

I N D E X

2

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
GLENN FORNEY				
By Ms. Hoff	5			
By Mr. Lang		57/150		
By the Court	56/143			

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
R-26	6/16/15 Request for State Aid	44	45
R-27	6/23/16 Request for State Aid	46	47
R-28	11/9/17 Request for State Aid	48	49
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1 THE COURT: All right. So we're on the
2 record. This is the matter of Alcantara, et al.,
3 versus the New Jersey Department of Education, et al.
4 And -- And our Docket Number EDU 11069-14. Counsel,
5 your appearances.

6 MR. LANG: Arthur Lang for Petitioners.

7 THE COURT: All right. Thank you.

8 MS. HOFF: Good morning, Your Honor. Deputy
9 Attorney General Jennifer Hoff on behalf of
10 Respondents. Here with me also is Deputy Attorney
11 General Geof Stark and Angela Valez (phonetic) from the
12 Department of Education.

13 THE COURT: All right.

14 MS. HOFF: Good morning.

15 THE COURT: Good morning. And appearing for
16 the participant is Mr. Inzelbuch. Correct?

17 MR. INZELBUCH: That's correct.

18 THE COURT: All right. So. Mr. Inzelbuch
19 sent in a correspondence yesterday. According to our
20 rules, 1:1-14.12d, any party may by motion apply to a
21 Judge for his disqualification. Mr. Lang, are you
22 asking for my disqualification?

23 MR. LANG: No, Your Honor.

24 THE COURT: Ms. Hoff, are you?

25 MS. HOFF: No, Your Honor.

1 THE COURT: All right. So let us continue.

2 Can you call your witness, Ms. Hoff?

3 MS. HOFF: Yes, Your Honor. The Respondents

4 call Glenn Forney to the stand.

5 THE COURT: Mr. Forney.

6 THE WITNESS: Good morning.

7 THE COURT: Can you just stand there? Raise

8 your right hand, please.

9 G L E N N F O R N E Y, RESPONDENT'S WITNESS, SWORN.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: State your name for the record.

12 THE WITNESS: Glenn Joseph Forney.

13 THE COURT: Okay. And spell Glenn.

14 THE WITNESS: Glenn, G-L-E-N-N.

15 THE COURT: Two N's.

16 THE WITNESS: Two N's.

17 THE COURT: Okay. And your last name.

18 THE WITNESS: F-O-R-N-E-Y.

19 THE COURT: Thank you. Have a seat. Just

20 keep your voice up, everything is being recorded.

21 THE WITNESS: Okay.

22 THE COURT: Ms. Hoff.

23 MS. HOFF: Thank you, Your Honor.

24 DIRECT EXAMINATION BY MS. HOFF:

25 Q Good morning, Mr. Forney.

1 A Good morning.

2 Q Are you currently employed?

3 A Yes.

4 Q And what is your current job?

5 A I am the deputy assistant commissioner of
6 Financing, Department of Education.

7 Q And what are your duties and responsibilities
8 with regard to that position?

9 A I have several units assigned to me; the State
10 Monitors, Grants Management, and various divisions
11 within the -- various offices within the Division of
12 Finance.

13 Q And how many years have been -- have been in
14 this particular position?

15 A It's been a little bit over one year.

16 Q Okay. And what's your educational
17 background?

18 A I have a Bachelor of Science Degree in Accounting.

19 Q And have you held any other positions within
20 the Department of Education?

21 A Yes. Let's see, I've been assist -- assistant --
22 Oh boy. Let's start from the beginning. I was a
23 budget manager.

24 Q Hm hmm.

25 A In the Office of Abbott Implementation. I was

1 assistant director of Finance. I became a director of
2 Finance. And then I came to be the deputy assistant
3 commissioner.

4 Q Okay. Have you held any jobs outside of the
5 Department?

6 A Yes. For approximately 15 years I was auditor
7 with the Office of Legislative Services.

8 Q Okay. Now you stated that you oversee the
9 Office of State Monitors. What is a State monitor?

10 A State monitor is defined by 18A-7A-55. It's
11 individuals placed in a district to assist in a
12 remediation of financial issues.

13 Q And what is your general role with respect to
14 the State monitors?

15 A I'm the commissioner's designee for contact
16 between the monitors on a day to day basis. I also do
17 the recruiting and the recommendation for placement.

18 Q Okay. So tell me a little bit how this works
19 in terms of putting a State monitor in a district.

20 A Well, we follow the statute.

21 Q Hm hmm.

22 A The beginning part of the statute talks about how
23 the district qualifies, the financial reasons that a
24 district qualifies.

25 Q Hm hmm.

1 A And then the second half of the statute talks
2 about the authority of a monitor. With respect to how
3 a district qualifies, it all goes by what happens in
4 their financial statements.

5 Q Okay. So how does the Department track
6 financial statements of a district?

7 A Well, we review the CAF -- all of the CAFR's of
8 every district every year.

9 Q What is a CAFR, sir?

10 A It's the Comprehensive Annual Financial Report.
11 It's a -- It's an audit. It's the audit of the
12 district's finances.

13 Q Hm hmm.

14 A Done by an independent auditor.

15 Q So you collect all the CAFR's of the
16 particular year. And then what?

17 A We -- We actually read through them.

18 Q Hm hmm.

19 A And we analyze them. And we look for qualifying
20 elements, for who has qualifying elements, specifically
21 for -- for the State monitors, --

22 Q Hm hmm.

23 A -- who has the elements.

24 Q And are those qualifying elements laid out in
25 the statute?

1 A Yes.

2 Q And what is -- What's that statute again?

3 A 18A-7A-55.

4 Q And --

5 A 18A-7A-55. Yeah.

6 Q So. Pardon me. So what do you do with those
7 qualifying elements if you see any?

8 A Well, first we identify who has 1-2-3-4, or how
9 many qualifying elements.

10 Q Hm hmm.

11 A Okay. And I call it my radar.

12 Q Hm hmm.

13 A For districts that have one or possibly two, we
14 decide whether we're going to remediate them through
15 the County office or, when I have staff available, such
16 as budget managers, I send a budget manager in.
17 Sometimes we send the budget manager and the County
18 office. And -- And we try to fix -- We try to help the
19 district fix themselves.

20 Q And what's a budget manager?

21 A A budget manager is somebody on my staff who has
22 an ex -- is an expert in dealing with budget issues.

23 Q Okay. So what happens when you've sent in
24 the County office, budget manager, some combination
25 thereof, what happens when the district just can't

1 remediate itself?

2 A Then we have to look at the possibility of putting
3 in a State monitor.

4 Q Okay. And is that usually in the first year
5 you see a qualifying element?

6 A It depends. Sometimes it is and sometimes it's
7 not.

8 Q Hm hmm. What's it depend on?

9 A It depends on the complexity and the -- of the
10 financial issue. And I'll give you an example. If the
11 district is able to pay their bills.

12 Q Hm hmm.

13 A Have a deficit, but pay their bills and continue
14 to go on, we give them -- we give them some time to fix
15 themselves up.

16 Q Hm hmm.

17 A To hold themselves up by their bootstraps. In the
18 case of a district who -- who's racked up a large
19 deficit and immediately needs an infusion of cash, to
20 say, make payroll.

21 Q Hm hmm.

22 A We have to put in a monitor right away. Because
23 in order to get an advance of State aid, we have to
24 have a monitor.

25 Q Has a State monitor been installed in

1 Lakewood Public School District?

2 A Yes.

3 Q And did you find any qualifying elements
4 requiring this?

5 A Yes.

6 Q When did you first start tracking the
7 District for potential State monitor?

8 A Under my -- Under my watch as -- as a director.
9 The first year that they qualified was 2011.

10 Q Okay. So what did you do at that point, in
11 2011?

12 A We -- I actually had some additional staff, budget
13 managers. And I assigned one of them to work with the
14 District and with the County office.

15 Q And do budget managers from your department
16 cost the District any money?

17 A No, they're on my payroll.

18 Q Okay. So why did you take this course of
19 action?

20 A We have found that in the past, if we can get a
21 district to remediate itself in the first couple of
22 years, through technical assistance, through be it a
23 budget manager or, and or the County office, we have a
24 better rate of success for them avoiding putting in a
25 monitor. And also, staying on being fiscally solvent

1 in the future.

2 Q And when was the monitor installed in
3 Lakewood?

4 A I believe it was April of 2014.

5 Q Okay. And why was a monitor installed at
6 that point?

7 A We had gone, let's see, 11 through the 14 year.
8 And the deficit -- They had reached a deficit of
9 approximately 6.4, 6.5 Million Dollars.

10 Q Hm hmm.

11 A And it was the point where we knew we had to
12 actually put a monitor in to help out.

13 Q Okay. Do any other districts in the State of
14 New Jersey, have State monitors?

15 A I believe there is about 11 districts that have
16 monitors right now.

17 Q Okay. And do all of these districts have --
18 Have they received State aid advances?

19 A Not all.

20 Q Okay. But do some?

21 A Yes.

22 Q So what is the goal of a monitor?

23 A To help fix the district and exit.

24 Q Okay. So what do you look for in a person
25 when you are selecting a State monitor?

1 A So, it's -- There is no hard steadfast job des --
2 job expecta -- or qualifications that we're looking
3 for. But I look for somebody that -- I try to figure
4 out, does the district need somebody who's more of a
5 superintendent background.

6 Q Hm hmm.

7 A Or somebody of a fiscal background, or both. So,
8 and we try to find people who are very knowledgeable in
9 the field of administration, governance, or finance.

10 Q And how long are monitors installed for in a
11 district.

12 A They're there, the statute says, until the
13 commissioner feels the district has been remediated.

14 Q When do you know that a district is
15 remediated?

16 A It depends on -- It depends on the district. What
17 we like to see is, we like to see that it has a stable
18 administration.

19 Q Hm hmm.

20 A We like to see that all the findings have been
21 cleaned up.

22 Q Findings? What findings?

23 A The findings in the CAFR --

24 Q Hm hmm.

25 A -- that qualified them, the qualifying elements.

1 Q Hm hmm.

2 A We also like to see that the loans are completely
3 paid back.

4 Q Okay. So how are the State monitors paid?

5 A They're -- The statute says that they are
6 employees of the district and they get paid by the
7 district.

8 Q So is that a Department of Education
9 determination?

10 A No, that's in statute.

11 Q Okay. So you said that the monitors are paid
12 by the district. Does this create a conflict of
13 working relationship between you and the monitors?

14 A No, not at all.

15 Q Okay. Do you ever find it difficult to work
16 with monitors because of this arrangement?

17 A No, not at all.

18 Q So what's your goal with regard to the
19 monitors?

20 A Well, like I said, I -- I do all the recruiting.

21 Q Hm hmm.

22 A And I'm the commissioner's designee. I do the day
23 to day operations with the monitors. Some monitors, we
24 talk once a month, two or three times a month. Some
25 monitors, 2-3-4-5 times a day. And it -- it really

1 depends on what's going on in the district. Sometimes
2 districts have -- have a lot of turmoil or something
3 going on, and it requires more consultations. I really
4 coordinate the activities of the monitors. I make sure
5 that everybody's doing things as consistently as
6 possible with statute and code.

7 Q And do the monitors report to you directly?

8 A Yes.

9 Q And what authority do you have over them?

10 A All the authority granted to me as -- as the
11 commissioner's designee. I prepared her contracts. I
12 make the recommendations for them to be hired. I make
13 the recommendations for them to be rehired.

14 Q Hm hmm.

15 A The contracts are for one year.

16 Q Okay. And if the district is paying them,
17 are they Department of Education employees, per se?

18 A No.

19 Q Okay. So how many State monitors are
20 currently in Lakewood?

21 A One.

22 Q All right. Have you had more than one in the
23 past?

24 A We had up to three monitors at one point, yes.

25 Q Okay. And now it's back down to one?

1 A Hm hmm.

2 Q Have the --

3 THE COURT: Is that a yes?

4 THE WITNESS: Yes.

5 BY MS. HOFF:

6 Q Have the monitors been able to assist the
7 District in fi -- fixing some of the financial issues
8 that led to their installation?

9 A Absolutely.

10 Q How do you know that?

11 A Well, we're seeing that the deficit balance is
12 going down.

13 Q What do you mean by that?

14 A The deficit was up to approximately 6.4 Million in
15 2014. And the deficit balance is starting to decrease,
16 the annual deficit.

17 Q Okay.

18 A We're also seeing that the number of findings, and
19 the complexity of the findings report from the CAFR,
20 are getting better.

21 Q Okay. Because the monitors were able to
22 assist the District in fixing some of these issues, do
23 you know if the past damage to Lakewood's financial
24 state has been completely undone?

25 A No. It has not been undone.

1 Q Can this damage be fixed?

2 A I think it's going to take a lot of time.

3 Q Hm hmm.

4 A Financially, you can always fix something. But in
5 this case, it's going to be a very long hard road to
6 fixing this.

7 Q Hmm. And so, switching gears a little bit.
8 How many kids are in the public schools in Lakewood?

9 A Approximately six thousand.

10 Q And how many kids are in non-public schools
11 in Lakewood.

12 A Approximately about 32 thousand.

13 Q Okay. Are non public school students or
14 public school students, which is growing faster in that
15 population?

16 A The non public students are growing at a rate that
17 outpaces the public school in Lakewood.

18 Q Do you know approximately how many non public
19 schools there are in Lakewood Township?

20 A I believe there's approximately between 160 and
21 180 non public schools.

22 Q Is this unusual?

23 A It is not what -- something we see in any other
24 district in the State.

25 Q So, how is Lakewood, the town, able to have

1 so many non public schools?

2 A That's a byproduct of their zoning.

3 Q Who's responsible for zoning?

4 A The Zoning Board.

5 Q And is the Zoning Board part of local
6 government?

7 A It's appointed by the Town Council.

8 Q Hmm. Is that part of the School District?

9 A No.

10 Q Now, is the District responsible for any
11 costs for the non public schools?

12 A They're responsible for the cost of
13 transportation, is the main cost.

14 Q Okay. And is there anything else?

15 A There's a small cost, I believe it's called,
16 "Child Find."

17 Q Hm hmm.

18 A And there's also -- There may be some cost with --
19 with regard to IEP teams.

20 Q Okay. And are there any State aid provided
21 to the District for non public services?

22 A Yes. There's Chapter 192, 193.

23 Q And is there any Federal aid for --

24 A There is Federal aid. There's IDEA.

25 Q Hm hmm.

1 A Which the District can use for tuition.

2 Q Okay. As part of your job overseeing the
3 State monitors, do you look to determine what might be
4 financial stressors on a district that has to have a
5 monitor?

6 A Absolutely.

7 Q So, right now, what is the biggest financial
8 stressors in Lakewood?

9 A Right now, the biggest -- the biggest financial
10 stressors on Lakewood is the transportation of the non
11 public students.

12 Q Okay.

13 A And you also have special ed.

14 Q Let's start with transportation.

15 A Hm hmm.

16 Q What's the problem here?

17 A You have mandated -- The District is required to
18 bus the children; it's mandated.

19 Q Hm hmm.

20 A And you have approximately 21 thousand non public
21 students that are trans -- transported.

22 Q What is non -- What is mandated
23 transportation?

24 A Mandated transportation is set by statute. It
25 requires children, grades K to 8 that are beyond the

1 two mile limit, to be bussed. And grades 9 thru 12
2 beyond 2.5 miles to be bussed.

3 Q What can the District or the Department do to
4 limit that number?

5 A Nothing.

6 Q Is there any local choice involved in
7 formulating this number?

8 A Is there a local choice in formulating --
9 Absolutely.

10 Q What do you mean? What --

11 A Well, a parent of a non public child gets to
12 decide what school they're going to attend.

13 Q Hm hmm.

14 A And that's -- that's a parental right.

15 Q Right.

16 A And there's nothing wrong with that. The district
17 has no ability to weigh in on that. So whatever child
18 -- whatever the parents choose to send their children,
19 the district, if it's beyond the two or two and a half
20 miles, the district is mandated to pay it. The
21 district has no choice in paying it. And they have no
22 say in it and neither does the Department.

23 Q So the parents are allowed to choose where to
24 send their school.

25 A Yes.

1 Q I mean, their kids to school.

2 A Where -- They're allowed to choose what school.

3 Yes.

4 Q All right. So what is the cost for non
5 public mandated bussing?

6 A The cost for mandated non public bussing is
7 approximately 20 to 22 Million Dollars.

8 Q Okay. And so should --

9 A Non public mandated bussing.

10 Q Non public mandated. Should they be getting
11 -- Do they get any State aid for this? For non public
12 mandated bussing, do they get transportation aid?

13 A No.

14 Q They don't get transportation aid from
15 mandated bussing?

16 A They get transpor -- I'm sorry. They get -- They
17 do get -- They get tran -- Let's back it up. They get
18 transportation aid for mandated --

19 Q Sorry.

20 A -- bussing.

21 Q My words. Sorry.

22 A That's okay. Mandated bussing. It's filled out
23 on the DTRS and it does count towards the funding
24 formula.

25 Q Okay. Should they be getting more State aid

1 for this?

2 A No.

3 Q Why?

4 A The Department follows the formula.

5 Q But if they were to get more money from --
6 for transportation aid, where would this come from?

7 A It would have to come from the State
8 appropriations.

9 Q Okay. And where -- And where does the money
10 for the State appropriations come from?

11 A The majority of the State -- the State budget
12 comes from the tax payers in New Jersey.

13 Q So you're talking about the people spread
14 throughout the State?

15 A Correct.

16 Q Okay. You also stated that special education
17 was a financial stressor on the District. Is that
18 true?

19 A That is true. It's a large --

20 Q Why?

21 A It's a very large cost.

22 Q Why?

23 A You're pulling from a town.

24 Q Hm hmm.

25 A And anybody who has special ed --

1 Q Hm hmm.

2 A -- children, most always goes and registers with
3 the district.

4 Q Hm hmm.

5 A The district is required by Federal and State
6 statute to provide those children with the services
7 that they need in the IEP.

8 Q And when a student registers with the
9 District for special education services, are they
10 considered a public school student?

11 A Yes.

12 Q And are public school students counted in for
13 State aid?

14 A Yes.

15 Q Now, is there -- What is something called
16 "EXAID?"

17 A EXAID is an appropriation that is given for
18 students that are out of district placement, where
19 their cost exceed the threshold set by the
20 Appropriation Act. It's a pot of money. Basically,
21 it's a pot of money that as dist -- that as everybody
22 applies throughout the State, --

23 Q Hm hmm.

24 A -- that pot is divvied up based on how many
25 students you have.

1 Q And do you know if Lakewood has received
2 EXAID or Extraordinary Aid?

3 A They have.

4 Q Okay. So, turning back to the Township. Has
5 Lakewood, itself, been growing?

6 A Yes.

7 Q Okay. How do you know that?

8 A I read the -- Believe it or not, I do read the
9 CAFR's. And --

10 Q For the District? Or --

11 A For the Dist -- Actually, for all of them in the
12 State. But I do read Lakewood's CAFR.

13 Q Hm hmm.

14 A And there's, in the statistical section in the
15 back, in the J section, you can see the popula --
16 There's a -- I believe it's J-14 or J-12.

17 Q Hm hmm.

18 A Where it talks about the population growth.

19 Q And who contrib -- Where is that information
20 coming from, for this Section J of the CAFR?

21 A I believe the District gets it DCA.

22 Q And does the District report this
23 information?

24 A Yes.

25 Q All right. So, is there new construction in

1 Lakewood?

2 A Yes.

3 Q Okay. How do you know that?

4 A You know, there's -- You can see it -- If you just
5 drive through Town, there's new construc -- you can see
6 all the new construction. But you can see that the
7 ratable balance of the Town is growing by leaps and
8 bounds.

9 Q Okay. So, does the District have a say in
10 new property development within their borders?

11 A No.

12 Q Okay. With new property development has
13 there been population growth?

14 A Yes.

15 Q Okay. When new construction comes on line.

16 A Hm hmm.

17 Q Is the Township able to collect any money on
18 that construction for school taxes?

19 A Yes.

20 Q Who do they collect that from?

21 A They collect it from the property owner.

22 Q So does that go directly to the School that
23 first year?

24 A No, that does not.

25 Q Who -- Who does it go to?

1 A It goes to the Township.

2 Q So, what do you mean by, "first year money?"

3 A So if a house -- if a house is under construction
4 and it's -- and you settle, say, in July 1st.

5 Q Hm hmm.

6 A The tax levy for the school is struck based upon
7 the ratables from the prior year. The house that comes
8 online midyear, from the day that person takes
9 ownership of it, they begin paying taxes on the full
10 amount. You pay your fire, your township, your county
11 and your school taxes on the assessed value of that
12 property.

13 Q Hm hmm.

14 A But because the value -- because the levy of the
15 District is struck on a dollar amount, and it's on the
16 previous year's ratables, that six month period of
17 taxes that the Township collects goes and stays with
18 the Township.

19 Q Okay. What's a school levy?

20 A That's the amount that the School District raises
21 for -- from local taxes.

22 Q And who sets the school levy?

23 A The School Board.

24 Q Is the Township obligated to give the School
25 District any more money on top of the struck school

1 levy?

2 A No.

3 Q Can they?

4 A Yes.

5 Q Now, you were talking about ratables. Are
6 the ratables in Lakewood increasing or decreasing?

7 A Increasing.

8 Q What is a ratable?

9 A Ratable is the assessed value of the Town.

10 Q Okay. And how do you know they're
11 increasing?

12 A It is also recorded in the J section of the CAFR.
13 But I've also been looking at the County schedule of
14 ratables.

15 Q Why do you review these things.

16 A I have issues, I guess.

17 Q (Laughter)

18 A No. As part of the job. And part of always
19 looking for solutions to problems, we try -- at the
20 Department. We try to take in as much data and
21 information as possible. We look for trends. We look
22 for analysis. We also have to make sure that the
23 information being recorded is proper. So, we pull from
24 a lot of different data.

25 Q As part of that information, do you ever look

1 at tax rates?

2 A Yes.

3 Q Are the tax rates in Lakewood high or low or
4 something else?

5 A The tax rate's been decreasing.

6 Q What do you mean by that?

7 A Well, as the population is growing, and the
8 ratables are going up, --

9 Q Hm hmm.

10 A -- the tax rate -- Because your ratables is -- is
11 the whole pizza.

12 Q Hm hmm.

13 A Right, it's the whole pie. But as more property
14 comes on line, each person has a smaller piece of it.

15 Q Hm hmm.

16 A It distributes the value across a broader base.

17 Q Hm hmm.

18 A So as your -- as your ratables go up, your tax
19 rate tends to go down.

20 Q Do you know what the term, local fair share,
21 means?

22 A Yes.

23 Q And what is it?

24 A Local fair share is a byproduct of the town wealth
25 and the value of the property.

1 Q Okay. And is that used in the school funding
2 formula?

3 A It's used -- Yes.

4 Q And so, you said it's a local calculation of
5 wealth and property. Is that correct?

6 A It's data we get from the DCA that talks about the
7 income wealth of the town, as well as the property
8 value.

9 Q And so does a district have to contribute to
10 the local fair share?

11 A Yes.

12 Q Okay. And monetarily?

13 A Yes.

14 Q And how do they do that?

15 A The local fair share is -- is really -- It's a
16 function of what we think that the town is capable of
17 paying --

18 Q Hm hmm.

19 A -- in local property taxes --

20 Q Hm hmm.

21 A -- towards the school fund -- the school general
22 fund.

23 Q So does the Township generate revenue through
24 taxation?

25 A Does the town -- Yes.

1 Q Okay. Now, is the Township required to tax
2 up to the local fair share, or is that discretionary?

3 A Township or the District?

4 Q Oh, sorry. Again, my wording.

5 A That's okay. I just -- I want to answer
6 correctly.

7 Q Is the District required to have taxes up to
8 the local fair share?

9 A The District is encouraged to tax up to the local
10 fair share.

11 Q But they're not obligated to do so?

12 A No.

13 Q Can they contribute more than the local fair
14 share if they so wish?

15 A Yes.

16 Q Okay. Is Lakewood currently raising enough
17 money to contribute up to the local fair share amounts?

18 A No.

19 Q All right. So does the tax levy struck by
20 the Board in any way relate to the local fair share?

21 A The levy that is struck by the Board is less than
22 the local fair share.

23 Q Are there any mechanisms in place that would
24 limit the ability to raise the levy?

25 A Yes.

1 Q And what are those mechanisms?

2 A The tax cap restricts them to a two percent growth
3 over the prior year.

4 Q Okay. And is Lakewood capped out at this
5 point?

6 A They're capped out on the two percent.

7 Q All right. I'll come back to that in a
8 moment. If the tax rates are low, are they lower than
9 other municipalities, do you know?

10 A Are you talking in Bur -- Burlington, not
11 Burlington. -- Ocean County?

12 Q Have you looked at that information?

13 A I've looked at -- I've looked at Ocean County.
14 And they're -- they're in the middle of the pack.

15 Q Okay. So, does the tax levy have anything to
16 do with that?

17 A Yes.

18 Q Okay. How?

19 A Well, the tax rate is a byproduct of the tax levy.

20 Q Hm hmm. And so, has the tax levy always been
21 increasing as times have gone on?

22 A The tax levy was stagnant for a while. It
23 actually decreased. And then now it's been increasing.

24 Q Okay. Do you know if the overall population
25 in Lakewood was growing during the years that the tax

1 levy was stagnant, or was the population itself
2 stagnant also?

3 A It's been growing steadily throughout the years.

4 Q All right. I'd like you to turn to what has
5 labeled R-3, already in evidence, in the binder in
6 front of you, please.

7 MR. LANG: R-3?

8 MS. HOFF: Yes, R-3.

9 BY MS. HOFF:

10 Q Are you there?

11 A Yes.

12 Q All right. Do you know what this document
13 shows?

14 A It shows the tax levy.

15 Q Okay. So I'm looking at fiscal year 2011 to
16 2014. Do you see that column on the left?

17 A Yes.

18 Q All right. How does the levy change for
19 those fiscal years?

20 A It was the same in 11 and 12. It went down in 13.
21 It went up slightly in 14.

22 Q Okay. So in FY 15, it appears that the levy
23 jumped up by 9.2 percent. Is that correct?

24 A Correct.

25 Q Do you know what happened there?

1 A It was the year that the -- the first year that
2 the monitor was involved.

3 Q Okay. Does the monitor have any involvement
4 in the tax levy?

5 A Yes. They -- I believe the monitor struck the tax
6 levy that year.

7 Q Okay. And normally, in a normal year, would
8 the Board strike a tax levy?

9 A Yes.

10 Q Okay. And you believe that it was the
11 monitor who did that year?

12 A I believe the monitor made the District use up all
13 available funds, bank cap, and raised taxes up to the
14 maximum amount.

15 Q All right. From an accounting perspective,
16 have they raised -- had they raised the levy from 11 to
17 14, do you know if it would be less likely for them to
18 have -- be in a deficit that they are in now?

19 A Yes.

20 Q Yes, what?

21 A It would be less likely.

22 Q Why?

23 A Because that money, it would have been compounded
24 over the years. And it would have produced additional
25 funds for the District.

1 Q All right. So why didn't the jump in the tax
2 levy in 15 just fix the problem?

3 A The District was in a -- Not only did it have a
4 deficit --

5 Q Hm hmm.

6 A -- but the costs were going up faster than the
7 taxes could go up. It outpaced the -- It outpaced the
8 ability for the District to raise funds.

9 Q So, previously you had stated that Lakewood
10 was capped out in terms of raising their tax levy. Is
11 that correct?

12 A That is true.

13 Q Is that cap pursuant to litigation? I mean,
14 legislation. My goodness.

15 A Legislation? Yes.

16 Q Okay. And is that legislation part of the
17 School -- the SFRA, or is it different legislation?

18 A Different legislation.

19 Q So is there anyway for a school district to
20 overcome the two percent levy cap in order to raise
21 more money?

22 A Yes.

23 Q How so?

24 A There's four exceptions to the tax levy cap, the
25 two percent cap. It would be the cost of health

1 benefits, an enrollment adjustment, a pension cost
2 adjustment, --

3 Q Hm hmm.

4 A -- and assignment of governmental duties to
5 another governmental agency.

6 Q Are there any other statutes or regulations
7 that allow them to go beyond the two percent cap?

8 A There is another statute, 18A-22-40, which allows
9 a district to raise funds for a general fund deficit.

10 Q Okay. Is Lakewood in a general fund deficit?

11 A Yes.

12 Q And how long has Lakewood been in a general
13 fund deficit?

14 A Since 2014.

15 Q And are these things, these referendums under
16 18A-22-40, limited to T and E expenses or non T and E
17 items?

18 A On 18A-22-40 statute, --

19 Q Hm hmm.

20 A -- it's not limited. Under what we call, "a
21 second question," which is voted in November, that is
22 limited to T and E -- non T and E items only.

23 Q Okay. Has Lakewood ever attempted to put out
24 an 18A-22-40 referendum?

25 A Yes. The monitor made them put one out.

1 Q When you say the monitor made them put one
2 out, what do you mean by that?

3 A The monitor actually ordered the District to go to
4 special referendum.

5 Q Did it pass?

6 A Unfortunately, it did not.

7 Q Okay. And so you said something about second
8 question. What are you talking about there?

9 A Second questions, a district's allowed to put out
10 a second question for non T and E items.

11 Q Hm hmm.

12 A And that's something that they can go out and do
13 every year.

14 Q Okay. Put out -- What do you mean by put
15 out?

16 A Go -- So they can go out for voter approval on the
17 November election.

18 Q And 18A-22-40 also for voter approval?

19 A Yes.

20 Q Okay. So, if it's a non T and E question,
21 would a special question, should it pass, have the
22 ability to ease any burden on the general fund?

23 A Yes.

24 Q How so?

25 A It'll raise additional funds and bring in

1 additional revenue to the District.

2 Q Talking about additional funds to the
3 District. What are the three categories of revenue for
4 a district?

5 A You have the local tax levy.

6 Q Hm hmm.

7 A State aid and Federal aid.

8 Q Let's talk about State aid here. Is State
9 aid subject to the Appropriations Act?

10 A Yes.

11 Q And what is the Appropriations Act?

12 A It's the annual Act that allows the State to spend
13 the funds.

14 Q Hm hmm. Has Lakewood State aid been frozen
15 in the past?

16 A Yes.

17 Q And what does State aid being frozen actually
18 mean?

19 A It means you -- Basically, you get the same amount
20 that you got the prior year.

21 Q And was it the Department's decision or
22 determination to freeze State aid?

23 A No.

24 Q How was it frozen then?

25 A It's -- It's frozen by the Appropriations Act.

1 It's a dot that's passed by the Legislature and signed
2 into law.

3 Q Okay. Could frozen State aid cause an issue
4 in a district?

5 A If the costs are rising, yes.

6 Q Okay. And is -- Does a district have an
7 ability to plan for that or adjust anything?

8 A Yes.

9 Q Now, is a State aid freeze directly a
10 problem with the mechanism of the formula, or is that
11 something completely different?

12 A It's completely different.

13 Q Okay. What's the difference between them,
14 those two?

15 A Well, a State aid freeze is -- As you build your
16 budget. You should start building your budget -- Most
17 districts start between Thanksgiving and Christmas
18 time.

19 Q Hm hmm.

20 A And you build it based upon what you think is
21 going to -- what you're going to get.

22 Q Hm hmm.

23 A And versus what the district is going to cost.

24 Q Hm hmm.

25 A And you make adjustments. The budget -- The

1 budget message comes out from the governor usually in
2 February, sometimes in March, depending on -- on what
3 their doing each year. And then the State aid notices
4 go out.

5 Q Hm hmm.

6 A Where you -- Where you are told how much State aid
7 you can anticipate. And you develop your budget. You
8 adopt it in, usually by March 20th, is -- is the date
9 that the budget is due, to be adopted by the Board.
10 And then as the Appropriations Act is signed into law,
11 you get the State aid beginning in the September of the
12 following -- of that next fiscal year.

13 Q Okay. So was State aid frozen only for
14 Lakewood or for other districts as well?

15 A It was frozen throughout the State.

16 Q Okay. Speaking of State aid. Are -- And
17 budgeting. Are school districts required to have a
18 balanced budget?

19 A Yes, that's statute.

20 Q Okay. And what does a balanced budget mean?

21 A Revenues have to equal expenditures.

22 Q Okay. Speaking of that. In 2018/2019, was
23 Lakewood able to balance its budget?

24 A Yes.

25 Q Okay. But the -- How did that happen?

1 A They were able to balance it with the additional
2 State aid.

3 Q Okay. What is State aid advance?

4 A 18A-7A-56 is the statute that talks about an
5 advance of State aid.

6 Q Okay.

7 A Which is equal to a loan.

8 Q Okay. And is this part of the overall school
9 funding mechanism?

10 A Yes.

11 Q Okay. So, are there other parts of school
12 funding outside the narrow confines of the SFRA?

13 A Yes. There's other statutes that allow the
14 district tools and opportunities to raise funds.

15 Q And so, do you just give money to a district
16 as a State aid advance, or are certain things required
17 first?

18 A No, we have -- It's a very rigorous process we go
19 through to make sure that the dollar amount is correct.

20 Q Why does that matter?

21 A Because the Department doesn't actually have the
22 funds. We don't have a budget, a line item budget.

23 Q Hm hmm.

24 A It's money that we have to go and request from
25 Treasury to be put into our accounts to be distributed

1 to a district.

2 Q Does it matter on the district's end if the
3 money is correct or not?

4 A It should.

5 Q Why?

6 A Well, we don't want to give them too much and we
7 don't want to give them too little. Both -- Both
8 issues raise problems. We want to make sure that the
9 district's providing a thorough and efficient education
10 at the most efficient rate.

11 Q Okay. So how do you determine what amount is
12 necessary?

13 A So we work with the district. We work with the
14 monitor. Budget managers, sometimes, if I have them
15 available. Myself and the County office. We try to
16 figure out what -- what is the true cost of operating
17 that district in the next year. We look at the streams
18 of revenue --

19 Q Hm hmm.

20 A -- that they have. And then we -- we try to
21 figure out how -- the most efficient way to run the
22 district. And then if there's a gap, we look at
23 recommending an advance of State aid.

24 Q What about educational determinations. You
25 don't have a background in education.

1 A We rely on -- on the education experts, such as
2 the superintendent and the administration.

3 Q Okay. So what exactly is this process of
4 determining State aid? You said you meet with these
5 certain people; what do you do?

6 A Well, we conduct -- As we're -- As they're
7 building their budget, throughout the budget cycle that
8 starts some time in -- Usually around the holidays, we
9 start looking at where we think it's going to be, what
10 we think it's going to cost. And as the State aid
11 notices come out, we've had a lot of meetings to
12 discuss how that's going to come into play.

13 Q Hm hmm.

14 A Is there anyway we can economize an efficient --
15 look for efficiencies to operate the district? And
16 make -- make it work financially.

17 Q And does the district have to provide you
18 anything in order for you guys to look at this?

19 A Absolutely. There's -- We're always looking for
20 any and all data to support the numbers that the
21 district is reporting as expenditures.

22 Q And is the District involved in this process?

23 A Yes.

24 Q So when did Lakewood first start receiving
25 State aid advances from -- well, the State?

1 A I believe the first one was 2015 range.

2 Q So, why is a State aid advance necessary?

3 A It fills the gap between what the district has --
4 has to spend.

5 Q Hm hmm.

6 A And what they have available to spend. It ensures
7 that they're able to meet a thorough and efficient
8 education for the students.

9 Q Okay. So, how does the DOE get that money?
10 If you say you have no line item or budget for this.

11 A We request -- We request -- Once we're confident
12 the amount is correct.

13 Q Hm hmm.

14 A Like I said, we don't want to be too -- We don't
15 want to give them too much and we also don't want to
16 short them either. We want it to be just right. Once
17 we get -- we're confident with that number, we request
18 the funds from Treasury. The commissioner writes a
19 letter to the treasurer.

20 Q Okay. Can you please turn to what has been
21 labeled as "R-26," for identification.

22 MR. LANG: You said, R-20?

23 MS. HOFF: R-26.

24 THE WITNESS: Okay.

25 BY MS. HOFF:

1 Q Do you recognize this document?

2 A Yes, I do.

3 Q And what is this document?

4 A This is a letter from David Hespe, who was the
5 commissioner at the time. It's requesting an advance
6 of State aid for Lakewood School District under the
7 District Fiscal Accountability Act.

8 (R-26 marked for
9 Identification)

10 Q Okay. Were you copied on this document?

11 A Yes.

12 Q Do you know if this document was made near or
13 at the time there was a recommendation for State aid?

14 A Yes.

15 Q Is this something that would regularly be
16 created as part of normal course of business when a
17 State aid advance is requested from the State
18 Treasurer?

19 A Yes.

20 Q And is this something that would be kept or
21 maintained in the regular course of business at the
22 Department?

23 A Yes.

24 Q And do you believe this is an accurate copy
25 of the June 16th, 2015 memo as you remember it?

1 A Yes.

2 MS. HOFF: Your Honor, I would like to move
3 R-26 into evidence.

4 THE COURT: Mr. Lang.

5 MR. LANG: Yeah, no objection.

6 THE COURT: Okay. Thank you. It will be
7 admitted.

8 (R-26 marked
9 in Evidence)

10 BY MS. HOFF:

11 Q So, looking at R-26. How much money was
12 requested from the State Treasurer?

13 A Four Million Five Hundred Thousand Dollars.

14 Q Okay. And was it approved by the State
15 Treasurer?

16 A Yes.

17 Q And was this money provided to the District?

18 A Yes.

19 Q Has Lakewood received any other State aid
20 advances?

21 A Yes, they have.

22 Q And was it -- Did the Department request that
23 money through a similar mechanism?

24 A Absolutely.

25 Q I would like you to turn to what has been

1 labeled as R-27. Do you recognize this document, Mr.
2 Forney?

3 A Yes.

4 Q And what is it?

5 A It's the request for advance for the 16.

6 Q Okay. And were you copied on this document?

7 A Yes.

8 Q And what is the date of this memo?

9 A June 23rd, 2016.

10 (R-27 marked for
11 Identification)

12 Q And was this memo made near or at the time
13 that the Department recommended a State aid advance to
14 the State Treasurer?

15 A Yes.

16 Q And is this something that will be regularly
17 created in the normal course of business at the
18 Department when requesting a State aid advance from the
19 Treasurer?

20 A Yes.

21 Q And is this something that the Department
22 would keep or maintain as part of the regular course of
23 business at the Department.

24 A Yes.

25 Q And is this an accurate representation, an

1 accurate copy of this memo as you remember it?

2 A Yes.

3 MS. HOFF: Your Honor, I would like to move
4 R-27 into evidence.

5 THE COURT: Mr. Lang.

6 MR. LANG: Yes, Your Honor. I agree.

7 THE COURT: Okay. It will be admitted.

8 Thank you.

9 (R-27 marked

10 in Evidence)

11 BY MS. HOFF:

12 Q Mr. Forney, how much was requested in this
13 State aid advance for money?

14 A Five Million Six Hundred Forty Thousand One
15 Hundred and 83 Dollars.

16 Q And was this approved by the State Treasury?

17 A Yes.

18 Q And was it therefore then provided to the
19 District?

20 A Yes.

21 Q Has Lakewood received any additional State
22 aid advances?

23 A Yes, they have.

24 Q And were -- was the State aid advance
25 requested through a similar mechanism?

1 A Yes.

2 Q Your Hon -- I mean, Mr. Forney, can you
3 please turn to what has been labeled as "R-28," in the
4 binder in front of you?

5 A Yes.

6 Q And do you recognize this document?

7 A I do.

8 Q And what is it?

9 A It's the State aid advance for the 17 year.

10 Q Okay. And were you copied on this document?

11 A Yes.

12 Q And was this -- What's the date of this
13 document?

14 A November 9th, 2017.

15 (R-28 marked for
16 Identification)

17 Q And was this made near or at the time the
18 Department recommended State aid advance for Lakewood?

19 A Yes.

20 Q And is this something that will be created in
21 the regular course of business at the Department when
22 requesting a State aid advance from the Treasurer?

23 A Yes.

24 Q And then is this document kept or maintained
25 by the Department when -- in this situation, as well?

1 A Yes.

2 Q And, according to you, is this an accurate
3 copy of the November 9th, 2017 memo as you remember it?

4 A Yes.

5 MS. HOFF: Your Honor, I would like to move
6 R-28 into evidence at this time.

7 THE COURT: Mr. Lang.

8 MR. LANG: Yes, Your Honor.

9 THE COURT: No -- No objection. Correct?

10 MR. LANG: Yes.

11 THE COURT: Thank you. It's admitted.

12 (R-28 marked
13 in Evidence)

14 BY MS. HOFF:

15 Q How much was requested, Mr. Forney?

16 A Eight Million Five Hundred 22 Thousand 78 Dollars.

17 Q And was it approved?

18 A Yes.

19 Q And was it therefore provided to the
20 District?

21 A Yes.

22 Q And did the District require any additional
23 funds for the 2018/2019 year?

24 A Yes.

25 Q So take me through the process for that

1 particular year.

2 A 18/19. So, we did the normal process. We started
3 talking about the District -- with the District, normal
4 times.

5 Q Hm hmm.

6 A We tried obtaining an understanding of what the
7 needs were; the cost drivers, the increases, looking
8 for any economies, efficiencies. And we tried to come
9 up with an accurate number again.

10 Q And did you run into any problems?

11 A Yes, we did. Unfortunately, we did. We -- It was
12 very slow on getting information from the District.
13 The numbers were changing on a daily basis. There was
14 a lot of revisions. We had a meeting in the County
15 office. Prior years, the District had come up to us.
16 So, that this year we actually went down to the County
17 office. And it was myself, the County BA, a budget
18 manager, the BA of the District, the Superintendent.
19 And the District didn't -- didn't really provide much
20 in ways of information.

21 Q Hm hmm.

22 A Or any ideas.

23 Q So, if you have a State monitor in there, why
24 didn't you have access to all the documentation you
25 could ever want?

1 A There's -- As you're developing the budget,
2 there's a lot of calculations and assumptions that lead
3 to -- to the dollar amount. And unless you are -- have
4 direct access, and know exactly how somebody's coming
5 up with the numbers, it's almost like a guessing game.

6 Q Hm hmm.

7 A What we were able to do is, we were able to
8 recreate, through a lot of work, what we thought and
9 what we felt the dollar amount would actually be.

10 Q Okay. And so, did you recommend that there
11 be a State aid advance that year?

12 A Actually, the District sent us a letter requesting
13 an amount of 28 Million 182 Thousand 90 Dollars. And
14 we acquiesced to that request.

15 Q Why would you acquiesce if you were having
16 trouble finding documentation?

17 A Through -- Through our analysis we were able to
18 determine that that was pretty much the number that we
19 -- we were able to come up with.

20 Q Okay. So did you inform the District that
21 you were going to recommend a State aid advance in that
22 amount?

23 A Yes.

24 Q And did you do that in writing?

25 A Yes.

1 Q I would like you to turn to what has been
2 labeled as R-29.

3 A Okay.

4 Q So, do you recognize this document?

5 A Yes.

6 Q What is it?

7 A It's a letter that I wrote, telling the District
8 that we were recommending the request for 28 Million
9 182 Thousand 90 Dollars.

10 Q Okay. And you said you wrote this document?

11 A Yes, I did.

12 Q All right. And what is the date of this
13 document?

14 A May 7th, 2018.

15 (R-29 marked for
16 Identification)

17 Q Okay. And was this made near or at the time
18 you informed the District that you were recommending
19 the 28 Million, approximate, advanced State aid?

20 A Yes.

21 Q Okay.

22 THE COURT: So, is that for the next year?
23 Or was that for the previous year?

24 MS. HOFF: This is for 2018/2019 school
25 year.

1 THE COURT: Okay. Because we were in the
2 middle of the previous year with the other letter, the
3 letter from November. And then you just sort of
4 skipped --

5 MS. HOFF: Right. That was 17/18. This is
6 18/19.

7 THE COURT: Okay.

8 MS. HOFF: Hm hmm. So --

9 THE COURT: So did Lakewood get the 28
10 Million Dollars?

11 THE WITNESS: Yes, ma'am.

12 BY MS. HOFF:

13 Q And is this something that you would have
14 made in the regular course of business at the
15 Department?

16 A Yes.

17 Q And then kept in the regular course of
18 business at the Department?

19 A Yes.

20 MS. HOFF: I would like to move R-29 into
21 evidence.

22 THE COURT: All right. It'll be admitted.

23 (R-29 marked

24 in Evidence)

25 BY MS. HOFF:

1 Q Do Districts have to repay State aid
2 advances?

3 A Yes.

4 Q By what means?

5 A The repayment on -- on an advance starts the
6 following year. We deduct it from their State aid
7 payments.

8 Q Is there any interest on these payments?

9 A No.

10 Q you say you deduct it from future State aid.
11 Is that correct?

12 A That is correct.

13 Q So through fiscal year 18/19, Lakewood has
14 received how much in State aid advance?

15 A Through 18/19, I would put the total around
16 Forty-Six and a Half Million Dollars, I believe.

17 Q So you stated earlier that the deficit, the
18 annual deficit's dropping.

19 A Hm hmm.

20 Q So why has the amount of State aid increased?

21 A So the -- the easiest way to explain this is kind
22 of like -- Eh, let's put it this way. The deficit is
23 the amount that they're short every year.

24 Q Hm hmm.

25 A The amount of the advance of State aid is a

1 liability that they've built up over time.

2 Q Hm hmm.

3 A So it's really -- It depends on at what -- The
4 easiest way to understand this is -- is the deficit is
5 the amount for each year, like I said.

6 Q Hm hmm.

7 A And the liability is something that develops over
8 time. It's kind of like your credit card. It's your
9 monthly payment.

10 Q Hm hmm.

11 A Or how much you're short for the monthly payment,
12 versus the outstanding balance.

13 Q Have they started repaying the State aid
14 advance?

15 A Yes.

16 Q Have they ever requested that the payments be
17 deferred?

18 A Yes.

19 Q Has the Department allowed them to defer
20 payments?

21 A Yes.

22 Q So, if this is an annual repayment, is there
23 anyway for the District to generate money to repay it?

24 A Yes. The District could --

25 Q How so?

1 A Because they have a general fund deficit, under
2 18A-22-40, the District could go out for a special
3 election to raise the funds necessary to pay this.

4 Q Okay. And would that affect the general
5 fund, the provision of T and E, with that money?

6 A Yes.

7 Q How so?

8 A Well, it would free up money in the budget to be
9 used for T and E.

10 Q Okay. Are there any other tools at their
11 disposal right now that you can think of?

12 A Well, there's the second question. They could go
13 out for a second question, for non T and E items.

14 Q Hm hmm.

15 A They can also petition other governmental units
16 for -- for money, such as the Township.

17 MS. HOFF: Okay. I have no further questions
18 at this time.

19 BY THE COURT:

20 Q Do you know how much the general fund deficit
21 is?

22 A At the last CAFR, which -- that I have. Because
23 the CAFR's come in six months after the year closes.
24 The year closes on June 30th. So the CAFR comes in.
25 It should be the first Tuesday of December. However,

1 there was an accounting problem State wide, so it was
2 delayed this year. So the CAFR for June 30th, 2018
3 came in in approximately -- I want to say, late
4 January, early February. And the balanced deficit, I
5 think, was about 3.8 Million.

6 Q Okay.

7 A Down from a high of 12.

8 Q And 12 was in 2011 or 2014?

9 A I'd have to actually look at the CAFR's to give
10 you an accurate answer.

11 THE COURT: Okay. All right, Mr. Lang.

12 MR. LANG: Can we take a short break?

13 THE COURT: Sure.

14 (BRIEF RECESS)

15 THE COURT: All right. So, it's recording.
16 All right. So, Mr. Lang, do you have questions?

17 MR. LANG: Yes.

18 THE COURT: Okay.

19 CROSS EXAMINATION BY MR. LANG:

20 Q Good morning, Mr. Forney.

21 A Good morning.

22 Q You may have already answered some of my
23 questions through direct, but intend to ask you if you
24 -- some of the matters you mentioned today, and some
25 matters that were also brought up through Mr. Damer's

1 (phonetic) testimony. For clarification purposes, just
2 please respond yes or no to the questions. Just
3 concerning what we talked about today. According --
4 According to 18A-22-40, could the State Monitors or
5 your office direct the Lakewood Board of Education to
6 raise taxes or -- pursuant to this statute?

7 MR. INZELBUCH: I think you mean 18-18.

8 MR. LANG: 18A-22-40.

9 MR. INZELBUCH: No, 18-18-22-40.

10 MR. LANG: I have it in front of me.

11 MR. INZELBUCH: Oh.

12 MR. LANG: 18A-22-40.

13 MR. INZELBUCH: Okay. Well, he's --

14 BY MR. LANG:

15 Q Is that the statute you mentioned?

16 A 18A-22-40?

17 Q Yeah.

18 A The -- Could they raise -- Could the monitors
19 raise -- Could you rephrase your -- Say your question
20 again, please.

21 Q Could the State monitors direct the Lake --
22 direct Lakewood to raise its taxes pursuant to that
23 statute?

24 A No.

25 Q Okay. Has any district used 18A-22-40?

1 A Yes.

2 Q Okay. All right. Now also, you testified
3 that regarding the 2018/19 budget that -- Is it your
4 testimony that the State aid advance of 28 Million for
5 that year, 2018 and 19, could have been avoided if
6 Lakewood had used its school -- had raised its school
7 tax levy prior to 2014?

8 A I --

9 MS. HOFF: Objection. That calls for
10 speculation. And it wasn't what was --

11 MR. LANG: You asked that question.

12 MS. HOFF: It wasn't what was testified to.

13 THE COURT: I'm not sure I understand the
14 question. So maybe if you just rephrase it.

15 MR. LANG: Okay. She asked a question. The
16 -- The Respondents asked a question regarding R-3.

17 THE COURT: The 28 Million for --

18 MR. LANG: Yeah, so --

19 THE COURT: -- for fiscal year 2018/2019.

20 MR. LANG: Right.

21 THE COURT: Okay.

22 BY MR. LANG:

23 Q And in R-3 it shows that taxes were only --
24 were not raised in 2012, 2013 and 2014. And then 2015
25 it went up by 9.2 percent. And I believe Mr. Forney

1 testified that -- that that was because they used the
2 bank -- I believe that it's called bank cap and some
3 other things. Correct? Was that your testimony?

4 A For?

5 Q That the reason why it went up a few thousand
6 in --

7 A For the 2015 year?

8 Q Yeah.

9 A Are we talking about the 9.2 Million -- 9.2
10 percent.

11 Q No, the 9.2 percent.

12 A I'm sorry.

13 Q Yes. Yes.

14 A 9.2 percent.

15 Q Yes.

16 A So your question is, did they use bank cap?

17 Q Well my question is that, in the situation we
18 had last year, where 28 Million State advance was
19 necessary, is it your position that that could have
20 been avoided had they raised the taxes up higher prior
21 to 2014?

22 A So. Some of it could have been avoided if they
23 had raised taxes in previous years. The salary -- The
24 salary. The tax levy would have been higher, which
25 would have been generating more money all those years.

1 Q Would the whole 28 Million have been --

2 A It's conceivable.

3 MS. HOFF: Objection. That calls for
4 speculation.

5 MR. LANG: You asked that question.

6 THE COURT: He answered the question.

7 MS. HOFF: All right.

8 THE COURT: Some of it. Some of it could
9 have been avoided is what he said.

10 MR. LANG: Okay.

11 THE COURT: Because I think -- Did you not
12 say that if the tax levy were two percent, and then
13 raised two percent, and then raised two percent.

14 THE WITNESS: The compounding?

15 THE COURT: The compounding.

16 THE WITNESS: Yes. Yes, ma'am.

17 THE COURT: Okay. And when you don't raise
18 it, there's no compounding effect.

19 THE WITNESS: Correct.

20 THE COURT: Okay. I think that's what he
21 testified.

22 MR. LANG: Yes.

23 THE COURT: Okay.

24 BY MR. LANG:

25 Q Okay. Are you the deputy assistant

1 commissioner of Finance?

2 A Yes.

3 Q Okay. Do you report directly to Mr. Damer?

4 A Yes.

5 Q Okay. Is the Office of State Monitors under
6 your direction?

7 A Yes.

8 Q As a part of your preparation for this
9 hearing, did you communicate with Mr. Shafter, the
10 State monitor of Lakewood?

11 A No.

12 Q Okay. By law, does the State monitor oversee
13 the fiscal management and expenditures of Lakewood --
14 Lakewood District funds?

15 A Yes.

16 Q Okay. By law, does the State monitor oversee
17 all of Lakewood's staffing, including the ability to
18 hire, promote and terminate employees?

19 A Yes.

20 Q By law, does the State monitor have authority
21 to override a Lakewood School -- Lakewood School chief
22 administrators action to -- in a vote by the Lakewood
23 Board of Education --

24 MS. HOFF: Objection. This is form of the
25 question.

1 MR. LANG: Okay. Well --

2 MS. HOFF: And the law speaks for itself.

3 It's under 18-87F-55.

4 THE WITNESS: 7A-55.

5 THE COURT: It's not -- He's -- You can ask
6 the questions. Just go slower. Okay?

7 MR. LANG: Okay.

8 THE COURT: You're just racing through this.

9 BY MR. LANG:

10 Q By law, does the State monitor have the
11 ability to override the chief school administrator's
12 actions?

13 A Yes.

14 Q Does it have the -- Does the State monitor
15 have the authority to overrule a vote by the Lakewood
16 Board of Education --

17 A Yes.

18 Q -- in any matter? All right. Mr. Shafter
19 testified that the 2016 -- 2016 through 17 budget was
20 cut down as low as possible, but there was still a
21 short fall. Do you agree with Mr. Shafter, that the
22 2016 through 17 budget was cut down as low as possible?

23 A Yes.

24 Q Okay. Mr. Shafter testified that the 2017
25 through 18 budget was finally adopted after

1 negotiations with the Department of Education. And
2 that some reductions, including non public -- included
3 non public related service cuts. Is it true that the
4 2017 through 18 budget, after this negotiation process
5 and the budgetary cuts, the State still needed to
6 provide Lakewood a State aid advance, 2017 through 18?

7 MS. HOFF: Objection. It's a compound
8 question.

9 THE COURT: Yeah. Same thing. I'm not so
10 sure I follow that one.

11 BY MR. LANG:

12 Q Okay. Is -- After negotiations, in 2018 --
13 2017 through 18, between the District, Mr. Shafter and
14 the Department of Education, were cuts made in the
15 budget?

16 A 17/18.

17 Q 17/18.

18 A We're talking 17/18 strictly.

19 Q Yes.

20 THE COURT: Well, do you know if cuts were
21 made?

22 THE WITNESS: I want to get to the -- I just
23 want to get my years straights. Okay. So, 17 -- In
24 17/18, that would have been the year that there was a
25 State aid advance in the amount of -- How much?

1 BY MR. LANG:

2 Q I believe that would be 8.5 Million.

3 A The 8.5 Million. And your question is, were there

4 --

5 Q That was -- That was after negotiations with
6 the Department.

7 A Yes.

8 Q And cuts were made. Correct?

9 A The budget was balanced. As a result, this was
10 the amount that had to be used to balance the budget.

11 Q Correct. Do you agree that the -- that this
12 budget, the 2017 through 18, was also cut down as low
13 as possible?

14 A Yes.

15 Q Okay. Now, on February 22nd, in this Court,
16 Mr. Shafter testified the budget had a deficit of 17 to
17 23 Million. And he testified, perhaps, that a loan
18 would be necessary. And as the budget had to be
19 completed by the end of March, 2018.

20 MS. HOFF: Objection. We're talking about
21 another witness's testimony for which that this witness
22 was not there for. And we're --

23 THE COURT: Well, I think he's trying to ask

24 --

25 MS. HOFF: Okay.

1 THE COURT: -- ask him questions about a
2 topic.

3 MS. HOFF: Okay. I just wasn't quite clear.

4 THE COURT: Without mentioning -- Without
5 mentioning that it's someone else's testimony, you can
6 ask him the question.

7 BY MR. LANG:

8 Q All right. Well. All right, I'll ask it
9 like this. Did Mr. Shafter inform you, as early as
10 February of 2018, that there was a 17 through 23
11 Million Dollar deficit?

12 A I'll be honest. I couldn't say off the top of my
13 head. There's numbers flying back and forth from
14 approximately the middle of November. Yeah, the middle
15 to the end of November through the budget process. To
16 tell you exactly what that number is on any given day,
17 I couldn't tell you from here.

18 Q Okay. When was the -- Well, do you agree
19 that -- that the loan, the State aid advance, was not
20 approved until May 7th of 2018? In that, you know, for
21 18/19 year?

22 A I agree.

23 Q You can't tell me a prior date that you knew
24 that that budget would have a problem? That you were
25 informed by the State monitor that that budgetary year

1 would have a problem.

2 A I couldn't tell you what the date was. But there
3 were problems throughout that whole budget process.

4 Q Was -- What would be --

5 A To lock in on a -- on an actual date that he told
6 me there was a problem, I couldn't do that from -- from
7 here. No.

8 Q You don't know if it would be -- I mean, it
9 might have been earlier, but by February you might have
10 had some information?

11 A I can't really say.

12 Q Okay. Is it true that it wasn't until May of
13 2018 that the District did not know -- It sounds like a
14 double negative. -- did not know that it would not have
15 to make a reduction in force for the 2018/19 school
16 year.

17 A It's actually a triple negative that you just
18 threw in there.

19 Q Yeah.

20 A So, could -- could you ask --

21 Q So, I'll put -- put it in a positive. Was it
22 until May 7, 2018 that the District knew that it did
23 not have to make a reduction in force?

24 MS. HOFF: Objection. It calls for a
25 question of what the District did or did not know.

1 THE COURT: Well, how about what did this
2 witness know?

3 MS. HOFF: That would work.

4 THE COURT: Does he know about the reduction
5 in force?

6 BY MR. LANG:

7 Q Do you know -- Do you know about the -- that
8 there was a possible reduction in force in that
9 budgetary year, prior to May --

10 A So a reduc -- So, May 15th, is the date that you
11 have to notify staff of a potential reduction in force,
12 in order to avoid paying them 60 days pay, or having
13 them renew their contract without notification. So,
14 the May 7th letter signified to the District that the
15 -- that we would be extending them an advance
16 sufficient to provide a thorough and efficient
17 education, also in advance of the May 15th deadline.

18 Q And you knew about the possibility of the RIF
19 -- RIF's, the reductions in forces, before that day?

20 A We had talked about reductions in forces. We were
21 meeting, trying to develop the budget. However, I
22 don't think that they were necessary, given the fact
23 that the District had enough funds. We actually took
24 the amount of money that was requested by the
25 Superintendent in her letter to the Department. We

1 provide the entire total that she asked for.

2 Q That was with the State aid advance.

3 A Correct.

4 Q Okay. Which was in May. Correct?

5 A May 7th, 2018 is my letter.

6 Q Right. Is that type of situation that we're
7 talking about, in 2018 through 19, the possible
8 reductions in force, the possibility existing until May
9 7th, of 2018, is that desirable from an educational
10 planning perspective?

11 A Reductions in force is something you want to avoid
12 anywhere in the State. But it's part of the natural
13 budgeting process. Every district has to make tough
14 choices as you're making the budget. You have to look
15 at all the opportunities available to you, because your
16 revenues have to equal your expenditures.

17 Q Well in 2018 and 19, what opportunities were
18 available to the Lakewood District?

19 A I'm not sure I understand your question.

20 Q What opportunities were available, besides
21 the -- asking for of the State advanced aid -- advanced
22 State aid?

23 A The District could also ask for -- ask the voters
24 for additional funds through 18A-22-40, through a
25 special election, for a general fund deficit.

1 Q And if that would have lost? If that
2 wouldn't have been approved by the voters? And then
3 how long would that -- Well, let me rephrase the
4 question. At that point, what was the earliest that
5 that could have gotten on the ballot?

6 A Special elections are held, I believe,
7 approximately four times a year. Probably the earliest
8 would have been September.

9 Q September?

10 A But it could be -- It could have been done -- It
11 could have been done earlier in the year. In January,
12 I believe, there's one.

13 Q January?

14 A January. I'd have -- Off the top of my head I
15 don't know the dates. I know one's in September. I
16 know there's one in November, is the general election.
17 The exact date of the others I couldn't tell you.

18 Q So for January, it would be reasonable to
19 assume they had to know that they wouldn't have enough
20 funding to retain teachers back in November or sometime
21 earlier.

22 A Well, the State aid notices don't go out until 48
23 hours after the Governor's budget address.

24 Q So we're talking about in September then --

25 A Most likely. That would be the first --

1 Q So, do you know how many teachers -- how many
2 teachers either received or were going to receive RIF
3 notices that year?

4 A I don't.

5 MS. HOFF: Object -- He answered.

6 THE COURT: He answered it.

7 BY MR. LANG:

8 Q Okay. Now, whatever that number was. And we
9 got testimony in this Court. Whatever that number was,
10 you're saying that the only alternative would have been
11 to go to the voters in September. Is that your
12 testimony?

13 MS. HOFF: Objection. I believe that was a
14 mischaracterization of tes -- testimony.

15 MR. LANG: I'm asking him.

16 THE COURT: Let him ask -- ask the question.

17 THE WITNESS: So the District has several
18 options. They can put non T and E items out in
19 November. And that's called a second -- what we refer
20 to as a second question. The District also has the
21 ability to reduce expenditures through the budget
22 process, to balance -- to revenues. They also have the
23 ability to raise funds, if they have a general fund
24 deficit, through the special election process.

25 BY MR. LANG:

1 Q Now you testified the budget was already
2 reduced as low as possible in 2017 through 18. Is that
3 correct?

4 A Correct.

5 Q Okay. And retaining teachers, is that T and
6 E?

7 MS. HOFF: Objection. He is not a
8 specialist, an educational specialist in T and E.

9 MR. LANG: But he just testified about going
10 to the voters for T and E items. And another option of
11 going to the voters for non T and E items.

12 MS. HOFF: And I believe that this witness
13 knows about the process.

14 THE COURT: He's talking about the budgetary
15 process. Not about the educational process, Mr. Lang.

16 BY MR. LANG:

17 Q Okay. From your -- You were involved with
18 Mr. Shafter in working on this budget. Is that
19 correct?

20 A Correct.

21 Q Okay. So for the -- The necessity for the
22 8.5 Million, you said that that -- One of the options,
23 if the loan wasn't made, was to go to the voters for a
24 referendum.

25 A Okay.

1 Q Okay. Is it your testimony that that
2 referendum, that 8.5 Million, so that those RIF's
3 wouldn't go out, was only possible as early as
4 September?

5 MS. HOFF: What year are we talk -- It's not
6 -- 17/18.

7 THE COURT: I think it's 17/18

8 MR. LANG: 17 through 18.

9 MS. HOFF: Okay. Just trying to figure out
10 what year we're talking about. That was all.

11 THE WITNESS: The 8.5 is a different year.

12 MR. LANG: Well.

13 THE WITNESS: So I'm -- What year are we
14 talking about?

15 BY MR. LANG:

16 Q 17/18 was 8.5, wasn't it?

17 A No.

18 Q What was 17/18? 18/19 was 28 Million. 17/18
19 was 8.5, I thought.

20 A November 9th, 2017, the 8.5 Million.

21 Q All right. That's 17/18 school year.

22 A It's 16/17. I'm sorry. It's for the 17/18 school
23 year, the 8.5.

24 Q All right. Let me just keep it simple. If
25 not for the loan, was there anyway for the District to

1 prevent the loss of teachers that year?

2 A The loan prevented them from losing teachers.

3 Q Okay.

4 A They also had the ability to seek additional funds
5 through the statutes and the process I previously
6 testified about.

7 Q Right. And you did testify that the soonest
8 they could get a referendum on the ballot would be
9 September. Correct?

10 A There's -- I believe there's four dates that a
11 district can go out for a special election. And I
12 think September is one of them. I know November is
13 another with the general election.

14 Q Hm hmm. And there's also the possibility
15 that the voters will not approve of it, I assume.

16 A It's democracy.

17 Q Yes. That's democracy. Mr. Azzara has --
18 Are you familiar with Mr. Azzara's statement that
19 Lakewood has a revenue problem, it does not have a --
20 a public statement, that Lakewood has a revenue problem
21 and not a spending problem?

22 A I did not hear him say that.

23 Q Okay. Well do you agree with that?

24 A Revenues have -- If we're talking about the budget
25 process, revenues have to equal expenditures.

1 Q Do they?

2 A Yes.

3 Q I mean, do they equal expenditures in
4 Lakewood?

5 A Yeah.

6 Q With the State loans?

7 A Yes.

8 Q Without the State loans would they equal the
9 expenditures?

10 A The budget is required to be balanced. So without
11 a State loan, there'll have to -- there'll have to be
12 reductions. It has to balance.

13 Q Why weren't these reductions made?

14 A Because the State gave them an advance of State
15 aid.

16 Q But there is a State monitor there that could
17 order the reductions. Is that correct?

18 A The State monitor has to follow statutes and code.
19 And the code and statute are very clear that you must
20 have a balanced budget. So at the end, they have to
21 have a balanced budget. The way that you get to it, is
22 what we've been talking about. And the way to do this
23 was an advance of State aid.

24 Q But another way would also be by reducing
25 expenditures.

1 A Yes, you could.

2 Q Well why didn't the State monitor just order
3 the reduction of expenditures?

4 A I do not know the answer to that.

5 Q Did you consult with him about it?

6 A On reducing expenditures?

7 Q Yes.

8 A To the -- We always talk about how to economize
9 the budget. But as far as ordering them to cut, no.

10 Q Well, you did testify before that the budget
11 was cut down as low as possible. Is that not true?

12 A Through the process, yes.

13 Q Do you -- Concerning the -- One second.

14 Okay. Now I want to talk about the 18/19 budget.

15 Would you agree that despite the fact that Lakewood

16 budgeted its SFRA State aid amounts properly, or --

17 Well, let me ask you. If -- If Lakewood budgeted its

18 SFRA State aid amounts properly, the District would

19 still have a revenue problem requiring additional State

20 aid -- additional funding to balance its budget?

21 A Actually the District, when they open up their

22 budget software, there's State aid, and the State aid

23 amounts are preprogrammed in. And those totals are

24 locked in the budget. They can't change the State aid

25 amounts.

1 Q All right. And so, in 2018 to 2019, would
2 you characterize that budget as a tight budget? The
3 Lakewood budget.

4 A I'm sorry. What kind of budget?

5 Q Let me ask you this question. Did you
6 consult with Mr. Shafter concerning the 2018 through 19
7 budget?

8 A Yes.

9 Q Okay. Would you characterize it as a tight
10 budget?

11 A I think it was adequate to meet the needs of the
12 District.

13 Q Was there anything that could have been cut
14 out? That would --

15 A We approved -- We approved the amount of the
16 advance of State aid that the superintendent requested.

17 Q Would there have been adequate amount of
18 funding to balance the budget had -- just based on the
19 SFRA formula?

20 A No, they needed an advance of State aid.

21 Q Okay. Would you agree that the only
22 statutory solution to Lakewood's revenue problem,
23 practical solution -- I know you talked about going to
24 the voters. -- the only prob -- solution to Lakewood's
25 revenue problem is the discretionary State aid process?

1 MS. HOFF: Objection. It calls for
2 speculation.

3 MR. LANG: Well, this has been going on for
4 years.

5 MS. HOFF: And it's a legal opinion also.
6 He's asking -- Because he's talking about statutory
7 framework and so forth, it's a legal opinion. And to
8 judge the statutes, as opposed to recite the statutes.

9 THE COURT: I'm not so sure that I
10 understand, Mr. Lang, exactly what you're asking him.
11 You're asking him what else is available? What else
12 could a District do?

13 MR. LANG: Yeah. Well he said going to the
14 voters. But I'm asking, practically, --

15 THE COURT: Is there anything else?

16 MR. LANG: Is there anything else?

17 THE WITNESS: You have your State aid. You
18 have your Federal aid. You have your local tax levy.
19 The statutes allow you to raise your two percent cap.
20 There's provisions to exceed the two percent cap, that
21 I testified about. There's also additional statutes
22 that allow you to seek for second question, for non T
23 and E. And there's also the 18A-22-40, which allows
24 you to seek additional funds if you have a general fund
25 deficit. They are the tools that are available to a

1 District to -- to seek revenue.

2 BY MR. LANG:

3 Q Does Lakewood have a revenue problem?

4 A No.

5 Q If not for advance State aid, does Lakewood
6 have a revenue question?

7 MS. HOFF: Objection.

8 THE COURT: He just answered.

9 MS. HOFF: He just answered that question.

10 THE COURT: He just answered your question.

11 MR. LANG: But he -- Well, all right. Let me
12 ask this question. Is your answer based on the fact
13 that Lakewood's been getting advanced State aid, when
14 you say it doesn't have a revenue problem?

15 THE WITNESS: My answer is based on the fact
16 that they have to have a balanced budget. And we've
17 provide a balanced budget. We help them achieve a
18 balanced budget every year.

19 BY MR. LANG:

20 Q Does the Division of Finance implement the
21 provisions of the SFRA and prepare Lakewood State aid
22 printouts?

23 A Could you say that again slowly, please?

24 Q Does the Division of Finance implement the
25 provisions of the SFRA by printing out -- and prepare

1 Lakewood State aid printouts?

2 A Yes.

3 Q Okay. With regard to the 2018 and 19 school
4 year, have you reviewed the two sets of State aid
5 printouts for Lakewood?

6 A Yes.

7 Q Okay. With regard to 2018 through 19, that
8 year, was the final State aid SFRA allocation, the
9 final allocation, which means the second printout that
10 came after -- Was that SFRA State aid allocation,
11 itself, sufficient to enable Lakewood to provide for a
12 -- to balance the budget?

13 A I'm not really sure I understand your question.

14 Q Was the SFRA -- SFRA State aid printout, sent
15 out by your Department, did it provide enough money for
16 Lakewood to provide for a thorough and efficient
17 education?

18 A I can't answer your question as you're asking it.
19 The State aid printout tells you the amount of State
20 aid you're getting. It's -- Remember, your budget is
21 created upon your State aid, your Federal aid, and your
22 local tax levy. It's -- It's not meant to tell you
23 what you're asking me.

24 Q Okay. I'm talking about the operating
25 budget; not Federal aid, not --

1 A You were asking me about the State aid printout.

2 Q The State aid printout, the SFRA part. Not
3 Federal aid --

4 A Only talks -- Only talks about your State aid.

5 Q Well, it also talks about the local share.
6 It talks about the adequacy budget and all that stuff.
7 So and then you have your -- Your adequacy is defined
8 when you kick in, besides the two thirds special
9 education, you've got the categorical aid and you have
10 the security aid. That amount of money that those
11 State aid printouts provided for Lakewood, with its
12 local share and State share; is that enough money to
13 provide for a thorough and efficient education? We're
14 talking about 2018/19.

15 A It's only -- It's only a part of the puzzle. It's
16 not -- It's not the entire document. The document that
17 details how a district will pay for their education is
18 the budget. You're talking about a State aid printout
19 that specifically only talks about the State aid that
20 they're getting.

21 Q Well, go overall, between the tax levy and
22 the -- and the State aid. It's got both there.

23 A The tax -- the tax levy isn't on the State aid
24 notice.

25 Q Well, no --

1 A So your question's -- Unfortunately, your
2 question's invalid.

3 Q The local share -- fair -- What I meant to
4 ask. The local fair share and the equalization aid,
5 and the categorical aid.

6 A Hm hmm.

7 Q All that together. I'm talking about Federal
8 funding. I'm talking about the SFRA adequacy. My
9 question was, was that enough to provide for a thorough
10 and efficient education --

11 MS. HOFF: Object.

12 MR. LANG: -- in Lakewood?

13 MS. HOFF: Objection. He asked and answered
14 this question. He answered that it is part of a larger
15 picture. He's answered it.

16 THE COURT: He did.

17 BY MR. LANG:

18 Q Generally, not just Lakewood, every school
19 district; the SFRA state aid allocations, are they
20 intended to enable each and every school district to
21 provide a thorough and efficient education program for
22 their students, each and every school year?

23 A The State aid printouts? No.

24 Q SFRA State aid allocations, that includes
25 local and -- and State part. The adequacy budget, the

1 categoric -- , is that intended to provide for every
2 single district for an estimate --

3 A The State aid printouts are an allocation, a
4 notification to the district of the distribution of
5 State aid funds, by category. That's all they are.
6 The budget -- The budget, which takes into account the
7 detailed appropriations, which have to balance to your
8 various other forms of revenue, which are your local
9 tax levy, your Federal and your State aid combined.
10 That's your -- your revenue streams and your spending
11 plan, which have to equal.

12 Q Does -- Does the Department of Education make
13 a determination of whether a District is above or below
14 adequacy?

15 A I don't -- I don't deal with that, that part.
16 That's not in my -- That's not in my drome.

17 Q That's not -- Okay. There is a -- I mean,
18 are you familiar with any statute that -- that is used
19 when these determinations are made? Are you familiar
20 with it?

21 A I deal with the budgeting side.

22 Q Does the term above adequacy mean anything to
23 you?

24 MS. HOFF: Objection. He's already said this
25 is not within his sphere.

1 MR. LANG: I'm asking --

2 THE COURT: Well, maybe -- He might know.

3 It's cross examination.

4 THE WITNESS: Am I familiar with the term?

5 BY MR. LANG:

6 Q Yes.

7 A I've heard the term, above -- above adequacy.

8 There's an adequacy report that's generated every three
9 years, but I'm not involved with that part.

10 Q Okay. I'm just asking if you are familiar.

11 Do you know if Federal aid is used in determining
12 whether a District's above or below adequacy?

13 A No, I would not.

14 Q So it's your testimony that the SFRA and
15 those printouts that are sent to the districts, that
16 say what the adequacy budget is, have nothing to do
17 with what is necessary to provide a thorough and
18 efficient education?

19 MS. HOFF: Objection. That's a
20 mischaracterization of testimony.

21 MR. LANG: Well, I'm trying to get at what
22 his testimony is then.

23 THE COURT: Okay. He's not an expert in
24 education. He's just an expert in the budget. He does
25 the budget. And when you're asking him questions about

1 adequacy, it's not in his field. He doesn't deal with
2 that. So.

3 MR. LANG: But adequacy is a term of art that
4 they use in these printouts.

5 THE COURT: Yes. And all he cares about is,
6 is the budget balanced, it sounds to me.

7 MR. LANG: Okay.

8 THE COURT: Does the budget balance.

9 MR. LANG: All right.

10 THE COURT: And the answer for Lakewood is,
11 No, it doesn't balance until the State gives an aid
12 advance.

13 BY MR. LANG:

14 Q Okay. Oh, I don't know if I could ask this.
15 I'll try, anyway. The District's adequacy budget
16 calculation, is it based on projected enrollment rather
17 than actual enrollment?

18 A I don't know.

19 Q Okay. All right. How about this one? After
20 that second notice that was sent to District, 2018
21 through 19, do you understand that Lakewood no longer
22 qualifies for equalization aid?

23 A No, I don't.

24 MR. LANG: Could I show him R-2, the State's

25 --

1 THE COURT: You can show him whatever you
2 want.

3 MR. LANG: This is R-2, that the State
4 decided to put in evidence.

5 THE COURT: Okay, R-2.

6 MR. LANG: R-2, you have it right?

7 THE COURT: I do.

8 THE WITNESS: I have it.

9 BY MR. LANG:

10 Q Do you recognize this document?

11 A It's the Lakewood State aid notice from 7/13/2018.

12 Q Correct. And what does it say all the way at
13 the bottom right, concerning equalization aid, the
14 amount of equalization aid?

15 A The far bottom right?

16 Q Yeah.

17 A It says, "Equalization Aid, zero."

18 Q That was my question.

19 A So that's -- that's a byproduct of a reduction in
20 State aid of 1.5 Million. And when they reduce State
21 aid, they take it from the bottom of those categories
22 and proceed up. It doesn't mean that they've lost
23 equalization aid, it's just -- it's subtracted from the
24 lowest category moving up.

25 MS. HOFF: Your Honor, are we -- Pardon me.

1 I just am trying to follow. Are we dealing with total
2 change -- total change by category? Is that where we
3 are?

4 THE COURT: I think -- I think that's what he
5 was pointing to.

6 MS. HOFF: Okay. So, okay.

7 THE WITNESS: Subsequently these funds were
8 provided to the District through emergency aid process.

9 BY MR. LANG:

10 Q Yeah, that 1.5 Million. So actually, the
11 total amount of excess aid was around 30 Million. Is
12 that correct? 28 Million -- 28 point something Million
13 and the --

14 A Well, the 28 -- the 28 was an advance of State
15 aid, where the emergency -- the emergency aid was a
16 grant.

17 Q Right. So it came out to be like 30 Million
18 total of this --

19 A Yeah.

20 Q -- this --

21 A Approximately.

22 Q -- aid that came like in summer or whatever
23 it was.

24 THE COURT: But the only amount they have to
25 pay back is the advanced aid.

1 THE WITNESS: Correct.

2 BY MR. LANG:

3 Q Now, you understand that two thirds of the
4 special education costs, according to SFRA, is in the
5 equalization -- is in the adequacy budget, you know,
6 and -- and the one third is categorical aid. Correct?

7 A I'm not familiar.

8 Q Oh.

9 A I can't say yes or no to that.

10 Q It doesn't ring any bell to you? Two thirds
11 being part -- being part of equalization, so to speak.
12 In other words, tax -- equalization, where the District
13 can then -- combined, one third being categorical? No?

14 A No, sir.

15 Q Okay. Based on the statute, as it passed in
16 2018 and 19, that really led to this reduction in -- in
17 State aid, and the calculations. Is Lakewood's
18 equalization aid going to go to zero?

19 MS. HOFF: Question. Objection just on the
20 vagueness. What statute are we speaking of?

21 MR. LANG: The -- The SFRA was amended in
22 2018. We heard testimony about that. In December of
23 2018.

24 MS. HOFF: I think that's a
25 mischaracterization of the statute because it didn't

1 amend 18/19 school year.

2 MR. LANG: Well then what is this? What is
3 this -- this 7/13 thing over here?

4 MR. STARK: Is Counsel referring to the
5 Appropriations Act? The annual Appropriations Act?

6 MR. LANG: The Appropriations Act. And there
7 was -- Okay, so the Appropriations Act and also the
8 SFRA was amended. Well let's put it this way. Is
9 Lakewood's equalization aid, if it's not zero now, is
10 it eventually slated to go to zero?

11 THE WITNESS: I don't know.

12 BY MR. LANG:

13 Q Are you familiar with the SFRA at all?

14 A I have some experience with it.

15 Q All right. So if I were to read you part of
16 the statute, would that ring you any bell? Let me --
17 Ring -- Ring a bell in your mind. Let me ask -- Read
18 this part to you. "The cost per elementary -- " The
19 base pupil amount is, quote, "The cost per elementary
20 pupil of delivering the core curriculum comp and
21 standards and the extracurricular and co-curricular
22 activities necessary for a thorough and efficient
23 education." Does that ring any bell to you as -- as
24 being the purpose of this --

25 A I haven't read the SFRA Act in quite a long time.

1 So unfortunately, it does not.

2 Q Well, your -- your office does prepare the
3 notices to districts based on the SFRA, so are you
4 aware that, this amount, the amount that SFRA provides,
5 is way before middle school and high school students,
6 at risk students, as well as limited English
7 proficiency and bilingual students?

8 A Yes.

9 Q Okay. I'm going to ask it a little bit
10 differently. Is it your understanding that the SFRA
11 was designed to provide a uniformed system of funding
12 that would enable all school districts to deliver the
13 core curricular and content standards, and
14 extracurricular and co-curricular activities necessary
15 for a thorough and efficient education?

16 A I -- You're asking the legislative intent? I
17 can't answer that. I'm not --

18 Q Well is that your goal when you send these
19 notices to districts out, based on the SFRA -- Well let
20 me ask you something. Are these notices to districts
21 based on the SFRA? At least --

22 A The notices that -- The State aid notices are
23 generated based upon the cont -- the SFRA, as provided
24 funding through the Appropriations Act. The Department
25 follows the SFRA, as it's written in statute, and the

1 Appropriations Act that funds it.

2 Q Okay. I want to go back to that earlier
3 question, because I think it could be asked. And I
4 know you said there's other things in there. But I'm
5 asking this one thing. Just this one thing. Does SFRA
6 notice to District, 2018 through 19, would that have
7 been sufficient for Lakewood?

8 MS. HOFF: Objection. I believe that was
9 asked and answered.

10 MR. LANG: No. But before he said that
11 there's other things in there. So I'm asking just --
12 Maybe there's other things. But is this SFRA
13 sufficient?

14 THE COURT: Can you answer the question?

15 THE WITNESS: This is only -- I'll go back to
16 what I said. This notice is only a piece of the whole
17 puzzle. It's a piece of the revenue streams. It
18 details the amount of State aid that's being
19 distributed to the District. It's just a piece of the
20 puzzle, sir.

21 BY MR. LANG:

22 Q (Out of microphone range.) Okay. Are you
23 aware that -- And we talked about this just a minute
24 ago. That beginning with the 2019 through 20 school
25 year, the SFRA was significantly amended?

1 A Yes.

2 Q Okay. But you don't -- But you haven't done
3 any -- any look -- You haven't looked a any -- You
4 haven't seen any future projections based on those
5 amendments, of what's going to happen in Lakewood with
6 Lakewood's equalization aid?

7 A No. Because you can't until you -- until we know
8 what the appropriations -- the Governor's budget
9 address and the Appropriation Act that funds it.

10 Q Is it your understanding that the State's
11 obligation to ensure sufficient funding applies to each
12 and every school district in this State?

13 A Ask that again?

14 Q Does the State have an obligation to ensure
15 that sufficient funding -- to provide a thorough and
16 efficient education applies to every school district in
17 the State.

18 A Yes.

19 Q Okay. Is it your understanding with regard
20 to the 18 and 19 school year that Lakewood increased
21 its tax levy by the maximum allow -- maximum amount
22 allowed under the law -- under the cap, the two percent
23 levy cap?

24 A Yes.

25 Q Okay. Now, you talked about extra --

1 extraordinary aid. Are you aware that in all the
2 recent years the State wide appropriation for
3 extraordinary aid was insufficient to fully reimburse
4 all school districts in the amount required by the SFRA
5 provision for extraordinary aid?

6 A The EXAID is limited by the amount that's provided
7 in the Appropriation Act. Whatever the -- Whatever is
8 in the Appropriation Act, the Department distributes.

9 Q So are you aware that in 2017 to 18, Lakewood
10 received only 50.12 percent of the extraordinary aid,
11 the District was entitled? And it could be other
12 districts also who got 50.12 percent.

13 A I couldn't tell you off the top of my head.

14 Q Okay. And you know nothing -- I have a whole
15 bunch of questions here about whether districts above
16 or below adequacy, I was going to -- But I think you
17 already said you know nothing about it. I'll just --
18 just -- I guess it won't hurt just to ask, you know.
19 Federal aid, I asked you. You don't know if the
20 Federal aid is included in determining whether a
21 district is above or below adequacy?

22 MS. HOFF: Objection. Again, I think that
23 was asked and answered.

24 THE COURT: He can ask it again.

25 THE WITNESS: The Federal aid portion comes

1 in under the budget process. It doesn't have anything
2 to -- The Federal aid doesn't have anything to do with
3 the funding formula.

4 BY MR. LANG:

5 Q Right. That was what I was asking. Does
6 Section 192 and 193 have anything to do with the
7 funding formula?

8 A No.

9 Q Okay. That's what I was asking.

10 THE COURT: I think he may have said that
11 before.

12 MR. LANG: Hmm?

13 THE COURT: He may have said that --

14 MR. LANG: Yeah. With the other witness.
15 Yeah, I was going to ask him.

16 BY MR. LANG:

17 Q The monitor has the ability to raise taxes to
18 the maximum possible. Is that correct?

19 A The monitor has the ability to override --

20 Q -- Yeah.

21 A -- override the Board.

22 Q And to order the taxes to be raised. Is that
23 correct?

24 A The monitor can do things as long as there's a
25 fiscal nexus. Raising taxes would be designated as a

1 fiscal nexus. If the Board doesn't -- If the Board
2 doesn't take action, the monitor will have to strike
3 the tax levy.

4 Q And the monitor's been in the District since
5 April 2014, you said. Right?

6 A Correct.

7 Q Has the monitor raised taxes, or the Board,
8 whoever it is, to the maximum possible all those years
9 since then?

10 A With the two percent tax cap.

11 Q And you testified that the only thing was
12 either advanced State aid or going to the voters.
13 Correct?

14 A Correct.

15 Q And if voters say, no; what's the
16 alternative?

17 A We have -- We have the advance of State aid. As I
18 had testified. They can raise their taxes to the max.
19 They can put out a second question for non T and E
20 items. They can go, if they have a general fund
21 deficit, out to the voters for additional funds. We
22 also have 18A-7A-56, which allows you the advance of
23 State aid, should they need it.

24 Q And when the State lent -- loaned money to
25 the District, the 8.5 Million, whatever it was before,

1 the 28 Million the year afterwards, was that for T and
2 E items? Was that for non T and E items? I'm asking
3 about non -- Was it for non T and E items?

4 A We are not providing an advance of State aid for
5 non T and E items.

6 Q Okay. So then, what you answered me before,
7 is going to the voters for non T and E items, is not
8 really something the District could have done to
9 balance its budget during those years.

10 MS. HOFF: Objection. That's a
11 mischaracterization of testimony.

12 MR. LANG: All right, I'll ask it again.

13 MS. HOFF: Wait. It's a mischaracterization
14 of testimony because 18A-22 was talking about general
15 fund deficits for anything, including T and E.

16 THE COURT: Maybe --

17 MR. LANG: No.

18 MR. INZELBUCH: Yeah.

19 MR. LANG: That's not what he said. It was
20 -- All right. Let me just ask again.

21 BY MR. LANG:

22 Q You just testified that the 28 Million was
23 just for T and E. Did it not include non T and E?

24 A We -- We advanced the 28 Million, which was at the
25 request of the superintendent, to balance the budget.

1 Q All right. But you did say it did not
2 include items for a non T and E.

3 A We do not advance -- We do not advance money for
4 non T and E items. By that I mean, we will not be
5 advancing money for, say, courtesy bussing.

6 Q Correct. Or anything else; sports or
7 anything else like that, I would imagine.

8 A Correct.

9 Q Okay. So I'm going to ask the question
10 again. Just to be clear. When the District needed 28
11 Million Dollars for what you just said, for T and E
12 items, what were the options? Raising taxes, but
13 besides -- But there's a tax cap. What were the
14 options available to the District?

15 MS. HOFF: Objection. This has been asked
16 and answered so many times.

17 THE COURT: Yes.

18 MR. LANG: But -- But --

19 THE COURT: He's answered this like three
20 times already, the same question.

21 MR. LANG: I understand that. But then I
22 heard two different statutes quoted. But one of the
23 statutes was for non T and E items.

24 MR. INZELBUCH: He's right.

25 THE COURT: Okay.

1 BY MR. LANG:

2 Q All right.

3 A If they had non T and E? If they had non T and E
4 items, --

5 Q I'm not -- I'm not asking that.

6 A -- they could go out for -- for -- I'm just
7 reiterating what I testified.

8 Q Okay.

9 A For non T and E items, they could go out for a
10 second question. For additional funds, should they
11 need it, if they have a general fund deficit, they
12 could go to the voters to seek additional funds through
13 18A-22-40.

14 Q That's it. Okay.

15 THE COURT: Anything else, Mr. Lang?

16 MR. LANG: Yeah, I do. But I'm --

17 BY MR. LANG:

18 Q If the Board does not provide for that
19 special election under 18A-22-40, for the T and E items
20 or -- or for a deficit, --

21 A Hm hmm.

22 Q -- what could the monitor do?

23 A So if the Board will not go out to vote? Is that
24 your question?

25 Q Yeah.

1 A The monitor could order the Board to do that.

2 Q And the monitors -- All right. And the
3 monitor has been in Lakewood since 2014. Correct?

4 A Correct.

5 Q Okay. So why -- why haven't -- why wasn't
6 this process taken? Why was it every year we're seeing
7 State aid advances?

8 A It was taken. We did -- We did make the District
9 go out to vote for an 18A-22-40. It went down 17,413
10 no votes to 1,807 yes votes.

11 MR. INZELBUCH: What year?

12 BY MR. LANG:

13 Q What year was that?

14 A It was either 16 or 17. I couldn't tell you off
15 the top of my head.

16 Q Okay. I don't want to -- I don't want to go
17 into what happened this year. But, looking forward, is
18 it certain that Lakewood will be receiving approval for
19 State aid advances in the future?

20 MS. HOFF: Objection.

21 MR. LANG: Why?

22 MS. HOFF: That calls for speculation.

23 THE COURT: It does call for speculation.

24 BY MR. LANG:

25 Q All right. Based on -- Are you familiar with

1 the budgets in Lakewood and if there are increases
2 every year?

3 A Yes.

4 Q Have they signif -- significantly increased
5 every year?

6 A They have gone up every year.

7 Q Significantly?

8 A Every district has -- has cost drivers. Health
9 bene -- You know, 70 -- Usually between 73 and 82
10 percent of a budget is salary and benefits. And every
11 year you have a CBA that calls for increases. Your
12 health benefits go up. You have special ed increases.
13 You could have additional -- In the case of Lakewood,
14 additional growth in the non-public mandated bussing.
15 So there are going to be cost increases every year.

16 Q Let me ask you this question. You just said,
17 a typical district, 73 percent is salaries you said?
18 Is that what you said?

19 A On the average. It runs --

20 Q Is Lake -- Lakewood is at 73 percent
21 salaries?

22 A I couldn't tell you off the top of my head.

23 Q Are you familiar with the tuition costs of
24 Lakewood?

25 A They have -- They have tuition costs for out-of-

1 district placement.

2 Q Would -- I mean, would a figure of 40 Million
3 sound familiar to you?

4 A I'd have to look at the budget?

5 Q Are the tuition costs in Lakewood higher for
6 any other district of its size?

7 A I don't think I've done a comparison like that.

8 Q Are they high? Period.

9 A They have significant out-of-district placement
10 cost. Yes.

11 Q Does this put a strain on the budget?

12 A The District has -- It's no different than your
13 household. Every dollar is significant. If it goes in
14 one place, it can -- it comes at the cost of another.

15 Q Are the increases of the budget, in the case
16 of Lakewood, largely driven by the transportation and
17 tuition costs?

18 A Are the -- Are the increases of the budget?

19 Q Yeah.

20 A They're a major part of the equation of the
21 increases from year to year. Yes.

22 Q Major? Is that your characterization?
23 Major?

24 A When you have non-public bussing going up
25 approximately 1000 to 1500 students for mandated

1 bussing a year, at -- at the average cost of Seven
2 Hundred and Ten Dollars per child; yes, that -- that
3 generates a large amount of money.

4 Q And --

5 A When you have out-of-district placement. And, in
6 the case of the District, they send a lot of children
7 to out-of-district placement, and it's a large --
8 there's a large tuition bill. Higher math says, it
9 does drive a lot of cost.

10 Q And -- And you've been -- you've been in your
11 dealing with the State monitors at least since 2014.
12 Is that correct?

13 A That is correct.

14 Q All right. So have these special education
15 and transportation costs, in the aggregate -- Okay, I'm
16 not asking if one State's -- The two of them together,
17 have they been going up every year since you've been
18 dealing --

19 A Yes.

20 Q They have been. So, I'm going to ask my
21 question again. Based on an analysis. Based on what's
22 been happening since 2014 until the present, do you --
23 will the cost be going down? Is it -- Are they
24 trending down or up? What's happening?

25 A The costs have been trending up for special

1 education and mandated bussing.

2 Q All right. Now, do you know how the State
3 will ensure sufficient funding for Lakewood to provide
4 a thorough and efficient education based on these costs
5 going up?

6 A So --

7 MS. HOFF: What time period are we talking
8 about?

9 MR. LANG: We're talking about in the future.
10 There is a trend. I mean, on -- Well, let me ask it
11 this way. Do you have any reason to believe that these
12 costs will not go up anymore?

13 THE WITNESS: No, I think these costs will
14 continue to rise. Yes.

15 BY MR. LANG:

16 Q Okay. So, based on that, do you know how the
17 State will ensure sufficient funding for Lakewood to
18 provide T and E?

19 A I can't even begin to speculate what the
20 Legislature's going to fund from year to year.

21 Q What about -- What about the Department?

22 A Well the Department gets their funds from the
23 Legislature through the Appropriation Act. I can't
24 speculate as to what the Legislature's going to do from
25 year to year.

1 Q Well, based on the notices that go out to the
2 District, which is based on the legislation, and the
3 appropriations is -- Well, let me ask this way. The
4 appropriations are a general education appropriation.
5 Is that not true? It's not this district, this
6 district and this district. Unless there's budgetary
7 footnote language. Is that correct? In other words,
8 is the appropriation a general appropriation throughout
9 the State?

10 A The --

11 MS. HOFF: Objection. I don't think --

12 THE WITNESS: I'm not sure I understand your
13 question.

14 BY MR. LANG:

15 Q All right. All right. Let's ask it this
16 way. Is there anyway, by increasing appropriations
17 throughout the State, that Lakewood will have
18 sufficient funding? And I'm not talking about special
19 legislation for Lakewood. By increasing appropriations
20 throughout the State, because every year, you said it
21 goes up or down; if it goes up, will Lakewood have
22 sufficient funding, based on the formula that's being
23 used now?

24 MS. HOFF: Objection. That's -- That's
25 speculatory because he can't answer based on levels of

1 appropriations or --

2 MR. LANG: But, Your Honor.

3 MS. HOFF: And he hasn't been --

4 THE COURT: It is very speculative.

5 MR. LANG: You know --

6 THE COURT: We don't know what the
7 Legislature's going to do.

8 MR. LANG: No. What I'm trying to get at,
9 Your Honor, is that what each district is going to get
10 is based on a statutory framework. It might be a
11 little bit lower, it might be a little bit higher. But
12 the question is, even on the higher end, would there be
13 sufficient? Is the formula sufficient for Lakewood?

14 MS. HOFF: And also I would go, based on --
15 as --

16 THE COURT: Isn't that the conclusion you
17 want me to draw?

18 MR. LANG: Well, he's -- he's working for the
19 Department and I want to ask him --

20 THE COURT: I think that's the conclusion you
21 want me to draw.

22 BY MR. LANG:

23 Q Okay. The State aid advances, is there any
24 kind of formula that determines how much money each --
25 the District is going to get?

1 A No.

2 Q Okay. The decision to request a State --
3 State aid advance, getting approval from the State
4 Treasurer. This decision, whether to ask the State
5 Treasurer for that State aid advance, is this a
6 discretionary act by the Commissioner?

7 A Yes.

8 Q Regarding any requested amounts for the State
9 aid advance, are these requested amounts determined in
10 a subjective manner by the Department or of education
11 officials? Is this -- Is it subjective?

12 A I don't believe so.

13 Q What's the process for making the
14 determination?

15 A For the amount of the State aid advance?

16 Q Yes.

17 A So, as I testified earlier. We work with the
18 district in a collab -- try to work in a collaborative
19 fashion throughout the budget process to determine the
20 amount of the need of the district.

21 Q And what -- what is that? And how do you
22 determine the need of the district?

23 A We look at the documentations that they -- and
24 calculations of what they say things actually cost. We
25 try to figure out ways to economize. As I testified

1 before, we're more interested in making sure that it's
2 the right number. That it's not too large and that
3 it's not too little. It's more important that it be
4 the correct amount.

5 Q Do you know if the District buildings are
6 filled to capacity?

7 A I do not.

8 Q Do you -- Concerning special education,
9 sending students out of district. Do you know if
10 Lakewood has started creating in-district programs?

11 A They have begun to -- They have been told that
12 they have begun to create programs in-house.

13 Q Would having a steady stream of revenue --
14 Well, let's put it this way. By not having a steady
15 stream of revenue, is that detrimental to planning?

16 MS. HOFF: Objection. That mischaracterizes
17 -- What's a steady stream of revenue?

18 THE COURT: I'm going to permit the answer.
19 I think it's a budgetary question.

20 THE WITNESS: Well, I'd -- I'd actually ask
21 the question. What type of revenue are we talking
22 about? The Federal government operates on -- on a
23 Federal calendar year. Which doesn't go concurrently
24 with -- with the State, which operates on a fiscal
25 year. Okay. The municipality operates on a calendar

1 basis, which also doesn't comport with. So, you've got
2 timing differences all around.

3 BY MR. LANG:

4 Q I'll -- I'll rephrase the question. Not
5 knowing whether your budgets going to be balanced until
6 you get a State aid advance, whenever it comes, one
7 year I believe it was November. Does this put a strain
8 on planning?

9 A So, as I've said before. The timing of this is
10 when -- when we're confident that we have the correct
11 number. Sometimes in the beginning -- When we first
12 get into a district, those first years are spent
13 actually trying to figure out what's going on. A lot
14 of extra work goes into understanding what is -- what
15 is truly going on. What are the true costs? How --
16 How does one item relate to the other? So it takes us
17 -- it takes us a great deal amount of time to
18 understand what's going on in the district. And as I
19 said before, it's more important that we get the right
20 number. It's not -- We don't go in with a preconceived
21 notion or understanding or dollar amount. We go in to
22 determine what the actual true number is. And it has
23 to also be supported. And through that process of
24 reviewing documents, calculations, and supporting
25 information from the district, we determine -- we help

1 determine what the true number is.

2 Q You said before -- Did -- I wasn't -- I don't
3 remember what you said. Did you -- What was your
4 degree in?

5 A Accounting.

6 Q Accounting. Did you ever serve as a business
7 administrator for a district?

8 A I have my -- No, I did not. I have my full
9 certificate as a business administrator.

10 Q All right. So I'm going to ask you from the
11 district point of view. Not from the State point of
12 view, the district point of view.

13 A Hm hmm.

14 Q The current situation of not having a steady
15 stream of revenue. In other words, your SFRA, you're
16 always needing to getting -- get advanced State aid.
17 How does this affect planning? --

18 A It's just -- It's just part of the process. You
19 -- You -- Every district starts with their -- with the
20 revenues. Okay. When you -- Every district in the
21 State builds its budget based upon an assumption of the
22 revenues. Those revenues include, as I said before,
23 your local taxes, your anticipated State aid, your
24 Federals. Usually you budget your Federals at about 85
25 percent of the previous year because -- because of

1 timing differences and fluctuations in the Federal
2 government, as well. And you develop a plan. All
3 districts should be developing a plan for various
4 contingencies because no district under -- knows what
5 they're getting until the Appropriation Act is actually
6 signed into statute. That's been the case for the past
7 two years. Districts have made plans, based upon a
8 series of assumptions, only to find out through the --
9 through the Appropriation Act process, that those plans
10 have changed. So that's happened in the past two
11 years. It's effected all districts. But everybody has
12 figured out ways to deal with it.

13 Q And those districts who might find themselves
14 short often they can raise local taxes if -- I'm
15 asking, is this true? They could raise -- If they --
16 Some district might find themselves short because
17 they've had an increase in enrollment. Would that not
18 be true? If the SFRA is frozen, on previous levels,
19 the Appropriations Act doesn't fully fund the SFRA.

20 A Okay.

21 Q Okay. And they've had -- Their expenditures
22 are higher than their revenues.

23 A Hm hmm.

24 Q Quite often those -- that increase in
25 expenditures would be either increased enrollment,

1 increased health costs. Those two things I just
2 mentioned, does the tax cap, the two percent tax cap,
3 is that adjusted for those two things?

4 A So the tax -- So the two percent tax -- tax law,
5 allows you to adjust and go beyond the two percent for
6 four items. The first one would be an enrollment
7 adjustment; if your enrollment exceeded a certain
8 threshold. The second is for health benefit cost that
9 exceed the prior year. Or limit -- There's actually a
10 calculation on that. Pension costs. And the fourth is
11 a assignment of duties to another governmental agency.
12 They are the four provisions that allow you to exceed a
13 two percent tax cap.

14 Q So if a district falls short because of the
15 Appropriations Act, if some -- increases expenses or
16 cause debt, they just raise taxes, even beyond the two
17 percent. Is that correct? That's correct. I mean --

18 A They can only raise taxes for those items.

19 Q Before --

20 A They can also, as I've previously testified -- And
21 this may be about the fifth time I'm telling you. They
22 can go out for second questions for non T and E items.
23 And they can also, if they have a general fund deficit,
24 go out for additional taxes --

25 Q Yeah, but what about the --

1 A -- under that.

2 Q I'm not asking about that because -- because
3 you told me that it was defeated by the voters. What
4 was it? 13 Thousand?

5 A 17,400 and --

6 Q I'm talking about --

7 A -- 13 to 1,807, I believe.

8 Q So I'm really asking really what the State
9 monitor or -- or the Board of Education could do.

10 A I think I've answered what --

11 Q Okay. So let me ask you --

12 A -- what could be done.

13 Q -- this question. Can the State monitor --
14 Or could the Board of Education adjust the two percent
15 levy for increases in the non-public population?

16 A The statute lists the four items that I --

17 Q Okay.

18 A -- that I quoted you.

19 Q It doesn't list non-public, does it?

20 A No.

21 Q Okay.

22 A The funding formula does -- It recognizes public
23 school students.

24 Q Right. So increases that come about because
25 the increase -- Expenses that come about from

1 increases, the growth of non-public population, versus
2 transportation and special education, kids entering the
3 District because they have special needs; there's no
4 adjustment to the tax cap. Is there?

5 A The tax cap -- The tax cap has the four options
6 that I quoted you.

7 Q Right. And that's not one of them; increases
8 in non-public population.

9 A No.

10 Q Okay. That's what I was asking. So, where
11 were we? So what I was asking about planning. So,
12 given the fact that, whenever the budgeting process
13 starts. November, I believe you said you start that?

14 A We encourage all districts to start sometime in
15 November.

16 Q So in the position of Lakewood. Let's go
17 back, I'm not talking about this year. The previous
18 year, 2018 through 19, November, we know that they're
19 in the end going to get a 28 Million Dollar loan, State
20 aid advance. So, while preparing that budget, and
21 planning, making planning to help your students,
22 whatever the District needs to remedy, in the case of
23 Lakewood, remedy deficiencies. Whatever the District
24 needs to plan. You're going in and your -- your
25 revenue is shorter than your expenditures, what kind of

1 strain does that put on a district?

2 A It causes --

3 Q It's not -- I'm asking because you said --

4 THE COURT: Let him answer. Let him answer
5 your question.

6 MR. LANG: Yeah.

7 THE WITNESS: So, every district in the
8 State, no -- nobody knows. In fact, even the
9 Department, most years, doesn't know what the
10 Governor's budget is going to be until sometime before
11 the Governor takes the podium and -- and says what he
12 intends to do. But what you do is, as a district, you
13 develop a budget based upon what you think is going to
14 come. What history has told you happens. Right? You
15 know -- You know how many students you have. You know
16 if you've had an increase. You can start to look at,
17 when we release the budget software, usually for the
18 first release, it's sometime in January February range.
19 And you can start seeing if you qualify for an
20 enrollment adjustment. You'll know -- You'll
21 anticipate your health benefit costs. And you start
22 planning.

23 BY MR. LANG:

24 Q Hm hmm.

25 A And as -- as the State aid advances come out,

1 within 48 hours of the Governor's budget address, you
2 know then what your State aid will be. As long as the
3 Appropriation Act funds it. Unfortunately, the past
4 two years that changed, after the fact. But they were
5 -- they were more anomalies than the norm. And then,
6 as the Appropriation Act kicks in and that's signed
7 into law, now you're locked in and you know what it is.
8 But it forces you to have multiple plans of how you're
9 going to achieve it. You have -- Your revenues have to
10 equal your expenditures. So you have to always have a
11 plan of how you're going to get there.

12 Q You did mention history. And Lakewood's
13 history is constantly, in the last five years, four
14 years, getting State aid advanced. So are you
15 suggesting that in November, Lakewood should already
16 start planning its budget with the knowledge that,
17 we're going to go ahead and get the State aid advance
18 this year also?

19 A I -- They should start planning their needs.
20 And they're looking at efficiencies in their budget.
21 You can't -- You can't predict exactly what's going to
22 happen. There's too -- There's too many variables.

23 Q So you think it's actually possible that
24 Lakewood could prepare its budget and not need a State
25 aid advance next year.

1 A It's speculation at this point.

2 Q Well based on the trends. Based on what's
3 been happening.

4 A I would think that they're going to need
5 additional help because the past five years, four or
6 five years, we've had to give them advance of State
7 aid. But that advance in State aid, it ensures that
8 they need thorough and efficient education.

9 Q And -- And this is the same situation with
10 every other district that is relying upon the
11 Appropriations Act?

12 A State aid advances?

13 Q In other words, is Lakewood in the same
14 situation as every other district in the State?

15 A They're treated -- Under the formula, they're
16 treated exactly like everybody else.

17 Q From a planning perspective. Needing State
18 aid advances every year.

19 MS. HOFF: Objection. He's -- He doesn't
20 know, from a planning perspective, what one district
21 does to another. And he's already testified that some
22 other districts, in the past and currently, have had
23 State aid advances.

24 THE COURT: He did.

25 BY MR. LANG:

1 Q Has any other district had a State aid
2 advance the size of Lakewood's State aid advance?

3 A No, sir.

4 Q Okay. Let me ask you this question though.
5 You keep on saying -- And Your Honor, I'm sorry to say,
6 keep on saying. You said -- You said that districts
7 are dependent upon the Appropriations Act. But a
8 district like Lakewood, that has an adequacy budget of
9 a 111 Million; the adequacy at the time is 119 Million.
10 Operating budget, I believe, last year was 169 Million.
11 Has any district of that size -- Let's define it anyway
12 you want; a six thousand student district. Has any
13 district ever been effected by a change -- by the
14 Appropriations Act, where it's going to be getting --
15 its revenue is going to be 28 Million Dollars short?
16 In other words, is any other district finding itself in
17 a position where its 28 Million Dollars short because
18 of the Appropriations Act?

19 MS. HOFF: Objection. I think that any -- I
20 don't think that the 28.5 Million Dollars in 2018 -- I
21 think it's a mischaracteration that the only reason
22 they were short is because of the Appropriations Act.
23 I think that's a --

24 THE COURT: I don't know that one necessarily
25 has --

1 MS. HOFF: -- mischaracterization.

2 THE COURT: I do too.

3 MR. LANG: No, --

4 THE COURT: Just rephrase the question, Mr.
5 Lang.

6 MR. LANG: Yeah, all right. You testified
7 that no district really knows what it's going to have
8 until the Appropriations Act. So has any district ever
9 found itself -- any district the size of Lakewood, ever
10 found itself 28 Million Dollars short because of the --

11 THE COURT: That's the question. Has any
12 other district ever found itself 28 Million Dollars
13 short?

14 THE WITNESS: Through the budget process?

15 MR. LANG: Well, because of uncertainty --

16 THE WITNESS: There are districts -- There
17 are districts -- If you go back and you look in the
18 newspaper from -- from February, sometime in February,
19 through the budget -- throughout the budget season,
20 which goes until March, districts -- some districts
21 have to make adjustments upwards of -- of that amount.
22 Sure. There's districts that -- that take reductions
23 and make adjustments. Some of your larger districts.
24 I mean, we have some very large districts in the State
25 --

1 MR. LANG: Right.

2 THE WITNESS: -- that make adjustments. They
3 reduce -- They reduce their spending.

4 BY MR. LANG:

5 Q Yeah, I wasn't asking about the large
6 districts with budgets of 700 Million Dollars, where 28
7 Million would be, like, you know, like --

8 A But you asked me about --

9 Q -- two percent of --

10 A You asked me about that 28 Million. There are
11 districts that do reductions of that size.

12 Q Yeah. I'm asking about districts the size of
13 Lakewood, where 28 Million is going to be like, you
14 know, 20 percent of your -- your adequacy budget or
15 operating budget even.

16 MS. HOFF: Objection. This is vague. Is he
17 asking about 28 Million total, or is he asking how
18 other districts had such a percentage of their budget?

19 THE COURT: That's what I think --

20 MR. LANG: I'm asking about a district the
21 size of Lakewood.

22 THE COURT: I think that's what he's asking.
23 Are there any other districts the size of Lakewood that
24 have received this kind of money?

25 MS. HOFF: I thought he was asking --

1 THE WITNESS: Or the way -- That's completely
2 different.

3 MR. LANG: Or found themselves 28 Million
4 Dollars short.

5 THE WITNESS: 28 Million Dollars is the
6 largest loan I've ever made. Most of my loans that I
7 have to make to other districts usually range in about
8 the Five to -- about Five Million range.

9 BY MR. LANG:

10 Q Any -- Any districts, besides Hi-Nella,
11 having loan year after year after year?

12 A Currently?

13 Q Yeah.

14 A No.

15 THE COURT: And how big is Hi-Nella?

16 THE WITNESS: Hi-Nella's a non-operating
17 school district. They have approximately, oh, I want
18 to say, about 263 children that they send to the K to 8
19 program in Stratford. And then the high school kids go
20 to -- Oh, boy. SJTP was with --

21 MR. STARK: It necessarily --

22 THE WITNESS: I can -- I can see the school
23 district.

24 THE COURT: Okay.

25 THE WITNESS: I just can't think of the name

1 off the top of my head.

2 THE COURT: Okay. So there's quite a
3 difference between --

4 THE WITNESS: That's one of my other special
5 children, I should know that.

6 THE COURT: 200 and how many?

7 THE WITNESS: Oh, I think approximately 263
8 children.

9 THE COURT: Okay.

10 THE WITNESS: But they pay tuition on all of
11 those children. They don't have a school district.
12 They don't have a -- They don't have a Board of Ed
13 building. Actually, they don't even have a Board of Ed
14 right now. Everybody is -- is resigned or turned out.

15 THE COURT: All right. So not quite a
16 comparison.

17 THE WITNESS: Nowhere -- Nowhere near.

18 BY MR. LANG:

19 Q Well, without those -- without going to -- to
20 the voters, which you testified has failed. These
21 other districts that find themselves short, are they in
22 a situation where they can't raise taxes directly? Do
23 they have other options?

24 A All of these -- All of the districts, each one has
25 its own unique story. You can't -- You can't compare

1 them one to the other, because the reasons that they
2 get into a fiscal issue varies with each one. Each one
3 is its own custom story. So you can't -- I can't sit
4 here and tell you they all have these same
5 characteristics, or they all -- all this or all that.
6 Each one is its own individual story.

7 Q So Lakewood doesn't stand out to you.

8 A How so?

9 Q As being a very unusual situation.

10 A Everything I deal with is unusual, sir.

11 Q So Lakewood's just like every other district
12 with an unusual situation. Is that correct?

13 A I deal with all the problems throughout the
14 State when there's a fiscal situation. I can't say
15 that any one is more different than the other. I
16 don't compare them. I try to treat each one as unique
17 and as an individual. It would be like asking which
18 one of my kids is favorite. I can't answer that
19 question.

20 Q But the statute, the SFRA statute is
21 supposed to be providing sufficient funding for the
22 district. Is that not correct? I'm not talking about
23 the Appropriations Act, the statute itself.

24 A The statute -- The statute for SFRA is a
25 distribution of the State aid.

1 Q And its meant -- its purpose is to provide
2 sufficient funding. Is that not true?

3 MS. HOFF: Objection. He's asked this and
4 answered it already.

5 THE COURT: He has, Mr. Lang.

6 MR. LANG: Okay. All right.

7 THE COURT: You're repeating yourself.

8 BY MR. LANG:

9 Q Does -- Does the SFRA -- The situation, the
10 unique situation, every district has a unique
11 situation. The way the SFRA is written, does it --
12 does it provide sufficient funding for the unique
13 situation in Lakewood?

14 A I don't think I can answer that question. SFRA
15 was developed, and it went to the Supreme Court, and it
16 was found to be an adequate distribution of the State
17 aid. There's no -- There's no language in there
18 specific for Lakewood.

19 Q Okay. So all these districts that find
20 themselves in a shortfall -- Any district that you're
21 referring to before them might find itself in a
22 shortfall -- Well, let me rephrase the question. Under
23 the current statutory formula, will Lakewood have
24 sufficient funding? Is it possible -- I'm not asking
25 you to speculate. I'm asking, is it possible, assuming

1 that the population's going to keep on growing, non-
2 public population, is it possible for Lakewood to have
3 sufficient funding?

4 MS. HOFF: Objection on this. He's actually,
5 when -- Is it possible is speculation. He's already
6 said it's part of a larger funding scheme.

7 THE COURT: And also, possible is
8 speculative.

9 MR. LANG: No. But I'm asking, is it
10 possible in any scenario? In any scenario.

11 THE COURT: Then you're asking to speculate
12 in any --

13 MR. LANG: How is that speculation? Based
14 on the formula. It's a formula that you plug in.
15 You count the weighted enrollment. You have a certain
16 amount for LEP, a certain amount -- All these things
17 in the statute. I'm not talking about how much people
18 tax. But if people taxed -- If they taxed as much as
19 they can, is it possible to have sufficient funding?

20 MS. HOFF: I still -- My objection still
21 stands.

22 THE COURT: Your objection's sustained.

23 MR. LANG: Okay.

24 THE COURT: Next question, Mr. Lang.

25 MR. LANG: Okay. All right.

1 BY MR. LANG:

2 Q Has the State committed itself to keep on
3 monitoring Lakewood indefinitely?

4 A The statute is very clear that -- that the monitor
5 is to remain in the district up to the discretion of
6 the Commissioner, who will determine whether all the
7 problems have been remediated.

8 Q It doesn't say anything about ten years?

9 A The statute --

10 Q Until -- Until the loan's paid back?

11 A It does not say anything about ten years. It says
12 until the Commissioner feels that the district has been
13 remediated.

14 Q What -- What's that plan?

15 A Well, we still have a lot of money left. We have
16 at least 46 Million Dollars outstanding at this -- at
17 this juncture, that has to be collected. We have --
18 Every year we go through a budget process of trying to
19 figure out how the District can economize an efficient
20 -- and come up with efficiencies. And it's -- We're
21 still remediating findings in the CAFR. The District
22 still qual -- Under terms and conditions of the CAFR,
23 the last one, it still met the qualifications to have a
24 monitor. It had repeat findings, material weaknesses
25 in internal control, returning of Federal funds, and a

1 deficit.

2 Q Now, you understand that -- I mean, am I
3 correct to say that these loans are only available if
4 there's a State monitor there? Is that correct?

5 A 18A-7A-56.

6 Q Hm hmm.

7 A Requires a State monitor for an advance of State
8 aid.

9 Q And you just said that you have a plan of
10 getting the State monitor out?

11 A We always want to -- The main objective that --
12 that I testified to bef -- earlier, under my
13 questioning, was we try to get in, fix the district,
14 and get out. We don't want to be there a nano second
15 longer than we have to.

16 Q I take it that in order to get the State aid
17 -- the State monitor out, the District's not going to
18 need anymore loans.

19 A But there's other conditions, under 18A-7A-55; a
20 deficit, repeat audit findings, material weaknesses --

21 Q Hm hmm.

22 A -- in internal control, returning of Federal
23 funds, or handing in a CAFR late, or having an adverse
24 or disclaimed audit opinion.

25 Q All right. So having a State monitor, having

1 -- Not having loans is a necessary condition, it might
2 not be sufficient. That's what you --

3 A But the District is -- As of their last CAFR they
4 handed in, still met the qualifications --

5 Q Right.

6 A -- for having a monitor.

7 Q So once you have a plan to get the State
8 monitor out. And the State monitor will be gone. What
9 happens then if Lakewood has a -- does not have the
10 revenues to meet its expenditures?

11 A It's kind of speculation; isn't it? What if?

12 Q Well what would happen to -- Let's say that
13 there's no State monitor in Lakewood, and you had a
14 budget like this.

15 A So your question is, if they fix everything up --

16 MS. HOFF: Objection.

17 MR. LANG: Your Honor. How --

18 MS. HOFF: This is hypothetical.

19 MR. LANG: No.

20 MS. HOFF: And how far out are we? And what

21 --

22 MR. LANG: We're talking about 2017 to 2018.
23 They needed a 28.5 Million Dollar loan. What would
24 happen if there was no State monitor loan?

25 MS. HOFF: But that's not what the reality --

1 THE COURT: Yes.

2 MS. HOFF: -- actually was. So it's a --

3 THE COURT: It is, It's totally hypothetical

4 --

5 MR. LANG: Okay.

6 THE COURT: -- and speculative at this point.

7 And when you ask him what could happen, you're talking

8 a monitor might be there for ten years, that really

9 does call for speculation. We don't even know if the

10 law's going to stay the same.

11 MR. LANG: Okay.

12 BY MR. LANG:

13 Q Is there any statutory provision that would
14 allow Lakewood State aid, if they have loans, the
15 repayments be forgiven?

16 A Not that I'm aware of.

17 Q I don't know if I asked this, just tell me if
18 I did. Has the State committed itself to keep a State
19 monitor in Lakewood indefinitely?

20 MS. HOFF: Yeah, asked and answered.

21 THE COURT: Yes, you did.

22 BY MR. LANG:

23 Q Okay. Is it possible that loan repayment
24 forgiveness may require legislative approval?

25 MS. HOFF: Objection. That really calls for

1 speculation. He doesn't know how it's going to happen.

2 THE COURT: It's not his --

3 MR. LANG: Well, according to law.

4 MS. HOFF: It's not his sport --

5 THE COURT: It's not his field.

6 MS. HOFF: That's not his --

7 BY MR. LANG:

8 Q I'm sorry. What did you say about the first
9 question, about loan payments being forgiven? Is there
10 -- Are you able -- Is the Department able to advance
11 the -- I mean, forgive loan pay -- the loans?

12 MS. HOFF: Objection.

13 MR. LANG: Why?

14 MS. HOFF: He answered already that he's not
15 aware of a statutory mechanism at present.

16 MR. LANG: Okay.

17 THE COURT: He said that.

18 BY MR. LANG:

19 Q Okay. Does the fact that State aid advances
20 have -- have to be repaid from future State aid, does
21 that have a continual impact on Lakewood's ability to
22 provide its students with a T and E education?

23 MS. HOFF: Objection. Again, he is not an
24 educator. And the ability of the District to provide
25 education is not his field.

1 THE COURT: He's already said that.

2 MR. LANG: Okay.

3 BY MR. LANG:

4 Q Well, let me ask this question. Lakewood
5 State aid advances include funding for the loan
6 repayments to the State. So wouldn't that mean that
7 the State is giving the District with one hand, and
8 taking it back with the other hand?

9 MS. HOFF: Objection. That's a
10 characterization.

11 MR. INZELBUCH: Actually --

12 THE COURT: Well, in a way they've been
13 paying it back out of the loan. So I'll permit the
14 question?

15 THE WITNESS: So, the Department doesn't have
16 the ability to forgive the loan. Okay. We also don't
17 have the ability to defer the loan. We have to always
18 ask for permission. If you defer collection, you're
19 just accelerating it, because the loan can only, by
20 statute, can only be for ten years. You're only
21 accelerating it in the years remaining. Okay. So, you
22 have two separate things. You have the annual district
23 budget, and what's going on in the annual. Remember
24 what I told -- I said earlier and I testified, you have
25 the annual deficit, but you also have the outstanding

1 balance. It's kind of like a credit card. You have
2 your annual -- You have your monthly payment, which is
3 X. But you have an outstanding balance of Y. So by
4 making payment, they're keeping -- we're keeping the
5 liability on the books of the District. They're still
6 responsible for the loan, but they're making the annual
7 payment.

8 BY MR. LANG:

9 Q I want to ask you about that. I don't -- I
10 don't really understand how you describe the deficit
11 and the loans. You describe the amount needed for the
12 State aid advance as more like the aggregate debt? Is
13 that how you describe it? I'm not -- I'm not clear on
14 how you --

15 A I'm not clear on your question.

16 Q -- you made a distinction between deficit and
17 -- and the loan. Let me ask this question. Is the --
18 Each of these State aid advances, like the 28 Million,
19 28.5 Million for 17/18; is it just for that year?

20 A Yes.

21 Q Okay. I didn't understand how you
22 distinguished between deficit and -- and loan before.
23 What -- What's the difference between deficit and the
24 amount necessary for State aid advance?

25 A So deficit is the amount that the District is

1 short after they've paid their bills. After they've
2 gone through --

3 Q Uh huh.

4 A After they've gone through the whole year.

5 Q Hm hmm.

6 A Okay?

7 Q I got it.

8 A You're short.

9 Q That would include the loan. That's how much
10 money they have in deficit when -- when all the
11 revenue, including the loan, is considered in the
12 expenditures.

13 A Say that again.

14 Q The deficit -- What you're calling the
15 deficit, is when you balance the revenues against
16 expenditures. But the revenue side would include the
17 State aid advance. Is that not correct?

18 A So the deficit, the deficit comes in at the end of
19 the year, when you have -- you've collected all your
20 revenues and you have attempted to make all your
21 payments, but you're short. That short stub piece is
22 your deficit. In 2014, that deficit was about 6 -- 6.4
23 Million Dollars. It grew up to 12, and it's now
24 starting to go back down. I think the last CAFR was
25 like 3.8.

1 Q Hm hmm.

2 A But you have to look -- For a deficit --

3 Q Hm hmm.

4 A -- you have to singularly for the year --

5 Q Hm hmm.

6 A -- after everything has happened.

7 Q Hm hmm. And everything that's happened would
8 include the -- that State aid advance that year.

9 A You have --

10 Q Yeah, on the revenue side.

11 A So, it --

12 Q Yeah.

13 A So you have to make your payment. Your payments
14 are deducted from your State aid. That's why it's a
15 State aid advance. They deduct it from your advance
16 payments, in the future. Could we take like a two
17 minute break? Definitely the water's kicked in.

18 THE COURT: Sure.

19 (BRIEF RECESS)

20 THE COURT: All right. So shall we continue,
21 Mr. Lang.

22 THE WITNESS: Yes.

23 BY MR. LANG:

24 Q Okay. I actually have a -- here, but I'll
25 just ask the question to you. According to Lakewood's

1 CAFR for the period ending June 30th, 2018, only 3
2 Million 100 Thousand 41 Dollars of Lakewood's 11
3 Million 74 Thousand 154 deficit in the general fund was
4 a deficit due to operations. So 3 Million out of the
5 11 Million was a deficit due to operation. Isn't it
6 true that most of the remaining deficit is due to a
7 delay in State aid payments on the part of the State?

8 A I'd have to see the document --

9 Q If I could show --

10 A -- to answer your question.

11 Q Could I show it to you on the computer?

12 THE COURT: No.

13 MR. LANG: No?

14 THE COURT: You have to show it to him.

15 MR. LANG: Oh, I don't have it right here.

16 Well, does that happen when a district has an operating
17 deficit due to late State aid payments?

18 THE WITNESS: Ooh, I couldn't even begin to
19 tell you when we started delaying the June State aid
20 payments. But from an accounting standpoint, the
21 district is made whole in June -- in July. So, it
22 doesn't really pose a problem. You withhold the June
23 State aid payments, but the district has the ability to
24 go out and borrow those funds, if necessary. And the
25 State pays the interest on those funds. And then when

1 the payment is made in July, the district is made
2 whole.

3 THE COURT: That's for the previous fiscal
4 year?

5 THE WITNESS: Hm hhm.

6 THE COURT: So the district has to operate
7 for the whole year and then wait to get the money?

8 THE WITNESS: No. No, State is given
9 starting in September through June, two times a month;
10 the beginning of the month and the end of the month.
11 It's designed that way to coincide with -- with the
12 major costs of the district, which is payroll, which is
13 usually two times a month. And then the bills and
14 claims, which were usually the end of the month. So it
15 helps with the cash flow. The June payments were -- I
16 couldn't even begin to tell you what -- It may have
17 been the McGreevey years. I couldn't even tell you
18 when. But the State doesn't make the June payments,
19 the two payments in June, until July. If the district
20 is short that month, they can go out and borrow the
21 funds from a lending institution, and the State pays
22 the interest on that. But the district is always made
23 whole.

24 BY MR. LANG1:

25 Q Now you talk a lot about, you know, raising

1 taxes. And let me ask you this question. Isn't it
2 true that for 2017 through 18, the SFRA -- and for
3 2018/19, the SFRA funding amount Lakewood received was
4 modified from the amount originally enacted by statute,
5 by language in the Appropriation Acts during those two
6 years? In other words, that, as you mentioned before,
7 the Appropriations Act is the determination; so isn't
8 it true that the amount, the SFRA funding for 17/18 and
9 18/19 was modified in the Appropriations Act?

10 A That is true.

11 Q Okay. So isn't it true that the State aid
12 advance amounts that Lakewood was approved for in each
13 of those two years, could have been reduced if the SFRA
14 been fully funded in accordance to the existing
15 statute?

16 A It's two different concepts.

17 Q Explain.

18 A Explain your question.

19 Q Okay. Oh, okay. My question is, the
20 Appropriations Act provided certain amount of funding
21 --

22 A Okay.

23 Q -- for Lakewood. Not the amount that SFRA
24 provided. Had the Appropriations Act, the State,
25 provided the full SFRA amount, isn't it true that the

1 amount of the advanced State aid would have less?

2 A I don't know what the SFRA fully funded amount
3 would be. At this -- I don't know off the top of my
4 head.

5 Q You know, I just want to ask a general
6 question. You know, those -- those notices to
7 District. I thought the first -- the second and third
8 page says what the SFRA amount is. Is that not true?

9 A There's approximately 600 districts that get those
10 amounts.

11 Q Yeah, I know.

12 A I don't -- I can't even begin to memorize them. I
13 can't even remember my own district sometimes.

14 Q Yeah, I know, I know. I meant it for the
15 second and third page of every district. Each
16 district's second and third page is the statutory
17 amount that it's supposed to get. Isn't it?

18 A Each page -- the second and third page. It --
19 They're not all the same for every district. The page
20 -- Some districts, those pages could be up to 11 pages,
21 their State aid notices. I've seen them as short as
22 seven. It depends on the district.

23 Q Well, 11 pages or --

24 A So you're asking me to tell you what's amount on
25 page two and three. I can't answer that question.

1 Q Okay. After the page with enrollment. I
2 have it here anyway.

3 MR. INZELBUCH: Isn't it --

4 MR. LANG: This in R-1. I mean, the one for
5 Lakewood is here. They always go through the
6 calculation of the second page. Actually, it's the
7 third page here. It's the adequacy budget. And then
8 the next page is the categorical aid. This is R-1,
9 actually.

10 MS. HOFF: Objection. I mean, honestly we're
11 going beyond the scope --

12 MR. LANG: What?

13 MS. HOFF: -- of the direct examination.

14 MR. LANG: Oh.

15 MS. HOFF: He's already talked about that
16 he's not involved in this process.

17 THE COURT: It's true. I do have a question
18 though.

19 THE WITNESS: Yes.

20 THE COURT: To your knowledge, is the SFRA
21 fully funded, as to all districts?

22 THE WITNESS: It's not.

23 THE COURT: Oh. Is that what you were trying
24 to ask, Mr. Lang?

25 MR. LANG: No, I wanted to -- I wanted to ask

1 if these, page two and three, if this is enough money.
2 But I'm not going to ask. I'm not going down that road
3 again. Okay, I'm almost finished. For -- For each of
4 the years --

5 THE WITNESS: Sorry.

6 BY MR. LANG:

7 Q -- State aid advance was approved, each of
8 those years, going back, I guess, four years. I guess,
9 five years, but we're not including this year. So
10 before this year, four years. Well, did any of those
11 budgets have spending that was not required for T and
12 E? I asked about the last two years, what about the
13 two years before that?

14 A Yes.

15 Q Which year?

16 A 14 -- The first couple of years there was courtesy
17 bussing.

18 Q Why was there courtesy bussing?

19 A Because the Board wanted to do it.

20 Q Commission -- What about the Commissioner?

21 A It was done through Board resolution.

22 Q So why would the State pay for it by giving
23 out advance State aid?

24 A We were trying to close the gap and figure out the
25 problem at the same time the District had a defic --

1 The deficit, actually -- Okay, hold on. The money that
2 was given was -- The advance of State aid was for T and
3 E items. The non T and E portion, which would be the
4 courtesy bussing, went and towards the deficit balance.
5 That's why the deficit balance grew over the years.

6 Q Why didn't the State monitor, if you work
7 with the State monitor, why didn't he just terminate
8 it, the courtesy bussing?

9 A I don't know.

10 Q Did you have any discussion with him over it?

11 A We've had a lot of discussions about ending the
12 courtesy bussing.

13 Q Mr. Shafter said that the Commission made a
14 decision concerning courtesy bussing that year. I
15 think it was 2015. Do you have any knowledge of that?

16 A 2015? The Commissioner at the time would have
17 been Dave Hespe. And he was in favor of child safety.

18 Q So he wanted the courtesy bussing to remain?

19 A He was in -- He was in favor of child safety.

20 Q Why did it go from 4 Million to 4.5 Million
21 that year; the State aid advance?

22 MS. HOFF: Objection. Those are not facts in
23 evidence.

24 MR. INZELBUCH: Ah, they are.

25 THE COURT: Where is that?

1 BY MR. LANG:

2 Q Okay, did it go from -- Did -- Did the State
3 aid advance -- Was it originally 4 Million?

4 A Off the top of my head, I couldn't tell you.

5 Q Do you -- Does it -- Do you recall, that
6 year, that -- that it -- that two notices went out; one
7 being 4 Million, and another one being 4.5 Million? Or
8 any year, if -- do you recall ever 4 Million and 4.5
9 Million in the same year? Not -- Not adding them
10 together, 8.5 Million. 4 Million and then another
11 notice for 4.5 Million.

12 A It's possible. The years are all starting to
13 blend together. Unless you provide me the documents,
14 I'd -- I'd be speculating at this point.

15 Q All right.

16 MR. INZELBUCH: I participant is allowed to
17 argue according to -- This Court, Herself, has asked
18 the question, on the record, why it went from 4 to 4.5
19 Million.

20 THE COURT: Mr. Inzelbuch.

21 MR. INZELBUCH: And we were told that Mr.
22 Forney was going to respond that.

23 THE COURT: Mr. Inzelbuch, we have the
24 letter. The letter says "4.5 Million."

25 MR. LANG: Okay. There was another one for 4

1 Million.

2 MR. INZELBUCH: Well the first one says, "4."

3 And this Court --

4 THE COURT: Well, I don't have that letter.

5 MR. INZELBUCH: This Court, on the record,
6 stated, "Why did it go up that year?"

7 THE COURT: Mr. Inzelbuch, I have questions
8 to ask when Mr. Lang --

9 MR. INZELBUCH: All right. Sure.

10 THE COURT: -- is finished.

11 BY MR. LANG:

12 Q All right. I think it's already in the
13 record with Mr. Shafter anyway. Now I'm going to get
14 in trouble about asking about planning. (Chuckle0

15 THE COURT: Because he doesn't do planning.

16 MR. LANG: Yeah.

17 THE COURT: He does the budget.

18 MR. LANG: Yeah. Let me just see if I had
19 anymore questions. I'm just -- Okay. That's all.

20 Thank you, Mr. Forney.

21 THE COURT: All right.

22 MR. LANG: And I'm sorry for asking questions
23 twice or three times, or something like that. I just
24 --

25 THE WITNESS: It's just your job. It's okay.

1 THE COURT: All right. Ms. Hoff, do you have
2 any questions?

3 MS. HOFF: Not based on Petitioner's cross.

4 THE COURT: Okay.

5 MS. HOFF: Maybe after, if you ask questions.

6 THE COURT: Maybe after my questions.

7 (Chuckles in courtroom) Okay.

8 BY THE COURT:

9 Q So I just have a few questions. You're
10 familiar with the Abbott districts or the former Abbott
11 districts.

12 A Oh yes.

13 Q How does Lakewood rate against the Abbott
14 districts? We'll just call them that, as opposed to
15 the former.

16 A That's a -- That's a really broad question. When
17 you say rate, you mean fiscally, educationally, --

18 Q Let's talk --

19 A -- physically?

20 Q Let's do them one at a time.

21 A Okay.

22 Q Okay. In terms of ratables, for example.

23 A In terms of ratables. So the Abbott -- the Abbott
24 decision was based upon the -- Gosh, I haven't read
25 Abbott in probably 20 years. It was a -- It was

1 because the districts didn't have the ability to raise
2 taxes. They didn't have the ratables available to them
3 to raise taxes. There was a second round of districts.
4 I believe they were called the Bacon districts. And --
5 I couldn't even tell you how many were in there. I
6 believe Lakewood was in that round of the Bacon
7 districts. And their -- That was a group of folks that
8 were -- were trying to get Abbott status. But that was
9 all done away with, with the new funding formula.

10 Q With the --

11 A With SFRA.

12 Q -- SFRA. Okay.

13 A So you had a -- It was a broad based question.
14 You were asking ratables. Is there anything else on
15 that?

16 Q Let's go to the second category that you
17 mentioned.

18 A Education?

19 Q Education.

20 A I'm not an educator.

21 Q Are you familiar with any of the stat --
22 statistics concerning graduation rates, performance on
23 tests, anything of that nature?

24 A No, ma'am.

25 Q Okay. Okay. So, Lakewood has so far

1 received in advanced State aid, 4.5 Million, then 5.6
2 Million, then 8.5 Million, then 28.7 Million. And if
3 we were to speculate, which everybody doesn't want to
4 do, it isn't really permitted. But as you said, the
5 likelihood is that it's going to go up. How does
6 Lakewood pay back this money? What -- What's the plan?

7 A So every year we -- The statute's pretty clear
8 that the loans can only be up to a maximum of ten
9 years. So, we have to go and we have to collect that
10 money, commencing the next year. We have to follow the
11 statute. So, when we do the budget planning and we do
12 -- and we do it, we know that their balance right now
13 is 4. -- 46.5 Million Dollars. Net of -- of anything
14 that's been deferred. So the next year's payment is
15 4.6 Million, one tenth. If there's an additional loan,
16 unfortunately, that payment will go up. Right. But
17 you have to build that in to the next year's budget.
18 It's kind of like rolling it forward. So it's --
19 Unfortunately, it's, you know, increasing the liability
20 of the District. But they are paying their debt off.
21 After ten years, the first year will drop off. They
22 will have repaid it.

23 Q Yeah, but the first loan is 4.5. And then
24 the fourth loan is 28.7.

25 A Hm hmm.

1 Q And without speculating too much, the next
2 year's would be even higher. I'm just trying to see if
3 there's any end game here, without continually raising
4 the amount that Lakewood gets. Assuming everything
5 stayed the same.

6 A We're just going by year by year at this point.

7 Q Hm hmm.

8 A We're trying to, as I had testified, trying to
9 find all economies and efficiencies. And every year, I
10 think, we're making ground. There's always new ideas.
11 There's always ways to do things to operate more
12 efficiently.

13 Q If the SFRA were fully funded, would that
14 help?

15 A I don't know what the amount would be if it was
16 fully funded, ma'am.

17 Q Okay. So you talked about the budget
18 process. So, you sent out a statement sometime in
19 February or March saying this is what you think the
20 districts are going to get, based upon what the
21 Governor has set his budget.

22 A So we're required by statute to notify the
23 districts. I believe it's within 48 hours after the
24 Governor's budget address we announce State aid.
25 You'll see there's a lot of articles in the paper,

1 because that's when everybody starts saying --

2 Q We've been cut. We've been cut.

3 A We've been cut. We've got a shortage. You never
4 hear, Hey thanks, we've got enough, we're good. And
5 every year it's a different -- different group of
6 districts, depending on how it falls. And every year,
7 it's recalculated. And especially now, with the
8 changes to the S-2, A-2, which was adopted. It's
9 recalculated every year. So we look at enrollment.
10 You know, during those years that the budget was
11 frozen, enrollment was also frozen in the formula.

12 Q So enrollment was frozen.

13 A Enrollment was frozen.

14 Q But not now.

15 A No. Now it's -- Now it's actual live.

16 Q Although essentially Lakewood's public school
17 population has stayed relatively stable.

18 A Correct. There's been -- I think the largest
19 fluctuation that I saw was about three or four hundred
20 students in one year to move. They came in and then I
21 think the next year they kind of went out. And it kind
22 of fluctuates back and forth.

23 Q As compared to the non public school students
24 who really are going up at a geometric rate.

25 A Yes.

1 Q Okay. But then, the District's trying to do
2 its budget, and at the same time, everybody's sort of
3 on tender hooks waiting to see what happens with the
4 actual Appropriations Bill.

5 A Yes, ma'am.

6 Q And then --

7 A That's why you always have Plan A, B, C and D.

8 And --

9 Q Hm hmm.

10 A Every school district -- Take my own school
11 district. Right? Every year we come up with multiple
12 plans, what ifs. In the past two years there was
13 reductions in State aid due to the Appropriations Act.
14 So we had to, in the summer time, do reductions.

15 Q Okay. And I think you testified that in
16 terms of the local fair share, Lakewood falls somewhere
17 in the middle in Ocean County?

18 A No. Local -- The question on local fair share
19 was, what feeds local fair share. And that's income
20 and property value.

21 MR. INZELBUCH: Tax rate.

22 MR. LANG: Tax rate.

23 THE WITNESS: Income and tax rate.

24 BY THE COURT:

25 Q And so where does Lakewood fall in Ocean

1 County? I thought you somewhere --

2 A It sits in the middle of the pack. It's not --
3 It's not on the high end and it's not on the low end.

4 Q Okay.

5 A But as the property value goes up and as more
6 people come in, the numbers go up. So the -- it goes
7 -- that goes down. They -- Are you familiar with how
8 I'm trying to -- As you have more people, your town
9 wealth number will go up. As you have more ratables,
10 your rate will go down.

11 Q But theoretically, as you have more people,
12 there would be more people in the public school system
13 that would also help in terms of funding. But if
14 that's staying relatively constant, but the other part
15 of it is increasing, --

16 A Hm hmm.

17 Q -- then you have increased costs.

18 A You have increased -- You could have, potentially
19 have, increased cost. Yes.

20 THE COURT: All right. Thank you. Any
21 questions based on my questions?

22 MR. LANG: I do.

23 THE COURT: Well, I'm waiting for Ms. Hoff
24 first.

25 MR. LANG: Yeah.

1 MS. HOFF: Can I have one moment, please?

2 THE COURT: Sure.

3 MS. HOFF: Thank you. No. Thank you.

4 THE COURT: Okay. Mr. Lang.

5 CROSS EXAMINATION BY MR. LANG (CONT'D.):

6 Q I want to asked, based on that. I have a
7 thing. It's something that I've been fixated on since
8 the 2014 petition. Are you familiar with the term
9 municipal overburden in the Abbott decisions?

10 A I've heard it. Yes.

11 Q It has to do with strains on -- Does it have
12 to do with the strains on the tax base due to fire,
13 police, other expenses, that causes the tax base not to
14 want to increase taxes for schools?

15 MR. STARK: Your Honor, if I can just make --
16 make a request for a proffer. Because this seems like
17 this is going far outside --

18 THE COURT: All right.

19 MR. STARK: -- of the bounds of your
20 questioning.

21 MR. LANG: Oh, okay.

22 THE COURT: Yes.

23 MR. LANG: All right. All right. Well, I
24 just wanted to ask this question. Does the non public
25 population, the fact that so many people in Lakewood

1 are families sending their kids to non public schools,
2 does that produce a strain on the -- on -- It is
3 similar to the out-of-districts strain of not wanting
4 to raise taxes, or what we call municipal overburden.

5 MR. STARK: Objection. I'm not sure that
6 this witness can actually testify --

7 THE COURT: I'm not sure --

8 MR. STARK: -- as to the reasoning behind,
9 and whether or not the indiv -- like, the community,
10 and the reasons why the community might not want to
11 raise taxes.

12 MR. LANG: Okay. All right.

13 THE WITNESS: It's well above my pay grade.

14 (Chuckling through courtroom.)

15 BY MR. LANG:

16 Q All right. All right. You just said you
17 take a year by year approach to what's going on in
18 Lakewood. Do you think that's working?

19 A Yes.

20 Q So the State's committed to constantly give
21 more and more State advances?

22 MS. HOFF: Objection. Wait.

23 MR. STARK: Objection.

24 MR. LANG: Oh gosh.

25 MR. STARK: This is -- This question has been

1 asked numerous times and --

2 THE COURT: Yes. I think that -- I think
3 that's the conclusion that you want me to draw, Mr.
4 Lang.

5 BY MR. LANG:

6 Q Okay. All right. All right. One more
7 thing. And I think the Judge basically asked this.
8 Talking about the ratables increasing because more
9 people are coming in. Does that -- In other words, the
10 tax base being brought and, of course, you know,
11 lowering the tax rate because there's more money out
12 there. But would that not put -- also put a greater
13 strain on the budget, all these people moving in?

14 A I -- I'm not even following your question.

15 Q The increase of ratables in Lakewood.

16 A Okay.

17 Q Due to the new construction, or whatever is
18 increasing these ratables. Does that itself put a
19 strain on the budget?

20 A No, it's -- Ratables are the value of the property
21 of the town. It's what you divide the levy against.
22 It's like the size of the pizza. Right? You get a
23 bigger pizza, everybody has to pay less for the pizza.

24 Q The increase in property values, does it have
25 anything to do with the increase of population?

1 A It doesn't have to.

2 Q In the case of Lakewood.

3 MR. STARK: Objection. Is there a foundation
4 for --

5 THE COURT: Yeah, I'm not so sure there is.

6 MR. STARK: -- this witness to testify to --

7 MR. LANG: Okay. I don't -- What?

8 THE COURT: All right. Thank you, Mr. Lang.

9 MR. LANG: Yeah, I know. But I can't show
10 something I have on the computer. Your Honor, he
11 apparently has the 4 Million Dollar letter in --

12 MR. INZELBUCH: Well the Court has it also.

13 THE COURT: All right.

14 MR. INZELBUCH: Which the Court asked --

15 THE COURT: If it was 4 Million and it went
16 to 4.5, --

17 MR. LANG: But --

18 THE COURT: -- my concern is really, is how
19 does it get paid back. Is there a plan?

20 MR. LANG: Yeah.

21 THE COURT: And I think that I had addressed
22 that before, saying I expect the State to be able to
23 address that somehow. And I guess the witness has by
24 saying that it come -- they consider it when they award
25 next year's advance State aid. So is there anything

1 else? Mr. Lang, you were saying.

2 MR. LANG: No, no. Sorry.

3 THE COURT: Mr. Stark, Ms. Hoff.

4 MR. STARK: Nothing further.

5 THE COURT: All right, thank you. You can
6 step down, Mr. Forney. Thank you very much.

7 THE WITNESS: Thank you.

8 THE COURT: All right. So, do you have any
9 other witnesses?

10 MS. HOFF: No, Your Honor.

11 THE COURT: This is -- You're resting?

12 MS. HOFF: We are resting.

13 THE COURT: All right. So Mr. Lang, do you
14 wish to call anybody in rebuttal?

15 MR. LANG: No, Your Honor.

16 THE COURT: Okay. So you're resting as well.

17 MR. LANG: Yes, yes, Your Honor.

18 THE WITNESS: Excuse me.

19 THE COURT: Okay.

20 THE WITNESS: This stays here?

21 MR. STARK: That can stay right there.

22 THE COURT: That's that. It belongs to the
23 State. Okay. So then we need to discuss some issues
24 that I've liked to see addressed in the briefs. And
25 I'd like to see if we could come up with a -- perhaps a

1 stipulation of facts. In terms of the documents that
2 both sides have presented.

3 MS. HOFF: Your Honor, would -- can -- Do you
4 want our witness to step out of the courtroom, or would
5 you want him to remain?

6 THE COURT: I don't care. If you've rested
7 and you're done, you're done.

8 MS. HOFF: All right.

9 THE COURT: Okay. So, why don't -- why don't
10 you give me until Monday. I will send out a fax to
11 everybody. And some of the issues that I'd like to see
12 addressed and I'd like to see if you can agree on a
13 stipulation of facts that are contained, for instance,
14 in the Lakewood budgets. They're a public record. The
15 Department of Education's records, they're public. So
16 we have like a foundation that we can start with. The
17 amount of loans that have been given, there's
18 documentation for that.

19 MS. HOFF: Hm hmm.

20 MR. LANG: Yes.

21 MS. HOFF: Yes.

22 THE COURT: And the test scores, for
23 instance, that are reported. All the -- All the facts
24 that I don't think either side really disputes. And
25 then once we can do that, I want to give you some

1 issues that I'd like to see addressed in the briefs, so
2 that we're prepared. And then we'll talk about a
3 briefing schedule, which I'd like to see happen
4 quickly. Because this case is old, but I do want to
5 make sure that we address everything. And if you have
6 any suggestions as to how you wish to frame the issues
7 or items that you think should be addressed in the
8 briefs, you're free to send those. And fax them to me,
9 as well, so we get them by Monday.

10 MR. LANG: This will be done by email, not
11 fax. Correct?

12 THE COURT: I'm going by fax these days.
13 Because given what happened last night, I wasn't able
14 to get any faxes, any responses, anything over the
15 computer. So the emails were just like lost in space
16 until everything started working again.

17 MR. LANG: I'd have to plug in my fax
18 machine. (Chuckle) So if I could get --

19 MS. HOFF: Just to clarify, Your Honor.

20 MR. LANG: -- an email first.

21 THE COURT: Yes.

22 MS. HOFF: Just a question. Items we would
23 like addressed. I mean, we're free to address what we
24 like in our summation so long as we are addressing what
25 you would like.

1 THE COURT: Absolutely.

2 MS. HOFF: Correct?

3 THE COURT: Absolutely.

4 MS. HOFF: Just making sure.

5 THE COURT: You can frame all the issues you
6 want. But I have some issues that I would like to see
7 addressed.

8 MS. HOFF: I understand that, Your Honor.

9 THE COURT: And the same with you, Mr. Lang.

10 MR. LANG: Oh, --

11 THE COURT: You understand that? And the
12 same with the participant. And --

13 MR. LANG: Mr. Tractenberg.

14 THE COURT: -- Mr. Tractenberg, if he has any
15 other issues he wishes to address.

16 MS. HOFF: And will you be imposing page
17 limits? I know that was already --

18 THE COURT: No. You know, I'd like to see it
19 be reasonable in terms of organization and -- and in
20 terms of the documents that are provided. As I said,
21 if we can stipulate to the facts.

22 MS. HOFF: Hm hmm.

23 THE COURT: Not just what's in evidence. But
24 just the facts that everybody's going to be using to
25 support their arguments, it will make it a lot easier

1 for everybody in the long run.

2 MS. HOFF: Okay.

3 THE COURT: Okay? Because I think a lot of
4 the numbers everybody can agree to. They're public
5 record.

6 MS. HOFF: Hm hmm.

7 THE COURT: So.

8 MR. STARK: In the issue of expediency, we'll
9 be going ahead and ordering transcripts. Unless
10 there's transcripts that already exist for days that we
11 have.

12 MR. LANG: I have -- I have one of them.

13 MR. STARK: And we can figure that out, like
14 off -- We don't need to be on the record to determine
15 that. But we'll be ordering whatever transcripts are
16 necessary in the issue of expediency.

17 MR. INZELBUCH: We have all the transcripts.
18 You have to pay us though to get them from Lakewood
19 Board of Ed.

20 THE COURT: You have all the transcripts?

21 MR. INZELBUCH: Yes. Except for today's.

22 {Whereupon, the proceedings were adjourned.}

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1 STATE OF NEW JERSEY}

2 COUNTY OF MERCER }

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I, Jean Polatnick, assigned transcriber, do hereby affirm that the foregoing is a true and accurate transcript of the proceedings in the matter of Leonor Alcantara, Individually and as Guardian ad Litem for E.A. versus David Hesse, Commission of Ed, NJ State Board of Ed and NJ Department of Education, bearing Docket Number EDU 11069-14, heard on July 23, 2019 before the of Administrative Law Court.