

I N D E X

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DAVID SHAFTER				
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1 THE COURT: All right. So we're on the
2 record. This is the matter of Alcantara, et al, versus
3 Hespe, et al. It's our Docket Number EDU 11069-14.
4 Your appearances, please, Counsel.

5 MR. LANG: Arthur Lang for Petitioners.

6 MR. GROSSMAN: Daniel Grossman for
7 Petitioners.

8 THE COURT: All right. Good morning.

9 MR. GROSSMAN: Good morning, Your Honor.

10 MR. STARK: Thank you, Your Honor. Geoffrey
11 Stark, Deputy Attorney General for the State
12 Respondents. With me are Jennifer Hoff, Lauren Jensen
13 (phonetic) and Lori Prapas, also Deputy Attorneys
14 General. And Angela Valez (phonetic) as our recan --
15 representative of our client.

16 THE COURT: All right. Thank you. All
17 right. So, we've spent a lot of time trying to hook up
18 this Skype thing, which we'll have to deal with later,
19 I guess. So, why don't we just get started with
20 whatever is on the agenda for today. So, who's --
21 who's coming first.

22 MR. LANG: Mr. Schafter, State Monitor. Dave
23 Shafter.

24 THE COURT: Okay. Is he here?

25 THE WITNESS: I'm turning my phone off.

1 THE COURT: Good idea.

2 THE WITNESS: Now that we started.

3 THE COURT: All right. If you'll just stand
4 there please and raise your right hand.

5 D A V I D S H A F T E R, PETITIONER'S WITNESS, SWORN.

6 THE COURT: David. And spell your last name
7 for the record.

8 THE WITNESS: S-H-A-F-T-E-R.

9 THE COURT: Everything is being recorded.
10 That's not a microphone; it's a recording device.

11 THE WITNESS: Okay.

12 THE COURT: So you have to speak up and
13 answer verbally. All right. So, Mr. Lang this is your
14 witness?

15 MR. LANG: Yes.

16 THE COURT: Okay. Let's begin.

17 DIRECT EXAMINATION BY MR. LANG:

18 Q What is your -- your job?

19 A I'm a State Monitor.

20 Q What does that mean?

21 A The Department of Education has hired me to --
22 Actually, State Monitors, hired by the Department of
23 Education, State Monitors normally go into school
24 districts that are distressed. Their budget may be in
25 a deficit or there may be issues with as far as the

1 QSAC. And that's -- So the State Monitor goes into the
2 district to monitor the district. That's what we do.

3 Q In the case of your present position in
4 Lakewood, which one of those prompted your appointment?

5 A Well, Mr. Azzara was appointed first. I was still
6 in Camden. And then the State appointed me as another
7 State Monitor; and Mr. Azzara's the lead, and I'm the
8 State Monitor. And I'm in there to assist Mr. Azzara.
9 The -- The District wasn't going -- is in a deficit
10 situation.

11 Q Okay. And what is "QSAC?" You mentioned
12 QSAC before.

13 A There -- There's certain -- That's monitor --
14 That's the key -- Quality something Continuum. I don't
15 know the exact -- what the letters stand for. And
16 there's -- They basically -- It's an evaluation of
17 school districts. And if a school district fails, it
18 goes below a certain level on some of the continuum,
19 then that's also grounds for a State Monitor to be
20 appointed.

21 Q Is that the case in Lakewood?

22 A I don't believe so.

23 Q Okay.

24 A I thought it was because of the deficit.

25 Q The deficit. Okay. What is your

1 professional background?

2 A I have a Bachelors Degree in Business Education
3 from Temple University. A Master of Science in
4 Accounting from Penn State University. I'm a Certified
5 Public Accountant, Certified School Business
6 Administrator, and a Qualified Purchasing Agent. As
7 far as my professional career, I started out as an
8 Auditor for the USGAO, U.S. Governmental Accounting
9 Officer. I was an Auditor for a few years. Left there
10 to go to the Camden City School District in 76. Stayed
11 there through 89. I left there and was an Acting
12 School Business Administrator. Went to the East
13 Windsor Regional School District from 89 to 2006 as the
14 School Business Administrator. I retired. And then in
15 September I was called by the State Monitor in
16 Willingboro, New Jersey to be the Interim School
17 Business Administrator, which I was for a year. At
18 which time, after that I became the State Monitor for
19 Willingboro, New Jersey.

20 Q Pardon.

21 A I became the State Monitor for Willingboro, New
22 Jersey. Then I was ac -- As Willingboro was solving
23 its problem, they just didn't need me full-time
24 anymore. So then I also became a State Monitor for
25 Beverly, New Jersey, which is a contig -- contiguous

1 school district. Then, after a certain amount of time,
2 I needed a challenge. And I knew that the City of
3 Camden was having challenges, from the State Monitor
4 who was there. So I offered to -- I offered to resign
5 my position as State Monitor, in Beverly and
6 Willingboro, to become an Interim Business
7 Administrator in the City of Camden. The State Monitor
8 appointed me as an Interim Business Administrator in
9 the City of Camden. And I was there for two years as
10 -- as the Interim Business Administrator. And
11 afterwards I worked part-time there as a Fiscal
12 Compliance Officer. Meanwhile, the State Monitor left
13 Camden to go to Lakewood. He asked me to go with him.
14 I said, "No, I really like Camden." But it reached a
15 point where Camden was changing. State -- The State
16 had subsequently took -- took over the district. So
17 there really was less need for me to be there. And I
18 left Camden to become a State Monitor in Lakewood.

19 Q I'm sorry, what was the --

20 A I've been in Lakewood for three years.

21 Q Pardon.

22 A I've been in Lakewood for a little over three
23 years.

24 Q What was the first issue? I just didn't
25 write down. The first issue. You said before East

1 Windsor, where were you at?

2 A I was -- I was in the City of Trenton with Trenton
3 School District.

4 Q Okay.

5 THE COURT: You've been in Lakewood for three
6 years?

7 THE WITNESS: A little over three years.

8 THE COURT: Is that with Mr. Azzara or not?

9 THE WITNESS: With him.

10 THE COURT: With him. Okay.

11 BY MR. LANG:

12 Q Were you ever in Patterson?

13 A No.

14 Q Okay. Who do you -- Do you report to anyone
15 in the Department of Education?

16 A Glenn Forney.

17 Q Who is Glenn Forney?

18 A I don't know his exact title, but he's responsible
19 for all the State Monitors.

20 Q Okay. All right. Have you examined the --
21 the budgets in Lakewood during your three years?

22 A Yes.

23 Q All right. Let -- Let me -- What do you do
24 as State Monitor in Lakewood?

25 A Wow. (Chuckling) I attend school board meetings.

1 I am intimately involved in the -- in the finances of
2 the School District, regarding budget preparation and
3 purchasing, going over the procedure with the Grant
4 Programs. Basically, I approve -- I approved the 17/18
5 Budget. I approved the 16/17 Budget. So those are two
6 budgets that I approved in Lakewood. Again, intimately
7 involved in the preparation of the budgets also. This
8 last budget, 17/18, we had -- we had a very good
9 Business Administrator, who subsequently left the
10 District to go to another school district, who did a
11 lot of the budget preparation. So it was just a matter
12 of reviewing her work for the current year budget.

13 Q Who was -- Who was that Business
14 Administrator?

15 A Regina -- I forget -- I forget her last name.

16 Q Was it Regina Rob -- Well, I can wait.

17 A Robinson. That's -- That's it. You got it.
18 Robinson.

19 Q Okay. So you were involved in the budget
20 from 15/16, 16/17, and then, I guess, now, 17/18?

21 A That's the current year. And 18/19's being worked
22 on. I -- I normally -- I know it's being worked on.
23 I'm going to get -- Once I get back, in another couple
24 of weeks, I'll go over that with the Business
25 Administrator, line by line, to make sure it's --

1 Q So let's start with the first budget that you
2 worked on. 15 -- That was -- Was that 15/16?

3 A Yep.

4 Q Was there a deficit in that budget, going
5 into that budget?

6 A Going into the budget; no. But during the budget
7 year, it turned out that there was going to be a
8 deficit.

9 Q Why?

10 A There was -- There were supposed to be some
11 agreements regarding the student transportation for the
12 non-public schools. And there were a lot of
13 negotiations going on ver the course of the summer,
14 between Mr. Azzara and representatives of the non-
15 public schools, regarding reforms in transportation.
16 Agreements weren't reached until very close to the end
17 of the summer. And what happened was, so the bids went
18 out and the bids came in. What was supposed to save
19 money, didn't. The prices of the contracted services,
20 in some cases went up substantially for -- for the
21 School District. And around October/November, realized
22 that there would not be sufficient funds to pay for the
23 services for the entire year. We -- We did a
24 referendum, I -- for -- for a -- for the Township, for
25 the purposes of paying for courtesy busing. It was

1 resoundingly defeated.

2 Q What -- What was? And by what margin?

3 A The -- The referendum was resoundingly defeated.

4 Q Do you know the margin?

5 A I know it -- It was about a hun -- Under a hundred
6 votes, yes; and thousands of votes, no. I don't know
7 the exact -- about, maybe -- the exact number. We were
8 going to stop the transportation, the courtesy busing.
9 However, the Commissioner of Education directed us to
10 continue courtesy busing. And that there would be
11 relief from the State before the end of the school
12 year, to make up for the short fall.

13 Q Did the relief come?

14 A Yes.

15 Q How much -- How much was the relief?

16 A It was a Four and a Half Million Dollar Advance
17 State Aid.

18 Q Was that a loan?

19 A Yes.

20 Q Okay. Going in -- Now let's talk about the
21 16/17 year.

22 THE COURT: Before -- Before you do that.
23 So, what was the referendum exactly? To stop courtesy
24 busing?

25 THE WITNESS: To fund it.

1 THE COURT: To fund it.

2 THE WITNESS: And if the cour -- And if the
3 funding -- If the referendum was failed, then the
4 courtesy busing was going to stop as of February the
5 1st, I believe.

6 THE COURT: Okay. So when it was defeated,
7 that meant everybody still wanted to have the courtesy
8 busing?

9 THE WITNESS: Well, it was felt by the
10 officials at the -- at the department, that it was a
11 dangerous situation in Lakewood. And it was too
12 dangerous to just stop the busing. So the busing
13 continued.

14 THE COURT: And that was the reason for the
15 loan.

16 THE WITNESS: Excuse me.

17 THE COURT: That was the reason for the loan.

18 THE WITNESS: Yes.

19 THE COURT: And that loan was just for the
20 transportation.

21 THE WITNESS: Well, it was -- the reason that
22 we needed the loan was because of transportation.

23 THE COURT: Everything else was covered then.

24 THE WITNESS: Right.

25 THE COURT: Okay.

1 MR. LANG: Well, excuse me, Your Honor.

2 BY MR. LANG:

3 Q I'm just -- Why -- Why is -- Why was it
4 considered a dangerous situation that the current
5 Commissioner ordered the restoration of courtesy
6 busing?

7 A There are some hazardous routes, that are
8 considered hazardous routes in Lakewood. And also the
9 traffic situation is very bad. And it was felt that,
10 for the children -- the children walking to school, up
11 to two miles for elementary, and up to two and a half
12 miles for high school students, that they would be
13 crossing dangerous routes. They'd be walking along
14 dangerous routes. I don't know the exact percentage of
15 courtesy students that were -- because of hazardous
16 routes versus courtesy, but there were -- there are
17 many hazardous routes in Lakewood. There's a list that
18 I've seen, of about -- I think it has about 30 or 40.
19 I haven't seen it in a while. But, for example,
20 crossing Route 9, walking along County Line Road.
21 Those are -- And there's another road, a brand new --
22 Not -- New Hampshire Avenue, I think it's called, if
23 I'm correct. (Phone Ringing) And those are considered
24 dangerous routes for children to walk along, or
25 children to cross the streets.

1 THE COURT: (Picks Up Phone) Yes? Okay.
2 Great. Thanks.

3 MR. LANG: Was that about the technology?

4 THE COURT: Yes.

5 MR. LANG: And the -- Was it --

6 THE COURT: Well, let's continue with this
7 witness then.

8 BY MR. LANG:

9 Q Okay. Okay. Is there -- You mentioned about
10 the dangerous routes. I don't know -- Well, let's --
11 let's go to the -- Let's move towards the present
12 before we talk about that. What about 16 -- The next
13 year would be 16 through 17, with that budget. What
14 exactly happened there? Was there a deficit in that
15 budget?

16 A That budget, we knew that there was going to be a
17 deficit. And the District is very limited in what it's
18 allowed to cut. And what ended up, at the time, I
19 think that was a time -- That was the first time there
20 were layoff -- there were going to be layoffs of
21 teachers.

22 Q How many?

23 A I don't have the exact number. But we were short
24 about a little over Five Million Dollars.

25 Q Was a loan issued to the --

1 A Yes, it was.

2 Q How much?

3 A About 5.4 Million, give or take.

4 Q Okay. And if -- if the District had not
5 gotten the loans, what would have happened?

6 A There would have been layoffs of teachers. And
7 there may have been some other cuts that I don't
8 recall. But the -- the biggest one I remember is the
9 layoffs of the teachers and increases in class size.

10 MR. GROSSMAN: -- Why was this or --

11 BY MR. LANG:

12 Q Why were you -- Was there courtesy busing in
13 that year?

14 A In 16/17, no.

15 Q Why -- So why were you -- why was the
16 District short in funds if there was no courtesy
17 busing?

18 A Because of the -- Because of the increases in the
19 costs of programs. And the inability -- There was no
20 additional State aid. State aid was substantially
21 frozen. And the -- the tax increase was limited to two
22 percent. So you had -- you had increases in
23 transportation costs, regardless of, you know -- Even
24 without courtesy busing. That was when the LSTA was
25 formed. And transportation costs increased because the

1 District was responsible to give the LSTA \$884 a
2 student. The State reimbursed the District the
3 difference between \$730 and \$884. However, at the
4 time, it was costing less than that amount per student
5 for in-house -- for the in-house and the contracted
6 transportation that we paid, was less than that. So
7 that increased in cost. A number of students who were
8 sent out of District for special needs, because of the
9 severe needs of the students and the District did not
10 have the where with all to educate the students with
11 these severe needs. So that increased the number of
12 students who were sent to private schools for the
13 handicapped. Then you had teacher pay raises, health
14 insurance increases. And it was just more than what
15 the increase in State aid and the increase in local
16 taxes could sustain.

17 Q Are -- Are those -- The transportation costs
18 to the students to the schools for the handicapped, is
19 there anyway to -- to -- Is that a mandated cost?

20 A Yes, it is.

21 Q And the transportation costs that you
22 referred to, are -- are those mandated costs?

23 A Yes, they are.

24 Q And the expense of students going to those
25 schools who are handed -- handicapped, is that a

1 mandated cost?

2 A Yes.

3 Q Okay. Is -- Was there anything -- You were
4 talking about 16 through 17. Is there -- Was there
5 anything that could have been -- else, that could have
6 been taken out of the budget?

7 A Anything that could have been taken out, was taken
8 out.

9 Q What was taken out?

10 A Before -- Before the 5.6 Million, anything --
11 anything -- For example, we -- I don't know whether it
12 was 15/16 or 16/17, instead of buying textbooks
13 outright, we did lease purchase of textbooks. So it
14 was to be spread out over more years. One of the big
15 things we did, that was done for 16/17, was that the
16 District started transporting public school students
17 with in-house transportation. We bought a fleet of
18 busses, lease purchase, and also hired drivers. And so
19 the District saved money in transportation by bringing
20 some of the transportation in-house for 16/17. So that
21 was a way that the District saved money. I think at
22 that time it was about a Million Dollars, maybe a
23 little bit more, between 15/16 and 16/17. There was a
24 -- I think there was an Assistant Principal that may
25 have been let go.

1 Q Are we speaking after the loan, the Assistant
2 Principal was let go?

3 A No. This is all -- The budget was cut down as low
4 as possible, but there was still a shortfall. And the
5 loan -- The State, after reviewing the budget, realized
6 that there was a shortfall, and did the advanced State
7 aid or -- or commonly known as a loan, for -- for the
8 16/17 school year.

9 Q And was that Assistant Principal rehired? In
10 other words, did that --

11 A I don't re -- I don't recall. I don't recall.

12 Q And so, had not that loan come through, what
13 other cuts would have been made?

14 A The biggest thing would have been cuts of
15 teachers.

16 Q Okay. Now, at that time, when the District
17 was still running the transportation, would you
18 characterize that as an efficient system?

19 A 16/17 I would say it was -- it turned out to be
20 very efficient for that year?

21 MR. INZELBUCH: Efficient?

22 THE WITNESS: Efficient.

23 MR. LANG: Efficient.

24 MR. STARK: Efficient.

25 THE WITNESS: E-F-F-I. (Chuckles)

1 BY MR. LANG:

2 Q And how -- And how -- What makes a
3 transportation system efficient?

4 A Tiering and filling your buses.

5 Q What is tiering?

6 A Tiering is when schools start at different times,
7 so the buses can be used for more than one in-and-out
8 to bring children to and from school.

9 Q Speaking of tiering. And I'm just going to
10 get away from the 16/17. Are you familiar with the --
11 the start time at Lakewood High School?

12 A I know -- Yes, I am.

13 Q What time do the kids have to be there?

14 A It's my understanding that children are delivered
15 about a quarter to 7.

16 Q Why -- Why is that?

17 A So there's sufficient time to have breakfast
18 before school starts.

19 Q And why is it at that time rather than, say,
20 7:30 or some other time?

21 A Well, then what happens is that 7:45 starts the
22 second tier. As -- As for Tier 2, that's when school
23 starts. And 8:30 is when school starts for Tier 3.

24 Q Is there a fourth tier?

25 A No.

1 Q Okay. What's -- What's the second tier --
2 What's -- Well, who's on the first tier? Who gets
3 delivered on the first tier?

4 A I know that Lakewood Middle School and Lakewood
5 High School -- Wait. I take that back. I don't know.
6 I think Lakewood High School is the only -- only school
7 for first tier, but I'm not sure. I'd rather not
8 answer that because I don't have that memorized.

9 Q Okay. So getting back to -- Let's -- Let's
10 go to 17/18, which I guess -- Did I skip a year? We
11 did 15/16, 16/17. Now I guess 17/18, which would be
12 the current year.

13 A Okay.

14 Q 17/18. When was that budget actually passed?

15 A It was never passed. The State Monitor approved
16 the budget.

17 Q At what -- what month, what date and why?

18 A I believe it was end of May or June.

19 Q June? What -- When -- When is it normal for
20 school districts to have their budgets approved?

21 A March.

22 Q March?

23 A Then it goes to the county office. -- In March,
24 it's submitted to the county office. The county office
25 goes over it. And then it's -- then it's -- And then

1 there's a public hearing. And then the final approval
2 is usually, I believe, in the beginning of May.

3 Q All right. Now, so this -- this budget was
4 approved after March. Let -- Before I continue with
5 this, let me just go back for the three years you were
6 there, the 16/17, did the Board approve of that budget?

7 A No.

8 Q How -- So how did it become a budget?

9 A I approved it.

10 Q Okay. The 17 -- 16/17, what about that one?

11 A That's the one you just asked.

12 Q Oh. 15/16. 15/16. Did the Board approve
13 15/16?

14 A I don't think so.

15 Q And 16/17, you said you approved it, the
16 Board didn't. And 17/18, you also, I guess, already
17 answered that question.

18 MR. INZELBUCH: Well, he didn't answer it.

19 BY MR. LANG:

20 Q Okay. So what -- Who approved of the budget
21 in 17/18?

22 A I did.

23 Q Did the Board approve it?

24 A No.

25 Q Do you know why the Board didn't approve it?

1 A They never -- The public statement was that the
2 budget -- the budget did not provide the services that
3 they believed the children required.

4 Q Let's -- Let's talk about the 17/18 budget.
5 When it was first, I guess, introduced -- Well, I --
6 Did you make a public presentation of -- of the budget
7 in January of -- I guess it would be -- Well, that
8 would be the 16. Let's go back to 16/17. 16/17, you
9 have -- What is the deficit in 16/17?

10 A A little over Five Million Dollars.

11 Q Okay. So back in January, 16/17, did you
12 make a presentation? Is that when you first started
13 working on it?

14 MR. STARK: Objection.

15 THE WITNESS: I did not make any.

16 MR. STARK: January 16 or January 17?

17 BY MR. LANG:

18 Q Oh, I'm sorry. So, January of 2016.

19 A The same answer. I -- I did not make any budget
20 presentations.

21 Q Okay.

22 A Those are made by the Business Administrators.

23 Q Business Administrators. And -- Okay. And
24 -- All right, so --

25 MR. GROSSMAN: Arthur. He didn't (out of

1 microphone range.)

2 BY MR. LANG:

3 Q All right. So what's the def -- Let's go

4 back to 17/18. Is there a deficit for 17/18?

5 A Currently, as of right now, no.

6 Q When the budget was being prepared, back in

7 early -- Well, when was the budget originally being

8 prepared?

9 A March.

10 Q March. So in March, was there a deficit

11 going into this budget?

12 A Yes, there was.

13 Q How much was it?

14 A It was probably more -- Probably about -- At the
15 time, probably about 13, 13 and a half Million Dollars.

16 Q By the time the budget was -- Well, what --

17 At the time that the budget was passed and adopted --

18 By you, I guess. That's what you testified. What

19 happened to that 13 or 14 or whatever it was you just

20 said?

21 A The Superintendent did not recommend the budget.

22 I agreed with the Superintendent. And I also did not

23 -- would not approve the budget. The first draft of

24 the budget. So that's what happened at the first one.

25 Q What -- What kind of cuts were involved in

1 that first draft?

2 A Cuts to Guidance. Cuts to Libraries. Cuts to
3 teachers. Cuts to extracurricular activities.
4 Athletics. There may have been -- Those -- Those were
5 the biggest cuts.

6 Q Do you remember how many teachers they were
7 proposing cutting?

8 A At least 80, 90, if not more. Maybe 100. I don't
9 know the exact number, but it was very substantial.
10 Class sizes then would have been up, in the Elementary
11 Schools, would have been in the 30's. In the Middle
12 School, they would have been in the 40's. It was --
13 And it was only regular ed teachers because we can't
14 cut special education teachers. I should say, the
15 District can't. I'm not -- Not we.

16 Q And when the budget was finally adopted, was
17 some of that deficit covered somehow?

18 A So what happened. When it was finally adopted
19 after -- after the District -- And they were in
20 negotiations with the Department of Education.
21 Ultimately what happened was, there was an 11 Million
22 Dollar cut. About 2 Million Dollars of it was for pay-
23 backs for prior loans and audits. The agreement was
24 that the State would for -- would forego -- would allow
25 the District to waive one year of payback. And there

1 was an Eight and a Half Million Dollar loan. Some cuts
2 remained. Non-public related services stayed in there
3 -- Or, remained as cuts. Co-curricular activities were
4 all cut. Athletics was cut, other than ones -- I
5 think, track was not cut. Soccer was not cut. And one
6 other -- And one other sport was not cut. So that at
7 least the District was offering one of those
8 activities. So those remained cut out of the budget.
9 And there were some other reductions that were cut
10 because -- And they stayed. And that was because the
11 after reviewing the line item, it was determined that
12 that money wouldn't be needed. But the substantial
13 cuts that remained, even after the loan, was the
14 athletics and the non-public related services.

15 Q Now, looking at the 2/15 -- Well, let's go
16 back to 2/15. I'm going to ask you about all three of
17 these budgets. The 2/15 to 2/16. Were -- Were there
18 anymore cuts? What kind of -- After the loan, how
19 would you characterize the budget?

20 A After -- After the loans, the budget was
21 sufficient for to deliver the services to the students.

22 THE COURT: How much was the loan?

23 THE WITNESS: In -- In 15/16, that was the
24 Four and a Half Million Dollars.

25 THE COURT: I'm talking about 17/18.

1 THE WITNESS: 17/18? It was -- It was about
2 Eight and a Half Million Dollars.

3 THE COURT: Okay.

4 BY MR. LANG:

5 Q Was there something in addition to the Eight
6 and a Half Million Dollars?

7 A Also that was cut was the payback.

8 Q How much was that?

9 A I'm saying it was roughly about Two Million
10 Dollars.

11 Q So that would be a total of how much to the
12 State --

13 A Ten and a Half. Co-curr -- Extracurricular State
14 cut, that was another Half Million Dollars. Then the
15 non-public related services that was cut, that was
16 another Half Million Dollars. And then there were some
17 other reductions that -- that stayed. But again, those
18 were -- those stayed because it was felt that there
19 were sufficient funds in those line items for those
20 areas.

21 Q Was that a bare-bone budget? The one that
22 was passed?

23 A I believe it was.

24 Q Pardon. I -- I didn't hear. I'm sorry.

25 A I believe it was.

1 Q I didn't hear you. What?

2 A I believe it was.

3 Q And the -- And the 16/17 budget, after it was
4 passed, after the loan was adopted, was that a bare-
5 bones budget?

6 A In my opinion, yes.

7 Q And 15/16?

8 A 15/16, there weren't cuts. That was just how the
9 budget was. And again, that was a -- that was an
10 extremely responsible budget.

11 Q Between these three years, was there anything
12 else possible to cut?

13 A I don't believe so, without affecting the services
14 to the students. No.

15 Q And what -- If further cuts would have been
16 made, would there have been increased class sizes?

17 A Either increased class sizes or programs may not
18 have been offered. Things like that.

19 Q Were -- Are you able to cut anything from
20 special education?

21 A No.

22 Q Transportation?

23 A No.

24 Q So where would the cuts would have been made
25 if there had been further cuts?

1 A It would have been coming from regular -- regular
2 education and administration.

3 Q And how would that affect the students?

4 A Well, the State has a model.

5 MR. STARK: Objection. There's not a
6 foundation.

7 THE WITNESS: Excuse me.

8 MR. LANG: Well --

9 MR. STARK: Mr. Shafter can testify as to how
10 individual students would be affected.

11 MR. LANG: Oh, in --

12 THE COURT: He can talk about the -- the
13 impact.

14 MR. STARK: Okay.

15 MR. LANG: The budget -- In front of a
16 budgetary --

17 MR. STARK: For the record, Your Honor.

18 THE WITNESS: Would you repeat the question
19 again?

20 THE WITNESS: From a budgetary point of view.

21 BY MR. LANG:

22 Q But I want to be more specific in light of
23 what Mr. Stark asked. So, how would that affect the
24 regular education in the District?

25 A If cuts were made?

1 Q If further cuts were made. Since you can't
2 cut from special education or transportation.

3 A Increases in class size. And possibly program
4 cuts and other services.

5 Q And -- And would it -- would there have been
6 cuts in --

7 A Well, the area -- the area --

8 Q -- staff, teachers?

9 A The areas that you can cut. Guidance. You can
10 cut libra -- You can cut media. You can cut nursing
11 services. And you can cut, you know, regular
12 education. And you can cut administration.

13 Q You can cut teachers also?

14 A Yes.

15 Q And what about security?

16 A Security? There's no requirement. But I think --
17 I think it would be -- to have security. But I think
18 it definitely would affect the health and safety of the
19 students not to have security.

20 Q So, would -- would you characterize Lakewood
21 as having a -- I don't know. What is the problem with
22 Lakewood? I don't want to ask a leading question?

23 MR. INZELBUCH: Yeah, that's pretty --

24 MR. LANG: Well, is it -- is it a revenue --
25 I'll ask --

1 THE COURT: Why are you -- Why are you there?

2 MR. INZELBUCH: The Judge will ask him.

3 THE COURT: Why are you there?

4 THE WITNESS: I'm in Lakewood because there
5 is a -- At the time I went to Lakewood. You ask -- You
6 ask why I was there. What I discovered, there was --
7 there was a big problem with the financial records.
8 For example, students were placed in the -- in the non-
9 public -- in the private schools for the handicapped.
10 Yet, there were no purchase orders for these students
11 in the system. So there's -- So there was no way of
12 knowing how much was being spent, how much was not
13 being spent. Students may have moved out of the
14 District, but there was no reduction in the purchase
15 order for the private school of the handicapped. So
16 again, there was no way of knowing what was going on.
17 And it was predominant in Lakewood that -- that
18 purchase orders were not being prepared in a timely
19 manner. And so, when you would look at the financial
20 records, you really couldn't believe whether they were
21 accurate or not.

22 BY MR. LANG:

23 Q Was that ever corrected?

24 A Yes.

25 Q When was it corrected?

1 A It was corr -- It was -- It started to be
2 corrected in the 16/17 school year. And it's
3 completely corrected, as far as I know, right now. And
4 the correction was, for example, with the private
5 schools for the handicapped. When a child goes to a
6 private school for the handicapped, the funds are
7 immediately encumbered. Once the Board of Education
8 approves the placement, and there's a contract signed
9 between the Board of Education and the private school,
10 then a purchase order is generated. But the fact that
11 it's encumbered, that way when you look in the
12 financial records, you know that every student that's
13 in a placement, you know that the funds are already
14 accounted for.

15 Q What were -- Was the money generated, before
16 this correction made, was it legal? In other words,
17 did this cause an extra expense to the District?

18 A I can't answer that for 15/16. Because I wasn't
19 there for the whole year.

20 Q But 16/17 it was corrected. Is that what you
21 said?

22 A Yes.

23 Q Okay. And so, does Lakewood have a spending
24 problem?

25 A I don't think so.

1 Q Does it have a revenue problem?

2 MR. INZELBUCH: What does he mean by that?

3 MR. LANG: I'll ask in a minute.

4 THE WITNESS: I think there's insufficient
5 revenues to cover the required expenditures. Which is
6 why we have advanced State aid. Which is why the
7 District has advanced State aid, or otherwise known as
8 loans, commonly known as loans, to make up the
9 shortfall.

10 BY MR. LANG:

11 Q You said Lakewood does not have a spending
12 problem. Could you explain that?

13 A I go over that budget with a fine tooth comb.
14 16/17, 17/18. And I made sure that that budget was
15 appropriate. Looked at -- Would look at historical
16 data. Look at the projections, or the number of
17 students that were -- that were going to be placed in
18 private schools. Looked at the projections of the
19 growth of the -- of the non-public population, in order
20 to look at -- for transportation services. So, as far
21 as on the expenditure side, I know that's not an issue.
22 Since I -- Before I got to the District, when they --
23 when the District would look at special education
24 students. They would say, We have no place in the
25 District so we have to send them out. Since we got

1 there, I -- I gave the a blanket statement last year.
2 "If you ever need a teacher, just because there's no
3 money in that line item to start a class, rather than
4 sending students out-of-district, we hire the teacher.
5 We hire the paraprofessional." And since that time,
6 the -- the District has opened a number of in-house
7 special education classrooms. One of the reasons for
8 renting the Piner School was to increase the number of
9 classrooms available to the District. It's -- They
10 started a preschool, a regular preschool program, which
11 is a hundred percent funded by the State and the
12 Federal government.

13 But in addition, it opened up classrooms for
14 preschool disabled children. And -- And as that
15 population has increased, most of the increase is going
16 in-house. In fact, last night, the Board of Education
17 improved a resolution to start searching for additional
18 space for next year to expand in-house preschool edu --
19 preschool disabled programs in-district.

20 Q Is that in the -- in the budget for next
21 year?

22 A We don't have a budget yet. But -- But it will be
23 in there.

24 Q Okay. And that -- Should that save the
25 District money?

1 A Well, it -- it'll save -- The budget's still going
2 to go up, but it will go up slower. Because rather
3 than spending, you know, 70, 80, 90 Thousand Dollars a
4 student, to place the District in a private school.
5 This way, with the District, the child can be educated,
6 first of all, in the least restrictive environment in
7 the District, which is a Federal law. And at the same
8 time, the in-district costs are much less than out-of-
9 district costs.

10 Q Are we just talking about preschool school?

11 A The additional classrooms were for preschool. But
12 in the last year, I know we brought back first graders.
13 Not brought back, but we -- we -- instead of placing
14 them out, first graders were -- were placed in district
15 because we had -- we had a special classroom for -- I
16 think it was an ABS. I forget what the --

17 MR. INZELBUCH: ABA.

18 THE COURT: ABA.

19 THE WITNESS: ABA. Okay.

20 BY MR. LANG:

21 Q Now, the -- the tuition that's listed on the
22 -- budget for all those years, for 2015, 2016, 2017,
23 all those years. All those years we've been talking
24 about. Are -- Is there any plans to -- to bring those
25 -- Well, is it possible to reduce that by bringing some

1 of those kids -- Or is there any plans to bring them
2 in-house?

3 A It is very hard --

4 MR. STARK: Objection. Can I just get a clar
5 --

6 THE COURT: Wait. Wait. Wait.

7 MR. LANG: Yeah.

8 MR. STARK: I -- I just want to get a -- That
9 was a very long and --

10 MR. LANG: I was trying to rephrase.

11 THE WITNESS: Yes. Let's --

12 MR. STARK: -- and confusing question.

13 MR. LANG: Let me rephrase it.

14 MR. STARK: Thank you.

15 BY MR. LANG:

16 Q You spoke about some kind of savings with
17 preschool and first grade. What about beyond first
18 grade?

19 A Well, for new -- for new students, yes, it's
20 always -- The district always looks for, you know, for
21 the least restrictive program. As far as students who
22 are already out of district, it's extremely hard in any
23 district, I have found over -- over my experience as a
24 business administrator, to bring back a student who has
25 been out of district for most of their -- most of their

1 student life. And so, the way districts can save money
2 is -- is to -- is starting in-district programs for the
3 new students. And eventually, as the out-of-district
4 students graduate, or turn age 21, then that's how you
5 start saving your money. It's a long term solution.

6 Q Have you ever brought any districts out of --
7 that were out-of-district, brought them back into
8 district?

9 A Yes. Yes.

10 Q So, the District -- So -- All right. Fine.
11 I'm not -- Scratch that. So, you testified that you
12 had experience in Trenton, Camden, East Windsor, Will
13 -- Willingboro and Beverly. So, and now Lakewood.
14 Have -- Is any district, in your experience, similar to
15 Lakewood?

16 A Lakewood has -- has a unique student population.

17 Q Can you explain that?

18 A In most districts, your -- your public school
19 population is -- is the greater of the -- Between
20 public school and non-public school, your public school
21 population is the greater of the two. For example, in
22 -- in the City of Camden, there are, you know,
23 thousands of -- I think at the time when I was there,
24 it was about 13, 14 thousand public school students,
25 and we sent -- And the non-public population was a very

1 small percentage of that. East Windsor Regional, the
2 non-public population was very small. There was --
3 There were maybe two non-public schools. One was
4 located right -- right in East Windsor Township. And
5 another was -- was located just outside the Township,
6 that -- that the school had to provide non-public
7 services for. In Lakewood, you have a public school
8 population of about 6,000 students and a non-public
9 population of about 30,000 students. And -- And that's
10 what makes Lakewood unique from any other district that
11 I have worked in.

12 Q And what kind of challenges does that cause
13 you as a fiscal -- as the fiscal monitor?

14 A The challenge is -- is that, in my previous
15 districts, when you -- when you raise your taxes, you
16 would have your -- you would have your -- your
17 adjustment based on population. You could do that if
18 your population was growing. And it was enough to have
19 a pub -- the increase for the public school, the
20 increase for with the cap, whatever that at the time,
21 and that always changes throughout the years. And
22 State aid would also be increasing. What's happened in
23 my final years of Camden, and then when I came to
24 Lakewood is that, what happens is that the Lakewood
25 public school population stays relatively the same. In

1 one year there was an estimate that -- that it would
2 increase more than a percentage, which would allow for
3 a growth adjustment. But it was just for the one year
4 and it was a very small adjustment. Where the non-
5 public population has been increasing about ten percent
6 a year. In a district where your non-public population
7 is the smaller of the two percentages, your -- your
8 taxes and your increase in State aid are sufficient to
9 cover the costs that have to be paid now for the non-
10 public population.

11 Now, for example, -- you do get categorical aid,
12 which includes transportation, aid in lieu, and
13 transportation of your non-public students. But even -
14 - even -- The way the formula's supposed to work, you
15 get your categorical aid. Then you use some of your
16 equalization aid. And then you use some of your tax
17 money. And that's how the students are transported.
18 But when your categorical aid is frozen, and when your
19 equalization aid is frozen, and your tax rate can only
20 go up two percent, and you have a non-public population
21 that's increasing, then the only place that's -- that's
22 left to take the money from, is from the public school
23 students.

24 Q Now you mentioned, the only places to take
25 from the public school students. Does Lakewood

1 staffing -- Is it above the State levels or below, from
2 your knowledge?

3 A Well, the State has a model. For example, I think
4 it's grades K-2 is 21. Grades 2 through 8 is 22
5 students. And Grade 9 through 12, 23 students, as the
6 student teacher ratio. And Lakewood student teacher
7 ratio, there's much -- the students per teacher is much
8 higher than those in the model. I think in the Middle
9 School it's about 28, 29, as opposed to 23. The High
10 School, I'm not too sure about. Elementary School, the
11 last time I looked at it, it was about 24 -- You know,
12 a few students higher per teacher.

13 Q And what about administrators. Does Lakewood
14 have less or more of them than the State model?

15 A Less -- They have less than the State model.

16 Q I forgot what I was going to ask about
17 funding. All right. Let's talk about this year, 2000
18 -- the one they're budget -- the one they're doing now;
19 2018 through 2019. Is there a deficit going -- in the
20 preparation of this budget?

21 A In the most -- In the preliminary work -- I
22 haven't seen the detail work. But the preliminary
23 work, which I reviewed, there was a potential deficit
24 of anywhere between 17 and 23 Million Dollars.

25 Q In the --

1 A I have a sheet that was presented to the Board
2 with me, if I'm allowed to take it out.

3 Q Okay. Now --

4 THE COURT: Not yet.

5 THE WITNESS: Okay.

6 MR. LANG: Let me -- Could I --

7 THE WITNESS: I'm dying to.

8 BY MR. LANG:

9 Q Could I show you some letters? And I'm going
10 to mark these. I mean, how do I -- Tell me how to do
11 this.

12 MR. INZELBUCH: Glenn, ask him why it's --
13 (out of microphone range.)

14 BY MR. LANG:

15 Q Oh. Why is it -- Oh, I remember my old
16 question was that I wanted to ask. Could I just go
17 back to that last line of questioning? 17/18 -- 17
18 through 18. And you mentioned that the public school
19 non-public population goes up ten percent a year.
20 Where in the budget does this -- Where in the budget is
21 this -- does this affect? What -- What is the affect
22 on the budget, by the non-public school going --
23 population going up ten percent a year?

24 A Well, the -- the affect is in transportation. The
25 School District, based on the latest law, contributes

1 to the -- Or I don't -- I don't know if you'd call it
2 contribute. But it pays the LSTA,, Lakewood Student
3 Transportation Authority, \$1,000 per student. After
4 the -- After the non-public aid, transportation aid,
5 and the additional non-public transportation aid is
6 funded by Chapter -- funded with leftover funds from
7 192 and 93. It's \$710 a student. So if you're given
8 If you have a --

9 Q The District pays \$710?

10 A That's -- That's what it ultimately costs the
11 District. \$710 after you subtract the non-public aid,
12 transportation aid that's received in July, and then
13 there was additional one that increased it from \$884 to
14 \$1000, that the State is going to pay the difference
15 for. So the district pays \$710. So if -- if you have
16 -- So if you increase 1000 students -- What's that?
17 That's \$710,000 that the District has to pay. But
18 there's -- But the increased taxes, of which are about
19 Two Million Dollars for next year, that's -- that
20 barely pays for an increase in health insurance. And
21 if State aid stays the same, then you have seven hun --
22 And all things being the same, then you have \$710,000
23 that now has to be reduced from other areas of the
24 budget.

25 Q And what -- what is ten percent of 30,000

1 children?

2 A 3,000.

3 Q And is that the increase in --

4 A This -- This year the increase was about 2,000
5 something.

6 Q Being transported or --

7 A No. The increase between 15/16 and 16/17 -- I'm
8 sorry. Between 16/17 and 17/18, there was about 2,000.

9 Q All right. Is that the number of students
10 being transported or the number of enrollment?

11 A The increase -- The increase in the number of
12 students being transported, non-public students.

13 Q Uh huh.

14 A 17/18, 18/19, we're still waiting for the numbers
15 from the LSTA. As I -- As I told the Director, we need
16 your best estimate. I can't tell the -- tell the Board
17 or tell anybody, Well, we need this amount of money
18 because you told me we need it. I need your surveys
19 from the schools showing -- And he -- And he did send
20 me surveys from about 50 or 60 of the schools so far.
21 So -- So, I want -- I want to make sure there's backup.
22 Because every dollar that we have to budget for
23 something else means a reduction in -- in the public
24 school budget. So that's why we have to keep looking
25 at this stuff.

1 Q Now, when -- when you send kids out of
2 district, that tuition expense, are those public school
3 kids?

4 A They are public school students.

5 Q So how -- how does the increase in the non-
6 public population affect the -- affect special
7 education?

8 A I'm not an actuary. But actuarially, you know out
9 of every -- every so many students, some of them are
10 going to be special needs and some of them -- and some
11 of them will be severely -- have severe special needs
12 that will -- that will need a free and appropriate
13 education. So what happens is, those students are
14 enrolled as public school students. And then the
15 Lakewood School District pays to send those students
16 out of district. Now, in the State aid formula, again,
17 there's -- I don't know the exact percentage. But
18 there's a percentage that's used, based on the public
19 school population, that this percentage of students
20 will probably have, you know, off -- give or take, will
21 need special education services. Whether it be in-
22 house, whether it be students sent to private schools
23 for the handicapped, etcetera. But what happens is,
24 because the District is also sending children who are
25 enrolling from the non-public population, that percent

1 of the non-public population is not considered when
2 determining special educa -- categorical special
3 education aid.

4 Q So how does this -- how does this cause the
5 expenses to go up?

6 A That's part of the reason why there is an Eight
7 and a Half Million Dollar loan for the 16/17 school
8 year. Because there was insufficient funds between the
9 local taxes and State aid to pay for these expenses.

10 Q I see. I see. Do you know how many non-
11 public schools there are in Lakewood?

12 A Over a hundred. I just know there's over a
13 hundred.

14 Q All right. So, now let -- All right. So, I
15 think that now we can get back to the 18/19 budget.
16 And you -- you said there was a 17 to 23 deficit.

17 MR. INZELBUCH: Why?

18 BY MR. LANG:

19 Q Why is that?

20 A Again, can I -- can I give you a piece of paper to
21 introduce? So I can read off of it. As opposed to --

22 THE COURT: Well, have you shown it?

23 THE WITNESS: -- trying to work from my --
24 from my mind?

25 MR. INZELBUCH: Will it refresh your

1 recollection?

2 THE COURT: Okay. Well does it refresh your
3 recollection?

4 THE WITNESS: Yes.

5 MR. LANG: Oh, I have it --

6 MR. INZELBUCH: Let him -- The Judge is
7 letting him refresh his recollection.

8 THE COURT: If he needs it to refresh his
9 recollection.

10 MR. INZELBUCH: Let him -- He's fine. We
11 don't need more of your input.

12 MR. LANG: Okay. Maybe --

13 THE WITNESS: What I'm reading off of is a
14 document that was prepared, that I reviewed about six
15 weeks ago.

16 THE COURT: Which concerns what?

17 THE WITNESS: Which concerns the 18/19
18 budget.

19 MR. STARK: Your Honor, is it something that
20 we can see?

21 MR. LANG: No, this is his -- It's not --

22 MR. INZELBUCH: This is his memory aid.

23 MR. STARK: I'm not --

24 THE WITNESS: And this -- this was a power
25 point presentation made to the Board of Education at a

1 public meeting.

2 MR. LANG: Oh, I -- I sent it to you in --
3 It's in the big stuff.

4 MR. INZELBUCH: Whether you sent it or not --

5 THE COURT: Okay. Wait. Do you have it?

6 MR. LANG: It's a page from a power point. I
7 think --

8 MR. STARK: I don't -- I mean, I don't know
9 if --

10 THE COURT: Yeah. He just needs --

11 THE WITNESS: Can we show it?

12 MR. LANG: You can show him.

13 THE COURT: You can show it.

14 MR. LANG: It's like a 16 page document that
15 they presented to the public. It was a power point.
16 But I sent it to you in an Adobe -- In one of the Bates
17 things. You can show it to him.

18 THE COURT: All right. He needs it to
19 refresh his recollection.

20 MR. INZELBUCH: It's okay.

21 MR. LANG: Yeah.

22 THE COURT: So he can look at it.

23 MR. LANG: Yeah.

24 MR. INZELBUCH: Go ahead, you could refresh
25 your recollection.

1 THE COURT: And if it's just to refresh his
2 recollection, he can look at it.

3 THE WITNESS: Okay. So what it shows is, the
4 loan for 17/18 school year was -- was 8-5-2-2, the
5 exact number. The loan, audit repayment deferral,
6 that -- that was allowed to be deferred for this year,
7 was a little over Two Million Dollars. And then there
8 was a Township Sports Grant, to cover the -- the
9 Athletics that was cut from this year's budget. So
10 that's 11 Million Dollars. So if nothing is changed
11 between 16 -- between 17/18 and 18/19, it auto -- it
12 starts with an 11 Million Dollar deficit, if nothing
13 changes.

14 THE COURT: You mean it starts out the same
15 way.

16 THE WITNESS: It starts out with la -- with
17 the 11 Million Dollars.

18 THE COURT: You just pull up last year's
19 budget.

20 THE WITNESS: Yeah. Right off the bat.

21 THE COURT: Okay.

22 THE WITNESS: If nothing changed in the
23 budget, that's -- the School District's starting with
24 an 11 Million Dollar deficit. Salary increases are not
25 included in these numbers at all. When this was

1 presented, I didn't want -- Originally, they were -- I
2 said, "No, we're not going to even allow the -- the
3 Unions to even see even a half percent." So -- So, it
4 shows no -- nothing for salary increases. The
5 increased benefits cost is estimated at 3.2 Million.
6 The increased tuition is estimated at 5.9 Million.
7 Increase in transportation was 2 Million 283. And the
8 charter school enrollment, that's growing, they're
9 going to be growing a grade. And that's an estimated
10 \$728,000. Now that comes up to 23 Million 290 Dollars.
11 That's the anticipated deficit just looking at these
12 four areas, not including any salary increases, not
13 including anything for increases in textbooks,
14 supplies, rent for new facilities. Now granted, if --
15 if we rent new fac -- if the district finds new
16 facilities in time, then maybe some of the increase in
17 tuition would be a little -- will be a little bit less.
18 Because -- But the -- The net -- The net affect would
19 be a reduction in this course. So we're up to 23,2.9
20 Million.

21 MR. LANG: Up until now --

22 THE COURT: Wait, wait, wait. So, you're
23 taking that 11 Million and you're adding these numbers
24 to it?

25 THE WITNESS: Right. I'm adding increased

1 benefits, increased out-of-district tuition, increases
2 in transportation, and increases in charter schools.

3 THE COURT: All right. And what was the
4 total number again?

5 THE WITNESS: 23 Million 290 Thousand, 988
6 Dollars.

7 THE COURT: Okay.

8 BY MR. LANG:

9 Q What's going to -- What -- What -- All right.
10 Just -- Up until -- Obviously there was no loan made
11 this year. But how much money, up until now, does the
12 District owe the State in advance?

13 A No. There was a loan made this year. 8.5 Million
14 Dollars.

15 Q Oh, yeah. This year. So, do you know the
16 total between all the years, how much the District
17 owes?

18 A 8 and a half. 4 and a half. That's about 13.
19 And another 5. Probably about 17 Million.

20 MR. LANG: Okay. Now, I'd like to -- Your
21 Honor, I want to get these in. I want to show you what
22 I have marked as -- as P-57, P-58 and P-59. These are
23 letters that the Superintendent sent down on February
24 5th, 2018, February 18th, 2018 and February 15th, 2018.
25 And they were copied to -- to Mr. Shafter. And I have

1 copies for everyone here. I'd like to ask the witness
2 if he can identify them.

3 (P-57, P-58 and P-59
4 marked for
5 Identification)

6 MR. STARK: Your Honor, these documents were
7 just provided to us toda -- Or, today or yesterday?

8 MS. PRAPAS: This morning.

9 MR. STARK: This morning. So, to the extent
10 that we're going to be asking these to be admitted into
11 evidence.

12 THE COURT: Well, do you need time to look at
13 them?

14 MR. STARK: I mean, we've -- we've looked at
15 them. It's -- It's just, I mean, we're talking about
16 documents that were -- that, at least in part, or at
17 least in all of them, were prepared subsequent to the
18 beginning of the hearing in this case. So, you know,
19 we don't -- we don't know if there was any -- And I
20 believe they were written by Ms. Winters. I don't know
21 to the extent that these documents were drafted with
22 her testimony in mind. I don't know the extent to --
23 that these documents were drafted with, you know, with
24 -- I don't know -- I don't know the circumstances under
25 which these documents were drafted.

1 MR. LANG: Your Honor, these documents were
2 sent to the Commissioner of Education, Respondents, his
3 client. One of them is sent to the Lakewood staff.
4 And that's how I came across it, because I'm a teacher.
5 And it is copied to -- This one over here is copied to
6 the State Monitor. And this one is to Lakewood School
7 District's staff members.

8 THE COURT: Well, why don't you just ask him
9 if he received any correspondence from the
10 Superintendent.

11 MR. LANG: Okay.

12 THE COURT: I mean, he might not even
13 remember it.

14 MR. LANG: Okay.

15 THE COURT: And what does -- what does that
16 have to do with his expertise?

17 BY MR. LANG:

18 Q Oh, it does. So are you familiar with the
19 February 5th, 2018 letter that the Superintendent sent
20 to the Acting Commissioner, Dr. Repollet? Well, I
21 mean, it would much easier if I just -- I don't
22 understand.

23 THE COURT: Just ask him.

24 MR. INZELBUCH: Just ask him if he's seen any
25 letter --

1 BY MR. LANG:

2 Q Have you seen -- Have you seen any letters
3 that Ms. Winters has sent?

4 A I -- I have seen letters that Ms. Winters has
5 sent. I received copies in my email. And I did a, you
6 know, a summary reading of them. I didn't read them in
7 great detail. But I did a summary reading of them.

8 Q And on February 15th, could I -- Are you
9 familiar with the Board of Education saying that they
10 will not send out any RIFs this year.

11 A Yes, I am. I was present at the meeting when they
12 passed a resolution.

13 Q Okay. That's --

14 THE COURT: They won't send out any what?

15 MR. INZELBUCH: Reduction in force letters.

16 MR. LANG: They're not going to fire
17 teachers.

18 THE COURT: Oh. They don't want --

19 MR. LANG: That's -- That's why I wanted the
20 15th let -- the February 5th letter.

21 MR. GROSSMAN: (Out of microphone range)

22 MR. LANG: I know what to ask him. So, the
23 Board of Education's decided not to fire teachers, does
24 that mean teachers are not going to be fired?

25 MR. STARK: Objection. That calls for a

1 speculation that --

2 MR. LANG: No.

3 THE COURT: It does --

4 MR. LANG: Let's -- Let's put it this way.

5 THE COURT: What -- What is -- He's preparing
6 -- He's helping to prepare the budget. He's going to
7 get the budget from the business administrator. Is
8 that right?

9 THE WITNESS: Correct.

10 THE COURT: Okay. Then he's going to go over
11 it for next year. That's what this witness is about.
12 It's not about what people are telling him. It's about
13 what he can do with the budget.

14 MR. INZELBUCH: Here. Can you just let him
15 --

16 MR. LANG: -- If -- If you let me ask the
17 question. Do you have the power to fire teachers?

18 THE WITNESS: Yes.

19 MR. LANG: Okay. That's what I wanted to
20 ask.

21 MR. INZELBUCH: Even if the Superintendent --

22 MR. LANG: Even if the Superintendent says --

23 MR. GROSSMAN: And the Board --

24 MR. LANG: And the Board decides not to fire
25 teachers?

1 THE WITNESS: Yes.

2 MR. LANG: That's the point.

3 THE COURT: He's the State Monitor. He
4 basically oversees the whole District. That's his job
5 title. I think they would stipulate to it.

6 MR. LANG: Yes.

7 THE COURT: That's what he does.

8 MR. STARK: The State Monitor's role is
9 spelled out in statute.

10 MR. LANG: Okay. So --

11 MR. STARK: Authority and his
12 responsibilities.

13 BY MR. LANG:

14 Q So now my question is. The budget right now
15 that you said has a 17 to 23 Million Dollar deficit,
16 when does that have to be -- What's -- What's co --
17 When does -- When does that budget have to be
18 completed?

19 A End of March.

20 Q End of March. So, what happens at the end of
21 March if there's no 17 to 23 Million Dollar loan?

22 A I haven't decided yet what I'm going to do.

23 MR. INZELBUCH: But what are the options?

24 MR. LANG: What are the options?

25 THE WITNESS: Excuse -- The options?

1 BY MR. LANG:

2 Q What are your options?

3 A The options are, is to leave the budget unbalanced
4 and write a letter to the Department of Education on --
5 on my opinion of the budget. An option I have is to
6 reduce the budget by various line items which would
7 result in reductions of staff. May it be teachers,
8 administrators, security guards, nurses, guidance
9 counselors, libraries. Similar -- Similar to what
10 happened last year. Or -- Those are my two options.

11 Q The first option was -- was what? I'm sorry.

12 A Was to leave the budget alone. Let it be
13 submitted not balanced. And write a letter stating why
14 the -- the Board of Education needs the funds in order
15 to balance the budget.

16 Q What -- What -- Then what happens after that?
17 What's -- What is the authority of the Department of
18 Education?

19 A The Department would then review the budget,
20 review the letter, meet with me, meet with, you know,
21 Mr. Azzara, if possible, to go over the budget. What
22 happened last year was that, you know, the County --
23 the County Business Administrator reviewed the budget.
24 They made some suggestions. I met -- I spoke with him.
25 I said, Well, this suggestion's not possible, and

1 totally explained why. This suggestion's not possible;
2 explained why. And that's -- that's basically what --
3 They're are the options, for me.

4 Q Last year -- Last year, the reductions in
5 forces, did they go out?

6 A Yes.

7
8 Q Why did they go out last year?

9 A Because there was -- had -- I was -- We balanced
10 the budget because you -- By law you have to submit a
11 balanced budget. And that's why a budget was submitted
12 that had those RIF letters in it.

13 Q Okay. So come March, when you have those two
14 options, will it be necessary -- Or, I mean, you can
15 answer based on the options. Will it be necessary to
16 send out RIFs, reductions in forces?

17 MR. STARK: Objection. This is -- This is
18 speculative.

19 MR. LANG: It's not speculation.

20 THE COURT: It is.

21 MR. LANG: He said there's two options.

22 THE COURT: He already said he --

23 MR. LANG: So I'm going to try to ask if
24 those two options include RIFs.

25 MR. INZELBUCH: Which option is he going --

1 BY MR. LANG:

2 Q Which option. Okay.

3 A Okay.

4 Q Which option would require sending out RIFs?

5 A Well, Rif -- RIF letters don't go out til May. So
6 there's a lot of time between the end of March and May
7 to resolve the expenditures and revenues.

8 Q So -- So if this is not resolved til May,
9 then it's mandated to send out RIF letters?

10 A In order to submit a balanced budget; yes.

11 Q Okay. Which option are you leaning towards?

12 A I do not have an opinion yet.

13 Q Okay. So come -- come May -- come May, and
14 if this is not resolved, will RIFs go out?

15 MR. STARK: Objection. The witness just
16 testified --

17 THE COURT: He just doesn't know.

18 MR. STARK: -- that he did not have an
19 opinion as to what's going to happen yet.

20 MR. LANG: No wait. I said, if -- if it's
21 not resolved by May will it be necessary to send out
22 RIFs. That's my question.

23 THE WITNESS: It will be necessary to send
24 out RIFS unless, for some reason -- I'm not even going
25 to -- I'm not even going to go there. It would be

1 necessary to send out -- send out RIFs.

2 BY MR. LANG:

3 Q So your answer is affirmative. It will be

4 necessary to send out RIFs, if it's not resolved.

5 A In order to balance the budget. Yes.

6 Q Okay. All right.

7 THE COURT: If the situation's not otherwise

8 resolved.

9 THE WITNESS: By a increase in revenue.

10 Correct?

11 MR. LANG: That is exactly what I wanted to

12 know.

13 MR. INZELBUCH: Glenn, increase in revenue by

14 who?

15 MR. LANG: No. No. Leave me alone.

16 MR. INZELBUCH: Do you even know where leave

17 me alone comes from?

18 MR. LANG: Okay. What?

19 MR. INZELBUCH: It's like vaudeville, I swear

20 to God.

21 BY MR. LANG:

22 Q Oh. Hold on one second. One second. Now,

23 is there any expense involved to the District in

24 administrating non-public programs?

25 A Yes.

1 Q Can you explain that?

2 A Well, it does take time to manage the programs, to
3 manage the expense of the programs. However, a lot of
4 this expense -- I know you don't -- A lot of this
5 expense, there's -- there's an administrative cost
6 that's allowed to be charged to non-public programs.

7 MR. INZELBUCH: Taken out of the grant.

8 BY MR. LANG:

9 Q So there is? You're answering in the
10 affirmative. There is an administrative cost to the
11 District in -- in the non-public program.

12 MR. INZELBUCH: He said it comes out of the
13 grant.

14 BY MR. LANG:

15 Q Oh. It only comes out of grants, it doesn't
16 come out of the operating budget?

17 A Well, of course, there's -- But I don't know how
18 you would quantify it. For example, we have a
19 purchasing agent and an assistant -- an assistant.
20 Naturally, this purchasing agent does purchase orders
21 for non-public programs. The point is, would we need
22 less of a -- would we be able to reduce the number of
23 personnel if we didn't have the non-public programs? I
24 don't know. Two people for a purchasing department is
25 -- is not unreasonable, whether you have non-public

1 programs or not. So -- So in that case, there's
2 efforts involved, but it may not result in extra cost.
3 Now, when you have somebody who has to monitor the
4 Chapter 192 and 93, yes, they're staffed higher to do
5 that specifically. But those staff are charged to the
6 grant.

7 Q Oh, so -- Okay. So the answer is no then.
8 Okay, I see. All right. Now -- Now, you worked for
9 Camden and Trenton. How does Lakewood compare to
10 Abbott Districts? Because those are Abbott Districts.
11 Those two Abbott Districts.

12 MR. STARK: Objection.

13 MR. LANG: Okay.

14 MR. STARK: I mean, is there --

15 MR. INZELBUCH: In what way?

16 MR. STARK: Is there a time?

17 MR. INZELBUCH: In what manner are they --

18 MR. STARK: Is there a time, you know, that's
19 associated with this? The question --

20 MR. LANG: Well, during the time you were
21 there in those districts.

22 MR. GROSSMAN: And you were in Lakewood.

23 MR. LANG: And the time you were in Lakewood.
24 What -- What years were you in Trenton?

25 THE WITNESS: I was in Trenton prior to it

1 being called an Abbott District.

2 BY MR. LANG:

3 Q Okay. And Camden. When were you in Camden?

4 A Camden, I was there from -- Probably from about
5 2009 through 2000 and -- Five years I was there.
6 Towards the end of 2015. So that was an Abbott
7 District at the time I was --

8 Q So right before -- before Lakewood. Okay.
9 And how did -- How -- Does Lakewood have anything in
10 comparison to -- for what you understand Abbott
11 District characteristics?

12 MR. STARK: Objection. That's an overly
13 broad question.

14 THE WITNESS: I don't --

15 THE COURT: Yeah. Like how --

16 MR. LANG: Like, take Camden.

17 THE COURT: Like, yeah, how would you compare
18 Camden to Lakewood?

19 THE WITNESS: Yeah. I don't understand the
20 question, sir.

21 MR. LANG: All right. Let me -- That's what
22 the Judge --

23 MR. INZELBUCH: The Judge just asked the
24 question.

25 MR. LANG: How would you compare Lakewood to

1 Camden?

2 THE COURT: During the time periods that you
3 were in there.

4 THE WITNESS: Camden is an urban district.
5 Lakewood, I don't believe is considered urban, as an
6 urban district, as, you know, as the City of Camden is.
7 The City of Camden has a much larger public school
8 population than Lakewood. They have a much smaller
9 non-public population than Lakewood; when I was there.
10 Camden, I did not have a problem in Camden regarding
11 matching expenditures to revenues. It was -- It was
12 always easy to balance the budget --

13 UNIDENTIFIED MALE: Yeah. I know how it is,
14 sir.

15 THE WITNESS: -- in Camden.

16 BY MR. LANG:

17 Q What City has more people, Camden or
18 Lakewood?

19 A I don't know.

20 Q Okay. Is there -- Did you say Lakewood --
21 Camden's urban. What do you mean by urban?

22 A It's a city with city limits. Lakewood's a
23 township.

24 Q In terms of poverty of the students, is there
25 a difference?

1 A Both -- Both --

2 MR. STARK: Objection. Is there a -- Is
3 there a foundation as to whether or not this witness
4 can testify to the relative poverty levels --

5 THE COURT: If he knows.

6 MR. STARK: -- of the popula -- populations?

7 BY MR. LANG:

8 Q Although you have the at risk students.

9 MR. INZELBUCH: If you know.

10 THE WITNESS: Both Lakewood and Camden have
11 -- I forget the exact term. But all of the students
12 are entitled to a free lunch -- for the free lunch
13 program. Because they have a -- It's a district wide
14 level, as opposed to having to receive individual
15 applications from each -- as in other areas. So they
16 both -- both have a hundred percent -- A hundred
17 percent of their students are entitled to a free
18 breakfast and a free lunch. As far as quantities of
19 students who are in poverty, I -- I don't know that
20 answer.

21 BY MR. LANG:

22 Q Do you know any other districts that are like
23 that? That have this a hundred percent free lunch that
24 you mentioned.

25 A I know the City -- the City of Philadelphia does.

1 But specifically in New Jersey; no, I don't. There may
2 be others. But I'm not -- I'm not aware of them.

3 Q Now, you talked about taxes. Are you
4 familiar with what's called the local fair share in the
5 SFRA?

6 A Yes.

7 Q What -- What is the local fair share?

8 A Adequacy budget. Okay. The local fair share is
9 calculated. There's an adequacy -- adequacy budget.
10 Then there's a local fair share, which is -- which is
11 calculated by a percent times equalized valuation with
12 a weight, I believe. It used to be a half. I don't
13 know whether it's still a half. Then a percent times
14 the gross income of the -- of the municipality. You
15 add those two numbers together. That's the local fair
16 share. Subtracted from the adequacy budget. And
17 that's basically what -- State aid is supposed to make
18 up the difference.

19 Q Would it make a difference if the adequacy
20 budget was 200 Million or 300 Million? In other words,
21 would the size of the adequacy budget, which is the
22 requirement -- Well, what is the adequacy budget? What
23 is -- What is the adequacy budget?

24 A That's based on the pop -- the population of the
25 public school students. There's a -- There's -- It's

1 broken down into categories; kindergarten, grades 1
2 through 5, 6-8, 9-12. There's weight -- There's
3 weights assigned to each of the grades. It's
4 multiplied out. Then they have the -- And then they
5 have the number weighted. The weighted enrollment.
6 And then there's another formula that's used to
7 determine how much should be -- the expenditure per
8 student. I think that's what the State uses the
9 efficiency model for, to come up with the cost of what
10 education should cost. And that's -- There's a cost
11 factor multiplied times the enrollment factor. That
12 comes up with your adequacy budget.

13 Q And the special education part of that in the
14 budget?

15 A I can't answer that.

16 Q Okay. Does it make a difference in how big
17 the adequacy budget is? If it's a Hundred Million, Two
18 Hundred Million; does that affect the local fair share?

19 A The local fair share is always the same because
20 it's based on the equalized valuation and the incomes.
21 So, no, the adequacy budget does not -- has nothing to
22 do with the local fair share.

23 Q Okay. All right. (Out of microphone range)
24 What -- What are the terms of the loans that -- over
25 the years?

1 A Ten year payback.

2 Q Ten year payback? The Court -- Your
3 appointment as State Monitor, what's the law concerning
4 the tenure at the Lake's -- the State Monitor, like, do
5 you -- Specifically, do you have to -- Does the State
6 Monitor have to be in the district as long as the loan
7 is outstanding?

8 A A State Monitor has to be in the District for as
9 long as the loan is outstanding.

10 Q Okay. Is there -- Are you familiar with the
11 current situation that -- any negotiations this year
12 concerning the deficit of 17 to 23 Million?

13 A Negotiations regarding?

14 Q With the Department of Education.

15 A Not yet.

16 Q And what about concerning deferring payment
17 on the previous loans?

18 A The deferral is -- We had -- There was a deferral
19 last year. There's a deferral this year. Each year
20 stands on its own.

21 MR. LANG: Okay. All right. I'm -- I'm
22 finished. Thank you.

23 THE COURT: All right.

24 MR. GROSSMAN: No further questions.

25 MR. LANG: No further questions.

1 THE COURT: All right. Does anybody need a
2 break? Or shall we continue? And what about the --

3 MR. STARK: I need to use the restroom.

4 MR. INZELBUCH: What happened the --

5 MR. GROSSMAN: Yeah. Well, what's with the
6 --

7 THE COURT: It's working she said.

8 MR. LANG: Oh, good.

9 THE WITNESS: I'll take a break. I could use
10 a break.

11 MR. INZELBUCH: Well, then take one. They'll
12 tell the Judge.

13 THE COURT: Let's take a break.

14 MR. INZELBUCH: That's what --

15 THE WITNESS: Okay. Thank you.

16 MR. INZELBUCH: It's not an endurance test
17 here. (Laughter) If it is, you won maybe anyway.

18 MR. STARK: All right. How long is the
19 break, Your Honor?

20 THE COURT: We'll do -- We'll do a quick one.
21 Ten minutes.

22 MR. STARK: All right. Yeah.

23 MR. INZELBUCH: I have a job for you.

24 MR. LANG: No.

25 MR. INZELBUCH: Good job.

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(BRIEF RECESS)

THE COURT: Okay. We're on the record.
We're on the record.

THE WITNESS: Now I know what that light means, we're on.

THE COURT: All right. We're on the record.
Cross examination.

CROSS EXAMINATION BY MR. STARK:

Q Thank you, Your Honor. And thank you, Mr. Shafter for being here. So, you arrived in the District in the Fall of 2014. Is that correct?

A I think so. (Laughter) I'm losing track. But I know I've been there for a little three years. So.

Q Okay. If I represented to you that you arrived in the Fall, --

A Yeah.

Q -- you wouldn't have any reason to disagree with me.

A No.

Q Okay.

A No.

Q And when you arrived there were concerns that you noticed with the finan -- You testified that the record keeping and the finances in the budget -- Or, excuse me. -- the finances in the District, there were

1 concerns that you noticed. Correct?

2 A Yes.

3 Q Okay. You mentioned lack of purchase orders
4 for out-of-district placements.

5 A Correct.

6 Q There were other -- That was not the only
7 concern that you noticed. Correct?

8 A Correct.

9 Q Okay. What other concerns did you notice
10 with the -- with the books in the District?

11 A Well, there -- the -- the monthly records were not
12 closed in a timely manner. For example, the book said,
13 you know, July 31st through October.

14 Q Hm hmm.

15 A Now, granted, I can see closing July sometime in
16 September, but by October/November, it should have been
17 closed. And they were always three to four months
18 behind.

19 Q Okay.

20 A In -- In closing the books for -- and issuing the
21 Board's secretary's report and the treasurer's report.
22 That was a -- That was a big concern. So that when you
23 would go back to look at history, when something was
24 done, it would say, July, --

25 Q Hm hmm.

1 A -- and it was really done in September and
2 October.

3 Q Okay.

4 A Things like that were happening. And it wasn't
5 just the -- the tuition purchase orders. It was -- It
6 was other purchase orders. Another concern was that --
7 And it happened -- it happened in other districts too.
8 -- is that, when a line -- when a budgeted line item
9 was at its limit, instead of charging it to the correct
10 line item and doing a budget transfer, an item would be
11 charged to where the money was. So -- So you couldn't
12 rely on -- If you couldn't rely on it, you know. You'd
13 see school supplies charged to contract services, visa
14 versa. So -- So, that was something that would happen
15 also. The other thing was that lines were over
16 encumbered all over the place. There was -- They
17 didn't place a limit in the system to now allow over
18 encumbrances of line items. So you would look at a
19 report and there would be all these negatives rather
20 than doing the budget transfers after -- you know,
21 before this was happening. And so that's something
22 that was also -- The records couldn't be relied on.

23 THE COURT: Hmm.

24 BY MR. STARK:

25 Q That presents a problem for accurately

1 tracking expenditures. Correct?

2 A Correct.

3 Q Okay. Is there anyway to quantify that?

4 A Other than -- At this point, other than going back
5 and reviewing the -- As far as the over expenditures,
6 that was, I'd say, most of the lines had that problem.

7 Q Okay.

8 A Yeah. And -- And another issue was the position
9 control roster.

10 Q And what is the position control roster?

11 A The school districts are required to have a roster
12 showing the names of your staff, what they do, and what
13 accounts they're charged to. So you had the -- You had
14 payroll with one account number. HR with another
15 account number. And nobody was trying to reconcile
16 that either. It happens in districts. But -- But
17 what's supposed to happen is you run -- run reports
18 every so often, even if it's every two or three months,
19 to track the differences and then determine which is
20 correct and change it.

21 Q And is it your testimony that that was not
22 happening in Lakewood?

23 A That was not happening at all.

24 Q Okay.

25 A It's happening now. But not then.

1 Q Okay. So that's a -- So those are -- those
2 are problems that you worked to address over the course
3 of your time in District. Correct?

4 A Correct.

5 Q Okay.

6 A Usually it gets to about, I'd say, 90/95 percent
7 accuracy, which is as -- around budget time, because
8 that's when it's most important, when you're -- because
9 that way you can fix the current year and you can have
10 the budget correct for the following year. And that's
11 about as good as it can get, I think, about 90/95
12 percent in any district.

13 Q Are you able to -- Are you able to estimate a
14 percentage of accuracy at the time that you arrived in
15 the District?

16 A Probably --

17 MR. INZELBUCH: Without guessing.

18 THE WITNESS: Probably about 50.

19 BY MR. STARK:

20 Q Okay. And that has -- That, again, has an
21 affect on the District to properly track its finances.
22 Correct?

23 A Correct.

24 Q Does that have, also, an affect on the
25 ability of the District to plan for future

1 expenditures?

2 A I'd say it does.

3 Q Okay. In the course of your time as the
4 State Monitor in the District, have you reviewed budget
5 -- have you reviewed budgets and the books for years
6 prior to your arrival?

7 A No.

8 Q No. Okay. Have you reviewed, in the course
9 of your time, the CAFRs for this District?

10 A Yes. Yes.

11 Q Okay. And what is -- Just for the record.
12 What is a CAFR?

13 A Comprehensive Annual Financial Report.

14 Q Okay. These are done annually the?

15 A Yes.

16 Q Okay. Any findings that you noticed when you
17 arrived in the -- in the CAFR?

18 A Yes.

19 Q The most recent CAFR when you arrived?

20 A There were about 23, 24 findings there.

21 Q Okay.

22 A Some of them dealing with payroll. Some of them
23 dealing with -- A lot of them dealing with encumbrances
24 versus accounts payable at the end of the year. There
25 were some regarding over expenditures of line items.

1 Q What's the significance of a finding in the
2 CAFR?

3 A It -- Ideally you want no findings. But -- But
4 the significance is, the number of findings usually
5 reflects the -- the abilities of the business office to
6 properly run the dis -- the finance of the district.

7 Q Would you consider in your -- In the course
8 of your experience, would you consider 23 or 24
9 findings in a -- in an annual CAFR to be a
10 significantly high number?

11 A Yes.

12 Q Okay. And would you -- Strike that. In the
13 time that you've been the State Monitor in Lakewood,
14 have there continued to be findings in the CAFRs in
15 subsequent years?

16 A Yes.

17 Q Has that number gone up or down?

18 A Down.

19 Q How many has it gone down?

20 A I believe this last year is about 8.

21 Q Okay. Would you consider that to be a
22 significant -- Let me use the right word. -- a
23 significant improvement?

24 A It was -- It was definite -- a definite
25 improvement.

1 Q Okay. And those findings that you
2 identified, the 23 or 24 findings that you -- that you
3 discussed, were those related to the items that you
4 talked about earlier, with purchase orders, line items
5 being charged to incorrect lines, and line items being
6 over encumbered?

7 A My recollection is yes.

8 Q Okay. And so have those, to the best of your
9 knowledge, have those issues, you identified when
10 coming in, those have been improved.

11 A Yes.

12 Q Okay. When you came in, was there anything
13 significant that you noticed about the District's
14 application for extraordinary aid for special ed
15 students?

16 A When I first got there the application, I believe,
17 was -- Let me try and recall this. I remember it being
18 done, but I remember errors that were in it. The
19 students weren't being counted that should have been
20 counted; especially the ones that were in-district. It
21 was basically -- basically consisted of the out-of-
22 district students. But the -- the students educated in
23 district really wasn't -- There were very few of them
24 submitted in the CAFR -- in the extraordinary aid
25 application.

1 Q Okay. So in terms of -- in terms of money,
2 that mea -- would that mean that there were in-district
3 students for whom the District was not applying for
4 extraordinary aid?

5 A Yes.

6 Q Okay. So that would be additional revenue
7 that the District was leaving on the table. Is that
8 correct?

9 A Yes.

10 Q Okay. Okay. Has that -- That problem of
11 leaving that money on the table, that has been
12 corrected?

13 A Yes.

14 Q Okay. Okay. So the District provides trans
15 -- mandated transportation to both public and non-
16 public students. Correct?

17 A Correct.

18 Q Now, when you arrive --

19 A Wait. Wait.

20 Q -- Lakewood was also providing --

21 A Wait. Wait.

22 MR. INZELBUCH: Wait. Your Honor, I think he
23 wants to say something.

24 THE COURT: He wanted to say something.

25 THE WITNESS: As far as non-public students,

1 the District now pays the LSTA who provides the
2 transportation for non-public students.

3 BY MR. STARK:

4 A And -- Yeah. I appreciate that.

5 A Okay.

6 Q And we're going -- we're going to get to
7 them.

8 A Okay.

9 Q So when you arrived, Lakewood was also
10 providing courtesy busing to both public and non-public
11 students?

12 A Yes.

13 Q Okay. And that -- How did that courtesy
14 busing -- Strike that. There was a time that
15 Lakewood stopped providing courtesy busing. Is that
16 right?

17 A At its own expense, yes.

18 Q Yes. Okay. And now, currently, Lakewood
19 provides busing through -- Or, Lakewood busing is
20 provided through the LSTA.

21 A Non-public busing.

22 Q Non-public busing is provided through the
23 LSTA. And the LSTA was created by the legislature.
24 Correct?

25 A Yes.

1 Q Yeah. Are you familiar with whether that
2 measure was supported by the -- by the community in
3 Lakewood?

4 A I believe it was.

5 Q You believe it was. Okay. Are you familiar
6 with whether that measure was supported by the
7 District?

8 A That I don't know.

9 Q Okay. And so, the District pays a certain
10 amount into the LSTA per pupil. Is that right?

11 A Correct.

12 Q Okay. And this current year, that -- that
13 dollar amount is A Thousand Dollars per student.

14 A Yes.

15 Q Okay. And you testified earlier about the --
16 the various sources of that -- of that money. Prior to
17 the institution of the LSTA, the cost -- are you
18 familiar with what the cost per pupil for student
19 transportation was to the District?

20 A Yes.

21 Q And that was about --

22 A (Laughs) I -- If I remember correctly -- Because
23 I remember being in Senator Singer's office one time.
24 I think it was about -- about 650 over all. And one of
25 the -- one of the issues what was going -- you know,

1 the toss between the 650 and the 710, who was going to
2 pay for that. Or 730 at that time. But then it went
3 down to 710 as part of the legislation, so.

4 Q And so the cost of transporting these non-
5 public students has gone up under the LSTA. Correct?

6 A Yes.

7 Q The per pupil cost.

8 A Yes.

9 Q And has that represented an increase in cost
10 to the District?

11 A Yes. But it's gone up for two factors. One is --
12 was the 650 to 710, which by now may have equalized
13 itself. I don't know. But also it's gone up because
14 of the increase in the number of students that the --
15 mandated students for the LSTA.

16 Q Well the per pupil cost has gone up. That's
17 -- That was my question.

18 A In one -- In one year it went up from 650 to 710.
19 Had there been no LSTA, I don't know how -- how that
20 650 would be today.

21 Q It would be impossible to speculate as to
22 that.

23 A Right.

24 Q Yeah. Okay. So, Lakewood currently has no
25 bank to cap. Correct?

1 A Correct.

2 Q Okay. So it has no room to -- there's no
3 built in space to increase the levy cap outside of a
4 special question.

5 A Correct.

6 Q Okay. So if taxes were to be raised, it
7 would be by special question. Correct? Or if --
8 Strike that. If taxes were to be raised above the two
9 percent levy cap, that would be by special question.

10 Correct?

11 A Yes.

12 Q Okay. And you testified earlier that the --
13 that there was at least one special question that
14 failed by a very high margin.

15 A Yes.

16 Q Okay. And the Municipality has provided
17 some additional revenue to the District. Correct?

18 A Correct.

19 Q Out of -- They provided approximately A
20 Million Dollars?

21 A A Million Dollars for -- for non-public related
22 services and athletics, and they also provide the cost
23 for courtesy busing.

24 Q Okay. And so the Municipality's currently
25 sitting on a roughly Million Dollar budget surplus

1 itself. Correct?

2 A That's what I've heard.

3 MR. INZELBUCH: Objection. Does he know that

4 --

5 MS. HOFF: Wait, wait, wait.

6 MR. INZELBUCH: -- or is he hearing things?

7 MR. STARK: Is he objecting to the answer of
8 the question or is he objecting to my question?

9 MR. INZELBUCH: No. The objection is, is he
10 going to guess?

11 THE COURT: No. I think he answered the
12 question. That's what he's heard.

13 MR. INZELBUCH: I've heard differently.

14 MR. STARK: Is Mr. Inzelbuch testifying?

15 MR. INZELBUCH: No, but that's -- that's --

16 THE COURT: Yes. Mr. Inzelbuch --

17 MR. INZELBUCH: You're developing a record
18 with things that he's not sure of.

19 THE COURT: But he's -- This is what he --
20 This is what he --

21 MR. LANG: I wish I could object to a lot of
22 the things that we're --

23 THE COURT: This is what he does. It's
24 important for him to know this.

25 BY MR. STARK:

1 Q Thank you, Your Honor. So you testified
2 earlier about categorical aid amounts. Correct?

3 A Correct.

4 Q And so the -- You testified that categorical
5 aid was, I think to use your term, was frozen.
6 Correct?

7 A Correct.

8 Q Now, the amount of categorical aid is a
9 legislative decision. Correct?

10 A Correct.

11 Q It's set by the appropriations act annually.
12 Is that right?

13 A Correct.

14 Q Okay. Equalization aid amounts that the
15 District -- that the District receives, that is also a
16 legislative decision. Correct?

17 A Yes. Correct.

18 Q And it's set by the appropriations act
19 annually. Right?

20 A Yes.

21 Q Okay. Now, the District has a two percent
22 levy cap. That's a legislative decision as well.
23 Correct?

24 A Correct.

25 Q And the LSTA, again, is a creation of the

1 legislature as well. Correct?

2 A Yes.

3 MR. STARK: Okay. Thank you, Your Honor. I
4 think that is all the questions that we have for this
5 witness.

6 MR. LANG: Can I have Redirect?

7 THE COURT: Yes.

8 REDIRECT EXAMINATION BY MR. LANG:

9 Q Maybe I'll go backwards. Have you had any
10 talk with the Municipality over contributing money
11 towards the District for the next school year?

12 A No.

13 Q Okay. Have you seen any -- Okay. Have you
14 had any -- Are you familiar with any letters issued by
15 the Township Manager concerning tapping into the
16 Township money?

17 A No.

18 Q Okay. All right. All right. I'm going
19 backwards actually. The -- Are all the kids that --
20 that are drawing the Thousand Dollars from the LSTA,
21 are they all mandated by the legislature?

22 A Yes.

23 Q Okay. Are you familiar with aid in lieu?

24 A Yes.

25 Q Is aid in lieu -- Is the One Thousand -- What

1 -- Where does the One Thousand Dollar -- What does the
2 One Thousand Dollar represent?

3 A For non-public students, if after bidding a route,
4 and the bid -- the lowest responsible bid comes in for
5 more than One Thousand Dollars a student, then the bid
6 is rejected and the parents of the students are paid
7 One Thousand Dollars for each student, since they're
8 not being transported. And that's received instead of
9 transporting students.

10 Q Is the One Thousand Dollar the State rate for
11 aid in lieu?

12 A Yes.

13 Q What is aid in lieu?

14 A It's funds that are paid on behalf of students to
15 the parents if -- for non-public students, if the
16 school district does not transport those students on
17 buses.

18 Q So the -- Is this a level One Thousand
19 Dollars State wide?

20 A Yes.

21 Q Now, where does -- where does the One
22 Thousand Dollars come from that's paid out for each
23 student for aid, which is the aid in lieu level?

24 A Sources of revenue for that?

25 Q Yes.

1 A There's something called non-public transportation
2 aid, which is from 710 to 884. And then from 884 to
3 One Thousand Dollars is additional aid for non-public
4 students. Again, it's from the State.

5 Q So from the first 710 is from who?

6 A Local.

7 Q Local. Coming out -- Coming out the
8 operating budget?

9 A Yes.

10 Q Okay. Now, is there -- So, are -- is there
11 any public courtesy busing public school kids?
12 Courtesy busing of public school kids?

13 A Yes.

14 Q Who provides that?

15 A The District provides it and the Township pays for
16 it.

17 Q What is the policy; who gets it?

18 A Anybody who lives from one half mile to two miles
19 for grades K through 8. And for -- one half mile to
20 two and a half miles for grades 9 through 12.

21 Q So that's -- it's a policy that's based on
22 distance?

23 A Yes.

24 Q So would building a bridge over Route 9 make
25 a difference in who gets bussed?

1 A Under the current policy; no.

2 Q Okay. Do you think that the Township --
3 Could the Township -- We're not talking about the
4 District. Do you think the Township could eliminate
5 some of the expense in getting these kids safely to
6 school?

7 MR. STARK: I -- Objection, Your Honor. I'm
8 not sure there's a foundation laid --

9 MR. LANG: Okay.

10 MR. STARK: -- for whether or not Mr. Shafter
11 can testify as to what the Municipality is capable of.

12 BY MR. LANG:

13 Q Is there anything that could be done, by
14 whoever does it, --

15 THE COURT: That he knows of.

16 BY MR. LANG:

17 Q -- that you know of, that -- that could
18 reduce -- What is the cost of the courtesy busing to
19 the Township?

20 A About One and a Half Million Dollars.

21 Q Does this --

22 A It was Two Million Dollars last year. Right now,
23 we're at 1.3. It may go up to about 1.5. But it's --
24 it's in that area, 1-3, 1-5.

25 Q If that was eliminated, is the Township under

1 any obligation to hand over that money to the School
2 District?

3 A If courtesy busing was eliminated?

4 Q Yeah.

5 A No.

6 Q Okay. Is there any way -- Is there anything
7 that you're familiar with that the Town could do to
8 reduce the cost of getting those kids to school?

9 A What towns do -- And I'm not -- I'm saying in
10 general, not specifically Lakewood is -- Well, there's
11 a number of reasons for courtesy busing. One is that
12 the Township believes that it's just -- it's just too
13 much for the -- for the child to walk to school. They
14 believe that mandated busing should be maybe just one -
15 - you know, over one mile. Because they just believe
16 it's too far for a child to walk. Another reason for
17 courtesy or non-mandated busing is because of hazardous
18 routes. And what -- what Townships can do to -- They
19 could add sidewalks. They can have more crossing
20 guards. And things like that. And would reduce the
21 number of hazardous routes. And that would -- that
22 would absolve them from being responsible for non-
23 mandated busing for that portion of it.

24 Q Has a study been done on that in Lakewood
25 that you're familiar with?

1 A I'm familiar that in the -- during the summer of
2 -- Let's see, 17 -- The summer of 16. Lakewood had a
3 consultant who met with officials of the Township to go
4 -- to go over a plan on how the Township could -- could
5 increa -- the priority of the Township could do to
6 increase sidewalks so that -- that would have the most
7 effect to reduce the number of hazardous routes. I
8 don't know whether -- whether it was ever implemented
9 or not. But I know there was a lot of discussion
10 between the District consultant and Township officials.

11 Q Would that have saved money?

12 A Excuse me.

13 Q Would that have saved money for the Township?

14 A I don't know whether it would save money. I know
15 you got the -- you got the expense of -- The annual
16 expense versus the capital expense and then -- and
17 maintaining that capital expense. So I don't know.

18 Q Okay. Now, Mr. Stark asked you a lot about
19 -- about encumbrance and -- and a lot of -- a lot of
20 things in the budget that you corrected or that you --
21 What -- Did these things involve mostly Federal funds?
22 Or were -- were they the -- the District's expenses for
23 the public school kids?

24 A Both.

25 Q Both? Okay. When -- When were these all

1 corrected?

2 A Corrections started during the -- Let's see, I got
3 there in the fa -- They started in 15/16. But they're
4 -- They were -- I would say they were 90 percent, 95
5 percent correct. There's always something that's going
6 to slip through for 16/17.

7 Q Okay. Now 15/16, before the corrections were
8 made, did it have an impact -- impact on the budget
9 that year?

10 A Well, it doesn't affect the overall expenditures
11 itself. But it -- So it's -- That's my answer. It
12 does not affect overall expenditures.

13 Q So over the time you were there -- Mr. Stark
14 said from Fall, 2014. -- The expenditures themselves,
15 are -- are they legitimate expenditures? Were they
16 impacted by any of this --

17 A I haven't -- I have not discovered any
18 expenditures that were not legitimate.

19 Q Okay. Now, how many -- All right. You know
20 what, I think I'm finished. Extra ordinary aid. When
21 -- When Mr. Stark asked you about extra ordinary aid, I
22 believe you -- there could have been -- You answered
23 that the District could have gotten extra money. How
24 much extra money?

25 A I -- I don't know how much was attributed to

1 error, but I know that it jumped from one year to the
2 other year by over a Million Dollars extraordinary aid.

3 Q And that -- But the count now, is it correct
4 now?

5 A Yes.

6 MR. LANG: Okay. No further questions, Your
7 Honor. Thank you, Mr. Shafter.

8 THE COURT: Not yet. Mr. Stark.

9 MR. STARK: No Recross.

10 THE COURT: Okay. Just one second.

11 MR. STARK: You're a free man.

12 MR. LANG: Thank you.

13 THE COURT: No, no, no.

14 MR. INZELBUCH: Oh.

15 THE COURT: Not yet, Mr. Inzelbuch.

16 MR. INZELBUCH: Preliminary.

17 BY THE COURT:

18 Q Okay. So, how would you characterize the
19 state of the Lakewood budget at present for this
20 particular year?

21 A It's a very tight budget.

22 Q So when you say that, you mean there's no
23 room for anymore cutting.

24 A Correct.

25 Q Okay. What would you suggest to improve the

1 situation in Lakewood?

2 A Increases of revenue.

3 Q And how would that be accomplished?

4 A There's two ways of accomplishing it. Either
5 through increased State aid or increased in local
6 taxes.

7 Q Is there room to increase the taxes?

8 A When you say the Township's ability to pay; I
9 don't know.

10 Q And you think the Township may have a
11 surplus?

12 A Yes.

13 Q And could they use that surplus to the school
14 system?

15 A They could, but they're not required to. And the
16 surplus that I'm referring to -- The number that I'm
17 referring is something that I -- that was brought up in
18 a meeting between Township, Department of Education,
19 and myself. Officials, we had a meeting. I guess it
20 was -- Not for this budget. It -- It was a meeting for
21 the 16/17 budget. And it was brought up about the --
22 the surplus at that time.

23 Q And how would you see State aid being
24 increased?

25 A Excuse me.

1 Q How would you see State aid being increased?

2 A Number one is full funding.

3 Q That applies to all districts.

4 A All districts. And number two, that -- And this
5 would have to apply to all districts also. If somehow,
6 come up with a formula that would -- Non-public school
7 students receive services. Some of them are funded by
8 Federal, some of them are funded by State, and some of
9 them are funded locally. There has to be a formula. I
10 would say a formula so that some portion of those
11 students could be counted as a percentage, in order to
12 -- in planning the adequacy budget. And the local fair
13 share would be deducted from that. And that would be
14 an -- That would be what the State aid would be.

15 Q Okay. So, at the present time do you think
16 Lakewood is providing a thorough and efficient
17 education to its students?

18 MR. STARK: Objection, Your Honor.

19 MR. LANG: What?

20 MR. STARK: I don't think there's been a
21 foundation that Mr. Shafter is capable --

22 THE COURT: I just want to -- I want his -- I
23 want his --

24 MR. STARK: -- of assessing the educational
25 value of --

1 MR. INZELBUCH: Don't answer.

2 THE COURT: I want his opinion.

3 MR. STARK: I just -- I wanted to get my
4 objection on the record. Thank you.

5 THE COURT: I understand.

6 THE WITNESS: I can't answer that.

7 THE COURT: Okay. See.

8 MR. INZELBUCH: So easy.

9 BY THE COURT:

10 Q If you had more money, where would you put it
11 in your budget?

12 A Well, the first 12 and a Half Million Dollars
13 would be used to cover this year's budget. (Laughs)

14 Q To pay back the State basically.

15 A Well not -- No, to fund -- just to fund this
16 year's -- the budget as -- as it rolls forward. The
17 additional funds would be used, you know, as a -- as a
18 start with the transportation, health insurance. What
19 were the other lines I talked about? The charter
20 school tuition and that -- that one other line. And
21 overall, I think -- I think we need to -- We, the
22 District. I think the District needs to build new
23 facilities. Because it's not only -- Because there's
24 just not enough facilities for the -- Especially in the
25 Middle School. There's just -- There's too many

1 students in that school. And -- And facilities, so
2 that -- so that quality special education programs
3 could be offered in the District. And in the long
4 term, I think that would save money. It would be a big
5 -- a big expenditure in the beginning but over the long
6 term it would save money. And then -- And then the --
7 I think the -- You know, you would want to reduce class
8 size. Which would be over and above what we're -- what
9 we're spending now. I'm sure that there are foreign
10 languages that used to be offered that are no longer
11 offered for budgetary reasons. That's -- That's a
12 start.

13 Q How long do you expect to be in Lakewood?

14 A I plan to retire in two years. (Laughs) So.

15 THE COURT: All right. Any questions based
16 on my questions.

17 MR. STARK: Very briefly, Your Honor.

18 THE COURT: Wait. Mr. Lang wants to go
19 first.

20 MR. STARK: Sorry. I -- I thought you
21 waived.

22 MR. LANG: One question. Just one question.

23 MR. INZELBUCH: Beautiful. Beautiful.

24 MR. STARK: Objection. There is --

25 THE COURT: Mr. Inzelbuch, you didn't have

1 to.

2 MR. INZELBUCH: I think it's beautiful that
3 you're getting the truth finally.

4 THE COURT: Mr. Inzelbuch, just --

5 MR. STARK: It is --

6 THE COURT: Mr. Inzelbuch, please. No -- No
7 comments.

8 MR. LANG: Right. That's what I was going to
9 say.

10 THE COURT: What?

11 REDIRECT EXAMINATION BY MR. LANG:

12 Q Judge Scarola asked about the Township's
13 surplus. That's a one lump sum or is that an extra --
14 What does it -- What does it mean to have the Township
15 have an --

16 MR. INZELBUCH: Arthur. Here's the actual
17 surplus by the Township.

18 MR. LANG: Okay.

19 MR. INZELBUCH: Ask him if he knows it.

20 MR. LANG: Okay. But I --

21 THE COURT: No, no, no.

22 MR. STARK: Objection.

23 THE COURT: No, no. No, Mr. -- Mr.
24 Inzelbuch.

25 MR. INZELBUCH: These numbers that this

1 record is getting are not accurate.

2 MR. LANG: Could I ask him -- Okay. But --
3 But could I just ask a question?

4 THE COURT: If the --

5 MR. LANG: Why can't I ask the question?

6 THE COURT: If the Township had a surplus,
7 what would -- That's it.

8 MR. GROSSMAN: Your Honor, actually, the
9 issue -- If I may. And I'm sorry. Just --

10 MR. LANG: I just want to ask what a surplus
11 is.

12 MR. GROSSMAN: One question. Your Honor, per
13 30 Million. And I just want to clear --

14 THE COURT: That's just --

15 MR. GROSSMAN: -- be clear, that that was as
16 of 2016/2017, rather than what exists --

17 THE COURT: I understand.

18 MR. GROSSMAN: Or may or may not exist today.

19 THE COURT: I'm not accepting the 30 Million
20 as any accurate number that -- that may be a surplus.
21 If they had --

22 MR. GROSSMAN: But it was as of --

23 MR. LANG: Okay.

24 MR. GROSSMAN: But it was as of the 2016/2017
25 budget.

1 BY MR. LANG:

2 Q Could I just ask a question? This is a
3 surplus -- What does it mean to have a surplus? Does
4 it mean the Township is taxing and raising 30 Million
5 Dollars extra per year? Or, it's just a one -- it's
6 just money there that's in the bank just now?

7 A What happens is, a tax rate is set. And the
8 school district has their set -- And the township turns
9 a lump sum over to a school district. As -- As
10 buildings come on line, after a budget is set, the
11 township collects taxes on those buildings. They cut
12 the full tax rate, not just the township portion, but
13 the school district portion also, as buildings are
14 constructed. In Pennsylvania, they're called
15 "interims." I don't know what they call them in New
16 Jersey. But they collect taxes -- taxes on these as
17 they come on line. So that's what causes a surplus to
18 build up.

19 Now, in all fairness, in townships that are losing
20 money and have a high delinquency level, they have to
21 fund school districts out of -- out of the local -- out
22 of the township money, because school districts are not
23 -- because they have to turn the lump sum over. So,
24 it's -- it's a result of the State law. Instead of --
25 Instead of a school district having its own tax rate,

1 separate from the township, that the school district
2 collects. Then what would happen is, the school
3 district would be collecting these interims. They
4 would get some of the money. But right now, a township
5 gets all the money.

6 Q So this is a surplus that built up over the
7 years. Not just one year.

8 A It -- It builds up.

9 Q And it -- What does a town usually use a
10 surplus for?

11 MR. STARK: Objection. There's no
12 foundation.

13 THE COURT: Yeah. That's -- That's way
14 beyond the scope.

15 MR. LANG: Okay. I'm sorry. All right.
16 I'm finished.

17 THE COURT: Okay.

18 MR. LANG: Withdraw the question.

19 THE COURT: All right. You're done?

20 MR. LANG: Yes.

21 THE COURT: Thank you. Okay. Mr. Stark.

22 MR. STARK: Very briefly, Your Honor.

23 THE COURT: Yeah.

24 RE CROSS EXAMINATION BY MR. STARK:

25 Q Thank you. Mr. Shafter, you testified

1 earlier -- you testified about two hypothetical fixes
2 regarding revenue. One being an alteration of -- or a
3 creation of a new formula for funding. That would be a
4 legislative fix. Is that correct?

5 A Correct.

6 Q And you also testified that appropriation of
7 additional money under the current formula would be
8 helpful. And that would be a legislative fix. Is that
9 correct?

10 A Correct.

11 MR. STARK: Thank you. No more questions,
12 Your Honor.

13 BY THE COURT:

14 Q Okay. I did have one other I forgot to ask.
15 What's the affect of charter schools on -- on your
16 budget?

17 A Wow. (Laughs) And I'm saying this because I've
18 had -- I dealt with charter schools, charter schools
19 when I was --

20 Q Camden.

21 A -- in the City of Camden.

22 Q Hm hmm.

23 A So, what happens is, a charter school gets funded.
24 They get X number of dollars per student. So in -- in
25 theory you would say, If a charter schools gets Two

1 Million Dollars for a hundred students, that since the
2 township's not educating -- the local district's not
3 educating the students anymore, they could afford to
4 save the Two Million Dollars. I'm sorry. The Ten
5 Million -- The One Million Dollars for -- I forget the
6 number I said already.

7 Q Two.

8 A But they can -- they can save the same amount of
9 money. But the problem is, if -- if you -- The money
10 goes out. But you can't just automatically eliminate
11 it. Because you still have the fixed cost that's
12 spread over less students. The children -- The hundred
13 students that -- or 120 students, it's not like they
14 come out automatically in a group and you can just
15 reduce staff by three or four teachers. What it is,
16 those students are spread out all over the school
17 district, so you can't reduce staff. About the only
18 thing it reduces is textbooks and supplies and things
19 like that. So to say that a charter school saves the
20 public school district dollar for dollar, it -- this
21 doesn't happen.

22 Q Okay. How many charter schools are there in
23 Lakewood, if you know?

24 A There's only -- There's one.

25 Q Just one.

1 A It just opened up. They have about a hundred and
2 fifty students.

3 Q So that's also had an impact on the budget.

4 A On the current year budget. Yes.

5 THE COURT: Okay. Any other questions?

6 MR. STARK: No questions, Your Honor. Thank
7 you.

8 THE COURT: All right. Thank you very much.

9 THE WITNESS: You're welcome.

10 MR. LANG: Thank you.

11 MR. GROSSMAN: Thank you.

12 THE COURT: You're free to go.

13 THE WITNESS: Okay.

14 THE COURT: Is there anything else you'd like
15 to say?

16 THE WITNESS: Off the record but not on the
17 record. (Laughter)

18 THE COURT: Okay. Thank you. (Laughs)
19 Thank you.

20 MR. INZELBUCH: (Laughing) Well, David,
21 thank you so much.

22 THE COURT: All right.

23 MR. GROSSMAN: Thank you.

24 MR. INZELBUCH: Good job.

25 MR. LANG: Your -- Your Honor.

1 THE COURT: What?

2 MR. LANG: We still have --

3 THE COURT: Mr. Shafter's leaving. So thank
4 you.

5 MR. INZELBUCH: Yeah.

6 THE WITNESS: You're welcome.

7 MR. LANG: We still have Michael Azzara.

8 THE COURT: Yes we do. So the question is,
9 do we break now or -- And then come back and start him.

10 MR. LANG: I would like --

11 MR. STARK: Your Honor, I understand that Mr.
12 -- is coming at 1 o'clock.

13 MR. LANG: Yeah, I would like to start.

14 THE COURT: Oh, he is.

15 MR. LANG: Because Mr. Shafter basically said
16 a lot of things.

17 MR. INZELBUCH: Yeah. And he can only come
18 today. But Mr. Azzara is next. And your computers are
19 working.

20 MR. LANG: Yeah.

21 THE COURT: All right. So I guess we could
22 start then. Okay. Who's coming at one?

23 MR. STARK: Do we -- My -- My question --

24 MR. INZELBUCH: I told him to come back a
25 little later. I pushed him back a little bit.

1 THE COURT: All right. We are -- a break,
2 you know.

3 MR. INZELBUCH: Yeah, of course.

4 THE COURT: Okay.

5 MR. STARK: Not necessarily for the record.
6 But, I apologize. I'm going to step to the restroom
7 while the conversation --

8 MR. INZELBUCH: Thank you for sharing that.

9 THE COURT: Okay.

10 MR. LANG: Oh, I'm going to -- I told Mike I
11 was going to call him --

12 MS. HOFF: I think the Judge --

13 MR. LANG: -- and give him a heads up.

14 THE COURT: We're going to go off the record.

15 MR. LANG: Okay.

16 (BRIEF RECESS)

17 THE COURT: Okay. We're back.

18 MS. HOFF: Testing. Testing. Mike, can you
19 talk please?

20 THE WITNESS: Yes. I'm here.

21 MS. HOFF: Okay. Can you say test for me?

22 THE WITNESS: Test.

23 (OFF THE RECORD)

24 THE COURT: Okay. All right. So, we're back
25 on the record. With our witness who's appearing from

1 his home in Pennsylvania. Is that right?

2 THE WITNESS: That's correct.

3 THE COURT: Okay. By Skype.

4 THE WITNESS: Yes.

5 THE COURT: It's a first. Okay. So, this is
6 your witness Mr. Lang, so why don't you call him.

7 MR. LANG: I'd like to call Mike Azzara to
8 the stand for as a witness.

9 THE COURT: All right. Mr. Azzara, can you
10 raise your right hand please.

11 THE WITNESS: Yes.

12 THE COURT: Okay. Very good.

13 M I C H A E L A Z Z A R A, PETITIONER'S WITNESS
14 SWORN.

15 THE WITNESS: I do.

16 THE COURT: And state your name, please.

17 THE WITNESS: Michael Azzara.

18 THE COURT: And spell your last name.

19 THE WITNESS: A-Z-Z-A-R-A.

20 THE COURT: All right. Thank you. All
21 right, just keep your voice up, Mr. Azzara -- Mr.
22 Azzara, because we are trying to record everything that
23 you say on our microphone.

24 THE WITNESS: Okay.

25 THE COURT: And so, we need to hear you.

1 Okay. So, Mr. Lang.

2 DIRECT EXAMINATION BY MR. LANG:

3 Q Mr. Azzara, what is your job in Lakewood?

4 A I'm the State Monitor.

5 Q What is a State Monitor?

6 A I oversee the District's finances and business
7 operations.

8 Q How long have you been the State Monitor?

9 A It will be four years in April.

10 Q How did you come to be the State Monitor?

11 A I was appointed by the Commissioner.

12 Q Who do you report to?

13 A I report to -- Well, I report through Glenn Forney
14 to the Commissioner.

15 Q What is your professional experience?

16 A I've got 40 years experience in education at the
17 local and state levels. I was Chief Auditor for the
18 Department. I was the Director of Fiscal Policy. And
19 I was an Assistant Commissioner for Finance. After
20 that I was the Chief of Fiscal Efficiency of State
21 Operated School Districts. I was in Patterson for
22 three years as an Assistant Superintendent. I was in
23 Camden for five years. And I've been now at Lakewood
24 for four.

25 Q When you were in Patterson were you -- as the

1 Assistant Superintendent, were you working for the
2 State?

3 A Oh, I was -- It was a State Operated School
4 District.

5 Q In Camden.

6 A I was working for the School District.

7 Q And what about Camden?

8 A I was the State Monitor.

9 Q Okay. So all this, your whole professional
10 career, that you said 40 years, you were working for
11 the Department of Education?

12 A Essentially, yes.

13 Q Okay. What is your education?

14 A I have a Bachelors in Business Administration and
15 I have a Masters in Education -- Education
16 Administration.

17 Q Okay. Does Lakewood have a revenue problem?

18 A Yes.

19 Q Does it have a spending problem?

20 A No.

21 MR. INZELBUCH: What do you mean?

22 BY MR. LANG:

23 Q Could you explain what you mean?

24 THE COURT: Mr. Inzelbuch, you can't --

25 THE WITNESS: Well, I've been there for four

1 years. So, we've done everything we can to try to
2 balance the budget. And we're pretty much down to what
3 we, you know, just what we need to meet T and E and get
4 the Superintendent and the County Superintendent to
5 sign off on the budget and certify that it's adequate.

6 BY MR. LANG:

7 Q Does Lakewood have a bare-bones budget?

8 A Yes.

9 Q Explain that, please?

10 A Well --

11 MR. STARK: Objection. The term was
12 suggested by Counsel.

13 MR. LANG: Oh, sorry.

14 MR. STARK: So, I don't know that the witness
15 -- The witness agreed with it but I'm not sure the
16 witness can explain Counselor's --

17 MR. LANG: Let me rephrase the question.

18 THE COURT: Let's -- Let's see if he
19 understands what it is.

20 BY MR. LANG:

21 Q Okay. Go ahead.

22 A We -- Well, we believe that we've made every --
23 every reduction that's possible in order to maintain a
24 T and E education. In other words, we can't cut
25 anything else.

1 Q Can you cut anything from transportation?

2 A Well, no. The -- The State set up a non-public
3 consortium, and by law, we have to pay them a Thousand
4 Dollars for every mandated pupil. So we can't do that.
5 So that's a State mandate. And we have mandated
6 transportation that we brought in-house, and we're
7 going to save some money. And we're operating as
8 efficiently as we can. I mean, we could always look
9 for more economies, but at this point I -- I couldn't
10 really tell you where we'd find them. And courtesy
11 busing for public school students is paid for by the
12 Township.

13 Q And what about special education expenses?
14 Is -- Could that -- Can they be cut?

15 A No. I mean, they're all -- they're all pretty
16 much governed by law and the State Department of
17 Education rules and regulations.

18 Q So if you had to make cuts, where -- where
19 can they be made?

20 A I -- You know, I don't feel we can.

21 Q Okay. Was there a referendum -- Well, was --
22 Did you -- As State Monitor, do you order the -- during
23 your tenure of State -- When did you begin in Lakewood?
24 When was the --

25 A The May of 2014.

1 Q So since May of 2014, at any time, did you
2 order the end of courtesy busing?

3 A We -- Well, we put it out to referendum. Because
4 it was -- When the bids came in we were -- we were
5 about Eight Million Dollars over the estimate. So, we
6 were going to cut courtesy in October, but we decided,
7 and the Department decided, myself and the
8 Commissioner, that the Township should have a
9 referendum. Unfortunately, because of the amount of
10 time you need to advertise for an referendum, and
11 there's only four dates in a year that you could have a
12 special election, we -- it took -- It wasn't until the
13 end of January before we were able to go out to
14 referendum. And it was about the end of February
15 before the results were finalized. And it was defeated
16 98 percent to 2 percent, maybe even worse than that.
17 But so then, we let the transportation finish with the
18 year, and --

19 Q So --

20 A -- and let it go to deficit. And then the
21 following year we were -- we were not going to provide
22 courtesy busing. We just said, the monitors and the
23 Department, we said it's off the table. We were not
24 even going to even entertain it this year. The year
25 before we had gone through long and drawn out

1 negotiations with non-public schools to put in a
2 tiering system, a universal tiering system for all non-
3 public schools that our consultant thought we could
4 afford, and we had an estimate. But when the bids came
5 in, they were like Eight Million over. A number of the
6 bus companies raised their rates by as much as 30, 35
7 percent. So there was just no way we were ever going
8 to accommodate that. And we said no, we're not even
9 going to entertain it for the following year. And
10 that's when the legislature created the consortium, the
11 legislation to create a consortium.

12 Q So -- So, from what I understand you're
13 saying was that courtesy busing was going to be cut and
14 you -- and in order to restore it, that was the
15 question on the referendum? What was the question on
16 the referendum?

17 A Whether the voters wanted to pay an additional
18 Eight Million Dollars in taxes to preserve courtesy
19 busing. I think it was 6.2. We were asking them to
20 approve 6.2.

21 Q And that was rejected by 98 percent. Is that
22 correct?

23 A Yes.

24 Q Okay. I can't ask you to speculate, but --
25 but what does that tell you about -- Based on your

1 knowledge of being State Monitor and -- Was that the
2 only referendum that's ever put up?

3 A We had -- We had one referendum for a building
4 project, roofing and HVAC conditioning, and that --
5 that managed to pass. It was a big local effort, we
6 got the seniors on board. Well, I didn't, but the
7 Superintendent. And she went around and she built
8 support. The building was -- The buildings really were
9 in bad shape. And the Township supported that. But
10 they wouldn't -- they wouldn't support the courtesy
11 busing.

12 Q And how many people voted in that -- that
13 referendum that you're talking about now?

14 A I can't -- I couldn't recollect.

15 Q Do you think if we put the --

16 MR. INZELBUCH: Sorry. -- I told to leave
17 the room.

18 MR. LANG: Oh.

19 MR. INZELBUCH: He was here. (Courtroom door
20 closes)

21 BY MR. LANG:

22 Q Is there a deficit this year?

23 A In the operating budget? No.

24 Q Yes.

25 A But there's an overall fund deficit.

1 Q If that were to be put to the voters, based
2 on your past experience putting referendums up -- Could
3 you comment on that? Would that be a solution?

4 A No, it would not. We -- We've proposed separate
5 questions to the Board. They've rejected them. In
6 fact, since I've been there, they've rejected every
7 budget. And the State Monitors, myself and David
8 Shafter, had to approve it. But the Department and
9 local leaders and State leaders, and everybody was
10 saying -- you know, everybody was saying that any
11 separate questions are not going to be passed, so don't
12 even bother holding the referendum and spending the
13 money.

14 Q Okay. Could -- Could money be reduced to
15 eliminate metal detectors and security guards in the
16 schools?

17 A Not under -- Not under today's environment.

18 Q Okay. All right. Now you said you were in
19 -- in Camden, Newark --

20 A Patterson.

21 Q -- Patterson.

22 THE COURT: I don't think he said he was in
23 Newark. Did he?

24 MR. LANG: I'm sorry. Did you say Newark?

25 THE WITNESS: As Chief of Fiscal Efficiency

1 for State Operating Districts I was in Newark as part
2 I was in all three State operated systems; Jersey City,
3 Newark and Patterson. And then, after that term, I
4 went to Patterson alone as an assistant superintendent.
5 That was my only district I was working at.

6 BY MR. LANG:

7 Q You didn't do that as working for the State?

8 A It's a State-Operated district, but it's
9 considered -- It's not considered operated by -- The
10 Commissioner doesn't operate it, put it that way.

11 Q Okay.

12 A The Superintendent does.

13 Q So does Lakewood have anything in common, in
14 terms of poverty or any -- any characteristics in
15 common with those three districts?

16 A They're all -- They're all by regulation
17 considered at-risk districts.

18 Q Including Lakewood.

19 A Including Lakewood. Yes. In fact, Lakewood has
20 at least three priority schools and a focus school,
21 which means they're failing schools. And they have the
22 State Department of Education's Regional Achievement
23 Center is assigned to work with those schools because
24 of the failing.

25 Q Are there any other schools in Ocean County

1 that are priority or focus schools?

2 A Not that I can recall.

3 Q The majority of the priority and four focus
4 schools, how would you characterize those districts?

5 A Inner city poverty districts. Asbury Park is one.

6 Neptune, Kingsburg, Newark, Jersey City, Camden.

7 They're all -- They were all in the Abbott Districts.

8 Q And Lakewood's considered --

9 A Not --

10 Q -- grouped together with them.

11 A Lakewood is not an Abbott District.

12 Q Lakewood's not an Abbott. But it has the
13 same characteristics as -- as those districts. Does
14 it?

15 A I -- I would say so. Yeah.

16 MR. STARK: Objection.

17 THE COURT: Well, does it?

18 MR. LANG: Does it?

19 THE COURT: Does it share some of --

20 THE WITNESS: Yes. In terms of the number of
21 kids that are qualified for free and reduced lunch. As
22 far as the number of children that the regulation
23 considers to be in poverty to make it an at-risk
24 district. It's the same criteria for everybody now.

25 BY MR. LANG:

1 Q Are you familiar with any districts on the --
2 that have priority or focus schools -- I'm sure there's
3 some. But are there a lot that are not out-of-
4 districts?

5 A Yeah, there's probably some. I don't know for
6 sure. I don't know how many. But I know that there
7 would be others.

8 Q Now, you've been working -- When did you
9 start working for the Department of Education?

10 A 1978.

11 Q All right. So you're very, very familiar
12 with the -- what's happened since school funding since
13 -- Are you familiar with what's happening in school
14 funding since 1978?

15 A Yes.

16 Q Any -- Do you have any idea why Lakewood
17 never became an Abbott District?

18 A Well, the court had a very narrow -- came up with
19 a very narrow definition. And it was District Factor
20 Group A and B Districts. And then they put in there
21 like a circuit breaker, if your taxes were so much per
22 pupil. And that knocked out Atlantic City at the time
23 because of the casinos. And Lakewood was not one of
24 the A or B Districts at that time.

25 Q Why -- Why did it knock out Lakewood? Did it

1 knock out Lakewood?

2 A I'm not sure why. I don't know if Lakewood had a
3 DFG designation or what it was. But it wasn't in the
4 two bottom tiers. The top two are the I and J's. They
5 call them the wealthy districts. The court used to ask
6 for parity in spending with the wealthy districts. And
7 it used to be the I and J districts that would be the
8 standard, their per pupil expen -- their average per
9 pupil expenditure, with what we were supposed to bring
10 the Abbott Districts that were A and B, which were A
11 and B district factor groups.

12 We were supposed to bring them up to that. That
13 was the Abbott Decision. Until we could actually
14 define what thorough and efficient was. And then even
15 after that it was determined that there just wasn't
16 enough money to meet the court curriculum content
17 standards. And back in 1998 we had added what we
18 called -- Plus. Where we had -- We went to court, a
19 remand -- It was remanded through the court. It was a
20 court master -- , and we came in with a -- , to meet
21 the court curriculum content standard. And it
22 basically came out to almost the same amount as what --

23 Q Now, and you've talked about the DFG's,
24 district group for improved factors. Does Lakewood
25 have a GFG -- DFG?

1 A I don't know.

2 Q Okay. You talked about also, one of the
3 criteria that the court used was measuring wealth.
4 Was it -- And I believe you said that it was, they took
5 wealth and divided it -- property value and divided it
6 by enrollment. Is that correct?

7 A That was one of the factors to determine DFG.
8 It's not a factor in the -- formula.

9 Q Correct. It was in determining DFG and who
10 gets it -- and would that be used in determining in who
11 got to be an Abbott District?

12 MR. STARK: Objection, Your Honor. This is a
13 matter of decisional law, that I don't know that Mr.
14 Azzara needs, as a fact witness, to testify as to what
15 the court found. The court indicated what it found and
16 it published an opinion about that.

17 THE COURT: Yeah, I --

18 MR. LANG: Okay. Well let me -- let me just
19 -- Okay. We could -- Fine. The -- The use of dividing
20 the wealth by the -- the number enrollment, how does
21 that affect a district like Lakewood with a lot of non-
22 public students?

23 THE WITNESS: What was the question again?
24 Can you repeat that?

25 BY MR. LANG:

1 Q The methodology of dividing the wealth,
2 meaning the property value by enrollment, how would
3 that affect a district like Lakewood?

4 A It wouldn't anymore. It's not in the funding
5 formula. And the Abbott District designation was
6 actually abandon in the School Funding Reform Act. So,
7 I don't even think the DFGs would matter. And that was
8 the only -- That was one of the factors -- There were
9 like seven factors, you know, parental, education
10 level. Things like that. That -- They did it every
11 ten years based on the census, the DFGs. And they're
12 not really used anymore for funding purposes.

13 Q Well, let me just -- There is a reason why
14 I'm asking. It has to do with some -- some of the
15 matters I discussed in the petition. But -- But going
16 back to when it did make a difference. This idea of
17 determining a district's wealth by dividing it by
18 enrollment, was -- Based on your experience with school
19 funding, how does that affect a district like Lakewood
20 with --

21 MR. STARK: Objection. Relevance.

22 MR. LANG: Relevance? The relevance is
23 because --

24 THE COURT: It's -- It's sustained.

25 MR. LANG: Two reasons.

1 THE COURT: It's sustained.

2 MR. INZELBUCH: Move him on to Lakewood.

3 THE COURT: It's not relevant.

4 MR. GROSSMAN: Get on to Lakewood.

5 THE COURT: He's not testifying as an expert
6 in the history of Abbott. He's testifying as a State
7 Monitor for the Lakewood School District. He's not
8 qualified as an expert in this area.

9 MR. LANG: He's an expert in -- He's been --

10 THE COURT: He's here as a fact witness.

11 MR. INZELBUCH: Listen to -- 1-2-3-4-5 --
12 Like five --

13 MR. LANG: Okay.

14 MR. INZELBUCH: That's okay. That's all
15 right. --

16 BY MR. LANG:

17 Q All right. All right. The -- What's going
18 on in Lakewood? What is the problem in Lakewood?

19 MR. STARK: Objection. That's a very, very
20 broad question.

21 THE COURT: Yeah, it is.

22 THE WITNESS: That's a very --

23 MR. LANG: Okay. So --

24 THE COURT: Wait. What's the problem with
25 the budget? How's that?

1 THE WITNESS: There are -- The funding for
2 annual has been frozen for almost eight years. And the
3 population in the town, the school age population,
4 particularly the non-public schools, they put a lot of
5 stress on the District's budget. The special
6 education, in particular, the District is responsible
7 for providing spending special education services for
8 every school age child -- I believe it -- I think it's
9 up to 21. -- every school age child in Lakewood
10 regardless of whether they would have went into a non-
11 public school or the public school.

12 So actually the universe that they're
13 responsible for, for special education, is at 35-36,000
14 children. Not just the 6,000 in the School District.
15 Now the funding formula uses a census method. And
16 basically the State average classification rate, which
17 is around 15 percent, times the school district
18 enrollment. So they only get funded for like 15
19 percent of 6,000 students. When actually the universe
20 that makes up what they're responsible to provide those
21 services for, includes the non-public -- I would say it
22 includes the non-public enrollment. Because we have
23 many orthodox students who are in private schools for
24 the handi -- for the disabled. And they're considered
25 public school students because they're special ed. But

1 if they hadn't been classified, they would have went to
2 the Yeshiva.

3 BY MR. LANG:

4 Q If they hadn't been classified they would
5 have what? I didn't hear that. I'm sorry.

6 A The orthodox students as a -- pretty much as a
7 rule, go to the yeshiva's. They don't come to the
8 public school system. So if any of the orthodox
9 children have learning disabilities or need special
10 education, the District is responsible for providing
11 it.

12 Q Okay. Is -- So, how does this affect the
13 budgetary process?

14 A Well, the funding. They're only getting funded
15 for about half the special ed students or half the
16 classified students that the District actually pays
17 for.

18 Q And -- And are you familiar with the total
19 special education expense for the District?

20 A It's close to 30 Million.

21 Q That's -- Is that the tuition expense?

22 A Tuition -- You know, I don't know the exact figure
23 of both in-house and out -- and out-of-district
24 placements. The figure that pops in my mind is around
25 30 Million. It might be more if you factor in in-house

1 special education of students. But I couldn't give you
2 the exact figure right now.

3 Q How many -- Do you know how many kids are
4 going to schools for the handicapped?

5 A I'd like to say yes. But there was -- There is
6 some -- issues with the Department, where they -- they
7 count classified students. It's -- It's -- I couldn't
8 give you the exact number, but it's over 200.

9 Q Okay. And how -- how does the having a large
10 non-public -- I'm going to skip that question because
11 we've heard enough about that already. Is there -- I
12 was going to ask about transportation but I'm not. Is
13 there -- Is there any other expenses associated with
14 having 30,000 or 31,000 non-public kids besides
15 transportation and special education?

16 A It puts a strain on the taxpayer. And the
17 Township and the taxpayers have to support, you know,
18 police, firefighters, road work, trash removal. So in
19 that regard, a normal district wouldn't have that kind
20 of a strain -- Not, you know, a public school district.
21 Another -- Another municipality wouldn't have that kind
22 of strain on the tax base that Lakewood has.

23 Q Are you familiar with the term, municipal
24 overburden?

25 A Yes, I am.

1 Q What is that?

2 A Well, again, I was -- I'm a fact witness. I think
3 it might relate to what the Judge decided earlier.
4 It's a term that was used in a very early Abbot
5 Decision. That the court ordered the State to take
6 into consideration municipal -- They called it
7 municipal overburden. The fact that the high poverty
8 districts, the out-of-districts, put in the crime rate,
9 everything like that. That they had a lot of expenses
10 that your regular districts didn't have, and put a --
11 put a strain on the tax base. And they directed the
12 state to recognize that when they developed a funding
13 formula.

14 Q So in your experience dealing with -- Have
15 you any experience in districts that had municipal
16 overburden?

17 A Well, the Abbott Districts I worked in. Yes.

18 Q Does Lakewood have a municipal overburden?

19 A If you go by the --

20 MR. STARK: Objection.

21 THE WITNESS: -- the broad definition of the
22 court --

23 MR. STARK: Objection to the question. Is
24 there a standard for municipal overburden?

25 MR. LANG: He just said.

1 THE COURT: Why don't we ask him if there is?

2 MR. STARK: There isn't just -- Or is it just
3 the witness's opinion.

4 THE COURT: Yeah. Why don't we ask him?

5 BY MR. LANG:

6 Q What -- So, what -- what is -- What are the
7 things that make up municipal overburden?

8 A There was -- All the -- In the -- In the original
9 ruling that coined that phrase, they were talking about
10 things that inner cities or urban districts would have,
11 like additional police, additional firefighters, crime.
12 All the things that those cities had that non-urban
13 districts didn't have to deal with. And it would cost
14 the -- it would cost the municipality money --
15 additional money and put a strain on the taxpayer.
16 It's -- There's no standard in law. It's never been
17 legislated.

18 Q So --

19 A But it was in an early Abbott decision.

20 Q Would you consider the -- the burden of --
21 the expense of sending 30,000 kids to non-public
22 schools also a strain on the tax base as municipal
23 overburden?

24 MR. STARK: Objection. That's not a
25 municipal expense.

1 MR. LANG: But it's an expense of the
2 taxpayer. The ability of the taxpayer to pay.

3 THE COURT: Two separate -- Two separate
4 things, I think.

5 BY MR. LANG:

6 Q Okay. So, would -- would that also -- Would
7 the expense of paying for 30,000 non-public kids cause
8 a strain on the tax base?

9 A Well, like I said, it would cause the families --
10 The fact, you know, that there's so many families in
11 Lakewood that don't use the public school system. And
12 it's like six times the number of kids in the public --
13 I mean, as far as children, I'm not saying families.
14 But it's -- The student ratio is about six times higher
15 than the public school. And just that many -- that
16 kind of a population would create additional municipal
17 expenses that wouldn't be recognized in the -- because
18 they're only looking at the 6,000 students when they do
19 the adequacy part.

20 Now you have to understand, the adequacy budget
21 determines the amount of equalization. So, the student
22 enrollment drives the adequacy budget. And the local
23 share has nothing to do with enrollment. But the local
24 share is pretty static. Okay. It's going to be the
25 same no matter what. So the number of students that

1 drive the adequacy budget drive it higher if there were
2 more students in the public school system. And
3 therefore, everything additional, okay, those -- those
4 students with the -- the waning factors that would
5 create the adequacy budget, any increase in the
6 adequacy budget would be totally funded by State aid.

7 Q So if Lakewood's -- Would it make a
8 difference if Lakewood, in the local fair share, if
9 Lakewood's adequacy budget was 110 Million or 210
10 Million? Would the local fair share change?

11 A No.

12 Q Okay. The -- Are you familiar with what the
13 local fair share is currently in Lakewood?

14 A About 102 Million Dollars.

15 Q Is there -- Based on what you just talked
16 about before, about municipal overburden, or what your
17 understanding of the strain on the Lakewood taxpayers,
18 is there room to get more -- Is there excess capacity
19 of -- in the Lakewood tax base?

20 MR. STARK: Objection. There has not been a
21 foundation set.

22 THE WITNESS: I --

23 THE COURT: Wait. Wait.

24 THE WITNESS: Yeah.

25 MR. STARK: There's not been a foundation set

1 that there was a strain on the Lakewood taxpayers.

2 MR. LANG: He just said -- He said that.

3 MR. INZELBUCH: Yeah.

4 MR. STARK: There's not been a foundation set
5 that there is a strain on individual taxpayers in
6 Lakewood.

7 MR. LANG: So, we can ask him. Okay.

8 MR. STARK: I would also object to the
9 question --

10 MR. LANG: He said that.

11 MR. STARK: -- of whether or not this witness
12 is capable to testify about the strain of individual
13 families in Lakewood.

14 THE COURT: Well, that I certainly would
15 sustain.

16 MR. LANG: Well, let's just go back to --

17 THE COURT: I'm really -- I'm really not so
18 quick to -- sure what you're trying to ask Mr. Azzara
19 about the Lakewood budget.

20 MR. LANG: Well, it's -- How are we going to
21 correct the situation? By raising taxes or getting
22 more State aid? That's basically what we're asking.

23 THE COURT: The why don't you ask him how to
24 correct the problem?

25 MR. LANG: Okay. Well -- Did you mention --

1 Let me just ask him.

2 THE COURT: If he's -- If he's willing to put
3 that on the record.

4 MR. LANG: Let me just mention -- ask -- re
5 --

6 MR. STARK: I would renew the same objection
7 to the same question that I raised with Mr. Shafter.
8 That this is not a witness who's been qualified as an
9 expert to offer an opinion as to the adequacy or the
10 sufficiency of the budget and any -- any such
11 solutions.

12 MR. LANG: But --

13 MR. STARK: Just for the record.

14 MR. LANG: Well, let me --

15 THE COURT: He might have some solutions in
16 mind. So ask him.

17 BY MR. LANG:

18 Q All right. All right. But, wait. I want to
19 just go back with this line of thought because he did
20 -- he was -- (whispering) Okay. All right. What --
21 What is the solution for fixing Lakewood's budgetary
22 problems?

23 A They need more revenue. We're -- If it comes from
24 the taxpayers or it comes from the State, that's really
25 a question for the legislature and the courts, not me.

1 I mean, I would assume that it would come from the
2 State because the District is tapped for its property
3 tax. And it can't raise anymore than it does. It goes
4 to cap. So unless they remove the cap, any additional
5 funding would have to come from the State. But the
6 legislature could make any decision it wanted in terms
7 of how to raise the additional money.

8 Q Well, it would have to increase the local
9 fair share? Would it have to increase the local fair
10 share? Would the legislature have to increase the
11 local fair share in order to increase taxes?

12 A No. They would have to just take the cap off the
13 property -- the property tax cap.

14 Q Okay. And then -- And then if the State Mon
15 -- Who would have the authority to raise the taxes at
16 that point?

17 A Right now I have to just talk about current law.
18 And only the local voter can raise taxes above the cap.

19 Q Okay. I -- I think that -- Okay. You
20 testified earlier -- All right. All right.

21 (Whispering) I wanted to ask him about municipal
22 overburden. It's very important. (Whispering)

23 MR. INZELBUCH: -- Maybe the Judge will ask
24 him.

25 BY MR. LANG:

1 Q You spent -- You spent substantial amount of
2 time in the Department of Finance. You spent a
3 substantial amount of time in the Abbott Districts. Is
4 that correct?

5 A That's correct.

6 Q You are familiar -- Are you familiar with the
7 difficulty involved in raising taxes in those
8 districts?

9 A Yes.

10 Q Is that what you call municipal overburden?

11 A Well, that's what -- The court came up with that
12 term.

13 Q Okay.

14 A You'd have to take a look at the various combined
15 local and munic -- school and municipal tax rates.
16 Okay. To see which districts really are overburdened
17 on their taxes.

18 Q Okay. So now I could ask the question I
19 think. Is Lakewood -- Does Lakewood share those same
20 characteristics as you've seen as being overburdened?

21 A It's --

22 MR. STARK: Objection. I do not think
23 there's a foundation laid here.

24 THE COURT: I'm just going to let him answer
25 the question.

1 MR. STARK: Okay. Thank you, Your Honor.

2 MR. LANG: You can answer the question.

3 THE COURT: You can answer the question, Mr.
4 Azzara.

5 THE WITNESS: In my opinion, okay, the tax
6 base is spread out over many more people than the
7 people who send their children to the public school.
8 And it's -- it's definitely something that you would
9 have to take a look at if you wanted to determine if
10 the tax base was strained. And it definitely produces
11 municipal cost that wouldn't be there if it was only
12 the -- the families or the loc -- you know, the
13 families of the non-orthodox population.

14 BY MR. LANG:

15 Q So, if I get you correct, there -- Lakewood
16 does have costs that you don't have in a district that
17 doesn't have such a high non-public population.

18 A Exactly.

19 Q Okay. That's all I was trying to get to.

20 THE COURT: I thought I understood you to
21 say, Dr. Azzara, that essentially the -- the financial
22 wear-with-all, like with township, is more substantial
23 than that of, let's say, Newark or Patterson.

24 BY MR. LANG:

25 Q Is that what you said?

1 A I'd have to take a look at and compare their tax
2 rates, the combined tax rates. I mean, they have a big
3 tax base, but a lot of it is because of the non-public
4 students, the families of the non-public students. So,
5 you know, whether they create costs that aren't in
6 other districts -- other districts that affect the tax
7 base, put a strain on the tax base, that's what we're
8 talking about.

9 Q Did --

10 A Now, you could also -- you know, you could also
11 make the argument, although it's definitely debatable,
12 if those 30,000 children came to the public schools
13 there would be a substantial funding impact.

14 Q And would the local fair share go up if those
15 30,000 kids go -- went to the public schools?

16 A Not the way the statutes written apparently.

17 THE COURT: But the State aid would increase.

18 THE WITNESS: Definitely.

19 BY MR. LANG:

20 Q Okay. I guess we're pretty much done. I
21 said I was -- (Whispering) All right. What's -- All
22 right. Then I'm -- I'm finished. Mr. Stark could --

23 THE COURT: All right. Thank you, Mr. Lang.

24 MR. LANG: Thank you, Mr. Azzara.

25 THE WITNESS: You're welcome.

1 THE COURT: All right. Mr. Stark.

2 MR. STARK: Thank you, Your Honor.

3 MR. LANG: You don't have --

4 MR. STARK: No, I'm thanking the Honor --

5 MR. LANG: Oh.

6 MR. STARK: Thanking the Judge for letting me
7 take over cross examination.

8 THE COURT: Yes.

9 CROSS EXAMINATION BY MR. STARK:

10 Q Thank you. Mr. Az -- Can you see me where I
11 am, Mr. Azzara?

12 A Yes, I can.

13 Q And I've never been a person who anyone has
14 ever had a hard time hearing.

15 A (Laughs)

16 Q So I'm assuming you can hear me, as well.

17 A I can hear you.

18 Q Mr. Azzara, the last question that Mr. Lang
19 asked you is about whether the local fair share would
20 increase if the private school population, the non-
21 public school population in Lakewood suddenly enrolled
22 in the public schools. And you indicated that the
23 local fair share would not increase. Correct?

24 A It would -- There could be a marginal --

25 Q It would not be a significant increase to the

1 local fair share. Correct?

2 A It would not be significant. See, the local fair
3 share, they -- the multipliers that are in the law, it
4 really -- They are geared to determine how much local
5 taxes have to be raised based on the amount of State
6 aid that the legislature allocates. So.

7 Q The levy would increase though. Correct?

8 A Yes.

9 Q There would be an enrollment adjustment to
10 the levy. Correct?

11 A Well, it would probably affect it a little bit.

12 Q It would -- It would be a significant
13 increase. Correct?

14 A No, because, like I -- The State wide equalization
15 aid. Okay. That is the -- That is the determinant or
16 what they base the calculation on, in terms of those
17 multipliers. They set those multipliers so it
18 distributes the amount of equalization aid the
19 legislature appropriates. And then the difference
20 between the equalization aid, after they do their local
21 fare share, is State aid.

22 Q Okay. And so the amount of equalization aid
23 that is appropriated, that's a legislative decision.
24 Correct?

25 A That's correct.

1 Q And the levy cap, you testified earlier, the
2 levy cap --

3 MR. LANG: Oh, no.

4 BY MR. STARK:

5 Q The levy cap is a -- is a -- Sorry. We -- We
6 had a flash on the scree there. The levy cap is also a
7 legislative decision. Correct?

8 A Yes.

9 Q Okay. And so if those were to be changed,
10 that would have to be a decision of the legislature.

11 A Correct. Or the Supreme Court.

12 Q When you -- When you came into the District
13 as a State Monitor, were you familiar with -- Or are --
14 Are you familiar with the manner in which the District
15 was distributing aid in lieu of transportation when you
16 came into the District?

17 A Yes.

18 Q That money is supposed to be paid to families
19 of -- of students for transportation. Correct?

20 A Correct.

21 Q And that was not, in fact, the way that the
22 District was distributing the money. Is that correct?

23 A It was sending the money directly to the non-
24 public school.

25 Q And how was it doing that?

1 A By check.

2 Q And how -- how did -- And you became aware of
3 this upon your arrival at the District?

4 A Well, not -- not initially.

5 Q Okay.

6 A We did a couple of -- We did discover it maybe
7 about two years in.

8 Q Okay. And so, so it's your testimony --
9 So, what you're indicating -- Strike that. What you're
10 indicating is that the District was cutting checks
11 directly to the non-public schools in the amount of a
12 student's aid in lieu of transportation?

13 A Correct.

14 Q Okay. When you arrived in the District, did
15 Lakewood own any of its own school busses?

16 A They did not have a fleet. They had maybe a
17 couple of vans.

18 Q Okay. So you testified that they -- they did
19 not own their own fleet. Is a busing fleet for
20 Lakewood something that would help control its
21 transportation costs?

22 A We did -- We did implement an in-house busing
23 system and we did purchase a fleet of busses, to move
24 away from the -- the contractors. We're now doing
25 another -- We're going to be sending out an RFP to do a

1 transportation efficiency study. But right now, we --
2 we have -- the District does have its own fleet. And
3 it is doing transportation, the majority of it, in-
4 house.

5 Q Okay. Is that -- That has represented a cost
6 savings for the District?

7 A We believe it is. The Monitors, myself and David.

8 Q That is not a -- That's not a decision that's
9 shared by the Board?

10 A I -- I would say no.

11 MR. STARK: Thank you, Your Honor. I think
12 that's all the questions that we have.

13 THE COURT: All right. Thank you. Anything
14 else, Mr. Lang?

15 MR. LANG: Yes.

16 MR. GROSSMAN: Yes, Your Honor. May -- May I
17 have a moment with Mr. Lang before he Redirects?

18 THE COURT: Certainly. How many State
19 Monitors are there?

20 THE WITNESS: About ten.

21 MR. LANG: I mean, could I sit down?

22 THE COURT: All right.

23 REDIRECT EXAMINATION BY MR. LANG:

24 Q Is there any job role that you have that
25 David Shafter doesn't have?

1 MR. STARK: Objection. Outside the scope of
2 cross examination.

3 MR. LANG: Okay. All right.

4 MR. INZELBUCH: A missed question.

5 MR. GROSSMAN: Yeah, it's an omitted
6 question, Your Honor, just for purposes of rep -- tying
7 it up.

8 THE COURT: I'll permit it.

9 BY MR. LANG:

10 Q Yeah. She's permitting.

11 A I'm designated as the Lead State Monitor.

12 Q Okay. Now, Mr. Stark asked you about the
13 local fare share in the -- the -- if all the kids went
14 to the schools. And basically what my question is, by
15 -- by increasing the adequacy budget, either from all
16 the kids going to the public schools or that the
17 adequacy at least recognizes the expenses of the
18 Lakewood School District, how exactly would this effect
19 the local fare share? You spoke about something about
20 marginally before.

21 A Well, like I said, that it would -- it would drive
22 more State aid, more equalization aid to Lakewood. Now
23 the impact that it would have on the multipliers, to
24 calculate the local fare share, because those -- That
25 money would have to come from other districts. So it

1 would change the local share contribution, but I
2 couldn't tell you if it would -- It wouldn't be
3 significant. And I couldn't exactly tell you how it
4 would play out.

5 Q It would be a multiplier state wide, not just
6 Lakewood. Is that correct?

7 A Well yeah, because the multipliers are basically
8 the product of how much State aid is appropriated by
9 the legislature. So they -- they determine, based on
10 the -- you know, based on income and property wealth,
11 how much each community receives or how much the local
12 share should be. How much they -- The ability to pay
13 they said -- or they. But it's really a product of how
14 much State aid they allocate. So the local share would
15 have to change because Lakewood's pulling it off more
16 of the State allocation. So the multipliers would have
17 to change to recognize that.

18 Q Well --

19 A If -- State wide it would probably be an
20 insignificant.

21 Q That would be pulling -- Would that be if a
22 overall budget was increased or the overall budget of
23 the State remain the same?

24 A If the overall budget of the State remained the
25 same.

1 Q Pardon.

2 A If the overall budget of the State remained the
3 same.

4 Q All right. So --

5 A Assuming -- Assuming that we're talking about the
6 same pot of equalization aid being available.

7 Q So, tell me if this statement is correct.
8 That it's -- If the adequacy budget was increased, the
9 local fare share would essentially not change,
10 essentially. I'm saying ess --

11 MR. STARK: Objection. Leading.

12 BY MR. LANG:

13 Q Okay. All right. It will only marginally
14 change.

15 MR. STARK: Objection. Still leading.

16 MR. LANG: That's what he said though.

17 THE COURT: It's still leading.

18 BY MR. LANG:

19 Q All right. So how would you characterize
20 this change in the local fair share? Is it
21 significant, marginal, whatever word you'd use.

22 A I don't think it would be significant. And that's
23 about the best I can do.

24 Q Okay. All right. Are you familiar with the
25 census data of -- of the wealth of Lakewood, the per

1 capita income?

2 A Yes.

3 MR. STARK: Objection. It's outside the
4 scope of cross examination.

5 THE COURT: It is out -- It is outside the
6 scope of cross examination.

7 MR. INZELBUCH: Of course it is.

8 MR. LANG: But it has to do with the capacity
9 of the local population to --

10 THE COURT: The it should have been asked on
11 Direct.

12 MR. LANG: I forgot to ask it. Could I ask
13 it?

14 THE COURT: I'll permit it.

15 BY MR. LANG:

16 Q Are you familiar with the per capita income
17 of the people of Lakewood?

18 A Yes.

19 Q What -- Do you know the number?

20 A It's about 15,000 per capita.

21 Q Is that high or low?

22 A It's low. It's less than half the State average.

23 Q Are -- Are you familiar with any other
24 indicators from the census that would indicate the --
25 the wealth of the -- the municipality or the people?

1 A Not off the top of my head. No.

2 MR. GROSSMAN: No further questions.

3 MR. LANG: No further questions. Thank you.

4 THE COURT: All right.

5 MR. STARK: Very briefly.

6 THE COURT: Sure.

7 RECROSS EXAMINATION BY MR. LANG:

8 Q You were asked about the per capita income.

9 Are you familiar with the median age in Lakewood?

10 A It's very low, I know that. I'm not sure.

11 THE COURT: Very low.

12 THE WITNESS: I don't know if -- I don't know
13 the exact age. But I know it's a -- it's a young town
14 because of the number of children.

15 BY MR. STARK:

16 Q And per capita income is calculated according
17 to every man, woman, and child, regardless of whether
18 they are of working age or over or below the average
19 working age. Is that correct?

20 A That's correct.

21 MR. STARK: Okay. Thank you.

22 MR. LANG: Can I just follow up on what Mr.
23 Stark just asked.

24 THE COURT: I think we're done.

25 MR. LANG: Well, about what he just asked

1 about how they calculate. I want to just ask him if
2 he's familiar with the -- the family income, the
3 household income.

4 THE COURT: No. Because you asked about per
5 capita income, he followed it up.

6 MR. LANG: Okay.

7 THE COURT: And that's it.

8 MR. LANG: All right. It's on the data
9 anyway.

10 THE COURT: All right. So thank you very
11 much, Mr. Azzara.

12 MR. LANG: Thank you, Mr. Azzara.

13 THE WITNESS: Okay. Thank you.

14 THE COURT: So we can disconnect.

15 THE WITNESS: Okay.

16 THE COURT: All right. Thank you. Okay. I
17 don't know how to do that.

18 MR. LANG: Got that done.

19 (BRIEF RECESS)

20 THE COURT: Okay. We're on the record. This
21 is the recall of Mr. Fingers -- Finger. Correct?

22 MR. INZELBUCH: Correct.

23 THE COURT: And we're finished with Direct,
24 is that right, Mr. Lang?

25 MR. STARK: Yes, Your Honor, I believe.

1 MR. LANG: Yes. Yes, Your Honor.

2 THE COURT: Okay. So now we're up to cross
3 examination. You remain under oath. Do you understand
4 that?

5 THE WITNESS: Yes, I do.

6 THE COURT: Okay. All right.

7 R O B E R T F I N G E R, PETITIONER'S WITNESS,
8 PREVIOUSLY SWORN, RESUMES THE STAND.

9 CROSS EXAMINATION BY MS. PRAPAS:

10 Q Okay. Mr. Finger, you testified that the
11 Lakewood School District had approximately a Five
12 Million Dollar budget surplus when you left the
13 District in 2010. Is that correct?

14 A That's correct.

15 Q And a fiscally healthy school district should
16 have some surplus in their budget to cover
17 unanticipated expenses. Is that correct?

18 A Correct.

19 Q And you also testified that Lakewood began
20 going into a budget deficit in around 2013/2014, and
21 that it reached a high point of about Six point Million
22 and then after the Monitors were installed the deficit
23 decreased to 4.3 Million in 2016/17. Is that your
24 testimony?

25 A Correct.

1 Q Okay. And you also testified that the
2 District received an 8.6 Million Dollar State aid
3 advance last year. Is that correct?

4 A For -- For the current school year. Right. For
5 17/18.

6 Q For 17/18.

7 A Right.

8 Q Correct. Okay. And the District -- In the
9 years that you have reviewed, from -- You testified
10 that you reviewed the budgets from 2013 onward, I
11 think. In those years, the District has never gone
12 without enough funds, in every school year, to balance
13 its budget. Is that correct?

14 A No. Well, they needed the State aid advances to,
15 for the last couple of years, to balance their budget.

16 Q Okay.

17 A They didn't have enough from tax levy and regular
18 State aid.

19 Q But yes -- Yes or --

20 A And just to clarify, I didn't review the -- I
21 reviewed the audit reports.

22 Q Okay. Yes or no that in those years,
23 regardless of the source of funds, the District has
24 never gone without enough funds to balance its budget.
25 Is that correct?

1 A They approved a balanced budget. Correct.

2 Q And you are aware that Lakewood is not the
3 only District in the State that gets loans against
4 State aid. Is that correct?

5 A I am not aware of any others that get loans. But
6 there may in fact be. I don't know if there are any
7 others.

8 Q Okay. So you have nothing to dispute the
9 fact that other districts get loans against State aid.

10 A I can't say for sure that others do or don't. I
11 only know that Lakewood does.

12 Q So you have nothing to --

13 MR. INZELBUCH: Asked and answered. How many
14 times --

15 THE COURT: Yes. He had answered it.

16 BY MS. PRAPAS:

17 Q Okay. So you testified that the District
18 also receives approximately 1.6 Million Dollars from
19 the Township for sports, courtesy busing, and --
20 courtesy busing for public students and for related
21 services. Is that correct?

22 A Correct.

23 Q Okay. And you're aware that the Municipality
24 was able to elect to do this because it had a budget
25 surplus. Is that correct?

1 MR. LANG: Objection. --

2 THE COURT: Yeah. Does he know?

3 THE WITNESS: I don't know if the town -- I
4 don't -- I've never looked at the Town's books. I
5 don't know if they have a surplus or not, but obviously
6 they have funds available.

7 BY MS. PRAPAS:

8 Q So you have nothing to dispute that the
9 Municipality has a budget surplus.

10 A I have no knowledge whether they do or don't. But
11 one can only assume.

12 MR. STARK: Thanks, Your Honor.

13 MS. PRAPAS: Okay. Thank you.

14 MR. INZELBUCH: Don't assume.

15 THE COURT: Mr. Inzelbuch, your comments,
16 please.

17 MR. INZELBUCH: Well, when this is assuming
18 and guessing, like, aren't they -- Shouldn't he not do
19 that?

20 THE COURT: He should not be doing that.
21 Don't guess. If you don't know, you don't know.

22 MS. PRAPAS: Well, I asked him if he had
23 anything to dispute it, and he said no. Right? That
24 he didn't have anything --

25 THE COURT: He said doesn't know.

1 BY MS. PRAPAS:

2 Q Okay. You also testified that all of the
3 transportation costs to the District were for mandated
4 transportation services. Is that correct?

5 A Correct.

6 Q And you also testified that under the LSTA
7 pilot program, the consortium could pay for courtesy
8 busing for ineligible non-public students, aka non-
9 mandated transportation, if there was money left after
10 paying for all of the eligible non-public students. Is
11 that correct?

12 A That's correct.

13 Q And you're aware that the District is
14 required to review LSTA's request for proposals. Is
15 that correct?

16 A That I'm not aware of. No.

17 Q So, you would not be aware that the LSTA bid
18 courtesy busing routes were ineligible non-public
19 students along with the routes for mandated students in
20 contravention of the LSTA?

21 A I'm not aware of that.

22 Q You're aware that if that did happen, that
23 would be in contravention of the LSTA, based on your
24 testimony.

25 A I'm -- I'm not an attorney. I just -- I'm not

1 aware of what the LSTA does. I don't oversee the LSTA.
2 Nor do I -- I've never seen any records from the LSTA.

3 MR. LANG: (Whispering)

4 THE COURT: Mr. Lang, really.

5 MR. LANG: Sorry.

6 BY MS. PRAPAS:

7 Q But you testified that you understood that
8 under the LSTA pilot program that the consortium is
9 supposed to pay for courtesy busing for ineligible non-
10 public school students, only after its paid for all of
11 the mandated students. Correct?

12 A That's what the law says.

13 Q Okay.

14 A Yes. That they could use -- If they have funds
15 left over, after providing busing for mandated, that
16 the LSTA can then use funds to provide busing for
17 courtesy.

18 Q Okay.

19 A That's what the law says.

20 Q And you also testified that the District,
21 under the LSTA pilot program, must give a Thousand
22 Dollars per students to the consortium. Correct?

23 A That's what the law says. Correct.

24 Q And that the State reimburses the District
25 for a portion of that.

1 A Correct.

2 Q And the District must cover the difference.

3 A Correct.

4 Q You're aware that the Commissioner must
5 review the LSTA pilot program next year to determine
6 whether or not it should be renewed.

7 A I believe that's in the law. That's right.

8 Q And that will make a determination at that
9 time whether to renew the LSTA pilot program.

10 A That's what I've read. Yes.

11 Q So, would you go on record today as saying
12 that the pilot program should not be renewed?

13 MR. LANG: Objection.

14 MS. PRAPAS: What's the basis for the
15 objection?

16 THE COURT: Yeah, what's your basis for the
17 objection?

18 MR. GROSSMAN: Beyond the scope of Direct,
19 Your Honor.

20 MR. LANG: It's beyond the scope of the
21 Direct.

22 MS. PRAPAS: No. Because he testified that
23 the budget had issues because of the -- this difference
24 in cost that the district had to make up.

25 THE COURT: I'll permit it.

1 THE WITNESS: Could you repeat the question,
2 please?

3 BY MS. PRAPAS:

4 Q Sure. So would you go on the record today
5 saying that the LSTA pilot program should not be
6 renewed?

7 A My personal opinion, I don't think it sh -- I
8 think it should be renewed. That's just my personal
9 opinion.

10 Q When you testified -- Okay. When you
11 testified last time on the 7th, you referred to the
12 2016/17 revised budget as the budget advertised on the
13 user friendly budget for 2016/17. But that's not the
14 same as the actual cost for 2016/17. Correct?

15 A Could you please -- Yeah.

16 Q You want me to repeat? Sorry.

17 A Repeat that again. Yeah.

18 Q So on the -- on the user friendly budget.

19 A Well, I -- Which user friendly budget? For the
20 current year? For 17/18?

21 Q It was P-5.

22 MR. GROSSMAN: I thought the question was
23 2016/2017.

24 MR. LANG: That's this one.

25 MR. INZELBUCH: Wait, wait. Let her find it.

1 BY MS. PRAPAS:

2 Q P-5. Do you want me to come up and show you?

3 A Yeah. Let me see. Yeah, that would be great.

4 MR. LANG: P-5, you want?

5 MR. INZELBUCH: She has P-5. She's going to
6 show him, Arthur.

7 MR. LANG: Yeah.

8 BY MS. PRAPAS:

9 Q Okay. So this is actually R-5.

10 A Oh, okay. It's the 17/18 budget. Right?

11 Q But it's the same as P-5. So on this
12 document, when you referred to the revised budget, you
13 said it's the budget as advertised. But that's not the
14 same as the actual costs for 2016/17. Correct? The
15 2016/17 revised is not the same as the 2016/17 actual
16 costs. Correct?

17 A No.

18 Q Yes.

19 A No. This is the 2017/18 user friendly budget.
20 This is what you're budgeting for 17/18.

21 Q Can you state for the record what you're
22 pointing to?

23 A Yes. The column marked 2016/17 Anticipated.
24 That's what you're budgeting for, for the next year.
25 The column marked 2016/17 Revised, is not the original

1 State approved budget. What the State has you do when
2 you prepare your budget for next -- for each year, is
3 the column, the previous year, as opposed to putting in
4 the budgeted numbers, okay, you put in your most
5 revised numbers as of February 1st. So this would
6 reflect any transfers in and out of accounts. It's
7 still going to be your -- your budget. You know, it
8 should be the budgeted amount from the year before.
9 But it could be in different places. That's why the
10 State calls it a rev -- revised.

11 Q So --

12 A But it's not actual expenses. That's just --

13 Q It's not the same as the actual expenses --

14 A No.

15 Q -- at the end of the --

16 A Right.

17 Q -- fiscal year.

18 A The 15/16 Actual column is actual expenses from
19 the prior year, audited.

20 Q Okay. And so the 2017/18 Anticipated column,
21 those are just -- Is -- That's an estimate of the next
22 year's budget, of that year's budget?

23 A Well, that is the budget. It's the -- What you're
24 ask, is what you're saying to the public, that this is
25 what we want to have as our budget for that year

1 Q But again, the -- so the Anticipated column.

2 A Anticipated.

3 Q That's not the actual costs, on P-5, for
4 17/18. Correct? That's not the actual costs.

5 A No. No, it's not.

6 Q Okay.

7 A Because you're preparing that budget a year or so
8 in advance. Okay? You're preparing like in March.
9 Like right now, we'll prepare our 18/19 budget during
10 the month of March of 18. So you're talking over a
11 year ahead of -- you know, a year ahead of time. So
12 it's what you anticipate, what you're budgeting. It's
13 not actual numbers.

14 Q Okay. You're aware that Lakewood's totalized
15 -- total equalized school tax rate is one of the lowest
16 among similarly sized districts? Are you --

17 A Personally aware? No, I haven't done any study of
18 other districts to see what their equalized value is.
19 But all I could say is that equalized value has to be
20 taken into -- You have to understand that if a town has
21 just had a reassessment, okay. And I believe Lakewood
22 had a reassessment I think last year or the year
23 before. So tax rates, if you're like looking on the
24 table of equalized values, put out by each county tax
25 board. And you see, you know, everybody's got a rate,

1 or everybody's, you know, \$1.43, \$1.37, \$1.20. And
2 suddenly you see a town, 98 cents. Oh, wow, they have
3 a low rate. But usually there may be a little notation
4 next to it, a little r. Then you read the legend at
5 the bottom. Either there's been a reval or
6 reassessment. And the other towns may not have had a
7 reassessment or a reval in many years. So their tax
8 rate is much higher, but the assessed values are lower
9 than what fair market is. So you have to really read
10 those tables and read all the notes to see. So just
11 glancing at that table and seeing that a town has A
12 Dollar Four point Five; Oh, their rate is really low.
13 You have to really know the details behind that.

14 Q Okay. So you're aware that even when the
15 total municipal tax levy has gone up in recent years,
16 in the past in Lakewood, the school tax rate has
17 remained lower than State average.

18 A I'm not aware of --

19 Q Okay.

20 A -- of whether it's lower than the State average or
21 not. No.

22 Q You testified that a district can afford to
23 spend 40 percent of its budget on transportation and
24 tuition costs?

25 A Correct.

1 Q That was your testimony. If a bridge were
2 built over Route 9, that could reduce transportation
3 costs?

4 A I'm not a transportation expert. But I -- I live
5 in the town next door and travel Route 9 extensively.
6 You would have to build a lot of bridges. It wouldn't
7 just be one.

8 Q And if other measures were implemented, other
9 safety measures that would make routes less hazardous,
10 like putting in additional crossing guards, that could
11 also reduce transportation costs.

12 A In theory, if you -- if routes weren't hazardous
13 --

14 Q Okay. Thank you.

15 A -- and you didn't have to bus the children. Then
16 yes, you would save on your busing costs.

17 Q And also -- Strike that. You testified that
18 the revenue to Lakewood is limited by a two percent
19 levy cap.

20 A Well, for Lakewood and for every school district.
21 Yes.

22 Q Right.

23 A With -- With several exceptions allowed by law.
24 But in general, it's a two percent hard cap.

25 Q And the decision to impose that two percent

1 hard cap is a legislative decision. Correct?

2 A Correct.

3 Q It's a policy decision. Correct?

4 A Well it's legislated. It's the law. Yeah.

5 Q Okay. And you're aware that the voters of
6 Lakewood can elect to exceed that cap for certain
7 expenditures that don't constitute T and E?

8 A Yes. They could go out for a separate proposal.
9 Correct.

10 Q Okay. Like transportation costs for non-
11 public students, because that is not a cost that
12 constitutes T and E. Correct?

13 A Well, man -- Well, mandated costs they can't go
14 out. You can only go out -- At least what I've learned
15 over the years, as a BA. You could go out for a
16 separate proposal as long as it doesn't affect T and E.
17 And as long as it's not a mandated expenditure. Now,
18 mandated busing for the two or two and a half miles
19 can't be put out to a separate proposal because State
20 law requires it.

21 Q And by two and two and a half miles, you mean
22 farther than two or two and a half miles.

23 A Well for elementary students, the law says if
24 they're more than two miles remote from school, the
25 district must provide busing. And if they're more than

1 two and a half miles remote from school, and in high
2 school, the district must provide busing. And the law
3 further states that once the district provides busing
4 for public school students, it must provide the same
5 busing for non-public students.

6 Q Okay. And you're aware that voters could
7 elect to exceed the two percent hard cap for athletic
8 expenses or for athletic costs.

9 A That would be correct.

10 Q -- athletic programs.

11 A That would be correct.

12 Q Okay. And you are aware that the voters of
13 Lakewood voted down the -- the question to exceed the
14 cap for courtesy busing?

15 A I'm not familiar.

16 Q Okay.

17 A I know that was several years ago. But I -- But
18 didn't really follow it closely.

19 Q Okay. You also testified that the State did
20 not ask Lakewood to repay the loans against future
21 State aid for the 2015/16 year. Correct?

22 A I believe they got a deferment for that. Yes.

23 Q And you also testified that you were told by
24 the State, quote, "At least budget wise," unquote, that
25 it would have to pay back the loans. Is that correct?

1 Is that your testimony?

2 A We were advised -- I was advised by the State
3 Monitor, Mr. Shafter, that it's -- there's a good
4 likelihood that we'll have to pay back at least 2 point
5 -- a little -- almost 2.1 Million in the 18/19 budget.
6 So that when I'm putting the budget together, to at
7 least for right now, budget for that.

8 Q Okay. But up to this point, DOE has deferred
9 the existing laws against State aid to Lakewood.

10 Correct?

11 A We've paid back some money. But it's they've
12 stretched it out over ten years. And in this year, we
13 were told we were getting a deferment. But actually,
14 trea -- the Department of Treasury has been taking the
15 loans back. And actually, the State Monitor just told
16 us yesterday, that he's still in contact with his boss
17 in Trenton, as well as Treasury, to A, stop taking the
18 money out of our State aid and to put it back.

19 Because it was agreed earlier in the year that they
20 weren't going to take it out, but they've been taking
21 it out since. I'm not sure, because I think they've
22 been taking it out since September.

23 Q If the State doesn't request that Lakewood
24 pay back the loans. Those funds that were satisfied in
25 the budget can be redistributed for other general fund

1 expenses. Is that correct?

2 A Theoretically, yes.

3 Q Okay. So looking at P-23. I don't know if
4 you have another copy of this, Art. Do you have a copy
5 of P-23 for him?

6 MR. LANG: Yeah, sure. P -- Oh, no. I
7 didn't. I have a whole thing --

8 MS. PRAPAS: I can walk up here. I'll walk
9 up.

10 MR. INZELBUCH: Arthur, you don't have one.
11 It's okay though.

12 MR. LANG: I have it on my computer.

13 MR. INZELBUCH: Well.

14 BY MS. PRAPAS:

15 Q All right. So this was a document that you
16 testified about last time. And you cite two sources at
17 the bottom here.

18 A Right.

19 Q Annual audit reports for 2014 through 17 and
20 budget projection reports for 2018/19.

21 A Correct.

22 Q But you don't specify on the document what
23 numbers come from which source. Correct?

24 A Well, the 2014/15 actual, 15/16 actual, and 16/17
25 actual, are from the audit reports. The projected is

1 coming off our budget projection report from our
2 computer system, our accounting system. And the 17/18
3 current expenditures is also from off the District's
4 accounting system.

5 Q Okay. So we have no way to verify the
6 numbers in the 2017/18 Current column or the 2018/19
7 Projected column because they're on the District's own
8 software. Correct?

9 A Well, short of printing a report.

10 Q Okay. So in projecting expenses for
11 2018/2019, you didn't consider that the LSTA pilot
12 program might not be re -- renewed? That's not part of
13 the budget software. It doesn't consider things like
14 that.

15 A Well, we're --

16 MR. INZELBUCH: Your Honor, objection. It's
17 not a legal way to do it. The law -- We're all going
18 to sit here and say I'm just an observer. But the LSTA
19 says they have to fund this next year. So there has to
20 come a point of fantasy ended. Because LSTA law says,
21 the LSTA must be funded 18/19. So there would be no
22 reason for him to consider otherwise.

23 THE COURT: Well, just because the
24 legislature says it's funded doesn't mean it will be.

25 MR. INZELBUCH: Just like they say we'll get

1 theoretical funding.

2 THE WITNESS: We have to fund the LSTA.

3 THE COURT: The same thing -- The same thing
4 with the school funding formula.

5 MR. INZELBUCH: Right.

6 THE COURT: It's supposed to be funded but
7 it's not.

8 MR. INZELBUCH: And you know what, excellent
9 point.

10 THE COURT: Thank you, Mr. Inzelbuch. Even
11 though your commentary is not always appropriate.
12 (Laughter) Okay.

13 MS. PRAPAS: Okay, so --

14 THE COURT: You can answer the question.

15 MS. PRAPAS: Go ahead.

16 THE COURT: Projecting for the 2018/2019.

17 THE WITNESS: My understanding is the LSTA
18 exists for next year. We have to fund it at \$1,000 per
19 student, times the number of students that are mandated
20 for busing. Every year, when that number -- After
21 speaking with our transportation department and the
22 business administrator himself, and others in the
23 district, other administrators, we normally budget an
24 additional 2,500 to 3,000 students each year that will
25 be eligible for, as non-public mandated students. So

1 yes, in the budget for next year, we have money set
2 aside that will go to the LSTA, based on \$1,000 a
3 student times roughly about 25,000 students.

4 BY MS. PRAPAS:

5 Q Okay. So this column here, this doesn't take
6 into -- This 2018/19 projected from the budget
7 software, it doesn't take into consideration chan --
8 possible changes in law and possible changes in the
9 Township, in the -- kind of the -- the facts of the
10 Township, it doesn't consider that as part of the
11 budget software where -- where making this projection.
12 Is that correct?

13 A It takes into -- Well, it's not that the system
14 doesn't take it. It's the person entering it into the
15 system. I could only take into account what I know at
16 that moment.

17 Q Okay. Thank you. So, turning to P-26, which
18 is this one here. Oh, and just this, P-23, you -- you
19 completed this document yourself, entirely.

20 A Yes, I did.

21 Q No one else assisted with --

22 A Correct.

23 Q -- with this.

24 A Correct.

25 Q Okay. And for P-26, the same thing. You're

1 the only one that -- that -- You're the only person
2 that performed the analysis and generated this
3 document. No one assisted you in creating it.

4 A Correct.

5 Q Okay. So, looking at P-26, you don't cite
6 any sources on this page for any these figures.

7 Correct? You don't --

8 A Not on the page itself. No.

9 Q Okay. And you testified -- Let me get --
10 Okay. You testified last time that this transportation
11 aid number at the top, this Four Million One Hundred
12 Ninety-Nine Thousand Seven Hundred Ninety-Three
13 Dollars. You testified that that came from the 2018
14 State aid -- the State Aid Notice. Correct?

15 A For what?

16 Q And this was P-25.

17 A From our State Aid Notice. Correct.

18 Q Okay. And this is the Info Only Notice.
19 Correct?

20 A Which is not your actual State aid.

21 Q Okay. But this is where you got this -- You
22 testified that this is where you got this number from.

23 A No, I got this number -- The formula is from our
24 State -- Well, let me go back a sec. There were two
25 different printouts that the State gives. You get a

1 State aid printout that has your actual State aid.
2 They also give out one called For Information Only.
3 And that's really what it is. It's for -- It's what
4 your State aid would have been had the school funding
5 formula been fully funded. But this is not the one
6 where you're pulling your numbers from. That's why
7 they mark it For Information Only.

8 Q But this is what you testified last time that
9 you got the numbers from.

10 A No, I test --

11 Q This is what you were shown.

12 A I believe I testified that it came from the State
13 aid printout. I don't remember this being shown to me
14 during the last testimony. I know I stated this came
15 from the State aid printout that has our actual State
16 aid on it.

17 Q Okay. I can bring you the other one. I
18 think the number is the same.

19 MR. INZELBUCH: If you could just let us all
20 know which exhibit you're looking.

21 MS. PRAPAS: Sure. I think it's R-10.

22 MR. INZELBUCH: All right.

23 MR. LANG: Could I have it?

24 MS. PRAPAS: Let me check. It's just the --
25 the State Aid Notice. Yeah.

1 MR. LANG: Oh. So, that would correspond t
2 my P -- P-3. Is that P-3?

3 MR. INZELBUCH: Could we just -- Before you
4 show him.

5 MS. PRAPAS: Yeah, let's check the one.

6 MR. LANG: Can I see what it is? Is it the
7 --

8 MR. INZELBUCH: Well, let -- He should be
9 able to see it. He asked to see it.

10 MS. PRAPAS: This is just the State aid.

11 MR. LANG: Is it this?

12 THE WITNESS: This is the incorrect year.

13 MR. INZELBUCH: Wait.

14 MR. LANG: Can we know what it is?

15 MS. PRAPAS: Hold on.

16 THE COURT: What is the --

17 MS. PRAPAS: I might not have it here.

18 THE WITNESS: Yeah. We need to look for
19 17/18.

20 MS. PRAPAS: Yeah. Do you have the --

21 MR. LANG: Is it this thing?

22 MS. PRAPAS: It's the one that you showed him
23 last time. Yes.

24 MR. LANG: Well no. I didn't show this to
25 him. I showed this to Danielle Ferry (phonetic).

1 MS. PRAPAS: I don't know what you have
2 there. Hold on. Let me --

3 MR. LANG: Can I see what you have at least?

4 MR. INZELBUCH: All right. Let her show you.

5 MS. PRAPAS: Well, hold on.

6 THE COURT: Now, now, please.

7 MS. PRAPAS: All right. Okay. So looking at
8 this number here, this Four Million One Hundred Ninety-
9 Nine Seven Hundred and Nineteen --

10 MR. INZELBUCH: What document?

11 THE COURT: What exhibit?

12 MS. PRAPAS: This is P-26.

13 THE COURT: All right. Which was shown to
14 him on Direct.

15 MS. PRAPAS: Right. So, you testified that
16 you got that number --

17 (Sneeze)

18 MR. INZELBUCH: Bless you.

19 MS. PRAPAS: -- number from the 2016/2017
20 regular State Aid Notice, not the Info Only Notice.

21 THE WITNESS: No, 2017/2018 --

22 MS. PRAPAS: 2017-2018.

23 THE WITNESS: -- State Aid. Right.

24 BY MS. PRAPAS:

25 Q Okay.

1 A Right. This is the 2017/2018 State Aid.

2 Q Okay. And you also testified that regarding
3 your calculations here --

4 A Hm hmm.

5 Q -- in -- on P-26, the bottom three rows, the
6 percentage aid for non-public, percentage aid for
7 public, and percentage age for -- percentage aid for
8 special ed students.

9 A Right.

10 Q You testified that to get those numbers, you
11 divided the total number of public special ed and non-
12 public students by the total number of students to
13 determine the aid allocation percentages. Is that
14 correct?

15 A Correct.

16 Q Okay. Looking at the next table down on P-
17 26. You do not cite or testify -- You didn't -- You
18 didn't testify to the source that you relied on for the
19 non-public mandated busing costs for 2017/2018.
20 Correct?

21 A I don't recall. But --

22 Q Okay. And there's no source cited on this
23 page here. Correct?

24 A No.

25 Q So we have no way to verify that number for

1 the projected cost for 2017/18.

2 A I can tell you where I got them from.

3 Q Okay.

4 A Okay.

5 Q Where did you get them?

6 A Well, you know what, let's start at the very top.

7 Q Well, no. Let -- Wait.

8 A You want to start here?

9 Q Just here.

10 A Okay.

11 Q Where did you get this number from? And I'm
12 pointing to --

13 A This --

14 Q -- Projected 2017/18 --

15 A When this --

16 Q -- form.

17 A When this form was filled out a couple of weeks
18 ago, we went -- I went onto our accounting system, took
19 a look at what we were projecting to pay in non-public
20 schools for mandated busing, put that. And that's
21 where that number comes from.

22 Q Okay.

23 A Okay.

24 Q So yet again. So we don't have anyway to
25 verify that, the accuracy of -- I mean, this is a

1 projection, first of all.

2 A It's roughly based on \$1,000 per -- Well, this is
3 based on \$1,000 per student times the number of
4 students. Plus a propor -- Each one of these, a
5 proportionate share of the overhead of operating the
6 transportation department within the District. That
7 would be salaries, benefits, pension, and health
8 insurance. All of that.

9 Q Okay.

10 A So it gives you a true cost.

11 MR. INZELBUCH: Is there anyway you could
12 have another copy of that instead of leaning over him?

13 MS. PRAPAS: Yes. I'm sorry.

14 MR. INZELBUCH: And -- Let's like --

15 MS. PRAPAS: Yes. Let me -- I have another
16 copy.

17 MR. LANG: I have a copy machine here.

18 MS. PRAPAS: No, I have one.

19 MR. LANG: I can get a copy 1-2-3.

20 MR. INZELBUCH: I didn't know you brought a
21 copy machine.

22 MR. LANG: Right there.

23 MR. INZELBUCH: Really.

24 MS. PRAPAS: No, I -- That's fine. I have
25 one.

1 MR. INZELBUCH: This hearing's teaching me a
2 lot. A copy machine, Skype --

3 MR. LANG: It would be you --

4 MR. INZELBUCH: Not bad. It's -- too good.

5 THE WITNESS: Bring your own copy machine.

6 MR. INZELBUCH: You can't talk to me. Bring
7 your own copy machine.

8 THE WITNESS: Bring your own copy machine.

9 MR. INZELBUCH: Keep the jokes til the end.

10 THE WITNESS: Okay.

11 MR. STARK: Sorry. One second, Your Honor.
12 We're just --

13 MR. INZELBUCH: Please help her. Do you have
14 a bottle of water, sir, you want or something? Are you
15 okay?

16 THE WITNESS: Oh.

17 THE COURT: Do you want water or anything?

18 THE WITNESS: I'm fine.

19 MR. INZELBUCH: We need you. Not many people
20 like when I say that.

21 THE WITNESS: I mean, people in family say
22 that either, but it's all right. It's all right.

23 MR. INZELBUCH: No, you can't joke with me.

24 THE COURT: You can't talk to him.

25 THE WITNESS: Okay.

1 THE COURT: There's a copy machine outside.
2 Just ask -- Just ask the officer.

3 MS. PRAPAS: Okay.

4 MR. STARK: Thank you for the indulgence,
5 Your Honor.

6 THE COURT: Okay.

7 MR. LANG: What?

8 MR. INZELBUCH: No, you relax. Relax.
9 Everyone relax. In and out. Breath.

10 THE COURT: Mr. Inzelbuch.

11 MR. INZELBUCH: I'm just telling you.

12 THE COURT: How often do I have to tell you?
13 I get tired of --

14 MR. INZELBUCH: I know. But you do down like
15 me.

16 THE COURT: I want you to control yourself.

17 MR. INZELBUCH: I'm trying. But I'm watching
18 this and it's very hard.

19 MR. LANG: You get along with no one.

20 (Laughs)

21 BY MS. PRAPAS:

22 Q Okay. So you -- you testified that the
23 District receives two types of transportation aid.
24 Correct?

25 A Correct.

1 Q Okay. The first type will be Categorical
2 Aid, which is that 4.2 Million Dollar figure at the top
3 of Table 1 on P-26, which the State provides to the
4 District in 20 installments throughout the year, from
5 September to June.

6 A Correct.

7 Q And the second type of aid, the State
8 provides for non-public students who are transported.
9 And that, the State provides the District at the end of
10 the year, after the District files for reimbursement
11 from the State. Correct?

12 A They file for reimbursement in June. Correct?
13 And normally you don't get the actual cash until July
14 or August.

15 Q Okay. So you have on that table, on P-26,
16 the number 19,174 students as the number of non-public
17 students. Correct?

18 A Correct.

19 Q And you got that number from the 2017/2018
20 State Aid Notice. And that is the October 16 Count.
21 Correct?

22 A That's -- It's -- It's from the 2017/2018 State
23 aid printout. Correct. And that's based on your
24 October 15th, 2000 -- In this case, 16, District Report
25 of transported resident students. It's always a year

1 behind.

2 Q And the District was reimbursed for those --
3 the cost for those students in fiscal year 16/17.

4 Correct?

5 A No. The students that are reported on the DRTRS
6 for October 15, 2016 are the students that generate the
7 aid for the subsequent fiscal year, for 17/18.

8 Q Right.

9 A Right.

10 Q But that figure on the table, that 19,174
11 students, you got that from the State Aid Notice, not
12 from the DRTRS. Correct?

13 A The 19,174 is from the State Aid Notice. Correct.

14 Q Right. So, if there were more -- more
15 students -- more non-public students on the DRTRS, then
16 the District would receive more State aid than what you
17 have listed on that table. Correct?

18 A The more students you report that you're -- that
19 are --

20 MR. LANG: Objection.

21 THE WITNESS: -- meet the requirements, you
22 would get more aid. Correct.

23 THE COURT: He's already answered the
24 question.

25 MR. LANG: Oh. But I wanted to know what

1 year. More State aid for what year?

2 MS. PRAPAS: Well, the year on the table for
3 -- on his table, on P-26, the second table down.

4 MR. LANG: And so if he --

5 THE COURT: --

6 MR. LANG: You're asking if more were to be
7 reported in 2016, you will get more.

8 MR. INZELBUCH: I think the Judge has a
9 question.

10 THE COURT: Does it always run like a year
11 behind? Is that how it works?

12 THE WITNESS: It's always a year. There's
13 two forms of aid. This categorical aid is based on
14 your District report of transported students, which is
15 a year behind. The money that you file for in June as
16 a reimbursement is based on what you actually have in
17 June.

18 BY MS. PRAPAS:

19 Q Right. So if -- It would be for -- for every
20 year it works that way.

21 A For every year it works that way.

22 Q Okay.

23 A Right.

24 Q So on the table, where you have listed as --
25 as \$763 for student, if -- if the District received

1 more aid, based on the DRTRS numbers, then it would be
2 actually less than \$763 per student. Correct?

3 A The more aid you would receive, the less your cost
4 would be. Correct.

5 Q Okay. And you testified that, quote, "If you
6 only just looked at the public school students and the
7 wealth of that group of folks, we would be getting a
8 lot more in terms of State aid." Is that your
9 testimony?

10 A Say that again. Sorry.

11 Q Okay. Quote, "If you only looked at the
12 amount of -- at the public school students and the
13 wealth of that group of folks, -- "

14 A Oh.

15 Q " -- we would be getting a lot more in terms
16 of State aid."

17 A Correct.

18 Q Okay. But isn't it true that every person
19 that lives in a municipality has to pay school taxes,
20 including people that don't have any children at all?

21 A Correct.

22 Q And including people that elect to place
23 their children in private schools. In any Township,
24 those people also have to pay municipal taxes, in-
25 school taxes. Correct?

1 A That's correct.

2 Q And isn't it true that the Lakewood Board of
3 Education sets the school tax rate within the
4 parameters of the two percent levy cap?

5 A Within the two percent cap. Correct. Yes.

6 Q And you testified that for determining the
7 adequacy budget, the State only considers the roughly
8 \$6,000 public school students. Correct?

9 A For determining the adequacy budget; correct.

10 Q Correct.

11 A Yes.

12 Q But in addition to the adequacy budget, the
13 State also provides the District with categorical aid
14 and other State aid. Correct?

15 A Yes. Correct.

16 MS. PRAPAS: Okay. No further questions.

17 THE COURT: All right. Anything else, Mr.
18 Lang?

19 REDIRECT EXAMINATION BY MR. LANG:

20 Q Yes. Yes. Based on what she asked. I'm
21 going to go backwards again. All right. Are you
22 familiar with what the local fare share is in Lakewood,
23 according to the FYA team?

24 A I don't have it in front of me, but I --

25 MS. PRAPAS: Objection. That goes beyond the

1 scope of --

2 MR. LANG: You were asking about that just
3 before.

4 THE COURT: She didn't actually. She didn't.

5 MS. PRAPAS: I did not.

6 MR. LANG: You were asking about
7 consideration of the --

8 MR. GROSSMAN: -- --

9 BY MR. LANG:

10 Q All right. Fine.

11 THE COURT: Actually her cross examination's
12 pretty limited to --

13 MR. LANG: Okay. So.

14 THE COURT: --

15 MR. LANG: Let me just stick to what she
16 asked. And I have a few notes here. She asked you
17 about the 2017 to 2018, in R-5. The Anticipated and --
18 And my question is -- is, did those numbers go up, 2017
19 to 2018?

20 MR. INZELBUCH: He has no idea.

21 THE WITNESS: I -- I don't have it right in
22 front of me. So if you could show that to me.

23 BY MR. LANG:

24 Q And in particular, let's look at tuition
25 and transportation.

1 THE COURT: What exhibit are you showing him?

2 MR. LANG: P-5. Oh, I'm not on the right
3 page, actually. I'm on expenses.

4 MR. STARK: Your Honor, just for
5 clarification. It sounded like Mr. Lang asked about
6 transportation in Trenton. I'm assuming that word,
7 that was just a slip of the tongue.

8 MR. LANG: Trenton? Yeah.

9 MR. INZELBUCH: We don't know about tuition
10 in Trenton.

11 MR. LANG: Yeah.

12 MR. STARK: I sort of figured.

13 BY MR. LANG:

14 Q All right. So she was asking about the
15 anticipated 2017 to 2018, about it being the actual
16 cost. So since this budget was passed, did the tuition
17 expense go up?

18 A Our total -- Yes. Tuition has gone up --

19 Q For that year.

20 A -- above what we had actually budgeted already.
21 Yes.

22 Q Did transportation go up?

23 A Yes.

24 Q Okay. She also was -- was talking to you
25 about the SFR -- Not the SFR. -- the LSTA, the

1 Lakewood. Now, it seems to me that on P-26 you have --

2 A I don't have P-26.

3 Q Oh, you don't have it in front of you. She
4 took it.

5 MS. PRAPAS: No.

6 MR. LANG: All right. But --

7 MR. INZELBUCH: Wait a minute. Did she even
8 look at P-26?

9 MR. LANG: That was -- That was -- Yeah.
10 That's what she was talking about, all those questions.

11 MR. INZELBUCH: Oh, you mean the R? Okay. I
12 don't know.

13 THE COURT: Hm hmm. Hm hmm. Yeah.

14 BY MR. LANG:

15 Q So, you have --

16 A Oh.

17 MR. INZELBUCH: And I don't mean to refer to
18 you as she. I apologize.

19 MR. LANG: So you have the --

20 MR. INZELBUCH: I called her she --

21 BY MR. LANG:

22 Q So what is the State reimbursement to the
23 LSTA? It's \$1,000. How much does the State pay for?

24 A You mean to the --

25 Q How much is the cost to the District. In

1 other words, how much -- how much is the cost to the
2 District. Not -- I'm not going to talk about the
3 transportation aid. After the reimbursement for the
4 LSTA, on this thing, it says here, \$290 per kid. So
5 what is the cost to the District?

6 A The -- You got two forms of State aid for
7 transportation; categorical, that's the 4.2, based on
8 your DRTS -- TRS from the year before. Non-public
9 transportation aid reimbursement at year-end, based on
10 actual students mandated and transported. You know,
11 mandated for transportation. The State law says, they
12 picked the number at some point in time, the
13 legislation, and said, Any cost above \$710, the State
14 will then reimburse for non-public transportation. So,
15 essentially, Districts have to eat, pay, cough up the
16 first \$710.

17 Q That's what I was getting at. And so, she
18 asked you about the LSTA being abolished. If the LSTA
19 would be abolished, that shouldn't have any bearing on
20 the actual State aid for transportation, not the
21 reimbursement, the State aid.

22 A It shouldn't. No.

23 Q It shouldn't have any -- Okay.

24 A Two different laws.

25 Q So now the question is this. If the LSTA was

1 abolished -- We established that it's costing the
2 District 710. State aid shouldn't make -- shouldn't
3 make a difference. Would the District be held to run
4 its own transportation program for less than \$710 per
5 kid?

6 A That, it would all --

7 Q Would it save money, basically? That's what
8 I'm asking the question.

9 A That would all depend on if, A, would the District
10 be able to use its own buses or buy enough buses? B,
11 would the District have to go out and contract out the
12 routes? What those bids would come in for? At one
13 time, the District did do its own busing of -- Didn't
14 have an LSTA and went out to bid. And most of the
15 routes were bid. At that point, all the routes were
16 bid routes for non-public. To conjecture whether or
17 not it would be more expensive or less expensive, until
18 you open the bids you're not going to know.

19 Q It would -- It would have to coming in, I
20 guess, at less than 710 per.

21 A It could --

22 Q Okay. So that's the number. Yeah.

23 A Well, the State law says, if you go out to bid,
24 okay, assuming we were still doing it. Even the LSTA
25 has to do the same thing, it's the same law. If the

1 cost of -- If the -- If you go out to bid and the price
2 comes back at under \$1,000 per student, then you could
3 award the bid. If the bids come out at more than
4 \$1,000 a student, then you actually can't award the
5 bid. And you have to pay the student's family what's
6 called aid in lieu of transportation. Where you
7 actually write a check to the parents, and say, Well,
8 we went out to bid. The prices came back at more than
9 \$1,000. Here's a check for \$1,000 for each -- You
10 know, one kid to no matter -- You know, it depends on
11 how many kids you have. And you now get your own
12 busing, or drive your kids to school, or whatever. But
13 the District no longer has to pay for it. It reached
14 that Thousand limit. Here's a check for \$1,000.

15 THE COURT: Who came up with this idea?

16 THE WITNESS: The State legislature.

17 MR. INZELBUCH: I love when you do that.

18 BY MR. LANG:

19 Q Let me ask the question. This is -- This is
20 not just for Lakewood this Thousand Dollars.

21 A No.

22 Q It's the law throughout the State.

23 A Law throughout the State. State wide. Yes.

24 MR. INZELBUCH: That's why he said the
25 legislature.

1 MR. LANG: Right. Well, they didn't just do
2 it for Lakewood.

3 THE WITNESS: No.

4 THE COURT: I was thinking, if you have three
5 kids in one house, and they're all in, let's say,
6 elementary school, and they all go to the same school,
7 and the parents could be getting \$3,000 if they have
8 three kids, or \$1,000 if they have one kid. So,
9 transportation cost is still the same in the car to get
10 to the school.

11 THE WITNESS: True.

12 MR. INZELBUCH: Good point.

13 THE WITNESS: True.

14 MR. LANG: Hold on. Unless they all go to
15 different schools.

16 THE WITNESS: Oh. That's true.

17 THE COURT: Well, I said they were all in the
18 same school.

19 MR. INZELBUCH: In the same school.

20 MR. LANG: Yeah. So, I --

21 THE COURT: Like if you had --

22 MR. INZELBUCH: (Laughs)

23 BY MR. LANG:

24 Q Is it true that you said on November -- Not
25 November. January -- It's February 7th, that

1 abolishing the LSTA would not save any money for the
2 District. Do you understand?

3 A I don't --

4 Q Don't remember.

5 A -- remember.

6 Q Okay. So we don't know.

7 MR. INZELBUCH: Can you just show him?

8 THE COURT: He doesn't know because he'd have
9 to send it out for a bid.

10 THE WITNESS: Yeah.

11 MR. INZELBUCH: Show him this. --

12 MR. LANG: Right. Exactly. So it's not
13 important. That's all right.

14 THE COURT: Okay.

15 MR. LANG: We got our answer.

16 BY MR. LANG:

17 Q All right. Is there a -- All right. You
18 testified that the -- there is some -- some
19 negotiations between the State Monitor and the State
20 about -- Did you testi -- about whether they're going
21 to take out money for -- to pay back the loans this
22 year?

23 A Yeah. I mean, yes. We've been in contact,
24 obviously, with our State Monitor, he's there three
25 days a week, and he was just at our Board meeting last

1 night. And we had asked. The Board actually asked
2 him, What's going on with this deferment for this year?
3 Why -- Are they going to defer the money and give it
4 back, what they've taken from us? And are they going
5 to defer it for next year?

6 Q Is --

7 A And his answer was, He's working on it.

8 Q Is there a promise with that? Is that -- a
9 problem. Is there some kind of problem with just this
10 kind of promise? And how would it affect you as trying
11 to put together the budget?

12 A Well, for me to put the -- Putting the budget --

13 MS. PRAPAS: Objection. I'm sorry. I just
14 did not understand that question.

15 THE COURT: I think it's going to be
16 rephrased.

17 MS. PRAPAS: It's okay. All right.

18 BY MR. LANG:

19 Q As we speak now, is there money that was
20 promised to be deferred that is still being taken?

21 A Yes. The State's been taking it out, I believe,
22 since -- since September.

23 Q Okay. And this is -- And even -- And they
24 said they would not do that?

25 A The verbal promise made -- Apparently, verbal

1 promise made to our State Monitor, in touch with his
2 office, was that, when it started to come out, that it
3 was in error and the Treasury would correct it. And
4 the months have just gone on and the Treasury's not
5 correcting it.

6 Q So what's the affect of the fact that they
7 did make this promise but they're still taking out the
8 money? What's the affect on the budget?

9 A On the -- Well, not so much on the -- It's a --
10 It's a problem with cash flow at this point.

11 MR. INZELBUCH: What do you mean?

12 THE WITNESS: It will become a problem with
13 cash flow.

14 BY MR. LANG:

15 Q Wait. What does that mean? How does that
16 affect the budget?

17 A Again, I'm not talking about --

18 THE COURT: It wasn't the budget.

19 THE WITNESS: I'm talking about the cash
20 flow.

21 MR. INZELBUCH: Paying bills.

22 THE WITNESS: The problem is if we're getting
23 less money, even if it is corrected down the road,
24 we're reaching kind of a cash crunch at this point.
25 And unless this gets corrected soon, it could be -- You

1 know, payroll will get paid. Okay. But other bills
2 may not get paid right away because we're short the
3 money, the cash, the physical cash.

4 BY MR. LANG:

5 Q What's going to happen if -- Well, when is
6 the -- When is the budget due to be completed?

7 A The 18/19 budget -- Well, as a matter of fact, we
8 were just told today. Usually State aid numbers come
9 out at the end of February. The Governor makes the
10 budget address, two days -- It's usually the next week.
11 New governors are always given, by an act of the
12 legislature, an extra couple of weeks. So we just
13 found out yesterday that the State aid numbers, instead
14 of coming out like around the 26th, the 27th of
15 February, will be coming out around March 15th. The
16 law also says that we have to get our budgets to the
17 County Superintendent by March 20th. That's not a lot
18 -- And March 15th is a Thursday. It doesn't give us a
19 whole lot of time to put in our State aid numbers and
20 make any adjustments that we need to make. So we just
21 found out, because as a matter of fact, while I was
22 sitting here waiting, the County Superintendent of
23 Schools sent a notice out that that date's now been
24 pushed back to March 29th. So we -- The answer to your
25 question is, we have to get our budget to the County

1 Superintendent of Schools by March 29th.

2 Q Okay. And what's going to happen if you
3 don't cover this deficit? If you don't get a loan of
4 someway to cover this deficit by March 29th?

5 A Well, March 29th is the introduced budget.

6 Q Okay.

7 A That's -- That, by law, you must introduce a
8 budget. Send it to the County Superintendent. He then
9 appro -- He or she. -- then approves it for
10 advertising. That's really what it's about, for
11 advertising. You then have X number of weeks it has to
12 be advertised. And then you have a public hearing.
13 That's when you have an official budget. And that date
14 hasn't changed. That, I believe, is May -- I think
15 it's May 12th.

16 Q So --

17 A That's when it becomes a final budget.

18 Q So, on March 29th, your -- If I understand
19 you correctly. You're going to have to come out with
20 an advertised budget.

21 A An intro -- introduced budget --

22 Q Introduced budget.

23 A -- for advertising.

24 Q And if you don't get any money from the State
25 to cover the deficit, it's going to -- it's going to --

1 that budget is not going to have those dollars that
2 you're saying are in the deficit, the 20 --

3 A Well.

4 Q -- the 17 to 23 Million dollars.

5 A Well, what we're -- what we're going to do, is
6 there is a line on the budget, on your revenue line,
7 you list all your revenues. Local revenues, tax levy,
8 miscellaneous, all the State aid. Which you'll get the
9 State aid printout on March 15th, saying this is what
10 you're getting for transportation, special ed,
11 equalization aid or whatever other aid you're entitled
12 to. And then there is a line on the bottom. Most
13 districts don't use it. We use it. DOE State Aid
14 Advances. We have to submit, even as an introduced
15 budget, it has to be a balanced budget. So if my
16 revenue is -- Make it simple. I'm getting \$100 in
17 revenue. I've got \$150 in expenditures. I can't
18 submit that budget. I have to show it's balanced. So
19 that line, that says DOE State Advances, is going to be
20 for short, you know, short of another word, plugged
21 number to balance the budget. And that essentially
22 will be at that point, what we'll be saying to the
23 State, this is what we need.

24 Q So what's going to happen is, that deficit's
25 going to appear on a line saying, DOE loan, even though

1 that loan has not been arranged at the time.

2 A Correct.

3 Q Okay. Are you familiar with any kind of
4 resolution of the Board of Education not to send out
5 Reductions in Force?

6 MS. PRAPAS: Objection.

7 THE COURT: No questions --

8 MS. PRAPAS: It's beyond the scope.

9 THE COURT: Yeah.

10 MR. INZELBUCH: It's okay, Arthur.

11 BY MR. LANG:

12 Q Oh, I'm sorry. I'm sorry. Yeah, I really --
13 I forgot. I'm sorry. Okay. Okay. Now, once -- once
14 that goes into -- In March, and it shows up as a DOE
15 loan to State, how will that ever be balanced? I mean,
16 if, you know, it can't stay as a loan for State
17 forever. It's -- What happens after that?

18 A Well, at that point, we'd introduce the list and
19 the Board approves it. It goes to the County
20 Superintendent. That will also be the point where
21 we'll be talking out our State Monitor and saying,
22 Okay, here's our introduced budget. This is -- If all
23 these numbers of what we anticipate spending hold, and
24 this is what the Board agrees to at the public hearing,
25 as of right now, we need you, as our State Monitor, to

1 go talk to the folks in Trenton and say, Based upon
2 what's been introduced, they need X. Whether that be
3 10 Million, 15 Million, 20 Million, whatever that
4 number might be. And then we have, of course, between
5 March 29th and approximately May 12th, 14th, I forget
6 the final date, when you have to have your public
7 hearing and approve your budget to work with the State
8 Monitor, with the DOE, Department of Ed on that State
9 aid advance.

10 Q Just, do the State Monitors have any input
11 before March 29th?

12 A We work with -- Yes. We work collaboratively with
13 the State Monitor on formulating the budget. Yes.

14 Q Do the State Monitors agree that there is a
15 17 to 23 Million Dollar deficit?

16 MR. STARK: Objection. That's not a question
17 that this witness can answer, as to whether or not the
18 State Monitor --

19 MR. INZELBUCH: If he spoke to them.

20 MR. LANG: -- Have they spoke to you?

21 THE COURT: Yeah.

22 BY MR. LANG:

23 Q Have they spoke to you?

24 A When I did my -- my presentation on January 31st
25 to the Board, where we brought out that we'd be looking

1 between 17 and 20 Million Dollars, the State Monitor
2 had reviewed it, and had approved it, and agreed with
3 it. And even, I believe he said it the same last night
4 when we were talking --

5 Q Yes.

6 A -- in public session.

7 Q Okay. No, don't. Just leave me alone.

8 MR. INZELBUCH: He likes it.

9 BY MR. LANG:

10 Q -- Now, they were asking you about the
11 Township and the courtesy busing of the public school
12 students. Are you familiar with the Township policy,
13 who gets public courtesy busing?

14 A The Township?

15 Q Who gets courtesy busing from the --

16 MS. PRAPAS: No. Objection. I didn't ask
17 about courtesy busing for public school students.

18 MR. LANG: Oh. All right.

19 MR. INZELBUCH: We know already. The record
20 knows with that.

21 BY MR. LANG:

22 Q Okay. So, are -- All right. Is any money
23 coming out of the school budget for courtesy busing?

24 A No.

25 Q Okay.

1 A No.

2 Q Is the Township paying for courtesy busing of
3 the public school students?

4 A Yes.

5 Q Okay. Do you know the policy of the
6 Township, who gets it? Because there are school
7 children that go to the District.

8 A I believe --

9 MS. PRAPAS: Objection. This is --

10 THE WITNESS: Yeah.

11 MR. LANG: You were asking about that. You
12 asked --

13 MR. STARK: Don't talk to her.

14 MR. INZELBUCH: That was about a bridge.

15 MR. STARK: Yeah, Judge.

16 MS. PRAPAS: Yeah. I didn't ask anything
17 about -- about this. About the courtesy busing --

18 MR. STARK: That's correct.

19 MR. LANG: Okay. I'm sorry.

20 MR. INZELBUCH: You could ask about a toll
21 bridge maybe.

22 BY MR. LANG:

23 Q Okay. Okay. (Whispering)

24 THE COURT: This is just Redirect.

25 MR. LANG: Yeah, I know. But that was based

1 on what she was asking. But I don't know if it's stuff
2 -- where I put my notes. So I guess that's it.

3 MR. INZELBUCH: Okay.

4 MR. LANG: Okay. I'm fine. No, I -- Because
5 I was writing down what she was asking, but I got mixed
6 up.

7 MR. STARK: No further questions, Your Honor.

8 MS. PRAPAS: No Recross, Your Honor.

9 THE COURT: Okay.

10 MR. INZELBUCH: It's hard to separate from
11 Mr. Finger. But.

12 THE COURT: I guess his topic.

13 MR. LANG: We're glad we're finished.

14 THE COURT: We're finished. Thank you very
15 much.

16 THE WITNESS: Thank you.

17 MR. INZELBUCH: You can leave. Thank you.
18 Stay with us as long as you can.

19 THE WITNESS: Thank you.

20 MR. LANG: Your Honor, I -- There was this
21 issue of judicial notice. And there were three letters
22 that I sent in. And I printed up everything.

23 THE COURT: Well, first of all. Did you
24 share all of that information? Which one of you is
25 doing that?

1 MS. HOFF: It's me.

2 MR. LANG: I gave them each a -- this also.

3 What are we doing now?

4 MR. STARK: We're going to talk about these.

5 MS. HOFF: I think we're talking about

6 judicial notice.

7 MR. LANG: Oh, okay.

8 MS. HOFF: I mean --

9 MR. INZELBUCH: Wait we're missing -- Can you
10 -- Wait. Okay. Yeah. What are you disc -- For the
11 record, what are you all --

12 MR. LANG: Judicial notice.

13 MR. INZELBUCH: Yeah, but --

14 MR. LANG: All those emails that I sent out.

15 MR. INZELBUCH: Oh, yeah. Okay.

16 MR. LANG: You saw them, Michael.

17 MS. HOFF: Wait, wait, wait, wait, wait.

18 MR. GROSSMAN: Michael, just sit down please.

19 MR. INZELBUCH: Yeah. Let the Judge find her

20 --

21 MR. GROSSMAN: Excuse me, please.

22 MR. LANG: I have a copy of everything.

23 MR. INZELBUCH: Well, the Judge needs to --

24 Just give her a second.

25 MR. LANG: No. Because I know the Judge can

1 print.

2 MR. GROSSMAN: Arthur. Arthur, just sit
3 down.

4 MR. INZELBUCH: I wanted to be her court
5 clerk for so long. (Laughs)

6 MR. GROSSMAN: That's what this stack is.

7 THE COURT: Okay. Well, first of all, let me
8 just start out with, you know, we -- we can't really
9 print out like all these pages.

10 MR. LANG: I did everything.

11 THE COURT: All right. But first of all, can
12 you stipulate to any of these documents? Is that?

13 MS. HOFF: I can stipulate to some of them.
14 I mean, a -- some of these documents are documents of
15 first impression that were just --

16 THE COURT: Is there like a master list
17 somewhere?

18 MR. LANG: Yes, Your Honor. Right here.
19 Except that I just don't have the Superintendent's
20 letters that -- But that's -- That's not judicial
21 notice anyway.

22 MS. HOFF: I -- I would -- I mean, I would
23 request that we be able to just -- Because there is so
24 much and because there was so much that was just
25 provided this week, and as late as 4 p.m., that we be

1 able to just sort of line item do this in writing.

2 Fair -- I mean --

3 THE COURT: Sounds good to me. Because we

4 can have it -- We can all have his --

5 MR. LANG: Well, could I at least leave them.

6 THE COURT: We can all have his feet, really.

7 MS. HOFF: Thank you, Your Honor.

8 THE COURT: Because I just -- I had to dig

9 out the rule. You know, because --

10 MS. HOFF: Right. It's --

11 THE COURT: And so.

12 MS. HOFF: Yeah. I wasn't able to print out

13 everything either.

14 MR. LANG: Your Honor, let me --

15 MR. GROSSMAN: Arthur.

16 MR. LANG: Just one -- one minute. Let me

17 just --

18 MR. INZELBUCH: Your Honor, didn't we just

19 hear that they would agree to look at all this?

20 THE COURT: They --

21 MR. LANG: Wait, wait. Before -- Before

22 anything. Most of this stuff they've had for four

23 years.

24 THE COURT: Okay. Wait, wait.

25 MR. LANG: I haven't been able --

1 THE COURT: Mr. Lang.

2 MR. GROSSMAN: Would you stop talking,
3 please?

4 THE COURT: Mr. Lang. Mr. Lang. Okay.
5 First of all you're asking me to take judicial notice
6 of something. So I'm going to have to refer to the
7 rules of evidence, which define what judicial notice
8 is. And there is judicial notice, essentially of --
9 I'll read it for you. "Decisional constitution and
10 public statutory law, rules of court, private
11 legislative acts, resolutions in the United States,
12 this State." In other words, judicial documents or
13 legislative documents. They're matters of record and
14 they've been published. Then we can take notice of
15 facts. Okay. "Facts are such specific facts and
16 propositions of generalized knowledge as are so
17 universally known that they cannot be reasonab -- that
18 they cannot reasonably be the subject of dispute." You
19 know. We're here at the moon, it's 239,000 miles away.
20 The sun is 93 miles away. That's -- That's a fact.
21 Nobody's going to take any dispute of that. I consider
22 the world is round, some people might think it's flat,
23 but generally speaking, the world is round. Okay.
24 Okay. "Such facts as are so generally known or are of
25 such common notoriety within the area pertinent to the

1 event, they cannot reasonably be the subject of
2 dispute." The Challenger explosion. Most of us saw
3 it. Okay. There's some people that think there's a
4 conspiracy, but most of us would agree that's a fact.
5 We can take judicial notice. "Specific facts and
6 propositions of generalized knowledge, which are
7 capable of immediate determination by resort to sources
8 whose accuracy cannot reasonably be questioned." Okay.
9 So that's an area. "And records of the court in which
10 the action is pending." Well, it was no records of the
11 Court. So, the only way you could pro -- possibly ask
12 this to get in, is our "specific facts and propositions
13 of generalized knowledge." We're not talking about
14 charts and graphs and things of that nature. We're
15 talking about a specific fact. So.

16 MR. LANG: But, --

17 THE COURT: That's why when you provide
18 anything that's printed off the DOE, or any other
19 website, it's only as good as information in,
20 information out. Now, is it a government -- Is it a
21 document that's been prepared in the normal course of
22 the agency's business? Probably yes. That's why you
23 should provide it all to the Deputy Attorneys General,
24 and then they can go through it, and if it matches,
25 they can say we stipulate to this. It doesn't mean

1 that it's anything that I have to take judicial notice
2 of. Because it's a document that's already been
3 prepared as part of business. Which is a separate
4 exception in the rules.

5 MR. LANG: That's what I was going to ask.

6 MR. GROSSMAN: --

7 MR. LANG: And I was going to ask possibly
8 even admission. Because it's coming from responses.

9 THE COURT: It's not an admission. Okay.
10 It's just you're going after the Commissioner of
11 Education, the Department of Education. They put
12 charts, graphs, statistics, all kinds of things on
13 their website. That's the agency's product, work
14 product, if you will. Surely most of that they can
15 stipulate to and say, "Yes, this is what it is."
16 They're not swearing that it's accurate because it's
17 only as good as whoever put the chart together.

18 MR. LANG: Hm hmm.

19 THE COURT: But for me to take judicial
20 notice of something means that this is, in fact, a
21 fact. I don't know if it's a fact or not. If they
22 said there were 31,002 students, and it turned out
23 there were 31,001 students, that's -- There's a dispute
24 in the facts. Do you see the difference?

25 MR. LANG: Hm hmm.

1 THE COURT: Okay. So I think Ms. Hoff's idea
2 is a very good one. Why don't -- This is what you want
3 me to admit into evidence. Is that right? All your
4 documents?

5 MR. LANG: Well, some of this stuff, I mean,
6 I don't know how I'm going to be able to have --

7 THE COURT: Okay. So why don't --

8 MR. LANG: -- a foundation. But most of it.
9 Yes.

10 THE COURT: All right. So why don't you go
11 through, and you circle every single document that you
12 want to move into evidence at the end of your case.
13 And anything that's a chart or a graph or a publication
14 of the Department of Education, or any other State
15 website, you can put another little mark in it, and
16 they'll see whether or not they can even just stipulate
17 to it. And then you don't have to worry about anything
18 else.

19 MR. LANG: And what happens if -- when
20 there's a disagreement, if they don't want to
21 stipulate?

22 MR. GROSSMAN: We'll see.

23 THE COURT: Then I decide.

24 MR. LANG: Well, I want to hear the Judge ask
25 her.

1 MR. GROSSMAN: --

2 THE COURT: I'm here for a reason.

3 (Laughter)

4 MR. LANG: Okay. All right.

5 MR. INZELBUCH: Oh, my goodness.

6 THE COURT: I think. Otherwise, the two of
7 you could just --

8 MR. STARK: Not just generosity of Your
9 Honor's time.

10 MR. INZELBUCH: That was really sweet.

11 MR. GROSSMAN: The Judge has affirmed.

12 THE COURT: Okay?

13 MR. GROSSMAN: Yeah.

14 THE COURT: So, I get --

15 MR. INZELBUCH: Has he -- Has the Petitioner
16 rested their case?

17 MR. GROSSMAN: No.

18 MS. HOFF: I don't think they can.

19 THE COURT: I'm waiting to -- I think so, but
20 I'm not sure.

21 MR. GROSSMAN: Well, it's subject to --
22 subject to introduction of the documents, Your Honor.

23 THE COURT: Yeah, that's what I thought.

24 MR. LANG: And also, we're going to brief. I
25 mean, I -- Otherwise, I --

1 THE COURT: Oh no, no. There's a whole other
2 case that goes on.

3 MR. LANG: Right. Yeah, we're not going to
4 call anymore witnesses.

5 MR. GROSSMAN: Your Honor, that'll be --
6 That, subject -- based on what your preference is,
7 whether it's at the end of the case or the end of our
8 case, we'll move the evidence and then -- and then
9 rest.

10 THE COURT: That's a good idea. So, we don't
11 have to do that all. You can have time now to look at
12 the chart and tell me which ones you want, because you
13 said not all of them.

14 MR. LANG: I don't --

15 THE COURT: And then make sure that my book
16 of whatever documents is exactly what --

17 MR. GROSSMAN: Right. Because the character
18 --

19 MR. LANG: This is the most --

20 MR. GROSSMAN: Excuse me, Arthur. Because
21 the characterization of some of the documents may be
22 technically inaccurate for your purposes. So. Because
23 I know there's some census data in there, which is
24 United States census stuff, which would be an official
25 --

1 THE COURT: An official document.

2 MR. GROSSMAN: -- document.

3 THE COURT: Which they would probably
4 stipulate to.

5 THE COURT: And it's subject to that
6 exception, which would help.

7 THE COURT: If it's from the United States
8 Government.

9 MS. HOFF: If it's an official document.
10 Sure.

11 THE COURT: Hm hmm.

12 MR. INZELBUCH: Was it before Trump or after?

13 MR. LANG: Well, that -- that was the -- The
14 U.S. Census Data, is what I want to use for the income
15 and the wealth. That's why it's here.

16 THE COURT: You have to show it to them. Put
17 down the source of the document. They have to check,
18 make sure it accurately says what you say it says.

19 MR. LANG: They've had it for months.

20 MR. GROSSMAN: I mean, it hasn't -- It
21 doesn't matter. It's irrelevant.

22 MR. LANG: Okay.

23 THE COURT: All right. So we have a plan.

24 MR. STARK: Yes.

25 MR. GROSSMAN: Your Honor, can we have some

1 deadlines?

2 MS. HOFF: Yes.

3 THE COURT: Well, we have lots of time now.

4 Okay. So now we can go off the record.

5 MR. STARK: There's -- There's

6 THE COURT: And we don't need to put

7 deadlines on the record.

8 MR. INZELBUCH: Wait a minute.

9 MR. STARK: There are two -- I think there
10 are two -- Before we go off the record. There are two
11 small issues that we would like to raise. The first
12 involves the numerous letters that, which in our
13 opinion, form a basis of argument, that have been
14 submitted to the Court for Your Honor's attention by
15 Mr. Tractenberg, after each day of testimony.

16 THE COURT: Oh.

17 MR. STARK: And so, --

18 THE COURT: I have seen --

19 MR. STARK: -- we would like to object to
20 those. And we want to go on the record as to whether
21 or not those are things that Your Honor has -- and ask
22 whether or not those are things that Your Honor has
23 reviewed. Because if they are, we -- You know, the
24 parties should be able to respond to those. But, you
25 know --

1 THE COURT: I see them more as in terms of a
2 summation of like what's been said so far. I don't
3 really see them as, you know, --

4 MR. STARK: Okay.

5 THE COURT: -- advancing anything in terms of
6 facts. It's just --

7 MR. STARK: We would object to -- I mean,
8 it's a shame Mr. Tractenberg is not here. But we would
9 object to any further submissions. Because reviewing
10 that, as -- as -- to use Your Honor's term, as a
11 summation, and that's for the closing of the -- of the
12 hearing.

13 THE COURT: Yeah. I don't know. I assumed
14 that Mr. Lang was probably in touch with him and then
15 that's why --

16 MR. LANG: Your Honor, well we previously,
17 when we were in front of Judge Kennedy -- That's the
18 only other time we were inside the courtroom. -- Mr.
19 Tractenberg would -- would speak, because as a
20 participant he has the right to speak. But since he's
21 now in Florida, that's why he's sending these.

22 THE COURT: Well, not exactly.

23 MR. LANG: Pardon.

24 THE COURT: Not exactly.

25 MR. INZELBUCH: Ooh, I like it.

1 MR. LANG: Well, Michael's definitely
2 speaking. (Laughing)

3 THE COURT: Most of the time it's me telling
4 Mr. Inzelbuch to control himself. So.

5 MR. INZELBUCH: In a loving way.

6 MR. LANG: I mean, Judge Kennedy, you know,
7 asked Professor Tractenberg --

8 THE COURT: You know, I don't lose my temper,
9 generally speaking, but you really do try -- try it
10 sometimes, Mr. Inzelbuch. Really. You've got to
11 control yourself.

12 MR. INZELBUCH: But I just heard something.
13 Mr. Tractenberg was allowed to speak.

14 MR. LANG: He was --

15 MR. STARK: That is -- That is --

16 MR. INZELBUCH: He's allowed to write
17 letters. It's amazing.

18 MR. STARK: That is a characterization of --

19 MR. LANG: Well, you are too.

20 MR. STARK: -- what occurred during the
21 course of an oral argument on a motion.

22 THE COURT: Oh.

23 MR. STARK: Mr. Tractenberg was certainly
24 permitted to --

25 MR. INZELBUCH: Oh, okay.

1 MR. STARK: -- participate in oral argument
2 on a motion.

3 MR. LANG: Oh, okay.

4 MR. STARK: I don't want to speak for Judge
5 Kennedy. But I do not believe that Judge Kennedy would
6 have allowed Mr. Tractenberg --

7 MR. INZELBUCH: Oh, I got worried.

8 MR. STARK: -- to present legal argument at
9 the close of testimony during the course of the
10 hearing.

11 THE COURT: No, I understand.

12 MR. INZELBUCH: I feel better now.

13 THE COURT: Okay.

14 MR. LANG: So what -- what --

15 THE COURT: I'm sure that's what it was. I
16 mean, I wasn't --

17 MR. LANG: So what is Mr. Tractenberg allowed
18 to do?

19 MR. STARK: Mr. --

20 THE COURT: He can -- and read the
21 transcripts, he can sum up. He can send in his
22 summary. He can supply a brief. Whatever he wants to
23 do at the end of the case.

24 MR. STARK: At the conclusion of the case.

25 THE COURT: Yes.

1 MR. STARK: Would Your Honor be -- Would Your
2 Honor find it acceptable if we send to Mr. Tractenberg
3 reflecting that decision by -- by Your Honor?

4 THE COURT: Sure.

5 MR. STARK: Okay.

6 THE COURT: You can just tell him that I'll
7 -- I'll expect all his remarks at the end. But,
8 really, you know, but most --

9 MR. LANG: But be nice.

10 MR. STARK: I always attempt to be nice.

11 THE COURT: But mostly I just -- When they
12 came in I sort of perused them and said this is really
13 summation and -- you know, what it is now.

14 MR. STARK: Thank you, Your Honor.

15 MR. LANG: Well, he did -- he only did it
16 because of -- I guess that was --

17 THE COURT: Because you asked him to. I
18 know.

19 MR. LANG: Yeah. And well, and also when
20 Judge Kennedy --

21 THE COURT: I understand, Mr. Lang.

22 MR. LANG: -- when he would be over there and
23 Judge Kennedy would ask him his opinion.

24 THE COURT: I understand, Mr. Lang. I just
25 figured you just told him about the day's events and

1 then he would send something in, basically summing up
2 his understanding of what happened on that particular
3 day and what the arguments were. Maybe he's trying to
4 frame your argument for you.

5 MR. LANG: No, no, no. He's more like, you
6 know, because of his experience with Abbott and
7 Robinson. So.

8 THE COURT: Yeah. That's why he's framing
9 the issue.

10 MR. STARK: The other issue is that, seeing
11 as Mr. Lang has -- has rested, subject to the admission
12 of documents, we do anticipate filing a motion to
13 dismiss.

14 THE COURT: I --

15 MR. STARK: And we would imagine that Your
16 Honor would want briefing on that.

17 THE COURT: I -- I --

18 MR. STARK: Especially because Mr.
19 Tractenberg is also not here. And he's entitled to
20 participate in that.

21 THE COURT: Yeah, I want him to.

22 MR. LANG: Why would -- Excuse me. But why a
23 motion to dismiss at this point? We already had a
24 motion to dismiss.

25 MR. STARK: But we don't believe you proved

1 your case. And so we're going to file a motion saying,
2 we don't believe that --

3 MR. INZELBUCH: That's typical. They're
4 allowed to --

5 THE COURT: Is this is normal here?

6 MR. INZELBUCH: I'm sorry. I'm just trying
7 to help.

8 MR. LANG: Okay. So, that means we've got to
9 brief and go through --

10 MR. GROSSMAN: Arthur. Arthur.

11 MR. LANG: Okay.

12 THE COURT: Mr. Grossman can explain it to
13 you and so can Mr. Inzelbuch. But the State's making a
14 motion at the end of your case, basically saying you
15 haven't proved a prima facie case, so therefore.

16 MR. INZELBUCH: Is there any deadlines or
17 scheduling.

18 THE COURT: Well, that's what we're going to
19 do. But I don't like to do scheduling on the record.

20 MR. INZELBUCH: Yes.

21 THE COURT: Because it just can waste pages
22 and pages of the State's money when you order a
23 transcript of this.

24 MR. LANG: Oh my gosh.

25 THE COURT: What date is good for this? What

1 date is good for that?

2 MR. LANG: The State pays for the transcript?

3 MR. INZELBUCH: No, well.

4 THE COURT: Well, I'm sure they might pay for
5 theirs.

6 MR. LANG: Oh, if they --

7 THE COURT: I'm not so sure that they're
8 going to pay for yours. (Laughter)

9 MR. INZELBUCH: You're getting fun today.

10 MR. LANG: Hey it's okay. You'll order them?

11 MR. STARK: We can discuss this off of the
12 record. I appreciate that, Your Honor.

13 MR. INZELBUCH: Oh, my goodness.

14 THE COURT: All right. So, that's it for
15 today then. So you're going to go through all of the
16 exhibits so that we know exactly what it is. And then,
17 if there is any disagreement, I will have to rule on
18 that before you can do your motion. But we can do that
19 by telephone if need be.

20 MR. STARK: Yes. Thank you.

21 {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., et al. vs. David Hesse, Commissioner of Education, bearing Docket Number EDU 11069-14, heard on, February 22, 2018 before the Office of Administrative Law Court.