

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON FINANCE
COMMITTEE ON EDUCATION

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A P P E A R A N C E S (CONTINUED)

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2 CHAIRPERSON RECCHIA: Good morning
3 and welcome to the sixth day of the City Council
4 hearing on the Mayor's Executive Budget for Fiscal
5 Year 2011. My name is Domenic M. Recchia, Jr.,
6 and I am the chair of the Finance Committee of the
7 New York City. I welcome everyone to the hearing
8 this morning.

9 We're going to begin with Consumer
10 Affairs, and then we'll go to Business Integrity
11 and then Education. On Friday, we heard from the
12 Department of Transportation, the MTA and the Taxi
13 and Limousine Committee and the New York City
14 Housing Authority.

15 Today, we will first be joined by
16 the Committee on Consumer Affairs, chaired by
17 colleague and Council Member Karen Koslowitz, to
18 hear from the Department of Consumer Affairs and
19 the Business Integrity Commission. Then the
20 Finance Committee will be joined by the Committee
21 on Education, chaired by my colleague Council
22 Member Robert Jackson, to hear from the Department
23 of Education and Joel Klein.

24 Before we hear from Commissioner
25 Jonathan Mintz from the Department of Consumer

1
2 Affairs, I just want to welcome everyone to the
3 City Council Chamber. I'd like to recognize my
4 colleagues who have joined us this morning. We
5 have Leroy Comrie, Council Member Cabrera and I
6 want to thank the staff from Consumer Affairs and
7 the staff from the Department of Finance for all
8 their wonderful work they have done putting this
9 together this morning.

10 At this time, I'd like to turn the
11 microphone over to Commissioner Mintz. Welcome,
12 Commissioner.

13 JONATHAN MINTZ: Thank you very
14 much. Good morning, Chair Recchia and members of
15 the Consumer Affairs and Finance Committee and
16 talented staff. I'm Jonathan Mintz, Commissioner
17 of the Department of Consumer Affairs. I'm
18 pleased to have the opportunity today to highlight
19 some of the important and exciting work of the
20 department, especially as our anniversary year
21 draws to a close, marking four decades of
22 empowering consumers and businesses in a fair and
23 vibrant marketplace.

24 Throughout the past year, our focus
25 and our success is clustered around three

1
2 strategic goals: educating, empowering and
3 protecting New Yorkers. Our first strategic
4 priority is educating New Yorkers. Our tri-part
5 Taking Control of your Finances public campaign to
6 educate New Yorkers during the economic downturn
7 began in 2008 and continued through 2009. The
8 campaign included first, debt stress, focusing on
9 our Office of Financial Empowerment's financial
10 education network which is a 311 accessible and
11 online searchable database of every free and low
12 cost financial education and counseling service
13 available in all five boroughs.

14 Second, it's tax time, go get your
15 refund. You might guess what that was about,
16 publicizing eligibility requirements for the
17 earned income tax credit and the city's childcare
18 tax credit as well as our citywide network of free
19 tax preparation, or VITA sites.

20 Third, Money Worries, directing
21 consumers to our network of financial empowerment
22 centers which provide free professional,
23 confidential, one-on-one in English/Spanish
24 financial counseling, addressing issues such as
25 credit card debt, budgeting, mortgage foreclosure

1
2 and much more.

3 These three components of our Take
4 Control of your Finances campaign drew in more
5 than 42,000 inquiries to 311, more than 85,000 web
6 visits and the distribution of more than 1.3
7 million palm cards, posters and tip sheets through
8 our staff, through Hot 97 street soldiers,
9 community-based agencies and the 16 presentations
10 which were part of our Pass it On clergy campaign.

11 The 2009 Tax Time component yielded
12 total refunds coming directly from those 77 VITA
13 partners, totaling more than \$114 million,
14 including \$51 million in EITC refunds. If you
15 think about that for a moment, that's just a
16 couple of thousand dollars a person in their
17 pockets. It's a significant amount of money.

18 Preliminary data for this year
19 indicates that our Tax Time coalition partners
20 filed 72,000 tax returns on behalf of New Yorkers.
21 This year we piloted an additional option in order
22 to help New Yorkers claim every penny that they've
23 earned and deserve through a free online tax
24 preparation which was available to anyone earning
25 \$58,000 or less. For this first pilot year,

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2 approximately 3,600 New Yorkers took advantage of
3 the option, including many hundred who went to
4 receive guidance on how to do this online at 9
5 sites that we established in the city.

6 Two other major education
7 initiatives included DCA's 7th annual Business
8 Education Day and our 3rd annual shred fest. Our
9 Business Education Day, held in October, was by
10 far the biggest and most successful education
11 initiative for businesses yet. We put away our
12 violation books for the day and some 75 staffers
13 visited close to 1,600 businesses in 30 different
14 neighborhoods across all five boroughs advising
15 businesses directly on how to do right by their
16 customers.

17 Yesterday, DCA conducted the third
18 annual Shred Fest in partnership with the Criminal
19 Justice Coordinator's office and with the help of
20 the Parks and Sanitation Departments. This was to
21 raise awareness about how to prevent identity
22 theft. We provided free paper shredding at 11
23 locations throughout the city and thanks to the
24 generosity of Staples, even gave away free paper
25 shredders to the first three participants at each

1
2 location.

3 Our shredding services, coupled
4 with multilingual identity protection tips,
5 underscored the importance of shredding documents
6 that contained personal identifying information
7 before throwing them away. And yes, we recycle.

8 Next is our second strategic goal,
9 empowering New Yorkers. We're particularly proud
10 of our ability to go to scale with the gold
11 standard of financial education and counseling
12 through our network of approximately 20 financial
13 empowerment centers.

14 Our trained and professional
15 counselors have provided more than 8,800
16 individual counseling sessions helping New Yorkers
17 in need to reduce their debts, for example, by
18 over a million dollars. With the city's 311
19 operators receiving over 13,500 inquiries, our
20 counselors are more than just available to the
21 public; they are booked solid for two weeks out.

22 A second empowerment priority, as
23 part of Mayor Bloomberg's aggressive anti-poverty
24 strategy implemented under the Center for Economic
25 Opportunity, is our SaveNYC Account initiative.

1
2 It was first launched in 2008, to encourage
3 savings at tax time in communities with low
4 incomes, through a privately funded city matching
5 program. It's been a resounding success proving
6 that individuals with low incomes both can and
7 will save when given straightforward safe banking
8 products at the right moment.

9 During the 2009 tax season, our
10 partners opened accounts for over 1,000 New
11 Yorkers who saved more than \$387,000. Eight out
12 of ten participants saved for the full year,
13 accumulating over \$470,000 which included about
14 \$142,000 in the private match money. In the midst
15 of such a different economy, the average income of
16 the 2009 savers was just \$17,000.

17 During the 2010 tax season, we
18 opened 1,300 accounts. Participants have already
19 contributed over \$950,000 with potential match
20 savings of another \$470,000. The average
21 contribution is approximately \$700 which is 89%
22 higher than the combined average contribution made
23 during 2008 and 2009. We are also sharing our
24 experience and our data with Capital Hill, where a
25 national replication of this account initiative is

1
2 under consideration.

3 A third major empowerment
4 initiative was creating and launching citywide the
5 NYC SafeStart Account in partnership with five
6 banks and five credit unions. The initiative was
7 highlighted by the Mayor in his State of the City
8 address as the first of its kind in the nation.
9 Now open to all New Yorkers in 40 bank and credit
10 union branches throughout the city, this
11 completely safe ATM starter account requires only
12 a minimum balance of \$25 or less and completely
13 eliminates costly fees like overdraft and monthly
14 fees.

15 This unique account was created in
16 response to startling evidence revealed in a study
17 that we had commissioned that 825,000 New Yorkers
18 are un-banked, in large part because of fears
19 about hidden and costs fees like overdraft.

20 A fourth empowerment priority was
21 aimed directly at businesses. This year, DCA in
22 partnership with Small Business Services and
23 DoITT, empowered businesses to apply for and renew
24 their licenses online rather than having to come
25 into our licensing center in person, although it's

1
2 a very nice place.

3 Currently, more than 93% of
4 perspective licensees can apply for new licenses
5 online in dozens of industries including home
6 improvement contractors and salespeople, debt
7 collection agencies, cigarette retail dealers,
8 laundries and temporary street fair vendors. By
9 August, 100% of our businesses will be able to
10 apply online.

11 Finally, our third strategic goal
12 is protecting New Yorkers. DCA protects New
13 Yorkers through legislative advocacy and
14 enforcement efforts. Two key legislative efforts
15 this year to protect consumers focused on process
16 servers and on debt collectors. We worked closely
17 with the City Council to enhance DCA's regulation
18 of process servers who deliver legal papers to New
19 Yorkers that are being sued. Without proper
20 service of critical court documents, consumers are
21 unaware of the claims made against them and suffer
22 such dire consequences as having their wages
23 garnished and their bank accounts frozen.

24 The new legislation requires
25 process servers to provide an electronic record of

1
2 their work using a GPS equipped device to verify
3 that process was actually served, thereby
4 eliminating, we hope, what is know as sewer
5 service. This is perhaps the most potent tool to
6 help us crack down on fraudulent service of
7 papers.

8 To implement the City Council's
9 excellent bill on debt collectors, which included
10 the regulation of debt buyers for the firs time,
11 Mayor Bloomberg and I announced new debt
12 collection rules last week. These rules are meant
13 to protect consumers from wrongful debt collection
14 attempts which can cause serious and long-term
15 damage to a family's finances, again including
16 seized bank accounts as well as damaged credit
17 ratings.

18 We also took on major advocacy
19 initiatives on legislation to provide greater
20 fairness and transparency in the consumer
21 financial marketplace now moving its way through
22 Congress headed towards the president's desk, by
23 developing strong working relationships with
24 relevant committees in Congress, the Treasury
25 Department, the New York delegation and the White

1
2 House.

3 DCA serves a model for what a large
4 and effective consumer protection agency can do in
5 the financial services sector. So we've been
6 working with the White House and the Treasury
7 Department on the proposed Consumer Financial
8 Protection agency, although last I looked it may
9 be called a bureau.

10 At the same time, we have worked
11 diligently with law makers to ensure that whatever
12 the ultimate legislation turns out to be, it will
13 not prevent cities like New York from exercising
14 local enforcement authority.

15 Other specific issues of DCA
16 advocacy include written or oral testimony to
17 Congress or federal agencies on overdraft
18 protection. In March, I declared deceptive
19 enrollment in so-called courtesy overdraft
20 protection a top fraud of the year at an FTC press
21 conference on top consumer frauds. The Federal
22 Reserve Board's final regulations requiring banks
23 to obtain customer's permission before enrolling
24 them in fee-based overdraft programs closely
25 mirrors the comments that DCA submitted to the

1 board and is a huge win for consumers.

2
3 Next is halting aggressive
4 marketing techniques to consumers. After we met
5 last month with a prominent communications firm
6 which has been promoting text messaging as a
7 solution to banks for enrolling customers into
8 overdraft protection programs, the company
9 conceded that it would not tout text messaging but
10 instead use direct mail, telephone electronic
11 communication or offer enrollment in person.

12 We have asked banks and their
13 marketing firms not to undermine new federal
14 overdraft regulations with aggressive
15 solicitations to enroll New Yorkers into expensive
16 overdraft protection services.

17 In our letter to Federal Reserve
18 Chairman Ben Bernanke, we asked the Federal
19 Reserve to prohibit financial institutions from
20 using text messages to obtain consent from their
21 customers to enroll them in these services. Such
22 a tactic would eliminate consumers' opportunities
23 to make informed choices about overdraft
24 protection services.

25 DCA advocated for credit card

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2 legislation and this summer the Credit Card Act of
3 2009 was passed and signed into law. The act will
4 reform some of the most predatory practices in the
5 credit card industry, requiring credit card
6 companies to give cardholders 45 days notice
7 before changing their interest rates, restricting
8 credit card access for people under the age of 21
9 unless they actually have the ability to repay the
10 debt, or have a co-signer, and many more
11 protections.

12 Last April, I testified before the
13 House Judiciary Committee to propose solutions to
14 mortgage fraud scams, calling for a federal ban on
15 fee for service foreclosure prevention businesses,
16 the creation of a national enforcement task force
17 to coordinate local tips, and utilization of 311
18 and 211 services across the country as the single
19 incorruptible conduit for legitimate mortgage
20 refinancing services.

21 In February, I joined the mayor and
22 Neighbor Works America for the official local
23 launch of a national loan modification scam alert
24 campaign offering at-risk homeowners free
25 resources to recognize scams, report them and find

1 the free help that they need all by calling 311.

2 In fact, you may have seen this message blasted on
3 an animated billboard in Times Square from January
4 through the end of March.

5
6 In an effort to be brief, which I
7 think somebody wrote here as a joke, here are some
8 of the most significant DCA enforcement
9 initiatives over the last year. Let's start with
10 our income tax preparers' sweep. In March, I
11 announced the results of our sweep of more than
12 800 tax preparation businesses during which our
13 inspectors issued 2,000 charges for violations
14 that primarily involve deceptively advertising
15 costly, high interest refund anticipation loans,
16 or RALs as merely rapid or instant refunds. The
17 total fines from the sweep could reach almost a
18 million dollars.

19 Next, let's look at employment
20 agencies. In 2009, DCA continued its aggressive
21 enforcement crackdown on employment agencies
22 launched in 2008 by the mayor to ensure that
23 prospective job applicants were not taken
24 advantage of.

25 One of the biggest successes was an

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2 undercover investigation that led to finally
3 shuttering Dalia's Service Agency in Brooklyn, an
4 agency that repeatedly and illegally charged New
5 Yorkers upfront fees rather than getting them
6 jobs.

7 Overall, from January 2009 through
8 February of 2010, the department settled
9 employment agency cases totaling \$119 million in
10 fines and restitution. That includes \$53 million
11 in fines and \$67 million in consumer restitution.

12 We also conducted our third annual
13 multi-county home improvement contractor
14 enforcement sweep. Working in partnership with
15 Westchester and Nassau Counties, during a ten-week
16 sweep, we conducted over 1,500 inspections, issued
17 450 violations, made 17 criminal summonses or
18 arrests and seized 175 vehicles owned by
19 unlicensed contractors. Together, regional
20 officials also reclaimed \$8.6 million in
21 restitution for consumers cheated by illegal or
22 unscrupulous contractors.

23 Let's also not forget about used
24 car dealers and illegal bait and switch tactics.
25 DCA conducted a two-month long investigation of

1
2 used car dealers' illegal advertising tactics. We
3 inspected 18 dealerships in all five boroughs and
4 issued 63 violations to 10 dealerships for fines
5 that could total tens of thousands of dollars.

6 We've also gone after and taken
7 licenses away from the worst of the worst, those
8 charging customers illegal fees, refusing to
9 refund deposits on canceled transactions, changing
10 contract terms after a customer has signed and
11 left and other egregious practices.

12 In March, I announced our sweep of
13 funeral homes. DCA conducted over 500 inspections
14 to ensure that funeral parlors were making it as
15 easy as possible, as required by New York City
16 law, for those with lower incomes to easily and
17 quickly choose affordable services. We issued 275
18 charges to 87 businesses, which could result in
19 hundreds of thousands of dollars in fines.

20 Under the city's new pedicab law,
21 DCA ensures that only inspected, insured and
22 appropriate pedicab vehicles and drivers are
23 licensed to operate. DCA conducted 1,130 soup to
24 nuts safety inspections before issuing 889 pedicab
25 registration plates and licenses to 172 different

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2 pedicab businesses. To date, we've licensed more
3 than 500 pedicab drivers.

4 When it comes to money returned to
5 New Yorkers, in response to the thousands of
6 complaints filed with us, I'm proud to announce a
7 new agency record. Consumer restitution climbed
8 this year to nearly \$10 million, up by \$1.5
9 million from our record the year before.

10 Before turning to the fiscal
11 details, I'd like to add two notes regarding our
12 agency efficiencies. In the midst of our
13 education empowerment and protection efforts and
14 while struggling to cope with a tightening budget,
15 DCA made great strides.

16 For example, we streamlined license
17 approval procedures to shorten processing time
18 from five days to only three. This held true for
19 newly licensing pedicabs as well, by the way,
20 despite an 11th hour massive onslaught into our
21 licensing center before the deadline.

22 We also cut the median time to
23 resolve a consumer complaint by more than a third.
24 We now address 95% of all consumer complaints in
25 less than 60 days.

1
2 In addition, DCA is replacing it's
3 new outdated database system with new technology.
4 This technology will allow for faster access to
5 data about our licensees, yield increased accuracy
6 and efficiency for all users. We expect to see
7 increased activity in collections, enforcement,
8 legal services and consumer services. The new
9 database system makes it significantly easier to
10 share data with other city and state agencies as
11 well as increase the department's ability to
12 interact with the public online.

13 To support the wide range of
14 activities that further the department's mission
15 to ensure a fair and vibrant marketplace for
16 consumers and businesses, I focus now on the
17 fiscal year 2011 budget.

18 The department's fiscal year 2011
19 budget projects expenses of \$20.7 million, which
20 includes \$16 million for personnel costs and \$4.7
21 million for OTPS, and that includes \$1.9 million
22 budgeted for our Office of Financial Empowerment.

23 Mindful of both the difficult
24 economic times for New Yorkers, the constraints on
25 the city's budget and the accompanying predatory

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2 businesses that unfortunately can go hand in hand,
3 our plan in the coming fiscal year is to target
4 enforcement to industries and issues particularly
5 injurious to consumers with the short-term goal of
6 realizing additional revenues and the long-term
7 goal of achieving greater compliance.

8 Toward meeting those goals, and the
9 additional PEG requirements of the executive
10 budget, DCA will bring on an additional 14
11 inspectors and 4 support staff who will bring in
12 an additional \$1.6 million in revenue in the new
13 fiscal year. These staff additions will enable
14 DCA to focus undercover inspections of employment
15 agencies and immigrant service providers as well
16 as additional focused inspection of tobacco
17 dealers to address falling compliance regarding
18 illegal sales of cigarettes to children.

19 The fiscal 2011 executive budget
20 projects revenues of \$21.8 million, compared to
21 the fiscal 2010 executive budget's projected
22 revenue for fiscal 2011 of \$18.5 million. The
23 additional projected revenue includes the PEG
24 revenues of a million in youth tobacco enforcement
25 and the \$1.6 million in focused inspections.

1
2 DCA remains confident that we'll
3 meet the fiscal 2010 budget projection of \$25.8
4 million, given robust licensing activity.

5 Departmental managers and staff are
6 understandably proud of our many successes and
7 innovations, particularly contrasted with the
8 tightened budget. New York consumers are
9 certainly the better for it which is, of course,
10 the point.

11 However, the department's ability
12 to protect consumers remains quite significantly
13 hampered by the delay in the Council's passing of
14 hearing authority legislation. In essence, while
15 DCA is charged with enforcing the nation's
16 strongest local consumer protection law, or CPL,
17 which bans deceptive sales and marketing
18 practices, we have one hand tied behind our back
19 because of an outdate loophole that I call upon
20 the Council to finally close.

21 Hearing authority doesn't expand
22 DCA jurisdiction, or newly obligate businesses to
23 adhere to any new rules of fair conduct. It
24 merely provides the department with the ability to
25 hear or adjudicate the violations of laws we

1
2 already enforce. Rather than having to identify
3 and utilize significant attorney resources to take
4 these violations to state court to be decided
5 using legal proceedings that are more complex and
6 expensive for all involved.

7 Due to an old yet significant
8 loophole, DCA currently can hear and decide
9 violations of the city's aggressive and
10 comprehensive CPL in its own tribunal only if the
11 businesses against which we issue the violation
12 also happen to be in an industry licensed
13 separately by the department. That means that
14 some businesses are more directly answerable to
15 the department and the public than others which
16 creates not just an unacceptably uneven playing
17 field, but it effectively means we cannot fully do
18 our job.

19 We continue to lack hearing
20 authority over critical industries which threaten
21 or harm millions of vulnerable New Yorkers with
22 low incomes, like immigrant service providers,
23 funeral homes, furniture stores, travel agencies,
24 supermarkets, tax preparers, foreclosure
25 prevention businesses and more.

1
2 Hearing authority dramatically
3 impacts the department's ability to protect
4 consumers, to hold wrongdoers accountable and to
5 collect fine revenues owed to the city. The
6 results of the recently completed enforcement
7 sweep of income tax preparers mentioned earlier,
8 graphically demonstrate how the lack of hearing
9 authority stymies effective enforcement of laws
10 that impact most negatively on consumers with low
11 incomes.

12 While the total fines for all the
13 violations we issued, including those for
14 misleading consumers about refund loans, in our
15 sweeps could reach more than a million dollars.
16 It is unlikely that the department will collect
17 more than \$100,000 unless we initiate court action
18 to pursue cases against preparers who do not
19 settle, with resources I frankly do not have.

20 Settlement rates have predictably
21 dropped from two-thirds in 2008 to one-half in
22 2009 and to only one-third so far in 2010. The
23 amount of fines paid dropped by 56% from 2008 to
24 2009. And even more disheartening than a revenue
25 perspective is that we found that 40% of the tax

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2 preparers charged with violations in 2009 who were
3 re-inspected this year scammed and harmed their
4 customers again. I urge the council to grant
5 hearing authority now.

6 Thank you for the opportunity to
7 testify and I'm pleased to answer any of your
8 questions.

9 CHAIRPERSON RECCHIA: Thank you,
10 Commissioner. Before we move forward, I'd like to
11 introduce all of those colleagues who have joined
12 us. We have Charles Barron, Jimmy Oddo, Karen
13 Koslowitz, the chair of this wonderful committee,
14 and Vincent Ignizio and I believe Lew Fidler is
15 here. We'll start off with Charles Barron.

16 COUNCIL MEMBER BARRON: Thank you
17 very much, Mr. Chair. I'm being rudely
18 interrupted by this gentleman up here.

19 CHAIRPERSON RECCHIA: Charles, we
20 have one question. Go ahead.

21 COUNCIL MEMBER BARRON: On the
22 mortgage fraud scams, this is a very, very serious
23 problem in our communities. A lot of people are
24 still in foreclosure and a lot of it had to do
25 with the predatory lending schemes that by the way

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2 your buddy, the mayor, rejected the most powerful
3 predatory lending bill this country has had, and
4 we overturned it and he took us to court and
5 really stopped it.

6 The protection is from the subprime
7 loans. In the black and Latino community, it's
8 almost like it's a reverse redlining. Before, we
9 were redlined because we were high loan risks.
10 Now, bad credit, no credit, here's the money. We
11 think it's too good to be true, and it was.

12 But what can we do to protect the
13 black and Latino families that have an identical
14 income and financial record as a white family but
15 they get the prime loan and we get the subprime
16 loan? I think that was one of the major, major
17 problems that a lot of people in our community got
18 these subprime loans when they should have gotten
19 prime loans.

20 JONATHAN MINTZ: Commenting on the
21 latter part of your remarks.

22 COUNCIL MEMBER BARRON: I'd like
23 you to address the former one first.

24 JONATHAN MINTZ: You're absolutely
25 right. You're right in your assessment of what

1
2 led to the crisis. You're right in identifying
3 one of the ways that many with low income end up
4 getting routed into inappropriate loans. In fact,
5 there is an industry practice which I know the
6 federal government is struggling to try to make
7 illegal that actually rewarded brokers for
8 bringing somebody in on a subprime loan when in
9 fact they could have qualified for a prime loan.

10 COUNCIL MEMBER BARRON: Right.

11 JONATHAN MINTZ: It's specious.

12 There are many approaches to trying to solve that
13 problem, some of which we can do at a local level,
14 many of which I think will take powers larger than
15 mine.

16 One of those is to make sure that
17 people are up to date and as current as possible
18 with their credit reports. So in the financial
19 empowerment centers I mentioned earlier, one of
20 the very first things we do with all of our
21 clients is run their credit reports to make sure
22 that if there's anything on there that can be
23 fixed, we fix it. If there's anything on there
24 that's wrong, which happens all the time, we get
25 it off there. Because it's that credit report, as

1
2 you know, this is usually the bellwether for
3 whether or not somebody can qualify for a prime
4 loan or a subprime loan. That's one of the ways
5 to try to be constructive about it.

6 Another, of course, is education
7 and outreach. You can never say it enough, but it
8 never is enough, I realize that. And the third I
9 think is to continue to push our financial
10 institutions to be making appropriate loans.
11 We've been working with the state. They have
12 something called a banking development district
13 which essentially has been rewarding financial
14 institutions that moved into communities that
15 seemed underserved by those banks.

16 Our research and our experience has
17 suggested that that really is not the reason that
18 people don't have access to good banking
19 opportunities including prime loans. In fact,
20 it's about whether or not the right products are
21 being marketed and sold. We have urged the state,
22 and we have seen proposals that suggest that they
23 have taken our advice, to stop rewarding brick and
24 mortar, and instead to start rewarding actual good
25 financial products and services. I think that's

1
2 part of the mix as well.

3 COUNCIL MEMBER BARRON: A real
4 problem with the consumer is that sometimes when
5 they get with these lawyers who are maybe lawyers
6 for the bank as well as for the consumer, trying
7 to work it together, which is a real rip-off, they
8 have these thick packets of documents that they
9 have to sign.

10 Oftentimes you can get somebody
11 that has a \$30-\$40,000 year salary getting a
12 \$500,000 loan and then the projection in the
13 public is they shouldn't have taken that loan that
14 they couldn't afford. As a matter of fact, they
15 have to take two loans out because the first loan
16 only covers 80% and then the second loan would be
17 a 20% loan.

18 On the top page of that oftentimes
19 the salary that was put in is higher than the
20 actual salary. But the person may not have read
21 through the whole document and they signed the
22 last page and then the lawyer says well who said
23 \$60-\$80,000? Did the bank say that? Did the
24 mortgage company say that? Or did the consumer
25 put that in? So they can't hold anybody

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accountable. How do we deal with that?

JONATHAN MINTZ: Well, the good news about that terrible problem is that lending has so dried up that that's not really the experience anymore. Now we're dealing with the aftermath of those problems. So that's where we are now. I think that the council's help on process servers makes a big difference. I think that the council's help on debt collectors makes a really big difference.

It's one of the ways that we're able to not only push back on how people are being treated now when they're running into trouble, but a lot of this work pushes upstream requirements that original debtors are paying much more attention to the paperwork because they're being held responsible for having that paperwork downstream. So I'm hopeful that that will make a difference as well and I'm very grateful for those new regulations.

COUNCIL MEMBER BARRON: I've gone to the foreclosure courtroom. It is sad. A lot of people in general, but to see elderly black senior citizens in this process and just losing

1
2 their homes. Some of it is because they don't
3 want to restructure loans, which I really think
4 should have happened rather than bailing out Wall
5 Street. They should have bailed out the people in
6 foreclosure.

7 That would have helped the banks
8 because the banks would have gotten the money if
9 they would have put more money to the principal.
10 How about some subsidies on the principal? We
11 could have gotten out of this mess from the bottom
12 up as opposed from the crooks down, I mean the top
13 down.

14 What about that? What can we do
15 for those that are in the foreclosure process?
16 They're losing their homes. They're losing their
17 life dreams. It's just so sad to be in that
18 situation.

19 JONATHAN MINTZ: It's really sad, I
20 agree with you. I would point to three things.
21 It may sound trite, but number one, people should
22 call 311. That will connect them to legitimate
23 services rather than scammers. So the city is
24 working with what we created the Center for New
25 York City Neighborhoods to provide targeted free

1 professional help in dealing with potential
2 foreclosures. That's number one.

3
4 Number two, if you think that you
5 might be in trouble, in addition they should be
6 hooking up to our free professional financial
7 counselors. It's one-on-one; we're going to sort
8 through people's mess.

9 The third thing is it's big but it
10 has yet to realize its full potential. This state
11 actually has one of the strongest state laws in
12 the country when it comes to trying to prevent
13 foreclosures. What it requires is that somebody
14 who can renegotiate the mortgage sits down with
15 the consumer in a settlement conference before
16 they actually proceed to pursue that foreclosure.
17 It's an incredibly powerful law.

18 My sense is that it is, as they
19 say, honored more in the breach. I know that the
20 state is struggling. They have already revised
21 that law to try to put even more pressure on the
22 financial institutions. But if that law was well
23 enforced, I think that could make a really big
24 difference, because at the end of the day, if the
25 banks can't yank the rug out, then they're going

1
2 to have to come, as you say, with more
3 constructive ways to deal with consumers.

4 COUNCIL MEMBER BARRON: Thank you
5 very much. I want to sit down with your staff to
6 see if some of these empowerment ideas can come to
7 east New York. I didn't know you did all of this
8 stuff. You need to bring it to the hood, man.

9 JONATHAN MINTZ: We're in the hood.

10 CHAIRPERSON RECCHIA: They're in
11 the hood. First of all, I just want to follow up
12 on something that Charles Barron said. What you
13 said Commissioner is true. We do have some
14 wonderful laws and the case law that's been coming
15 down from the Supreme Court has been in favor of
16 the consumer.

17 But a lot of consumers have to know
18 that unfortunately you have to fight it because a
19 lot of these documents they're not able to produce
20 the originals and there's a lot of problems with
21 that. That's a conversation for another day. But
22 I want to thank you in helping people and we have
23 to try to help them even more.

24 One other area I just want to bring
25 to your attention is the other day I was driving

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2 and I heard on the radio an advertisement for a
3 loan. There are companies out there that are
4 advertising loans for more than what the house is
5 worth. That is something that I think we have to
6 focus on. Because right there is a big problem
7 that goes into what Charles was talking about.
8 That's what gets people in trouble are those
9 advertisements. I just want to know if you heard
10 that and what you're doing or if you've have any
11 complaints about that.

12 JONATHAN MINTZ: I haven't heard
13 it. I had to get to work on my own that day.
14 Next time, if you give me a ride we could listen
15 to it.

16 CHAIRPERSON RECCHIA: I'm mad at
17 myself that I didn't write down the name of the
18 company.

19 JONATHAN MINTZ: We actually have
20 an advertising review unit that's on the lookout
21 for all sorts of things. At the end of the day,
22 the best way to stop a lot of that activity is for
23 consumers not to solicit that business. Of course
24 that's easier said than done, particularly when
25 you're preying on people in the middle of a tough

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time.

I do say that even when things get desperate, consumers have a gut. They know when something is too good to be true. As much as possible, all of our offices need to work together to send the message out not to fall for it. Ideally, alert us by calling 311 or you've got my number as well. We continue to prosecute when people are deceptively advertising. We don't have the hearing authority to pull them into our tribunal, but we have happy to bring as much attention as we can at least with the power of the press.

CHAIRPERSON RECCHIA: Before I turn it over to my co-chair, I just want to bring out one thing. You say you have 20 financial empowerment centers around the city.

JONATHAN MINTZ: That's correct.

CHAIRPERSON RECCHIA: Could we get a list of exactly where they are located?

JONATHAN MINTZ: Yes.

CHAIRPERSON RECCHIA: I never knew you had one. I'd just like to know where they are throughout the city so we can notify those Council

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2 Members.

3 JONATHAN MINTZ: It'd be our
4 pleasure. We have had these centers open now for
5 about a year or so in full. We have full drop-in
6 centers. We have mobile centers where we have
7 sent trained counselors out to locations where
8 there's traffic. We're experimenting with co-
9 locating these centers in other places like
10 workforce development centers, small business
11 development centers, homeless prevention centers,
12 where you image you're going to have the same kind
13 of traffic.

14 CHAIRPERSON RECCHIA: So these are
15 other centers than what the SBS has.

16 JONATHAN MINTZ: That's right.

17 CHAIRPERSON RECCHIA: If we could
18 get the list.

19 JONATHAN MINTZ: It'd be my
20 pleasure.

21 CHAIRPERSON RECCHIA: I would like
22 to send out a memo from myself and the Co-Chair
23 Karen Koslowitz, if you can get us the list and
24 exactly what they do. Because I think many of our
25 members are not fully aware of this. To be quite

1
2 honest with you, I wasn't aware until this
3 morning.

4 JONATHAN MINTZ: It would really be
5 our pleasure. For consumers that are listening to
6 this testimony at 3 in the morning, you can call
7 311 as well and our 311 operators will tell
8 consumers where the closest center is and what
9 their hours are as well. I'd be happy to get you
10 that. Thank you.

11 CHAIRPERSON RECCHIA: Co-Chair
12 Karen Koslowitz is next.

13 CHAIRPERSON KOSLOWITZ: Thank you,
14 Mr. Chair. I'd like you to explain to the
15 committee about the state tobacco fine revenue and
16 how much would the department generate in revenue.

17 JONATHAN MINTZ: The city receives
18 a grant under an MOU with the state in order to
19 perform over 10,000 undercover inspections with
20 minors where we go out with our inspectors and
21 test whether or not a tobacco retailer essentially
22 asks for ID. Those revenues have now been
23 baselined into the city's budget. We project in
24 the neighborhood of about a million dollars. So
25 we have baselined that into our revenue

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2 projection. Unfortunately, there are revenues to
3 be had here. Compliance has been slipping and so
4 we're going to be upping our inspections as well.

5 CHAIRPERSON KOSLOWITZ: Thank you.
6 Also, the consumer fair licenses fee revenue?

7 JONATHAN MINTZ: We have projected
8 incorporating an increase in that revenue. So far
9 activity has continued to pace, particularly
10 sidewalk cafes have shown a real robust investment
11 in this economy which has been terrific. So those
12 have also been baselined into our increased
13 revenue projects.

14 CHAIRPERSON KOSLOWITZ: Thank you.
15 By the way good morning, I had a fire in my
16 district, so my head's all over the place. Good
17 morning to you.

18 JONATHAN MINTZ: Good morning. I
19 hope everyone's all right.

20 CHAIRPERSON RECCHIA: Leroy Comrie
21 is next.

22 COUNCIL MEMBER COMRIE: Good
23 morning, Mr. Chair and Madame Chairman. Before I
24 ask the commissioner a question, I just read in my
25 email that I understand you ran a half marathon

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2 this week around Prospect Park. I just want to
3 congratulate you.

4 CHAIRPERSON RECCHIA: Prospect
5 Park, it ended in Coney Island. That's right.

6 COUNCIL MEMBER COMRIE: It ended in
7 Coney Island. So I just want to say how impressed
8 I am with everything that you're doing with these
9 all day hearings, you're having the ability to run
10 a half marathon 13 miles.

11 CHAIRPERSON RECCHIA: Thank you
12 very much, greatly appreciated.

13 COUNCIL MEMBER COMRIE: Very
14 impressive. I drove 13 miles, that's about it. I
15 agree with you.

16 JONATHAN MINTZ: You can't see the
17 bucket of Epsom salts under there.

18 COUNCIL MEMBER COMRIE:
19 Commissioner, I want to applaud you for everything
20 you're doing, but I need to charge you for not
21 doing the outreach. You're doing some great
22 program, the financial empowerment, the Save New
23 York Account initiative, the other things that
24 you're doing. But as the chairman said, we don't
25 know about all of these things and the outreach

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2 and the opportunity to market and promote these
3 programs I think is critical to make sure that we
4 have more than 45,000 people responding or 35,000
5 people looking at the website.

6 In this critical time, when we have
7 more and more families that are undergoing
8 financial stresses, especially now with the loss
9 in Wall Street which is affecting the outer
10 boroughs because the secondary jobs are lost and
11 we have a lot of people that are struggling
12 because they're over/under in their mortgages.

13 As you know, the projection is that
14 we'll have more people dealing with mortgage
15 issues because they can't afford to maintain their
16 homes. It's more important than ever that we do
17 outreach and notification. Especially to the
18 members that could put it in newsletters or help
19 expand your outreach base. And the ability to
20 actually invite us to when you're doing these
21 programs so that we could let it be known in our
22 local communities as well.

23 That's been a consistent complaint
24 from me since I was chair and I want to say that
25 you haven't improved that. So I'm disappointed

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2 that the outreach hasn't been improved, especially
3 when you're doing innovative programs, to make us
4 a real partner in promoting this so people can
5 know about these things.

6 I'm also concerned that the \$1.9
7 million that you're putting into the center for
8 the city of New York is not enough to continue the
9 Office of Financial Empowerment and also to
10 continue the Financial Empowerment Centers and I
11 forget the name of the other program that you've
12 got in here. To continue the opportunities to
13 make sure that the foreclosure information and the
14 agencies that are providing the foreclosure
15 services can maintain their staffs and budget and
16 outreach. Is that in addition to what was last
17 year? That seems to be a lower number than what
18 was in last year's budget. Is that correct, and
19 if so, why?

20 JONATHAN MINTZ: Let me clarify a
21 little confusion. First of all, the \$1.9 million
22 that I referred to was the internal number that
23 accounts for our Office of Financial Empowerment,
24 not the City Center for New York City
25 Neighborhoods. The Center for New York City

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2 Neighborhoods, which is what addresses the
3 foreclosure prevention services, is done in
4 partnership with the Department of Housing
5 Preservation and Development. They have a
6 significantly greater budget, as I think is
7 appropriate. I don't have those numbers in front
8 of me. I'm sure the HPD team will. But those are
9 separate services.

10 The Office of Financial Empowerment
11 which is actually a very significantly sized pilot
12 from the Center for Economic Opportunity is now no
13 longer a pilot. In fact, that money has been
14 baselined into the department as a reflection of
15 its status of being such a significant enterprise
16 actually in the department. The \$1.9 million
17 reflects the public funding for that work. As I
18 mentioned in my testimony we have also raised
19 significant private dollars in order to provide a
20 lot of the services and some of the studies and
21 the pilots, the tax time savings as well that I
22 mentioned.

23 COUNCIL MEMBER COMRIE: Isn't the
24 Office of Financial Empowerment, I know it's
25 separate from the Center for New York City

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2 Neighborhoods, but it is working with the
3 foreclosure prevention programs and your
4 empowerment centers, correct? And isn't the
5 city's contribution less than it was previously
6 for that particular office?

7 JONATHAN MINTZ: There is a slight
8 decrease in the funding for the Office of
9 Financial Empowerment. That was I last year's
10 budget. I think it was in the nature of \$500,000.
11 We have addressed those issues through increased
12 private fundraising efforts and as I say, by
13 baselining the office within our department in
14 order to recognize greater leveraging of resources
15 that the department has already.

16 In terms of its cooperation with
17 the Center for New York City Neighborhoods,
18 generally speaking, when a client comes into one
19 of our financial empowerment centers for one-on-
20 one counseling, or if they go to the web, or if
21 they call 311, if they're presenting issue is a
22 crisis with their mortgage, we quickly triage
23 those customers directly over to the Center for
24 New York City Neighborhoods to address that issue
25 first and foremost.

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2 What we are now also experimenting
3 with is integrating financial counseling beyond
4 the mortgage workout into that experience because
5 I'm sure it surprises nobody to know that people
6 who are in the middle of a foreclosure problem
7 have other financial difficulties as well. So
8 we're very excited about that. We're hoping for
9 some state funds, which at the moment don't seem
10 to be flowing, that will further integrate those
11 services. I think that'll be significant as well.

12 COUNCIL MEMBER COMRIE: So you're
13 telling me that even though there was a loss of
14 \$500,000 that every office or every link or every
15 partner that was set up under the Office of
16 Financial Empowerment will be maintained expanded?

17 JONATHAN MINTZ: In fact that's
18 true. We haven't stopped expanding.

19 COUNCIL MEMBER COMRIE: And the
20 financial empowerment centers, the 20 that exist,
21 none of those will be cut?

22 JONATHAN MINTZ: That's correct.
23 We continue to grow them. We're also
24 experimenting with a new model this year that
25 we're calling a virtual financial empowerment

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2 center. We're trying to work with some homebound
3 client bases to figure out whether or not we can
4 provide specialized phone based counseling. It's
5 very difficult to do when you're talking about
6 somebody's finances, but at least as a first step.
7 So we've raised some private dollars in order to
8 experiment with that model. I would reiterate
9 that the financial empowerment centers, those 20,
10 are currently privately funded and not publicly
11 funded.

12 The last thing I just want to throw
13 in there is I couldn't agree with you more about
14 the need for outreach. We continue to allocate as
15 many dollars as we can. In fact, I have sitting
16 on my desk the next year's outreach campaign
17 called Protect Your Money campaign which will be
18 showing up in the coming weeks in subways, buses,
19 et cetera. We hope that will do a lot to drive
20 traffic as well. Any office support that we can
21 get from you all to spread the word is always
22 welcome.

23 COUNCIL MEMBER COMRIE: Again, I
24 think that we could do more in contacting our
25 office through email about these programs and

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2 inviting us to attend so that we can make sure our
3 community links are available to you as well, you
4 know, the opportunity to attend these.

5 JONATHAN MINTZ: I know you love my
6 press conferences. Chairman Koslowitz was invited
7 yesterday as well.

8 COUNCIL MEMBER COMRIE: I'm trying
9 to stay focused, but I've got somebody yapping in
10 my ear and it's just starting to get on my nerves.
11 The need to link up with the members so that we
12 can increase your outreach and increase the
13 individuals and communities that really need the
14 help I think is critical. Sending an email to our
15 offices about all of the programs that you're
16 doing, as I said in the beginning, which I think
17 are good and strategically forward thinking, I
18 think it could triple your efforts and triple your
19 calls.

20 Because I know there are a lot of
21 people that are hurting that are looking at these
22 placards because a lot of people that were
23 predatory lenders are now claiming to be mortgage
24 repair specialists and that's something we need to
25 deal with. They're claiming to be credit repair

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2 specialists. If we could do these outreaches
3 ourselves working with you, we could triple those
4 numbers and really get people to move away from
5 that.

6 I hope that together this year we
7 did do a law to get rid of the debt collectors,
8 but now we need to work on getting rid of anyone
9 that puts up a placard claiming an expertise in an
10 area without having it approved by the city. I
11 hope that we can create some legislation that
12 anyone that puts up a street sign has to get it
13 approved by the city. I think we could work on
14 that. Mr. Chair, thank you.

15 CHAIRPERSON RECCHIA: Thank you,
16 Council Member Leroy Comrie. Council Member Jimmy
17 Oddo is next.

18 COUNCIL MEMBER ODDO: Thank you,
19 Mr. Chairman. Good morning, Commissioner. I'd
20 like to start by saying thank you for the very
21 detailed testimony and thank you for all the work
22 you and your staff do. I think you do important
23 things. I know as part of your function,
24 enforcement and fines are integral to getting
25 compliance.

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2 I want to ask you a sort of
3 overarching question but do it by asking you about
4 a particular industry that you reference in your
5 testimony and that's the paragraph on the funeral
6 homes. Council Member Comrie and I, Speaker Quinn
7 and Mayor Bloomberg had a press conference in the
8 last month about the regulatory review and the
9 small business panel that we were part of. We
10 very proudly announced that we're trying to change
11 the way the city goes about fining small
12 businesses. So when there are opportunities,
13 instead of leading with a fine, we educate small
14 businesses.

15 I'm troubled because in March of
16 this year, the Staten Island Advance did a story
17 about the sweep that DCA did on funeral homes.
18 There were 27 funeral homes on Staten Island.
19 There were three violated. The quotes from the
20 owners of those businesses were troubling.

21 One person said I didn't do it but
22 it's easier for me to pay the \$500 fine than go
23 into Manhattan and fight this. That's something
24 we've heard not only specific to your agency but
25 other agencies. One other person said that I was

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2 told I wasn't entitled to a hearing and he would
3 have fought it but was told he didn't have a day
4 in court. The third was the Bedell-Pizzo owner
5 who was adamant that he hadn't done anything
6 wrong. They were cited for failing to provide
7 prices over the phone or failing to give price for
8 an alternate container.

9 I guess my question is how are you
10 going to reconcile the work that you are mandated
11 to do, the enforcement work, and the fact that as
12 part of that you have to give out fines. How are
13 you going to reconcile that with the
14 administration's sort of pronouncement that we're
15 going to change the way we do business a little
16 bit? If you want to comment on the specific
17 industry, that's fine. But I want to know how you
18 reconcile the sort of changing of the culture that
19 the Mayor and the Speaker announced with some of
20 the work that you have to do.

21 JONATHAN MINTZ: Thank you. You
22 absolutely put your finger on one of the real
23 delicate balances when it comes to working
24 backward from making sure that the marketplace is
25 fair. What you want is to make sure that

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2 businesses are following the law. Ideally, what
3 you want is for them to be following the law in
4 the first place rather than being caught either
5 because a consumer complains or an inspector finds
6 out or somebody gives a tip.

7 So we spend a good deal of our
8 efforts purely in business education, making it as
9 easy as possible for businesses to get all the
10 information that they need specific to their
11 industry, both in person and online. To do events
12 like the Business Education Day where in fact we
13 walk around in a very well publicized way to let
14 people know we're not walking in with a violation
15 book; we're walking in to give you essentially a
16 free audit of what's happening in your shop to
17 point out where there might be problems and also
18 to answer questions.

19 Because a lot of times businesses
20 will have questions that they've never really
21 reached out to ask and we'll answer those
22 questions. We also tend to answer questions more
23 from home as well. We get a number of inquiries
24 from businesses or their representatives or
25 industry representatives that ask for

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2 interpretations of certain laws and so we try to
3 help people spell that out as well.

4 Part of it is also consumer
5 education. The better educated the consumer is,
6 the more likely they are to make sure that their
7 rights are protected. So for example, when a
8 consumer knows that if they walk into, for
9 example, a funeral parlor that they are due by law
10 to have a menu sheet there, et cetera, or that
11 when they make a phone call they know that those
12 are their rights, then they are more likely to
13 push back to a business that isn't following what
14 the law requires and say I know you have to give
15 this to me. I don't want to call 311. That can
16 speed compliance as well.

17 But as any enforcement agency will
18 tell you, and I'm sure that you agree that part of
19 compliance is meaningful enforcement. That sends
20 a signal in two different ways. Number one, it
21 sends a signal to the industries that you mean
22 business and that they are taking a risk if they
23 are violating the law, particularly purposefully.

24 Second, you get a bullhorn with the
25 media when you announce an enforcement sweep, and

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2 that's a way to go back to the first measure that
3 I talked about earlier which is in education. The
4 best way for me to get the word out to consumers
5 sometimes is to make a big deal about an
6 enforcement sweep. That's proven very effective
7 across dozens of industries, as I'm sure that
8 you've seen.

9 I was part of the announcement.
10 I'm in fact part of the working group that's
11 looking at this question of how you balance making
12 it as easy as possible to do business with the
13 city, to make sure that you understand the laws
14 that you're required to follow and it's something
15 we've worked very hard on.

16 I'm never going to tell you that
17 we're going to stop issuing violations. You
18 wouldn't me to, nor would your constituents. I'm
19 never going to tell you that every violation is
20 just because somebody didn't know the law. I
21 don't know the people that you mentioned, but I
22 can tell you that their responses are essentially
23 universal responses we hear anytime we write a
24 violation to anybody. I'm sure that you can
25 appreciate that as well, whether they're true or

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not.

We work very hard with our inspectors to make sure that and in fact in writing, not just in person, we advise all businesses of what their rights are. We make it possible for businesses to hear the matter where we have hearing authority. In the funeral parlor case, we unfortunately don't have hearing authority. We could not provide them with a trial. I'm hoping the council will rectify that.

We are going to be experimenting in the future with the ability to settle online as well as already by mail. For some, that's the right way to do it. For those who want their day in court we absolutely make that as easy as possible. Plenty of people take us up on it. We have very clear plain English how to navigate our tribunal. The tribunal is one of those where there aren't formal rules of evidence. Nobody needs to bring a lawyer if they don't want to. The judge walks them through getting their story and whatever evidence they have to give them their day in court. In fact, plenty come and they win.

COUNCIL MEMBER ODDO: I appreciate

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2 that, Commissioner. I appreciate you talking
3 about that balance. There are many of us and
4 we've echoed this on numerous occasions in this
5 body, many of us who believe the balance and
6 pendulum has swung the other way. I eat in
7 restaurants and my constituents eat in restaurants
8 and we want as clean establishments as possible,
9 but I can take you to a whole host of businesses
10 on Staten Island who will tell you that when the
11 inspectors come it's all about revenue.

12 That's a cry that we've heard from
13 this council and other legislators, frankly,
14 across the state that the pendulum has swung the
15 other way. Not so much in the businesses that
16 fall within your purview. This is the first time
17 with the funeral parlors that I have been
18 contacted about someone falling under your
19 purview, but certainly DOH and the other agencies.

20 I have so many, and my colleagues
21 have so many small businesses who feel that on top
22 of every other challenge they're looked upon by
23 the city as the cash cow. So I do think that
24 you're aware of that balance and I appreciate the
25 efforts to date.

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2 I think Council Member Ignizio is
3 going to have some questions. I guess to really
4 flush this out, we probably would need to have a
5 discussion about the process itself and how the
6 phone calls are made. I'm not sure if this is the
7 right time, Mr. Chairman, so I won't abuse my
8 liberty here. But exactly what went down on those
9 phone conversations resulting with businesses that
10 Council Member Ignizio and I represent saying this
11 absolutely didn't happen; I didn't give this
12 information and I knew right from the time I got
13 the phone call that I was going to have to pay.

14 I think somewhere along the line
15 we're going to have to have a conversation about
16 that process so that I'm more comfortable in
17 believing that these folks, no matter what was
18 said during that phone conversation, it wasn't set
19 up that they were going to have to pay a fine one
20 way or another.

21 CHAIRPERSON RECCHIA: Commissioner,
22 let me interrupt before you answer that question.
23 We have a special guest with us. We have P.S. 64
24 from the Lower East Side, from Margaret Chin's
25 District. We want to welcome the children here.

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2 We are having the executive budget hearing. The
3 Commissioner of Consumer Affairs is sitting to my
4 right and to your left and he's testifying to a
5 question that Council Member Jimmy Oddo from
6 Staten Island just asked. So Commissioner, you
7 can answer the question and then we'll move on to
8 Vinny Ignizio after that.

9 JONATHAN MINTZ: So New York has an
10 extraordinary law, which like many is really aimed
11 at protecting those with low incomes. The law, as
12 you know, usually ramps up those protections in
13 those scenarios where consumers lack power. So
14 the idea behind this city law is that when a
15 consumer with a low income is beset by family
16 grief, that they should have the ability to
17 essentially disclosure plus. It's not just like
18 regular when you walk into a store and the prices
19 are supposed to be posted or you can talk to the
20 clerk.

21 The funeral home law is actually
22 quite strong. If it's not the strongest in the
23 country, it must be one of them. It requires that
24 not only must the low income options be as
25 prominently displayed in the parlor as all the

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2 others, which is one of the violations we saw
3 several times. But in addition, there has to be
4 phone-based disclosure of the lowest cost options.
5 We performed a multipart enforcement sweep in part
6 by going into the funeral parlors to see what was
7 happening there as well as in making those phone
8 calls. We had a protocol, an internal working
9 document that talked about what it was you were
10 supposed to say and to record what those responses
11 were.

12 When people didn't give the
13 information that the inspector had been trained to
14 accept as complying with the law, we then issued
15 those violations. After issuing those violations,
16 obviously the businesses had the choices that all
17 businesses have, whether they wanted to come in
18 and settle them, whether they wanted to fight
19 them. Again, with all due respect, you have to
20 know almost nobody we write a violation to ever
21 steps forward and says anything other than what
22 you quoted them as saying. It's the name of the
23 game in enforcement.

24 I will say one other quick thing.
25 For all the disagreement about whether or not we

1
2 were appropriately enforcing this law. I will say
3 that this is the first sweep of this industry I
4 think in over 11 years. I will also say that like
5 it or not, and believe or not that every violation
6 we wrote the guy was innocent; the truth is we
7 drew a lot of attention within the industry about
8 complying with these laws.

9 The industry association itself,
10 which was part of the passing of these laws
11 professed to not know about them. That certainly
12 is no longer the case. We have done what we
13 wanted to do, which is draw attention to these
14 protective laws for consumers with low incomes.
15 And I believe your constituents are better off for
16 it.

17 CHAIRPERSON RECCHIA: It will be
18 Council Member Vincent Ignizio, Lew Fidler and
19 then the Co-Chair Karen Koslowitz. Then we have
20 to move on to the next hearing because we're
21 running a little bit behind. I want to recognize
22 Council Member Daniel Dromm, Council Member Oliver
23 Koppell and Council Member Darlene Mealy.

24 COUNCIL MEMBER IGNIZIO: Thank you
25 very much, Mr. Chairman. I'll be very brief.

1
2 Just to dovetail on what my colleague was saying.
3 These calls, these sweeps that you make, are they
4 recorded?

5 JONATHAN MINTZ: I don't believe
6 that in this sweep we recorded the calls. We did
7 what we do in all of our inspections, which we
8 have inspectors take notes and then testify.

9 COUNCIL MEMBER IGNIZIO: I just
10 think with very cheap technology, I think that
11 would certainly put someone like me at ease.
12 Obviously a constituent, whether it be a business
13 owner, they're going to reach out and say they
14 don't believe they did it, that they're innocent.
15 I agree that most people do it.

16 But when you have the objective
17 tape to say here is what was said, I think that
18 would relieve you of any criticism going forward.
19 I would encourage the agency to utilize that tool
20 going forward. I think without having that it
21 does lack the credibility on the side of the
22 business owner where if he would hear his own
23 staff member or himself saying it, then that would
24 diffuse your agency of any culpability of
25 targeting.

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2 JONATHAN MINTZ: It's a great idea.
3 I don't disagree. I will note, however, in other
4 contexts where we use other sort of actual proof
5 like photographs, you'd be surprised at how many
6 businesses can tell you that the photograph isn't
7 what the photograph is. So it's complicated, but
8 I do appreciate your suggestion. I actually agree
9 with you.

10 COUNCIL MEMBER IGNIZIO: I think to
11 the objective observer, if I'm put in that role or
12 somebody's put in that role to clearly say.
13 That's not the context of my question here.
14 Sometimes as legislators you have this little
15 thing that sticks in your craw as you go
16 throughout your day to day life and one of those
17 things is when I watch television, particularly
18 when I watch with my grandmother or my grandfather
19 and they're watching the new latest infomercial on
20 the greatest thing in the world and it says, "If
21 you call now, you can get it for \$20 less."

22 The truth be told, if you call
23 then, you call an hour later, you call two days
24 later, you call a week later and it's still \$20
25 less. You go in the internet; the same deal is

1
2 still there. I don't think that the language is
3 tight enough with regards to special deals, if you
4 will. Some of them have a clock on the
5 infomercial that has a countdown.

6 Perhaps to the more educated
7 consumer, they look at it and they flip the
8 channel. But perhaps to those that don't know,
9 and in particular I'm referencing one of my
10 grandparents. I won't say which one because I
11 don't want them to get mad at me. They say I like
12 this thing and I really want to get the deal. And
13 I say grandma or grandpa, it'll be there later.
14 Don't worry about it. You think about it. Think
15 if you really need it, this shoe accessory or
16 whatnot.

17 How can we tighten up the language?
18 Perhaps we need to bring in the attorney general's
19 office of the state. I believe that these
20 companies are legitimately preying on people's
21 impulse buys. They know it's not two minutes to
22 go. They know that that it's not that you can
23 only get this deal if they call now. They know
24 that it's not "we can't do this all day". They
25 are legitimately lying to the consumer public. I

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2 believe additional action needs to be taking
3 place.

4 Can you advise me and work with me
5 on how we can tighten up this language? Perhaps
6 with the Council, the attorney general's office
7 and whoever else wants to be involved in this
8 process. I know it's somewhat of a minor issue in
9 the context of 60 some odd billion dollar budget,
10 but people are being preyed upon and that's what
11 government I think is here to stop.

12 JONATHAN MINTZ: I agree with you.
13 It sticks in my craw too. I'm going to have my
14 seven-year-old watch TV with your grandparents.
15 She says, "They're lying, Daddy, aren't they?"

16 There is actually something you can
17 do. The question isn't tightening the law. New
18 York actually has a very strong law about the fact
19 that if you offer something for a sales price,
20 that in fact has to be a sales price. We do this
21 kind of enforcement on the streets quite often.
22 You have to prove to us that in fact it was
23 offered at a higher price for some appreciable
24 period of time, not just like an hour before. And
25 you have to, in fact, show people on the sign what

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that old price was.

The problem, at the risk of sounding like a broken record, is I don't have hearing authority. So I can write those violations but I cannot meaningful enforce them. If I had the ability to pull them into our tribunal, problem solved.

COUNCIL MEMBER IGNIZIO: I'm going to defer this conversation for perhaps a meeting with Chairwoman Koslowitz and myself and perhaps any interested parties in the state. It's not that important, it's not the highlight of anybody's agenda, so it kind of gets pushed along. But I feel that this is a scenario that we're dealing with every day, more and more as we turn on the television, particularly on Sundays and late at night. I think government can be additionally helpful here and hopefully the Chairwoman will agree to sit down and work with me on it. Thank you very much, sir.

COUNCIL MEMBER FIDLER: Thank you, Madame Chair. I share Council Member Ignizio's outrage on behalf of one of his grandparents. I'd like to be at that meeting. I think we can

1
2 probably include mail solicitations that we
3 receive every day.

4 One of my pet peeves is the one
5 that suggests that if you don't write in and send
6 a check now you'll never get a copy of your deed.
7 It has the vague look of being a government agency
8 that's writing to you. I can't tell you as an
9 attorney how many times I've heard from clients
10 who've called and asked if I had a copy of their
11 deed because they would never get it again. That
12 to me is just an outright fraud.

13 I do want to congratulate you on
14 receiving the highest amount in restitution for
15 consumers in the agency's history. I just want to
16 ask you, what's the process by which you do that?
17 Are these refunds of down payments? What is this?

18 JONATHAN MINTZ: Thanks for asking.
19 There are two primary ways that we get restitution
20 for consumers. One is on a consumer by consumer
21 basis. If a consumer contacts us either through
22 311 or online to file a complaint about a
23 particular matter, then what we do is we reach out
24 to the business and we say here's the complaint of
25 the consumer, please advise us essentially on your

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2 side of the story and what you want to do about
3 it.

4 We assign individual mediators who
5 then on the telephone go back and forth a few
6 times with the consumer and the business to reach
7 some agreement. Those agreements involve
8 sometimes canceling contracts. They involve
9 completing work that hadn't been completed. They
10 involve returning money. The full range of ways
11 that consumers find themselves frustrated
12 sometimes by and experience with a business.
13 That's one way.

14 The other way is through
15 litigation. We will sometimes with our lawyers
16 take businesses to court, for example, with
17 egregious car dealers. There it's not just one
18 consumer at a time. We'll go in and we'll examine
19 all the books and records of that particular
20 industry and get a full accounting of all the
21 customers that were affected or may have been
22 affected by a particular violation of the law. We
23 will leverage as either part of a settlement or
24 part of a decision if we win in court if they
25 fight us. We will then leverage a pot of

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2 restitution dollars that we then return to
3 consumers as well. So those are really the two
4 primary ways that we help people get their money
5 back.

6 COUNCIL MEMBER FIDLER: In the
7 first scenario, are you ever in a position where
8 you're compelling a business to return the money?

9 JONATHAN MINTZ: No. Mediation is
10 about a voluntary agreement. Now that having been
11 said, I think particularly when your licensing
12 agency is on the phone saying we need you to sort
13 of explain this, it tends to have a little bit of
14 heft. I want to be clear that not all consumer
15 complaints are legitimate. Some of them are
16 wrong. Sometimes a business will provide proof
17 that they're wrong. So we think it's important to
18 provide that equal opportunity for the businesses
19 to say so as well. But mediation never involves
20 any compulsion.

21 Sometimes if a mediation is
22 unsuccessful and what we have found is that the
23 underlying activity that led to the complaint was
24 illegal, we will then refer that consumer case
25 over to our lawyers who will either send out an

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2 inspector or issue a subpoena or whatever it is to
3 figure out what else might be going on.

4 COUNCIL MEMBER FIDLER: In the
5 second scenario where you go in and find a
6 particularly egregious business, a group of
7 businesses and you litigate, do you recover more
8 than the consumers' money? Is there a recovery
9 from the business to the city?

10 JONATHAN MINTZ: Yes, another
11 delicate question. We always do both fines and
12 restitution. We have made a determination many
13 years ago that I have not changed which is that we
14 prioritize restitution over fines. First and
15 foremost, we want to make sure that the consumers
16 get their money back.

17 But when we're settling the
18 violation as opposed to having to prosecute it,
19 sometimes what that means is in order to get the
20 consumers their money back, we end up reducing the
21 fines a little bit in order to coax the business
22 into settling. But don't get me wrong, we are
23 still realizing many fines from businesses that
24 have been found to violate the law and when
25 settling we seek to strike that balance.

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2 COUNCIL MEMBER FIDLER: Where I'm
3 going with this is that there's obviously a
4 budgetary cost to the taxpayer to collect this
5 money. I recognize that not every consumer
6 complaint is valid and I'm sure that many of them
7 are not.

8 But when city taxpayer money and
9 your time and effort is expended on collecting
10 this restitution, there ought to be some
11 mechanism, even in the mediation level that
12 requires or at least holds the sword over the head
13 of the business saying you have to pay us for that
14 time. Perhaps that might even help your mediation
15 saying we'll waive that fee if you return their
16 money promptly. Would that be a useful tool for
17 DCA?

18 JONATHAN MINTZ: It's very smart.
19 We do have essentially a carrot and a stick type
20 training approach that we use with our mediators
21 where in many cases, with due respect to the
22 consumer's frustration in the middle of the case,
23 on some of the smaller individual consumer cases,
24 where what we do is we leverage the possibility
25 that we would bring a fine to make sure that they

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do right by the consumer.

Where we run into truly egregious, particularly repeatedly egregious behavior, in those circumstances we don't bargain away on the fines and we let people know that maybe we'll try to exercise some discretion on how much of the book we throw at them depending on how well they do by the consumer. We're pretty successful in our efforts to get those complaints.

But I also have to reiterate that a lot of these businesses, even when a consumer complaint is legitimate, it doesn't necessarily mean that the business broke the law. In those cases, obviously, I'm sure you're not recommending that we would somehow punish the business as opposed to merely bringing pressure on them to make the consumer happy. It's a delicate balance. I'd love to talk to you about it more.

COUNCIL MEMBER FIDLER:

Commissioner, I know we're running late, so I'm going to continue this conversation by putting in an LS request that would give you further power to seek compensation for the time and effort the agency expends in these mediations. It might give

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you an extra tool to help move people along.

Clearly, a business that is wrongfully holding onto someone's down payment is not doing the right thing. It may be a civil dispute, but to the extent that you can resolve it and not cost the taxpayers money, it saves us some litigation and it saves the court system money. It just seems to make sense if we can do it that way. So I'm going to put that legislation and we'll continue the conversation.

CHAIRPERSON RECCHIA: Thank you very much, Councilman Fidler. We're going to end with Co-chair Karen Koslowitz.

CHAIRPERSON KOSLOWITZ: Thank you. I just want to apologize for not being at the press conference yesterday. I had family matters which don't happen too often and I spent the day with my family. I just want to ask you very quickly how many inspectors you have at this time.

JONATHAN MINTZ: We have approximately 80, in that range.

CHAIRPERSON KOSLOWITZ: Thank you very, very much.

JONATHAN MINTZ: Thank you.

2 CHAIRPERSON RECCHIA: Thank you,
3 Co-chair Karen Koslowitz. At this time, this ends
4 the Consumer Affairs hearing and we will go right
5 into the Business Integrity Commission hearing. I
6 want to recognize that Al Vann has joined us.
7 Commissioner, thank you very much.

8 We are running a little bit behind
9 schedule. We will finish the Business Integrity
10 Commission and then we'll go right into the
11 Education and spend the rest of the day with
12 Education.

13 [Pause]

14 CHAIRPERSON RECCHIA: We will now
15 resume the City Council hearing on the Mayor's
16 Executive Budget for fiscal year 2011 with the
17 Finance Committee and the Committee on Consumer
18 Affairs, chaired by my colleague Council Member
19 Karen Koslowitz. We'll now hear from the Business
20 Integrity Commission.

21 I welcome you Chairman Mansfield
22 and thank you for your testimony. It's kind of
23 lengthy, so could you summarize this for us
24 instead of reading 14 pages? Or just give us the
25 highlights? It would be greatly appreciated.

2 MICHAEL J. MANSFIELD: Sure. Good
3 morning, Chairman Koslowitz and Chairman Recchia
4 and members of the Consumer Affairs and Finance
5 Committee.

6 CHAIRPERSON RECCHIA: Could we
7 please keep the noise down and the conversation
8 outside the chamber please. Thank you.

9 MICHAEL J. MANSFIELD: I was
10 actually getting a little excited. I saw the room
11 filling up and I thought it was for the testimony
12 about the Business Integrity Commission. But I
13 understand you have Education next, so I will try
14 to be brief.

15 Actually, the 14-page document was
16 my testimony before the Consumer Affairs Committee
17 and Chair Koslowitz. I have reduced it to five
18 pages for today's testimony, so with your
19 indulgence I will run through that.

20 I welcome the opportunity to
21 testify today regarding our revenue capital and
22 capital budgets for fiscal year 2011. Seated on
23 either side of me is my Deputy General Counsel for
24 Legal Affairs Eric Dorsch and Ilene Chin, my
25 Deputy Commissioner for Operations.

CHAIRPERSON RECCHIA: Before you go further, I just want to recognize we have Elizabeth Blackwell Middle School 210 from Queens. We welcome the children up there.

[Applause]

CHAIRPERSON RECCHIA: We have the commissioner from the Business Integrity Commission. We want to welcome the children. Commissioner, you have the fine young students upstairs from the middle school.

MICHAEL J. MANSFIELD: I knew somebody was coming.

CHAIRPERSON RECCHIA: Somebody's coming. Sorry to interrupt you.

MICHAEL J. MANSFIELD: The Business Integrity Commission executive expense budget for fiscal year 2011 is \$7.2 million. Of this, \$5.1 million is allocated for personal services and \$2.1 million for OTPS. The fiscal 2011 executive budget does not change the agency's programmatic initiatives from when I testified in April on the fiscal year 2011 preliminary budget.

With regards to the PS budget, there is approximately a \$200,000 difference

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2 between the executive budget and the current
3 modified budget. That increase reflects budget
4 allocations for collective bargaining and
5 managerial salary increases that took place in
6 fiscal year 2010 and additional funds for an
7 attorney position.

8 When compared to fiscal year 2010
9 current modified budget, BIC's OTPS budget for
10 fiscal year 2011 reflects approximately a \$67,000
11 decrease. This is due to the fact that we
12 received additional funds in 2010 to cover one-
13 time costs related to agency vehicles that are not
14 recurring in 2011.

15 In fiscal year 2011, BIC's budgeted
16 headcount is 82. Going into fiscal year 2011, BIC
17 will have two vacant positions that being a
18 community associate line and an associate
19 investigator line.

20 Our revenue budget for fiscal year
21 2011 is \$5 million, an increase of \$782,000 from
22 fiscal year 2010. This increase will be from
23 license and registration fees.

24 As I testified on the preliminary
25 budget in September 2009, BIC increased trade

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2 waste license and registration fees which had not
3 been raised since 1996. As the members of the
4 committees are aware, the agency has a Charter
5 obligation to cover its costs for administering
6 our license and registration investigations. The
7 increase in revenue from license and registration
8 fees reflects the new trade waste license and
9 registration application fees.

10 The increased fees allow the agency
11 to meet gap closing programs. The current new
12 biannual fees are as follows. Our license fees
13 are \$5,000 and \$500 per vehicle. The old license
14 fee was \$1,000 and \$500 per vehicle.

15 Our registration fees on the
16 construction and demolition side of our process is
17 \$3,500 for the fee and \$500 per vehicle. The old
18 fees were \$600 and \$500 respectively.

19 Our self-hauler registration fees
20 are at \$1,000 and \$400 per vehicle. The old fees
21 were \$320 and there was no fee for the
22 registration.

23 Our broker registrations went from
24 \$600 to \$5,000 and BIC also increased the
25 background investigation fee from \$350 to \$600.

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2 This is a one-time fee that is only applicable to
3 licensees, not our registrants.

4 Another BIC initiative to close the
5 gap in fiscal 2011 is the commencement of
6 enforcement action against registered trade waste
7 brokers. A trade waste broker is one who
8 negotiates agreements between commercial
9 establishments and carters or conducts analysis of
10 the waste generated by commercial establishments
11 in order to recommend cost efficient means of
12 waste disposal.

13 A trade waste broker regulated by
14 BIC cannot negotiate waste removal charges by the
15 carter that is over the maximum rates and must
16 disclose on every bill or invoice to the consumer
17 the amount that is going to be paid to the carter.

18 Under our trade waste rules and
19 regulations, trade waste brokers are required to
20 maintain certain books and records for inspection.
21 This will be a new enforcement initiative that we
22 will undertake in fiscal year 2011 and it will be
23 conducted by our audit unit. BIC has no
24 applicable capital and contract budgets for fiscal
25 year 2011.

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2 With the budget as set forth in
3 2011 executive budget, BIC will continue to carry
4 out our statutory mandate of regulating and
5 conducting criminal investigations on the private
6 carting industry and the wholesale business that
7 operate in the city's wholesale markets.

8 Just briefly, BIC will continue to
9 work on criminal cases with the Organized Crime
10 Investigation Division of the New York City Police
11 Department, the United States Department of Labor,
12 the Internal Revenue Service, all five district
13 attorneys, the Port Authority of New York and New
14 Jersey, the Metropolitan Transportation Authority
15 and our state and federal homeland security
16 partners.

17 We will continue to vigorously
18 conduct background investigations on all
19 applications to ensure that the applicants meet
20 the standards of good character, honesty and
21 integrity required of all BIC licensees and
22 registrants. We endeavor to perform these
23 background investigations in a timely fashion.

24 We will continue to pursue
25 regulatory enforcement against unlicensed and

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2 unregistered carters. We'll continue our
3 regulatory enforcement against our licensees and
4 our registrants to assure that they abide by the
5 city's rules and regulations and that they also
6 maintain the requisite standard of good character,
7 honesty and integrity.

8 We intend to develop a more
9 efficient case tracking system, including the
10 creation of web based submissions for carters to
11 submit customer service and waste disposal
12 information and the annual financial statements
13 that are required under our rules.

14 We'll continue to work with our
15 Trade Waste Advisory Board, community groups,
16 police precincts, trade associations and business
17 districts to educate the public about the private
18 carting industry.

19 These agency initiatives were
20 discussed more in depth in my preliminary budget
21 testimony. Again, rather than go through it, I've
22 included a copy of my previous testimony.

23 CHAIRPERSON RECCHIA: Thank you
24 very much for that.

25 MICHAEL J. MANSFIELD: However,

1
2 since the preliminary budget testimony, I'm
3 pleased to announce additional initiatives BIC
4 will undertake. One is that BIC will work closely
5 with the New York City Department of Environmental
6 Protection to ensure that restaurants and fast
7 food establishments have properly licensed carters
8 to remove and dispose of their yellow and brown
9 grease and that the grease is not disposed of
10 through the city's sewer system.

11 Most importantly, the role of BIC
12 in that initiative is that we will commence
13 enforcement against the numerous unlicensed grease
14 haulers that operate in the city of New York.
15 Secondly, BIC will work with DoITT to produce
16 public service announcements to be broadcast over
17 the New York City channels. This will enable us
18 to get the information to the public concerning
19 the customer bill of rights when negotiating waste
20 removal contracts with carters as well as have a
21 means to communicate important and timely
22 information to BIC's licensees and registrants.

23 In fiscal year 2011, BIC will look
24 to increase license and registration fees charged
25 to wholesalers and market businesses operating in

1
2 the city's public wholesale markets. The current
3 fees for loaders, unloaders, wholesalers and
4 market businesses in the New Fulton Fish Market
5 has been unchanged since they were first conceived
6 in 1995. And the registration fees for
7 wholesalers and businesses operating in the other
8 produce markets and meat markets throughout the
9 city have remained unchanged since they were first
10 instituted in 1997.

11 The agency, as members of the
12 committee are well aware, has a statutory
13 obligation to cover the costs of administering our
14 license and registrations. With the current fee
15 schedule we do not do that.

16 As a result of the positive
17 feedback that BIC has received for our Trade Waste
18 Advisory Board, BIC is instituting a similar board
19 with the wholesalers operating in the city's
20 designated public markets. BIC is currently
21 constituting the market advisory board which will
22 be a group of representative registered
23 wholesalers and businesses selected by the
24 commission.

25 At these meetings, the wholesalers

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2 and market businesses will have a forum where they
3 will be able to voice their concerns to the agency
4 and in turn we will be able to bring up legitimate
5 problems and issues that we have seen in the
6 markets and be able to bring our wholesalers and
7 our registrants into compliance with city rules
8 and regulations.

9 In the interest of brevity,
10 Chairman, I have limited my testimony and I'm
11 happy to take any questions that the committee may
12 have.

13 CHAIRPERSON RECCHIA: Thank you.
14 At this time we have a question from the Co-chair
15 Karen Koslowitz.

16 CHAIRPERSON KOSLOWITZ: Thank you
17 very much. How many licenses are out there now?

18 MICHAEL J. MANSFIELD: On the trade
19 waste side of the house, we have approximately
20 1,800 registrants and we have 251 licensees. The
21 difference between the licensees and the
22 registrants is the licensees are the ones that are
23 basically the private sanitation haulers. The
24 registrants are more on the construction and
25 demolition side. They do the hauling for the

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2 large contracting projects throughout the city of
3 New York.

4 CHAIRPERSON KOSLOWITZ: Thank you.

5 CHAIRPERSON RECCHIA: With no other
6 questions from the Council Members, I want to
7 thank you, Commissioner. We will take a two
8 minute recess and we will begin the executive
9 budget on Education. Two minutes.

10 [Pause]

11 CHAIRPERSON RECCHIA: Could
12 everyone kindly find their seats so we could begin
13 the hearing on Education. I think we might need
14 some more chairs. We have many Council Members
15 here today. No, Council Member Barron, you don't
16 have to sit next to the chancellor. Could we get
17 some more chairs? Sergeant-at-arms, please help
18 us seat the Council Members. We have some seats
19 over there. Could all Council Members kindly find
20 their seats?

21 [Pause]

22 CHAIRPERSON RECCHIA: We will now
23 resume the City Council's hearing on the Mayor's
24 Executive Budget for fiscal year 2011. The
25 Finance Committee has now been joined by the

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2 Education Committee, chaired by my colleague and
3 good friend, Council Member Robert Jackson, to
4 hear from the Department of Education.

5 Before I turn it over to Rob
6 Jackson, I just want to make all the committee
7 members aware that tomorrow our executive budget
8 hearing will begin at 9:30. I repeat that, at
9 9:30 with the Committee on Youth Services, chaired
10 by Council Member Fidler and then the Community
11 Development chaired by Council Member Al Vann.

12 And then at 11 a.m. the Finance
13 Committee and the Community Development Committee
14 will be joined by the Committee on Economic
15 Development chaired by Council Member Tom White,
16 then the Committee on Small Businesses chaired by
17 Council Member Diana Reyna to hear from the
18 Department of Small Businesses.

19 At noon, the Finance Committee and
20 the Economic Committee will hear from the Economic
21 Development Corporation. So tomorrow is another
22 busy day here in the City Council for the
23 executive budget hearings. We'll begin at 9:30.
24 Wednesday, Thursday and Friday there are no
25 executive budget hearings. At this time I turn it

1
2 over to my Co-chair Robert Jackson.

3 CHAIRPERSON JACKSON: Good morning
4 and welcome to this hearing on the Committee on
5 Education.

6 CHAIRPERSON RECCHIA: I'd like to
7 make one correction. Finance Committee members,
8 we have to meet at 9:15 to take a vote on a
9 transparency resolution, at 9:15 tomorrow.

10 CHAIRPERSON JACKSON: Good morning
11 and welcome to this hearing on the Committee of
12 Education with the Committee on Finance to review
13 the Department of Education's \$18.4 billion
14 executive budget, expense budget for fiscal year
15 2011.

16 Two months ago, we had a hearing on
17 the two versions of the department's preliminary
18 budget for fiscal year 2011. There were two
19 versions because the administration was so
20 uncertain of its budget projections for the next
21 year that it handed out two plans, the bad and
22 this one, the horrid. Again, the outlook is
23 uncertain, even as of today.

24 But this time around, we don't have
25 two versions of the budget. We only have one

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2 version and that's the horrid. The horrid cuts
3 schools by \$395 million and it sends as many as
4 4,400 teachers to the Unemployment Insurance
5 rolls. It cuts the equivalent of 276 full time
6 cafeteria workers. It eliminates 295 school
7 support and administrative staff. It doesn't
8 bother to estimate the number of school age
9 cleaners or other part time employees of schools
10 who will lose their jobs or have their hours cut.

11 The horrid takes a hatchet to the
12 schools rather than a laser to the department.
13 With over 100,000 employees, 1,600 or so schools,
14 hundreds of programs, offices and
15 responsibilities, and with an \$18.4 billion to
16 spend, budgeting should be a careful and
17 deliberate process.

18 When necessary, budget cutting
19 should be a trimming that removes the excess and
20 waste from all parts of the department. What the
21 horrid does is allow for draconian cuts to the
22 personal services side of the Department of
23 Education's budget while it let's the other side,
24 the OTPS, the other than personal services,
25 continue to grow.

1
2 When comparing the adopted budget
3 for fiscal year 2010 to the proposed budget for
4 fiscal 2011, the personal services budget dropped
5 by \$478 million while the OTPS budget grows by
6 \$544 million, more than half a billion. Since the
7 department allocates most of its PS budget to
8 schools, where it pays for teachers, that's where
9 the budget ax will fall.

10 From the administration's
11 perspective and from our perspective, the budget
12 cutting proposed by the horrid really is just
13 hurtling a hatchet at our schools and blindfolded
14 at that. It's a blindfolded act because the
15 department can't tell us what the impact of firing
16 4,400 teachers will be, other than to agree that
17 it will be horrid.

18 Schools don't even have their
19 preliminary budget for next year, even though it's
20 May 24th. When the school cuts are known,
21 principals will be left to make the difficult
22 choices about how to take these cuts. Class sizes
23 will continue to go up, way up. Academic
24 intervention services will be cut. Saturday
25 academies will be shuttered. Arts partnerships

1
2 will disappear. Cuts of the magnitude proposed in
3 the horrid will be devastating to our schools and
4 students.

5 The state has failed to adopt its
6 budget. There are no indications at this time
7 that the state will shoulder its responsibility to
8 provide an adequate education to all public school
9 students in next year's budget. There is
10 tremendous uncertainty about how large the state
11 cut will be, there certainly will be state cuts.

12 In the two months since our hearing
13 on the preliminary budget, the preliminary plan,
14 and the four months since the mayor released it,
15 the department has come up with an outline of a
16 plan for implementing the horrid.

17 As I've already explained, most of
18 that plan is blindfolded attack on school
19 spending. Then it's a deep cut to school support
20 officers. The Department of Educate is
21 restructuring again and firing 90 people in the
22 process. School lunches will be cut. Even the
23 Central Administration faces deep cuts under the
24 horrid.

25 Basically, the horrid takes aim at

1
2 the Department of Education's direct employees
3 while it leaves the thousands of employees paid by
4 the Department of Education through contracts
5 untouched. I've asked before and I will ask again
6 today, why is it that the Department of Education
7 contract budget is untouched? Does anyone believe
8 that the department can or should only lay off
9 public school teachers while contract spending
10 continues to grow?

11 At our hearing on the preliminary
12 expense budget, I asked a slew of questions. For
13 example, are teaching jobs really the only place
14 left for budget cuts? Has the Department of
15 Education again looked at its spending on services
16 contracts? Is there no limit to the cuts that
17 schools can suffer?

18 Today, I will be asking those same
19 questions. There is a lot of material to cover
20 today, so I would like to introduce all of the
21 members that are present here in Finance and
22 Education and then turn it over to our chancellor
23 for his opening statement.

24 Down in the front row we've got
25 Jumaane Williams of Brooklyn, Gale Brewer of

1
2 Manhattan, Deborah Rose of Staten Island, Karen
3 Koslowitz of Queen, Vincent Ignizio of that small
4 borough Staten Island, Jimmy Van Bramer of the
5 great borough of Queens, Brad Lander of the
6 largest borough in New York City Brooklyn,
7 Margaret Chin of Manhattan and our newest member
8 David Greenfield of the great borough of Brooklyn
9 along with Oliver Koppell of the great borough of
10 the Bronx, and to my right on the upper dais is Al
11 Vann of the great borough of Brooklyn, Mark Weprin
12 of Queens and Regina Poreda-Ryan our finance
13 policy analyst and Aysha Schomberg who's the
14 counsel to the committee and of course, the chair
15 of Finance Domenic Recchia and to his left the
16 assistant counsel Juliana Hon and Danny Dromm of
17 Queens.

18 Is that the Bronx over there?

19 Jimmy Vacca of the Bronx and Fernando Cabrera of
20 the Bronx and holding up the left side is Charles
21 Barron of Brooklyn and behind me holding us all
22 accountable is Lew Fidler of Brooklyn. Of course,
23 we've been joined by other staff over to the left
24 and behind us.

25 Let me turn to the chancellor to

1
2 introduce himself and the other members of his
3 staff and we'll begin by reviewing and listening
4 to his opening statement. Chancellor Klein, good
5 morning to you.

6 JOEL I. KLEIN: Good morning,
7 Chairman Jackson, Chairman Recchia and members of
8 the Education and Finance Committees. Thank you
9 for inviting me today to testify about next year's
10 budget. I'm joined by Deputy Chancellor for
11 Finance and Technology Photeine Anagnostopoulos.

12 Before I get into the very
13 difficult and challenging budget situation that
14 Chairman Jackson discussed, let me just take a few
15 moments to mention some bright news. Last week,
16 the 2009 NAEP Reading Scores for Urban School
17 Districts were released. The results show, as you
18 can see on this chart up here and in your
19 materials, our fourth grade students gained four
20 points while the rest of the nation was flat. The
21 rest of New York State actually went down one
22 point. Our eighth grade students turned a corner
23 after having gone down, they're now up by three
24 points. The rest of the nation went up one point
25 and there was no gain by the rest of New York

1
2 State.

3 Let me show you the second chart.
4 It's a little more exciting. Look at how our free
5 and reduced lunch students did. We went up
6 basically five points, outperforming the rest of
7 the state and the nation. Looking at the eighth
8 grade, we went up four points, outperforming the
9 rest of the state and the nation. The rest of the
10 state in the eighth grade went down three points.

11 From 2002 when the mayor took over
12 until 2009, we're up 13 points, which is a huge
13 number. Ten points represents about a year's
14 worth of learning here. So that shows real
15 change.

16 Now the last slide on this, and
17 then we'll get right to the budget. This is the
18 most important slide I want to show you and walk
19 you through it. This shows where we are from when
20 the mayor took over. These are 2003 when we
21 started taking these tests, fourth grade reading
22 2002.

23 If you look at this, and it's
24 important, as you all know, the rest of our state
25 is more affluent and has far fewer minorities. I

1
2 just told you about ten points, about a year's
3 worth of learning. The national board identifies
4 which changes are statistically significant. What
5 you see is in three out of four, we went up big
6 time with those blue marks. The rest of our state
7 didn't go anywhere. In fact, in the fourth grade
8 while we went up 11 points or more than a year's
9 learning, the rest of the state went down almost a
10 half a year's learning.

11 The only place where, as I said, we
12 still have to turn and we turned the corner this
13 year and went up three points is in reading in the
14 eighth grade. We have more work to do there. But
15 it shows you that our city is significantly
16 outperforming the rest of our state, not only on
17 state tests, as everybody acknowledges, but on
18 federal tests as well.

19 Now let me turn to the budget
20 testimony. As Chairman Jackson said, this is a
21 bad situation and I wish I could tell you that it
22 had changed dramatically since my testimony in
23 March. The picture remains very uncertain and
24 very challenging. Based on our best estimates,
25 which could shift as Albany has yet to pass its

1
2 own budget, we're planning for an estimated cut of
3 \$500 million in state aid for 2010-2011.

4 Let me just stop here because I
5 think there's an important point. The city has
6 put in an additional \$800 million in the budget.
7 Now the state is cutting us \$500 million. I'll
8 explain how we get to the overall deficit. But an
9 enormous problem here is that the state
10 fundamentally has failed to act. And in the
11 executive budget, which we have no choice to
12 follow right now, there's a \$500 million real cut.
13 Not cut in terms of value but real dollar cut.

14 As a result, because our costs rise
15 and they rise in ways that we can't control, the
16 actual budget deficit projected now is \$750
17 million. Our situation has improved slightly
18 since March, but the fact is we're now looking at
19 loosing more than 6,400 hard working school staff,
20 mostly teachers next year and over 4,000 of them
21 through layoffs.

22 Over the past several months, the
23 mayor and I, along with many members of this
24 Council have made it clear that the governor's
25 proposed budget is in a word, "unacceptable". It

1
2 treats our city unfairly when compared with other
3 communities across the state and it's particularly
4 egregious when you consider that the budget cuts
5 of this magnitude will cause real pain to our
6 children. It's wrong to ask children to bear the
7 brunt of a fiscal crisis that they had no part in
8 creating.

9 The mayor and I will continue to
10 fight for a rational and equitable budget that
11 restores funding to our schools, but given the
12 economic realities that everyone in this room
13 understands, it looks to us like some significant
14 reduction in state education aid is likely
15 unavoidable.

16 As much as I'd like to be able to
17 provide definitive details about how the situation
18 will affect our schools, and I understand the
19 Council's frustration about that, it's difficult
20 to speak with complete certainty when state
21 lawmakers have failed to pass their own budget.

22 Considering our own city's fiscal
23 calendar and the urgent need for principals to
24 begin planning for the coming school year, which
25 starts a few short months from now, we have no

1
2 choice but to move forward. It's our current
3 intention to get our budgets by June 1st. But I
4 want to be clear with the Council. The situation
5 is very fluid and many issues, or at least some,
6 remain in play.

7 In 2010-2011, if we assume we get a
8 \$500 million cut from the state based on the
9 executive budget, the department will have a total
10 budget of \$22.8 billion. That includes some items
11 like debt service and pension costs that Chairman
12 Jackson didn't discuss when he discussed our
13 operating budget.

14 So that budget, all in, is \$306
15 million greater than our current budget. However,
16 because of non-discretionary spending
17 expenditures, they're outpacing the increase and
18 therefore the overall gap is \$750 million.

19 Let me give you some examples of
20 our uncontrollables. Our expenses grow by nearly
21 \$1.2 billion. \$370 million for pension and other
22 compensation obligations; right there is a big
23 chunk. \$140 million for the city's portion of
24 mandated instruction for special ed students.
25 That's required pursuant to individual education

1
2 plans. \$80 million for debt service, \$40 million
3 to pay feeding our students and leasing and
4 operating our buildings.

5 Also included is \$125 million to
6 cover an increase in charter school enrollment of
7 almost 10,000 students. Let me note here that we
8 would incur these costs for these students whether
9 they were in a district school or a charter
10 school. So this is a transfer of funds but these
11 are students we would have to serve or the charter
12 serve. In fact, a recent IBO report illustrated
13 that charters actually receive less money per
14 students than the students in our public school.

15 Additionally, we estimate another
16 \$100 million will be needed to cover enrollment
17 growth, which we anticipate will be significant.
18 So far none of the state budget proposals has
19 taken this into account.

20 This school year, the current one,
21 our schools enrolled 14,000 more students than had
22 been projected and about half of them require
23 special education services. This was the first
24 enrollment increase in public schools since at
25 least 2001. It is therefore difficult for us to

1
2 determine if this growth will continue. It may
3 have reflected the economy. It may have reflected
4 that more people are happy with the schools and
5 want to come here and put their kids in public
6 schools. But for whatever reason, we saw our
7 first significant increase.

8 Our best estimates for the 2010-
9 2011 year include an increase of about 5,000
10 general education and 7,300 special education
11 students. However, as we noted in the mayor's
12 executive budget, actual enrollment figures could
13 end up significantly higher. We're currently
14 working to determine the best way to factor this
15 potential increase into school budgets.

16 To cover a good portion of the
17 growing expense, and this is important and I want
18 to underscore it. The city is increasing funding
19 to our department by more than \$800 million and
20 we've reduced non-school budgets by \$130 million.
21 Yet those dollars aren't enough to fund our
22 expenses. When you consider the combined \$500
23 million cut, as I've been saying, all in, we're
24 down \$750 million.

25 Last year, as this Council will

1
2 recall, we faced a similar situation and President
3 Obama and Congress passed the stimulus package
4 that averted as many as 14,000 teacher layoffs
5 here in New York City. Indeed, the president, the
6 vice president and Secretary Duncan have talked
7 about that many times.

8 Nevertheless, we lost roughly 1,800
9 teaching positions last year during the current
10 school year because of attrition. Because the
11 state frontloaded stimulus funding, the ARRA
12 funding into the current school year to plug in
13 its own budget, we will have \$300 million less in
14 federal stimulus funding for this coming year.

15 Although we continue to utilize
16 stimulus dollars to blunt layoffs and help spread
17 the cut across schools as equitably as possible,
18 these funds are nowhere near enough to prevent
19 layoffs as they did last year. Next year we'll
20 face an even greater challenge when the stimulus
21 program ends and \$815 million of stimulus funding
22 drops out of the department's budget.

23 Now let me say about absorbing the
24 cut. As budget negotiations continue in Albany,
25 we will keep fighting for more money for our

1
2 schools and I know this council will be fully
3 behind us in that effort. In addition, we're
4 aggressively advocating in Washington to support
5 the Keep our Educators Working Act. It's a \$23
6 billion education jobs bill sponsored by Iowa
7 senator Tom Harkin. I've lobbied lawmakers in
8 Washington about this legislation, and if it
9 passes, it could bring another \$400 million to our
10 city which would help us significantly in
11 offsetting layoffs.

12 As you know, our agency has endured
13 several rounds of belt-tightening over the past
14 few years. Each time we've worked to minimize the
15 impact on schools and students. Between 2008 and
16 this year, we have cut the central budget by
17 nearly 20%. Let me reiterate that. We've cut our
18 central and field budget by nearly 20%. That's
19 more than double the reduction to the schools.

20 It's included a headcount reduction
21 of 550 positions in central and the field. And it
22 comes on top of already have redirected more than
23 \$500 million in savings to school budgets over the
24 course of this administration during brighter
25 economic times. Through these cuts, our central

2 and field budgets, which cover essential functions
3 such as payroll, human resources, school support,
4 and tech support, have been whittled down to just
5 3% or really under 3% of our department's
6 operating budget. If you compare that around the
7 country, you'll see how small that is for the
8 bureaucracy compared to the overall budget.

9 For the coming school year, we have
10 to cut an additional \$38 million from our central
11 administrative budget. We'll achieve the cut
12 through an additional 5% headcount reduction,
13 along with significant non-personnel cuts in such
14 areas as software development, hardware purchases
15 and printing costs. This goes to the contracts
16 that Chairman Jackson was talking about.

17 We'll also have to trim another \$50
18 million from other non-school budgets by finding
19 improved efficiencies in areas like food
20 operations, where for example many of our students
21 who are not Title 1 have not been paying for their
22 meals.

23 You can be sure that we remain
24 steadfastly committed to cutting central and field
25 budgets before we touch the schools.

1
2 Unfortunately, a \$750 million funding hole gives
3 us little choice but to find significant savings
4 in our schools and classrooms where a significant
5 portion of our budget is.

6 To turn then to our school's
7 budget, as you know we allocate the bulk of the
8 unrestricted dollars to schools based on our fair
9 student funding formula. That money supposedly
10 funds basic classroom operations including special
11 ed and English language learner instruction. The
12 fair student funding formula also provides
13 supplemental funding for additional instructional
14 services for students who are struggling
15 academically.

16 But as a result of the significant
17 budget cuts we've been forced to absorb over the
18 past two years, all schools have seen their fair
19 student budgets reduced by more 25%.

20 Nevertheless, through the implementation of fair
21 student funding, we've moved relatively more
22 dollars to traditionally under funded schools,
23 enabling them to manage recent budget cuts better
24 than they would have under historical patterns.

25 However, for a number of our

1
2 schools, especially middle schools, the fair
3 student funding budgets are now well below what is
4 needed to cover basic operations. One reason for
5 the disparity is that many middle schools started
6 out very close to or well below their formulas.
7 And as you know, for other schools we had hold
8 harmless provisions.

9 A second reason is related to the
10 improved performance of our students entering
11 middle school. A greater number of proficient
12 students are graduating from our elementary
13 schools and entering middle schools. Middle
14 schools therefore will get fewer fair student
15 funding dollars because they got more dollars for
16 students who were not performing well and that
17 number has gone down significantly.

18 Funds from our other sources, other
19 than fair student funding, that help support
20 operations for our schools in declining budget
21 times, we must bring these school's unrestricted
22 budgets closer to a basic operating level before
23 implementing another large cut to next year's
24 budget.

25 We plan to do that by shifting

1
2 dollars from schools where fair student funding
3 combined with other unrestricted funds are above a
4 minimum operating threshold and redirect them to
5 severely under funded schools. Then once all
6 schools have unrestricted funding that meets a
7 truly basic minimum operating level, we will work
8 to reduce school budget by the same across the
9 board percentage.

10 As I mentioned, we're aiming to get
11 school budgets out by June 1, but things are fluid
12 now. Given Albany's continued inaction, I can't
13 provide a precise figure with respect to the
14 budget cut but we're still working through the
15 details, and we've advised principals in a recent
16 webcast that I did to brace for a substantially
17 larger cut than the 4.9% they saw during the
18 current year.

19 The kind of cut we're talking
20 about, especially coming after previous reductions
21 will obviously be painful. I remain confident
22 that our principals will be able to make wise
23 decisions that preserve their school's most
24 important programs and services. But with 85% of
25 the dollars in our school's budget tied up in

1
2 compensation costs, principally teachers as well
3 as administrators and other staff, it'll be
4 necessary to layoff thousands of teachers. As I
5 said, we're talking about losing 6,400 with 2,000
6 being through retirement and attrition and an
7 additional 4,400 through layoffs.

8 So let me be clear, we don't want
9 to layoff teachers. We're taking every step to
10 minimize the staff cuts. We hope Albany will come
11 through. We hope Washington will come through.
12 We've put in place hiring restrictions that remain
13 for virtually ever licensed area.

14 So contrary to what's been
15 reported, we're not hiring. The only area where
16 we're certain we're going to have a shortage is
17 for licensed special ed, particularly the special
18 ed licenses with English language learner where
19 every year we have some shortage. So we're
20 working to retrain some teachers facing layoffs so
21 that they can serve in the areas where we have
22 need, like the special ed area.

23 Let me say it again, none of us
24 want to lose any teachers. Not now, not ever.
25 This is really not good for our schools and I wish

1
2 we could be growing the teaching force, not
3 diminishing it. But if we are forced to layoff
4 teachers, we need to ensure that we protect our
5 very best. I know this is a difficult issue but
6 we've got to be candid about it.

7 Currently under state law, we will
8 be forced to do layoffs based solely on seniority
9 without regard to the effectiveness or expertise
10 of an individual teacher. As a result, for
11 example, almost all elementary teachers hired
12 since the fall of 2007 are at risk for layoff.
13 Experience in the classroom is indeed important,
14 but it is not the only criteria that should or
15 could be considered.

16 Think about it. Currently, even if
17 a teacher has multiple unsatisfactory ratings, if
18 they aren't currently teaching in our classrooms
19 or if they have poor attendance records,
20 chronically poor, we'd be forced to keep them over
21 newer teachers who might be achieving terrific
22 results because of outdated state laws and current
23 union rules.

24 Just to be clear and so my views
25 are not misrepresented, many of our longest

1
2 serving teachers are among our very best. They
3 inspire our students and mentor new teachers. I
4 certainly want to keep them and all of the highly
5 effective teachers where they belong in our
6 classrooms. My concern about seniority based
7 layoffs is not just theoretical. Rather, I know
8 that if our newest teachers are the ones laid off,
9 the impact on low income students will be
10 devastating because their schools have the most of
11 these teachers.

12 We've made great strides in
13 narrowing the achievement gap. I showed you the
14 gains our low income students made recently on the
15 fourth grade NAEP and our last in, first out
16 policies threaten to undo the significance of the
17 gains we have made.

18 Take, for example, P.S. 86 in
19 Cambridge Heights section of the Bronx. According
20 to our analysis, approximately 27 classroom
21 teachers would be laid off based on seniority
22 alone. By contrast, at P.S. 53 in Staten Island's
23 Bay Terrace neighborhood, no teachers will be laid
24 off.

25 I attached to my testimony a newly

1
2 released study by the Washington University Center
3 for Reinventing Public Education which describes
4 in detail the harmful effects of seniority-based
5 layoffs on schools with poorer students.

6 Losing upwards of 6,400 teachers
7 also will result, as the Chairman pointed out, in
8 considerable class size increases, with growth
9 ranging from two to five students or possibly even
10 more at particular individual schools. That is
11 undesirable.

12 Last in first out has the potential
13 to trigger a chain reaction of seniority bumping
14 throughout the city's schools. We would be forced
15 to layoff our newer teachers and remaining
16 teachers will be shuffled from school to school to
17 fill vacancies without regard for their skills,
18 strengths or the school's particular needs. So if
19 some school wanted to get rid of a math teacher,
20 that math teacher would have bumping rights versus
21 other math teachers and this could lead to an
22 unfortunate series of musical chairs among our
23 teaching force.

24 CHAIRPERSON JACKSON: Chancellor?

25 JOEL I. KLEIN: All right.

2 CHAIRPERSON JACKSON: Let me just
3 say to you, and I don't like to interrupt you, but
4 the issue of seniority is not here being discussed
5 today. That's not a hearing. This is a hearing
6 on executive budget.

7 Even though you may wish that this
8 will be changed, this is the way it is as per the
9 contracts that you have negotiated with the
10 various unions in the City of New York. So for
11 you to wish this and to spend a whole page
12 discussing it when you know that this has no
13 impact right now on the executive budget is not
14 right. Let me just say that to you.

15 I totally disagree with that
16 because if you had a right to change it, then you
17 could change it. But right now there are laws.
18 There's a contract. The City of New York agreed
19 to this as to the way. If you want to change it,
20 go to the table and change it. Don't come here
21 and espouse that. So I'm going to say that and
22 I'm not going to say any more.

23 A communication was already sent to
24 your office that the issue of seniority last in
25 last out right now is not in this executive

1
2 budget. Do that at the contract table, or take
3 them to court. This is not the forum for that.
4 Just like I told my colleagues at the capital
5 hearing, the expense hearings are not appropriate
6 for capital. Save those questions for the expense
7 hearing.

8 So I say to you, Chancellor,
9 please, let's talk about the reality of where we
10 are now as far as the budget, not the way that you
11 wish to as far as contracts that have been
12 negotiated with the various labor unions.

13 JOEL I. KLEIN: I appreciate that
14 Mr. Chairman, and I'm happy to abbreviate my
15 comments. Let me just make the following point.
16 It may not be on this budget hearing, but it is
17 going to be on our schools very shortly. This is
18 a matter of state law and state law could be
19 changed. I'm asking the Council to support me in
20 getting the requisite changes so that our schools
21 don't pay the price.

22 Just as I'm asking you to help me
23 in Albany on our budget and to ask you to help us
24 support getting Race to the Top money for New York
25 City and our state. Right now, we're in a

1
2 stalemate position and our state stands to get
3 \$700 million of which we would get \$200 million
4 and we need your help in Albany on that as well.

5 But let me wrap it up and take your
6 questions. Just to point out that obviously all
7 of us agree that the current funding in our budget
8 is not adequate for the needs of our schools. We
9 look forward to working with this Council to get
10 all the money we can, whether it's from Albany in
11 additional budget, whether it's from Race to the
12 Top, whether it's from Washington, D.C. and the
13 Harkin bill, but we need to work together and do
14 it very rapidly in order to help our schools deal
15 with what for them is going to soon become an
16 enormous challenge. Thank you for your patience.
17 I appreciate it and look forward to your
18 questions.

19 CHAIRPERSON JACKSON: Chancellor,
20 thank you for your testimony. I appreciate the
21 preliminary part as far as the Power Point
22 concerning the scores of our students.

23 But let me turn to some questions,
24 and as I said in the beginning, my colleagues were
25 asking questions on expense during capital and I

1
2 told them that was no the correct forum. Those
3 questions are more appropriate today. So I'm
4 going to ask everyone, if you have capital
5 questions, this is not the forum for that. This
6 is expense operating budget, so let's keep the
7 questions specific to the executive budget.

8 We're going to ask our colleagues,
9 since there are many colleagues that have signed
10 up, we're going to do a first round of five
11 minutes questions and responses. Then if you want
12 to come back for a second round you can.

13 Chancellor, let me just ask you, I
14 read in the newspapers approximately two weeks
15 ago, and especially at a time of expected severe
16 budget cuts, why is the Department of Education
17 creating a move from three deputy chancellors to
18 eight deputy chancellors when everybody else is
19 cutting back.

20 From what reports say, that's going
21 to cost at least a half a million dollars. I'm
22 saying, "What, are you serious?" When everybody
23 is cutting back and you're considering laying off
24 thousands of employees you're increasing from
25 three deputy chancellors to eight and it's going

1
2 to cost the taxpayers about a half a million
3 dollars or more. I don't understand the logic on
4 that.

5 JOEL I. KLEIN: First of all, the
6 increase in deputy chancellors was a title change;
7 this wasn't a cost change. We added one position
8 of chief operating officer which we think is
9 critical in this environment. We needed that
10 because we have cut back our central budget
11 significantly and we need somebody to manage that.
12 As you can imagine, Mr. Chairman, when we have the
13 kind of layoffs at central, just as you pointed
14 out we've got labor and other things.

15 The other people, we changed their
16 titles and one addition where we've been having a
17 lot of issues with this Council and others, we
18 brought in one deputy chancellor to deal with the
19 whole set of issues dealing with portfolio
20 enrollment which has been a big issue. So those
21 are the things we've done. But we have cut in our
22 budget \$38 million from the central.

23 CHAIRPERSON JACKSON: But
24 Chancellor, with respects to that, it was reported
25 in the papers that you're bringing on two deputy

1
2 chancellors and each one of them are going to earn
3 at least \$190,000 each, around \$200,000. The
4 other five or six were going to get a promotion to
5 a deputy chancellor title and that whatever their
6 salary was it was going to go up to a minimum of
7 \$190,000. I don't believe that the press just
8 made that up.

9 JOEL I. KLEIN: They didn't.

10 CHAIRPERSON JACKSON: I assume they
11 got that information from your offices.

12 JOEL I. KLEIN: That's correct. As
13 I just told you, we hired two people. We have to
14 continue to manage the department. The issues of
15 portfolio and enrollment which are issues we're
16 dealing with all the time and the issues of
17 bringing in a chief operating officer were
18 critical to us. We haven't had a salary increase
19 and we had a few people who were out of line and
20 we made some small adjustments. That's all we
21 did. The record is what the record is.

22 CHAIRPERSON JACKSON: Can you tell
23 us, at the time when we're considering laying off
24 thousands of employees, how much is this going to
25 cost the Department of Education as far as the new

1
2 employee or employees and the adjustments from
3 those employees that were directors or other
4 positions to deputy chancellor, the increase in
5 salary, the total package as far as increase in
6 salaries? Is it going to cost a half a million?
7 If not, is it going to cost \$300,000, \$400,000?

8 JOEL I. KLEIN: The two employees
9 are approximately around \$400,000 and the other
10 adjustments were probably \$50,000. But I can get
11 you the exact numbers.

12 CHAIRPERSON JACKSON: So give or
13 take about \$500,000 in total?

14 JOEL I. KLEIN: Correct.

15 CHAIRPERSON JACKSON: Let me just
16 say that as far as have you considered at all,
17 knowing the situation with the state and you know
18 and I know the state situation is not good. In
19 fact, Domenic Recchia, myself and other colleagues
20 went up to Albany approximately a month ago to
21 lobby for education and other matters for the city
22 of New York. Obviously it wasn't looking good
23 then. Have you considered offering a retirement
24 incentive to senior staff, meaning seniority,
25 meaning years of service, to various education

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2 department staff in order to help reduce the
3 number of layoffs in the department?

4 JOEL I. KLEIN: It's not up to me.
5 It's up to OMB, and they're evaluating that very
6 option. So far there is no law that has been
7 passed. But they're looking at that because
8 they've got to balance what the incentives are in
9 terms of the costs of pensions. Because if you
10 only look at the operating budget and you don't
11 look at the increase in pension as well as the
12 buyout and OMB is doing that.

13 I'll tell you what we have done,
14 Mr. Chairman, and we're the only agency in the
15 city that did it. As you may recall, about eight
16 to ten months ago, every city agency for its non-
17 union employees got a 4% and a 4% pay hike. We
18 were the only one that took 2% and 2% and capped
19 it at \$70,000. We were the only agency. That
20 saved us during the current financial year
21 approximately \$10,000 that we're able going
22 forward to keep in the budget. The only city
23 agency that took 2% and 2% and capped it at
24 \$70,000 and above 70% you got the 2% up to 70. No
25 other agency in the entire city did that. So I

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think our agency is acting entirely responsible.

CHAIRPERSON JACKSON: Chancellor, I heard when that came out and I believe the mayor announced it along with you. Is that in place or that is to be negotiated with the various unions?

JOEL I. KLEIN: I'm talking about the management.

CHAIRPERSON JACKSON: Okay, management.

JOEL I. KLEIN: I'm just saying my management, approximately 1,000 people took a \$10 million cut that no other city agency took, so net of net. In terms of the unions, that's obviously something the city has to negotiate.

CHAIRPERSON JACKSON: Congratulations to you and with respects to your managers, especially those that are at the higher level versus the ones that are at the lower level of the salary scale.

JOEL I. KLEIN: I agree with you on that.

CHAIRPERSON JACKSON: Let me just ask this question on the restructuring and then I'll turn to my colleague, Council Member Recchia.

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2 Restructuring school support services, on June
3 1st, the DOE will replace all of the integrated
4 service centers and school support officers with
5 the new Children First Network. The Children
6 First Network will be staffed, from my
7 understanding, with instructional and operational
8 support personnel. The new support model will
9 require fewer staff as many will assume
10 responsibilities previously held by more than one
11 individual.

12 The restructuring will lead to the
13 elimination of 50 employees, mostly through
14 layoffs. How much is this going to cost? Can you
15 explain how the restructuring of the field offices
16 will lead to budget savings and what jobs will be
17 eliminated and how many people will be terminated?
18 In essence, explain the details of that.

19 JOEL I. KLEIN: Sure. I can give
20 you much of it and maybe Photo can fill in. What
21 we were trying to do is we looked at every piece.
22 Because, you're right, that the last place you
23 want to cut are schools or teachers. So we look
24 always at where we are outside of the school.

25 What we found is we had created in

1
2 some of our schools was something called a
3 Children First Network where the support staff
4 were directly integrated into the networks. The
5 schools liked it. It got positive feedback. We
6 found then we could eliminate some duplication.
7 Overall, I think it will save us, not cost us, but
8 save us something like \$18 million in doing this
9 by eliminating some duplication.

10 That in turn will lead to some
11 layoffs. Do you know the projected number?

12 PHOTEINE ANAGNOSTOPOULOS: We're
13 looking at around 100 at least and it will go on
14 over the next couple of years. So we will
15 probably garner much greater than 100.

16 CHAIRPERSON JACKSON: A hundred
17 what? I'm sorry.

18 PHOTEINE ANAGNOSTOPOULOS: A
19 hundred layoffs, 100 positions will be lost. We
20 also put into, for the PEG, \$6.8 million to be
21 conservative because it takes time to do this. As
22 Joel said, we think it will rise actually above
23 \$20 million over time.

24 CHAIRPERSON JACKSON: So \$6.8
25 million for fiscal year 2011?

2 PHOTEINE ANAGNOSTOPOULOS: Yes, for
3 fiscal year 2011.

4 CHAIRPERSON JACKSON: And then
5 rising?

6 PHOTEINE ANAGNOSTOPOULOS: And it
7 will rise, and we may actually garner more than
8 that in 2011, but we're trying to be conservative.

9 CHAIRPERSON JACKSON: So, in
10 essence, the transition this year, the estimated
11 minimum of about \$6.8 million as a result of the
12 PEG increasing in fiscal year 2012 to maybe in
13 totality when you look at 2011-2012 maybe about
14 \$20 million with a total of about 100 staff.

15 PHOTEINE ANAGNOSTOPOULOS: That's
16 what we believe. But again, we're being
17 conservative, that's why we only put the \$6.8
18 million on.

19 CHAIRPERSON JACKSON: Chair of
20 Finance Domenic Recchia.

21 CHAIRPERSON RECCHIA: Thank you,
22 Chair Jackson. Before I ask my question, I'd like
23 to recognize Council Member Steve Levin and
24 Julissa Ferreras for joining us.

25 Good afternoon, Chancellor.

2 JOEL I. KLEIN: Good afternoon.

3 CHAIRPERSON RECCHIA: I think it's
4 great to see we're making progress in our schools.
5 That is something that we've been working on for a
6 long time. During these cuts that we're being
7 faced with there are many concerns. There are
8 many places that I think that we could cut that
9 were not.

10 One area that I'm a little bit
11 puzzled about is that there are about 1,000 ATRs
12 out there who are looking for jobs. We also have
13 many graduates from colleges who are certified who
14 are looking for teaching jobs. The DOE, you are
15 paying the new teacher project and other
16 recruitments, other people to do recruiting for
17 the DOE. I'm a little puzzled. Why do we have to
18 pay to recruit and have that outside contract?

19 At your May 18th meeting on the
20 panel for education policy, there's a stack here
21 of outside contracts that the board approved.
22 Knowing the budget cuts that we are facing, you
23 should have held off on these contracts and we
24 could have made a 10% or 15% cut on some of these.
25 These are of great concern.

2 CHAIRPERSON JACKSON: One of them
3 was this one.

4 CHAIRPERSON RECCHIA: Right, the
5 recruitment contract for \$5 million. That is the
6 one that puzzles me and my colleague Robert
7 Jackson because that is where you could have saved
8 \$5 million.

9 JOEL I. KLEIN: No, I'm glad you
10 asked me so we can get the facts before the forum.
11 Because people start talking about contracts, do
12 you know what our overwhelming number of contracts
13 are? They're for two items which we have zero
14 discretion over. Related services, those are all
15 contracts. So people say you've got all these big
16 contracts.

17 The second is we have to contract
18 with a whole bunch of special ed schools. These
19 are private schools. Those are the mass amounts
20 in the system. We have contracts with the buses.
21 And if anything, I'm concerned about having a cut
22 in busing, not that that's a desirable thing.

23 So now let me talk about the \$5
24 million because it's been written about and talked
25 about and discussed at the panel at length. I

1
2 don't want to spend a penny. I'm not obligation
3 to spend a penny but here's the reality I face and
4 I tried to allude to this in my testimony.

5 Despite the cuts, every year we tend to be short
6 in two areas. Particular short in high school
7 special ed where they need dual certification. So
8 you need to be certified in math and certified in
9 special ed. And oftentimes in district 75 for our
10 highest needs kids.

11 If I don't give those people a
12 certified teacher, I'm in violation of the law.
13 I'm not looking to recruit. I'm looking to
14 retrain. If I lay off somebody who wants to get
15 retrained in those licenses, I'm happy to do it.
16 But if in fact I'm short teachers in those areas
17 in the next two or three months, I can't abandon
18 my special education kids and I can't give them
19 somebody who's not licensed. That's why we
20 entered this.

21 It wasn't a no-bid contract,
22 contrary to what was said in the paper. There
23 were bidders on it. In fact, the winning bid was
24 about half the cost of the other bid. Second, we
25 committed to the panel that before we spend a

1 penny, we'll come back to the panel's contract
2 committee so there is complete transparency. I'd
3 be happy to make the same commitment to this
4 council. I don't want to spend the money but
5 somebody has to explain to me what do I do with my
6 special ed kids if in fact I have nobody licensed
7 in that area and I'm ordered by law to produce a
8 licensed teacher. That's the only reason we did
9 it.
10

11 CHAIRPERSON RECCHIA: With those
12 ATRs, with the possible 1,000 ATRs, did you go to
13 these ATRs and say which ones want to be retrained
14 and explain to them that if they don't do this
15 they could be in jeopardy of losing their jobs?

16 JOEL I. KLEIN: They're not in
17 jeopardy of losing their jobs. That's the
18 problem. If they were in jeopardy then we could
19 incentivize them to be retrained. The people who
20 I think have the greatest incentive to be
21 retrained are people who may get laid off. We may
22 be able to pick up some of them.

23 Again, I'm just telling you, we
24 haven't spent a penny. I don't want to spend a
25 penny. I'm trying to--

2 CHAIRPERSON RECCHIA: [interposing]

3 But I just think with those 1,000 teachers, have
4 you reached out to them and asked them if they
5 want to be retrained for special needs.

6 JOEL I. KLEIN: Some of them won't
7 even apply for a vacancy. I'm not going to force
8 them on schools, but I am prepared and I've asked
9 the union repeatedly to negotiate with us so that
10 after a fixed period of time if they don't find a
11 job that it's time for them to be able to move on.
12 But I'm not going to force them on schools. If
13 they want to be retrained, we will entertain that.

14 CHAIRPERSON RECCHIA: But have you
15 asked them if they wanted to be retrained?

16 JOEL I. KLEIN: I haven't
17 personally asked them, no.

18 CHAIRPERSON RECCHIA: But don't you
19 think that we should do that? Ask them if they
20 want to be retrained? Maybe because some of them
21 who have been out of work for a year, maybe they
22 would say I'm going to be retrained because I want
23 to work.

24 JOEL I. KLEIN: They haven't worked
25 under the system where we've been hiring people in

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2 there licensed right now. So I don't think that's
3 the right pool. The people I'd like to retrain
4 are anyone we have to layoff and we're going to
5 have a significant group of those.

6 CHAIRPERSON RECCHIA: The issue
7 with the outside contracts, I'm glad you made a
8 commitment to us and we hope that you come back to
9 us before you have to spend any of that money.

10 JOEL I. KLEIN: I'd be happy to.
11 I'm hoping I don't have to spend a penny.

12 CHAIRPERSON RECCHIA: My next
13 question is that during the executive budget, the
14 Teen Relationship Abuse Program, better known as
15 RAP, it's a school based program that educates and
16 counsels teens about domestic violence in the
17 middle and the high schools. This program is
18 administered by HRA.

19 Commissioner Robert Doar testified
20 before us that he spoke to your administration in
21 telling them that he's eliminating this program,
22 worth about \$3 million. Now he's eliminating this
23 program. You're laying off 122 workers that could
24 do this same work. How are we going to fill in
25 this gap and could we not lay off these 122

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2 workers because I believe this is going to be
3 devastating to the middle schools and high
4 schools. This is an area where we are taking a
5 drastic cut.

6 PHOTEINE ANAGNOSTOPOULOS: These
7 workers are actually funded through the state.
8 The state is the one who actually cut that money.
9 So we actually don't have the funding for them.
10 We are doing the best we can in terms of the
11 guidance programs. But again, in light of budget
12 cuts, there are decisions that have to get made in
13 terms of tradeoffs between the programs and some
14 of our core teaching that has to go on. So that's
15 really what's happening here. But the funding was
16 cut by the state.

17 CHAIRPERSON RECCHIA: That funding
18 came down from the state?

19 PHOTEINE ANAGNOSTOPOULOS: That was
20 state funding.

21 CHAIRPERSON RECCHIA: The issue of
22 guidance counselors and guidance programs and
23 domestic violence is of great concern to this
24 council. We have to keep an eye on it. We just
25 can't cut all of the social service programs out

2 there and programs that are going to help the
3 children, especially guidance counselors. In the
4 interest of time, I just want to bring that up.
5 Many of my colleagues have other questions. I'll
6 come back at the end. Chair Jackson.

7 CHAIRPERSON JACKSON: Thank you,
8 Chair Recchia. We're going to turn to Council
9 Member Lew Fidler of Brooklyn. I'm putting on the
10 five minute clock for our colleagues and if we
11 come back for the second round I'd be glad to add
12 your name. Council Member Fidler.

13 COUNCIL MEMBER FIDLER: Thank you,
14 Chairman. Good morning, Chancellor Klein. I want
15 to start by saying that on what should be the main
16 point of your testimony today I'm with you 100%,
17 which is that I do believe that the governor of
18 the state of New York has lost leave of his senses
19 in terms of balancing disproportionately on
20 children. In that respect, we stand with you and
21 hopefully Albany, the Assembly and the Senate will
22 see to it to right that wrong.

23 I do believe, however, that your
24 comments about Race to the Top are in fact a red
25 herring. As we all know that \$700 million spread

2 across the state, spread over three years and is
3 not able to supplant budget cuts. Frankly, in my
4 view it is a bribe to send us down the wrong
5 course in terms of public education and
6 privatizing education. So I'm with you on one;
7 I'm not with you on the other and I guess you'll
8 have to settle for one out of two.

9 JOEL I. KLEIN: One for two is
10 often better than I get. So I'm going to call it
11 a good day for me.

12 COUNCIL MEMBER FIDLER: So you're
13 off to a good start. I would also appreciate the
14 follow up with both chairs' questions. If you
15 could provide for the council a full list,
16 contract by contract of the DOE's contract budget
17 so we can look at it. Do you have it? Do we have
18 the full list? Does this include lease costs or
19 is that a separate budget item?

20 PHOTEINE ANAGNOSTOPOULOS: That
21 would be a separate budget item.

22 COUNCIL MEMBER FIDLER: I made the
23 same comment to Commissioner Mattingly I'll make
24 to you. The real estate market is depressed.
25 Much of this space is suitable only for the

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2 purpose that it is currently being used. The city
3 has enormous, enormous economic power. We ought
4 to be able to save some money on these leases,
5 even if they are in the middle of long-term
6 leases. I think that there is a compelling
7 argument that those leases need to be
8 renegotiated. I would urge you to do that.

9 JOEL I. KLEIN: I would be happy to
10 do so.

11 COUNCIL MEMBER FIDLER: I'm sorry?

12 JOEL I. KLEIN: I'd be happy to
13 look into that. If we can negotiate down the
14 costs of the leases we're all for it.

15 COUNCIL MEMBER FIDLER: Well
16 someone has to initiate it. I mean the answer I
17 got from ACS was that's a lot of lawyering.
18 Frankly, that's an inadequate answer when we're
19 forced to layoff teachers and increase class size
20 by as much as five kids a class. I would ask you
21 to initiate that process with DCAS or whatever
22 other agency is handling those leases. It's
23 imperative.

24 How many school districts,
25 Chancellor, do not have gifted and talented

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programs?

JOEL I. KLEIN: Do not?

COUNCIL MEMBER FIDLER: Do not?

JOEL I. KLEIN: In the United States?

COUNCIL MEMBER FIDLER: In the City of New York. I'm not all that concerned about Ohio.

JOEL I. KLEIN: A handful I think is the number. I can get you the precise number.

COUNCIL MEMBER FIDLER: But there are those without it?

JOEL I. KLEIN: There are some that don't.

COUNCIL MEMBER FIDLER: Is there anyone here with you who could tell me, for example, whether district 4 or district 16 or district 23 or 32?

JOEL I. KLEIN: I think district 4 does. There was a program, the tag program in district 4. I don't know about district 16, but I'm happy to get you all of the answers. It's a matter of public record.

COUNCIL MEMBER FIDLER: I would

1
2 appreciate that. Not that's not. Everyone's
3 showing me this response that you gave to two
4 questions that were asked during the preliminary
5 budget hearing. Chancellor Klein, what it doesn't
6 include is which districts don't have programs.
7 My colleagues were showing me this.

8 The reason that I asked the
9 question is, frankly, I believe there's a bit of a
10 self-fulfilling prophecy going on here in terms of
11 the number of kids who apply for these programs in
12 districts where there are none. If you're a
13 parent and you're being encouraged to have your
14 child take this test and then told if you succeed
15 you're going to have to get on a bus for an
16 hour to get to that program, you're going to say
17 what the hell, I'm not doing it.

18 I think that explains and continues
19 to explain those districts that have the
20 extraordinarily low numbers of kids applying for
21 gifted and talented programs. This is a chicken
22 and egg kind of deal. If you build it, they will
23 come. Frankly, the numbers in these districts
24 that are low are still inexcusable. I recognize
25 they're better than they were two years ago. But

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2 you have also the problem of people in the
3 district not really wishing since test scores are
4 so paramount in our world to ship their best kids
5 out of the school district.

6 So I do believe you need to find a
7 way to create a gifted and talented program in
8 every school district so that it is not a matter
9 of sending kids halfway across the borough to find
10 one. I think you will find that the number of
11 parents willing to send their kids into those
12 tests, the number of administrators willing to
13 encourage kids to take the test will increase all
14 by themselves.

15 JOEL I. KLEIN: Can I respond very
16 briefly to that? You and I have had a long and I
17 hope, certainly from my view, productive
18 discussion about gifted and talented.

19 COUNCIL MEMBER FIDLER: Yes.
20 Almost as long as our cell phone discussion but I
21 won't go into that tonight.

22 JOEL I. KLEIN: So you had proposed
23 several years ago that we use a uniform cutoff so
24 that kids in one part of the city who are gifted
25 and talented won't be subject to different

standards and criteria than others. We did that.

As a result of that, and we've done a lot of outreach in every community school district. There are some school districts where three or four kids pass the gifted and talented program at the 90% level. As a result of that, we can't build a program. It's not a question of people coming, there's just not enough people to make up a gifted and talented class.

We've actually in some instances done this for a relatively small number of children. So what we do in addition is to create both borough wide and citywide programs so that people, at least if they can't do it in their district, but if only four people pass the gifted and talented test, you can't create a program for them in their district.

COUNCIL MEMBER FIDLER: Chancellor, just one comment here, you mentioned half of what I asked for. The other part that I asked for was that there be a program in every district. I think we all learn from our mistakes. Doing half of it was insufficient because in fact we are discouraging parents from taking the test and

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2 that's why we're not getting enough to do a class.
3 If we have to bootstrap some kids up into a
4 program in the districts that don't have one so
5 that we can have programs, then that's what we
6 should do so that more parents are encouraged.

7 I'll bet you a couple of years
8 after we do that you will no longer have to
9 bootstrap kids in those districts. Parents will
10 be encouraging their kids to take the test.
11 Children will in fact will be challenged to the
12 limits of their abilities. Thank you.

13 CHAIRPERSON JACKSON: Thank you,
14 Council Member Fidler. Council Member Deborah
15 Rose of Staten Island is next, followed by Council
16 Member Ignizio.

17 COUNCIL MEMBER ROSE: Chancellor,
18 it's been publicized that due to the budget cuts
19 that you are going to cut 3,000 students on Staten
20 Island from receiving bus service to school.
21 Could you tell me what your plans are and what the
22 affected routes are? How do you plan to get these
23 young people to school?

24 JOEL I. KLEIN: First of all,
25 again, let me be clear, I wish that we weren't

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2 doing this. I have no desire to do it. What we
3 did was by law we're required to provide bus
4 service through the sixth grade. That's New York
5 State law. We had been providing bus service for
6 several seventh and eighth grade classes, not just
7 in Staten Island but a couple of other places.

8 We looked at it and determined that
9 not every kid but some of those students will be
10 able to benefit from public transportation. There
11 are buses for various schools in other boroughs.
12 So what we decided to do is eliminate the seventh
13 and eighth grade school ride bus program, but we
14 will entertain individual exceptions or variance,
15 we call it, for those kids who have no
16 alternative. That's what we're trying to do.

17 That should cut down the overall.
18 It won't eliminate but cut down on the overall
19 busing costs. Again, it's just the situation
20 we're in where we're firing people, et cetera, et
21 cetera, we thought that was a cut we had to take.
22 I wish we didn't have to take it.

23 COUNCIL MEMBER ROSE: Does this
24 number include special ed students?

25 JOEL I. KLEIN: No, it doesn't.

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2 Right now, 98% of seventh and eighth graders in
3 the city do not guarantee a bus to their school.
4 I'm talking about general ed, not special ed.
5 Special ed, they get it as part of their IEP.

6 COUNCIL MEMBER ROSE: Most of these
7 students are riding on the bus because of the
8 geographic location of the school. It's not
9 something that is easily accessible. They have to
10 cross busy service roads, huge intersections that
11 are not controlled by any kind of traffic agent or
12 school safety personnel. If, in fact, they have
13 to be put off the bus, then what are you going to
14 do to supplement that ride? Since the family is
15 receiving free bus service right now.

16 JOEL I. KLEIN: What we're going to
17 do is give them Metro Cards just like we do for
18 the other 98% of the students.

19 COUNCIL MEMBER ROSE: So the school
20 Metro Card, that brings me to my next point. Is
21 that not one of the cuts that we have to sustain
22 right now in terms of Metro Cards for students?

23 JOEL I. KLEIN: Well, I understand
24 the MTA is going to make their announcement about
25 that. But if we're talking about having to cut

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2 all of the Metro cards, then we've got a problem
3 well beyond what you're talking about because
4 significant numbers of our middle and high school
5 students take public transportation in this city.
6 I continue to believe that that will be
7 negotiated. I'm not sure who's going to have to
8 pay what, but that our kids will get their Metro
9 card. These children will also be eligible for
10 them.

11 COUNCIL MEMBER ROSE: One other
12 question, Chancellor. There are still many
13 universal pre-k seats left vacant in CBOs and in
14 our schools but DOE is still paying for them.
15 What do you plan to do in terms of increasing
16 efficiency and saving money around those universal
17 pre-k seats?

18 JOEL I. KLEIN: The way to do this,
19 and the council has been enormously supportive,
20 starting with the Speaker who has helped us
21 directly on this. Here's the biggest problem, the
22 pre-k money we get from Albany, a significant
23 chunk of this money gets earmarked for half day
24 programs.

25 In our city, half day programs for

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2 many parents simply are not viable. Where they
3 are viable we fill them up. But where they're
4 not, what happens is we don't get the pre-k money
5 for them because we need a full day program.

6 So what we need from Albany is not
7 anymore money. We end up paying Albany back pre-k
8 money because we can't use it on full day. If we
9 could use it on a full day because our parents
10 work, that would end this problem. The council
11 has made this view clear. I've made this view
12 clear. So far we haven't gotten any legislative
13 relief from Albany. I would welcome your support
14 in this.

15 COUNCIL MEMBER ROSE: So you're
16 saying that you need a shift from part time
17 universal pre-k to full time. Would that not
18 increase the budget amount?

19 JOEL I. KLEIN: It's would, but
20 it's money that's earmarked from Albany. It's
21 always part of a special earmark. What did we
22 have to return last year?

23 PHOTEINE ANAGNOSTOPOULOS: We
24 returned about \$25 million.

25 JOEL I. KLEIN: For last year we

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2 had to give them back \$25 million because we
3 couldn't fill the half day spots. If they're let
4 us use that \$25 million for full day I'd fill
5 every one of them.

6 COUNCIL MEMBER ROSE: Is there no
7 recruitment process for universal pre-k? You're
8 recruiting for teachers I understand.

9 JOEL I. KLEIN: We recruit for
10 teachers.

11 COUNCIL MEMBER ROSE: But there's
12 no recruitment process to fill those seats?

13 JOEL I. KLEIN: We recruit all the
14 time. We've put out fliers and information. The
15 Speaker has been directly involved. I think
16 people know about the programs. Whenever we have
17 vacancies, we're really out there letting people
18 know. I just think that for many of them,
19 particular half day pre-k it doesn't meet their
20 family's needs. That's why I'm trying to extend
21 it to full day pre-k.

22 COUNCIL MEMBER ROSE: Thank you,
23 Chancellor.

24 CHAIRPERSON JACKSON: Thank you,
25 Council Member. Council Member Vincent Ignizio of

2 Staten Island, followed by Council Member Vacca of
3 the Bronx.

4 COUNCIL MEMBER IGNIZIO: Thank you
5 very much.

6 CHAIRPERSON JACKSON: I'm sorry.
7 One second. The Committee on Health and the
8 Committee on Public Housing and the Committee on
9 Housing and Buildings are voting right now over on
10 the 14th Floor. So if you're a member of those
11 committees, you need to get over and register your
12 vote. Thank you.

13 COUNCIL MEMBER IGNIZIO: Thank you
14 very much, Mr. Chairman. Chancellor, I don't envy
15 the position that you're in. I recognize we are
16 in some serious budgetary times. There's always a
17 "but" at the end of every statement like that, but
18 the truth is, this is a very difficult time for
19 our state. I think our state legislators of which
20 I was one of them have left us in a very, very
21 difficult position in planning for our budget and
22 really ought to get to work. That was a quick
23 five minutes.

24 CHAIRPERSON JACKSON: Sorry. Go
25 ahead.

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2 COUNCIL MEMBER IGNIZIO: That's all
3 right. They really ought to get to work and get
4 this budget rolling. That being said, some
5 concerns and issues that I may have, first and
6 foremost, is the bussing situation. With regards
7 to 98%, with all due respect Chancellor, but 98%
8 of the city has access to a public subway. Those
9 98% have adequate bussing service, and they have
10 adequate sidewalks.

11 The reason why we were given busses
12 for the seventh and eighth grade wasn't because
13 out of fun, here you go, we'd love you to have
14 buses. There was a decision by the DOE that there
15 was not adequate public transportation to get kids
16 to and from schools. That is still the case.
17 That has not changed.

18 That's why I think that this
19 decision to save \$3.2 or \$3.4 million is really a
20 difficult one for me to accept because I believe
21 that ultimately it wasn't give out for reason
22 because those kids can't take the bus. Well they
23 do it in the rest of the city, but in the rest of
24 the city they have an enhanced if not a very good
25 public transportation system.

2 So my question to you in regards to
3 that, has that decision way back when been
4 reviewed and say why did we grant these in the
5 first place and how has there been an appreciable
6 change which will alter ultimately this decision?

7 JOEL I. KLEIN: I think you're
8 right. I think for some of these communities
9 there was some challenges. What we found when we
10 reviewed it was that there were children even in
11 Staten Island who could take public
12 transportation. So instead of having a school
13 wide variance we decided to move to individuals.
14 We will grant some variances.

15 COUNCIL MEMBER IGNIZIO: On a
16 waiver basis.

17 JOEL I. KLEIN: Look, if we get
18 restorations in our budget, this is one of the
19 things that I'm eager to look at as well.

20 COUNCIL MEMBER IGNIZIO: Well I
21 appreciate that, sir. My question is do you now
22 have a criterion which you determine too long to
23 be in the process of transportation to a locally
24 zoned school?

25 JOEL I. KLEIN: We don't. You say

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to a locally zoned school.

COUNCIL MEMBER IGNIZIO: Because if you go to a specialized, then you incur that scenario.

JOEL I. KLEIN: And obviously special ed kids. But we don't have a fixed number. I mean, most people who go to their zone school in terms of time to get there usually do it within a half an hour if it's a zoned school.

COUNCIL MEMBER IGNIZIO: You see my concern. I represent the largest district in the council. It's one and a half times the size of Manhattan, my district alone. So the schools are few and far between, unlike my other colleagues where an elementary school or intermediate school can be within ten blocks, ours can be within miles of each other.

So if you don't have the adequate public transportation to get to that and then get to the school whereas potential in other districts may take 20 minutes or 25 minutes, in my district that could take as long as 45 minutes to an hour.

My question, is there any criterion which you as the chancellor say that's not

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acceptable, we have to bring that bus back?

JOEL I. KLEIN: I don't have a specific criterion but we will review for any individual student and grant variances where that occurs. I mean, take for example, in Staten Island, which you're much more familiar than I am, high school kids are not bused.

COUNCIL MEMBER IGNIZIO: Yes, sir.

JOEL I. KLEIN: But high school kids get to school in Staten Island.

COUNCIL MEMBER IGNIZIO: With specifically designated MTA buses though, not with standard routes. They're actually buses waiting outside the schools or whatnot.

JOEL I. KLEIN: So maybe we'll be able to do some of that, ways to try to cut down the expenditures. And for some kids they could take public transportation. That's what our review found. So if an individual kid cannot within a meaningful time, and I don't want to commit today to a half an hour because my busing people aren't here.

COUNCIL MEMBER IGNIZIO:
Understood.

2 JOEL I. KLEIN: Then we will give
3 them a variance.

4 COUNCIL MEMBER IGNIZIO: I think
5 this is going to be a dialogue throughout the
6 summer, unfortunately, that we're going to have to
7 have. You're talking about a lot of kids and
8 that's going to be a lot of variances and a lot of
9 questions. Where there is an adequate public
10 transportation in the exact same vicinity then
11 your decision I guess will hold. But where there
12 isn't, then we'll have to talk about that further.

13 My final concern is with regards to
14 the nursing in public schools. The elimination by
15 the Department of Education to remove nurses from
16 schools under 200. I know the council was going
17 to review the law that they passed. Can you speak
18 to more of what your savings in that end and the
19 decision making process therein?

20 JOEL I. KLEIN: It's a Department
21 of Health decision.

22 COUNCIL MEMBER IGNIZIO: The
23 Department of Health? I thought that was in
24 concert with--

25 JOEL I. KLEIN: [interposing] It

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2 impacts us but it's a Health Department decision.

3 COUNCIL MEMBER IGNIZIO: I thought
4 it was in consultation with you all, so I won't
5 ask you. I will have to save that for the
6 Department of Health.

7 Finally, if there is a way in which
8 we can achieve working together to try to
9 encourage the state to move, I'm happy to do so.
10 I think going forward we're going to have to
11 continue to talk about the cuts in transportation
12 funding for my district. With that, I thank you
13 and thank you, Mr. Chairman.

14 COUNCIL MEMBER VACCA: Thank you,
15 Council Member Ignizio. Council Member Jackson
16 has had to go across the street to vote. He's
17 asked me to assume the chair temporarily. But I
18 am next on the questioner's list anyway, so I will
19 call upon myself and take that liberty.

20 Chancellor, I wanted to go into the
21 impact the cuts will have on school class size.
22 Have you come up with an impact statement as to
23 what this will mean for class sizes should the
24 teacher cuts through attrition and layoffs take
25 place?

2 JOEL I. KLEIN: The answer is a
3 combination of two things. I said in my testimony
4 it will vary significantly at different schools.
5 Some schools have much lower class size that
6 others and those schools will see a larger growth.
7 Some schools will see a growth, and it will depend
8 on the grade, of two, some of three, some of four.
9 None of these will be good. But until we see the
10 individual school numbers which we present to this
11 council every year, we're making our best
12 estimates.

13 As I say, it varies significantly
14 in different schools. A lot of schools had a lot
15 of Title 1 money; other schools might not have.
16 So those things all impact this. Some schools in
17 the past were quicker to reduce their teachers by
18 not hiring. So they may already start with larger
19 sizes. They may cut after school or other
20 programs. All no good, but those are the options.

21 The numbers that I gave you,
22 probably a minimum of two and probably as many as
23 five in some grades or classes.

24 COUNCIL MEMBER VACCA: Chancellor,
25 you would expect that the increase in class size

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2 would be felt mostly in junior high and high
3 schools?

4 JOEL I. KLEIN: No, I think it'll
5 be felt across the board now. In fact, I think
6 most of the growth in class, because they start
7 with larger classes, is in the middle schools.
8 But I think we'll see growth in class size in the
9 elementary schools and the high schools as well.

10 COUNCIL MEMBER VACCA: What will be
11 your policy on schools hiring substitute teachers?
12 Will schools be allowed to continue to hire subs?
13 Is that part of a free you're going to implement?
14 Where do we stand on schools hiring subs?

15 JOEL I. KLEIN: They will be able
16 to hire substitute teachers. We're urging them to
17 use the ATR, the absentee teacher reserve, as a
18 way to fill the substitutes so that we have as
19 little additional cost. But they will be and they
20 have a budget that allows them that discretion.
21 How much they'll want to use that this year is the
22 question.

23 COUNCIL MEMBER VACCA: Don't we
24 face the prospect of schools having very tight
25 budgets and perhaps rather than calling in a sub

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2 for the day, combining one class with another to
3 the point where you may have 40 or 45 children in
4 a class?

5 JOEL I. KLEIN: It seems unlikely,
6 but it could happen. I think they're rather use
7 the ATRs. Remember, we've got 1,100 of them. So
8 we'll make them available. Usually, even this
9 year, how much did the schools all in spend on
10 subs?

11 PHOTEINE ANAGNOSTOPOULOS: On subs?
12 I'd have to look it up. I want to say it's about
13 \$180 million or so.

14 JOEL I. KLEIN: I mean they
15 probably spent over \$100 million on substitutes.
16 So they're cut that but I don't think they'll go
17 to classes of 50 or 60. I think that doesn't
18 work. But you'll see class size grow. I'm not
19 trying to guild the lily here. We're going to see
20 bigger classes.

21 COUNCIL MEMBER VACCA: Chancellor,
22 I'm concerned too with support services. You
23 mentioned workers before and I'm thinking of
24 school aides as well. All the SAPIS workers were
25 cut by state funding? I think you mentioned 153

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SAPIS workers were laid off.

PHOTEINE ANAGNOSTOPOULOS: My understanding is that the SAPIS money is gone.

COUNCIL MEMBER VACCA: All the money is gone?

PHOTEINE ANAGNOSTOPOULOS: Yes. We can check that for you, but that's my understanding.

COUNCIL MEMBER VACCA: What do you anticipate with school aides and paras? Will there be layoffs of school aides and paras? My concern is that school aides especially do a lot of the support staff, getting our children on and off buses, manning the cafeteria, the school yard and things of that type. What do you expect from the support staff cuts?

JOEL I. KLEIN: First of all, let me be clear that I share your concerns. We've already seen a fair number of school aides who were cut this year. So we're getting down to a minimum on that. On paras, we have relatively few paras except for special ed paras. I'm talking about pedagogical paras and you can't cut the special ed; they're via IEP. So I don't expect

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2 we'll see major cuts in that area.

3 The problem we have is if you let
4 the schools make individualized determinations you
5 get all the bumping and the other things and
6 that's its own challenge. So it's not entirely
7 clear. My guess is you'll see a few more of both
8 paras and aides cut this year.

9 COUNCIL MEMBER VACCA: My concern
10 is yours, is that when it comes to the school
11 aides, we're reaching a floor. I worry because
12 and I'm sure you do because you're the chancellor
13 but I remember what the school aides did and what
14 they do now. I know that they do important
15 chores. So I bring that to your attention. I
16 don't want to go beyond a certain floor.

17 You mentioned special ed. My
18 concern here is that you have plans where the
19 special ed children starting in September will be
20 getting services in their home zoned schools and
21 that that will be phased in over a two year
22 period. There's going to be a realignment of the
23 non-citywide special education children's
24 programming options. Knowing of that, my question
25 to you is how is that impacted by budget realities

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2 that you've spoken about today? Are we going to
3 have the fiscal resources to provide those
4 children with the services in their home zoned
5 schools as opposed to taking many children out of
6 self-contained classes?

7 JOEL I. KLEIN: The answer is yes,
8 we're working with the 200 schools that
9 volunteered and Photo and her team have been
10 working closely with Laura Rodriguez. We believe
11 we'll be able to fund those consistently with our
12 budget. We hope over time two things, and we work
13 very closely with the advocates on this. That we
14 stop this notion of bussing special education
15 children, except in rare instances, all over the
16 city.

17 I was talking to Council Member
18 Ignizio just a few seconds about general ed, but
19 we have special ed kids bussed all over the city.
20 Second of all, we're trying to create, working
21 with the advocates, an environment where we really
22 start to mainstream and that becomes the
23 presumption. Not irrebuttable, but the
24 presumption. I do think we can make it happen
25 financially, particularly if we work carefully

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2 with our schools as Laura Rodriguez has been
3 doing.

4 COUNCIL MEMBER VACCA: My last
5 question, chancellor and then I have my colleague
6 Councilman Cabrera. Many of us are aware of the
7 CFE settlement and the terms of that settlement
8 which was a lawsuit brought, as you know, and you
9 know the history better than I. Do you see that
10 any of the budget cuts that are being proposed go
11 against the intent? I would say of course the
12 intent, but against the legal mandate of the CFE
13 decision?

14 Wasn't that decision meant to put a
15 floor on education based budgets that could not be
16 touched? It seems to me that that decision may be
17 something that would help use because we certainly
18 want to protect what we gained out of that
19 decision, yet we see ourselves going backward. I
20 wonder if that's something that the court would be
21 interested in.

22 JOEL I. KLEIN: I'm not in a
23 position to render legal views on this, but I
24 certainly agree with you that the current budget
25 situation is not moving us in the right direction.

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2 There's no question. The concerns you've raised
3 and your colleagues have raised are all real
4 concerns that we share, whether it's aides,
5 whether it's paras, whether it's bussing, whether
6 it's teachers, SAPIS workers, whatever it is, it's
7 not like we don't need these things. There are
8 some things that we're able to cut that don't have
9 a large impact but you're talking about things
10 that are impactful for our children.

11 That's why I'm hoping we get some
12 relief out of Albany and quite frankly, that the
13 Harkin bill passes and that brings us another \$400
14 or \$500 million to our city. At some point we've
15 got to address all of these issues, but the
16 problem for us is unique. Any other budget you
17 can change January to February. Our schools start
18 in September and you can't keep moving the
19 teachers. You know, the kid can't have a
20 different teacher.

21 If you have a different fire person
22 or a police person or something in the precinct,
23 the community adjusts to that. But our kids can't
24 have a whole new raft of teachers different in
25 January from February from March from April.

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That's what makes our predicament so very urgent.

COUNCIL MEMBER VACCA: Chancellor, my point on that was that I would like your staff to assess the legal implications of the cuts to see if the CFE decision would give us any type of protection.

JOEL I. KLEIN: Sure, thank you.

COUNCIL MEMBER VACCA: Chancellor, I hope that when you go to Albany you are remembering the Metro card issue as well. As Chairman of the Transportation Committee, I had to insert that.

JOEL I. KLEIN: I got you.

COUNCIL MEMBER VACCA: Thank you. Councilman Cabrera is next.

COUNCIL MEMBER CABRERA: Thank you so much. Welcome, Chancellor. It's good to see you. I'm glad to hear that you mention that we can't keep moving teachers around. Yet, when I see the Wall Street Journal reporting that in the south Bronx we're going to have a 15% teacher loss, how can we have consistency with the statement that you just mentioned?

JOEL I. KLEIN: The answer on this

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2 is I agree with you and I think this is a mistake.
3 That's why I raise the issue. I know the chairman
4 doesn't want me to get in the weeds on the issue
5 or probably address it at all. I would prefer for
6 a school in the south Bronx, let's just say under
7 this budget cut they have to cut three or four.
8 They make their determination so it has as little
9 impact as possible at the individual school. But
10 because many of those schools have done a lot of
11 hiring in the last two or three years, they will
12 be the most affected.

13 I wish we could do it otherwise.
14 I'm concerned about it. I've been talking about
15 it. But as Chairman Jackson pointed out, that
16 will require legislative relief in Albany. There
17 are bills that are pending but whether those bills
18 will muster the necessary political support I
19 don't know. We would welcome your support as
20 well.

21 COUNCIL MEMBER CABRERA: Good, they
22 haven't put my five minutes. I see the scores
23 that you have up and I'm always amused by the
24 scores that come up but not by the scores that I'm
25 really interested about. As a college professor

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2 and a former school counselor, I'm always
3 interested in the SAT scores. From 2003 to 2009,
4 we have seen an 18% decrease. Reading scores down
5 13%, which is out of pace with 70 points from what
6 I understand from the state.

7 I'm just curious to know if you
8 could let us know what impact and effects as a
9 result of the budget do you expect in this pattern
10 of scores going down. In light of the fact that
11 the SAT score is about the most important
12 comprehensive exam the students will take in order
13 to enter into college.

14 JOEL I. KLEIN: Again, first of all
15 let me say, on ACT and on advanced placement, our
16 scores have gone up and gone up significantly in
17 the city. On SATs it's not like these scores
18 because we've got a lot more kids taking the SATs
19 now which is a good thing, and more kids going to
20 college.

21 But none of these cuts are going to
22 be helpful to the things you're talking about. I
23 still believe our teachers will work harder with
24 our kids. I think there are things we can do with
25 technology better than what we're doing. But

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2 there is no question that these cuts are not going
3 to be helpful to our student performance. I share
4 your concerns about that.

5 COUNCIL MEMBER CABRERA: The other
6 thing I'm concerned about is the Regents scores.
7 From what I understand, and please correct me if
8 I'm wrong, two years from now students will need a
9 Regents diploma in order to graduate. Right now
10 only 25% are passing. What effects do you see
11 that the budget cuts, again, will have on these
12 students?

13 JOEL I. KLEIN: Again, right now
14 about three-quarters of our diplomas are Regents
15 diplomas. But that would still mean that by
16 losing the local diploma if those kids don't get a
17 Regents diploma that will impact our dropout rate.
18 It may require kids to stay in school a fifth year
19 that otherwise would have graduated. These cuts
20 won't help those children either.

21 COUNCIL MEMBER CABRERA: I'm going
22 to ask a question, in terms of food, school food,
23 is it true that 75% of all the produce that our
24 students consume comes from out of state?

25 JOEL I. KLEIN: Seventy-five

percent of the produce they consume?

COUNCIL MEMBER CABRERA: Like
lettuce, tomato?

JOEL I. KLEIN: I don't know that.
I'd be happy to find out the answer. But I'm sure
a lot of product comes from out of state. Some
comes from upstate.

COUNCIL MEMBER CABRERA: I would
welcome the DOE to explore to see if there would
be significant savings buying locally or even
within the state since it's not coming from far
away. It's something to look at.

The other question that I have for
you--

CHAIRPERSON RECCHIA: [interposing]
Council Member, it's your last question.

COUNCIL MEMBER CABRERA: I'm sorry?

CHAIRPERSON RECCHIA: This is your
last question. We have to move on.

COUNCIL MEMBER CABRERA: Oh that
was my last question?

CHAIRPERSON RECCHIA: No.

COUNCIL MEMBER CABRERA: Okay, one
last question. What is the per school cost of

2 opening and closing? What would these costs total
3 next year?

4 JOEL I. KLEIN: Of opening and
5 closing schools?

6 COUNCIL MEMBER CABRERA: Yes.

7 PHOTEINE ANAGNOSTOPOULOS: In terms
8 of the new schools that we're talking about, the
9 additional costs when you still have some schools
10 open and others phasing out is about \$20 million
11 in total.

12 COUNCIL MEMBER CABRERA: Thank you
13 so much.

14 JOEL I. KLEIN: Thank you.

15 CHAIRPERSON RECCHIA: Thank you.
16 Council Member Karen Koslowitz and Gale Brewer
17 will be next.

18 COUNCIL MEMBER KOSLOWITZ: Thank
19 you, Mr. Chair.

20 CHAIRPERSON RECCHIA: Before you go
21 further, I want to recognize Council Member Reyna
22 and Council Member Council Member Lappin.

23 COUNCIL MEMBER KOSLOWITZ: Good
24 afternoon, Chancellor.

25 JOEL I. KLEIN: Good afternoon.

2 COUNCIL MEMBER KOSLOWITZ: The fair
3 share funding, what is it based on and why is
4 there a disparity?

5 JOEL I. KLEIN: It's not. It's
6 actually an effort to make the playing field
7 level. It starts with a basic per student,
8 whether it's elementary, middle or high school,
9 per student funding. Then for students with
10 special needs or students who are English language
11 learners or students who are chronically
12 underperforming, they get additional dollars.

13 However, when we implemented it
14 what it meant, and this is some of what I had a
15 talk about before, some schools were getting more
16 than their fair student funding allotment. We
17 didn't want to destabilize schools during times
18 when we had additional monies. It was an effort
19 to treat every school based on the students you
20 get and the needs and challenges they present.

21 COUNCIL MEMBER KOSLOWITZ: Thank
22 you. Also, in many areas they want to put the
23 sixth into the middle school. Will that have any
24 fiscal impact?

25 JOEL I. KLEIN: It shouldn't have

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2 any fiscal impact. It should create a better
3 option for families because some of them their
4 kids get out of the fifth, some of them their kids
5 get out of the sixth grade and so they have
6 different options in middle schools. This is
7 something we're trying to do.

8 The council out in Queens in CC 27
9 I believe it was, they were recently trying to
10 move toward a much more middle school choice so
11 that they all get out of the fifth grade and then
12 in the sixth grade the middle schools start. That
13 shouldn't affect us financially.

14 COUNCIL MEMBER KOSLOWITZ: What
15 about the teachers, do they transfer over also?

16 JOEL I. KLEIN: They can. They
17 usually get hired at the new school. Obviously
18 they're known to the community and they have ties
19 to the community. So I wouldn't say 100% but
20 usually they do get hired.

21 COUNCIL MEMBER KOSLOWITZ: If they
22 don't get transferred, what would happen to them?

23 JOEL I. KLEIN: Then they look for
24 jobs in other schools. Many of them have been
25 hired in other schools that have vacancies in the

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city.

COUNCIL MEMBER KOSLOWITZ: But they wouldn't lose their job.

JOEL I. KLEIN: They don't lose their jobs, no.

COUNCIL MEMBER KOSLOWITZ: Thank you.

CHAIRPERSON JACKSON: Thank you. Chancellor, forgive us one minute. Take a break for about two or three minutes. We're going to take a vote on a resolution. Is that okay? Committee members, the Committee on Education is going to take a vote on proposed Resolution 157-A. A resolution calling upon the New York City Department of Education to establish a school transformation zone based on the model proposed by the New York City Coalition for Educational Justice to improve low performing schools and prevent school closings. With that resolution as described, the chair recommends an aye vote. We're going to ask the clerk to call the roll.

ERIC STEVENSON: Eric Stevenson, Committee Clerk. Jackson?

CHAIRPERSON JACKSON: I vote aye.

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ERIC STEVENSON: Barron?

COUNCIL MEMBER BARRON: Aye.

ERIC STEVENSON: Fidler?

COUNCIL MEMBER FIDLER: [No
response].

ERIC STEVENSON: Foster?

COUNCIL MEMBER FOSTER: [No
response].

ERIC STEVENSON: Koppell?

COUNCIL MEMBER KOPPELL: [No
response].

ERIC STEVENSON: Lappin?

COUNCIL MEMBER LAPPIN: Aye.

ERIC STEVENSON: Vacca?

COUNCIL MEMBER VACCA: Aye.

ERIC STEVENSON: Cabrera?

COUNCIL MEMBER CABRERA: I'm happy
to say aye.

ERIC STEVENSON: Chin?

COUNCIL MEMBER CHIN: Aye.

ERIC STEVENSON: Dromm?

COUNCIL MEMBER DROMM: Aye.

ERIC STEVENSON: Koslowitz?

COUNCIL MEMBER KOSLOWITZ: Aye.

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ERIC STEVENSON: Levin?

COUNCIL MEMBER LEVIN: Aye.

ERIC STEVENSON: Weprin?

COUNCIL MEMBER WEPRIN: [No
response].

ERIC STEVENSON: Greenfield?

COUNCIL MEMBER GREENFIELD: Aye.

ERIC STEVENSON: Ignizio?

COUNCIL MEMBER IGNIZIO: [No
response].

ERIC STEVENSON: Ulrich?

COUNCIL MEMBER ULRICH: Aye.

ERIC STEVENSON: The vote stands at
12 in the affirmative, no negative and no
abstentions. The motion carries.

[Applause]

CHAIRPERSON JACKSON: Clerk, can
you go back? I don't know if you recorded Council
Member Barron and Council Member Dan Garodnick,
can you go back and check and see if you've called
their names and they have a vote?

ERIC STEVENSON: I have Barron.
Garodnick?

COUNCIL MEMBER GARODNICK: Thank

you very much. I vote aye.

ERIC STEVENSON: The vote now stands at 13 in the affirmative, no negative, and no abstentions.

[Applause]

CHAIRPERSON JACKSON: With that we're going to hold the vote open. There are other committee meetings where other members are voting and they've asked for me to hold the vote open on this particular matter. So we'll hold the vote open until 2:00 p.m. Thank you.

CHAIRPERSON RECCHIA: Council Member Gale Brewer.

COUNCIL MEMBER BREWER: Thank you very much. First of all, we love Jenny Sobelman. She solves all problems. That's number one. Number two is special education. I know that your staff has been looking very carefully to figure out how to both give parents the options and at the same time I think the budget is increasing 15%, millions and millions of dollars every year.

So my question is what is the budget now? Some of the schools I know are suing DOE where there have been longstanding challenges

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2 in the city, not the ones out of the city, I think
3 are willing to try to figure out some local
4 solutions. We've had some meetings. I know that
5 your staff has been very responsive. My question
6 is you are coming up with some other ideas. What
7 is the current projected cost of special education
8 next year? What are some of your ideas that could
9 both give parents the options and save money?

10 PHOTEINE ANAGNOSTOPOULOS: Could
11 you qualify, are you talking about the contract
12 schools?

13 COUNCIL MEMBER BREWER: Contract
14 schools.

15 PHOTEINE ANAGNOSTOPOULOS: Contract
16 schools. I'll look it up here while we're
17 talking. As you know, we've met to try to figure
18 out how we can reduce that. The way that is most
19 effective is when we actually are having more
20 consistency on the evaluation front. So we are
21 putting into place a new information system for
22 special education students to allow us to improve
23 the quality of the evaluations and the consistency
24 of the evaluations and the services that come from
25 those.

2 COUNCIL MEMBER BREWER: But how is
3 that going to deal with the issues that many
4 parents will figure out a way to, in addition to
5 all of those, find places, other private schools
6 because you don't have room or the appropriate
7 services in the public schools. That is the
8 issue. I know many families who do sue and who do
9 get other options which cost you a lot. There's a
10 lot of feeling that we should be looking locally
11 to try to come up with some public/private
12 partnerships, et cetera. You're still going to
13 end up spending a lot of money on special
14 education.

15 PHOTEINE ANAGNOSTOPOULOS: But it
16 should be a decrease because a significant number
17 of our evaluations are not as adequately done as
18 they should be. We know that. We've been working
19 on improving those. When we get that improvement
20 put into place, it should actually reduce the
21 number of folks going outside to contract schools.
22 It will not stop where it is appropriate and we
23 don't have the funds or the scale of the number of
24 students where they need more specialized help.
25 It will not stop that. Those students should go

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outside.

COUNCIL MEMBER BREWER: What's the timing on your changing in the evaluation?

PHOTEINE ANAGNOSTOPOULOS: We are putting in place the new information system this fall. So we would hope over the next couple of years to see an improvement in the evaluations.

COUNCIL MEMBER BREWER: All right. What's the status of the budget in the rubber room situation?

JOEL I. KLEIN: Right now there is no dramatic change in that because we haven't eliminated the rubber room. We expect over the next couple of years to save \$20 million type of money once we get this fully operation per year. In the short run, obviously, since we have to do a lot more proceedings, we've had to bring on some more investigators and lawyers. That's cost us some additional dollars. But net of net we ought to be able to save over the next couple of years somewhere in the neighborhood of \$15-\$20 million a year.

COUNCIL MEMBER BREWER: But not for this year?

2 JOEL I. KLEIN: Not for this year.

3 COUNCIL MEMBER BREWER: Picking up
4 on Council Member Cabrera with the food issue,
5 I've spent hours working with Wellness in the
6 schools. Obviously on the west side we have a
7 particular type of parent and we're working hard
8 on quality food. But across the city, are you
9 working with groups like Wellness, like the union
10 to try to do some locally purchased, which mostly
11 would save on the transportation costs? Is that
12 something that's really seriously being done?

13 JOEL I. KLEIN: We're doing this
14 all the time. We have lots of meetings. The food
15 itself, we're a huge purchaser of food.

16 COUNCIL MEMBER BREWER: 863,000
17 lunches.

18 JOEL I. KLEIN: Lunches.

19 COUNCIL MEMBER BREWER: Actually
20 863,252. Go ahead.

21 JOEL I. KLEIN: Dazzling knowledge.

22 COUNCIL MEMBER BREWER: I am big on
23 the food.

24 JOEL I. KLEIN: So we do this
25 pursuant to contract. We have bidders and we get

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2 the lowest possible bid. It's all open and
3 transparent. I don't think necessarily if they're
4 not a large volume supplier, even if they're more
5 local they save a little on transportation but
6 they can't bid at the volumes that we need.

7 COUNCIL MEMBER BREWER: But are you
8 talking to some groups like something even as
9 small like Wellness in the schools, because they
10 do have different ideas?

11 JOEL I. KLEIN: If you have other
12 groups to put us in touch with, we're looking for
13 ideas.

14 COUNCIL MEMBER BREWER: Then
15 finally, the middle school issue you mention in
16 your testimony is it a cost issue? City Council
17 put in money, et cetera. Do you see some
18 improvement with more money or more efficiency?
19 How do you improve the middle schools?

20 JOEL I. KLEIN: How do you improve
21 the middle schools?

22 COUNCIL MEMBER BREWER: On a
23 budget, is it more money, is it something else?

24 JOEL I. KLEIN: More money would
25 certainly help us making sure that we attract very

high quality teachers to high needs communities.

In math we saw up here--

COUNCIL MEMBER BREWER:

[interposing] Right, math was better.

JOEL I. KLEIN: Plus seven.

COUNCIL MEMBER BREWER: Reading was not.

JOEL I. KLEIN: It was not. But reading this year went up three. A big way to improve middle school is make sure children are prepared when they get there. One of the things we're looking at with a really world renowned expert is making sure, particularly in high poverty communities, that we focus much more on what we call domain knowledge. A lot of our kids from high poverty communities come to school with very low vocabularies and not a lot of real domain knowledge. So we're working on the curriculum.

I think when the federal government moves toward these core common standards that'll boost it up. But sure, smaller class size, additional lead teachers, et cetera, et cetera, would help us.

COUNCIL MEMBER BREWER: Thank you.

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Thank you, Mr. Chairman.

JOEL I. KLEIN: Thank you.

CHAIRPERSON RECCHIA: Council
Member Chin is next.

COUNCIL MEMBER CHIN: Thank you,
Chairman. Good afternoon, Chancellor.

JOEL I. KLEIN: Good afternoon,
Council Member Chin.

COUNCIL MEMBER CHIN: It's good to
see our kids doing better. I find that when I
went visiting some of the local schools in my
district and especially some of the high schools.
I see that the principals are struggling to really
keep the school together. They're increasing the
graduation rates. Even the principals are
teaching class. They are committed to smaller
class size. I was really surprised to see there
were only 20 kids in this class in this high
school in the Lower East Side.

But they don't have anything else.
The school building is old, and so there are many,
many schools like that. This is the University
neighborhood high school. I know we all need more
money from the state and from the feds. But

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2 looking at the Department of Education, the focus
3 really should be on smaller class size and making
4 sure our students get the most attention. Looking
5 at that, how will you do everything you can to
6 make sure that we maintain that? Cutting away
7 whatever fat there is to be cut or trimming down.

8 And I know that there are questions
9 about those contracts, and I really would love you
10 to answer those questions because it's out there
11 in the public. We hear it from the union. As a
12 new Council Member I really want to see could we
13 cut back on some of those contracting costs so
14 that you can spend the dollars back into the
15 classroom?

16 I just want to give one example
17 about some of these computer contracts. Some of
18 the middle schools and kids applying to middle
19 school and applying to high school, I've been
20 hearing from my constituents that there's kids,
21 good grades, good attendance, good test scores,
22 did not get into any high school because of a
23 computer glitch. Now the parents are trying to
24 find a place for the kids. They're calling us to
25 see how we can help. Also, middle school, the

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2 kids didn't hear about their middle school choice
3 like they used to do in the old days when somebody
4 did it by hand maybe or did it with some manual
5 support.

6 So are there ways of looking at
7 cost savings in terms of spending all that money
8 on these computer contracts to really come back to
9 hiring staff and supporting the classrooms, the
10 teachers and the students.

11 JOEL I. KLEIN: We look at all of
12 things, but I had a discussion before. People
13 talk about things like contracts and the vast
14 number of our contracts is things like the special
15 ed, things like related services, bussing
16 contracts, food contracts. So people throw
17 numbers around that I think are designed to
18 confuse the discussion.

19 There are some computer contracts
20 but if I don't have contracts to make sure that
21 there's appropriate computer maintenance I won't
22 pay my teachers. Nobody suggests that I cut that.
23 Sometimes you need expertise. So I don't want to
24 hire the people inside.

25 Let me tell you, I'm happy to go

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2 over any contract with you or any member of the
3 Council. I'm not saying that there isn't one or
4 two you can cut. We just had to spend a lot of
5 money on a special ed contract in order to
6 computerize it because a lot of our kids were not
7 being properly either initially evaluated or
8 subsequently evaluated. That's something we had
9 to do.

10 But when we started, overall the
11 bureaucracy costs us about \$1.2 billion and we've
12 cut that in half. I'm continuing to look for
13 other things. But if my computers crash and they
14 don't run, then more families are going to be
15 hurt. Any family that has not gotten into high
16 school, and they may not like the high school they
17 got into, that's a problem.

18 COUNCIL MEMBER CHIN: They didn't
19 get into any.

20 JOEL I. KLEIN: Then put them in
21 touch with me directly and I'll look into that.

22 COUNCIL MEMBER CHIN: Just one last
23 question. In terms of trimming down your central
24 administration, on your executive budget you kind
25 of decreased it by over 676 headcount.

2 JOEL I. KLEIN: Right.

3 COUNCIL MEMBER CHIN: What kind of
4 positions did you eliminate in the central office?

5 JOEL I. KLEIN: I've asked
6 everybody in every part of it. So you'll have
7 some of the very people you're talking about.
8 There will be fewer people in the computer
9 section that Photo works with. We talked before
10 about realigning something called Children First
11 Network. So there will be people who are doing
12 advising to the schools. There will be fewer of
13 those people. There will be fewer of the people
14 who are doing professional development for the
15 schools. Those are all areas and I'm happy to
16 give it to you at whatever level. It's all public
17 and transparent that we're talking about. So
18 those are all areas where we're cutting.

19 But we can't cut our finances any
20 further without really risking. When I started
21 new teachers on payroll didn't get paid for six
22 weeks. We fixed that and now they get paid
23 immediately. But if you keep cutting the
24 personnel, people aren't going to get paid.

25 COUNCIL MEMBER CHIN: Thank you.

2 JOEL I. KLEIN: thank you.

3 CHAIRPERSON RECCHIA: Thank you.

4 Council Member Helen Foster would like to vote.

5 CHAIRPERSON JACKSON: Chancellor,
6 one second please.

7 JOEL I. KLEIN: Sure.

8 CHAIRPERSON JACKSON: On the
9 resolution, several members were juggling between
10 committees. So on the Resolution 157-A,
11 transitional zone for low performing schools,
12 Council Member Rose how do you vote?

13 CHAIRPERSON RECCHIA: Deborah Rose,
14 how do you vote?

15 CHAIRPERSON JACKSON: On Resolution
16 157-A, how do you vote?

17 COUNCIL MEMBER ROSE: Aye.

18 CHAIRPERSON JACKSON: Council
19 Member Fidler?

20 COUNCIL MEMBER FIDLER: Yes.

21 CHAIRPERSON JACKSON: Council
22 Member Foster?

23 COUNCIL MEMBER FOSTER: Yes.

24 CHAIRPERSON JACKSON: At this point
25 in time, the vote stands at 17 in favor and none

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2 opposed. We're going to keep the roll open for
3 one or two other members. Thank you, Chancellor.

4 CHAIRPERSON RECCHIA: Council
5 Member Jumaane Williams is next.

6 COUNCIL MEMBER WILLIAMS: Thank
7 you, Mr. Chairs. Chancellor, thank you for the
8 testimony, I appreciate it. I'm going to try to
9 keep it short because I'm pretty sure people
10 probably covered a lot. I apologize if I repeat.

11 First, I know you brought up the
12 NAEP scores have slightly increased, which is
13 great. Congratulations. The only problem I have
14 is last year, soon after I got elected; we were
15 discussing the previous NAEP scores had gone down.
16 What you told me was that it's a small selection
17 of people, so you didn't really regard them as
18 that valid. But now that it's up, you're all
19 regarding it as more valid. I'm trying to figure
20 out, is it good only because it's up? Or is it
21 bad at both times?

22 JOEL I. KLEIN: It's good. I show
23 it to you all right here so you can have it fairly
24 laid out before you. You're talking about from
25 2003 to 2009, look at our city. This is where you

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2 see, even though it's sampled. Look at us, 11, 7
3 and 11. Now the last one is 9. But compare that
4 to the state, 1, 1, -4, -1. In every place we
5 beat the rest of our state over a lengthy period
6 of time. Everyone would say to you that shows
7 real power. In fact, that's why I put the
8 asterisk because those are statistically
9 significant gains. So like we were up this year
10 three points in the eighth grade, if we had gone
11 up four points it would have been a big deal. But
12 because of the sample size--

13 COUNCIL MEMBER WILLIAMS:

14 [interposing] I'm sorry. Let me just clarify what
15 I was saying. When I brought it up last year I
16 was told that because it's a small amount, because
17 it was down, the question I was asking, you told
18 me that it wasn't a good reliable source. But now
19 you're saying it is a good source because it's up.
20 I'm trying to figure out the disparity.

21 JOEL I. KLEIN: You're remembering
22 something differently from me. What I said is
23 from one year to another, when we were up three
24 points in math it wasn't statistically
25 significant. But when you do it over multiple

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2 years like we've done it here, 11, 7 and 11,
3 that's a big deal. No question.

4 COUNCIL MEMBER WILLIAMS: Okay, I
5 got you. Thank you. Also, I know that you
6 mentioned trying to cut across schools as
7 equitably as possible. As far as I'm concerned it
8 probably won't be even if you spread it evenly
9 because the education system is not equitable now.
10 There are more communities that suffer very
11 greatly. So unless we're going to take some from
12 the people who are doing much better and give it
13 to the poorer communities and communities of more
14 color that are suffering, it's not going to be
15 equitable.

16 What I wanted to ask and I know we
17 talked about the contracts, are the contracts only
18 for education and special ed or are there other
19 contracts?

20 JOEL I. KLEIN: There are other
21 contracts. We have contracts for textbooks. We
22 have contracts for food. We have contracts for
23 busses. We have contracts for computer
24 maintenance. They're all there and we constantly
25 review them.

2 COUNCIL MEMBER WILLIAMS: Are all
3 of those contracts open bidding, or are there any
4 no-bid contracts?

5 JOEL I. KLEIN: There are some no-
6 bid contracts, for example on pre-k programs that
7 the council has authorized we have no-bid. I'm
8 happy to show you which ones. Under 3% are no-bid
9 contracts I'm told. A lot of them would be you
10 have a specific contract with a community-based
11 organization. Sometimes the council request that
12 we do, for example with the Museum of Natural
13 History we have a no-bid science contract. So we
14 could show you them. I'm happy to have you look
15 at them.

16 COUNCIL MEMBER WILLIAMS: Maybe you
17 can tell me if we open up some of the no-bid
18 contracts we might possibly save some money. Why
19 can't we do that? Also, in this time and age of
20 the budget, I think we have to give the appearance
21 that everybody is sharing the pain. It would
22 behoove me to say that perhaps we can cut more out
23 of the contracts. I know you have said that we
24 have cut, but we probably should cut some more
25 before we start cutting teachers and also start

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2 dealing with some of the new hires that I know
3 were discussed earlier. But if you can, answer
4 the first question about opening up some of the
5 no-bid contracts.

6 JOEL I. KLEIN: Again, you can't do
7 it when it comes to things like the Museum of
8 Natural History contract because there's nobody
9 else that can do that for us. They have a unique
10 science. I'm happy to have our staff sit down
11 with your staff if you think some of these things
12 should be bid rather than no-bid we're happy to
13 review that. I'm happy to discuss it with you
14 personally.

15 COUNCIL MEMBER WILLIAMS: Are there
16 services that we are cutting on the regular staff
17 side that we're now filling up with the contract
18 side?

19 JOEL I. KLEIN: No. We're cutting
20 services on the regular staff side and cutting
21 services on the contract side. So we're cutting
22 on both of those sides.

23 COUNCIL MEMBER WILLIAMS: Are there
24 teachers on the contract side that are going to
25 replace some of the teachers we're laying off on

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the staff side?

JOEL I. KLEIN: We don't do any teachers by contract. None.

COUNCIL MEMBER WILLIAMS: Thank you. Just to wrap up, it's not a question related to the budget but as far as the charter schools are concerned, I just want to personally say my biggest issue with the charter schools is that the administration has not allowed for a full discussion of the benefits or non-benefits of charter schools.

The administration has tried to shove it down people's throats without discussing it with parents or teachers and that is the real problem. I think if you try to shove something down somebody's throat, they're generally going to regurgitate it. So we should probably try to have a real discussion with everybody included if there are benefits, if there's not, instead of just trying to shove down society and New York City's throats.

JOEL I. KLEIN: We're happy to discuss it. I've been around the communities discussing this at length.

2 COUNCIL MEMBER WILLIAMS: You're
3 not listening though. Maybe you're talking but
4 you're not listening because there are a lot of us
5 who have concerns but we keep seeing the co-
6 locations and we keep seeing the push for charter
7 schools. I'm on the fence with it and I would
8 love to sit down and really have a real discussion
9 because I think there can be some benefits but I
10 just don't want to shove it down my community's
11 throats. Thank you.

12 JOEL I. KLEIN: I welcome the
13 opportunity.

14 CHAIRPERSON RECCHIA: Council
15 Member Barron is next.

16 COUNCIL MEMBER BARRON: Thank you
17 very much.

18 CHAIRPERSON RECCHIA: You've got
19 five minutes, Council Member.

20 COUNCIL MEMBER BARRON: Why do you
21 all always do that when I start talking?

22 CHAIRPERSON RECCHIA: No, everybody
23 got five minutes.

24 COUNCIL MEMBER BARRON: You're
25 taking some of my time, so the clock has not

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started yet.

CHAIRPERSON RECCHIA: No, it's going to start as soon as you open your mouth. Go ahead.

COUNCIL MEMBER BARRON: A couple of things. One, on the charter school question, the original intent of charter schools was to have some model schools set up that would experiment with curriculum and different approaches to education and then implement that throughout the entire public education system. It wasn't to set another tier, another school system up called charter. I think we run into major issues with that question right there.

In this budget, it will be about \$12,443 per student for charter. The total of it when you put everything together, the special ed money, comes out to about \$545 million for charter and another \$210 million out of this budget for charters on the capital side.

So here is something that was supposed to be an experiment. Now it becomes another school system and the contradiction is if you're doing so great, and I'm always questioning

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2 your scores and statistics and the fact that the
3 education system has been turned into a test
4 taking mill, test prep every period as thought
5 students knowing how to take tests is going to
6 help them in life which is not going to happen.
7 So I always question those.

8 But let's take your statistics. If
9 it's doing so well, the public school system. If
10 scores are as you always say. In my district 20
11 schools got A's, ten schools got B's and a couple
12 got C's. Then why do we need charter? Since the
13 public schools are doing so great and scores are
14 going up, why do we need to take a half a billion
15 dollars out for charter?

16 To me if there is a public school
17 that's getting an A, then why can't we duplicate
18 what's happening in those public schools that are
19 getting A's in the rest of the system instead of
20 phasing out public schools so that we can make
21 room for charter schools and then causing a class
22 war in the black and Latino neighborhoods making
23 elitist separations of charter students and public
24 schools.

25 Like the parents of Harlem, got

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2 them lining up around the corner because they want
3 to get into charter schools because of all of the
4 PR work that you've done. Some of the results are
5 good but just as good as some of the results in
6 the public schools. Here we have this schism with
7 charter and public.

8 I know that's a mouthful, but I
9 want to know why won't we just stop this stuff
10 around charter schools, because we know what it
11 takes for a school to work. It's simple,
12 Chancellor, and you know it. It takes teachers
13 that want to and know how to teach. It takes a
14 curriculum that is a 21st century curriculum,
15 culturally relevant to the students. It takes a
16 library that is up to date. It takes science
17 labs. It takes computers in our schools. It
18 takes smaller class sizes. That could happen in
19 any school. There's nothing magic in the word
20 charter, private or public. Those are the
21 ingredients and others that make a school.

22 So why don't you stop the divide
23 and stop all of the nonsense I think around this
24 charter school system and making it seem like it's
25 superior when in fact it's an incremental way of

2 privatizing public education through private
3 entities that in an oxymoronic way serve public
4 schools or public students.

5 JOEL I. KLEIN: I was with you to
6 the oxymoronic way.

7 CHAIRPERSON RECCHIA: What's your
8 budget question?

9 COUNCIL MEMBER BARRON: So my
10 question is why?

11 JOEL I. KLEIN: All right, so let
12 me give you answer. You took four minutes, so let
13 me now take 30 seconds to give you an answer. Two
14 reasons why. I don't think it's about charters or
15 publics. I think it's about great schools. You
16 get people in your community, whether it is people
17 like on common schools, they prefer to operate in
18 that milieu and they're great creating choices in
19 your communities and your parents are voting with
20 their feet.

21 I've never understood a world in
22 which middle class parents have choice but people
23 who grow up in high poverty communities don't. I
24 believe if you empower our parents. I've met with
25 people in your community. They like the local

1 public school. They want the charter school.
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3 Joel Klein shouldn't decide that. I'll just end
4 on this and then you'll have the last word. On
5 this issue, starting with President Obama,
6 President Clinton, Secretary Duncan, Al Sharpton
7 and now Andrew Cuomo have all come out said what
8 we're doing is exactly the right thing.

9 COUNCIL MEMBER BARRON: That
10 doesn't mean anything. None of them are
11 educators. Al Sharpton is not an educator. He's
12 my friend, love him. Barack Obama is not an
13 educator. I love him. But you know who said it
14 wasn't good? My wife, Inez Barron, who's an
15 Assemblywoman and 37 years in the education system
16 as a principal, an assistant principal, an
17 assistant to a superintendent and a masterful
18 teacher for 18 years. She says it's a game. So I
19 will take her word over it, not because she's my
20 wife and brilliant and beautiful but I will take
21 her word over the gentlemen that you mentioned any
22 day because we know what's going on.

23 Barack Obama being for charter
24 schools, I mean Barack Obama is a great president
25 and he's doing great things, but he's also for

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2 transferring the war from Iraq to Afghanistan and
3 doing a whole lot of other things that a lot of us
4 don't agree with. So just because you got the
5 president and Arne Duncan, who by the way came
6 from Chicago where Barack Obama and comes out of
7 that system that's also trying to incrementally
8 privatize.

9 So I don't think anything you
10 mentioned validates what they're doing with the
11 charter school versus public school. I think it's
12 a businessman, Mayor Bloomberg, seeing education
13 as a business. Anytime Wall Street is now
14 interested in education and charter schools, we
15 are in trouble. This is more about money than it
16 is about children.

17 CHAIRPERSON JACKSON: One second.
18 Ladies and gents, please, we don't want applause
19 or boos. I just want to perform the hearing. So
20 please keep your applause to yourself if you don't
21 mind.

22 CHAIRPERSON RECCHIA: Mr. Chairman,
23 I just have to say it's a bizarre day in the
24 universe when they agree with every word from
25 Councilman Barron's mouth. And today is one of

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those days.

COUNCIL MEMBER BARRON: Whoa, put that on there.

JOEL I. KLEIN: Maybe you want to rethink your position now, Councilman Barron. The one thing I will say, I'm not going to persuade you, although there are literally thousands and thousands of educators who agree. I think denying parents options in high poverty communities is not a winning strategy. But let me agree on one thing you said. Thank your wife for her incredible service to our school system. On that we do agree.

CHAIRPERSON JACKSON: Thank you. Thank you, Council Member Barron.

COUNCIL MEMBER BARRON: I don't want you to think I'm softening up because you complimented my wife. Don't even try it.

CHAIRPERSON JACKSON: Council Member David Greenfield of Brooklyn.

COUNCIL MEMBER GREENFIELD: Thank you. Of course it's impossible to follow Councilman Barron, so thank you for making my life difficult. First I just want to start off and

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2 state for the record that I do agree that Albany
3 is giving us all the short shrift. The bulk of
4 the responsibilities, no question, should be laid
5 in their hands. I want to congratulate you on
6 those very impressive numbers. That's some
7 really, really nice work.

8 I want to reiterate just for a
9 moment until I get to my question that I think
10 obviously all cuts to teachers are unacceptable.
11 But if you are going to cut, I definitely
12 appreciate that at least you're considering
13 changes to the last in and first out. I'm very
14 concerned about the impact on our ELL and minority
15 students.

16 I just want to ask a couple of
17 questions. I took a look over here at this list
18 of gifted and talented kindergarten testers. One
19 of the things I noticed was that if you look at
20 some of the wealthier neighborhoods, the amount of
21 children who are being tested and actually going
22 in the program are in some cases 15 times more
23 than the children in the poorer neighborhoods.

24 So a question I guess that I have
25 is in the private schools there is a move now to

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2 sort of get away from testing because one of the
3 things that they're concerned about is that a lot
4 of these tests in a certain sense are rigged
5 because parents have the opportunity and in some
6 cases they're paying several thousand dollars for
7 prep tests for these classes.

8 Are you similarly concerned and
9 specifically in reference to the OSAT test?
10 Should there be a move to penalize parents as some
11 private schools are doing if they are essentially
12 rigging the system in their favor?

13 JOEL I. KLEIN: Certainly it's an
14 issue that's come up. It's something that I have
15 to look at. I'm not prepared to give you a
16 thoughtful answer right now. Parents feel very
17 strongly. We have the same problem with the SATs.
18 That's why in my answer to Council Member Barron,
19 I think if you give parents choices usually that
20 works out well for children. Middle class
21 communities, understandably, they have more
22 economic choices in life. They're able to get
23 more tests that they can prepare their kids with,
24 whether it's the SATs or others. Trying to be
25 equitable in that environment without penalizing

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some kids is a challenge.

COUNCIL MEMBER GREENFIELD: I would just consider that the kids in the lower income, especially in some of the minority neighborhoods--

CHAIRPERSON RECCHIA: [interposing] Council Member, could we keep our questions to the budget, budget related questions?

COUNCIL MEMBER GREENFIELD: Okay. Yes, boss. I'm moving right along. A question I do have which is budget related, which comes back to special ed. I understand that there is a practice that was recently introduced several months ago in relation to special ed that parents who challenge their IEPs, whereas in the past they would receive related services, they're currently not receiving related services in many cases and essentially the Legal Council's office is taking the position that if they're challenging part of the IEP they have to challenge sort of the entirety of the IEP. Is that a budget issue or what would be the reasoning?

JOEL I. KLEIN: It's literally news to me. If you can follow up or have your staff follow up I'd be happy to look into it. I don't

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think we should deny children services.

COUNCIL MEMBER GREENFIELD: Great.

I appreciate that. I would be happy to. Finally, I do want to chat a little bit about the Race for the Top. I do shudder because I always worry and I disagree with Council Member Lew Fidler who's one of the smartest members. So I would love for you to sort of just explain to us, if you don't mind, what would the benefit be specifically to the city for the Race to the Top funding and why you're supportive. If that is the case, what could be doing to be supportive as well?

JOEL I. KLEIN: Sure, I'd be happy

to explain. First of all, there would be key benefits from Race to the Top that would accrue immediately. One of which is in our highest needs schools we could hire more lead teachers by encouraging people to go take on tougher challenges. It's a program that's worked. In fact, we did it with the community groups and that worked. That would be one source of the money.

The second source of the money would be to be able to bring in sort of additional people from outside the system that we could

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2 recruit that would be highly specialized, et
3 cetera. The third thing we could do, which we'd
4 have to do with our own money. The state has
5 negotiated with the UFT a new evaluation system.
6 To implement that is going to cost us money. If
7 we don't use Race to the Top money, it's going to
8 cost us other money.

9 The fourth thing is under Race to
10 the Top you've got to do some data work. Again,
11 if you don't use Race to the Top money you're
12 going to have to use other money in order to get
13 these things done. So basically this is not going
14 to solve our problems, but right now getting over
15 the next several years an additional \$200 million
16 at a time of budget cuts will help us and help us
17 significantly. I don't think there's any dispute.

18 COUNCIL MEMBER GREENFIELD: I
19 appreciate that. Thank you very much for you
20 testimony today.

21 JOEL I. KLEIN: Thank you.

22 CHAIRPERSON RECCHIA: Thank you.

23 Al Vann is going to vote on Reso 157-A. Council
24 Member Vann?

25 COUNCIL MEMBER VANN: Aye on all.

2 CHAIRPERSON RECCHIA: Thank you.

3 We'll still hold the vote open. I would ask all
4 Council Members to make your questions as short
5 and brief as possible. The chancellor has an
6 appointment with children in Tweed and we don't
7 want to keep the children waiting. But he will
8 take the questions from the remaining Council
9 Members who are on the list. That will be Weprin,
10 Vann, Ferreras, Reyna, Levin and Crowley. So
11 Council Member Weprin is next.

12 COUNCIL MEMBER WEPRIN: Thank you,
13 Mr. Chairman. Chancellor, how are you?

14 JOEL I. KLEIN: Good, how are you?

15 COUNCIL MEMBER WEPRIN: It's good
16 to see you. I'm going to bring the conversation
17 back to lunch. I hope it doesn't make you hungry.
18 I was glad to see the other day that the DOE was
19 going after the non-Title 1 kids who are not
20 eligible for free lunch or reduced lunch and had
21 decided to go after that money after for years it
22 seemed like a lot of people were in arrears and we
23 weren't collecting it.

24 I was not happy and I was glad you
25 changed this idea that you were making the

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2 principals be the collection agency to help get
3 that money. But then I understand that they
4 decided not to charge the principals because they
5 threatened that if they didn't collect the money
6 they were going to dock the principal's budgets
7 the money they couldn't collect. I understand as
8 of Friday they decided not to dock the principals.
9 I was curious how the principals did in trying to
10 collect some of those arrears.

11 JOEL I. KLEIN: Most principals
12 don't get in arrears. This is varied all over the
13 system. One of the messages we're trying to send
14 is don't get in arrears. If you're feeding people
15 who are not covered by Title 1 we don't get
16 reimbursed by it. Principals have collected
17 arrears. They write their parents. Their PTA
18 helps them. It is an arduous process. So this
19 year we were able to cover it but going forward
20 we're sending a clear message do not get in
21 arrears and then you won't have a collection
22 agency problem.

23 COUNCIL MEMBER WEPRIN: I heard it
24 was close to a third of the schools. I'm just
25 curious and I wasn't being facetious, I think it

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2 was \$7 million you said that we've been losing
3 every year, or someone said. Did we get a lot of
4 that back in those last few days, because I know a
5 lot of principals were scrambling.

6 JOEL I. KLEIN: Not a lot of it.
7 Once we let them off the hook they won't get it
8 back.

9 COUNCIL MEMBER WEPRIN: I actually
10 was surprised to learn that students who were not
11 eligible for free or reduced lunch were allowed to
12 get lunch if they haven't paid. I know that might
13 sound like a grinch kind of feeling. I went
14 online to that mylunchmoney.com and when it gets
15 down to a level, they email you that they're going
16 to dock you some more money. I didn't even
17 realize that if my son didn't have money in his
18 account he could still get a free lunch, obviously
19 we'd owe it, but would get it on loan. Is it
20 mandated by law or is it mandated by DOE policy
21 that you don't want to have a kid not have lunch?

22 JOEL I. KLEIN: It's not mandated
23 by law. It's just that not every parent is as
24 responsible as you are. The kid is hungry and
25 they give him lunch. It is a grinch kind of an

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2 issue but it's not mandated by law.

3 COUNCIL MEMBER WEPRIN: If they're
4 not eligible for free lunch, we should figure out
5 some way to require the parents or the children to
6 pay for it if they're going to go get it. I mean
7 a lot of these parents send their kids with
8 lunches anyway. I know I will send my kids with
9 lunch and the problem is half the time he doesn't
10 eat it. So I said, look, if you want to get hot
11 lunch, get hot lunch.

12 But it seems to me there should be
13 some system in place. I know in other school
14 districts in other parts of the state, they don't
15 give kids report cards if they're in arrears on
16 their lunches. I think a lot of parents knew that
17 they don't necessarily have to pay. They will owe
18 money and then eventually nobody collects it and
19 you're free. We need to send that message. So I
20 agree with you on that message. I'll be the
21 grinch for a change.

22 JOEL I. KLEIN: I'm happy to say
23 that I did this because you urged me to do it.

24 COUNCIL MEMBER WEPRIN: Weprin says
25 no free lunches. You want to help with the gap

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2 between the Title 1 and non-Title 1 kids because
3 all the non-Title 1 kids will be hungry and they
4 won't do as well on the tests. But I really think
5 it makes sense. That seems like an enormous
6 amount of money to be giving away every year.

7 We should be collecting it. I just
8 don't think it should be the principals who have
9 to collect it. They've got enough troubles and
10 enough responsibilities to be out there at the
11 lunch asking if they've paid. The technology is
12 there to make it that parents know that your son
13 or daughter won't get lunch if they haven't paid.
14 No?

15 JOEL I. KLEIN: No, that's the
16 message for next year. Next year we're not
17 covering it.

18 COUNCIL MEMBER WEPRIN: All right.
19 One other question, I had talked to you about this
20 briefly at another hearing and I asked you about
21 school trips, about free busses. The city will
22 give you a bus to go on a school trip within the
23 five boroughs of the City of New York. But if you
24 wanted to go outside of the city of New York, the
25 city won't pay for that. I asked if, indeed, a

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2 school district can show that this trip outside
3 the city of New York is cheaper, shorter and more
4 convenient for the school district, shouldn't they
5 be allowed to do it. You weren't sure if there
6 were legal reasons. I sent you a letter and I
7 spoke to someone but I didn't get an answer yet to
8 that letter and I'm just curious because it seems
9 to me that if we could show it's cheaper and saves
10 money it should be something we're allowed to do.

11 JOEL I. KLEIN: It's my fault that
12 you didn't get an answer and we'll get you the
13 answer. I don't know the answer to the legal
14 question sitting here. But if what you're saying
15 is correct then we should be able to work it
16 through.

17 COUNCIL MEMBER WEPRIN: It's not
18 just us in eastern Queens but obviously the Staten
19 Island people and the Bronx people can go to
20 Westchester and it actually works out better. In
21 my case you're not against traffic anymore.
22 Actually going to Long Island sometimes is easier
23 for us and quicker. And some school trips are
24 just not done because you could never get back in
25 time for pickup.

2 JOEL I. KLEIN: We'll get you the
3 answer.

4 COUNCIL MEMBER WEPRIN: Thank you.

5 CHAIRPERSON RECCHIA: Thank you.

6 Council Member Al Vann is next.

7 COUNCIL MEMBER VANN: Good
8 afternoon, Chancellor. We don't want to keep your
9 kids waiting. I'll be very brief. The inquiry
10 around charter schools, is there a goal that you
11 have relative to that? At what point will you say
12 that we have enough charter schools to do whatever
13 your objective is? Is it open-ended?

14 JOEL I. KLEIN: I don't have an
15 objective. What I would say what I'm trying to do
16 is create choices for parents. So today I have
17 50,000 parents who are on a wait list. I want to
18 serve those parents. I don't have a preference.
19 I just want them to make sure. In my experience,
20 parents in high poverty communities have been told
21 historically you get one choice. I don't think
22 that's a winning strategy. So we're trying to
23 create options.

24 Overwhelmingly in our city and in
25 every city I know, children are overwhelmingly in

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2 traditional public schools. But where you see
3 parent saying they want an option for their kids
4 that we can provide, I'd like to provide that.

5 COUNCIL MEMBER VANN: But when they
6 say they want the option I think they say they
7 want something better, right? I say that because
8 I think it was around three weeks ago there was a
9 rather extensive article in The New York Times
10 where they touted this study that was done by this
11 credible organization which essentially said there
12 are good charters and there are bad charters. It
13 essentially stated that they're no more effective
14 than the public schools for the most part.

15 That being said, having an option
16 is not necessarily a panacea or it does not
17 necessarily give them what they say they want.
18 What they really want is a better school. So
19 there is no guarantee that you get a charter that
20 it's going to be better according to those
21 studies. Is that correct?

22 JOEL I. KLEIN: That study was
23 about a national study based on 16 states that did
24 not include New York. The woman who did that
25 study, we asked her to come to New York and do the

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2 exact same study in New York City and she found
3 that our charters, both in math and in English
4 were getting significantly better results. It's
5 all been published. I'm happy to supply it to
6 you. I also think not every parent has the same
7 perception. We have some parents who like a
8 particular school and other parents who don't.

9 I've just always thought that it's
10 unfair to people who grow up in high poverty
11 communities that they get only one choice. When
12 you don't have choices you don't create an
13 environment where schools feel the need sometimes
14 to do the hard work that they need to do to turn
15 things around.

16 So what I've seen with parents is
17 they want to be there to get the options for their
18 kids. I think our charter schools as a rule are
19 generally performing higher than anyplace else in
20 the country right now.

21 COUNCIL MEMBER VANN: I agree. I
22 think parents rely on those of us who are supposed
23 to know, whether it be educators or those who are
24 in leadership to provide them with the options and
25 the alternatives that make sense that are indeed

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2 better. All my kid and grandkids went to public
3 schools and I had to navigate. My wife and I, we
4 navigated the system because every school is not
5 good in our community but there are good schools
6 in our community. Our kids got a good education,
7 college and so on and so forth. So I never want
8 to put down a public school because they have
9 proved that they are very effective.

10 As you've indicated when we've
11 spoken on different occasions all the schools in
12 New York City, they win national honors and so
13 forth. So we have some great schools. Charter
14 schools have not risen to that level as yet.

15 So we have an option. They say you
16 can make one hand like the other, a good hand and
17 a bad hand. You don't want to make the good hand
18 bad. We want to make both hands good. Charter is
19 not a panacea and I think parents have to be aware
20 that there may be good charters but there are some
21 charters that are not necessarily good.

22 JOEL I. KLEIN: I agree. I've sat
23 several of them down. In fact, I met just last
24 week with one of the Council Members about one
25 we're shutting down in Brooklyn.

2 COUNCIL MEMBER VANN: Finally, what
3 impact does a charter, fiscally speaking, have on
4 the public schools within a school district?

5 JOEL I. KLEIN: It has no impact.
6 This is what I was trying to explain before. The
7 average pupil in the public schools cost us about
8 \$700-\$800 more than the average pupil in a
9 charter. So if we don't serve the kid in the
10 charter school, we have to serve them in a public
11 school. It's one or the other. As a result of
12 that, it's essentially a wash for us in terms of
13 the finances.

14 COUNCIL MEMBER VANN: To attend a
15 charter, you do not necessarily have to live in
16 that school district or do you?

17 JOEL I. KLEIN: You don't have to.
18 Oftentimes you get a preference. But if they
19 don't live in that district, they're going to live
20 in another district, obviously. We're going to
21 have to pay for them wherever they live.

22 COUNCIL MEMBER VANN: Let's say
23 you're trying to set up--

24 CHAIRPERSON RECCHIA: [interposing]
25 Council Member, I don't mean to cut you short but

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we have other members.

COUNCIL MEMBER VANN: Just let me get this clarified point.

CHAIRPERSON RECCHIA: Just sum up, thank you.

COUNCIL MEMBER VANN: Just this clarifying point. If you have a charter in district 13, a child comes from district 16 to that charter in 13. So the money that would have gone into 13 for him goes into 16 where he attends the charter?

JOEL I. KLEIN: We don't flow money into 13. There are kids today in 13 who are going to gifted and talented programs, et cetera. The money goes with the child. The money doesn't go to a district, it goes to the school. That's a big change from the old days.

COUNCIL MEMBER VANN: I'll follow up later.

CHAIRPERSON RECCHIA: Thank you. Council Member Julissa Ferreras is next.

COUNCIL MEMBER FERRERAS: Good afternoon.

JOEL I. KLEIN: Good afternoon.

2 COUNCIL MEMBER FERRERAS: I have
3 two questions. One of them is in reference to
4 your change from ACS daycare shift to
5 kindergarten. In my district, there's actually an
6 article today, P.S. 143 is actually now the school
7 with the longest kindergarten waiting list. So my
8 question is how are you planning to address the
9 situation? Oftentimes when it's time to register
10 for kindergarten, my schools look like Black
11 Friday outside of a mall. Parents are there at
12 the crack of dawn with a great deal of anxiety
13 hoping to register their kids into kindergarten.

14 JOEL I. KLEIN: We've tried to do
15 this in a systematic way so that parents don't
16 have to wait on lines. What we're doing, as much
17 as we can, clearing those waiting lists. If not,
18 just last week we gave parents other options.
19 Some of them have taken those options already.
20 Others prefer to stay on the waiting list.

21 Last year we were able to clear not
22 every single waiting list but many of the waiting
23 lists. We'll continue to do that. This year we
24 got way ahead of the process giving parents who
25 are on a waiting list an alternative choice. As I

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say, some have taken it and others have not.

COUNCIL MEMBER FERRERAS: I'd like to work with you on that to help give some options because those parents are coming directly to my office, oftentimes very confused because unlike other parents who have the opportunity to deal with the system because their kids may be in first or second grade, these are parents that their kids are just going into and establishing a relationship with the DOE.

Now I was a former Beacon director for six years and extended use is something that's important in our community. Oftentimes the public schools are the only place where young people can use the gymnasiums or community groups can have their meetings. If you can just explain to me the school use hours and the potential fees and how that would affect. Are there certain groups that'll be affected more than others?

PHOTEINE ANAGNOSTOPOULOS: That's the PEG that you're referring to, right. What we're doing is we don't use the programs very efficiently in terms of the after school hours. So we are going to be working with the schools to

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2 basically get some efficiency. It shouldn't be
3 shutting down programs. Maybe there's a little
4 bit of rescheduling. We are actually just now
5 starting to work on that. But we've seen pretty
6 much inefficiency there where they'll keep a
7 program in the school building an extra ten
8 minutes and we're ending up paying for a custodian
9 for another hour and a half. So it's things like
10 that that we're working through.

11 COUNCIL MEMBER FERRERAS: I just
12 hope that you take into consideration the use.
13 There are community groups that use the school
14 buildings often, especially those districts that
15 have limited park use.

16 PHOTEINE ANAGNOSTOPOULOS: The
17 intention is not to cancel any programs here.

18 CHAIRPERSON RECCHIA: Thank you,
19 Council Member. Council Member Diana Reyna is
20 next.

21 COUNCIL MEMBER REYNA: Thank you,
22 Mr. Chair. Good afternoon, Chancellor. I just
23 wanted to make sure that I understood concerning
24 the issues on the costs that you mentioned in
25 relation to the teacher reassignment centers.

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2 You've reached a decision and agreement where
3 there will be a \$20 million savings you said over
4 time.

5 JOEL I. KLEIN: Right.

6 COUNCIL MEMBER REYNA: There is
7 going to be an initial cost to the department
8 concerning investigators because you're going to
9 be hiring for the sake of making sure that you are
10 closing cases.

11 JOEL I. KLEIN: Correct.

12 COUNCIL MEMBER REYNA: If I'm not
13 putting words in your mouth. What is the cost?
14 You did not mention the cost of the investigators
15 and how many positions.

16 JOEL I. KLEIN: I think right now
17 it's somewhere around \$6-\$8 million in terms of
18 lawyer time and investigator time. The overall
19 projected savings would be significantly higher,
20 like over \$20 million.

21 COUNCIL MEMBER REYNA: You
22 mentioned lawyers and you mentioned investigators.
23 So what would be the personnel breakdown as far as
24 lawyers versus investigators?

25 JOEL I. KLEIN: I don't have that

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2 but I'm happy to get it and submit it to you,
3 Council Member.

4 COUNCIL MEMBER REYNA: What is the
5 budget right now concerning your investigating
6 team and how many positions?

7 JOEL I. KLEIN: I don't have that,
8 but I'm guessing overall we could be talking about
9 somewhere around \$20-\$22 million for the
10 investigative team.

11 COUNCIL MEMBER REYNA: How quickly
12 will this be implemented as far as the hiring is
13 concerned?

14 JOEL I. KLEIN: We're in the
15 process right now of doing the hiring.

16 COUNCIL MEMBER REYNA: How do you
17 publicize for that particular hiring?

18 JOEL I. KLEIN: We have numerous,
19 numerous people who are applying for it.

20 COUNCIL MEMBER REYNA: The
21 criteria?

22 JOEL I. KLEIN: Fundamentally,
23 background in investigation. We get people from
24 law enforcement. We get people who are
25 investigators at district attorneys offices, et

cetera, et cetera.

COUNCIL MEMBER REYNA: Thank you very much. I just wanted to make sure that we understood what type of investigation implementation concerning the efficiency of making sure that the centers will be shut down, not completely shut down according to your testimony. You said that they're not going to be eliminated but there will be a significant reduction of who is in that center.

JOEL I. KLEIN: Our current intention in working with the UFT is by the end of this calendar year, December 31st, that'll be the last reassignment center.

COUNCIL MEMBER REYNA: Fabulous. I'm sorry, Domenic, I've been waiting quite some time.

CHAIRPERSON RECCHIA: I know. We're running short on time, Council Member.

COUNCIL MEMBER REYNA: I have 43 seconds. How many gifted and talented programs will you be approving?

JOEL I. KLEIN: I don't have the exact number but I can give you by district how

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many.

COUNCIL MEMBER REYNA: I know how many you have already. I'm asking the expansion as far as beyond that number.

JOEL I. KLEIN: As many as we have people who pass the exams at the 90 percentile. This year we had more people passing the exams and we'll open programs for those children.

COUNCIL MEMBER REYNA: So there will be an additional set of programs that will be opening up in different districts starting this fall.

JOEL I. KLEIN: If people are applying for them. As I say, sometimes we only get three or four people apply so we can't open it up. But if there are enough people to open up a program, we do open up a program.

COUNCIL MEMBER REYNA: My last question, it's concerning the--

CHAIRPERSON RECCHIA: [interposing] Council Member, I'm sorry, we have to move on. Council Member Levin is next.

CHAIRPERSON JACKSON: My colleagues, Council Member Levin, I mean if you

2 have specific questions about specific programs,
3 you can talk to counsel and we can ask DOE. I ask
4 everyone to stay focused on the executive budget
5 which is \$18.4 billion.

6 COUNCIL MEMBER LEVIN: Thank you,
7 Chairman Jackson and Chairman Recchia. Thank you,
8 Mr. Chancellor. I have a couple of very quick
9 questions for you. Chancellor, I'd just like to
10 ask you very quickly about the status of arts in
11 our public school system as the son of a public
12 school art teacher and as someone who has
13 benefited from arts in my education I can say that
14 I believe that it is a very important part of our
15 public school curriculum.

16 In 2007 we took \$67 million
17 earmarked specifically for the arts and gave that
18 money to the individual schools. Can you tell me
19 what percentage of that money is actually being
20 used for arts programming? Do we know? Do we
21 have an assessment of that?

22 JOEL I. KLEIN: The last several
23 years what we do know is the amount of money in
24 our budget that is being spent on the arts has
25 gone up significantly. I can get you the exact

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2 numbers. What I'm concerned about this year is in
3 the course of budget cuts how that'll affect us.
4 But since the time we cut the \$67 as an earmark
5 and put it into the schools, and we do this
6 through our arts connect and all the data, we put
7 it out there. The amount of money being spent on
8 the arts has gone up significantly.

9 COUNCIL MEMBER LEVIN: Are we
10 tracking to see if all of the money that was
11 earmarked that was given to each individual
12 school, is that all being tracked so that we're
13 sure that that is indeed being used. I can
14 understand the pressure on principals when they're
15 facing budget cuts to direct that money towards
16 programs that they may be tested on for example
17 instead of art programs.

18 JOEL I. KLEIN: The amount has gone
19 up by several million dollars. It's up to \$313
20 million last year despite budget cuts. Several
21 years ago when we cut the \$67 million earmark, it
22 was lower than that by about \$7-\$8 million. So
23 the overall spend has gone up, even in a tight
24 budget time. I am worried about next year.

25 COUNCIL MEMBER LEVIN: Then just to

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2 follow up on that, what percentage of our
3 elementary and middle schools currently have
4 certified art teachers?

5 JOEL I. KLEIN: Do you have the
6 number offhand?

7 PHOTEINE ANAGNOSTOPOULOS: I can
8 look it up while he's asking other questions.

9 JOEL I. KLEIN: She's got it on her
10 computer. I don't have it on mine. I'll get it
11 to you.

12 COUNCIL MEMBER LEVIN: I'd like to
13 just ask very quickly about the kindergartners.
14 It was reported last Friday on an education blog
15 that approximately 980 kindergartners were not
16 matched to their zoned schools including 220 in
17 Brooklyn. When the five-year-olds were to DOE
18 classrooms last year we were assured that DOE had
19 sufficient capacity to handle the shift. What is
20 being done to remedy this issue currently?

21 JOEL I. KLEIN: I think it's an
22 apples an oranges problem. In other words, we did
23 absorb the capacity. But there are some community
24 schools, whether it's Brooklyn or Manhattan, that
25 have enormous demand and these were not kids that

2 were coming out of the ACS programs. These are an
3 area where there has been real growth in
4 development, a lot of people moving in and that's
5 where the waiting lists are currently. We're
6 trying to give people as many alternatives as
7 quickly as we can. While some of them will choose
8 to wait on the waiting list, when the gifted and
9 talented programs admit kids, that'll open spots.

10 CHAIRPERSON RECCHIA: Okay, Council
11 Member.

12 COUNCIL MEMBER LEVIN: Thank you,
13 Chairman Recchia and Chairman Jackson. Thank you,
14 Mr. Chancellor.

15 JOEL I. KLEIN: Thank you.

16 CHAIRPERSON RECCHIA: Council
17 Member Crowley is next.

18 CHAIRPERSON JACKSON: Before
19 Council Member Crowley, Chancellor, as far as
20 kindergarten expansion, is there a set amount of
21 money that is going to be spent in this fiscal
22 year expense budget for expansion of gifted and
23 talented programs for 2011?

24 JOEL I. KLEIN: There may be.
25 We're still closing the programs. We haven't

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2 decided exactly. So it's an admission process
3 going on. It won't be a big change. The number
4 will not be significantly different from last
5 year, but there could be some small differences.

6 CHAIRPERSON JACKSON: So as far as
7 the amount of money from a rough point of view
8 you're talking about if you expanded five programs
9 in five districts, what would it cost, give or
10 take?

11 JOEL I. KLEIN: It could be a half
12 a million, \$100,000 for a program.

13 CHAIRPERSON JACKSON: Is it about
14 \$100,000 per program more or less?

15 JOEL I. KLEIN: More or less.

16 CHAIRPERSON JACKSON: Thank you.

17 JOEL I. KLEIN: Thank you.

18 CHAIRPERSON JACKSON: Council
19 Member Crowley.

20 COUNCIL MEMBER CROWLEY: Thank you,
21 Chairman. I have a question as it relates to new
22 schools that are opening and they have to be
23 staffed. No new teachers will be hired for
24 September for those schools, is that correct?

25 JOEL I. KLEIN: Those schools we

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2 will make a decision. In the past we have allowed
3 them to hire some new teachers as well as hire
4 other teachers from the system. Right now,
5 depending on their licenses, if they hired a new
6 teacher and there was somebody else who was laid
7 off, they would bump them out anyhow. So we're
8 going to work this through with each individual
9 school, whether it's metropolitan or any other.

10 COUNCIL MEMBER CROWLEY: That's the
11 question really because if there's going to be
12 over 3,000 layoffs then the Department of
13 Education is not legally allowed to hire new
14 teachers. Isn't that correct?

15 JOEL I. KLEIN: No. There may be
16 some that, depending on their licenses, where
17 they'd be able to hire a few. But they won't be
18 able to hire a lot, even in a new school.

19 COUNCIL MEMBER CROWLEY: The next
20 question has to do with school breakfast. I was
21 at a hearing recently where I heard over \$100
22 million is potentially lost every year that we
23 could gain from the federal government if more
24 students had breakfast in school. Because
25 approximately something like only one-third of

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2 students who are eligible for free breakfast take
3 advantage of it because they're getting to school
4 just when school is starting. If they had this
5 grab and go breakfast that we'd be able to gain
6 \$100 million plus, maybe \$140 million a year if
7 principals agreed to institute the grab and go
8 after the school day actually begins. Are those
9 accurate numbers? Are you following that? Is
10 that something that you would suggest I should
11 encourage principals to do, this way we could save
12 money and the kids could actually have a healthy
13 breakfast?

14 PHOTEINE ANAGNOSTOPOULOS: It
15 doesn't actually add money to the budget except to
16 cover the cost of the food. So we don't make
17 money off of the food so we can then go use it to
18 buy textbooks or pay for more teachers. But it's
19 a good program in the sense that you would
20 actually be feeding more kids from a nutrition
21 standpoint. So it's a good program and we'd like
22 to have more. I know that Kathleen is working to
23 have more schools take advantage of it. But it
24 only brings in money to pay for the food that gets
25 produced.

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2 JOEL I. KLEIN: Let me suggest you
3 have your staff get briefed because first of all,
4 whoever said one-third of the kids, we serve many
5 more breakfasts. It would help if you can grab
6 the breakfast. There are some concerns about all
7 the issues of food in the classroom and everything
8 like that, the custodians, et cetera. I know
9 Kathleen has been working on it. Budgetary wise,
10 it's not going to affect our budget one way or the
11 other because we only get reimbursed for the meals
12 we serve.

13 COUNCIL MEMBER CROWLEY: Thank you.

14 CHAIRPERSON JACKSON: Chancellor, I
15 know that you're going to a meeting and I'm going
16 there also. I have a couple of questions and
17 hopefully we can get out of here and both go have
18 a glass of water and wipe our foreheads before we
19 go to this next meeting.

20 You testified today that you will
21 not make across the board cuts to FSF allocation,
22 the fair student funding allocations this year,
23 but that some schools will have deeper cuts than
24 other so that all schools meet some minimum
25 operating threshold.

2 JOEL I. KLEIN: Correct.

3 CHAIRPERSON JACKSON: If the FSF
4 formula doesn't work, why use it then?

5 JOEL I. KLEIN: No, we use it
6 because it does work. But we've had two or three
7 years of cuts in a row and some changed
8 circumstances that negatively influence our
9 schools, particular middle schools which were
10 significantly under funded. So we have to make an
11 adjustment. Then we will have an across the board
12 cut to all schools.

13 CHAIRPERSON JACKSON: What schools
14 under your proposal will have deep FSF cuts? Are
15 they schools, for example, with poor students?
16 Are they specialized schools? Are they
17 historically well funded schools? What school
18 categories will face these deeper cuts?

19 JOEL I. KLEIN: Typically schools
20 that have been traditionally historically well
21 funded that have additional discretionary dollars,
22 federal dollars, other dollars that we have to
23 balance out because some of our middle schools are
24 now under real pressure. Meaning what they get
25 will not enable them to operate their basic

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programs.

CHAIRPERSON JACKSON: Those schools that you may consider well funded, aren't those the neediest schools?

JOEL I. KLEIN: No.

CHAIRPERSON JACKSON: They're not.

JOEL I. KLEIN: We've actually looked at this and in terms of student need or poverty, it's exactly flat. We've done analysis of it. It's not based on that. It's just based on a historical pattern.

CHAIRPERSON JACKSON: From an executive budget point of view, who will be determining the minimum operating threshold?

JOEL I. KLEIN: We will.

CHAIRPERSON JACKSON: Is there a formula for that?

JOEL I. KLEIN: Yes.

CHAIRPERSON JACKSON: Do we know what that formula is? When I say we, I mean our Finance Division at the City Council.

PHOTEINE ANAGNOSTOPOULOS: This is all based off the fair student funding formula. What we're looking at is if you look at how fair

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2 student funding works, it's basically covering two
3 things. One is your basic operating costs, as the
4 chancellor described, and supplemental dollars for
5 academically needy students.

6 So we've actually looked at what
7 does it cost for the teacher in the classroom,
8 some additional OTPS to help support the teacher
9 in the classroom and some materials, et cetera.
10 That's your basic operating budget in a classroom
11 which FSF is supposed to cover.

12 Because of the severe budget cuts
13 over the last two years, it has dropped below
14 that. So if you were very close to the formula
15 when we started FSF, you came down. If you were
16 over the formula, you're probably still in decent
17 shape. If you were below formula before, you're
18 probably hurting pretty badly right now. That's
19 really how it breaks out.

20 I just want to clarify. Nobody is
21 going to have their fair student funding cut
22 because of this shifting in the funds. Everybody
23 will have their fair student funding cut when we
24 do the overall budget cut, just as we have in
25 former years.

2 CHAIRPERSON JACKSON: We've talked
3 in the Finance hearings and Education hearings
4 about schools that were going to be hold harmless.
5 Are you going to cut or eliminate the hold
6 harmless allocations for those so-called schools
7 that were over funded?

8 JOEL I. KLEIN: Some of them may
9 feel that in their overall budgets. Some of them
10 were, relatively speaking, over funded. But it's
11 going to be tied to a formula that says basically
12 this is the basic necessity.

13 CHAIRPERSON JACKSON: Give or take,
14 Chancellor, how many schools are we talking about
15 that will be in that category?

16 PHOTEINE ANAGNOSTOPOULOS: There
17 are about 422 schools that are significantly below
18 what we would consider an operating threshold.
19 They've been using other funds. It's not like
20 they can't operate. It's just they've been using
21 other funds. Given the size of the budget cut
22 that we could potentially be talking about here,
23 it's prudent to get them back up to a better level
24 of stability.

25 CHAIRPERSON JACKSON: Chancellor,

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2 you had mentioned when I asked you before in
3 different hearings about parent coordinators. We
4 see here that is there going to be a PEG for
5 parent coordinators? If so, how is that going to
6 be implemented? I think your document said about
7 \$20 million.

8 JOEL I. KLEIN: That's for high
9 school parent coordinators. We're going to give
10 the high schools the option. If they want to keep
11 their parent coordinator they can, but then
12 they'll have to find the cut someplace else. If
13 they don't want to, they'll be able to remove
14 their parent coordinator.

15 CHAIRPERSON JACKSON: So that's
16 only for the high schools?

17 JOEL I. KLEIN: Only for the high
18 schools.

19 CHAIRPERSON JACKSON: That's at
20 their choice. They can keep them but the amount
21 of money I guess they're going to have to find to
22 eliminate somewhere else.

23 JOEL I. KLEIN: Someplace else.

24 CHAIRPERSON JACKSON: So that's an
25 option.

2 JOEL I. KLEIN: Correct.

3 CHAIRPERSON JACKSON: Can you tell
4 me, or Photo tell me what is the actual funding
5 available for school budgets for 2011? Has that
6 been established yet, the total amount of money?

7 PHOTEINE ANAGNOSTOPOULOS: No.

8 CHAIRPERSON JACKSON: You're
9 waiting for the state? Can you tell me how much
10 money the schools will get through the fair
11 student funding formula this year?

12 PHOTEINE ANAGNOSTOPOULOS: No,
13 because that's dependent upon the state.

14 CHAIRPERSON JACKSON: We can't
15 determine that yet. That's state also. All
16 right, Chancellor, I'll see you in a little alter.

17 JOEL I. KLEIN: See you a little
18 later. Thank you very much, Mr. Chairman.

19 CHAIRPERSON RECCHIA: There will be
20 a budget briefing on social services in the lounge
21 for all Council Members. The Finance Committee
22 will resume the executive budget hearing for
23 Fiscal Year 2011 tomorrow at 9:30. Tomorrow,
24 we'll be joined by the Committee on Youth
25 Services, chaired by my colleague Council Member

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2 Lew Fidler and the Community Develop Committee,
3 chaired by my colleague Council Member Al Vann to
4 hear from the Department of Youth and Community
5 Development.

6 Then at 11 a.m. the Finance
7 Committee and the Community Development Committee
8 will be joined by the Committee on Economic
9 Development, chaired by my colleague Council
10 Member Tom White and the Committee on Small
11 Business Services chaired by my colleague Council
12 Member Diana Reyna to hear from the Department of
13 Small Business Services.

14 At noon, the Finance Committee and
15 the Economic Development Committee will hear from
16 the Economic Development Corporation. This
17 hearing is now adjourned. But before that,
18 Council Member Jackson has a comment.

19 CHAIRPERSON JACKSON: Concerning
20 the vote on Resolution 157-A, the record is now
21 closed and the vote stands at 17 in favor and none
22 against. With that, Chair Recchia, the Education
23 Committee hearing on Reso 157-A is hereby
24 adjourned.

25 CHAIRPERSON RECCHIA: The executive

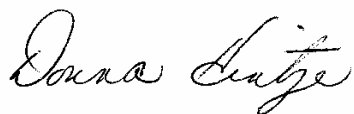
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committee is adjourned for today.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature_____

Date June 23, 2010