, I would say that, you know,
23 there is a hundred billion dollars in
24 competitive grant money, and much of that is
25 money that could be utilized in a context of a

1 state economic development strategy. A lot of
2 it is work force. A lot of it is energy
3 efficiency. So that's the component of the --
4 that's part of the funding in the Recovery Act
5 that's designed to transform the American
6 economy over time.

7 As those competitive grant cycles are
8 announced, I could -- can see where states
9 would benefit in terms of their competitive
10 advantage vis-a-vis other states if they are
11 working on a regional basis. So that, you
12 know, mid-Atlantic states are working on
13 initiatives and, therefore, are in better
14 shape than Utah.

15 CHAIRMAN THOMAS: Or we have a
16 statewide work force investment council which
17 then has these regional work force development
18 programs. And these regional programs were
19 created with the notion that one size don't
20 fit all, that what might be good in the
21 southeast might not be good in the northeast.

22 And so to that end, I think it would
23 be good if the act encouraged or provided some
24 explicit language, and I guess the other part
25 of it, is if you could get back to us on

1 whether or not the general assembly is in a
2 position to provide for that.

3 Because I think in listening to you,
4 Doctor, reference to your project, your
5 project might not be as burdensome as it is if
6 you had support, cooperation from those
7 counties in your same area.

8 Thank you.

9 Did you want to --

10 MS. RAMSDELL: I was going to say,
11 Mr. Chairman, that may be explicit language
12 with the statute. And we can get back to you
13 on that like we are on the money available
14 from municipalities. That might even be the
15 best way to handle it, if there is a state
16 process by which you can encourage regional --
17 regional approach to different things. There
18 might be the flexibility there to do that.
19 But I will get back to you on that.

20 CHAIRMAN THOMAS: Okay. Thank you.

21 Let's give all of our presenters
22 another big round of applause.

23 We want to thank you, please, to our
24 guests. This is not the end but the
25 beginning.

REPORTER'S CERTIFICATE

I HEREBY CERTIFY that I was present upon the hearing of the above-entitled matter and there reported stenographically the proceedings had and the testimony produced; and I further certify that the foregoing is a true and correct transcript of my said stenographic notes.

BRENDA J. PARDUN, RPR
Court Reporter
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