
Committee Meeting

of

JOINT COMMITTEE ON THE PUBLIC SCHOOLS

“Testimony from Commissioner William L. Librera on the status of the three State-run districts, along with other issues of concern to the Committee”

LOCATION: Committee Room 6
State House Annex
Trenton, New Jersey

DATE: April 17, 2003
10:00 a.m.

MEMBERS OF JOINT COMMITTEE PRESENT:

Senator Ronald L. Rice, Co-Chair
Senator Byron M. Baer
Senator Martha W. Bark
Senator Thomas H. Kean Jr.
Assemblyman Patrick J. Diegnan Jr.
Assemblyman Donald Tucker
Assemblywoman Rose Marie Heck



ALSO PRESENT:

Melanie M. Schulz
Executive Director

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SENATOR RONALD L. RICE (Co-Chair): How are you doing, Commissioner?

We're going to get started. Other members of the Committee may very well appear. I know Assemblyman Craig Stanley had to rush his father to the hospital, so he won't be here. But I'm not sure of the other Committee members.

And I want to say to the Commissioner -- is that we're going to be having Committee meetings and Subcommittee meetings throughout. We don't break because of budgets. To be quite frank, I don't think the Legislature should break because of budget. There's too much to talk about, and there are too many non-issues -- non-financial issues -- pieces of legislation that can be worked through.

But this Committee, probably, is one of the most important in the times that we live in, in New Jersey, and so we can't afford those breaks. We will be respectful of the fact that you and others may go away, and we'll try to schedule meetings when you arrive back, or prior to leaving.

And then I'm also conscious of the fact that some Committee members may go away. If the Committee looks sparing when we have these meetings, don't let that bother you, because it's a staff obligation, responsibility to make sure that what is said here is properly recorded, taken down in notes, and given to the members.

Why don't we do this? We do have a couple of new members to the Committee. I know Assemblyman Malone is not here today, but one of his staff persons are here. Why doesn't she introduce herself?

MS. BENESTA (Assembly Republican Staff): Yes, I'm Sharon Benesta, and I've been with the Assemblyman since he came on board, back in 1982.

SENATOR RICE: Okay.

And we also have one of my second sons, Senator Tom Kean Jr.

SENATOR KEAN: Thank you, sir. We are well-acquainted with the--

COMMISSIONER WILLIAM L. LIBRERA: I didn't know that you had that title, second son of the good Senator Rice. But we learn something every day. (laughter)

SENATOR KEAN: It's a title I wear with pride. We've known each other for decades.

COMMISSIONER LIBRERA: Good.

SENATOR RICE: And the rest of the Committee members are here. They can introduce themselves to you, again.

SENATOR BARK: Martha Bark.

It's good to see you.

ASSEMBLYWOMAN HECK: Rose Heck.

COMMISSIONER LIBRERA: Good to see you, Assemblywoman Heck.

SENATOR RICE: Okay, Commissioner, we need to be updated on the takeover districts. We'll raise questions after you give your presentation. We need to know what's happening in Paterson, Newark, Jersey City, and where we are. And we need to, maybe, talk about, really, getting together soon with

either this Committee as a whole, or members of this Committee, to start to take a look at giving these districts back.

The statute, to me, is clear as to a process. It is obvious that there are people who think the process, under the present statute, is not the correct process, and that's fine. But to be honest about it, I don't want, as a Democrat, as a Chair, as a takeover-district representative, any process crafted without the input of this Committee. I need to say that to you, again, because if something comes from your side to us, I'm telling you, as Chair, I'm going to garbage it, and we're going to get together and write our own. If we have input from the beginning, then, I think, we'll come up with a product that we can all agree on.

And I really don't believe we need to have talks about takeover legislation, because I don't believe, heretofore, we should be taking over any other district in the State of New Jersey. We need some oversights, we need some accountability legislation, and maybe some legislation to hold people criminally liable, or responsible, or something else, but not a takeover. It's been nothing but a fiasco. It's cost districts a lot of money, particularly Newark. It cost the State a lot of headaches, and the State's going to pay -- meeting with this Governor and this administration, it was said he understood, prior to getting elected -- or the next governor, or some governor in the future.

But, eventually, somebody's going to come back and provide Newark with that \$70-plus million that was unaccounted for, for lack of using a stronger word.

So with that, why don't you make your presentation? And then we'll start discussion from this end.

COMMISSIONER LIBRERA: Thank you, Senator Rice.

Well, we finally got a microphone to work. I was wondering if there was some kind of a conspiracy, giving me a microphone that didn't work. (laughter) Always a little worried, as I guess all of you are, about conspiracies of official or unofficial nature.

SENATOR RICE: That's right.

COMMISSIONER LIBRERA: What I'd like to do is give you a brief overview on the takeover law -- the progress that we've made, the plans that we are in the process of constructing in draft form -- and also how we see us working with this Committee, which is an extension, in terms of my comments and what I said the last time -- that we were interacting with the Committee.

Once I do that--

I have with me, today, people who will speak to the issue of the \$70 million question about Newark, what happened, what kind of detail do we have. I'm fortunate enough to have people with us today, particularly the two gentlemen to my left -- beginning on the far left with Ben Rarick, who is the Director of State-Operated School Districts -- was here when the question of that sum of money was addressed.

And in addition, to my immediate left, is Mike Azzara, who presently is serving as our representative in Paterson, working in the Department of Finance and Budget in Paterson, because of the specific concerns we had about that function and how well it was functioning. Michael was the Assistant Commissioner for Finance at the time when the matter of the \$70 million problem was raised.

And so both of these gentlemen will, after my remarks, and after responding to your questions about my remarks -- which are designed to be general in nature -- they will then proceed with an explanation of the \$70 million, because that continues to be questioned, what happened, where did it go. And what we'd like to do, at a minimum, is establish some common frame of reference about what it isn't, what it was, and what it is not, and what kind of information we have.

And the other gentlemen who are here with me today are, on my far right, James Ballentine, Special Assistant to -- the gentleman immediately to my right is Gordon MacInnes, who is the Assistant Commissioner for the Abbott schools.

So my remarks, which come in the form of an update on the State takeover law, is that that law must be changed. That law must be changed, because it was always designed to be a temporary solution, and we are 15 years in Jersey City, 11 years in Paterson, eight years in Newark, with, unfortunately, not much of an end in sight if we don't make some changes with respect to that law, that, I think, are overdue.

Now, every time I talk about the State takeover law, we say the same thing in the way of opening remarks, and that is, let us never forget that we're the first place in the country to have a State takeover law. So when you're the first place to have a State takeover law in 1987, and you're the first place in the country to take over a district, as we were in Jersey City, you have no place to look around and borrow information, you have no place where you can utilize best practices.

And what's important to know, important to provide as context-- There's very few things that I've done in my life, 17 or 18 years ago, that I wouldn't want to revisit, now that I know some things by virtue of experience.

We have, thanks to my colleague, former Commissioner David Hespe, an extensive report, prepared by Paul Tractenberg and others from Rutgers University, which details the best practices in the country on takeover, both in terms of schools districts and municipal takeovers. And we're fortunate to be able to have that document as we consider the alterations that need to be made. That's been available, in summary form, on our Web site. That's been presented to the State board, last June. That has started a process where we've already begun to seriously engage the three State takeover districts in ways that they haven't been involved before, because we want to begin as much preparation as possible for the day when the State takeover would return.

But I must say that, though we think there are more than a few problems with the present law, we are not going to accelerate a process and have anyone return to local control, in full sense, until we have a clear understanding that basic functions can be attended to, because that was the reason to do this in the first place, and we certainly have to remain true to that original intent.

Now, in the best practices of state takeover, places like Compton, California; places like Hartford, Connecticut; Kentucky; and, I believe, it's Logan County, West Virginia -- there are some patterns in that, in terms of what constitutes successful practice. And the successful practice, in those four places is, that places make substantial improvement in the important areas, that one area or some areas don't have to represent the highest possible evaluation, they have to represent what we believe to be an acceptable area.

To illustrate that: The way they did that in Compton, California, is, they put these categories together and said that you have to have an evaluation of six on a 10-point basis, in every area, in order to be considered. But you didn't have to have a 10 or a nine, so long as we could see that there was substantial improvement.

Now, also in that information, there is a clear pattern about how this must be done in transition, as well, so that the State remains an active partner, in a different way, while you work on the return to local control. We think that those two patterns can be integrated well into what it is that we want to do.

Gordon MacInnes chaired a working group. They have a recommendation -- set of recommendations. They presented it to me. We will forward that to the Committee so that you have an opportunity to look at that and integrate that information into the work that we're going to do, to go.

What we're doing with that work is putting it into a single accountability system -- an accountability system that doesn't separate Abbott schools from everybody else, doesn't separate everybody else from No Child Left Behind requirements, doesn't separate State takeover districts from other districts -- but, instead, builds a continuum of a response, with the most extreme being State takeover. And, certainly, as long as we have State takeover districts -- and we will have them after we've completed our work, because it will take some time for us to do the work that needs to be done, in terms of returning to local control -- that's the most extreme on the continuum.

If you look to the opposite part of the continuum, it's those places that give all kinds of evidence, both in terms of fiscal audits and other kinds of

measures, that they are meeting standards and, therefore, their involvement with the State ought to be minimal.

So if you can think about this continuum, you think about, it represents maximum, or it represents a degree of, State involvement based on issues that are (indiscernible).

Now, what we think is very important in this is a couple of steps before State takeover, because we think if a couple of steps before State takeover are done, it reduces, almost completely, the possibility of State takeover. And that is, we have situations where we've had some good success -- Camden as an example, where there were fiscal problems. We brought an intervention team in and averted a \$14 million deficit.

We think that there will always be occasions where it may be necessary for the State to takeover a business office because of practices that are inappropriate, or personnel, or require a series of reporting mechanisms -- like, if we don't come in and take it over for a limited period of time, we require that there needs to be notification, or there needs to be approval by the Department, before they can proceed. Steps like that -- which represent the kind of intervention, strategically in the areas of greatest need -- we think, makes the most sense.

So what we have are a group of people preparing a draft of all of this, and the State takeover law being -- the change -- a part of this. There's also going to be some pieces in that, because we think that those one or two steps, before complete State takeover, should entertain things that, presently, are not here. Like, the possibility of adding people to the board of education, who are appointees on a short period of time, if certain conditions exist -- not to take the

place of, but to add. There are ideas like this, that need to be put into this, that require a look at this in full context.

Now, it will be up to your Committee as to how you want to do that, but we think the best way to do this -- and this is what we've said all along -- is to present to you the idea, and then the draft of all of this, and then sit and work with you on the pieces of it so that you can see how this works.

But remember that we have No Child Left Behind requirements, which require us to designate schools that are not making adequate yearly progress. We need to put steps in this continuum to deal with those schools, as well, so that when we look at the single system, you will know where these all belong and how they all fit.

So that's the kind of work that we're doing. We think that we're going to have a draft of that in six weeks. We'll be able to get you the report of the committee so that you can see that. But understand, we're talking about a whole, here, as to how this works, and it's going to have different requirements along the way. But the State requires-- The Federal government requires a single accountability system. We're going to have it. And it's going to be a continuum around accountability and quality. That's what it's going to be. So that's our approach, and that's the work we're doing.

And I've always felt that on something this complex, we don't want to build from ground zero. We want to give you some ideas, and then we want to sit and work with you as to how each of these fit, and take your suggestions, and build it in the best possible, collaborative way. That's what we have in mind.

Now, let me stop and see if you have any questions about anything that we have to say.

Good morning, Senator.

SENATOR RICE: Commissioner, it seems to me we need more than one piece of legislation. I'm not sure if we're going to do it all in one. But I keep hearing takeover, and I guess I don't like the word *takeover*. And I guess my-- I guess I need to say, publicly, I don't like folks taking anything from me or taking over anything I control. So we need to abolish that word, because I'm one Senator, one taxpayer, one activist, when I want to be, that's not going to allow you to take over anything anymore. Takeover--

Intervention is a whole different scenario. An intervention may be those components you're talking about, with some accountability mechanism for those in charge, if you will.

But, number one, it will be legislation to make it very clear, to New Jersey residents and taxpayers, the State of New Jersey no longer have a takeover law -- will not have a takeover law. That needs to be made clear, because if not, we're going to keep operating under the foundation of what we have.

And then, number two, once we do the abolish legislation, we need to set up the other structures. But we need accountability. We need to think about inspector general -- something I've been pushing for, for a long time. Not what we had, but what we craft in legislation that we think should be needed. Because even with the State takeover districts, the Legislature, in our majority, knew we should have had accountability, but refused to pass inspector general legislation to take a look at what the State was doing. Had that been done, in

my mind, some of this mess wouldn't be here today on the Newark side -- which never occurred.

The other concern we have is that, given where we are, if you look at your own data, Jersey City, Paterson, and Newark are not really the worst districts in the state. So, technically, we're discriminated against, because we're in this takeover mode, but we're doing better, for whatever reasons, than some other districts that would never be in a takeover mode -- maybe an intervention, once we craft some legislation.

And so to say that we're not going to give the district back to local control in a very timely fashion -- after 15 years and 13, eight, or whatever the numbers are -- to me, doesn't sit very well, because I always tell people to look at what I look like. And I always remind them -- from the segregated South. When I think I'm being discriminated against, not as a person, but people in general-- And that's what happening here. We got locked into something based on somebody's notion at the State level that there was mismanagement. There was even allegations of criminal activity. And that was the justification used to come in and take those districts over.

I think they can make those allegations in other districts. I don't know which ones, but I read the paper. A lot of crap happens out here -- probably can make it in the State government-- We haven't taken over State government. It doesn't mean the allegations are true, but they're used as the justification, which means that the intent appears to be looking at some criminal things, some mismanagement pieces, more so than academics and managing dollars, and things like that. But we're still stuck in that mode.

And it doesn't get better for Newark. I mean, we just came out of the election like other districts, but it was a big clown show there. What this legislation has actually done was create, in the city of Newark, racial and political divide. Unlike the '60s, where there were riots and things like that -- and middle class, and the Jewish community, and other whites move out -- blacks and Latinos, in particular, are not moving.

Now, I'm not sure how we're going to heal this, because it's based on this legislation and all this movement "to be fair and have input." We made the decision to go in without any real input, and we need to make the decision to come out with no real input -- other than the Legislature and those of us who have been a party to this nightmare.

So I want to say that for the record. We need to talk more in the future -- or at some time -- about expediting a process to make it clear to the public this district is given back. And if not, then we're going to have to address it from the legislative side here. My preference is to do that with the input, and the research, and the things you've been doing.

And I don't know how to say that any nicer or kinder, when I'm passionate about what I'm saying. And you know how I can get sometimes. I'm trying to be real nice right now, because I'm not a happy camper over these last few months.

But with that, let me go to my colleagues.

Does anyone have any--

COMMISSIONER LIBRERA: May I respond?

SENATOR RICE: Sure.

COMMISSIONER LIBRERA: Just briefly.

I think we, certainly, have much we need to discuss, and we certainly have to work through terms and our understanding.

Because we have the State takeover -- because we have three State takeover districts, we have to acknowledge that they are there. And I think that's part of the approach that we take. I would say that there isn't anybody who is in more agreement with you about the fundamental problems of trying to take over a community in takeover districts. And we have some differences of opinion, and we'll always have those. Hopefully, we can use those in ways that are going to challenge each other to do better thinking.

Intervention is obviously the way we want to go -- with clear standards, with clear timetables, including temporary -- this is there to do what's necessary to help places solve their problems, and, then, to leave. We can't do much about the conditions under which some of these decisions were made a while ago. We can do everything about what we face now, and how we want to make sure-- And we are strong proponents of this.

We can't separate schools from communities. Communities have to be involved in major decisions about their communities, and sometimes that's difficult, but I know no other way to do that. And I'm going to continue to do that. And I think we can do this together and come up with something clearly superior to what we have, because if we don't learn by virtue of the experiences that we have had, then we're really not utilizing what we know and what we need to know.

And I don't want to spend time blaming, and I don't think you do either. We want to spend time fixing, correcting, and making better. And to that end, we want to work together with you.

I'm sorry, Senator.

SENATOR RICE: My colleagues want to speak. But let me just say this for the record, and I'll say it in front of my colleagues.

I deal with commissioners -- and I said this to Jim Florio, when he came in here and appointed commissioners who were capable, but wanted to have people in his office to oversee them. I said, "You don't need the commissioner. You have a place-holder." Now, either Governor McGreevey is going to let you be the commissioner -- because I think you are a good commissioner, in your own way -- I think you want to be. But I'll be the first to tell you publicly -- and we can disagree on this; we're not going to debate it: I think there are decisions that you can make, and want to make, and are not making because of the Governor.

And I'll tell you something else. As much as I respect Gordon, he's your assistant -- and the rest of these folks -- and so the decision, the thought process, needs to come from you, after the research. And that's the way it's going to be. I don't need a response to it, because when you say public participation-- I told you all before. I lived in Newark just about all my life. There was no real public participation. There are one or two people, and I know who they are -- I will not call their names here; the whole world knows who they are -- who tells the Governor what they want, not what the people want. And it's not about our people's interest. And some of those folks were the same people who caused the State to come in and take over the district.

And so my point is that we move forward. We have to have, with this Committee, discussions. And I want to reiterate -- and I will continue to do it as long as I chair this Committee -- that when Jack Ewing chaired this

Committee, Senator Martin, Assemblyman Wolfe chaired this Committee, it had respect. This is a statutory committee that is charged with the responsibility, under the title, to oversee the Abbott district, which means some of the stuff we're talking about now, school construction. We don't do the legislation, even though we participate -- we can make recommendation.

And so I'm not going to subordinate this Committee to the Assembly Education Committee, if the relationships are better with the Governor and people over there. Nor am I going to subordinate this Committee and its members to the Senate Education Committee, if the relationship is (indiscernible). They're not going to continue to circumvent this. There's been too much circumvention from day one. It took us almost a year to get reorganized. And that was done intentionally. And I criticized the Senate President for doing that when the Assembly was ready to go. And my colleagues may not be aware of that.

But I want my colleagues to know that the first thing we're going to fight for -- at least I'm fighting for -- is respect for this Committee. You are not going to be subordinate to any other committee, you're not going to be subordinate to the administration, and we're going to work with you, Commissioner.

And sometimes it's going to be bitter disagreement, but if you're taking charge, and you're communicating with us-- Now, all these work groups are coming together -- not what your staff thinks. They can theorize on what they want. But you were appointed Commissioner based on your background, what we think you can do, and that's where it's got to come from.

The Governor always says, you reap what you sow. Well, we brought you in to do all of the sowing, so you're going to be the reaper. You need to understand that.

With that, I have some colleagues on the other side who wanted to talk.

COMMISSIONER LIBRERA: I have to respond. (laughter) I just have to respond. And we can talk for a long time about this. I'd rather not.

Disagreements are what we're going to have, and that's fine. And we can talk through that, and we can respect one another. We're prepared to sit and work with you.

But I can't agree to a conclusion that the Governor has told me what it is that we need to do, because he hasn't. The day he tells me that, is the day he'll find somebody else.

Now, you can disagree with me on that, but when there are statements made like that, I have to respond to them. Now, we can talk about that, but I think we want to talk about how we're going to do the work, and the work needs to be done. And I look forward -- we look forward to doing the work. So, as soon as possible, let's get to the work.

SENATOR RICE: And that's why I raised it. I want to make it clear. We'll talk about how to do the work. It's going to be you and this Committee, you and others, not all these folks sitting out here. We don't have a problem talking and hearing from them, but the point is, I'm elected to be in charge. I do and die by those decisions, but I'll be objective. You're the person appointed to be in charge. You're going to live by those decisions, but hopefully you'll be objective.

COMMISSIONER LIBRERA: Yes.

SENATOR RICE: And I think in most cases you have been. In some cases I think you have not.

COMMISSIONER LIBRERA: Yes, and I certainly wouldn't tell the Committee how it is that you are going to do your work, when you brought it to me. And I wouldn't think you would tell me how I would do the work. But we'll do the work. Okay?

SENATOR RICE: Sure.

Senator, Assemblywoman, someone had their hand up over here.

ASSEMBLYWOMAN HECK: Me.

SENATOR RICE: Go ahead, Assemblywoman.

ASSEMBLYWOMAN HECK: You know I have the highest regard for Senator Rice. He's very passionate, because his experiences in the past lead him to speak this way. It's not based on just an idle thought. He's had difficult times in the past.

I remember working with Senator Matty Feldman when I first came in, and he was part of this Joint Committee. He was the head of it. And he was part of the Jersey City takeover, per sé. I don't think he ever dreamed it would be going on for 15 years.

I think, also, in the Newark situation-- I go back to the time that Senator Ewing held hearings, and bus loads of parents came in from Newark and begged for intervention. Maybe not takeover, but intervention.

So there has to be a fine line between takeover and intervention. And I think that your idea of beginning with the business office is very important. I think the Bergen County Superintendent recommended something

in Garfield, to that degree, just this past week. And I see that as a first step in making sure things happen. Because whether we like it or not, political beings do become involved in boards of education. And we've received many complaints about people who were aides and dropped, for strange reasons, who are feeling the pain of that.

Now, my question is, when you mentioned having additional members to the board of education, what would the criteria for those members be?

COMMISSIONER LIBRERA: Well, I just wanted to give you a preview. We don't have all of the details.

But what we've learned, from some of the experiences in the past year, is that additional people on the board of education, who have experience, add something. But that's only on a temporary basis, because some of the problems that we're having in some of the districts have to do with some very strange governance practices. And I don't think it's important for -- nor do I want to have State department people at board meetings.

But, I think, people from the community who have experience and would add value, whether they're from Higher Ed or from the business community -- for a period of time-- And all that has to be understood as, we think there's a series of steps that you take when problems begin. And if you handle them the right way, they don't grow to be bigger problems.

And the Senator's absolutely correct when he says that, if you take the profile of the three State takeovers, and you would apply them against other Abbotts, there are other places we could find that are considerably worse. Now,

we know that. And we also know that there's considerable progress that's been made.

So we're trying to think about what are the areas where you could intervene, when could you do that, how could you do that, and what difference would it make. And we think, if we did that earlier and did a better job on the transition, we would be able to avoid ever having to consider that place, again -- had to be in the same situation as Jersey City, Newark, and Paterson.

And I do want to say -- and I'm not going to keep saying it -- but I don't want to take advantage of the fact that we're sitting here 15 years later with all kinds of information, criticizing people who put together legislation when they had none of this advantage. But it is our responsibility to do something about it.

ASSEMBLYWOMAN HECK: And one more question. Are we looking at any differences, in the administration, in the various counties or districts? Because we're looking at a very expensive educational system here in New Jersey, and it just seems to be growing. Are we looking at ways and means to bring us together, and a fairer way of doing things?

COMMISSIONER LIBRERA: Yes, and it will be a long process. But we're trying to model that, in terms of our own Department, combining positions in county offices, doing things across counties to demonstrate to people that that's the way that we are going to begin making a difference in this, because companies don't own all of their people anymore. They find -- *own* is the wrong -- they don't think that they have to only have their employees do the work. That's what I mean by this.

And so, combining positions, sharing things of that nature-- I think that's the most hopeful thing.

ASSEMBLYWOMAN HECK: And sharing good practices.

COMMISSIONER LIBRERA: And sharing good practices, yes.

ASSEMBLYWOMAN HECK: Thank you, Mr. Chairman.

SENATOR RICE: Any other Committee member have any comments?

SENATOR KEAN: Yes.

SENATOR RICE: Senator.

COMMISSIONER LIBRERA: Good morning, Assemblyman.
How are you?

SENATOR RICE: I'm sorry, let the record reflect that Assemblyman Donald Tucker is here.

Go ahead, Senator.

SENATOR KEAN: Thank you, Mr. Chairman.

Mr. Commissioner, I had just one area -- question I'd like to ask you about -- is this sliding scale, that you started to outline your view. At what point does that scale begin? Are you talking Cape May to the Highpoint? Is every school district in between going to be, at some point, on that sliding scale?

COMMISSIONER LIBRERA: Yes. And if, what-- We use the word *continuum*, you use *sliding scale*. We're using them synonymously.

SENATOR KEAN: Okay.

COMMISSIONER LIBRERA: Yes, this would be a system for every school in the State of New Jersey.

SENATOR KEAN: And then that would mean, therefore, that there may be a point in this process where some schools would have lesser regulation placed on them than they do now.

COMMISSIONER LIBRERA: Absolutely.

SENATOR KEAN: So this is a real point on the standards basis.

COMMISSIONER LIBRERA: Yes.

SENATOR KEAN: Good.

COMMISSIONER LIBRERA: We think so. Easier said than done. And there's a lot of work for us. But it's important, we think, that our work about State takeover law changes and other things be seen in a larger context. And instead of working on one piece here, we make sure that all these pieces fit together, so that, if we can take a complicated matter in both quality and accountability and put them on a continuum, everybody will know what it is. And then people will move, depending on circumstances, as it should be.

Thank you.

SENATOR KEAN: I look forward to working with you on that.

COMMISSIONER LIBRERA: We do too. It's big work, important work, but it's work that's overdue. And we've got the experience, and we've got the commitment. We can do this.

ASSEMBLYWOMAN HECK: We have to begin.

SENATOR RICE: Senator Bark, then Assemblyman Diegnan.

SENATOR BARK: Thank you, Mr. Chairman and Commissioner.

It seems like I've spent more than one day with you this week.

COMMISSIONER LIBRERA: Yes, we have been seeing a lot of one another. (laughter)

SENATOR BARK: First of all, I think the idea of the continuum is a very good idea. But my real question is -- is that these districts that have been under State control for a number of years-- Is that your priority, to establish how they come out from under State control?

COMMISSIONER LIBRERA: It sure is. And just to give you another illustration of that-- We think that the steps before this complete State takeover also give us the way to chart the course out of State takeover, so that it's not an all or nothing at all, but there's a return in this area and that area. And we see that there will be some logic in that. People will see that we've not pointed to three places and have a set of standards for three places that we don't have for other places.

And the Senator's right in that, as well -- that if you take the framework of State takeover, and you were to apply it to a lot of other districts, you'd find a lot of places -- not just urban places -- are not doing as well in these areas as others.

So the point here is, yes, they're a priority, because we don't think this is a good thing, to have State takeover. But we also think that there ought to be a fair and understandable system that makes that possible to happen, with standards, in a short period of time. None of us want to hear it's going to take us five or six or seven years to do this. We don't have a calendar called *the month* either. But we're anxious to begin showing evidence to people that we can make a difference and change things that need to be changed. So, yes, they are one of our priorities.

SENATOR BARK: Thank you.

Thank you, Mr. Chairman.

SENATOR RICE: Okay.

ASSEMBLYMAN DIEGNAN: Commissioner, first of all, let me compliment you on what I see every time I hear you speak. It's just a commonsense approach to this extremely complicated process.

But could you explain to me -- I know you've done it once before, but it hasn't sunk in -- which, for me, is not unusual (laughter) -- how No Child Left Behind works into this entire State mandate, and how you have to reconcile that issue with this whole criteria that the State has to put in place?

COMMISSIONER LIBRERA: I think, if you don't have a real good understanding of No Child Left Behind, you're a part of a huge majority, because even the people who are presently thinking about how we're going to implement this don't fully have all the answers. So the confusion is the norm. I'll do my best, in terms of trying to put some context around this.

No Child Left Behind has a series of standards that schools must meet, in terms of student achievement. And when those schools do not meet those standards, that are defined by adequate yearly progress -- some of it defined by how the State does that, how we do it-- But when those schools do not meet those standards, there are a set of consequences over a period of time. This happens the first year you don't. This happens the second year you don't. This happens the third year you don't. This happens the fourth year that you don't. And it's more extreme over time.

So there are requirements of what teachers have to have -- highly qualified teachers -- if your school is classified in not making adequate yearly progress in the second or third year. There are choices that have to be given to parents to leave schools that are not achieving. There is an obligation on the

part of the State Department of Education, and the district, to provide supplementary services to parents of children in schools that don't meet adequate yearly progress. And there is -- and I'm oversimplifying this -- but there is also a requirement to bring previously not-tested students into the accountability system.

Previously, you could keep as many special needs kids as you wanted out of the -- or as you so specified -- from the accountability system, and the Federal government said, "No, you can't do that." Now it's a very small percentage.

It's the same thing with limited English, because the principles here, about No Child Left Behind, is a strong set of accountability issues that you, as a State, are able to shape to some degree within your own system. But no child will be left behind, according to this very ambitious legislation, because there is an accountability system that brings almost all students into it. There are clear measures, and there's clear reporting, and there's clear consequences, and there's a sequence. Rather than have the Federal government system, we want to make that a part of our system, as well.

So on this continuum, if you don't make AYP in the second year, you get pushed to a certain other set of things that happen, not just from the Federal government, but from us, as well -- that, maybe, we bring some of these intervention teams in. And we work with you on where your district or school -- because this is school-based -- is having problems. Now, that's the core of it, in the most significant areas.

We think -- and Gordon can add to this -- we think that the problem with No Child Left Behind is not the organizing principles. It's some

of the rigid implementation stuff, that we've been given, that's led to a lot of misunderstandings about what schools are supposed to do. We're working with the Federal government to try and change that.

Gordon.

A S S T. C O M M I S S I O N E R G O R D O N A. M a c I N N E S:

If I could, the consequences that the Commissioner described for schools that do not make adequate progress-- On a lagging basis, the same kinds of things apply to districts. So in terms of the conversation with the full Committee here--

Districts where a sufficient number of their schools are found to be not making adequate progress are subject to all sorts of other consequences, in terms of State intervention, which is specified in terms of their having to receive services and intervention, if you will. So the NCLB applies to both schools and districts. It just kicks off on a little different schedule for the districts.

But it does fit in with what we're trying to do on both the State-operated districts, the Abbotts, and the continuum affecting all districts. I would say that a part of our plan is to accelerate the schedule by which districts have to demonstrate accountability for low-performing schools, because we're going to be starting that this year in the Abbott districts.

COMMISSIONER LIBRERA: Just one other point, in terms of the increasing consequences. If you don't make progress, the Federal government has a provision, in the most extreme cases, where you reconstitute a school. That is, you can replace people who are leading the school, a principal and others, if the school is not making any progress.

So there is a fairly tight timetable, of no more than about four or five years, that if progress is not made, you can, by virtue of this legislation, take a series of very severe measures in order to see a school begin to achieve.

SENATOR RICE: First of all, let me ask a question. Do the Committee members have copy -- have you had a copy -- have you read the No Child Left Behind legislation? Anyone need that legislation? (no response) Let me ask Melanie to make certain that everybody gets a copy of what I read daily.

COMMISSIONER LIBRERA: You want to read the summary, because the actual legislation is huge, and there are some good summaries.

SENATOR RICE: Yes, what you want to read is the summary.

And the reason I raised that is because-- See, we go out and talk to community folks, and we wind up in these divisions dealing with, whether it's intended or not, politics, which we don't need to be involved with. But we need to be involved with the community input, the community leaders on a substantive issue.

If, in fact, you go to the minority school districts -- not minority ethnically -- which would wind up being the majority of the Abbott districts, and then some other districts, you're going to find that we don't see this No Child Left Behind legislation. We interpret this from the Bush administration to be no more school boards -- in essence, no more school system, and a bunch of privatized public school systems.

But the issue is that, as you reconcile -- which I think was the right word and the good word by the Assemblyman -- I even see some potential conflict with what this package is saying versus what school takeover legislation is saying, because you have districts under takeover -- State control versus

districts that are not under State control. Districts that are not under State control have a whole different scenario -- in terms of accountability, how it's operated, what school boards can do -- versus districts that are under State control where, I keep telling you, "Don't go before the board of education. They have no vote on personnel matters right now." But if you read this legislation, it's making an assumption that they'll be making those decisions. And it talks about a single accountability system.

And so the thing is, we can't stay under local control but so long. And I think that -- and I'm glad to know, because I raised that before -- that you totally agree with this. There are things that need changing -- indicated with things that need changing in work with the Federal government. But I think the Federal government needs to understand that in some states, at least in New Jersey, there's local control. And this you can't hold us accountable for, until we can do these kinds of things. And I just wanted to, at least, put that on the record, because I feel it's a conflict in reconciling three districts versus the State, in general.

COMMISSIONER LIBRERA: We agree. How's that for a simple answer?

SENATOR RICE: I want you to know I do read this stuff.

COMMISSIONER LIBRERA: I want you to know, every once in a while I can be brief. We agree. (laughter)

SENATOR RICE: But my concern, Commissioner, is--

COMMISSIONER LIBRERA: Wait a minute. We just agreed.

SENATOR RICE: Yes, but my concern is not with you. My concern is that this No Child Left Behind was quiet. And I think -- and

Assemblyman Tucker can verify this -- I think in the last 90 days, 120 days, it was almost like some heat tacitly coming down from the Federal government -- "You better do this," and "We want some progress reports," or they're going to start woopin' us around in these states, and that became frightening.

So I'm saying, "Well, what's going to happen? Are we going to get penalized by the Federal government?" Forget about the State. If the administration is not strong enough in our delegation to hold them back, and they're going to do a strict construction read on this-- And that's what's frightening about it, particularly in the takeover districts.

Anyone else?

Byron, do you have anything before we go to the next speakers?

SENATOR BAER: Yes.

A couple of questions. These have to do less with management than resources.

First of all, I'd like to have you communicate to the Committee, through the Chair, to me, what the lack of resources are for the next five years. In other words, taking into account the various sources from Federal, and the various sources from State, and from the local government -- what projections are there, in terms of the lacks of money for Abbott, statewide, for the next five years? I know some extraordinary steps have been taken in going before the Supreme Court. I'd like to know what the total need is, in terms of money. If you could provide that to me, through the Chair--

And if-- There is some question about how you would define that -- if you would provide that with whatever definitions, with whatever -- two or three, or whatever types of sets of numbers would fit those definitions.

COMMISSIONER LIBRERA: We will provide the Committee, through the Chair and to you, information that we have available to us. It's going to not be easy for us to do this projection over a five-year period. But I think we understand the essence of the question. We will provide you with details.

SENATOR BAER: Thank you very much. I'm glad that that summary is going to be provided. That will be very helpful.

Now, I wanted to ask -- and if this is all made clear by the summary, you don't need to go into it here. I'll learn that when I study the summary. In terms of the No Child Left Behind, and in terms of the -- as that might be modified by the Department and State policy -- to what extent do these standards take into account the extent of challenge one district might present, as opposed to another, in terms of one school district may have more one-family -- one-parent families. One district may have parents with greater educational achievement. There are a number of factors like this.

If those are taken into account, in terms of the progress that a district must make -- and to what degree are they taken into account, in terms-- I meant, initially, in terms of the goals that have to be met, and, secondly, in terms of the progress that has to be shown.

Thank you. Those questions exhaust my questions, and you can, not only, not have to be brief, but you don't have to provide an answer.

COMMISSIONER LIBRERA: We will be able to provide information to the Committee along those lines that you requested. We'll do it through the Chair.

SENATOR BAER: Thank you.

SENATOR RICE: Okay.

Assemblyman Tucker.

ASSEMBLYMAN TUCKER: Commissioner, what I would like to just deal with -- and this is -- have you an answer in a short, somewhat, synopsis: What would be the differential, in regards to the amount of local input, in regards to appropriation formulas, and a comparison with regard to the No Child Left Behind? There is a differential. In the takeover districts, there are differentials in regard to districts that were in the process of moving toward takeover.

What I'm concerned about is that the appropriation formula that is applied by the State, and the appropriation amount that is provided directly by local government -- and how is that related to how we can hold everybody at the same level. That's what I'm relating to.

COMMISSIONER LIBRERA: We'll be able to do that.

ASSISTANT COMMISSIONER MacINNES: If I could, Assemblyman.

I think that the -- and it sort of bears on what Senator Baer was talking about -- and that is that holding everybody to the same level of performance is not really the task that was establish by No Child Left Behind. It incorporates into it a demonstration of progress and improvement. And it's the absence of improvement that triggers the consequences for not making adequate progress.

So in terms of the demographics, the family characteristics, the poverty rates, all the other things that bear on structural achievement-- A very poor district, with a large percentage of its students coming from families that

are single-parent and all those other factors -- if they are demonstrating steady progress and annual improvement, then they are spared being categorized as failing to make adequate progress.

And by the way, most -- for example in the Abbott districts -- most of the schools are not considered to be not making adequate progress. We have a high number who are in that category, but most of them are found to be making steady improvement.

It also comes back through the other way, which is, we have some high-performing schools where they've had modest declines in performance, say, on the eighth grade math test. And they get thrown into the category of failure to make adequate yearly progress. And that's one of the rigidities that the Commissioner was referring to.

But in terms of everybody having to meet the same standard, it's the core standards that New Jersey has set, which is the guide -- our assessments of how people are doing against those standards -- that's the guide that the Federal government accepts -- and then this demonstration of progress.

ASSEMBLYMAN TUCKER: If I can, there are differences in regards to the appropriation, whether it's State appropriation or local appropriation. I guess what I'm raising with you is, what would be the-- In other words, I assume what you're saying is, as long as there is some growth, that the Commissioner -- you would not deal with that as a major point. In other words, there are major economic issues that are different within the different communities. And I'm talking specifically about the resources of government -- State government -- and the resources of the local government. I'm not talking about the disposition of families. I'm talking about the

resources that are going to be made available to the local districts, at least that we have directly under our review. There are economic differences, and how do you compensate for that when you're doing a review of progress in regards to those districts?

ASSISTANT COMMISSIONER MacINNES: As you know, Assemblyman, probably close to 100 percent of what most districts receive is determined by the statutory formula.

In terms of the Abbott districts, it's close to 90 percent or 85 percent of what they receive from the State that is determined by the statutory formula. CEIFA is the primary determinate. The *Abbott v. Burke* parity aid is the second largest determinate. And supplemental funding, which is a variable amount and is not driven by formula, is the third major constituent of funding for the Abbott districts. The court is very clear about what that's supposed to be based on. It's supposed to be based on a demonstration of student need that shows that there are problems that cannot be dealt with in the implementation of the ordinary Abbott programs, and that there are groups of students that have special needs that are, otherwise, not -- cannot be met. And the district is supposed to document those needs. The Commissioner is obligated to review that documentation. If he agrees with the district, he is obligated to make the supplemental funding available that will enable the district to overcome those problems. And if the Governor's budget is not sufficient, he is obligated to come to the Legislature and to the Governor and say, "We've gone this far, but, in fact, we need to go a bit further in order to meet the actual, demonstrated needs of the kids in the Abbott districts."

And so that's where the-- And then the Federal funding, except for the discretionary grant programs, like Reading First, as you know -- almost all of it is driven by Title I formula and the other titles of the elementary and secondary education, or now, No Child Left Behind.

ASSEMBLYMAN TUCKER: As I said earlier, I'm concerned about the Federal funds, but, generally speaking, I'm talking about the base funds, at least, that are provided by the State in regard to Abbott. And I'm also talking about the base funds that were provided by local municipalities, because they are the ones that can be counted on, on an annual basis. And the process by which we view the economic differences, in regard to the different schools -- that's what I'm dealing with. I'm not talking about the Federal specialized programs.

COMMISSIONER LIBRERA: Let me see if I understand your question and your point, Assemblyman. You are asking for the information in those three basic categories called Federal, called State, called local. Would it be helpful to you and the Committee if we were to identify, at least first, with the Abbott school districts? Or maybe we would take the category of the urban school districts, which is 60 of our school districts, 30 in addition to the Abbotts, and break the aid, in a typical year, in those categories -- from Federal to State to local capacity -- so that you would get a sense--

Would that give you the information--

ASSEMBLYMAN TUCKER: That's, basically, what I was talking about.

COMMISSIONER LIBRERA: --to begin to have the conversation about this?

ASSEMBLYMAN TUCKER: Yes.

COMMISSIONER LIBRERA: Okay. We can do that.

It took me a little while to understand that. That's what we will do, so that we can get some sense of local capacity to pay local contribution; Federal contribution, State contribution -- how that looks. We can do that.

SENATOR RICE: Senator Baer.

SENATOR BAER: Yes, there were a couple of questions that I intended to ask before.

Now, so far as the progress that's expected from schools, as you know the idea's often -- the goal's often been stated, in terms of maximizing the potential for each child. I wanted to know, to what degree does this program apply to school systems which might be of parents that are high-income, not broken homes, where kids are doing pretty well. So there might be the possibility, because of that, there is not an effort on the part of the State to see that they're maximizing the potential of such young students.

I think this is important, not only because of how it might benefit such youngsters, but I think to have a program that is perceived as only affecting one segment of society, when it's possible to have that otherwise, is to have a program that is less likely to have broad support. It's also a question -- may raise the question as to whether the programming covering some districts tends to stigmatize them. And so I wondered, to what extent this program would apply to what are, generally perceived as, the higher-achieving school districts.

COMMISSIONER LIBRERA: When you raise the question, Senator, of this program, I'm assuming you're talking about the No Child Left Behind program.

SENATOR BAER: I'm talking-- I don't want to be so narrow. I'm talking about the total -- whatever programs the Department operates in a coordinated basis. I'm less concerned with the title -- but the total effect.

COMMISSIONER LIBRERA: Okay. In terms of the single accountability system, it is designed, by definition, to apply to all school districts. And in terms of the No Child Left Behind and other State standards, they are set in a progressive way, because we are given, with No Child Left Behind, approximately until the year 2014, where all students are to meet established levels of achievement. So it is -- there are gradations, and there is time for this.

But the basic idea of the State system, as well as the Federal system, is that you establish benchmarks that all children will reach over a period of time, and that you provide necessary supports to help the students, as well as the communities, in areas where they're not doing as well. That comes in the form of personnel, but it also comes in the form of direct funding.

Though our present funding system leaves something -- many things to be desired, it does have a basic premise of more aid going to the places which are least capable of providing the aid. Now, there are imperfections in it, but that's how the whole system fits together.

SENATOR BAER: Well, I have no problem with the idea that more aid will go to certain districts, as you indicate. But when you refer to benchmarks which all youngsters will meet, I don't know whether that means that, in some of the better performing schools that happen to have some demographics that are generally regarded as associated with good performance --

whether those are minimum benchmarks, or whether there are higher goals set because there is greater potential.

As I say, if that is the case, it not only provides for a goal that's often referred to in education -- every child meeting their potential -- maximum potential -- but it also means that we're likely to have less to visit in this, where the public will associate certain programs with certain people other than themselves and be less inclined to be supportive of that.

COMMISSIONER LIBRERA: The position of the State, and the position of the Federal government, is that there needs to be a single standard that's set. And our efforts need to see that that standard represents a relatively high level. But after reaching that level, the rest of the issues, with respect to that, are left to local decision making rather than State. So we don't have the State, which has a series of standards -- the State has one, and the Federal government requires us to have one. And that has to be set, and we do that, and revisit that annually, sometimes, over a period of time, to make sure that that represents a high standard. But there is no gradations in that, although local communities have, historically, provided their own gradations in that, above the State standard. And we encourage the continuation of that, because they're better able to set that standard than we are in the State Department.

SENATOR BAER: I understand, although that may be a matter of local decision, in terms of what to do to pursue, to maximize that potential-- Should the State play some role in, at least, providing the information that would determine whether a high-achieving -- a relatively high-achieving district has, nonetheless, fallen short, in terms of maximizing the potential that it could achieve?

COMMISSIONER LIBRERA: We have done that in the past and will continue to do that in the future.

SENATOR BAER: Thank you.

My other question has to do with a totally different matter. Earlier, there was some discussion relative to State takeover about districts that also have some -- that fail to meet some of the standards that apply to State takeover. Is that material in the public domain so that, if it were cited, it could be provided? Or is that material which is not easily obtainable? And is that material which you could provide to the Committee, through the Chair?

COMMISSIONER LIBRERA: That material exists in various reports, in various forms, as public information. The reader would have to assemble that. We are much more interested in changing the State takeover law that doesn't work, rather than assembling a whole host of data to show what, I think, is very clear to us -- that if you take a series of reports, we could pretty easily guide people to a conclusion that there are many more Abbott school districts performing worse than the three State takeover.

We know that, we can do that, we see that assembling that report isn't a priority for us. And we're not going to -- and have no intention to -- assemble that report. We can, however, point people to reports that would make it easy for you to find the specific districts who fit into that general conclusion that we just offered.

SENATOR BAER: Thank you.

SENATOR RICE: Okay, Commissioner. Thank you.

You had some others.

COMMISSIONER LIBRERA: We'd like to, now, give you a presentation -- brief -- about the \$70 million issue in Newark. I don't know-- I'd prefer to just call it the approximately \$70 million issue in Newark, because there's a lot of ways that it's referred. I think we know what we're talking about, in terms of that sum of money and series of reports -- but, more specifically, concerns about what it was, where it was, what happened, did the Department do what was necessary. And to that end, I would like to provide background now with the two gentlemen I introduced before, and that's Ben Rarick and Mike Azzara. And they will give you the background about the issue of the \$70 million -- approximately \$70 million in Newark, of a few years ago. This is not something that's recent. This is something that they will tell you occurred a few years ago.

Ben and Mike.

SENATOR RICE: Before you speak, Ben, let me just indicate to the Committee members, this is a problem -- an issue that will probably continue to be debated, even after reading the documents and hearing explanations. Hopefully, it's not, but my feeling is that it is. And I've asked Councilman Tucker, Assemblyman Tucker, to make sure that his Subcommittee reviews this issue with local records and other input.

But, also, what I really wanted to say is that it's something that this Commission inherited, and so I would suspect that what we're receiving here, from your presentation then, is your best research of the issue.

BENJAMIN RARICK: Correct.

SENATOR RICE: We do not have superintendent -- the former superintendent Dr. Hall on the record, and we do not have other folks that I've

always argued should have been subpoenaed back here, or brought back here, for the record. And that may still happen if we can make it happen. But at least we can have some State understanding of the McGreevey administration, as to how they see it. And then we're going to take it from there. And I'm glad you bring that issue up today.

Thank you.

MR. RARICK: Good morning to the members of the Committee. My name is Ben Rarick. I'm the Director of the Office of State-Operated School Districts. I've been with the Department for a few years now. I actually got my job a couple of months after the first hearing before the Joint Committee on this issue. So when Senator Rice says that we are, in fact, dealing with some folks that weren't there at that time that the structural deficit actually materialized, but have the information necessary to do the research-- And I am such a person. So I've gone through the records, as has Mr. Azzara, and he'll be speaking here in a second.

You've got three documents, and let me just share briefly what you're looking at, and why I think that will be helpful.

The first document is a very brief PowerPoint presentation. It's intended to be non-technical. It's supposed to provide a general overview in ways that we can all understand, because, as we know, sometimes the technical, financial language gets difficult to decipher. So this is more of the high-level approach.

And then you have two other documents. You have a very brief, two-page overview that's a narrative, and you have an attached chart. The chart simply summarizes the financial data that's in the narrative.

Actually, Mr. Azzara is the author of the narrative, so I'm going to defer that to him, so he will be able to-- But that's more technical in nature. So I'm not going to address that as much, unless asked or unless Mr. Azzara is asked.

But I will be concentrating my comments on this document. So my intention here is to just walk you through this document.

What I wanted to do is-- Over the course of the last couple of years, I've received a lot of phone calls and letters about the nature of the Newark deficit. And I think at this point we have a fairly good grounding and understanding of what, exactly, we're talking about. And to be able to explain that to you, I need to make a distinction between two types of deficits.

One deficit is a real deficit, and that's the kind of deficit that we all, kind of, think of as a commonsense deficit. If a district doesn't have enough money to finish a school year, that's a real deficit.

In Fiscal Year '99, the Newark School District had about a \$12 million real deficit, which means, if they had continued to spend at the rate that they were spending in Fiscal Year '99, they would not have finished the school year with enough money that they needed. That's a real deficit.

What we have in Newark now, and what we've had in Newark in the last few years, is not a real deficit. We haven't had a real deficit in Newark for many, many years, going back to Fiscal Year '99. What we have in Newark is not uncommon in districts in New Jersey -- a structural deficit. The difference is that a structural deficit simply means that if you have non-recurring revenues in you're budget, meaning simply that you don't get them every year, it's just something that you got in one year -- a one-shot revenue -- and you use those

revenues to balance your budget, you have a structural deficit. And I'll provide a very simple example, because I was explaining this to somebody else earlier today, and it seemed to work.

If you have a job that pays \$20,000, and you have a family budget that is linked to that \$20,000 salary, and then the following year you get a demotion, or what have you -- you have a new job, and your new salary is \$15,000-- If you don't change your budget by the end of the year, you're going to have a \$5 million (*sic*) real deficit. But if you work \$5,000 extra in overtime to make yourself whole for that year, you don't have a real deficit. You're going to make it. You've got enough money. But you have a structural deficit now, because the next year, you're going to have to find another \$5,000, and the next year you're going to have to find another \$5,000. It's not something that's part of your salary. You worked overtime to plug that hole. So that's the nature of what we're dealing with. So I just wanted to make sure that everybody is very clear that we don't have a real deficit in Newark right now. We have what's called a structural deficit. And there are lots of districts that have structural deficits.

Let's move on to Page 2.

SENATOR RICE: Wait a minute, question. And this probably goes back to my own education. I didn't do Princeton or Harvard and all those. But it seems to me that it's structural. Structural is there, based on dependency. Do you agree?

MR. RARICK: I need--

SENATOR RICE: Structural is there based on dependency.

MR. RARICK: My microphone went off, by the way.

SENATOR RICE: Based on dependency. In other words, the Federal government decides they're going to give me some money to hire a hundred cops. Not in my budget. I don't have the dollars for that, so they give me the money. I know it's coming, I depend on it. Also, I have expectations that it may not be there again, right? That's what you're talking about. Am I correct?

MR. RARICK: Uh-huh.

SENATOR RICE: All right. But that's dependency at the beginning. I know it's coming. Well, it's no longer there.

ASSEMBLYWOMAN HECK: That's a choice.

SENATOR RICE: It's a choice, right.

Now, what happens is-- But the deficit is there, because I made a choice.

ASSEMBLYWOMAN HECK: Right.

SENATOR RICE: Now the deficit is no longer structural, it's real, because of the choice I made. Is that correct? (no response) Yes. I'll answer for you. (laughter) And the reason I'm raising that -- and then you can go on, because I want to keep in the minds of the Committee and other people that during the time that there was dependency, there was choice made. It was done by the State-controlled superintendent. Do you understand what I'm saying?

MR. RARICK: Uh-huh.

SENATOR RICE: We'll leave you at that.

MR. RARICK: Okay.

SENATOR RICE: I think you all know where I'm going.

ASSEMBLYWOMAN HECK: We're looking for a response of who's responsible for this structural deficit now.

SENATOR RICE: We know who's responsible for putting the money back, because we know who made the choice, and we know we're dependent on that. And, ultimately, it comes back to the State. But I want to keep it there.

MR. RARICK: Sure.

SENATOR RICE: I want to make it clear that the dependency -- and the choice was not made prior to takeover, regardless of what they said about the former superintendent. In fact, there was a surplus there. But leave it at that.

Go ahead with your presentation.

MR. RARICK: Okay.

And the principle that you're talking about there is addressed in the subsequent slides. So I'm just going to address that in the context of the PowerPoint.

So, in Fiscal Year '99, we had a \$12 million real deficit. We have not had a real deficit since that point. At that time -- in fact, I believe some of you were on the Committee at that time -- the State provided money to the district to make them whole for that year, so that they didn't get to the point where they, literally, ran into deficit spending.

Now, at the time, as I recall, the \$73 million number that has become the, kind of, public number about what that structural deficit was-- At the time, that was -- and the people that were responsible for it, at the time --

that was their best guess, in terms of the financial data that they had at that point, as to what the structural deficit was.

We, subsequently, sent in at least four teams of auditors from various high-profile firms that determined that, in fact, it was not \$73 million. The best number that we came up with was approximately \$58 million, in terms of the structural deficit, not the real deficit, but the structural deficit.

If you can just move with me to the third slide.

I often hear people refer to the \$73 million, or, in this case, the -- and what I'm telling you is the \$58 million -- as the money was missing, or that it was stolen, or various allegations of that nature -- that it's unaccounted for, we don't know where it went, these kinds of things.

That is not my understanding, based on my knowledge of the situation. I hesitate to disagree with Mr. Rice, because he uses that language, but I'm just going to share with you what my understanding is.

It's not missing. We can account for that money. It was spent on district programs. The problem is that they simply spent beyond what their annual revenues would cover. So it wasn't that the money was stolen, it wasn't that it was missing. We spent it, and we can account for the fact that it was spent, but it didn't conform with the revenues that the district got on that annual basis. I see some nodding heads, so I assume that that is relatively clear.

As I made mention of earlier, we had four accounting firms that went into Newark: Ernst & Young, PricewaterhouseCoopers, Deloitte & Touche, and the State Auditor. And, in fact, in advance of this meeting, those reports were delivered to me. I have copies. But they were delivered to me by Melanie Schulz. And making reference to those reports, nobody ever found any

evidence of widespread embezzlement, or corruption, or whatever you want to call it. That was not what accounted for this \$58 million structural deficit. The reason--

SENATOR RICE: Was it mismanagement?

MR. RARICK: Indeed.

SENATOR RICE: Was it mismanagement?

MR. RARICK: Absolutely.

SENATOR RICE: Can we use that term appropriately?

MR. RARICK: Absolutely.

SENATOR RICE: Thank you.

MR. RARICK: That is an appropriate term to use. There was mismanagement, which means -- it does not mean the money was stolen. What it means was that it was not well-tracked. It was not well-accounted for. Mismanagement, to me, means that as an organization with a budget of \$500 million, \$600 million, you have a responsibility to close out on a monthly basis in an accurate and timely manner. You have a responsibility to provide an annual audit. You have a responsibility to know exactly how many people are working in your district, how much they make, and where they're located. And if you can't do those things, it doesn't mean you're stealing the money, but it means you're mismanaging it, in my definition. So I wanted to make that distinction there.

We've had plenty of forensic reports in Newark. We have found isolated, small cases of people that made bad judgements about what they spent money on, but nowhere near the scale of what we're talking about here, in terms

of the \$58 million. That was not stolen, or lost, or unaccounted for. It was, in fact, accounted for.

Let's move on to the next slide, if we could.

ASSEMBLYMAN TUCKER: Mr. Chairman, could I raise a-- I'd like to just get some sort of clarity.

SENATOR RICE: Yes.

MR. RARICK: Sure.

ASSEMBLYMAN TUCKER: All right. When you say that it was mismanaged, and you talked specifically about the auditors, which, at least, went directly into the accounting processes that deal with that--

MR. RARICK: Including the State Auditor, as I recall.

ASSEMBLYMAN TUCKER: How much of those particular expenditures could you identify, with the \$58 million, were spent on what I would refer to as recurring costs? I'm not talking about, basically, some of the funds, at least, that we know were expended--

MR. RARICK: Oh, that's a difficult question to-- I'm not--

ASSEMBLYMAN TUCKER: --in regards to-- What I'm saying, in effect, is that the difference is that, if they spent these funds directly on recurring costs, you're no longer talking about a structural deficit, you're talking about a real deficit. That's what I'm saying. I want to qualify the difference between what you originally stated.

MR. RARICK: Right, right. And you're right. In Fiscal Year -- I want to keep my fiscal years correct -- Fiscal Year '99, they did, in fact, have a real deficit, and it was about \$12 million. And that's when this Committee -- when Commissioner Hesse came before this Committee -- I believe it was in

January of '99 -- and asked for money to make the district whole for that year. So you're right, that did materialize, and that was, in my estimation, in retrospect, and based on my research, a result of mismanagement, because the district should-- There's really no excuse for having an organization of that size, that spends that kind of money, and yet doesn't meet the basic responsibilities of public accounting. That, in my mind, is mismanagement.

ASSEMBLYMAN TUCKER: But let me, if I can-- When that took place, and when they identified -- as I said, I'm not talking about one-time costs, which was, in effect, dealing with major repairs and what have you. I'm not dealing with those--

MR. RARICK: Right.

ASSEMBLYMAN TUCKER: --because once that year was done, then that backed down. That was not a recurring cost. I'm talking about the situation of hiring staff which, in fact, at that point, became a structural -- it was not a structural deficit, it became a real deficit. It became a real deficit, because in the following year, the funds to pay those particular staff people were not there.

MR. RARICK: Right.

ASSEMBLYMAN TUCKER: So, in effect, what happened was, whether it was a structural deficit or whether it was a real deficit, at the time that following year came -- came in through you, at least, financially -- they did not have the resources. That's one.

The second point -- and again -- talking about going back, in which many of the people may not, necessarily, have been here at that time. But I'm still trying to get an understanding that even when the auditors came in, what

did they identify, in regards to State -- not State approval, but either the State either saying yes or no on these particular expenditures? In other words, what I'm saying is, Hall had to check with somebody before she hired people, which, in turn, increased the basic deficit. Somebody had to say yes or no on that.

MR. RARICK: Well, I'm not exactly sure how much detail you want me to go into, but I will just say, as a general matter, that in my research of the situation, surprisingly, there were a lot of things that were not "approved" that, perhaps, should have been -- that there were quite a few things that were going on, of a material financial nature, that did not, necessarily, see the kinds of approvals that they should have.

Now, Mr. Azzara might be able to speak more specifically about those. But you would assume that that would have been the case, but, in fact, to some extent, it was not.

Should I -- because I think I might address some of these questions as I move through, because I, kind of, took the same intuitive approach as I put this together, and I think it, kind of, anticipates some of your questions.

I think one event that's important to understand when you think about the Newark structural deficit -- everybody wants to know, "Well, why did it happen?" In 1997, we had a pretty fundamental shift in the way that we fund school districts in the State. We used to have the--

Help me out Mike, the PEA?

MS. SCHULZ: QEA.

MR. RARICK: QEA, thank you -- funding formula. And we moved to the CEIFA funding formula. And there was a key change in that, and it adversely affected Newark.

As you'll see in this first bullet here, Newark had been experiencing declining enrollments of kids for many years, but yet, under the QEA formula, their aid had been frozen. They were receiving the same aid as if they were not losing kids. So they benefited from that formula.

When we moved to CEIFA, CEIFA reinstated a per-pupil calculation. So, all of a sudden, they were facing a fairly significant drop-off. The year that we implemented a system that was based on the number of kids you had, they took a \$38 million hit right away.

Now, from the documentation of that period, they saw that coming, and there was State aid called -- as best I can understand it, it was like a regular, discretionary State aid that was provided to Dr. Hall to get her through that first year. We anticipated-- The State anticipated there was going to be this big drop-off, so we gave her -- I believe it was \$26 million, and said, "Here's the money for one year, so that this is not such a dramatic drop-off for you over one year. But we need for you to start restructuring your finances, such that in two years your spending conforms with the funding formula." And what we found was that that never happened, that that restructuring of the expenditures never happened. And so the spending rate continued at this -- and the revenues dropped off and stayed at that level, and never the two shall meet. There was that gap there.

SENATOR RICE: Hang on. I just want to keep my little notes here. That never happened, but the State expected her to go into a restructuring mode. Is that correct?

MR. RARICK: That is absolutely correct.

SENATOR RICE: Which means that she still worked for the State of New Jersey, right?

MR. RARICK: That is correct.

SENATOR RICE: So it's like the State running my district, as an entity, with her body there.

MR. RARICK: That's correct.

SENATOR RICE: Which means the State is responsible for making sure that happened during that period of time. There should have been oversight.

MR. RARICK: There's more to the story.

SENATOR RICE: Which means I was right when I put in legislation saying I wanted an inspector general, but the administration said no -- not the administration -- but the administration said no to my colleagues. Had they had the inspector general, they wouldn't have been there.

I just want to keep my little notes here now, because this is leading to something, you know.

MR. RARICK: Yes, I understand that.

SENATOR RICE: You know where it's going.

MR. RARICK: I understand that. I'm trying to provide you the most objective--

SENATOR BARK: We hear that. We get that message.

MR. RARICK: --the most objective history to this as I can. I don't necessarily come to the same conclusion as you do, Senator, but I'll explain my conclusion at the end.

ASSEMBLYMAN TUCKER: Mr. Chairman, if I can--

The additional money that was provided, whether it came out of discretionary funds or what have you-- Was there any stipulations that the State made when those funds were, in fact, made available directly to deal with the deficit that Newark had at that time? In other words, was there anything that would resemble saying that this \$26 million is, basically, going to deal with your staff support, and you need to phase these employees out, because, in effect, what the CEIFA situation was looking at was that you would not be able to continue this? That's one.

The other one-- Was there anything that stated that-- Now we know the public safety issues. And we're talking about now, I'm not talking about at that time. Was there any stipulations that was related to the \$26 million that said, "You must resolve your public safety issues in regard to school repairs?" And was there any guidelines, that the State set into motion, dealing with that?

MR. RARICK: Well, you're asking-- I'll just simply comment based on the research that I've done. I wasn't necessarily involved with it at the time. But it's my understanding that it was very clearly stipulated to Dr. Hall -- and, in fact, suggestions were made pursuant to that stipulation, that there needed to be restructuring in, and that that restructuring was -- a significant part of that restructuring had to do with personnel. And I have not been able to find any kind of explicit plan in writing as to just exactly what expenditures needed to be cut. But it was made clear that a restructuring needed to occur. And that restructuring, in fact, did not occur.

ASSEMBLYMAN TUCKER: Can I just raise this? I think all of us working at the local level would like to get \$26 million and say that you have to restructure with no guidelines. I just don't understand.

MR. RARICK: I think there probably were guidelines. I haven't been able to uncover them. I think that there were guidelines, and maybe Mike can speak to that a little bit.

MICHAEL AZZARA: At the time -- and I'll speak more to this when Ben's done. But at the time, what we had was, it was almost conceptual. It started with the comprehensive compliance investigation that led to the takeover of Newark. And there were assumptions -- and, again, reasonable people could disagree over how much it's going to cost to run a district like Newark. And to this day, it's still happening.

But at the time, the State anticipated there would be tens of millions of dollars in potential economies through better management, and efficiencies, and better practices. And although there was never a detailed or definitive plan, the assumption was always that Beverly Hall and company would achieve these over time. Some of these were imbedded in collective bargaining agreements, some of them were difficult because of the civil service system that's in place in Newark.

The bottom line was that the first year, Beverly Hall went in, and her staff, and they came back to the Department and they, basically, said, "Look, it's going to take time. A lot of this stuff is entrenched. It's not something that we're going to be able to get out." And at the time when we took over the district, in '95, the district had a \$58 million surplus. And they wanted to hit the ground running. They wanted to put in a full-day kindergarten, they

wanted to go in and make up -- and do as much as they could to make, at least, cosmetic improvements or health and safety improvements to the buildings. They wanted to put some new programming in.

So at the same time, we were looking at implementing new programs and procedures, and also seeing that it was going to take time to find the economies or the reallocations to cover them.

So Beverly Hall went ahead and started spending that surplus. And we were looking, at the time -- over a period of time, that while she was increasing spending in value-added places, that she would also start finding those entrenched economies, and that they would start coming down. And then, eventually, they would cover the increases.

It never happened. As early-- When we came close to the CEIFA formula, and we anticipated they were going to have another big hit, the Hall administration was still telling us they hadn't been able to achieve those economies, which is when the \$26 million was given to her, to try to give her another year, to start trying to achieve some of these things that she was saying were entrenched.

In 19-- After the CEIFA IV -- not CEIFA IV -- Abbott IV decision -- which, initially, was that CEIFA did not meet the needs of the Abbott districts -- that led to the parity aid-- But it did not lead to Whole School Reform at that point, but it led to an order to the Department to come up with a plan to address the urban issues and the urban reforms.

I became more involved in the process. As the Assistant Commissioner of Finance at the time, I was in charge of overseeing how the new parity aid would be spent. Up until that time, Newark, to me, was just one of

600 school districts. There was a separate State-Operated School District division that reported directly to the Commissioner, and there was a separate division of compliance where the Newark internal auditors reported directly to the Commissioner.

When the parity aid came in -- the first year the parity aid came in, it was that April. The year was almost over, and I had still not been able to approve one expenditure for Newark for parity aid, because nothing that they were submitting was meeting the criteria in the regulations for the Abbott aid, for the parity aid.

That was when things started percolating inside the Department, and it started becoming obvious that the management in the Newark school system, Beverly Hall and Leonard Hillenbrand, her chief operating officer -- things were deteriorating. We started to learn that their accounting system was not functioning. They couldn't even demonstrate how they were spending their money. They were adding resources with no real organizational or educational plan, just because you needed more guidance counselors, or you needed more of this, or you needed more of that. But there was no plan.

In the 1998-'99 year, which is when the proverbial -- hit the wall or the fan, the district came to us with a request for about \$114 million in, what was called, *supplemental funding*. That was the first year of supplemental funding. That was when Abbott V was decided, and the Department's Whole School Reform plan came into being.

There was a three-year phase-in on Whole School Reform, and the supplemental funding was supposed to be on top of parity, when a district could

clearly demonstrate that parity was not enough to implement the court-ordered reforms.

Now, at that time, they were asking for \$114 million, but they had no plan to implement Whole School Reform. They had not identified any Whole School Reform models. They had only implemented, on a limited basis, preschool. So there was really nothing, in my mind, that was driving the need for \$114 million in supplemental funding. And I was reluctant to put my name to anything that said it was.

That is when it hit the fan. We then went in and took a team in -- an intervention team in. Beverly Hall left. Marion Bolden came on board. And even then, even though there was no actual court-ordered interventions that were being implemented, the spending was so entrenched, and at such a level, that the best we could come up with at the time, based on the accounting information, was, we felt that they needed \$74 million more to carry on what it was they were doing, which was historical. It was not related to the Abbott decision in any way.

Later, as we brought in the top five accounting firms -- your own independent auditors from the Legislature came in -- we started correcting the accounting system, and we discovered that was more like \$57 million -- through accounting errors, and clerical issues, and getting better records. But even then -- I'm being honest with you -- Marion Bolden and the State were still at odds -- whether the \$57 million was necessary, at least at that time, because it was still historical spending. And to this day, there's still differences of opinion over what spending in Newark is necessary, and what isn't, and what the real level of the spending needs to be.

SENATOR RICE: Well, let me say this--

Did you finish your PowerPoint?

MR. RARICK: I've got a couple more pages.

SENATOR RICE: Go ahead with your PowerPoint.

MR. RARICK: Okay.

So if we're looking for two very basic reasons for why the structural deficit was created -- Mike just outlined it for you, and I'll just make them real clear.

One was, they didn't do a very good job of tracking their expenditures, and as a result, they couldn't necessarily tell, at any one point in time, what their cash position was.

And the second one, and this is probably the most important one, is that as they moved from one funding system to the next, they took a very large hit in their revenues. So you take a big hit, and then you compound that with the fact that you don't necessarily know where you're at, cash-wise, and that's what created the situation that we found in Fiscal Year '99.

Now, I just want to, kind of, bring us out of the negative and into the positive, because a lot -- I think something needs to be said about the fact that, over the last three years, a tremendous amount of improvement has taken place. Newark, for Fiscal Year '02, received a certificate of financial excellence. There isn't a report that's required that isn't filed timely and accurate. They have an excellent school business administrator. Marion, herself, is a good manager. We disagree on spending patterns and so forth, but there's no doubt about the fact that she's committed to solving the problem of fiscal responsibility, and to a great extent she has.

On this PowerPoint, you have a list of the things that were corrected. They didn't file their audits, now they did. They didn't file their A148, which is the monthly report -- it's, kind of, like balancing your checkbook on a monthly basis -- they weren't balancing their checkbook, now they do. They got a certificate of excellence. They've improved accounts payable. And they continue to chip away at some of the historical spending that Mike was talking about, in terms of administrative spending that isn't necessarily consistent with the Abbott decision. She's made commendable progress in that area, and I still think there's, still, some more improvements to be made. But she needs to be given credit for how far she's come on that.

So let's move to the next one.

As we've moved through the history in Newark that -- and as we have made cost reductions, we have, slowly but surely, chipped away at that structural, not real, structural deficit.

Again, it's not uncommon for large districts to have structural deficits, because there are various sorts of non-recurring revenues that are available. If a district has a lot of vacancies -- a district of the size of Newark is likely to have 200, 300, 400 vacancies. So the salaries for those positions continues to accumulate. Well, that's a non-recurring revenue, but it's a real revenue. And Newark's certainly not the only district in the State, or indeed the nation. There are plenty of large districts that rely on non-recurring revenues to balance the budget. It's not an ideal situation, but it happens, and everybody needs to understand that Newark is not, somehow, unique or delinquent in that respect.

Our best estimates indicate that, as of Fiscal Year '02, we're down to about \$30 million for a structural deficit. Again, we don't have a deficit, but that means that the district relies on about \$30 million in non-recurring revenues to balance its budget. For Fiscal Year '03, we think it's a little higher than that, because we went through some real belt-tightening. All of us have gone through belt-tightening, as a result.

SENATOR KEAN: Excuse me, if I may.

MR. RARICK: Sure.

SENATOR KEAN: Mr. Chairman, just a point of clarification.

On this chart--

MR. RARICK: Yes.

SENATOR KEAN: Is that a typo, where the last two fiscal years -- it has FY '03 and '04. Should those just be a continuation of FY '01, '02, and then '03?

MR. RARICK: Oh, it looks like-- Okay. Fiscal Year '02--

SENATOR KEAN: Is where '03 is. According to your testimony, the way you're talking about -- where the structural-- Or FY '04--

MR. RARICK: It looks like Fiscal Year '02 has been deleted. I apologize for that. I'll send the correct one to Melanie.

SENATOR KEAN: So '02 has been deleted. It's not -- the '03 and the '04 are--

MR. RARICK: It is -- '03 is correct, because they got \$122 million in supplemental in '03. So there's a column missing there. I apologize for that.

SENATOR KEAN: Okay. I just wanted to clarify, so the numbers would line up.

MR. RARICK: Melanie, I'll E-mail you this chart afterwards.

SENATOR KEAN: Thank you.

MR. RARICK: So we're at a point now where we've gradually chipped away at that structural deficit, and we've got it to a much more manageable size. It's not gone. We still work to chip down even further, but with the recognition that there are other districts that rely on structural deficits. And I wouldn't characterize this as an emergency situation. I mean, the fact that Newark's budget is so large makes the structural deficit look large, but as a percentage of its budget, it's not that sizable.

The final comment I'd like to make is -- and maybe this will be something that Mike talks about-- During the last couple of years, the State has dedicated an unprecedented level of State funding to Newark, more than any other state has for urban districts. The percentage of funding for Newark has increased significantly, and you'll see that represented in your attachment, all the while local contributions have remained flat. So we've managed to continue to fund the budget, not raise taxes locally at all, and simply rely on greater amounts of State aid, to the point now where you'll see, in the final year of your chart, we're talking close to -- for this upcoming year, we're going to be close to \$700 million in State aid.

So where I may respectfully disagree with the Senator -- maybe I'll preempt him. I don't know what his comment's going to be -- but my thought is that the State has made a significant financial commitment to Newark, over the last five years, to cover -- to balance the budget every year. The level of funding is not a level of funding you'd find in any other state in the country. I mean, it's truly a staggering amount of money that is going into Newark. So I

feel, and I would respectfully represent to you, that the State's commitment to Newark is, in fact, quite impressive and that any representation that the State owes the city money is an argument that I would have with somebody, in a respectful way.

But anyway, that would be my report to you, and I certainly welcome -- I don't know if Mike has any thoughts -- but I'm open for questions.

SENATOR RICE: First of all, let me thank you. Let me say that we have to respectfully disagree. We won't debate that here, primarily because the city has not given us anything. The State has not been annually increasing or giving dollars -- discretionary dollars, whatever you want to call them -- to us because they're gratuitous. What they should have done was just given us the lump sum back, and maybe we would have gotten all this stuff straightened out.

I can't run my household properly being late on my bills all the time and no additional income. Eventually, somebody gets angry about that and decide they're going to take me to court, and it messes up my credit record. I think I've been that route. Maybe you all haven't, but I've been there.

What's happened in Newark, number one -- and this is what I'm getting at -- is that the State recognized there's a problem. They also recognized that the State created the problem. And I have to emphasize that, because we're going through budget pieces now. And you have three takeover districts: Paterson, Jersey City, and Newark. The State came in recently and told us to cut -- I don't know what it was -- what did we cut, \$80 million, or something?

What was our cut out there, Gordon? What's the demand we cut this time around because of the State budget problems?

ASSISTANT COMMISSIONER MacINNES: For '04?

SENATOR RICE: Yes.

ASSISTANT COMMISSIONER MacINNES: Well, we just--

SENATOR RICE: Just a number roughly.

ASSISTANT COMMISSIONER MacINNES: Well, the maintenance budget that we asked them to submit, which was not submitted-- If it had been, it would have been--

SENATOR RICE: About 80 million?

ASSISTANT COMMISSIONER MacINNES: About \$80 million, yes.

SENATOR RICE: Okay. Then I remember sitting at a meeting when you made a request that they--

MR. RARICK: I'm sorry, I just want to make--

SENATOR RICE: What I'm trying to say is that we operate -- and all of a sudden the State said we have, in New Jersey, a budget deficit where it's all the districts -- to look at those budgets. I believe Newark's budget was requested to look at -- trying to cut about \$80 million.

MR. RARICK: Basically, all the Abbott districts would have to--

SENATOR RICE: I understand that.

MR. RARICK: Oh, I'm sorry. I thought you were asking for clarification.

SENATOR RICE: No, I think the Newark piece was \$80 million. Then there was the request to cut an additional \$15 million. And I'm aware of that request because--

ASSISTANT COMMISSIONER MacINNES: It was last year.

SENATOR RICE: That's right -- because the superintendent, unlike Hall -- recognize she is State -- but recognize the kids come first and said, "No, I'm almost bankrupt. I can't cut any more. I can't even borrow any more." And the State said, "Well, if you don't cut it, we'll cut it." That attitude was fine. Do what you have to do, but we're not doing it. We can't do it.

The point is that, whatever percentage we're supposed to cut -- Newark, Jersey City, and Paterson -- we're not on parity with them. When I say that -- it's that we're not where we started. We were down here because of State. You've been pumping money back because it's due back, but you haven't been managing -- making -- giving us, in my estimation, what is necessary, because we go back to say -- well, *mismanagement* -- we're going to use that work because we can all agree on that word. And we're saying that there's a word like *choice*, dollars being used based on expectations that were one-shot deals, weren't reoccurring, stuff like that. And maybe somebody should look at that. No problem.

But that was the State doing that. And the State is saying, "Well, you know what? We came in and took over your district, because we alleged mismanagement in the Newark school system, so we put out--" and we have various corruption and all that, too, but we never found corruption in all that stuff -- "so we'll just keep the district, because of mismanagement-- Even though you have a surplus, we'll keep it, because we like being here." They took the district.

The State came in and mismanaged -- same scenario, no different -- and we can't even take it back -- that bothers me -- and manage our own district. And so even with the choice piece -- you know, you need to research

this to tell us where the choices are made. Because the choice that was made on some areas -- unlike other school districts -- and Paterson and Jersey City, are, certainly, the same -- based on things that should have been done a long time ago, given the social environment that we live in -- a difference in needs of those students.

And so the choice may have been right, but the State is saying, "Well, maybe you should open up a playground and maybe you should do this, but you're only going to do it this year. Don't expect it in the future." And maybe somebody will say, "Hold it. We have to expect it in the future, because you can't expect us to get these scores up unless we do this -- because you can't expect us to do this unless we clean these schools up--" I don't know. And that's why I'm having the problem.

The point is that, whatever the deficit is, we shouldn't have been cut nothing this year. I don't really give a doggone about the Governor's problem. We should not have been taking heavy cuts in that school district. If you couldn't give us more, someone should have been cognitive of the cuts you were asking us to make, because I told people at the State level, "I will go up and down New Jersey, and I can justify to my colleagues why we'll get money." And you can't play that subliminal head game by saying, "Each year you got this much more, unlike other districts," without explaining to them why we got it. See, they think that we're getting something because it's Newark. And we keep getting criticized -- "Well, those poor little black folks up there, and Hispanics, and poor people -- they don't know how to manage money." No, we get it because it's due us, because the State messed up. The taxpayers' champions messed up. The government messed up, not this Commissioner, not

that superintendent, not this Governor. But don't tell us that we can't take no political hits -- by saying we're going to do what's right for Newark, we're putting it back, let everybody raise hell -- because we take hits on everything else. That's where the problem is.

So if you're telling me it's not \$80 million, it's \$59 million, give me my \$59 million, or give me a substantial portion of it, or put back some of the cuts we have made. If you're telling me it's \$30 million, give me my \$30 million. But stop penny-handing me every year and then tell the public you're giving us more than most people get, because this is the normal. We got this much more. That is the biggest distortion I've ever heard and seen, because it's not real, unless we put the genesis of it with it, like you did -- excellent job, by the way, too.

I want you to know he did an excellent job.

I still think some other things happened. I still think the Assemblyman should try to get Dr. Hall back here, and some of those contract people from New York, because contract -- is contract monitoring -- that should have been done by the State, too. Is that correct?

MR. RARICK: Yes.

SENATOR RICE: You don't have to go further than that. It should have been done.

And I can tell you something else. Mr. Hillenbrand was brought to the State's attention, in terms of questions by me, the unions, and everybody else, long before they decided to go and look and remove him. Had they paid attention to the folks who work in the system, folks who are decent elected officials and local community activists -- not one or two like the Governor's

doing now -- they would have picked up on that earlier. They waited until the crap, as you say, hit the fan to decide, "Well, Hillenbrand doesn't know what he's doing." Well, we said that a long time ago. Everybody said the hell with us. And that's the difference.

And QEA II did not hurt Newark. It helped Newark on both sides. It was QEA I, QEA II. It's the shift in formula -- because I'm not going to debate what would have happened had the administration -- didn't shift the formula to CEIFA -- if you stayed QEA, I'm not sure where we would have been.

And the final thing is that, when you talk about surpluses, right now, everybody's crying there's a teacher shortage. There was a cry we may have to go to India or someplace. Well, until you can get those teachers in place -- you have that shortage -- you've got to expect that those dollars are going to be there.

Now, if the State said, "Well, look. You didn't hire them yet. We're going to keep the dollars down here in reserve, but they'll guarantee you, when you bring these five people on board -- no problem." But if not, you can't take the money and then know that there are real shortages out there, whether it's equipment or things you can't get right away-- And then, when's the time you're ready to get them, you say, "Now I can't get them. I don't have the money."

So we need to keep these pictures clear as to our accounting -- and numbers work-- Because budget time, the State cries foul and claims there's a lot of money out there, without explaining to the people why the money's out there -- because the State shouldn't spend (indiscernible). If they want to take

it, let them take it and put it in reserve, and it's guaranteed and dedicated back to that district where aid happens. But to say it's not going to be there, it's going to be used for something else-- And that's why the State has such a huge deficit now, because the biggest offense in this State has been at the government level, from the administration's side. And some of us have to take some of that blame for voting for some of that crap, because that's why our deficit is messed up. Newark is messed up, and they want Newark and some of these other school districts -- including suburban districts that are bearing our pain -- to clean up the State's mess for bad decisions.

So my point is that this is leaning back to the Commissioner, that there needs to be a re-evaluation -- is process. And those who are on budget -- on this Committee, on Appropriations -- of taking another look at putting some additional dollars back. We have cut further than we should have. We're just finishing the election. I think this superintendent's doing a good job. I couldn't do the district with all this mishap. As bright as you all are, I think you all would have had some problem doing the district with all this mishap. I think she's able to do it because she's got people pulling together, because she's a product of the city, and she's working with you. But she needs a few more dollars in this budget, not all these massive cuts that you have laid on her. And I'm sure that other districts feel the same way.

So I had to, at least, get that off. And I do have a better understanding. I want to thank you for giving us more information on how you see it, because we are still not sure what happened. But on your read -- at least we have some idea of one scenario.

MR. RARICK: Yes.

SENATOR RICE: The bottom line is still the same. There's a shortfall, whatever that number is.

MR. RARICK: If I could make one more comment in summary. I think that there will be fundamental disagreements about next steps and so forth, so I won't go there. But it's important to me that everybody realizes that that money wasn't stolen or vanished. That's the part of this that I hear a lot about when I'm in Newark and I'm in the circles of people that would talk about this. And I hear that, and it's just important that people understand that that wasn't the case. And we can certainly argue about the technical nature of structural versus real deficits, and so forth. But for the public confidence, I think that's an important point to make clear.

SENATOR RICE: What is stolen-- And let me just say this, and I'll end and let them speak. The allegation of stolen is no different than the allegation the State made of stolen. They found no theft. They even accused individuals. Stolen, is not all the time-- Maybe the word they should have used was *fraud*, and maybe someone should investigate a fraud. Maybe that's why we need to call, Assemblyman, a Committee meeting and get Hall and them back in here -- some of them contractors -- because you have to look at what contractors got, where the contractors came from, how they were approved, and what, in fact, they did.

Now, that may not be us saying, "Ron Rice took the money," but, certainly, if I have a way of taking care of friends, or taking care of other folks, or making sure the products -- prices are bloated, etc., then there is a problem. That is theft. But it's called fraud, or defrauding, or theft for services. I don't know. And that's where these allegations are coming from -- no different than

when the State made their allegation. But the State refused to pursue that because, in my estimation, the State felt that they may come up with some folks they didn't want to be coming up with.

Now, I understand the politics of all this. And I'll say it publicly. I've been around too long. I know how it works. And that's the problem. And in the meanwhile, they're not going to play it off on some clean scenario. I'll accept the clean scenario as long as the State accepts the fact -- they're going to put some more money back in that district. We don't cut ourselves too far-- What's going to happen next is that we're going to have a superintendent -- and I'm fighting to make sure it's still Bolden. But the point is that, regardless of who it is, we're going to still be coming back to the State saying, "We can't run this district and keep these things going, particularly with No Child Left Behind. The Governor wants to go back to (indiscernible) the Abbott decision -- which we think he's wrong, etc. -- because of this deficit. That's all we're saying.

I had some hands up over here.

ASSEMBLYMAN TUCKER: When you get a chance.

SENATOR RICE: Was there a hand up over here?

SENATOR BARK: At some point, I would like to speak. But I don't have to speak next. I mean, I almost want to make a closing type of statement.

SENATOR RICE: Okay. Why don't we go to Assemblyman Tucker, Senator. Anybody else?

ASSEMBLYMAN TUCKER: Commissioner, my concern on it is similar to what -- the points that (indiscernible) was raising. But, again, we can take a tremendous amount of time dealing with the historical situation and not,

necessarily, dealing with the reality of what you had stated. In other words, you are in the process of eliminating the takeover situation and allowing the districts to function.

What I'm concerned with is, what specific plan do you have, not just for Newark, but for the takeover districts, which would, at least, take on some of the responsibility of the State's involvement in these processes? In other words, it can't just be, "We're going to give it to you, and you run it." That's what I'm saying. With the -- whether you call it structural deficits, real deficits-- What I'm saying, in effect, how do you envision moving forward at this point in time?

COMMISSIONER LIBRERA: Assemblyman, I talked about -- in our opening comments -- about how we're going to change the State takeover law, and we're going to integrate that into a single monitoring system. So we have plans for districts who return to local control. And we're doing everything we can to see that happens as fast as possible -- go through a very orderly and clear process that everybody understands -- same set of rules for everybody, not different sets of rules.

I think that needs to be separated from this issue, because this issue about structural deficits, deficits -- it is very complicated, and we don't-- We can't speak to what might have happened in 1998, what should have happened. But we do need to agree on certain things. We need to agree on certain critical issues.

To me, the critical issue that we have to consider, as we talk about should we put more money back -- should -- what does Newark deserve goes back to when the CEIFA formula was enacted. And it recognized enrollment.

What happened was, \$38 million was no longer due to Newark because they had lost enrollment over a period of time. And then the new formula -- and the old formula didn't account for that -- the new formula did. The whole thing starts with that \$38 million right there. And there is a whole host of things that should have happened, but a lot of that, you heard Mike say, was (indiscernible). "Okay, \$38 million -- you can't handle that. Here's \$26 million. A year from now you got fixed." Well, it never got fixed, and it just keeps rolling over.

Well, we got to get back to it. And the question about putting more money back, apart from where we get to put back what -- at some point, if that happens -- that's another question. The fundamental question is, what to do. That's it. And we have to work on that, because there is a strong feeling in the city of Newark, expressed pretty well by Senator Rice, and, certainly, Assemblyman Tucker, that there is money due. All right, on what basis? What's the amount? We have to talk that through in order to settle that question, because this can't keep going on and on and on.

SENATOR RICE: Not arbitrarily.

COMMISSIONER LIBRERA: But I'll go back to -- and I wasn't here-- The controlling issue, seems to me, that starts the question is \$38 million they weren't eligible for. There was a decision made that that was too much to bite in one year. Here's \$26 million, on the promise something was going to get done -- never got done and continued to roll.

Now, \$26 million is advanced against something for which they were not eligible, according to the formula. And we think we're at a \$30 million structural deficit now. Those numbers are real close, which means that we have

traveled a torturous road from \$100 million, \$120 million, down to someplace about 30 or 35. And I would suggest that that's the scope of the conversation, I think.

SENATOR RICE: Let me say that when you hear me speak -- and those that I know, I've worked with on this issue -- we're not speaking of arbitrarily, capriciously doing anything. We're talking about what we think, but what you have to find out. The bottom line is, something is due. And I always tell people that I can accept the fact that I think I worked X number of hours, and due \$100; and you show me where I, kind of, miscalculated, I'm only due \$75 -- give my \$75.

And I also just want to keep it clear, the 38 was one of those things based on enrollment that was not only Newark. Every district, in the change of formula, had the same scenario. I just want to say that. Theirs just worked out better because of management, or programs, or whatever. But it wasn't like Newark was losing population, and nobody else in the state was. And they didn't have those dollars there. I'm sure when they came across the board, they said, "Well, Newark, these are dollars in the QEA you should not have had under the new formula." But you know, Roselle -- "those dollars that you shouldn't have had either" -- here's how we're going to handle that. But it does start with the 38, and that's the interesting fact there -- you start with the 38, and it starts with the -- it really starts with the State takeover and the surplus being there, because the State had to work with the surplus that Newark had and move it, some kind of way, to do whatever.

But you're right. We'll agree on that. We'll agree that we have to revisit, but we have to be serious about being at the table and not speculating,

and working through. And if we do that, I think all of us are going to be better off, because what's happening now is that there is some improvement in some of these districts, and Newark is one of them. And it's not the worst district in the state. In fact, it's one of the better districts overall. But the bottom line is that, at least if we don't have that reasonable degree of parity -- forget the court parity-- See, I don't feel we'll have court parity until we get straightened out to where we should have been, had this fiasco not occurred. And that's what we're trying to get to.

COMMISSIONER LIBRERA: And what I would suggest is that the question is really: What is due? Not how much is due, or whether something is due. And I don't think -- and I respect the conclusion that you've reached, Senator Rice, because I've heard it from you a number of times. It's very consistent. We are not yet of a position that we think something is due. We're not saying, "No, we can't talk and analyze and think about this."

I'll go back to that \$38 million at that time. It happened because Newark was one of the few places that had declining enrollment. And this formula, which was supposed to apply to everybody, applied to Newark and said, "Newark's not eligible for this \$38 million, because the enrollment has declined."

I think that that's the point where the discussion must be. Was the \$38 million reduction appropriate or not? Is there something for which Newark is eligible or not? I think it's just that.

And I think the other things about what the previous superintendent did, and with whom-- Now, that's a separate matter here, about how business was done. And that's left, I think, at this point, to the Legislature -- to

communities -- about whether you want to do anything about that. The issue about is Newark due more money, based on all of this, revolves around the issues that we presented and how we interpret them.

SENATOR RICE: But wouldn't that be based, also-- If the State ran the district, and I misappropriated my dollars -- but if I misspent them, as well-- If I established this contract relationship -- if someone can establish that maybe they shouldn't have been paid for it twice, or shouldn't have been this price-- That's the (indiscernible) our dollars.

My point is, no one can ignore that factor. I know, as a former investigator, I wouldn't ignore it, if I'm putting together a case for you to present, etc.

But we'll leave it. Let them ask questions. We're pretty much on the same wavelength. But I'm not going to accept the fact, given what I know, that there is zero due from the State. The question is, let's put the facts together. And I think that the superintendent and others can show you where we shouldn't be in, doing the same type of cuts right now as anyone else, if we're not going to receive anything above what we have. And that's where I'm going with this.

Yes, who's next?

SENATOR BARK: I think Senator Kean was.

SENATOR KEAN: Boy, am I excited I got on this Committee. (laughter) I'm looking forward to working on these issues.

SENATOR RICE: This never happened during the Tom Kean administration. Let me assure you that. Education was doing good, even in Newark. (laughter)

SENATOR KEAN: I look forward to working with you and the other members on this Committee, and I wanted to carry on the conversation we had at one point, earlier in the Budget and Appropriations Committee, regarding -- as you're relooking at the formula, whether it's rejiggering the CEIFA or looking more broadly. I look forward to working with you on that, through the course of the summer and beyond, to figure out how we can best allocate the dollars as we look at this process.

What I have, overall, is-- I want to go-- I try to be a stickler with this chart. I just want to walk through the process and figure out -- as we're going forward, we have a-- Total State aid, in FY '95, was \$390 million to Newark.

MR. RARICK: Correct.

SENATOR KEAN: The total local tax levy was \$80 million.

MR. RARICK: Correct, the tax levy hasn't changed for as long as I've been associated with this process. It's about \$80 million.

SENATOR KEAN: Exactly. And that's a separate issue that we need to discuss at some other point.

MR. RARICK: Correct.

SENATOR KEAN: And total district expenditures were-- Walk me through how you get from FY '96 -- or '95-'96. Here we get to the end point, and I assume that the top two -- the FY '03, FY '04--

MR. RARICK: Right.

SENATOR KEAN: The top and bottom rows are unfinished because you have no idea of what the undesignated fund balance is. Is that the only--

MR. RARICK: Exactly right, because the fiscal year hasn't completed yet.

SENATOR KEAN: So you have no idea. But if we look at the amount where that amount goes up to \$681 million and, then, the total tax levy remains at \$80 million -- and, then, we've been talking about the structural deficit amount-- In the course of a given year, how do you add these up?

MR. RARICK: How do you add them up?

SENATOR KEAN: I mean, in terms of here -- get to the total district expenditures of 608 in FY 2000--

MR. RARICK: Right.

SENATOR KEAN: --I guess you've got to carry forward for the fund balance.

MR. RARICK: Yes, there's a--

SENATOR KEAN: It seems to be the numbers don't add up.

MR. RARICK: Well, no they do.

SENATOR KEAN: They do add up, but I just need to figure out how.

MR. RARICK: Exactly. There's information--

SENATOR KEAN: There's a better way to phrase it.

MR. RARICK: In anticipation of coming before the Committee, I did anticipate getting a question of that detail, so that's fine. I'm happy to answer it. But that wasn't what -- I didn't come prepared with that level of detail. What you're looking at, essentially, is there are other revenue sources here that you wouldn't be able to add up to get to that total expenditure amount: Federal aids, for example; other revenue sources.

So what you're looking for is, really, a line-by-line revenue, which we have.

SENATOR KEAN: If you could, through the Chairman -- if you can get that to me, because I'm trying to figure out--

MR. RARICK: Yes, we have that. In fact, just before coming here, we were trying to decide whether to bring the detailed sheet or this, and we brought this. So there is a detailed sheet, to the extent that you want to talk about it, or what have you, that's--

SENATOR KEAN: Yes, I want to figure out how all of these things get put together, and I look forward to working with you, and with the Commissioner, and with the former senator, as well as everybody at the table, on not only the components of how we get in there and really drive into -- I'll use the term *sliding scale* component, as well, and truly look throughout the state on this process. But I look forward to-- This is one of the -- obviously one of the major aspects of that discussion. Getting accountability throughout the district is one thing that I find very exciting to do.

MR. RARICK: The thing that I intended to illustrate with this chart, more than anything, was, first, to track the structural deficit across time. But more so, you'll see just how significant State aid has gone up over takeover. I mean, it's almost doubled -- not quite doubled, but it's gone up tremendously--

SENATOR KEAN: Right, that's one of the things I was focusing on.

MR. RARICK: --while we've been able to keep local taxes levied. I mean, that is why -- that's my argument for why I believe the State has made a significant commitment and has made the district whole.

SENATOR KEAN: I do appreciate that, but I did want to track that from the growth, from '95 to 2004.

Thank you.

ASSEMBLYMAN TUCKER: Mr. Chairman, if I can--

Commissioner, I just wanted to go back to the point of not just Newark, but the basic three districts. We can-- I don't want to rehash what all of us know about it. What I'm saying, in effect, is, quite frankly, I agree with you in regards to the old question of turning those districts back over. But what I'm saying, in effect, is, how do you envision functioning once you do that? In other words, my concern is not the control of the district, my concern is that the control that would be utilized by your office in ensuring that this does not happen again -- and working on some sort of a situation similar to the meeting that we had at NTU in Newark. What do we need to, at least, move forward? What dollar amount can we, at least-- I'll say this could be a minimal amount in order for people to -- at least, the board would need -- in order to, at least, meet its obligations and know that this is the level that they can expend upon and cannot go over.

So in other words, I guess, what I'm really trying to-- Where do we go from here, because other than that, I don't think we're going to-- I don't want to deal with the past. We're not going to get Hall to come out of Georgia to come back here. We can forget that.

So the reality in the matter is what do we need to do, right now, to--

COMMISSIONER LIBRERA: What we're doing right now is waiting for the budget to be presented to the Abbott Division. And Gordon and his staff will look at the budget and look at the demonstration of need. We have a constitutional requirement to recommend those to the Legislature if we don't have enough money provided in the budget -- what's necessary.

So the answer to that question comes out of the specific review of the budget in the three communities. And that's not different than the review of the other 27 Abbotts. It's all: This is the community, this is what you demonstrate, this is our analysis, these are the kinds of results we see -- and we come up with a decision about the number. That's the budget side.

The other side of this is in terms of what's going to happen with the return to local control. We're going to work on a transition from State takeover to local control, and it's going to be done in phases. Where it's clear the district handles this stuff well -- quickly go back there. And where there's not as strong a performance, then there's a little more State involvement. That's the kind of thing that's going to happen. So we're going to separate the two.

But the budget gets treated the same way, whether it's State takeover or whether it's not State takeover. It's what do you need, how do you need it, and how do you demonstrate it. And then we have an obligation, if what we've been provided by the Treasurer is inadequate -- we must -- we have a constitutional requirement to go to the Legislature and say, "X is -- more is needed." We won't know that until we do all the budget review stuff, and that's coming.

ASSEMBLYMAN TUCKER: What I'm trying to get to is a -- not an exact timetable, Gordon, an approximately timetable as to one -- we know

when the budget is. That's not directly under your control in regard to what's going to happen.

But what I am saying is that if the budget is, in fact, submitted and adopted, and it does take into consideration the points that you're raising, then we're now talking about what is the timetable where we would develop it -- the phasing out of the State control. In other words, how much time would it take us to do that? What I'm trying to get is a ballpark of time and activities so, at least, we know what will be coming. That's what I'm saying.

COMMISSIONER LIBRERA: We anticipate having this framework available so that we could start talking with this Committee, and other committees that we need to deal with, because there's lots of legislative stuff. We think that that's going to be available one and a half, two months from now.

Then it's going to take us -- and I would estimate that it's probably going to take us someplace between two and six months to hammer this out, to get it to a point where we will all be comfortable taking it to the Legislature.

Then I would estimate -- you'd know this better than I. We're going to bring something of this magnitude. How long is that going to take? I'd like to say two to six months, but I don't know.

What I do know is that, as soon as we are able to do it within our authority, we're going to start moving in the direction we need to, because you can't-- We just don't want to wait for the final approval if we can take some steps in between. And we think we've already done that, and some people disagree about how to do that. But that's what we've tried to do.

We want to move as fast as possible in those directions. But since this is legislation, we've got to do it this way: two to six months, and then however long you think it's going to take us to get it through. But hopefully, if we do this job well, we're going to be addressing a whole host of issues that have been around for a while and put something in place that we can monitor and tweak, as opposed to have to redo in a major way.

So that's the timetable we expect to--

ASSEMBLYMAN TUCKER: So am I gathering you're saying somewhere, near about, a year or something like that?

COMMISSIONER LIBRERA: I would think that, probably, six months is ambitious, in terms of the Legislature. But given the leadership that's at this table, if you think you can move it faster than that--

ASSEMBLYMAN TUCKER: Wait, wait, wait. Stop.

COMMISSIONER LIBRERA: --great, because we need to do it.

SENATOR RICE: Next person is Assemblyman Diegnan.

Also, when you send the package, through the Chair, for Senator Kean -- he's my numbers son. I just want you to know that he takes care of my math. Make sure you don't forget to send him the correction document, because he's going to get confused again if you send the explanation-- (laughter)

SENATOR KEAN: I just want to make sure everything's all figured out, sir.

SENATOR RICE: That's right.

We have the Assemblyman next, and then we have the Assemblywoman, and then we have the Senator, and then we'll close.

ASSEMBLYMAN DIEGNAN: Two quick questions. What's the student population in Newark, let's say, the last four years? Is it stable, is it going down, is it going up?

MR. RARICK: It's been going up slightly. There was a fairly significant downturn during the mid to late '90s, and now it's starting to come back up a little bit. I wouldn't say that it's, like, a precipitous rise, but there is an increase.

ASSEMBLYMAN DIEGNAN: And that's real student increase, not like part-time going full-time?

MR. RARICK: Yes. I mean, there's been an increase related to early childhood, obviously, because now we have a program for 3- and 4-year-olds. But, also, in the K-12 program, we've seen a slight increase.

ASSEMBLYMAN DIEGNAN: And one other question, referring to the chart that Senator Kean called attention to. What happened in '99-2000? Why did the total district expenditures go down significantly and then jump back up in 2001?

MR. RARICK: Because that was the year that we were dealing with that structural deficit at its peak.

ASSEMBLYMAN DIEGNAN: Okay, so that's, basically, the actual, true expenditures that were not significantly-- That's just that structural deficit that -- basically, the accounting adjustment of some type?

MR. AZZARA: I think it was, at that time, we were making an effort to get rid of some of the historical inefficiency. And then the following year, it was the Abbott mandates -- really started to kick in. The districts started

implementing Whole School Reform and picking Whole School Reform models, and they actually did have new Abbott-driven costs.

ASSEMBLYMAN DIEGNAN: I don't want to prolong this, but we're talking a \$9 million decrease because you were putting in reforms. Is that what we're talking about? And then it jumps \$130 million the next year because of Abbott?

MR. RARICK: Which fiscal year?

ASSEMBLYMAN DIEGNAN: I'm looking at Fiscal Year 1999, and 2000, and then 2001. It was that three-year picture.

MR. RARICK: Yes, that's right.

MR. AZZARA: Yes, what happened was, in '99, they still hadn't begun implementing Abbott. And as far as 2000, they still hadn't implemented a Whole School Reform plan, and that was the year we were dealing with the structural deficit. And we actually did reduce expending in that year, because it was historical spending. They still hadn't made any significant effort to implement any of the Abbott recommendations. They had a three-year phase in, and they waited until the third year, which was the 2000-2001, before they made a serious effort to implement the Abbott mandates. And that's when you see the spike.

SENATOR RICE: That's when you were covering those deficits. That's when bond proceeds and everything else went in, right?

MR. AZZARA: Yes.

ASSEMBLYMAN DIEGNAN: Yes, but the bottom line is expenditures, right? So that (indiscernible) really had nothing to do with structural deficits, it's expenditures. And we're saying that in 2000, because of --

I'm going to use the word, loosely, *reforms*, *efficiencies*, etc., it actually went down. But then it leaped back up another \$133 million?

MR. AZZARA: Because that following year, the 2000-2001 school year, was when they actually started implementing the Abbott mandates.

ASSEMBLYMAN DIEGNAN: And I presume that even though you don't have the numbers, 2003 is going to be significantly ahead of the-- Is it going to be--

MR. RARICK: It continues to go up and up.

MR. AZZARA: You won't see as big a spike between the 2000 and 2001.

ASSEMBLYMAN DIEGNAN: Seven-fifty, are we looking at?

MR. AZZARA: It might be up as high as 775, 780.

ASSEMBLYMAN DIEGNAN: And 2004 will probably be over 800?

MR. AZZARA: Yes. At this point, you're also looking at large contract and salary increases, big increases in health benefits, in addition to program and service enhancements.

SENATOR RICE: That's statewide.

MR. AZZARA: Yes.

SENATOR RICE: Always emphasize what's statewide, now.

MR. AZZARA: I'm dealing with that in Paterson, too.

ASSEMBLYMAN DIEGNAN: So you would say, in the other Abbott districts, the -- because I'm trying to do this in my head. So if we're looking at the 1995 being 522, and 2004 being 800, we're looking at,

approximately, a 300 million, so a 60 percent increase in expenditures. And that's typical? That's not just in Newark?

MR. RARICK: That's typical in the Abbotts.

MR. AZZARA: That's typical in the Abbotts.

MR. RARICK: It is on the high end of the Abbotts, but it's not out of the range.

ASSEMBLYMAN DIEGNAN: Okay.

SENATOR RICE: Okay, we have the Assemblywoman, then Senator, okay?

ASSEMBLYWOMAN HECK: Thank you, Mr. Chairman.

I just wanted to note, you're going to give us a report in about six weeks.

COMMISSIONER LIBRERA: I hope to have it in the draft form, so that we can begin working.

ASSEMBLYWOMAN HECK: In draft form.

COMMISSIONER LIBRERA: Six weeks to about two months.

ASSEMBLYWOMAN HECK: Is it possible, then, for you to appear before this Committee again?

COMMISSIONER LIBRERA: Absolutely. What the Senator and I have talked about, in these settings, as well as other settings, is that we would produce a draft document, and then sit and work with you on the pieces of it, however you'd want to do that -- if you want to divide that into Subcommittees.

But we're prepared to sit and work through this, because if we do this kind of work in this structure, then we bring the legislation with advocates when it has to be passed. And not only advocates, people who really

understand what's in there. And it might speed up that other process. So that's how we would do it.

ASSEMBLYWOMAN HECK: And is it possible for you to come forward with some ideas of phasing in -- legislatively -- phasing out the takeovers? And besides that, to take into consideration the phasing-in of oversight, as you have -- you know, in the business areas?

I think it's important, because of situations like Garfield--

COMMISSIONER LIBRERA: Yes.

ASSEMBLYWOMAN HECK: --that that kind of legislation be moved more quickly than six months to a year from now. Perhaps you should lay the groundwork for that so we can look at it.

COMMISSIONER LIBRERA: Well, I think the way for us to do this is for you to see the whole picture here, and you advise us as to whether this can be done piecemeal or--

ASSEMBLYWOMAN HECK: And that we'll be able to see, when you give us a report?

COMMISSIONER LIBRERA: I think you're going to be able to see this. I think you're going to be able to see this continuum. And we think it's real important, because there's so much involved in this. If we go at it in pieces, I'm afraid that when the pieces get assembled in the whole, we can't recognize it.

ASSEMBLYWOMAN HECK: I'm just a little frightened that more problems of "mismanagement" might be taking place in other areas.

COMMISSIONER LIBRERA: Well, I'll tell you, some of that stuff, we don't need this legislation to do.

ASSEMBLYWOMAN HECK: Oh, okay. You can take care of it.

COMMISSIONER LIBRERA: Yes, and in fact, we talked about some of the Garfield problems today.

ASSEMBLYWOMAN HECK: Because that's a little frightening.

COMMISSIONER LIBRERA: Please don't think that a lot of things that need to be addressed today have to wait for this to be done, because it's not true.

ASSEMBLYWOMAN HECK: Oh, very good. That's what I was afraid of.

COMMISSIONER LIBRERA: Some of the remedies that I've talked about, like the governance part of this, clearly needs legislation. But tomorrow, we can go in -- in fact, we may go in, in a couple of places, next week or the week after, because they've given us all kinds of evidence that they can't handle the basic responsibilities. We have the authority to do that. We did it in Camden. We'll do it in other places. And our point is that doing that early, and doing that quickly, is much better than filing reports, and counter reports, and all the rest of that stuff. So we don't need to wait to do that.

ASSEMBLYWOMAN HECK: Good. Thank you very much.

ASSISTANT COMMISSIONER MacINNES: Can I just clarify something, Mr. Chairman?

SENATOR RICE: Yes.

ASSISTANT COMMISSIONER MacINNES: You're going to get a draft report -- I don't want you to confuse it with the other draft report that the Commissioner just mentioned -- from us that will give you the report of the working group on the State-operated districts only. It will just deal with the

three districts. It will be both the background and some suggestions that have been made by that working group. You'll be getting that next week.

ASSEMBLYWOMAN HECK: Oh, very good. Thank you.

COMMISSIONER LIBRERA: That's the piece of work that came from that committee to me, as the basis for us starting the other work.

ASSEMBLYWOMAN HECK: Excellent.

COMMISSIONER LIBRERA: You'll get that right away. So you'll see the thinking here.

And then the other thing is, if you haven't read the 32-page summary of Paul Tractenberg's report, you should read that, because you don't need to read 250 pages, which is the full report. Thirty-two pages does it pretty well. And that, combined with Gordon's committee's work, will give you a very good framework for us to do our work together.

SENATOR RICE: On terms of the time frame, I just want staff to make a note--

SENATOR BAER: Mr. Chairman, could you see that I get a copy of that summary, too?

SENATOR RICE: Sure, all the summaries that they mentioned -- please give copies, through the Chair, so that they can get distributed.

Also, make a note, within six weeks, to touch base on this issue. We'll try to be ready to get them back. I believe that this whole restructuring piece of legislation -- we have several Subcommittees, but I believe it should be the whole Joint Committee. So we're going to keep it in that forum. This way, we can have substantive discussion, agreement or disagreement, and, hopefully, whatever you're doing, we agree -- and our majority -- to have bi-partisan

support from both the Assembly and the Senate when it gets to those other education committees.

And that's my concern, because we know that the focus has been on the urbans and the Newarks. But we go in these districts, we know who works where. We know these little quiet, plushy little towns have more problems than Carter has liver pills. They just never come up, because everybody's happy. But they're starting to brew now. And the Assemblywoman is right, we've got to look at those areas. And so we don't want to have to come back and amend legislation, or some new law -- that it can be put in now, based on foreseeable circumstances that are fair.

Senator Bark, and that will end our discussions here.

SENATOR BARK: Thank you, Mr. Chairman.

Commissioner, this has been a most enlightening and very enjoyable presentation. I think I finally, after several years, understand what happened in Newark. And I appreciate, very, very much, having that kind of information.

And I certainly think that I want to congratulate, if I may, the Chair for his passion on his school district. And I know that this is supposed to be about Newark, but after Tuesday, in my legislative district-- It's like, 11 districts turned down budgets by big, big margins. And that says to me -- and these were -- no, not exclusively -- but there were a lot of *I* districts, and they are saying, "No more raise in taxes." I'm going to hide this piece from all of my constituents, because I know what their response is. (laughter) "They haven't had a raise in taxes?"

So this is -- I'm hoping that you will not forget the kinds of situations that -- the other parts of the state, too. I will be supportive of Senator

Rice, but I also have to bring it back to -- we have an entire state, and we cannot exclusively support Newark.

And I thank you very, very much for all the information you've given us. And I truly look forward to this continuum presentation. I think that idea is outstanding, and I thank you very much.

COMMISSIONER LIBRERA: Thank you, Senator.

SENATOR RICE: Let me close by saying I really thank you, too.

And I want to say to my colleagues, some of you don't know me well. And I can be emotional, and then I'm firm in what I say. But you have never known me, in 18 years, to exclusively support Newark. I talk about the whole district, and other locations. But I have a real problem, whether it's Newark, whether it's Roseland, whether it's Cherry Hill. If the State is responsible for dollars and cents, and they mismanage them, I don't care where it is -- we've had those fights before, in terms of locations where the State did not do right. You couldn't blame the local taxpayers. And that is the issue -- and the Senator's right -- is that the taxpayers can't pay over and over again for the State's mistakes. By the same token, we can't pay, locally, for the State's mistakes, in any district. And that's why the State has to be managed well if they want the districts managed well, and cities managed well. And I think that's what the real problem is. And we get pitted against each other.

When I talk about Newark, I talk about the impact on Belleville, Bloomfield, and suburban areas, because anything that happens to us to create a negative, anything we do to create a negative, just goes across the borders.

In the Senator's area -- or close to her area -- there winds up being Camden impacting on Cherry Hill. But yet, the local government gets the blame

for something, many times, they're not to be blamed for. And they go up and down the State, meeting the representatives of State government, selling it as though it's that local community problem or fault when, in fact, it's not.

And so I concur with the Senator. It's difficult for any of us to take this scenario, the way it's presented, out into the districts that we represent. And I represent *I* districts. I have always represented *I* districts -- and take this, without the hue and cry. But at least I have something. If I had to go out there, I can explain, once again, the State has been its worst enemy, and now we are all paying and binding them to it.

So with that, let me adjourn this Committee meeting. God bless you all. Enjoy your Easter. Don't eat too many eggs. We'll see you when you come back.

Thank you.

COMMISSIONER LIBRERA: Thank you, again, for your time. We appreciate this opportunity. And do have a good holiday.

(MEETING CONCLUDED)