

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON APPROPRIATIONS

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, May 2, 2013
2:15 p.m.

PRESENT:

COUNCILMAN W. WILSON GOODE, JR., CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN BILL GREEN
COUNCILMAN BOBBY HENON
COUNCILMAN CURTIS JONES, JR.
COUNCILMAN DAVID OH
COUNCILMAN BRIAN J. O'NEILL
COUNCILWOMAN MARIA D. QUINONES-SANCHEZ

BILLS 130185, 130244, 130245, 130246, 130247,
and 130248

- - -

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COUNCILMAN GOODE: Good

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afternoon. This hearing is called to

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order. This is a public hearing of the

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Appropriations Committee on Bill No.

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130185 and Bills No. 130244 through

7

130248. My name is W. Wilson Goode, Jr.,

8

Chair of the Committee.

9

I note that a quorum is

10

present. To my far right is Councilman

11

Curtis Jones, Vice Chair of the

12

Committee. To my immediate right is

13

Councilwoman Jannie Blackwell, and to my

14

left is Councilwoman Marie

15

Quinones-Sanchez.

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The title of Bill 130185, an

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ordinance authorizing and directing the

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use of the Fiscal Year 2013 General Fund

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positive fund balance to increase an

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appropriation for the Fire Department for

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the undisputed \$66,000,000 of the Fire

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Fighters' contract.

23

Bill No. 130244, an ordinance

24

authorizing transfers in appropriations

25

for Fiscal Year 2013 from the General

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 Fund, certain or all City offices,
3 departments, boards and commissions; the
4 Community Development Fund, the Mayor -
5 Office of Housing and Community
6 Development and the Grants Revenue Fund,
7 the Director of Finance - Provisions for
8 Other Grants to the General Fund, certain
9 or all City offices, departments, boards
10 and commissions; the Hotel Room Rental
11 Tax Fund, the Director of Commerce; the
12 Community Development Fund, the City
13 Planning Commission and Housing Trust
14 Fund, the Mayor - Office of Housing and
15 Community Development.

16 Bill No. 130245, an ordinance
17 authorizing transfers in appropriations
18 for Fiscal Year 2013 from the Grants
19 Revenue Fund, the Director of Finance -
20 Provisions for Other Grants to the
21 General Fund, certain or all City
22 offices, departments, boards and
23 commissions.

24 Bill No. 130246, an ordinance
25 authorizing transfers in appropriations

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 for Fiscal Year 2013 from the Grants
3 Revenue Fund, the Director of Finance -
4 Provisions for Other Grants to the
5 General Fund, the Managing Director.

6 Bill No. 130247, an ordinance
7 authorizing transfers in appropriations
8 for Fiscal Year 2013 within the General
9 Fund, the Department of Human Services.

10 Bill No. 130248, an ordinance
11 authorizing transfers in appropriations
12 for Fiscal Year 2013 from the Grants
13 Revenue Fund, the Director of Finance -
14 Provisions for Other Grants to the
15 General Fund, the First Judicial District
16 of Pennsylvania.

17 We will hear testimony on Bills
18 No. 244 through 248 first and then we
19 will hear testimony on Bill 185, the
20 firefighters' contract, second.

21 Our first witness for Bills 244
22 to 248, Rebecca Rhynhart.

23 Let me note for the record
24 Councilman Bill Green is present as well.

25 (Witness approached witness

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 table.)

3 COUNCILMAN GOODE: Good
4 afternoon, Ms. Rhynhart.

5 MS. RHYNHART: Good afternoon.

6 COUNCILMAN GOODE: Please state
7 your name for the record and proceed with
8 your testimony.

9 MS. RHYNHART: Good afternoon,
10 Chairman Goode and members of the
11 Appropriation Committee. My name is
12 Rebecca Rhynhart and I serve as Budget
13 Director for the City of Philadelphia. I
14 appear before you today -- one thing,
15 just for clarification, I have my
16 testimony together for several bills. Is
17 it okay to read it that way?

18 COUNCILMAN GOODE: Yes.

19 MS. RHYNHART: Okay. Thank
20 you.

21 I appear before you today to
22 offer testimony on Bill Nos. 130244,
23 130245, 130246, 130247, and 130248.

24 Bill No. 130244 is for a
25 proposed Fiscal Year 2013 appropriation

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 transfer ordinance in the amount of \$45
3 million. This ordinance provides for a
4 transfer within the General Fund in the
5 amount of 1.2 million, within the
6 Community Development Fund of 32,000, and
7 a transfer from the Grants Revenue Fund
8 to the General, Hotel Room Rental Tax,
9 and Housing Trust Funds in the amount of
10 43.8 million for the following purposes:

11 In the General Fund, 75,000 is
12 an internal realignment within the Office
13 of the Inspector General; 5 million is to
14 the Office of Fleet Management due to the
15 higher cost of vehicle fuel; 14.7 million
16 is to the Police Department to fund the 3
17 percent arbitration reopener; 7.2 million
18 to the Fire Department due to overtime
19 costs and equipment requirements for the
20 new firefighters coming on board; 187,000
21 to Public Health Department to procure a
22 vaccine regime for the police and
23 firefighters classes; 1.4 million within
24 Parks and Rec, internal transfer of 1.1
25 million and then 338,000 to Class 200 for

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 the use of School District facilities;
3 11.5 million to the Prisons due to
4 increased overtime and outside inmate
5 housing costs related to the higher
6 census; 35,000 internal realignment
7 within the Records Department; \$43,000
8 internal realignment within the Office of
9 the Director of Finance; 467,000 to Legal
10 Services such as the Defender Association
11 related to the two and a half percent
12 increase for increased services and
13 costs; 450,000 to the Procurement
14 Department; and 122.8 thousand to the
15 Auditing Department to fund the former
16 School District employees.

17 In the Community Development
18 Fund, there's a transfer of 32,000 from
19 OHCD to City Planning to fulfill
20 additional salary requirements.

21 In the Hotel Room Rental Tax
22 Fund, additional appropriations in the
23 amount of 1.9 million for receipts that
24 are coming in higher than originally
25 projected. These funds are used by

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 designated agencies to promote the use of
3 the Pennsylvania Convention Center and
4 the area served by the tourism promotion
5 agencies.

6 In the Housing Trust Fund,
7 additional appropriations in the amount
8 of 2 million for receipts that are coming
9 in higher than originally projected.
10 These funds are used by the Office of
11 Housing and Community Development to
12 provide affordable housing development
13 and home repair.

14 Bill No. 130245 is for a
15 proposed Fiscal '13 appropriation
16 transfer ordinance from the Grants
17 Revenue Fund to the General Fund in the
18 amount of \$6 million, which will be
19 distributed to various departments to
20 fund the two and a half percent wage
21 increase and the restoration of step in
22 longevity increments given this past
23 October to non-represented, exempt, and
24 DC 47 Local 2186 represented employees.

25 Bill No. 130246 is for a

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 proposed Fiscal '13 appropriation
3 transfer ordinance from the Grants Fund
4 to the General Fund to the Managing
5 Director in the amount of 1.2 million to
6 fund the higher use of conflict counsel.

7 Bill No. 130247 is a proposed
8 Fiscal Year '13 appropriation transfer
9 ordinance in the amount of 1.98 million
10 for internal realignment within DHS.

11 And Bill No. 130248 is for a
12 proposed Fiscal Year '13 appropriation
13 transfer ordinance from the Grants Fund
14 in the amount of 5.5 million to the First
15 Judicial District in accordance with
16 various revenue-sharing agreements.

17 I respectfully request that you
18 report these bills out of Committee with
19 a favorable recommendation, and I further
20 request that the rules of Council be
21 suspended so as to permit first reading
22 at the next session of Council.

23 I appreciate the opportunity to
24 testify before this Committee today and
25 I'm happy to answer any questions you may

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 have. Additionally, representatives from
3 the departments involved are available as
4 well.

5 COUNCILMAN GOODE: Thank you
6 for your testimony, Ms. Rhynhart.

7 Let me note for the record
8 Councilman Bobby Henon is here as well.

9 I have a few questions
10 before -- and Councilman O'Neill as well.
11 Thank you.

12 I have a few questions before I
13 turn it over to members of the Committee.

14 MS. RHYNHART: Sure.

15 COUNCILMAN GOODE: First, on
16 Bill 245, can you please explain for the
17 record why is District Council 47 Local
18 2186 included in this bill with
19 non-represented and exempt employees?

20 MS. RHYNHART: Sure. When the
21 compensation package was announced, it
22 was for non-rep, exempt, and the Local
23 2186 employees, which are the first-level
24 supervisors and -- because the
25 Administration could provide the

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 compensation package for them. The
3 question then is -- I think what you're
4 getting at is why they're all together in
5 the same ordinance.

6 COUNCILMAN GOODE: I'm asking
7 why a union local is included with
8 non-represented and exempt employees in
9 the same bill.

10 MS. RHYNHART: Because -- and
11 I'm not a lawyer, so I don't want to
12 speak --

13 COUNCILMAN GOODE: Is there a
14 lawyer present?

15 MS. RHYNHART: No, but I can
16 say, Chairman, that we have the right to
17 give the compensation package to that
18 group. There is a legal reason for that.

19 COUNCILMAN GOODE: Does that
20 mean imposed?

21 MS. RHYNHART: I don't want to
22 get into the wrong legal terminology, but
23 it has been enacted, so the -- they have
24 been given the salary increases and the
25 restoration of their increments in

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 longevity.

3 COUNCILMAN GOODE: Has that
4 ever been done before?

5 MS. RHYNHART: I don't believe
6 it has.

7 COUNCILMAN GOODE: So why do it
8 this year?

9 MS. RHYNHART: We have gotten
10 to the point where we feel like we have
11 been negotiating for a long period of
12 time. Employees have gone without pay
13 raises for a long period of time, and we
14 don't want to -- we did not want to --

15 COUNCILMAN GOODE: I'm
16 specifically referring to District
17 Council 47 Local 2186.

18 MS. RHYNHART: Right, and I'm
19 getting there, if you can just be patient
20 with me.

21 That we wanted to give the
22 compensation package which we feel is
23 fair and that the employees deserve to
24 the groups that we could, and Local 2186
25 is a group that we legally could give

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 that to.

3 COUNCILMAN GOODE: Did they
4 request that you give it to them?

5 MS. RHYNHART: I don't know if
6 they requested it.

7 COUNCILMAN GOODE: Were they at
8 the table when separate talks --

9 MS. RHYNHART: I'm sorry?

10 COUNCILMAN GOODE: Was 2168 at
11 the table with separate talks? In other
12 words, is that the deal that they wanted?

13 MS. RHYNHART: Is that the deal
14 that they wanted? I would say that's the
15 package that the Administration could
16 afford, and we feel that that is a fair
17 package.

18 COUNCILMAN GOODE: So did they
19 agree with those terms?

20 MS. RHYNHART: Did they agree?
21 I don't want to misspeak here. I mean,
22 they've been given the pay increases.

23 COUNCILMAN GOODE: But did
24 their union representation agree to the
25 terms?

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 MS. RHYNHART: I don't know
3 that answer if they agreed to those
4 terms, because we had the right to give
5 them the compensation package, so we did
6 not need to agree.

7 COUNCILMAN GOODE: You had the
8 right to give it to them regardless of
9 what their union representation agreed
10 to. Is that your testimony?

11 MS. RHYNHART: I believe that
12 is correct, yes.

13 COUNCILMAN GOODE: So you also
14 saw fit beyond that to include it in the
15 same bill?

16 MS. RHYNHART: The reason that
17 it's included in the same bill is because
18 of the way that the amounts were
19 calculated, and that was --

20 COUNCILMAN GOODE: But you've
21 never done this before; is that correct?

22 MS. RHYNHART: We've never done
23 this as a grouping.

24 COUNCILMAN GOODE: If you've
25 never done this before, then you had to

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 actively choose to offer the same package
3 to 2186 employees, which means that you
4 were adding on 2186 employees, and so you
5 already knew what the figure was?

6 MS. RHYNHART: This is -- we
7 knew what the figure was for all of the
8 employees combined.

9 COUNCILMAN GOODE: But you're
10 including 2186 for the first time?

11 MS. RHYNHART: That's right.

12 COUNCILMAN GOODE: So you knew
13 what you were adding?

14 MS. RHYNHART: We knew in a
15 combined -- we knew combined what the 925
16 or so employees, what the cost is.

17 COUNCILMAN GOODE: But you were
18 adding 2186 for the first time?

19 MS. RHYNHART: Right, but let
20 me just explain a little bit of why
21 they're not broken out, which I know that
22 you wanted them broken out into a
23 separate bill. And the problem with
24 breaking them out was that each employee
25 gets a different amount of increment in

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 longevity. So depending on how long that
3 employee has been here, they got
4 different amounts. So all of the
5 employees got the two and a half percent
6 wage increase, but got different amounts
7 because of the increments in longevity
8 being restored. So, therefore, we
9 couldn't use an average for the
10 employees. We had to use the actual
11 numbers for each department.

12 COUNCILMAN GOODE: But you
13 specifically identified which employees
14 were 2186 employees, didn't you?

15 MS. RHYNHART: Yes.

16 COUNCILMAN GOODE: How many
17 employees are there?

18 MS. RHYNHART: I believe there
19 are about 925 or so.

20 COUNCILMAN GOODE: That are
21 included under this?

22 MS. RHYNHART: That are
23 included from 2186, that's right.

24 COUNCILMAN GOODE: So it was
25 impossible in terms of your IT system to

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 separate them out?

3 MS. RHYNHART: It's possible.
4 It would require a good amount of
5 additional work, because we'd have to
6 look up each employee and then get that
7 amount and then allocate that to the
8 department, and we didn't feel it was
9 necessary to do that because we could get
10 to the correct number this way.

11 COUNCILMAN GOODE: Okay. We'll
12 see how that works for you.

13 In terms of Bill 246, that
14 money is also contained in Bill 244?

15 MS. RHYNHART: No.

16 COUNCILMAN GOODE: 246 adds
17 additional money from the allocation in
18 244?

19 MS. RHYNHART: 246 allocates
20 the 1.2 million for conflict counsel. So
21 for the counsel that -- the clients that
22 the Defender Association can't represent.
23 It's about -- the FJD transferred about
24 \$9 million --

25 COUNCILMAN GOODE: What does

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 the testimony from 246 say?

3 MS. RHYNHART: The testimony
4 for 246?

5 COUNCILMAN GOODE: Yes. Not
6 your testimony, but the separate
7 testimony.

8 MS. RHYNHART: I think the
9 Managing Director gave testimony on the
10 two items that relate to the Managing
11 Director, and that was for both the
12 increase for the Defender -- I'm looking
13 for it now -- the increase for the
14 Defender as well as the increase for
15 conflict counsel. And I can explain
16 those two items.

17 COUNCILMAN GOODE: I ask you to
18 refer to the testimony for 246.

19 MS. RHYNHART: Hold on one
20 second.

21 COUNCILMAN GOODE: Ms. Stitt,
22 could you come forward.

23 MS. RHYNHART: Mary.

24 (Witness approached witness
25 table.)

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 COUNCILMAN GOODE: Can you
3 present your testimony on that bill.

4 MS. STITT: Good morning. Mary
5 Stitt, Chief of Staff for the Managing
6 Director's Office.

7 Good afternoon, Councilman
8 Goode and members of the Appropriations
9 Committee. I am Mary E. Stitt, Chief of
10 Staff to the Managing Director and Deputy
11 Mayor, and I am here today to testify on
12 behalf of the Office of the Managing
13 Director.

14 The Public Safety Division of
15 the Office of the Managing Director
16 requests additional funding to the
17 General Fund of \$1,200,000 for conflict
18 counsel fees, and the Legal Services
19 Division of the Office of the Managing
20 Director requests \$467,160 to increase
21 contract costs for the Defender
22 Association of Philadelphia related to a
23 2.5 percent wage increase.

24 COUNCILMAN GOODE: So what is
25 the 1.2 million for?

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 MS. STITT: Conflict counsel.

3 So when there is an individual who needs
4 to have representation but the
5 representation that we can provide is in
6 conflict, we need to go to outside
7 attorneys to provide the representation.

8 COUNCILMAN GOODE: And how is
9 that currently done?

10 MS. STITT: I'm sorry?

11 COUNCILMAN GOODE: How is that
12 currently done?

13 MS. RHYNHART: I can --
14 currently, this money, about \$9 million,
15 its function was transferred from FJD to
16 the Managing Director's Office in the
17 Fiscal '13 budget, and there are many
18 thousands of individual lawyers that
19 represent the indigent population that is
20 conflicted -- that the Defender is
21 conflicted out. So there is an RFP
22 that's being reviewed actually as we
23 speak by a selection committee to look at
24 other ways to procure this conflict
25 counsel, but the way it's currently done

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 is individual lawyers.

3 COUNCILMAN GOODE: And so how
4 is it intended to be done now? There's
5 an RFP to do what?

6 MS. RHYNHART: There's an RFP
7 that's currently being reviewed to see if
8 there are other ways to, more efficient
9 ways, to manage the selection and use of
10 conflict counsel.

11 COUNCILMAN GOODE: So you don't
12 know yet whether there are more efficient
13 ways?

14 MS. RHYNHART: I'm sorry. I
15 didn't hear.

16 COUNCILMAN GOODE: You don't
17 know yet whether there are more efficient
18 ways?

19 MS. RHYNHART: Right. There
20 might be, and that's why we did the RFP,
21 and we're reviewing -- the responses are
22 being reviewed currently.

23 COUNCILMAN GOODE: So you don't
24 know what you're going to do with the 1.2
25 million yet?

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 MS. RHYNHART: Oh, no. We know
3 what that is being used for, which is
4 being used for conflict counsel to pay
5 the lawyers under the current system.

6 COUNCILMAN GOODE: Pay what
7 lawyers?

8 MS. RHYNHART: The lawyers that
9 are appointed by the courts to represent
10 the indigent population that the Defender
11 Association cannot represent.

12 COUNCILMAN GOODE: So who is
13 responding to the RFP?

14 MS. RHYNHART: I don't know
15 that, but I believe it to be groups of
16 lawyers.

17 COUNCILMAN GOODE: Who do you
18 expect to respond to the RFP, what type
19 of respondents?

20 MS. RHYNHART: I think there
21 are groups of lawyers. I don't know yet,
22 though. We could get back to you on who
23 the respondents were, because I actually
24 think the selection committee is meeting.

25 COUNCILMAN GOODE: I'm just

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 more interested in who the type of
3 respondents are and why this is a more
4 efficient system if you say it is.

5 MS. RHYNHART: Why it could be?
6 Because right now we're processing --
7 we're using thousands of individual
8 lawyers, and it might be more efficient
9 to have one organization or one firm,
10 sort of like an entity like the Defender,
11 for example, that is managing and running
12 that.

13 COUNCILMAN GOODE: So you want
14 to give it to one firm rather than
15 several different individual lawyers?

16 MS. RHYNHART: I actually don't
17 want to speak to how that is going to be
18 allocated. I think the reason that the
19 RFP was done, though, was that, look,
20 this is a \$9 million spend, is there a
21 more efficient way to spend this money.

22 COUNCILMAN GOODE: My question
23 was, do you know specifically how you
24 want to spend the money yet?

25 MS. RHYNHART: Well, that's a

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 different --

3 COUNCILMAN GOODE: So if the
4 answer to the question is you're using
5 several different lawyers and you want to
6 use less lawyers, then that's what you're
7 intending to do, is to use less lawyers,
8 as you said, maybe one firm.

9 MS. RHYNHART: Well, there's
10 two different things. So maybe I haven't
11 been clear. The 1.2 million is for
12 Fiscal '13, and there's a cost overrun
13 projected for Fiscal '13, and that's
14 separate from the change that might occur
15 starting in the next fiscal year, which
16 the RFP is for. So just to step back,
17 for the 1.2 million in the cost overrun
18 and what this money is for is to fund --

19 COUNCILMAN GOODE: So this is a
20 cost overrun for current contracts?

21 MS. RHYNHART: That's correct.

22 COUNCILMAN GOODE: This is not
23 part of the new system?

24 MS. RHYNHART: Exactly. That's
25 correct.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 COUNCILMAN GOODE: I'll move
3 on.

4 Bill 248, in budget testimony
5 the First Judicial District requested
6 \$450,000 to raise the pay of probation
7 officers. Is that money included in this
8 bill?

9 MS. RHYNHART: No, it is not.

10 COUNCILMAN GOODE: Well, this
11 bill is for \$5,450,000. So the \$450,000
12 is not for probation officers?

13 MS. RHYNHART: No. What
14 this -- that is a calculation that's
15 determined according to various
16 revenue-sharing agreements that we have
17 with the courts.

18 COUNCILMAN GOODE: What if we
19 say the \$450,000 should be for probation
20 officers and that still leaves FJD with 5
21 million?

22 MS. RHYNHART: I mean, we
23 just -- the Administration -- we give
24 money to the FJD and then it's up to the
25 FJD to decide how to use that.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 COUNCILMAN GOODE: So the FJD
3 requested 450,000 more for probation
4 officers. Do you intend to give them
5 that money for next year?

6 MS. RHYNHART: Not at this
7 time, no.

8 COUNCILMAN GOODE: So if
9 Council puts it in their budget, do you
10 intend -- if Council puts it in their
11 budget for next year and puts it in this
12 bill, do you intend to spend it?

13 MS. RHYNHART: Our current
14 position would be no, but we can talk
15 about it.

16 COUNCILMAN GOODE: We'll see
17 how that goes.

18 Thank you. Any more questions
19 from members of the Committee?

20 (No response.)

21 COUNCILMAN GOODE: Thank you.

22 MS. RHYNHART: Okay. Thank
23 you.

24 COUNCILMAN GOODE: Your
25 testimony on Bill 185.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 MS. RHYNHART: I'll say good
3 afternoon again, Chairman Goode and
4 members of City Council. My name is
5 Rebecca Rhynhart. I'm the City's Budget
6 Director. I'm here to testify on Bill
7 No. 130185, which proposes to authorize
8 and direct the use of Fiscal '13 General
9 Fund positive fund balance to increase an
10 appropriation for the Fire Department in
11 an amount of \$66 million for the Fire
12 Fighters' contract.

13 The Administration opposes this
14 bill, as it would result in negative fund
15 balances during the proposed Fiscal '14
16 through '18 Five Year Plan. The proposed
17 Five Year Plan projects a Fiscal Year '13
18 ending fund balance of \$128 million,
19 which will decline to 45 million in
20 Fiscal Year '15. If the City were to
21 assume 66 million in additional costs as
22 proposed by the bill, the fund balance
23 will be negative \$21 million in Fiscal
24 '15. According to the PICA Act, the City
25 cannot project negative fund balances in

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 any year of the proposed Five Year Plan.

3 The 2012 arbitration award has
4 been appealed by the City to Commonwealth
5 Court, as it would result in over 200
6 million in additional costs over the life
7 of the Five Year Plan, which is not
8 affordable. While the Administration has
9 included 38 million in funding in the
10 proposed Five Year Plan for the future
11 arbitration award with the IAFF, the
12 Administration has not included funding
13 in the Plan for the '12 award under
14 appeal.

15 In addition to the significant
16 financial issues presented by this bill,
17 there are legal concerns detailed in a
18 memo to Councilman Oh's office from the
19 Law Department. These issues include
20 that Council is not authorized under the
21 Charter to specify in any detail how
22 appropriations are to be spent other than
23 the lump sum categories in the Charter
24 itself, which this bill purports to do.
25 In addition, the mandate of the ordinance

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 that the money shall be used to pay the
3 firefighters' award goes beyond the scope
4 of Council's power, which is to
5 appropriate or authorize expenditures,
6 not to mandate expenditures.

7 For these reasons, the
8 Administration opposes this bill.

9 This concludes my testimony.
10 I'm happy to answer any questions.

11 COUNCILMAN GOODE: Any
12 questions from members of the Committee?
13 Councilman Henon.

14 COUNCILMAN HENON: Thank you,
15 Mr. Chairman.

16 Good afternoon --

17 MS. RHYNHART: Good afternoon.

18 COUNCILMAN HENON: -- Rebecca.
19 Could you tell me what the total cost of
20 the arbitration award is for the
21 firefighters?

22 MS. RHYNHART: Sure. The total
23 cost of the award under appeal is over
24 \$200 million.

25 COUNCILMAN HENON: Over \$200

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 million?

3 MS. RHYNHART: Yes.

4 COUNCILMAN HENON: Could you
5 tell me what the legal fees are
6 associated with the two appeals for the
7 contract?

8 MS. RHYNHART: We could get
9 that to you. I think that we provided
10 that in the past, and I'd be happy to
11 provide that again. I don't know that
12 offhand.

13 COUNCILMAN HENON: If you could
14 provide it to the Chair for an update,
15 I'd appreciate it.

16 MS. RHYNHART: Sure.

17 COUNCILMAN HENON: Can you
18 explain why the firefighters believe that
19 the cost of the arbitration award is 66
20 million and the Administration feels that
21 it's 200 million?

22 MS. RHYNHART: I can't,
23 actually. I mean, I'd like to see how
24 they're calculating 66 million. We've
25 put our calculation -- we've given our

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 calculation before to Council and we're
3 comfortable with our calculation of what
4 that cost would be. So I don't know.

5 COUNCILMAN HENON: Just as a
6 member of this body here and it's not
7 like you're off \$10, \$20 million. I
8 mean, you're off well over \$100 million.
9 You're off \$134 million as far as the
10 disparity between the disputed numbers.
11 There's no explanation on that large
12 amount or that disparity between those
13 two numbers?

14 MS. RHYNHART: I haven't seen
15 the backup for their calculation, so if I
16 saw the backup, I could be able to answer
17 that question. But I don't know the
18 answer.

19 COUNCILMAN HENON: You had
20 stated in your testimony that the fund
21 balance in 2015 is projected to be \$45
22 million. Can you be a little more
23 specific?

24 MS. RHYNHART: With the number?

25 COUNCILMAN HENON: With the

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 numbers.

3 MS. RHYNHART: Sure. In Fiscal
4 '15, it's projected to be 44.8 million.

5 COUNCILMAN HENON: 44.8.
6 Approximately \$45 million. What's the
7 decrease in use of the fund balance, the
8 projected fund balance, which is \$114
9 million presently to 2015?

10 MS. RHYNHART: Sure. There's
11 numerous factors that go into that. Some
12 of the larger ones are that we lose the
13 extra 1 percent sales tax in Fiscal '15,
14 and that's about \$130 million a year.
15 That's the State Legislature, that that
16 tax sunsets June 30th, 2014.

17 In addition to that, our fixed
18 costs - expenditures, pension, and other
19 costs - continue to rise, and the
20 economic recovery, while it's happening,
21 is not happening fast enough to make up
22 for such a significant loss in revenue of
23 the sales tax as well as the rising fixed
24 costs.

25 COUNCILMAN HENON: You also

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 state in your testimony that the
3 Administration set aside \$38 million for
4 a future arbitration award. Do you or do
5 you not dispute the fact that you already
6 owe the firefighters at least \$66
7 million? Whether it's 200 million or the
8 66 that we're here discussing today,
9 minimum it would be \$66 million?

10 MS. RHYNHART: I wouldn't say
11 that. It's under dispute and it's under
12 appeal.

13 COUNCILMAN HENON: Why are we,
14 as per your testimony, why are we saying
15 that we have set aside in the future
16 years \$38 million for a future
17 arbitration award when we don't have
18 anything right now, there was an
19 arbitration award that we're appealing
20 and there's nothing set aside for the
21 current Five Year Plan?

22 MS. RHYNHART: Sure. The award
23 that we're appealing included the years
24 of the recession and -- the deep
25 recession and the financial crisis that

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 we faced across the country. That period
3 of time is a set period of time, that
4 that award we believe to be unaffordable,
5 and we've appealed that now.

6 As we were looking forward in
7 preparing the Fiscal '14 budget, the
8 combination of the turn in the economy
9 and some efficiencies that we project to
10 be realized through the FTI report and
11 various other things gave enough room in
12 our budget so that we put money in for
13 future awards for DC 33, 47, as well as
14 the firefighters. The total amount of
15 that is 85 million over the five years,
16 and we put that aside for awards and
17 agreements that still -- that are fair to
18 employees but also that contain the
19 reforms that we're looking for, and those
20 reforms that we're looking for are
21 pension reform as well as furloughs,
22 which will be coupled with hopefully wage
23 increases. But that has to be a package.
24 But the money we put in going forward for
25 Fire was under the same reasoning, that

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 there was some money available and we
3 would be fair and put that aside.

4 COUNCILMAN HENON: I'm just
5 going by the budget process that's
6 currently taking place, and in every
7 category, our revenue is projected to be
8 going up. So we are receiving and
9 collecting more revenue than projected,
10 and we will have and continue to have a
11 rising increase in revenues moving
12 forward. I just find it a little
13 disheartening from the Administration
14 when we have -- when you're trying to
15 package, as you say, package anticipated
16 wage increases when the Administration is
17 selectively choosing to, without
18 collective bargaining, without having an
19 agreement, arbitrarily putting increases
20 in for 2186, yet implementing work rules
21 and changes. We still have 47 and 33
22 without contracts, but arbitrarily the
23 Administration is putting in --
24 accounting for some raises that haven't
25 been agreed upon.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 So it just seems like it's the
3 Administration's way or no way as we move
4 forward putting monies aside for whether
5 arbitration awards or any kind of
6 agreements with our labor community and
7 the employees here in the City of
8 Philadelphia. I just see -- I'm just
9 trying to get to a reasoning and an
10 understanding on the methodology and
11 reasons why we decided to put in a
12 transfer ordinance for exempt and
13 non-exempt employees and why we didn't
14 put in for arbitration awards for the
15 firefighters that we continue to appeal
16 in its current budget and then we
17 anticipate arbitration awards in future
18 years in the Five Year budget to the tune
19 of \$38 million. I'm just looking for a
20 reasonable logic on where the
21 Administration is heading.

22 And to answer your question on
23 furloughs, it was stated on the record
24 that furloughs, as Councilman Goode has
25 spoken on many times in this body, that

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 the furloughs do not have any financial
3 significance or impact on our Five Year
4 Plan. So what is the reasoning and why?

5 MS. RHYNHART: Okay. Good
6 question. And I would say there's very
7 consistent reasoning to it, which is
8 that -- and there's a few questions in
9 your question.

10 So the reasoning is that we
11 want compensation packages that are both
12 fair to employees but that contain
13 reforms that are really necessary. Our
14 pension plan is only 50 percent funded.
15 We need changes in order to be fiscally
16 responsible going into future years.
17 Now, at the same time, we want to be fair
18 to employees. We want to offer packages
19 to employees that include wage increases
20 and the restoration of increments in
21 longevity, but they need to be combined
22 with other elements of reform.

23 This is something that we've
24 been working on for many years and we've
25 been trying to negotiate for many years

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 before we've taken the steps that we've
3 taken. So I would say that it's actually
4 been a very consistent reasoning on that.

5 In terms of furloughs and that
6 they don't result in any savings, they
7 don't result in savings because we don't
8 plan to use them. They are a tool to be
9 used only in the situation of a deep
10 financial calamity, such as that faced by
11 the City in '09. It's to prepare for the
12 future and a deep crisis like the one we
13 had, not something that would expect to
14 see savings in this Five Year Plan.
15 We're looking well beyond that.

16 COUNCILMAN HENON: I'll end
17 with this, Mr. Chairman.

18 I just want to state for the
19 record I disagree with the package
20 approach, because it doesn't seem to be
21 consistent from what I'm seeing. It
22 seems to be fragmented and selective
23 through different avenues throughout this
24 whole process. And I also want to state
25 for the record that I still have major

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 concerns on the disparity between the
3 numbers, the \$200 million as opposed to
4 the \$66 million. Sixty-six million
5 dollars seems to be a lot more
6 reasonable, and I just -- I don't
7 understand where there's \$134 million of
8 a difference between employer and
9 employee numbers on actual dollars.

10 MS. RHYNHART: Right. And I'd
11 be happy -- I know that we've shared the
12 cost calculation of the 200 million with
13 Council. I'd be happy to walk through
14 that. I haven't seen any backup for that
15 66 million, but I'd be happy to walk
16 through why we think it's 200.

17 COUNCILMAN HENON: Thank you,
18 Mr. Chair.

19 COUNCILMAN GOODE: Thank you,
20 Councilman.

21 Ms. Rhynhart, the current
22 contracts for DC 33 and DC 47 allow for
23 layoffs if there's a fiscal downturn?

24 MS. RHYNHART: That's correct.

25 COUNCILMAN GOODE: And the

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 unions agreed to that?

3 MS. RHYNHART: I believe it's
4 in the contract. I don't want to
5 misspeak on this, but I believe that's
6 correct.

7 COUNCILMAN GOODE: It was a
8 negotiated contract, so I assume they
9 agreed to it.

10 MS. RHYNHART: That's what I
11 would agree to.

12 COUNCILMAN GOODE: But they
13 don't agree to furloughs?

14 MS. RHYNHART: That's right.

15 COUNCILMAN GOODE: But you
16 won't take furloughs off the table?

17 MS. RHYNHART: Right.

18 COUNCILMAN GOODE: But your
19 reasoning is in case of an economic
20 downturn, you need something, but the
21 existing contract already calls for
22 layoffs rather than furloughs?

23 MS. RHYNHART: Well, I think
24 that -- right. I think, though, that if
25 there were an economic downturn, people,

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 employees, might prefer to be furloughed
3 for a few days than laid off.

4 COUNCILMAN GOODE: They are
5 represented.

6 MS. RHYNHART: Okay. I would
7 say that our position, if you're asking
8 for our position --

9 COUNCILMAN GOODE: But they are
10 represented. So does their union
11 representation say they prefer furloughs
12 or layoffs?

13 MS. RHYNHART: I don't know
14 that.

15 COUNCILMAN GOODE: Councilman
16 Jones and then Councilman Green.

17 COUNCILMAN JONES: Thank you,
18 Mr. Chairman.

19 Just very quickly, on conflict
20 counsel, it's my understanding that the
21 Defender's Association, if there are
22 three defendants, the first one of the
23 defendants that comes to them for
24 representation, the other two must seek
25 outside counsel because it would be,

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 quote, a conflict for them to represent
3 all three --

4 MS. RHYNHART: Right.

5 COUNCILMAN JONES: -- in a
6 case, correct?

7 MS. RHYNHART: That's right.

8 COUNCILMAN JONES: Heretofore
9 that has been the discretion of judges to
10 decide who that outside counsel is; is
11 that correct?

12 MS. RHYNHART: That was -- yes.
13 And as part of the '13 budget process,
14 though, the courts requested and Judge
15 Herron felt strongly about this and
16 requested that to be removed from their
17 budget and given to the Administration as
18 an administrative responsibility. I
19 believe the thought process was that
20 there was a -- they felt that there's a
21 legal issue with judges picking counsel.

22 COUNCILMAN JONES: Okay. I'm
23 not -- I don't have a dog in that fight,
24 but by way of efficiencies and I'm also
25 concerned about improvement of

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 representation for those accused under
3 the law, presumed innocent. What is the
4 structure of the contract being proposed?
5 One firm? Multiple firms? Do you know?

6 MS. RHYNHART: I don't know
7 that. I know that the RFP -- and I did
8 read the RFP before it went out, but the
9 RFP was general in terms of coming back
10 with what respondents would propose, and
11 then we would go from there. But I can
12 definitely get an update to the Chair and
13 to you on that. I think that makes a lot
14 of sense. It makes sense to be asking
15 questions about the way we're moving
16 forward on it.

17 COUNCILMAN JONES: Also in the
18 questioning I would ask what is the per
19 diem or reimbursement to the individual
20 attorney or law firm, and once they
21 reach, for example, that level of
22 individual -- so some business person who
23 administers all of the lawyers decides
24 that it's \$700 a client, let's arguably
25 say, and that based on a couple of

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 continuances and this, that or the other,
3 we've hit the \$700 mark. At what point
4 do they start to realize diminishing
5 returns and say, Well, the young man,
6 young woman can stay up on State Road a
7 little longer while we go after these
8 paying clients? And I want know what the
9 impact might be on the time an individual
10 stays at State Road or in one of our
11 correctional institutions and we will --
12 I want to monitor the cause and effect of
13 this contract on the great job that CJAB
14 is doing. I would mention for the record
15 that Councilman Green is on that
16 committee and has done a great job of
17 reducing the amount of time individuals
18 stay on State Road.

19 So this is a new variable which
20 may have a new impact. So how are we
21 going to monitor that going forward?

22 MS. RHYNHART: I think that's a
23 good question and something that we
24 should look at. I think one of the ideas
25 in terms of procuring these lawyers in a

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 different way is that one of the problems
3 with the current system is what I've
4 heard, is that exactly as you've said,
5 that a lawyer who has paying clients that
6 pay more might start to do as you say and
7 not pay attention to the client that
8 you're referring to on State Road, which
9 is something that we don't want to
10 happen.

11 So my understanding is that in
12 some of the responses, there's actually
13 groups of lawyers coming together to form
14 a new group, a new association almost of
15 lawyers that would do this full time,
16 which is something to think about. But I
17 think that question is a good one.

18 COUNCILMAN JONES: So I would
19 imagine it would be a performance-based
20 contract, and what are those deliverables
21 that we are seeking? Reduced time? Is
22 it the number of clients? I don't know
23 and so --

24 MS. RHYNHART: Right.

25 COUNCILMAN JONES: --

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 Mr. Chairman -- if you could provide that
3 information and answer to the Chair, that
4 would be helpful.

5 MS. RHYNHART: Definitely I
6 will.

7 COUNCILMAN JONES: Thank you,
8 Mr. Chairman.

9 COUNCILMAN GOODE: Thank you,
10 Councilman.

11 Just questions on 185 now,
12 because we have other witnesses on 185.
13 Councilman Green and then Councilman
14 O'Neill.

15 COUNCILMAN GREEN: Thank you.
16 Good afternoon.

17 MS. RHYNHART: Good afternoon.

18 COUNCILMAN GREEN: There were a
19 couple of statements made here that I'd
20 sort of like to get specificity on.

21 Could you tell us whether or
22 not based on the revenue that's coming
23 into the City currently compared to
24 projections the City intends to or the
25 Administration intends to revise its

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 revenue forecast for next year in the
3 course of the Five Year Plan prior to our
4 voting on the budget.

5 MS. RHYNHART: At this point, I
6 would say not in any material way. It's
7 too soon to tell on the BIRT, the
8 business income and receipts tax. It's
9 being processed faster than last year,
10 but it's not -- we don't -- apples to
11 apples, we can't until May is over. We
12 don't know for sure. And then we can go
13 tax by tax, but some of the taxes are
14 doing a little better and some are doing
15 a little worse. So that's the
16 conversation we'll be having over the
17 next few weeks tax by tax.

18 COUNCILMAN GREEN: Isn't that
19 really where money is in sort of lowball
20 revenue estimates for the things that are
21 currently being negotiated?

22 MS. RHYNHART: Well, I wouldn't
23 say lowball revenue estimates. I mean,
24 our revenue estimates were done in
25 conjunction with IHS Global Insight and

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 the Federal Reserve Bank of Philadelphia.
3 And in some past years during the Nutter
4 Administration, we were well above and
5 had to bring down projections. So the
6 way we go about revenue projecting is to
7 try to be reasonable, not to try to
8 lowball it.

9 COUNCILMAN GREEN: So you're
10 saying that the arbitration award in your
11 estimate in the Five Year Plan will
12 result in \$36 million, \$38 million; is
13 that correct?

14 MS. RHYNHART: The firefighter
15 award?

16 COUNCILMAN GREEN: Right.

17 MS. RHYNHART: That is what
18 we've set aside.

19 COUNCILMAN GREEN: And what
20 have you set aside for the other unions
21 who you haven't reached an arbitration
22 agreement -- who are still outstanding?

23 MS. RHYNHART: We set aside a
24 total, as I said, of about \$85 million
25 for 33, 47, and the firefighters.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 Thirty-eight million of that is for the
3 firefighters.

4 COUNCILMAN GREEN: Okay. So
5 \$85 million.

6 MS. RHYNHART: About, right.

7 COUNCILMAN GREEN: So what
8 happens if this -- what is the
9 Administration's plan if we don't
10 appropriate the money and in fact for the
11 third time the award comes back the same
12 way, it's far in excess of \$38 million?
13 What is the Administration's plan if it
14 does not succeed in its third round of
15 arbitration -- and let's just stick with
16 the firefighters -- and it ends up
17 being -- is 200 million the right number?

18 MS. RHYNHART: That's right.

19 COUNCILMAN GREEN: It ends up
20 being 200 million. There's a big
21 difference between 38 million and 200
22 million even over five years.

23 MS. RHYNHART: Oh, that's
24 right, and just keep in mind, the 38
25 million we put aside for the future.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 We're going into arbitration right now
3 with the firefighters for the new award.
4 That's what the 38 million is for. We
5 don't have anything set aside for the
6 award under appeal, just for
7 clarification.

8 COUNCILMAN GREEN: So it's an
9 entire \$200 million?

10 MS. RHYNHART: That's right.

11 COUNCILMAN GREEN: In addition
12 to the 38?

13 MS. RHYNHART: If we lose and
14 the new arbitration panel awards the same
15 award, that's correct.

16 COUNCILMAN GREEN: Okay. So
17 that's roughly --

18 MS. RHYNHART: Over the
19 five-year period.

20 COUNCILMAN GREEN: Yeah. So
21 that's 40 million a year?

22 MS. RHYNHART: Well, actually,
23 it's front-loaded, which is one of the
24 problems with the award on its
25 affordability. So it would actually --

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 the award under appeal, about 114 million
3 of that cost is in the first year alone.

4 COUNCILMAN GREEN: So if we
5 don't appropriate this, I don't know how
6 we will hear back from the Administration
7 on what it is -- what priorities it is
8 going to adjust in next year and the year
9 after that, et cetera, in order to afford
10 to pay for the arbitration award.

11 MS. RHYNHART: Well, in last
12 year's budget, in last year's Five Year
13 Plan submitted to PICA, PICA had a
14 similar question as to if you lose the
15 appeal, what will you do, what will the
16 City do. And we published a list of
17 cuts, possible cuts, across City
18 departments, which would be pretty
19 draconian.

20 COUNCILMAN GREEN: Which -- and
21 I say this respectfully, because all you
22 had to do with respect to PICA was check
23 a box to tell them how you were going to
24 pay for it. As long as your assumptions
25 are reasonable, PICA has to agree to

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 that. The problem that you would have is
3 that there is no way -- for example, I
4 can remember two years ago you eliminated
5 half the DA's Office. You eliminated --

6 MS. RHYNHART: We didn't
7 eliminate the DA's Office.

8 COUNCILMAN GREEN: The court
9 funding was slashed.

10 MS. RHYNHART: We cut across
11 almost all departments.

12 COUNCILMAN GREEN: The court
13 funding was slashed substantially, which
14 the Supreme Court would never allow, and
15 all sorts of other things like that. So
16 it's with us that you actually have to
17 present a realistic plan for how you
18 would pay for these things, because we
19 end up having to appropriate the
20 appropriate amount of money to
21 departments so that we have a balanced
22 budget. And, frankly, I'd like to ask
23 you to do that, provide to the Chair
24 where the money would come from and what
25 the appropriations request will be from

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 the Administration if you were to lose
3 this arbitration award so that we can
4 understand how we would have to
5 reallocate this if we were to pass this
6 or add this money to next year's budget
7 in the Five Year Plan.

8 MS. RHYNHART: Okay. I mean, I
9 will say, though, that the reason that we
10 are appealing is because of its lack of
11 affordability.

12 COUNCILMAN GREEN: I
13 understand, but it's been ruled on twice
14 and it's not, in my view, very likely
15 that there's going to be a significant
16 adjustment of that award, and this is
17 also -- and so I'd ask you to provide to
18 the Chair how you would present a Five
19 Year Plan that has us paying that award.

20 MS. RHYNHART: Okay. We'll see
21 what we can do.

22 COUNCILMAN GREEN: That you
23 think you can pass through City Council.

24 Thank you.

25 COUNCILMAN GOODE: Councilman

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 O'Neill.

3 COUNCILMAN O'NEILL: Thank you,
4 Mr. Chairman.

5 I just have a question I'll
6 repeat to you that I've heard from so
7 many firefighters that I've talked to
8 because of the appeals being based on
9 affordability, and, that is, how can we
10 afford the Police arbitration and not
11 afford the Fire arbitration? Could you
12 give me an answer to that, because I
13 don't understand it.

14 MS. RHYNHART: Okay. The
15 Police arbitration award included
16 significantly lower healthcare costs.
17 The Police are at about -- they're
18 self-insured, but they're about at 1,200
19 per member per month in terms of the
20 cost. The award for Fire would have
21 brought the per member per month up to
22 over 1,600 per member per month right
23 away. Healthcare is a significant cost.
24 In Police, we got the right to furlough,
25 which was very important to us, and there

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 were various other reasons, but I would
3 say that the main cost driver is health
4 insurance and then furlough is important
5 too. So they were different. They were
6 very different. I mean, the health
7 insurance costs and the firefighters'
8 award is a big concern.

9 COUNCILMAN O'NEILL: But it's
10 mostly health, not furloughs, because if
11 you don't furlough anybody, you're not
12 saving any money?

13 MS. RHYNHART: If we don't
14 furlough anyone, that is correct, but we
15 have the right to.

16 COUNCILMAN O'NEILL: I
17 understand, but in terms of dollars.

18 MS. RHYNHART: Right. In the
19 Five Year Plan, right.

20 COUNCILMAN O'NEILL: The health
21 at least I understand. If one is 1,200
22 and one is 1,600, there's a \$400
23 difference. There may be a lot of
24 reasons that either you know about or I
25 know about why a firefighter is higher,

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 but in terms of furloughs, if you don't
3 furlough anybody, it's nice to have the
4 tool if you're the employer, but you
5 haven't saved any money.

6 Okay. That's fine.

7 COUNCILMAN GOODE: Councilman
8 Green and then Councilman Henon.

9 COUNCILMAN GREEN: Thank you.

10 I think we all know that
11 there's a reason firefighters have higher
12 healthcare costs than police officers.
13 Because they run into and out of burning
14 buildings and there are hearing aid
15 issues. There are lots of health issues
16 that firefighters experience that other
17 City employees do not experience, and so
18 one would expect that you would not be
19 able to, for that group, be able to bring
20 the cost down to a police officer's cost
21 or other -- I assume the City is not
22 objecting to what it actually has to cost
23 to take care of firefighters, but --

24 MS. RHYNHART: Just one thing.

25 What I was pointing out, though, was just

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 the overall cost related to
3 affordability, not making a judgment
4 on --

5 COUNCILMAN GREEN: So that's
6 what I want to sort of address a little
7 bit, because you may recall I wrote a
8 letter to the Administration after the
9 police arbitration award and pointed out
10 that the present value of, for example,
11 the pension fund savings was something on
12 the order of -- I cannot remember what it
13 was, but maybe \$8 million. The present
14 value may have been \$30 million actually,
15 but the savings over the course of a five
16 year plan were like \$8, \$4, \$5 million
17 for the pension reforms that were being
18 put in place.

19 So the pension reforms which
20 you're seeking to put in place for the
21 firefighters are the same as for the
22 police arbitration, and they're not
23 meaningful at all in terms of cost
24 savings. In terms of the pension system,
25 they don't really achieve our goal at all

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 of getting us more than 48 percent
3 funded.

4 MS. RHYNHART: I would just --
5 I would agree that in the next five
6 years, the cost is not that material.
7 However, what we're trying to do is long
8 term --

9 COUNCILMAN GREEN: The present
10 value -- I understand, and that's why I'm
11 bringing it back to present value. The
12 present value of the change is immaterial
13 in the context of what we're going to
14 spend over the next 20 years.

15 MS. RHYNHART: I would have to
16 look at that.

17 COUNCILMAN GREEN: It's a
18 present value in the \$30 million range
19 compared to the 3.7 billion we spend
20 every year. It's so small as to be
21 meaningless. It is not -- so I don't
22 want to characterize what the
23 Administration did even with the police
24 arbitration as pension reform, because it
25 wasn't. It didn't solve the problem. It

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 kicked the can down the road and was
3 incremental and marginal at best.

4 MS. RHYNHART: I disagree with
5 that.

6 COUNCILMAN GREEN: I
7 understand, but I'm telling you what the
8 present value of it is, and the present
9 value is going to be the same for the
10 firefighters. So to Councilman O'Neill's
11 question, it really is confusing that the
12 main reason the appeal was made in the
13 first instance and cited by the City was
14 because of furloughs. The Administration
15 has made clear and the union has made
16 clear that if they had gotten furloughs,
17 they wouldn't have appealed in the first
18 place. That was the first appeal. So
19 we're here down this road because of one
20 issue, and that issue is furloughs, and
21 you're saying you're not going to use
22 them. And so you can see all of our
23 confusion as a consequence of your
24 answers, and the overall impact, the
25 economic impact, of the Police award

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 versus the Fire award is -- it's

3 immaterial in the context --

4 MS. RHYNHART: So let me --

5 COUNCILMAN GREEN: -- of

6 present values in terms of the Five Year

7 Plan.

8 MS. RHYNHART: Can I respond?

9 COUNCILMAN GREEN: Sure.

10 MS. RHYNHART: Thank you. The
11 reason for the appeal was not just on one
12 issue, and let me just be very clear on
13 this. The reason for the appeal on Fire
14 was that it was not affordable, which
15 included the healthcare. And I know that
16 you could disagree in terms of what you
17 said about healthcare, but the healthcare
18 costs, the retro payment to the health
19 insurance fund for firefighters, there's
20 various financial reasons why that award
21 is so front-loaded in costs and why that
22 award is so expensive over the life of
23 the cost.

24 Let me finish.

25 And on top of that, the pension

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 changes -- and I'd be interested to see
3 what analysis you've done, because the
4 pension changes --

5 COUNCILMAN GREEN: The
6 Administration has my letter.

7 MS. RHYNHART: It is very
8 important down the road to get a hybrid
9 plan introduced and get members into
10 those hybrid plans.

11 And, lastly, the role of
12 furloughs is a management tool in times
13 of economic crisis. It wouldn't be sound
14 financial practice to be planning on
15 doing that on any given year. So we're
16 not planning on it, but we need it as a
17 management tool.

18 COUNCILMAN GREEN: An 80/20
19 hybrid plan is an incremental and
20 marginal change with a negligible present
21 value and negligible value over the
22 course of any Five Year Plan over the
23 next 30 years. So that's a fact.

24 MS. RHYNHART: Well, I don't
25 know that's a fact without seeing your

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 numbers, but I'd be happy to look at that
3 for you.

4 COUNCILMAN GREEN: Well, I sent
5 them to you several years ago.

6 MS. RHYNHART: I don't remember
7 getting them, so I'm happy to look at
8 them.

9 COUNCILMAN GREEN: Okay. So I
10 can recall testimony in this Chambers
11 that the reason -- two years ago that the
12 reason the arbitration award was being
13 pursued was primarily furloughs. There
14 were public statements by members of the
15 Administration that that was the reason.
16 And so I hear what you're saying today,
17 but it's not the history we all have with
18 the issue.

19 MS. RHYNHART: That's
20 consistently what we've said, but I hear
21 what you're saying.

22 COUNCILMAN GREEN: Thank you.
23 Thank you, Mr. Chairman.

24 COUNCILMAN GOODE: Councilman
25 Henon.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 COUNCILMAN HENON: Thank you,
3 Mr. Chairman.

4 Just to add a little bit on
5 what Councilman O'Neill and Green have
6 been stating about the furloughs. I'm
7 just confused, and I'm confused because
8 when we hear time in and time out that we
9 just want to have the ability to
10 furlough, which has no economic impact
11 whatsoever on the Five Year Plan and the
12 budget. In times of crises when we need
13 to furlough members of 22 and the FOP,
14 our police and our fire, when the fact of
15 the matter is is that we are -- we have
16 never because of the attrition rate and
17 the rate of a management tool, as you
18 said, furloughs using it as, with the
19 DROP program, we're never going to get
20 where we need to be as a full Class 100.
21 So we're always going to be classes short
22 on new cadets in both the firefighters
23 and our Philadelphia Police Department.
24 So using furloughs would just further put
25 us at a disadvantage for any kind of

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 public safety and health issue that we
3 have for our citizens.

4 So I don't know why -- that's
5 the confusing part for me, that furloughs
6 have been a main focus or topic of the
7 arbitration awards or any of these
8 contracts that are yet to be settled or
9 collectively agreed upon. So furloughs
10 should not be in the conversations,
11 because it's a tool that they should not
12 and should never be used, especially when
13 we're understaffed as it is.

14 MS. RHYNHART: Well, I would
15 say that you're right that the DROP --
16 that hiring in the face of the level of
17 DROP attrition over the next few years is
18 going to be very challenging, and we're
19 doing everything we can from the
20 Administration's point of view to staff
21 up in Police and Fire. So I fully
22 understand what you're saying over the
23 next few years, but, again, the furlough
24 tool would be something that we would
25 have to use in a longer period of time

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 than five years and for unexpected
3 financial calamity. I mean, so it's not
4 something we would plan.

5 COUNCILMAN HENON: That would
6 be a major catastrophe or calamity that
7 falls upon the City that wouldn't even
8 have taken effect in 2009. The Fire
9 Department went years without new
10 recruits, years, and now we have training
11 issues with the attrition rate and
12 supervisors and where we have our
13 officers in the Fire Department holding
14 on to a list and questions about the
15 raisings of our officers to the next
16 rank. So we're digging ourself a bigger
17 hole than you can even imagine by
18 delaying this even further.

19 MS. RHYNHART: By delaying --
20 I'm sorry.

21 COUNCILMAN HENON: By
22 continuing to appeal the arbitration
23 award. We went years without, several
24 years, without new cadets in the Fire
25 Department. We only allowed X amount of

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 new cadets in our Philadelphia Police
3 Department. So all of that has caught up
4 to us, and to have conversations about
5 furloughs being front and center being a
6 major focus point for something that
7 we'll never, ever, ever be able to use,
8 you'll never be able to use furloughs in
9 our Fire Department or our Police
10 Department. It shouldn't even be on the
11 table. I don't know why it's continuing
12 to happen in these budget hearings.

13 So that's why I'm confused, and
14 I wish the Administration would just drop
15 it and then either deal with the issues
16 that we need to deal with. If it's
17 healthcare, then deal with the
18 healthcare. If it's pension reform,
19 let's deal with the pension reform. If
20 it's hiring more cadets in our Fire
21 Department or Police Department, let's do
22 it.

23 I have no further questions.

24 COUNCILMAN GOODE: Councilman
25 O'Neill.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 COUNCILMAN O'NEILL: Thank you,
3 Mr. Chairman.

4 Earlier when Councilman Henon
5 and you were talking back and forth about
6 what the real cost was and the 66
7 Councilman Henon was talking about and
8 you were talking about the 200, the key
9 part of this bill for us is the
10 undisputed part, that word "undisputed."
11 You're appealing something based on
12 affordability, but you're not appealing
13 that you can't afford anything. There's
14 some number that even if you win, which
15 you haven't had much success doing so
16 far, but even if you win, you're not
17 going to get zero, and there's some
18 things you're not arguing in that. You
19 mentioned healthcare. You mentioned the
20 front-loading. Part of the Police
21 contract was raises, and they're healthy
22 raises under the economy that we have,
23 and I congratulate the FOP for achieving
24 them.

25 But my understanding when this

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 was introduced by Councilman Oh and when
3 we were getting ready for this hearing
4 was, it's what many of us see as the
5 illogical approach of not putting money
6 in. Forget about future. This is a
7 twice-appealed arbitration where there is
8 an undisputed amount that we're not
9 fighting about.

10 MS. RHYNHART: Well, but the
11 award is under appeal.

12 COUNCILMAN O'NEILL: I
13 understand that. I mean, I'm not real
14 smart, but I have to be really stupid not
15 to know the answer to that question.

16 MS. RHYNHART: Okay.

17 COUNCILMAN O'NEILL: This is an
18 appeal, but there is an underlying
19 undisputed amount, because you appealed
20 the whole arbitration, but you went after
21 certain -- you're really talking about
22 certain things, and I think you've raised
23 many of them, if not all of them, today.
24 And I understand. There's a real dispute
25 on those, and they involve dollars.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 That's the Administration's prerogative
3 or it wouldn't be happening, because if
4 it needed a Council vote, I don't think
5 you would have had much luck.

6 But this is taking an
7 undisputed amount and setting it aside,
8 and whatever that does to the Five Year
9 Plan, if there is an undisputed amount
10 and can follow I think where Councilman
11 Green was going, there's some amount that
12 we're going to have to pay. And if
13 there's 38 million for new contracts that
14 haven't even been negotiated yet for an
15 arbitration that hasn't even started yet,
16 how come there isn't some portion of this
17 appealed award that at least we can say
18 to our firefighters, The undisputed
19 amount, the money is in the budget,
20 somebody is looking out for you, even
21 though there's a dispute? People do
22 disagree on things.

23 That's why I have no problem
24 voting for this. And if it gets to the
25 point where the Law Department told

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 Councilman Oh and many of us have heard
3 it over the years, You don't have the
4 authority or the power to do that,
5 usually there's a path that we can all
6 see even though that might be true,
7 because if this is right to have the
8 undisputed amount set aside, we're not
9 really caring about who's got the
10 authority to do it or doesn't. If it's
11 right, we're going to get to here anyway
12 one way or the other. And we're in the
13 middle of budget negotiations, and during
14 the budget, I thought Council was very
15 polite in not talking about all this.
16 This is the place for it, and I
17 appreciate it, but I don't think the
18 undisputed amount is very, very hard for
19 any member of Council to vote against, I
20 believe.

21 Thank you.

22 MS. RHYNHART: I would just say
23 that the \$66 million would put our Plan
24 significantly into negative territory
25 with a negative \$21 million fund balance

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 in Fiscal '15.

3 And the second thing is, the
4 use of the word "undisputed," I don't
5 know if that is the correct word to use.
6 The firefighters are saying that's the
7 cost of the award. We have detailed
8 financial backing that it would be 200
9 million.

10 COUNCILMAN O'NEILL: Okay.

11 COUNCILMAN GOODE: Two quick
12 questions and then we'll move to our
13 other witnesses, one on the use of the
14 term "undisputed." If you could impose
15 terms, which some people have claimed
16 that the Administration likes to do, what
17 will the cost be?

18 MS. RHYNHART: If we could
19 impose terms on the firefighters?

20 COUNCILMAN GOODE: Yes. What
21 would the cost be?

22 MS. RHYNHART: I can't answer
23 that on the spot.

24 COUNCILMAN GOODE: You have to
25 know.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 MS. RHYNHART: You're saying if
3 we could impose whatever we wanted to?

4 COUNCILMAN GOODE: Yeah.

5 MS. RHYNHART: I don't know the
6 answer to that question.

7 COUNCILMAN GOODE: Then it will
8 be undisputed because we will know what
9 your figure is.

10 MS. RHYNHART: Right. I don't
11 think they would accept it.

12 COUNCILMAN O'NEILL: What if it
13 were the same as the Police but with
14 fewer members? There's something here
15 that only logic and rational thought will
16 bring us.

17 COUNCILMAN GOODE: So you won't
18 give us that number?

19 MS. RHYNHART: No. If you want
20 a number of something --

21 COUNCILMAN GOODE: I want to
22 know what you'd be willing to give.

23 MS. RHYNHART: Okay. It was
24 probably rejected years and years ago.

25 COUNCILMAN GOODE: What's the

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 number?

3 MS. RHYNHART: I don't have the
4 number right here, no, I don't have it.

5 COUNCILMAN GOODE: Second
6 question related to that is, if you
7 believe that this bill is legally
8 invalid, how could it have financial
9 consequences? You can't have it both
10 ways.

11 MS. RHYNHART: I, as the Budget
12 Director --

13 COUNCILMAN GOODE: Is the bill
14 legally valid or not?

15 MS. RHYNHART: The way it's
16 currently written, the Law Department has
17 said no. It's not enforceable.

18 COUNCILMAN GOODE: Then it has
19 no financial consequences, then.

20 MS. RHYNHART: It's not
21 enforceable.

22 COUNCILMAN GOODE: Then it has
23 no financial consequences. So what was
24 the point of going through this whole
25 testimony about having financial

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 consequences, not telling us what your
3 amount actually is in terms of -- that's
4 not disputed, and then saying, Well, this
5 bill is irrelevant anyway?

6 MS. RHYNHART: There might be
7 complications, though, that are made by
8 passing the bill. For example, even
9 though the Administration has the power
10 to not spend that money, it would still
11 be in our Five Year Plan, which would
12 still cause a deficit even though we have
13 the right to not spend it. It would
14 still have to be in the budget.

15 We can continue this. It gets
16 into a lot of technicalities, but that's
17 why I wanted to put the financial issues
18 as well as the legal ones.

19 COUNCILMAN GOODE: Councilwoman
20 Sanchez.

21 COUNCILWOMAN SANCHEZ: I know
22 we're going to keep going around in
23 circles, and having sat at this
24 Appropriations Committee now for six
25 years, just today you're asking us for a

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 transfer of 14.6 for Police Department,
3 7.2 for the Fire Department in overtime,
4 11.5 million in Prisons, and some of us
5 will argue that the budget is
6 deliberately set up to understaff and to
7 reappropriate and do these transfers. We
8 see these transfers today. We'll see
9 them all throughout May. And the fact of
10 the matter, that we can move \$44 million
11 today and make people whole and we can't
12 figure out how we set aside \$40, \$50, \$66
13 million for something that we owe, for me
14 that's the frustrating part. I think
15 what you see is Council frustrated,
16 because we do this every day. You have a
17 budget before us today that we are -- in
18 this budget process where we can all
19 easily pick out \$100 million of stuff
20 that wasn't there before, that could
21 easily be removed and moved, and you do
22 that every time through your executive
23 power. And I think what Council is
24 saying is, if it's right, just do it so
25 that we can move on. I think this

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 particular issue for all of the labor
3 unions is extremely demoralizing and
4 frustrating for all of us, because this
5 is not a financial matter. This is a
6 philosophical one. This is about power,
7 a power of a furlough day that we all
8 agree has no financial impact or bearing.
9 It is the authority to impose. And you
10 can impose. You can impose layoffs now.
11 You don't do them, because they're just
12 not possible because you don't budget for
13 them. You budget for this, what we see
14 in front of us today and what we see
15 every May when we come to the end of the
16 fiscal year, to move the money around,
17 force overtime, and create the type of
18 frustration in our workforce that you see
19 every single day.

20 This is what I've seen for six
21 years in this Appropriations Committee
22 time and time again, all of our
23 departments being forced to do massive
24 overtime because we won't plan out what
25 the departments need. And that's the

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 frustration that you're hearing from
3 Council, because we could do better.

4 MS. RHYNHART: Okay. I
5 would -- I appreciate your sentiment. I
6 think, though, that some of the things --
7 we want the departments to hire more, and
8 there have just been delays for various
9 reasons. So it's not -- I hear your
10 frustration with it, but the Prisons with
11 the inmate census being so much higher
12 than anticipated, so much higher than a
13 year ago, two years led to an \$11 million
14 cost overrun. The Fire Department is
15 trying to hire their classes and get 320
16 new firefighters this year, but that's
17 been delayed several months, which is
18 causing overtime to rise.

19 So I know -- I could see from
20 your perspective why you would say that.
21 From my perspective, it's a \$3.6 billion
22 budget and there are certain, especially
23 on the public safety side, there's costs
24 that are sometimes unavoidable.

25 COUNCILWOMAN SANCHEZ: It's 26

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 percent of our budget. Every year we go
3 through this. We talk about hiring, we
4 talk about the fact that we have a
5 pipeline of folks on DROP, and it's just
6 frustrating, because it's the same thing.
7 It's hiring, hiring, hiring, hiring, as
8 if we've just started hiring. We've
9 known since your first year here in 2008
10 we've needed to staff up in some of
11 these. The Fire Department -- I've not
12 heard anything different in six years as
13 it relates to all of these departments.
14 This is exactly -- in fact, we could
15 probably pull out this testimony every
16 single May and we'll hear the same thing.

17 MS. RHYNHART: Well, the
18 Prisons actually did do better for many
19 years when their census was down, and
20 hopefully next year Fire with the new
21 classes will get their overtime down,
22 but...

23 COUNCILWOMAN SANCHEZ: It was
24 last year's testimony.

25 COUNCILMAN GOODE: Thank you,

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 Ms. Rhynhart. Please stick around.

3 The next panel, Bill Gault,

4 Rick Poulson, John Fritz.

5 (Witnesses approached witness

6 table.)

7 COUNCILMAN GOODE: Good

8 afternoon, gentlemen.

9 MR. GAULT: Good afternoon,

10 Councilman Goode.

11 COUNCILMAN GOODE: Please state

12 your name for the record and proceed with

13 your testimony.

14 MR. GAULT: Good afternoon,

15 Mr. Chairman and members of the

16 Committee. My name is William Gault.

17 I'm a Fire Lieutenant and proud 29-year

18 member of the Philadelphia Fire

19 Department. I'm also honored to serve as

20 President of the International

21 Association of Firefighters, Local 22,

22 the union that represents over 4,000

23 active and retired firefighters and

24 paramedics who serve the citizens of

25 Philadelphia. On behalf of those brave

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 men and women and their families, please
3 allow me to thank you for your continued
4 support.

5 I appear before this Committee
6 today to support Bill No. 130185, which
7 would authorize and direct the use of
8 General Fund surplus money to cover 66
9 million in undisputed costs related to
10 the 2009 to '13 firefighter contract
11 award. This commonsense action would
12 simply require the City to pay what
13 everyone agrees is owed to the City's
14 firefighters and paramedics. And since
15 interest is accruing on money owed,
16 transferring the money now would actually
17 save the City money.

18 I think everybody knows the
19 history by now, but let me remind the
20 Committee that the Act 111 award we are
21 talking about today has an effective date
22 of July 1, 2009. It was a four-year
23 award. In fact, it will expire in just a
24 few months, on June 30th. The award
25 contained a mix of improvements and

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 concessions. Both sides got something.
3 It was a fair award. Yet here we sit
4 three years and ten months into a
5 four-year term and the Nutter
6 Administration still has not implemented
7 the award or set aside even a penny to
8 pay its costs. And that's a disgrace.

9 As for this Administration's
10 continued attack on our rights, the Mayor
11 continues to drag out his appeal of our
12 award. The appeal now sits in the
13 Commonwealth Court. Frankly, I have no
14 idea when the litigation will end. We
15 have won our award now twice in
16 arbitration and once in court, and we
17 expect to continue to win in court. That
18 means that the 66 million, or however
19 much the award costs, will have to be
20 paid by the City eventually, and for
21 every day that goes by without
22 implementation, the number will only get
23 bigger. So regardless of which side of
24 the issue you're on, labor or management,
25 I think we can all agree that it makes

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 fiscal sense to pay the undisputed award
3 costs now.

4 Of course, aside from the
5 dollars and cents, there are other costs
6 associated with the Mayor's continued
7 refusal to comply with our award. How
8 can you put a price on the damage done to
9 the dignity of the brave men and women
10 who have continued to risk and lose their
11 lives over the last four years while this
12 Mayor has constantly slapped them in the
13 face? What does it cost our city when we
14 allow one man to disrespect heroes, who
15 haven't had a raise since January of
16 2009, and get away with it? I truly
17 believe that Mayor Nutter's shabby
18 treatment of our firefighters and medics
19 has extracted a cost from all of us,
20 every single Philadelphian. We are all
21 diminished, every citizen, when we allow
22 such injustice to exist.

23 But by taking the action that
24 we request today, by voting in favor of
25 the proposed transfer ordinance, this

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 Committee can take an important first
3 step in restoring our city's dignity and
4 beginning to heal the significant wounds
5 within our Fire Department.

6 City Council has shown
7 tremendous leadership throughout our
8 fights for the dignity and justice for
9 our firefighters and paramedics, and we
10 thank you from the bottom of my heart for
11 your steadfast support and ask that you
12 show your leadership again today by
13 approving the proposed commonsense
14 transfer of funds owed to our city's
15 heroes.

16 Thank you for your time and
17 consideration and for your continued
18 support on the issues of importance to
19 firefighters and paramedics.

20 COUNCILMAN GOODE: Thank you
21 for your testimony, Mr. Gault.

22 Let me note for the record that
23 the Controller was here, but that Harvey
24 Rice is still here if he wants to present
25 the Controller's testimony, but we will

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 take Mr. Fritz first. We can submit the
3 Controller's testimony for the record as
4 well.

5 Mr. Fritz.

6 MR. FRITZ: Thank you,
7 Councilman Goode, members of City
8 Council. We hoped that Diane Neary would
9 be with us today, but I believe she's out
10 and about trying to do some good things
11 for our firefighters, their wives and the
12 needs that they have.

13 Bill Gault, firefighters,
14 ladies and gentlemen, I understand that
15 Sam Katz and our City Controller tell us
16 that money is available for the
17 firefighters' pay raise. Not talking 65
18 million; I'm talking about the 200
19 million, the total amount of money, that
20 the money is available for the
21 firefighters' pay raise. The Mayor and
22 his CFO say differently. I don't know
23 about you, but I have more confidence in
24 Sam Katz than the Mayor and his lackey.

25 I guess I shouldn't say that.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 We are here today to support
3 Congressman (sic) David Oh's Resolution
4 130172 that will allow for \$65 million
5 towards the firefighters' pay raise.
6 Thank you, Councilman Oh, for bringing
7 that to the fore.

8 Coupled with money that is
9 available from the General Funds and
10 contingency funds, rainy day funds, call
11 it what you may, we should finally be
12 able to pay for our first responders.
13 Let's just do it. Let's just do it,
14 folks.

15 I had asked a former
16 Councilman -- and you've been my friends
17 on Council, and I love you all. But I
18 asked a former Councilman if he and other
19 Councilpeople would give up their Council
20 job to be a City firefighter. A
21 resounding "no" would probably be heard.
22 The Councilman continued, why would they
23 want to take an \$80,000 pay cut to risk
24 their lives. And, again, no disrespect.

25 I believe that's all I have to

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 offer. Thank you so much, Council, for
3 hearing me today.

4 COUNCILMAN GOODE: Thank you,
5 Mr. Fritz.

6 Mr. Rice, are you going to
7 offer testimony?

8 MR. RICE: Thank you. The City
9 Controller was here a littler earlier.
10 He had another appointment that he had to
11 leave for. Thank you for allowing me the
12 opportunity to testify on his behalf
13 regarding Council Bill 130185, which is
14 the ordinance for the transfer of 66
15 million from the City's positive fund
16 balance to the personnel services class
17 within the Fire Department.

18 As you know, when the
19 Controller issued his opinion on the 2013
20 to 2017 Five Year Plan last August, he
21 urged the Pennsylvania Intergovernmental
22 Cooperation Authority to reject the
23 City's budget plan.

24 At that time, he stated that it
25 was unrealistic for management to assume

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 it will prevail in its current appeal of
3 the arbitrated IAFF award, especially
4 after the same arbitration panel denied
5 the City's previous appeal. The cost of
6 the City to implement the award at that
7 time would have been \$66 million.

8 Then in December 2012, after
9 Judge Fox denied the City's appeal, as
10 the Controller said he thought she would,
11 for a second time, he stated before City
12 Council that if the City implemented the
13 contract, it was now going to cost 84
14 million for the current fiscal year.
15 This increase was due to the cost of the
16 retroactive and current-year payments.
17 However, the City appealed the award
18 again.

19 If the City is not successful,
20 not only will it delay its
21 implementation, but it will increase the
22 first year's cost to the City even higher
23 because of the retroactive payment to the
24 firefighters.

25 This risk, if the City loses

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 again on appeal, will cost 203 million
3 over the five years of the Plan. That
4 was to 2017. That's not until 2018,
5 which was not forecasted in the Plan the
6 City submitted. By continuing to delay
7 the inevitable, the cost of the first
8 year's implementation will only increase.

9 Also, in our opinion, on the
10 City's Five Year Plan, the Controller
11 questioned the City assuming more than
12 \$90 million in forecasted expenditures
13 for debt service over the life of the
14 Plan that historically may never
15 materialize. In our review of the City's
16 debt service, we noted that the City
17 included interest and principal payments
18 on debt that has not been authorized or
19 issued, which most would occur in Fiscal
20 Years 2015, '16, and '17.

21 In addition to the debt service
22 cost assumptions, there are various
23 opportunities for the City to capture the
24 funds to pay this award. In a report
25 issued by the Controller in June of 2012

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 called The Analysis of Collectability of
3 Ambulance Fees, we identified 50 million
4 in billed services that were not
5 collected in both Fiscal Years 2010 and
6 2011. In a separate analysis conducted
7 by the Controller's Office, we discovered
8 that non-emergency calls were costing the
9 City between \$21 million and \$32 million
10 a year. This was based on a 50 to 80
11 percent of response calls being
12 classified as non-emergency, as stated by
13 the Fire Commissioner.

14 The Controller's Office has
15 also identified other possible revenue
16 streams and collections to pay for this
17 award. This includes aggressively
18 collecting the following: a variety of
19 delinquent taxes, past due water bills,
20 police services that are provided to
21 private entities for events, trash and
22 dumpster fines, false alarm violations,
23 fees for various licenses, and many other
24 revenue opportunities that the City is
25 currently not realizing.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 It is unfair and disconcerting
3 that Philadelphia firefighters have been
4 without a contract since 2009, especially
5 when these men and women put their lives
6 on the line every day to ensure that
7 citizens and visitors are protected.

8 It is not only prudent for the
9 City to pay this award now due to the
10 risk to the City budget in subsequent
11 years, but it is both fair and just to
12 the firefighters in this city.

13 Thank you.

14 COUNCILMAN GOODE: Thank you,
15 Mr. Rice. I read the testimony before I
16 came here this afternoon, so I have to
17 ask this question for the record. Does
18 the Controller actually have an opinion
19 on this particular bill?

20 MR. RICE: Yes. He does
21 support this bill coming out of Council.

22 COUNCILMAN GOODE: Thank you.
23 Questions?

24 COUNCILMAN GREEN: Thank you,
25 Mr. Chairman.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 COUNCILMAN GOODE: Councilman
3 Green.

4 COUNCILMAN GREEN: I want to
5 fight the premise that there's all this
6 lost money somehow that we're going to be
7 able to collect and be able to pay for
8 this, pay for 60 million for the schools,
9 we just have to do a better job of tax
10 collection. That is certainly a true
11 statement. If we can bring our
12 delinquency up from 91 to 96, we can
13 capture 50, 60, 70 million a year. That
14 would pay for this one thing. It doesn't
15 pay for the schools.

16 You've cited a number of things
17 here. Hey, we can collect 50 million
18 from 2010 and 2011. That's what we
19 didn't collect. The question is, what
20 was even billed. So what is collectable
21 by the City?

22 MR. RICE: Well, in the Fiscal
23 '11, there was \$179 million that was
24 billed. The City wrote off 97 as
25 uncollected, and then of the collectable

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 that the City determined was collectable,
3 they collected 34 million of that, which
4 left about 50 million that went
5 uncollected that they did not write off.

6 COUNCILMAN GREEN: Okay. But
7 what's really collectable? I mean, it's
8 not cash, because if we don't collect
9 that, we raise people's taxes, and it's
10 not -- and for good things, that's
11 occasionally what we have to do, but
12 there's not a pot of money out there
13 that's \$50 million that is available to
14 us for this purpose. So I just -- I
15 can't allow that to stand.

16 Other revenue streams -- all of
17 the sort of past collections, delinquent
18 taxes, all of that stuff, let's just say
19 we were able to collect, I don't know, 20
20 percent of the \$500 million or \$100
21 million. That would be in one year.
22 That wouldn't be for all of the years of
23 the Five Year Plan plus going on, or it
24 could be over the course of the Five Year
25 Plan. It is not one-time revenue we need

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.
2 from better collection of delinquent
3 debts. We have to have a consistent
4 revenue stream to pay for anything we
5 want to pay for, whether it's awards,
6 whether it's the School District,
7 whatever it is. And other than tinkering
8 with, which we've already raised twice in
9 the five years I've been here, alarm fees
10 and other things, there's no suggestion
11 here as to how we have a recurring stream
12 of revenue to pay for the things that you
13 are saying are possible to be paid for.

14 MR. RICE: I disagree,
15 Councilman. I believe that when we did
16 audits of EMS services, that even if you
17 don't collect the 50 million that is
18 collectable and you collect 20 million of
19 that -- and that's every year, that's not
20 a one-shot deal -- and then you cut down
21 the non-emergency calls and you can save
22 money there, I think just in those two
23 areas, which are within the department
24 that -- the Fire Department, I think that
25 could pay for the award.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 COUNCILMAN GOODE: Mr. Rice,
3 that's why I asked what the Controller's
4 opinion was on this particular bill,
5 because this particular bill relates to
6 the fund balance. And so if the
7 Controller had not included all of that
8 within his testimony, then we wouldn't be
9 having this discussion, but I'd rather
10 keep this discussion focused on this
11 particular bill, which focuses on the
12 fund balance.

13 COUNCILMAN GREEN: So my
14 question relates to how unrealistic the
15 assumptions by a Controller, who fails to
16 perform an audit of the Controller's
17 Office every single year, who has far
18 fewer auditors in his office than
19 historically the office has ever had, and
20 who issues reports that don't provide
21 recurring revenue streams but create
22 unrealistic expectations about the public
23 about pots of honey and gold that are out
24 there for us if we can just do a better
25 job of being more efficient. And I fully

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 appreciate the Chairman's wish to move
3 on, and thank you.

4 COUNCILMAN GOODE: Thank you.

5 Any other questions for this
6 panel?

7 (No response.)

8 COUNCILMAN GOODE: Mr. Gault.

9 MR. GAULT: I'd also like to
10 state that we went through two
11 arbitrations. We did 26,000 pages of
12 testimony. We used the head of Temple's
13 microeconomics and macroeconomics people.

14 COUNCILMAN GREEN: Mr. Gault,
15 I'm not opposed to the bill. I'm opposed
16 to the unrealistic revenue streams
17 contained in the Controller's testimony.

18 MR. GAULT: Thank you, sir.
19 Sorry. But the money -- currently they
20 bring in 35 mill on the ambulances.

21 COUNCILMAN GREEN: I
22 understand.

23 COUNCILMAN GOODE: Thank you.

24 Any other questions for these
25 witnesses?

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 (No response.)

3 COUNCILMAN GOODE: Any

4 questions for any of the members of the
5 Administration on any of the other bills?

6 (No response.)

7 COUNCILMAN GOODE: I have one
8 question for the First Judicial District,
9 if they're present. Please come forward.

10 MR. GAULT: Thank you very
11 much, Council.

12 COUNCILMAN GOODE: Thank you.

13 (Witness approached witness
14 table.)

15 MR. CROSS: Good afternoon,
16 members. I'm Kevin Cross, Deputy Court
17 Administrator.

18 COUNCILMAN GOODE: Thank you,
19 Mr. Cross. You heard the Budget
20 Director's testimony and her answers to
21 the questions about whether they would
22 favorably respond to your request for
23 \$450,000 for probation officers.

24 MR. CROSS: Did I hear the
25 question?

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 COUNCILMAN GOODE: Did you hear
3 her response?

4 MR. CROSS: Yes, I did hear her
5 response.

6 COUNCILMAN GOODE: So where
7 does that leave you?

8 MR. CROSS: It leaves us in a
9 position where we cannot fund it within
10 our internal budget as it stands right
11 now, Councilmember.

12 COUNCILMAN GOODE: So this bill
13 is for \$5.45 million?

14 MR. CROSS: That's correct.

15 COUNCILMAN GOODE: And none of
16 that money can be used to fund pay
17 increases for probation officers?

18 MR. CROSS: It's to get us
19 through this fiscal year. It's not for
20 any additional costs.

21 COUNCILMAN GOODE: Did you know
22 what the revenue-sharing amount would be?

23 MR. CROSS: We don't know what
24 the revenue-sharing amounts are until we
25 get through the fiscal year and we can

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 determine how much can be allocated.

3 COUNCILMAN GOODE: So you did
4 not anticipate using any of that money
5 for probation officers?

6 MR. CROSS: We asked for it in
7 our FY13 budget and we've asked for it in
8 our FY14 budget, and the Administration
9 has said no twice.

10 COUNCILMAN GOODE: If you asked
11 for it in your Fiscal Year '13 budget,
12 why did you not anticipate using some of
13 the revenue-sharing amount for that
14 purpose?

15 MR. CROSS: We've had a dispute
16 with the Administration about who should
17 fund this. We feel it's something that
18 the Administration should fund.

19 COUNCILMAN GOODE: Okay. Well,
20 we're going to leave it in your court to
21 resolve.

22 MR. CROSS: Okay.

23 COUNCILMAN GOODE: Or the money
24 will stay with the Administration.

25 Thank you.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 MR. CROSS: Thank you.

3 COUNCILMAN GOODE: Is there no
4 one else to testify?

5 (No response.)

6 COUNCILMAN GOODE: Seeing none,
7 we will move from our public hearing into
8 a public meeting.

9 We will deal with these bills
10 separately for several reasons. None of
11 them will receive a suspension of the
12 rules, because we're not trying to
13 fast-track any of them. Some of them
14 will receive a favorable recommendation,
15 some of them will receive no
16 recommendation, and some of them may
17 never receive a full vote in Council,
18 period.

19 The Chair recognizes Councilman
20 Jones for a motion on Bill 130245.

21 COUNCILMAN JONES: Thank you,
22 Mr. Chairman. I make a motion on Bill
23 No. 130245 with no recommendation.

24 (Duly seconded.)

25 COUNCILMAN GOODE: All in

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 favor?

3 (Aye.)

4 COUNCILMAN GOODE: Those

5 opposed?

6 (No response.)

7 COUNCILMAN GOODE: Bill No.

8 130245 is reported out of this Committee

9 with no recommendation.

10 The Chair recognizes Councilman

11 Jones for a motion on Bill 130246.

12 COUNCILMAN JONES: Thank you,

13 Mr. Chairman. I make a motion on Bill

14 130246 with no recommendation.

15 (Duly seconded.)

16 COUNCILMAN GOODE: All in

17 favor?

18 (Aye.)

19 COUNCILMAN GOODE: Those

20 opposed?

21 (No response.)

22 COUNCILMAN GOODE: Bill No.

23 130246 is reported out of this Committee

24 with no recommendation.

25 The Chair recognizes Councilman

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 Jones for a motion on Bill 130248.

3 COUNCILMAN JONES: Thank you,
4 Mr. Chairman. I make a motion to report
5 out of Committee Bill No. 130248 with no
6 recommendation.

7 (Duly seconded.)

8 COUNCILMAN GOODE: All in
9 favor?

10 (Aye.)

11 COUNCILMAN GOODE: Those
12 opposed?

13 (No response.)

14 COUNCILMAN GOODE: Bill No.
15 130248 is reported out of this Committee
16 with no recommendation.

17 The Chair now recognizes
18 Councilman Jones for a motion on Bill No.
19 130244.

20 COUNCILMAN JONES: Thank you,
21 Mr. Chairman. I make a motion to report
22 out of Committee with a favorable
23 recommendation 130244.

24 (Duly seconded.)

25 COUNCILMAN GOODE: All in

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 favor?

3 (Aye.)

4 COUNCILMAN GOODE: Those

5 opposed?

6 (No response.)

7 COUNCILMAN GOODE: Bill No.

8 130244 is reported out of this Committee

9 with a favorable recommendation.

10 The Chair recognizes Councilman

11 Jones for a motion on Bill 130247.

12 COUNCILMAN JONES: Thank you

13 again, Mr. Chairman. I make a motion to

14 move Bill No. 130247 with a favorable

15 recommendation.

16 (Duly seconded.)

17 COUNCILMAN GOODE: All in

18 favor?

19 (Aye.)

20 COUNCILMAN GOODE: Those

21 opposed?

22 (No response.)

23 COUNCILMAN GOODE: Bill No.

24 130247 is moved out of this Committee

25 with a favorable recommendation.

1 5/2/13 - APPROPRIATIONS - BILL 130185, etc.

2 The Chair recognizes Councilman
3 Jones for a motion on Bill No. 130185.

4 COUNCILMAN JONES: Thank you,
5 Mr. Chair. I make a recommendation, a
6 motion, to move Bill No. 130185 with a
7 favorable recommendation out of this
8 Committee.

9 (Duly seconded.)

10 COUNCILMAN GOODE: All in
11 favor?

12 (Aye.)

13 COUNCILMAN GOODE: Those
14 opposed?

15 (No response.)

16 COUNCILMAN GOODE: Bill No.
17 130158 is reported out of this Committee
18 with a favorable recommendation.

19 This concludes our business.

20 Thank you very much.

21 (Committee on Appropriations
22 concluded at 3:50 p.m.)

23 - - -

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter, and that this is a true and
correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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A				
ability 63:9	98:24	85:4 92:15	appealed 28:4	46:1 47:1 48:1
able 31:16 56:19	Administration's	allowed 65:25	34:5 59:17	49:1 50:1 51:1
56:19 66:7,8	36:3 49:9,13	allowing 86:11	68:19 69:17	52:1,25 53:1
85:12 91:7,7	64:20 69:2 81:9	Ambulance 89:3	87:17	54:1 55:1 56:1
92:19	administrative	ambulances	appealing 33:19	57:1 58:1 59:1
accept 72:11	42:18	95:20	33:23 53:10	60:1 61:1 62:1
accounting 35:24	Administrator	amount 6:2,5,9	67:11,12	63:1 64:1 65:1
accruing 80:15	96:17	7:23 8:7,18 9:5	appeals 30:6 54:8	66:1 67:1 68:1
accurately 104:5	afford 13:16 51:9	9:9,14 15:25	appear 5:14,21	69:1 70:1 71:1
accused 43:2	54:10,11 67:13	17:4,7 27:11	80:5	72:1 73:1 74:1
achieve 57:25	affordability	31:12 34:14	apples 47:10,11	74:24 75:1 76:1
achieving 67:23	50:25 53:11	44:17 52:20	apply 104:20	76:21 77:1 78:1
Act 27:24 80:20	54:9 57:3 67:12	65:25 68:8,19	appointed 22:9	79:1 80:1 81:1
action 80:11	affordable 8:12	69:7,9,11,19	appointment	82:1 83:1 84:1
82:23	28:8 60:14	70:8,18 74:3	86:10	85:1 86:1 87:1
active 79:23	afternoon 2:3 5:4	84:19 97:22	appreciate 9:23	88:1 89:1 90:1
actively 15:2	5:5,9 19:7 27:3	98:13	30:15 70:17	91:1 92:1 93:1
actual 16:10 39:9	29:16,17 46:16	amounts 14:18	77:5 95:2	94:1 95:1 96:1
add 53:6 63:4	46:17 79:8,9,14	16:4,6 97:24	approach 38:20	97:1 98:1 99:1
adding 15:4,13,18	90:16 96:15	analysis 61:3 89:2	68:5	100:1 101:1
addition 28:15,25	agencies 8:2,5	89:6	approached 4:25	102:1 103:1,21
32:17 50:11	aggressively	and/or 104:22	18:24 79:5	approving 83:13
88:21	89:17	announced 10:21	96:13	Approximately
additional 7:20	ago 52:4 62:5,11	answer 9:25 14:3	appropriate 29:5	32:6
7:22 8:7 17:5,17	72:24 77:13	24:4 29:10	49:10 51:5	arbitrarily 35:19
19:16 27:21	agree 13:19,20,24	31:16,18 36:22	52:19,20	35:22
28:6 97:20	14:6 40:11,13	46:3 54:12	appropriation	arbitrated 87:3
Additionally 10:2	51:25 58:5 76:8	68:15 71:22	2:20 5:11,25	arbitration 6:17
address 57:6	81:25	72:6	8:15 9:2,8,12	28:3,11 29:20
adds 17:16	agreed 14:3,9	answers 59:24	27:10	30:19 33:4,17
adjust 51:8	35:25 40:2,9	96:20	appropriations	33:19 36:5,14
adjustment 53:16	64:9	anticipate 36:17	1:3 2:5,24 3:1	36:17 48:10,21
administers 43:23	agreement 35:19	98:4,12	3:17,25 4:1,7,11	49:15 50:2,14
Administration	48:22	anticipated 35:15	5:1 6:1 7:1,22	51:10 53:3
10:25 13:15	agreements 9:16	77:12	8:1,7 9:1 10:1	54:10,11,15
25:23 27:13	25:16 34:17	anybody 55:11	11:1 12:1 13:1	57:9,22 58:24
28:8,12 29:8	36:6	56:3	14:1 15:1 16:1	62:12 64:7
30:20 33:3	agrees 80:13	anyway 70:11	17:1 18:1 19:1,8	65:22 68:7,20
35:13,16,23	aid 56:14	74:5	20:1 21:1 22:1	69:15 81:16
36:21 42:17	alarm 89:22 93:9	appeal 28:14	23:1 24:1 25:1	87:4
46:25 48:4 51:6	allocate 17:7	29:23 33:12	26:1 27:1 28:1	arbitrations
53:2 57:8 58:23	allocated 23:18	36:15 50:6 51:2	28:22 29:1 30:1	95:11
59:14 61:6	98:2	51:15 59:12,18	31:1 32:1 33:1	area 8:4
62:15 66:14	allocates 17:19	60:11,13 65:22	34:1 35:1 36:1	areas 93:23
71:16 74:9 81:6	allocation 17:17	68:11,18 81:11	37:1 38:1 39:1	arguably 43:24
96:5 98:8,16,18	allow 39:22 52:14	81:12 87:2,5,9	40:1 41:1 42:1	argue 75:5
	80:3 82:14,21	88:2	43:1 44:1 45:1	arguing 67:18

aside 33:3,15,20 34:16 35:3 36:4 48:18,20,23 49:25 50:5 69:7 70:8 75:12 81:7 82:4 asked 85:15,18 94:3 98:6,7,10 asking 11:6 41:7 43:14 74:25 associated 30:6 82:6 association 7:10 17:22 19:22 22:11 41:21 45:14 79:21 assume 27:21 40:8 56:21 86:25 assuming 88:11 assumptions 51:24 88:22 94:15 attack 81:10 attention 45:7 attorney 43:20 attorneys 20:7 attrition 63:16 64:17 65:11 audit 94:16 Auditing 7:15 auditors 94:18 audits 93:16 August 86:20 authority 70:4,10 76:9 86:22 authorize 27:7 29:5 80:7 authorized 28:20 88:18 authorizing 2:17 2:24 3:17,25 4:7 4:11 available 10:3 35:2 84:16,20 85:9 92:13 avenues 38:23	average 16:9 award 28:3,11,13 29:3,20,23 30:19 33:4,17 33:19,22 34:4 48:10,15 49:11 50:3,6,15,24 51:2,10 53:3,16 53:19 54:15,20 55:8 57:9 59:25 60:2,20,22 62:12 65:23 68:11 69:17 71:7 80:11,20 80:23,24 81:3,7 81:12,15,19 82:2,7 87:3,6,17 88:24 89:17 90:9 93:25 awards 34:13,16 36:5,14,17 50:14 64:7 93:5 Aye 100:3,18 101:10 102:3,19 103:12	79:25 86:12 believe 12:5 14:11 16:18 22:15 30:18 34:4 40:3 40:5 42:19 70:20 73:7 82:17 84:9 85:25 93:15 best 59:3 better 47:14 77:3 78:18 91:9 93:2 94:24 beyond 14:14 29:3 38:15 big 49:20 55:8 bigger 65:16 81:23 bill 1:11 2:5,16,23 3:1,16,24 4:1,6 4:10,19,24 5:1 5:22,24 6:1 7:1 8:1,14,25 9:1,7 9:11 10:1,16,18 11:1,9 12:1 13:1 14:1,15,17 15:1 15:23 16:1 17:1 17:13,14 18:1 19:1,3 20:1 21:1 22:1 23:1 24:1 25:1,4,8,11 26:1 26:12,25 27:1,6 27:14,22 28:1 28:16,24 29:1,8 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1,9 68:1 69:1 70:1 71:1	72:1 73:1,7,13 74:1,5,8 75:1 76:1 77:1 78:1 79:1,3 80:1,6 81:1 82:1 83:1 84:1,13 85:1 86:1,13 87:1 88:1 89:1 90:1 90:19,21 91:1 92:1 93:1 94:1,4 94:5,11 95:1,15 96:1 97:1,12 98:1 99:1,20,22 100:1,7,11,13 100:22 101:1,2 101:5,14,18 102:1,7,11,14 102:23 103:1,3 103:6,16 billed 89:4 91:20 91:24 billion 58:19 77:21 bills 1:15 2:6 4:17 4:21 5:16 9:18 89:19 96:5 99:9 BIRT 47:7 bit 15:20 57:7 63:4 Blackwell 1:10 2:13 board 6:20 boards 3:3,9,22 Bobby 1:11 10:8 body 31:6 36:25 bottom 83:10 box 51:23 brave 79:25 82:9 breaking 15:24 BRIAN 1:13 bring 48:5 56:19 72:16 91:11 95:20 bringing 58:11 85:6 broken 15:21,22 brought 54:21	budget 5:12 20:17 25:4 26:9,11 27:5 34:7,12 35:5 36:16,18 42:13,17 47:4 51:12 52:22 53:6 63:12 66:12 69:19 70:13,14 73:11 74:14 75:5,17 75:18 76:12,13 77:22 78:2 86:23 90:10 96:19 97:10 98:7,8,11 buildings 56:14 burning 56:13 business 43:22 47:8 103:19
C				
				cadets 63:22 65:24 66:2,20 calamity 38:10 65:3,6 calculated 14:19 calculating 30:24 calculation 25:14 30:25 31:2,3,15 39:12 call 85:10 called 2:3 89:2 calls 40:21 89:8 89:11 93:21 capture 88:23 91:13 care 56:23 caring 70:9 case 40:19 42:6 cash 92:8 catastrophe 65:6 categories 28:23 category 35:7 caught 66:3 cause 44:12 74:12 causing 77:18 census 7:6 77:11

78:19 center 8:3 66:5 cents 82:5 certain 3:2,8,21 68:21,22 77:22 certainly 91:10 CERTIFICATE 104:2 certification 104:19 CERTIFY 104:3 certifying 104:23 cetera 51:9 CFO 84:22 Chair 1:10 2:8,11 30:14 39:18 43:12 46:3 52:23 53:18 99:19 100:10,25 101:17 102:10 103:2,5 Chairman 5:10 11:16 27:3 29:15 38:17 41:18 46:2,8 54:4 62:23 63:3 67:3 79:15 90:25 99:22 100:13 101:4,21 102:13 Chairman's 95:2 challenging 64:18 Chambers 62:10 change 24:14 58:12 61:20 changes 35:21 37:15 61:2,4 characterize 58:22 Charter 28:21,23 check 51:22 Chief 19:5,9 choose 15:2 choosing 35:17 circles 74:23 cited 59:13 91:16 citizen 82:21	citizens 64:3 79:24 90:7 city 1:2,6 3:2,9,12 3:21 5:13 7:19 27:4,20,24 28:4 36:7 38:11 46:23,24 51:16 51:17 53:23 56:17,21 59:13 65:7 80:12,17 81:20 82:13 83:6 84:7,15 85:20 86:8 87:6 87:11,12,17,19 87:22,25 88:6 88:11,16,23 89:9,24 90:9,10 90:12 91:21,24 92:2 city's 27:5 80:13 83:3,14 86:15 86:23 87:5,9 88:10,15 CJAB 44:13 claimed 71:15 clarification 5:15 50:7 class 6:25 63:20 86:16 classes 6:23 63:21 77:15 78:21 classified 89:12 clear 24:11 59:15 59:16 60:12 client 43:24 45:7 clients 17:21 44:8 45:5,22 collect 91:7,17,19 92:8,19 93:17 93:18 Collectability 89:2 collectable 91:20 91:25 92:2,7 93:18 collected 89:5 92:3	collecting 35:9 89:18 collection 91:10 93:2 collections 89:16 92:17 collective 35:18 collectively 64:9 combination 34:8 combined 15:8,15 15:15 37:21 come 18:22 52:24 69:16 76:15 96:9 comes 41:23 49:11 comfortable 31:3 coming 6:20 7:24 8:8 43:9 45:13 46:22 90:21 Commerce 3:11 Commission 3:13 Commissioner 89:13 commissions 3:3 3:10,23 committee 1:3 2:5 2:8,12 5:11 9:18 9:24 10:13 19:9 20:23 22:24 26:19 29:12 44:16 74:24 76:21 79:16 80:5,20 83:2 100:8,23 101:5 101:15,22 102:8 102:24 103:8,17 103:21 commonsense 80:11 83:13 Commonwealth 28:4 81:13 community 3:4,5 3:12,15 6:6 7:17 8:11 36:6 compared 46:23 58:19	compensation 10:21 11:2,17 12:22 14:5 37:11 complications 74:7 comply 82:7 concern 55:8 concerned 42:25 concerns 28:17 39:2 concessions 81:2 concluded 103:22 concludes 29:9 103:19 conducted 89:6 confidence 84:23 conflict 9:6 17:20 18:15 19:17 20:2,6,24 21:10 22:4 41:19 42:2 conflicted 20:20 20:21 confused 63:7,7 66:13 confusing 59:11 64:5 confusion 59:23 congratulate 67:23 Congressman 85:3 conjunction 47:25 consequence 59:23 consequences 73:9,19,23 74:2 consideration 83:17 consistent 37:7 38:4,21 93:3 consistently 62:20 constantly 82:12 contain 34:18 37:12 contained 17:14	80:25 95:17 104:5 context 58:13 60:3 contingency 85:10 continuances 44:2 continue 32:19 35:10 36:15 74:15 81:17 continued 80:3 81:10 82:6,10 83:17 85:22 continues 81:11 continuing 65:22 66:11 88:6 contract 2:22 4:20 19:21 27:12 30:7 40:4 40:8,21 43:4 44:13 45:20 67:21 80:10 87:13 90:4 contracts 24:20 35:22 39:22 64:8 69:13 control 104:22 Controller 83:23 84:15 86:9,19 87:10 88:10,25 90:18 94:7,15 Controller's 83:25 84:3 89:7 89:14 94:3,16 95:17 Convention 8:3 conversation 47:16 conversations 64:10 66:4 Cooperation 86:22 correct 14:12,21 17:10 24:21,25 39:24 40:6 42:6 42:11 48:13
---	---	--	---	--

50:15 55:14 71:5 97:14 104:8 correctional 44:11 cost 6:15 15:16 24:12,17,20 29:19,23 30:19 31:4 39:12 51:3 54:20,23 55:3 56:20,20,22 57:2,23 58:6 60:23 67:6 71:7 71:17,21 77:14 82:13,19 87:5 87:13,15,22 88:2,7,22 costing 89:8 costs 6:19 7:5,13 19:21 27:21 28:6 32:18,19 32:24 54:16 55:7 56:12 60:18,21 77:23 80:9 81:8,19 82:3,5 97:20 Council 1:2 9:20 9:22 10:17 12:17 26:9,10 27:4 28:20 31:2 39:13 53:23 69:4 70:14,19 75:15,23 77:3 83:6 84:8 85:17 85:19 86:2,13 87:12 90:21 96:11 99:17 Councilman 1:10 1:11,11,12,12 1:13 2:2,10 4:24 5:3,6,18 10:5,8 10:10,15 11:6 11:13,19 12:3,7 12:15 13:3,7,10 13:18,23 14:7 14:13,20,24 15:9,12,17	16:12,16,20,24 17:11,16,25 18:5,17,21 19:2 19:7,24 20:8,11 21:3,11,16,23 22:6,12,17,25 23:13,22 24:3 24:19,22 25:2 25:10,18 26:2,8 26:16,21,24 28:18 29:11,13 29:14,18,25 30:4,13,17 31:5 31:19,25 32:5 32:25 33:13 35:4 36:24 38:16 39:17,19 39:20,25 40:7 40:12,15,18 41:4,9,15,15,16 41:17 42:5,8,22 43:17 44:15 45:18,25 46:7,9 46:10,13,13,15 46:18 47:18 48:9,16,19 49:4 49:7,19 50:8,11 50:16,20 51:4 51:20 52:8,12 53:12,22,25,25 54:3 55:9,16,20 56:7,7,8,9 57:5 58:9,17 59:6,10 60:5,9 61:5,18 62:4,9,22,24,24 63:2,5 65:5,21 66:24,24 67:2,4 67:7 68:2,12,17 69:10 70:2 71:10,11,20,24 72:4,7,12,17,21 72:25 73:5,13 73:18,22 74:19 78:25 79:7,10 79:11 83:20 84:7 85:6,16,18 85:22 86:4	90:14,22,24 91:2,2,4 92:6 93:15 94:2,13 95:4,8,14,21,23 96:3,7,12,18 97:2,6,12,15,21 98:3,10,19,23 99:3,6,19,21,25 100:4,7,10,12 100:16,19,22,25 101:3,8,11,14 101:18,20,25 102:4,7,10,12 102:17,20,23 103:2,4,10,13 103:16 Councilmember 97:11 Councilpeople 85:19 Councilwoman 1:10,13 2:13,14 74:19,21 77:25 78:23 Council's 29:4 counsel 9:6 17:20 17:21 18:15 19:18 20:2,25 21:10 22:4 41:20,25 42:10 42:21 country 34:2 couple 43:25 46:19 coupled 34:22 85:8 course 47:3 57:15 61:22 82:4 92:24 court 28:5 52:8 52:12,14 81:13 81:16,17 96:16 98:20 courts 22:9 25:17 42:14 cover 80:8 create 76:17	94:21 crises 63:12 crisis 33:25 38:12 61:13 Cross 96:15,16,19 96:24 97:4,8,14 97:18,23 98:6 98:15,22 99:2 current 22:5 24:20 26:13 33:21 36:16 39:21 45:3 87:2 87:14 currently 20:9,12 20:14,25 21:7 21:22 35:6 46:23 47:21 73:16 89:25 95:19 current-year 87:16 Curtis 1:12 2:11 cut 52:10 85:23 93:20 cuts 51:17,17	decided 36:11 decides 43:23 decline 27:19 decrease 32:7 deep 33:24 38:9 38:12 defendants 41:22 41:23 Defender 7:10 17:22 18:12,14 19:21 20:20 22:10 23:10 Defender's 41:21 deficit 74:12 definitely 43:12 46:5 delay 87:20 88:6 delayed 77:17 delaying 65:18,19 delays 77:8 deliberately 75:6 delinquency 91:12 delinquent 89:19 92:17 93:2 deliverables 45:20 demoralizing 76:3 denied 87:4,9 department 2:20 4:9 6:16,18,21 7:7,14,15 16:11 17:8 27:10 28:19 63:23 65:9,13,25 66:3 66:9,10,21,21 69:25 73:16 75:2,3 77:14 78:11 79:19 83:5 86:17 93:23,24 departments 3:3 3:9,22 8:19 10:3 51:18 52:11,21 76:23,25 77:7 78:13
---	---	---	--	---

depending 16:2 Deputy 19:10 96:16 deserve 12:23 designated 8:2 detail 28:21 detailed 28:17 71:7 determine 98:2 determined 25:15 92:2 development 3:4 3:6,12,15 6:6 7:17 8:11,12 DHS 9:10 Diane 84:8 diem 43:19 difference 39:8 49:21 55:23 different 15:25 16:4,6 23:15 24:2,5,10 38:23 45:2 55:5,6 78:12 differently 84:22 digging 65:16 dignity 82:9 83:3 83:8 diminished 82:21 diminishing 44:4 direct 27:8 80:7 104:22 directing 2:17 Director 3:7,11 3:19 4:3,5,13 5:13 7:9 9:5 18:9,11 19:10 19:13,15,20 27:6 73:12 Director's 19:6 20:16 96:20 disadvantage 63:25 disagree 38:19 59:4 60:16 69:22 93:14 disconcerting	90:2 discovered 89:7 discretion 42:9 discussing 33:8 discussion 94:9 94:10 disgrace 81:8 disheartening 35:13 disparity 31:10 31:12 39:2 dispute 33:5,11 68:24 69:21 98:15 disputed 31:10 74:4 disrespect 82:14 85:24 distributed 8:19 District 4:15 7:2 7:16 9:15 10:17 12:16 25:5 93:6 96:8 Division 19:14,19 dog 42:23 doing 44:14 47:14 47:14 61:15 64:19 67:15 dollars 39:5,9 55:17 68:25 82:5 downturn 39:23 40:20,25 draconian 51:19 drag 81:11 driver 55:3 drop 63:19 64:15 64:17 66:14 78:5 due 6:14,18 7:3 87:15 89:19 90:9 Duly 99:24 100:15 101:7,24 102:16 103:9 dumpster 89:22	E E 19:9 earlier 67:4 86:9 easily 75:19,21 economic 32:20 40:19,25 59:25 61:13 63:10 economy 34:8 67:22 effect 44:12 65:8 effective 80:21 efficiencies 34:9 42:24 efficient 21:8,12 21:17 23:4,8,21 94:25 either 55:24 66:15 elements 37:22 eliminate 52:7 eliminated 52:4,5 employee 15:24 16:3 17:6 39:9 employees 7:16 8:24 10:19,23 11:8 12:12,23 15:3,4,8,16 16:5 16:10,13,14,17 34:18 36:7,13 37:12,18,19 41:2 56:17 employer 39:8 56:4 EMS 93:16 enacted 11:23 ends 49:16,19 enforceable 73:17 73:21 ensure 90:6 entire 50:9 entities 89:21 entity 23:10 equipment 6:19 especially 64:12 77:22 87:3 90:4 estimate 48:11 estimates 47:20 47:23,24	et 51:9 events 89:21 eventually 81:20 everybody 80:18 evidence 104:4 exactly 24:24 45:4 78:14 example 23:11 43:21 52:3 57:10 74:8 excess 49:12 executive 75:22 exempt 8:23 10:19,22 11:8 36:12 exist 82:22 existing 40:21 expect 22:18 38:13 56:18 81:17 expectations 94:22 expenditures 29:5 29:6 32:18 88:12 expensive 60:22 experience 56:16 56:17 expire 80:23 explain 10:16 15:20 18:15 30:18 explanation 31:11 extra 32:13 extracted 82:19 extremely 76:3	fair 12:23 13:16 34:17 35:3 37:12,17 81:3 90:11 falls 65:7 false 89:22 families 80:2 far 2:10 31:9 49:12 67:16 94:17 fast 32:21 faster 47:9 fast-track 99:13 favor 82:24 100:2 100:17 101:9 102:2,18 103:11 favorable 9:19 99:14 101:22 102:9,14,25 103:7,18 favorably 96:22 Federal 48:2 feel 12:10,22 13:16 17:8 98:17 feels 30:20 fees 19:18 30:5 89:3,23 93:9 felt 42:15,20 fewer 72:14 94:18 fight 42:23 91:5 Fighters 2:22 27:12 fighting 68:9 fight 83:8 figure 15:5,7 72:9 75:12 finally 85:11 Finance 3:7,19 4:3,13 7:9 financial 28:16 33:25 37:2 38:10 60:20 61:14 65:3 71:8 73:8,19,23,25 74:17 76:5,8 find 35:12
--	--	---	---	---

fine 56:6	8:15 9:2,8,12	form 45:13	60:19 70:25	getting 11:4 12:19
finer 89:22	20:17 24:12,13	former 7:15 85:15	80:8 86:15 94:6	58:2 62:7 68:3
finish 60:24	24:15 27:8,15	85:18	94:12 97:9,16	give 11:17 12:21
fire 2:20,21 6:18	27:17,20,23	forth 67:5	98:17,18	12:25 13:4 14:4
27:10,11 34:25	32:3,13 34:7	forward 18:22	funded 37:14 58:3	14:8 23:14
54:11,20 60:2	39:23 71:2	34:6,24 35:12	funding 19:16	25:23 26:4
60:13 63:14	76:16 82:2	36:4 43:16	28:9,12 52:9,13	54:12 72:18,22
64:21 65:8,13	87:14 88:19	44:21 96:9	funds 6:9 7:25	85:19
65:24 66:9,20	89:5 91:22	four 82:11	8:10 83:14 85:9	given 8:22 11:24
75:3 77:14	97:19,25 98:11	four-year 80:22	85:10,10 88:24	13:22 30:25
78:11,20 79:17	fiscally 37:15	81:5	furlough 54:24	42:17 61:15
79:18 83:5	fit 14:14	Fox 87:9	55:4,11,14 56:3	Global 47:25
86:17 89:13	five 27:16,17 28:2	fragmented 38:22	63:10,13 64:23	go 20:6 32:11
93:24	28:7,10 33:21	frankly 52:22	76:7	43:11 44:7
firefighter 48:14	34:15 36:18	81:13	furloughed 41:2	47:12 48:6 78:2
55:25 80:10	37:3 38:14 47:3	friends 85:16	furloughs 34:21	goal 57:25
85:20	48:11 49:22	Fritz 79:4 84:2,5	36:23,24 37:2	goes 26:17 29:3
firefighters 4:20	51:12 53:7,18	84:6 86:5	38:5 40:13,16	81:21
6:20,23 29:3,21	55:19 57:15	front 66:5 76:14	40:22 41:11	going 21:24 23:17
30:18 33:6	58:5 60:6 61:22	front-loaded	55:10 56:2	34:24 35:5,8
34:14 36:15	63:11 65:2 69:8	50:23 60:21	59:14,16,20	37:16 44:21,21
48:25 49:3,16	74:11 86:20	front-loading	61:12 62:13	50:2 51:8,23
50:3 54:7 55:7	88:3,10 92:23	67:20	63:6,18,24 64:5	53:15 58:13
56:11,16,23	92:24 93:9	frustrated 75:15	64:9 66:5,8	59:9,21 63:19
57:21 59:10	five-year 50:19	frustrating 75:14	further 9:19	63:21 64:18
60:19 63:22	fixed 32:17,23	76:4 78:6	63:24 65:18	67:17 69:11,12
69:18 71:6,19	FJD 17:23 20:15	frustration 76:18	66:23	70:11 73:24
77:16 79:21,23	25:20,24,25	77:2,10	future 28:10 33:4	74:22,22 86:6
80:14 82:18	26:2	FTI 34:10	33:15,16 34:13	87:13 91:6
83:9,19 84:11	Fleet 6:14	fuel 6:15	36:17 37:16	92:23 98:20
84:13,17,21	focus 64:6 66:6	fulfill 7:19	38:12 49:25	gold 94:23
85:5 87:24 90:3	focused 94:10	full 45:15 63:20	68:6	good 2:2 5:3,5,9
90:12	focuses 94:11	99:17	FY13 98:7	17:4 19:4,7 27:2
firm 23:9,14 24:8	folks 78:5 85:14	fully 64:21 94:25	FY14 98:8	29:16,17 37:5
43:5,20	follow 69:10	104:5		44:23 45:17
firms 43:5	following 6:10	function 20:15	G	46:16,17 79:7,9
first 4:15,18,21	89:18	fund 2:18,19 3:2,4	Gault 79:3,9,14	79:14 84:10
9:14,21 10:15	FOP 63:13 67:23	3:6,8,11,12,14	79:16 83:21	92:10 96:15
15:10,18 25:5	force 76:17	3:19,21 4:3,5,9	84:13 95:8,9,14	Goode 1:10 2:2,7
41:22 51:3	forced 76:23	4:13,15 6:4,6,7	95:18 96:10	5:3,6,10,18 10:5
59:13,17,18	fore 85:7	6:11,16 7:15,18	general 2:18,25	10:15 11:6,13
78:9 83:2 84:2	forecast 47:2	7:22 8:6,17,17	3:8,21 4:5,8,15	11:19 12:3,7,15
85:12 87:22	forecasted 88:5	8:20 9:3,4,6,13	6:4,8,11,13 8:17	13:3,7,10,18,23
88:7 96:8	88:12	19:17 24:18	9:4 19:17 27:8	14:7,13,20,24
first-level 10:23	foregoing 104:7	27:9,9,14,18,22	43:9 80:8 85:9	15:9,12,17
fiscal 2:18,25 3:18	104:19	27:25 31:20	gentlemen 79:8	16:12,16,20,24
4:2,8,12 5:25	Forget 68:6	32:7,8 57:11	84:14	17:11,16,25

18:5,17,21 19:2 19:8,24 20:8,11 21:3,11,16,23 22:6,12,17,25 23:13,22 24:3 24:19,22 25:2 25:10,18 26:2,8 26:16,21,24 27:3 29:11 36:24 39:19,25 40:7,12,15,18 41:4,9,15 46:9 53:25 56:7 62:24 66:24 71:11,20,24 72:4,7,17,21,25 73:5,13,18,22 74:19 78:25 79:7,10,11 83:20 84:7 86:4 90:14,22 91:2 94:2 95:4,8,23 96:3,7,12,18 97:2,6,12,15,21 98:3,10,19,23 99:3,6,25 100:4 100:7,16,19,22 101:8,11,14,25 102:4,7,17,20 102:23 103:10 103:13,16 gotten 12:9 59:16 Grants 3:6,8,18 3:20 4:2,4,12,14 6:7 8:16 9:3,13 great 44:13,16 Green 1:11 4:24 41:16 44:15 46:13,15,18 47:18 48:9,16 48:19 49:4,7,19 50:8,11,16,20 51:4,20 52:8,12 53:12,22 56:8,9 57:5 58:9,17 59:6 60:5,9 61:5 61:18 62:4,9,22	63:5 69:11 90:24 91:3,4 92:6 94:13 95:14,21 group 11:18 12:25 45:14 56:19 grouping 14:23 groups 12:24 22:15,21 45:13 guess 84:25 H half 7:11 8:20 16:5 52:5 Hall 1:6 happen 45:10 66:12 happening 32:20 32:21 69:3 happens 49:8 happy 9:25 29:10 30:10 39:11,13 39:15 62:2,7 hard 70:18 Harvey 83:23 head 95:12 heading 36:21 heal 83:4 health 6:21 55:3,6 55:10,20 56:15 60:18 64:2 healthcare 54:16 54:23 56:12 60:15,17,17 66:17,18 67:19 healthy 67:21 hear 4:17,19 21:15 51:6 62:16,20 63:8 77:9 78:16 96:24 97:2,4 heard 45:4 54:6 70:2 78:12 85:21 96:19 hearing 2:3,4 56:14 68:3 77:2	86:3 99:7 hearings 66:12 heart 83:10 helpful 46:4 Henon 1:11 10:8 29:13,14,18,25 30:4,13,17 31:5 31:19,25 32:5 32:25 33:13 35:4 38:16 39:17 56:8 62:25 63:2 65:5 65:21 67:4,7 Heretofore 42:8 heroes 82:14 83:15 Herron 42:15 Hey 91:17 higher 6:15 7:5 7:24 8:9 9:6 55:25 56:11 77:11,12 87:22 hire 77:7,15 hiring 64:16 66:20 78:3,7,7,7 78:7,8 historically 88:14 94:19 history 62:17 80:19 hit 44:3 Hold 18:19 holding 65:13 hole 65:17 home 8:13 honey 94:23 honored 79:19 hoped 84:8 hopefully 34:22 78:20 Hotel 3:10 6:8 7:21 housing 3:5,13,14 6:9 7:5 8:6,11 8:12 Human 4:9 hybrid 61:8,10,19	I IAFF 28:11 87:3 idea 81:14 ideas 44:24 identified 16:13 89:3,15 IHS 47:25 illogical 68:5 imagine 45:19 65:17 immaterial 58:12 60:3 immediate 2:12 impact 37:3 44:9 44:20 59:24,25 63:10 76:8 implement 87:6 implementation 81:22 87:21 88:8 implemented 81:6 87:12 implementing 35:20 importance 83:18 important 54:25 55:4 61:8 83:2 impose 71:14,19 72:3 76:9,10,10 imposed 11:20 impossible 16:25 improvement 42:25 improvements 80:25 include 14:14 28:19 37:19 included 10:18 11:7 14:17 16:21,23 25:7 28:9,12 33:23 54:15 60:15 88:17 94:7 includes 89:17 including 15:10 income 47:8 increase 2:19 7:12	8:21 16:6 18:12 18:13,14 19:20 19:23 27:9 35:11 87:15,21 88:8 increased 7:4,12 increases 11:24 13:22 34:23 35:16,19 37:19 97:17 increment 15:25 incremental 59:3 61:19 increments 8:22 11:25 16:7 37:20 indigent 20:19 22:10 individual 20:3 20:18 21:2 23:7 23:15 43:19,22 44:9 individuals 44:17 inevitable 88:7 information 46:3 injustice 82:22 inmate 7:4 77:11 innocent 43:3 Insight 47:25 Inspector 6:13 instance 59:13 institutions 44:11 insurance 55:4,7 60:19 intend 26:4,10,12 intended 21:4 intending 24:7 intends 46:24,25 interest 80:15 88:17 interested 23:2 61:2 Intergovernme... 86:21 internal 6:12,24 7:6,8 9:10 97:10 International
--	--	--	--	--

79:20 introduced 61:9 68:2 invalid 73:8 involve 68:25 involved 10:3 irrelevant 74:5 issue 42:21 59:20 59:20 60:12 62:18 64:2 76:2 81:24 issued 86:19 88:19,25 issues 28:16,19 56:15,15 65:11 66:15 74:17 83:18 94:20 items 18:10,16	Katz 84:15,24 keep 49:24 74:22 94:10 Kevin 96:16 key 67:8 kicked 59:2 kind 36:5 63:25 knew 15:5,7,12,14 15:15 know 13:5 14:2 15:21 21:12,17 21:24 22:2,14 22:21 23:23 30:11 31:4,17 39:11 41:13 43:5,6,7 44:8 45:22 47:12 51:5 55:24,25 56:10 60:15 61:25 64:4 66:11 68:15 71:5,25 72:5,8 72:22 74:21 77:19 84:22 86:18 92:19 97:21,23 known 78:9 knows 80:18	24:5,6,7 43:23 44:25 45:13,15 layoffs 39:23 40:22 41:12 76:10 leadership 83:7 83:12 leave 86:11 97:7 98:20 leaves 25:20 97:8 led 77:13 left 2:14 92:4 legal 7:9 11:18,22 19:18 28:17 30:5 42:21 74:18 legally 12:25 73:7 73:14 Legislature 32:15 letter 57:8 61:6 let's 43:24 49:15 66:19,21 85:13 85:13 92:18 level 43:21 64:16 licenses 89:23 Lieutenant 79:17 life 28:6 60:22 88:13 likes 71:16 line 90:6 list 51:16 65:14 litigation 81:14 little 15:20 31:22 35:12 44:7 47:14,15 57:6 63:4 littler 86:9 lives 82:11 85:24 90:5 local 8:24 10:17 10:22 11:7 12:17,24 79:21 logic 36:20 72:15 long 12:11,13 16:2 51:24 58:7 longer 44:7 64:25 longevity 8:22	12:2 16:2,7 37:21 look 17:6 20:23 23:19 44:24 58:16 62:2,7 looking 18:12 34:6,19,20 36:19 38:15 69:20 lose 32:12 50:13 51:14 53:2 82:10 loses 87:25 loss 32:22 lost 91:6 lot 39:5 43:13 55:23 74:16 lots 56:15 love 85:17 lowball 47:19,23 48:8 lower 54:16 luck 69:5 lump 28:23	Marie 2:14 mark 44:3 Mary 18:23 19:4 19:9 massive 76:23 material 47:6 58:6 materialize 88:15 matter 63:15 75:10 76:5 104:7 Mayor 3:4,14 19:11 81:10 82:12,17 84:21 84:24 Mayor's 82:6 mean 11:20 13:21 25:22 30:23 31:8 47:23 53:8 55:6 65:3 68:13 92:7 meaningful 57:23 meaningless 58:21 means 15:3 81:18 104:21 medics 82:18 meeting 22:24 99:8 member 31:6 54:19,21,22 70:19 79:18 members 5:10 10:13 19:8 26:19 27:4 29:12 61:9 62:14 63:13 72:14 79:15 84:7 96:4,16 memo 28:18 men 80:2 82:9 90:5 mention 44:14 mentioned 67:19 67:19 methodology 36:10
J				
J 1:13 Jannie 1:10 2:13 January 82:15 job 44:13,16 85:20 91:9 94:25 John 79:4 Jones 1:12 2:11 41:16,17 42:5,8 42:22 43:17 45:18,25 46:7 99:20,21 100:11 100:12 101:2,3 101:18,20 102:11,12 103:3 103:4 Jr 1:10,12 2:7 Judge 42:14 87:9 judges 42:9,21 judgment 57:3 Judicial 4:15 9:15 25:5 96:8 July 80:22 June 32:16 80:24 88:25 justice 83:8	L			
K				
			M	
			macroeconomics 95:13 main 55:3 59:12 64:6 major 38:25 65:6 66:6 making 57:3 man 44:5 82:14 manage 21:9 management 6:14 61:12,17 63:17 81:24 86:25 managing 4:5 9:4 18:9,10 19:5,10 19:12,15,19 20:16 23:11 mandate 28:25 29:6 marginal 59:3 61:20 MARIA 1:13	

104:14 microeconomics 95:13 middle 70:13 mill 95:20 million 6:3,5,10 6:13,15,17,23 6:25 7:3,23 8:8 8:18 9:5,9,14 17:20,24 19:25 20:14 21:25 23:20 24:11,17 25:21 27:11,18 27:19,21,23 28:6,9 29:24 30:2,20,21,24 31:7,8,9,22 32:4 32:6,9,14 33:3,7 33:7,9,16 34:15 36:19 39:3,4,4,7 39:12,15 48:12 48:12,24 49:2,5 49:12,17,20,21 49:22,25 50:4,9 50:21 51:2 57:13,14,16 58:18 69:13 70:23,25 71:9 75:4,10,13,19 77:13 80:9 81:18 84:18,19 85:4 86:15 87:7 87:14 88:2,12 89:3,9,9 91:8,13 91:17,23 92:3,4 92:13,20,21 93:17,18 97:13 mind 49:24 minimum 33:9 misspeak 13:21 40:5 mix 80:25 money 17:14,17 20:14 23:21,24 24:18 25:7,24 26:5 29:2 34:12 34:24 35:2	47:19 49:10 52:20,24 53:6 55:12 56:5 68:5 69:19 74:10 76:16 80:8,15 80:16,17 84:16 84:19,20 85:8 91:6 92:12 93:22 95:19 97:16 98:4,23 monies 36:4 monitor 44:12,21 month 54:19,21 54:22 months 77:17 80:24 81:4 morning 19:4 motion 99:20,22 100:11,13 101:2 101:4,18,21 102:11,13 103:3 103:6 move 25:2 36:3 71:12 75:10,25 76:16 95:2 99:7 102:14 103:6 moved 75:21 102:24 moving 35:11 43:15 Multiple 43:5 MURPHY 104:14 N name 2:7 5:7,11 27:4 79:12,16 Neary 84:8 necessary 17:9 37:13 need 14:6 20:6 37:15,21 40:20 61:16 63:12,20 66:16 76:25 92:25 needed 69:4 78:10 needs 20:3 84:12 negative 27:14,23	27:25 70:24,25 negligible 61:20 61:21 negotiate 37:25 negotiated 40:8 47:21 69:14 negotiating 12:11 negotiations 70:13 never 14:21,22,25 52:14 63:16,19 64:12 66:7,8 88:14 99:17 new 6:20 24:23 44:19,20 45:14 45:14 50:3,14 63:22 65:9,24 66:2 69:13 77:16 78:20 nice 56:3 non-emergency 89:8,12 93:21 non-exempt 36:13 non-rep 10:22 non-represented 8:23 10:19 11:8 Nos 5:22 note 2:9 4:23 10:7 83:22 noted 88:16 notes 104:6 number 17:10 31:24 45:22 49:17 67:14 72:18,20 73:2,4 81:22 91:16 numbers 16:11 31:10,13 32:2 39:3,9 62:2 numerous 32:11 Nutter 48:3 81:5 Nutter's 82:17 O objecting 56:22 objections 104:4	occasionally 92:11 occur 24:14 88:19 October 8:23 offer 5:22 15:2 37:18 86:2,7 offhand 30:12 office 3:5,14 6:12 6:14 7:8 8:10 19:6,12,15,19 20:16 28:18 52:5,7 89:7,14 94:17,18,19 officers 25:7,12 25:20 26:4 56:12 65:13,15 96:23 97:17 98:5 officer's 56:20 offices 3:2,9,22 Oh 1:12 22:2 49:23 68:2 70:2 85:6 OHCD 7:19 Oh's 28:18 85:3 okay 5:17,19 17:11 26:22 37:5 41:6 42:22 49:4 50:16 53:8 53:20 54:14 56:6 62:9 68:16 71:10 72:23 77:4 92:6 98:19 98:22 once 43:20 81:16 ones 32:12 74:18 one-shot 93:20 one-time 92:25 opinion 86:19 88:9 90:18 94:4 opportunities 88:23 89:24 opportunity 9:23 86:12 opposed 39:3 95:15,15 100:5 100:20 101:12	102:5,21 103:14 opposes 27:13 29:8 order 2:4 37:15 51:9 57:12 ordinance 2:17,23 3:16,24 4:6,10 6:2,3 8:16 9:3,9 9:13 11:5 28:25 36:12 82:25 86:14 organization 23:9 originally 7:24 8:9 ourself 65:16 outside 7:4 20:6 41:25 42:10 outstanding 48:22 overall 57:2 59:24 overrun 24:12,17 24:20 77:14 overtime 6:18 7:4 75:3 76:17,24 77:18 78:21 owe 33:6 75:13 owed 80:13,15 83:14 O'Neill 1:13 10:10 46:14 54:2,3 55:9,16 55:20 63:5 66:25 67:2 68:12,17 71:10 72:12 O'Neill's 59:10 P package 10:21 11:2,17 12:22 13:15,17 14:5 15:2 34:23 35:15,15 38:19 packages 37:11 37:18 pages 95:11 paid 81:20 93:13
---	---	--	--	---

87:4 95:6 paramedics 79:24 80:14 83:9,19 Parks 6:24 part 24:23 42:13 64:5 67:9,10,20 75:14 particular 76:2 90:19 94:4,5,11 pass 53:5,23 passing 74:8 path 70:5 patient 12:19 pay 12:12 13:22 22:4,6 25:6 29:2 45:6,7 51:10,24 52:18 69:12 80:12 81:8 82:2 84:17,21 85:5 85:12,23 88:24 89:16 90:9 91:7 91:8,14,15 93:4 93:5,12,25 97:16 paying 44:8 45:5 53:19 payment 60:18 87:23 payments 87:16 88:17 Pennsylvania 1:6 4:16 8:3 86:21 penny 81:7 pension 32:18 34:21 37:14 57:11,17,19,24 58:24 60:25 61:4 66:18,19 people 40:25 69:21 71:15 75:11 95:13 people's 92:9 percent 6:17 7:11 8:20 16:5 19:23 32:13 37:14 58:2 78:2 89:11 92:20	perform 94:16 performance-b... 45:19 period 12:11,13 34:2,3 50:19 64:25 99:18 permit 9:21 person 43:22 personnel 86:16 perspective 77:20 77:21 Philadelphia 1:2 1:6 5:13 19:22 36:8 48:2 63:23 66:2 79:18,25 90:3 Philadelphian 82:20 philosophical 76:6 PICA 27:24 51:13 51:13,22,25 pick 75:19 picking 42:21 pipeline 78:5 place 35:6 57:18 57:20 59:18 70:16 plan 27:16,17 28:2,7,10,13 33:21 37:4,14 38:8,14 47:3 48:11 49:9,13 51:13 52:17 53:7,19 55:19 57:16 60:7 61:9 61:19,22 63:11 65:4 69:9 70:23 74:11 76:24 86:20,23 88:3,5 88:10,14 92:23 92:25 planning 3:13 7:19 61:14,16 plans 61:10 please 5:6 10:16 79:2,11 80:2	96:9 plus 92:23 point 12:10 44:3 47:5 64:20 66:6 69:25 73:24 pointed 57:9 pointing 56:25 police 6:16,22 54:10,15,17,24 56:12,20 57:9 57:22 58:23 59:25 63:14,23 64:21 66:2,9,21 67:20 72:13 75:2 89:20 polite 70:15 population 20:19 22:10 portion 69:16 position 26:14 41:7,8 97:9 positive 2:19 27:9 86:15 possible 17:3 51:17 76:12 89:15 93:13 pot 92:12 pots 94:23 Poulson 79:4 power 29:4 70:4 74:9 75:23 76:6 76:7 practice 61:14 prefer 41:2,11 premise 91:5 prepare 38:11 preparing 34:7 prerogative 69:2 present 1:9 2:10 4:24 11:14 19:3 52:17 53:18 57:10,13 58:9 58:11,12,18 59:8,8 60:6 61:20 83:24 96:9 presented 28:16	presently 32:9 President 79:20 presumed 43:3 pretty 51:18 prevail 87:2 previous 87:5 price 82:8 primarily 62:13 principal 88:17 prior 47:3 priorities 51:7 Prisons 7:3 75:4 77:10 78:18 private 89:21 probably 72:24 78:15 85:21 probation 25:6,12 25:19 26:3 96:23 97:17 98:5 problem 15:23 52:2 58:25 69:23 problems 45:2 50:24 proceed 5:7 79:12 proceedings 104:4 process 35:5 38:24 42:13,19 75:18 processed 47:9 processing 23:6 procure 6:21 20:24 Procurement 7:13 procuring 44:25 program 63:19 project 27:25 34:9 projected 7:25 8:9 24:13 31:21 32:4,8 35:7,9 projecting 48:6 projections 46:24 48:5	projects 27:17 promote 8:2 promotion 8:4 propose 43:10 proposed 5:25 8:15 9:2,7,12 27:15,16,22 28:2,10 43:4 82:25 83:13 proposes 27:7 protected 90:7 proud 79:17 provide 8:12 10:25 20:5,7 30:11,14 46:2 52:23 53:17 94:20 provided 30:9 89:20 provides 6:3 Provisions 3:7,20 4:4,14 prudent 90:8 public 2:4 6:21 19:14 62:14 64:2 77:23 94:22 99:7,8 104:15 published 51:16 pull 78:15 purports 28:24 purpose 92:14 98:14 purposes 6:10 pursued 62:13 put 30:25 34:12 34:16,24 35:3 36:11,14 49:25 57:18,20 63:24 70:23 74:17 82:8 90:5 puts 26:9,10,11 putting 35:19,23 36:4 68:5 p.m 1:7 103:22 Q
---	---	--	--	---

question 11:3 23:22 24:4 31:17 36:22 37:6,9 44:23 45:17 51:14 54:5 59:11 68:15 72:6 73:6 90:17 91:19 94:14 96:8,25	7:6,8 9:10 realistic 52:17 realize 44:4 realized 34:10 realizing 89:25 reallocate 53:5 really 37:13 47:19 57:25 59:11 68:14,21 70:9 92:7	103:18 record 4:23 5:7 10:7,17 36:23 38:19,25 44:14 79:12 83:22 84:3 90:17 Records 7:7 recovery 32:20 recruits 65:10 recurring 93:11 94:21	88:24 101:4,21 reported 100:8,23 101:15 102:8 103:17 reporter 104:23 reports 94:20 represent 17:22 20:19 22:9,11 42:2 representation 13:24 14:9 20:4 20:5,7 41:11,24 43:2 representatives 10:2 represented 8:24 41:5,10 represents 79:22 reproduction 104:20 request 9:17,20 13:4 52:25 82:24 96:22 requested 13:6 25:5 26:3 42:14 42:16 requests 19:16,20 require 17:4 80:12 requirements 6:19 7:20 Reserve 48:2 Resolution 85:3 resolve 98:21 resounding 85:21 respect 51:22 respectfully 9:17 51:21 respond 22:18 60:8 96:22 respondents 22:19,23 23:3 43:10 responders 85:12 responding 22:13 response 26:20 89:11 95:7 96:2	96:6 97:3,5 99:5 100:6,21 101:13 102:6,22 103:15 responses 21:21 45:12 responsibility 42:18 responsible 37:16 restoration 8:21 11:25 37:20 restored 16:8 restoring 83:3 result 27:14 28:5 38:6,7 48:12 retired 79:23 retro 60:18 retroactive 87:16 87:23 returns 44:5 revenue 3:6,19 4:3,13 6:7 8:17 32:22 35:7,9 46:22 47:2,20 47:23,24 48:6 89:15,24 92:16 92:25 93:4,12 94:21 95:16 revenues 35:11 revenue-sharing 9:16 25:16 97:22,24 98:13 review 88:15 reviewed 20:22 21:7,22 reviewing 21:21 revise 46:25 RFP 20:21 21:5,6 21:20 22:13,18 23:19 24:16 43:7,8,9 Rhynhart 4:22 5:4,5,9,12,19 10:6,14,20 11:10,15,21 12:5,9,18 13:5,9 13:13,20 14:2 14:11,16,22
R				
rainy 85:10 raise 25:6 82:15 84:17,21 85:5 92:9 raised 68:22 93:8 raises 12:13 35:24 67:21,22 raisings 65:15 range 58:18 rank 65:16 rate 63:16,17 65:11 rational 72:15 reach 43:21 reached 48:21 read 5:17 43:8 90:15 reading 9:21 ready 68:3 real 67:6 68:13,24 realignment 6:12	7:6,8 9:10 reasonable 36:20 39:6 48:7 51:25 reasoning 34:25 36:9 37:4,7,10 38:4 40:19 reasons 29:7 36:11 55:2,24 60:20 77:9 99:10 Rebecca 4:22 5:12 27:5 29:18 Rec 6:24 recall 57:7 62:10 receipts 7:23 8:8 47:8 receive 99:11,14 99:15,17 receiving 35:8 recession 33:24 33:25 recognizes 99:19 100:10,25 101:17 102:10 103:2 recommendation 9:19 99:14,16 99:23 100:9,14 100:24 101:6,16 101:23 102:9,15 102:25 103:5,7	recovery 32:20 recruits 65:10 recurring 93:11 94:21 Reduced 45:21 reducing 44:17 refer 18:18 referring 12:16 45:8 reform 34:21 37:22 58:24 66:18,19 reforms 34:19,20 37:13 57:17,19 refusal 82:7 regarding 86:13 regardless 14:8 81:23 regime 6:22 reimbursement 43:19 reject 86:22 rejected 72:24 relate 18:10 related 7:5,11 19:22 57:2 73:6 80:9 relates 78:13 94:5 94:14 remember 52:4 57:12 62:6 remind 80:19 removed 42:16 75:21 Rental 3:10 6:8 7:21 reopener 6:17 repair 8:13 repeat 54:6 report 9:18 34:10	represent 17:22 20:19 22:9,11 42:2 representation 13:24 14:9 20:4 20:5,7 41:11,24 43:2 representatives 10:2 represented 8:24 41:5,10 represents 79:22 reproduction 104:20 request 9:17,20 13:4 52:25 82:24 96:22 requested 13:6 25:5 26:3 42:14 42:16 requests 19:16,20 require 17:4 80:12 requirements 6:19 7:20 Reserve 48:2 Resolution 85:3 resolve 98:21 resounding 85:21 respect 51:22 respectfully 9:17 51:21 respond 22:18 60:8 96:22 respondents 22:19,23 23:3 43:10 responders 85:12 responding 22:13 response 26:20 89:11 95:7 96:2	96:6 97:3,5 99:5 100:6,21 101:13 102:6,22 103:15 responses 21:21 45:12 responsibility 42:18 responsible 37:16 restoration 8:21 11:25 37:20 restored 16:8 restoring 83:3 result 27:14 28:5 38:6,7 48:12 retired 79:23 retro 60:18 retroactive 87:16 87:23 returns 44:5 revenue 3:6,19 4:3,13 6:7 8:17 32:22 35:7,9 46:22 47:2,20 47:23,24 48:6 89:15,24 92:16 92:25 93:4,12 94:21 95:16 revenues 35:11 revenue-sharing 9:16 25:16 97:22,24 98:13 review 88:15 reviewed 20:22 21:7,22 reviewing 21:21 revise 46:25 RFP 20:21 21:5,6 21:20 22:13,18 23:19 24:16 43:7,8,9 Rhynhart 4:22 5:4,5,9,12,19 10:6,14,20 11:10,15,21 12:5,9,18 13:5,9 13:13,20 14:2 14:11,16,22

15:6,11,14,19 16:15,18,22 17:3,15,19 18:3 18:8,19,23 20:13 21:6,14 21:19 22:2,8,14 22:20 23:5,16 23:25 24:9,21 24:24 25:9,13 25:22 26:6,13 26:22 27:2,5 29:17,22 30:3,8 30:16,22 31:14 31:24 32:3,10 33:10,22 37:5 39:10,21,24 40:3,10,14,17 40:23 41:6,13 42:4,7,12 43:6 44:22 45:24 46:5,17 47:5,22 48:14,17,23 49:6,18,23 50:10,13,18,22 51:11 52:6,10 53:8,20 54:14 55:13,18 56:24 58:4,15 59:4 60:4,8,10 61:7 61:24 62:6,19 64:14 65:19 68:10,16 70:22 71:18,22 72:2,5 72:10,19,23 73:3,11,15,20 74:6 77:4 78:17 79:2 Rice 83:24 86:6,8 90:15,20 91:22 93:14 94:2 Rick 79:4 right 2:10,12 11:16 12:18 14:4,8 15:11,19 16:23 21:19 23:6 33:18 39:10 40:14,17	40:24 42:4,7 45:24 48:16 49:6,17,18,24 50:2,10 54:22 54:24 55:15,18 55:19 64:15 70:7,11 72:10 73:4 74:13 75:24 97:10 rights 81:10 rise 32:19 77:18 rising 32:23 35:11 risk 82:10 85:23 87:25 90:10 road 44:6,10,18 45:8 59:2,19 61:8 role 61:11 room 1:6 3:10 6:8 7:21 34:11 roughly 50:17 round 49:14 RPR-Notary 104:15 ruled 53:13 rules 9:20 35:20 99:12 run 56:13 running 23:11 S safety 19:14 64:2 77:23 salary 7:20 11:24 sales 32:13,23 Sam 84:15,24 Sanchez 74:20,21 77:25 78:23 sat 74:23 save 80:17 93:21 saved 56:5 saving 55:12 savings 38:6,7,14 57:11,15,24 saw 14:14 31:16 saying 33:14 48:10 59:21	62:16,21 64:22 71:6 72:2 74:4 75:24 93:13 School 7:2,16 93:6 schools 91:8,15 scope 29:3 second 4:20 18:20 71:3 73:5 87:11 seconded 99:24 100:15 101:7,24 102:16 103:9 see 17:12 21:7 26:16 30:23 36:8 38:14 53:20 59:22 61:2 68:4 70:6 75:8,8,15 76:13 76:14,18 77:19 seeing 38:21 61:25 99:6 seek 41:24 seeking 45:21 57:20 seen 31:14 39:14 76:20 selection 20:23 21:9 22:24 selective 38:22 selectively 35:17 self-insured 54:18 sense 43:14,14 82:2 sent 62:4 sentiment 77:5 separate 13:8,11 15:23 17:2 18:6 24:14 89:6 separately 99:10 serve 5:12 79:19 79:24 served 8:4 service 88:13,16 88:21 services 4:9 7:10 7:12 19:18 86:16 89:4,20	93:16 session 9:22 set 33:3,15,20 34:3 48:18,20 48:23 50:5 70:8 75:6,12 81:7 setting 69:7 settled 64:8 shabby 82:17 shared 39:11 short 63:21 show 83:12 shown 83:6 sic 85:3 side 77:23 81:23 sides 81:2 significance 37:3 significant 28:15 32:22 53:15 54:23 83:4 significantly 54:16 70:24 similar 51:14 simply 80:12 single 76:19 78:16 82:20 94:17 sir 95:18 sit 81:3 sits 81:12 situation 38:9 six 74:24 76:20 78:12 Sixty-six 39:4 slapped 82:12 slashed 52:9,13 small 58:20 smart 68:14 solve 58:25 somebody 69:20 soon 47:7 sorry 13:9 20:10 21:14 65:20 95:19 sort 23:10 46:20 47:19 57:6 92:17 sorts 52:15	sound 61:13 speak 11:12 20:23 23:17 specific 31:23 specifically 12:16 16:13 23:23 specificity 46:20 specify 28:21 spend 23:20,21,24 26:12 58:14,19 74:10,13 spent 28:22 spoken 36:25 spot 71:23 staff 19:5,10 64:20 78:10 stand 92:15 stands 97:10 start 44:4 45:6 started 69:15 78:8 starting 24:15 state 5:6 32:15 33:2 38:18,24 44:6,10,18 45:8 79:11 95:10 stated 31:20 36:23 86:24 87:11 89:12 statement 91:11 statements 46:19 62:14 stating 63:6 stay 44:6,18 98:24 stays 44:10 steadfast 83:11 stenographic 104:6 step 8:21 24:16 83:3 steps 38:2 stick 49:15 79:2 Stitt 18:21 19:4,5 19:9 20:2,10 stream 93:4,11 streams 89:16 92:16 94:21 95:16
---	---	--	--	--

strongly 42:15	68:21 70:15	46:7,9,15 53:24	time 12:12,13	treatment 82:18
structure 43:4	80:21 84:17,18	54:3 56:9 60:10	15:10,18 26:7	tremendous 83:7
stuff 75:19 92:18	talks 13:8,11	62:22,23 63:2	34:3,3 37:17	true 70:6 91:10
stupid 68:14	tax 3:11 6:8 7:21	67:2 70:21	44:9,17 45:15	104:7
submit 84:2	32:13,16,23	78:25 80:3	45:21 49:11	truly 82:16
submitted 51:13	47:8,13,13,17	83:10,16,20	63:8,8 64:25	Trust 3:13 6:9 8:6
88:6	47:17 91:9	84:6 85:6 86:2,4	75:22 76:22,22	try 48:7,7
subsequent 90:10	taxes 47:13 89:19	86:8,11 90:13	83:16 86:24	trying 35:14 36:9
substantially	92:9,18	90:14,22,24	87:7,11	37:25 58:7
52:13	technicalities	95:3,4,18,23	times 36:25 61:12	77:15 84:10
succeed 49:14	74:16	96:10,12,18	63:12	99:12
success 67:15	tell 29:19 30:5	98:25 99:2,21	tinkering 93:7	tune 36:18
successful 87:19	46:21 47:7	100:12 101:3,20	title 2:16	turn 10:13 34:8
suggestion 93:10	51:23 84:15	102:12 103:4,20	today 5:14,21	twice 53:13 81:15
sum 28:23	telling 59:7 74:2	thing 5:14 56:24	9:24 19:11 33:8	93:8 98:9
sunsets 32:16	Temple's 95:12	71:3 78:6,16	62:16 68:23	twice-appealed
supervision	ten 81:4	91:14	74:25 75:8,11	68:7
104:22	term 58:8 71:14	things 24:10	75:17 76:14	two 7:11 8:20
supervisors 10:24	81:5	34:11 47:20	80:6,21 82:24	16:5 18:10,16
65:12	terminology	52:15,18 67:18	83:12 84:9 85:2	24:10 30:6
support 80:4,6	11:22	68:22 69:22	86:3	31:13 41:24
83:11,18 85:2	terms 13:19,25	77:6 84:10	told 69:25	52:4 62:11
90:21	14:4 16:25	91:16 92:10	tool 38:8 56:4	71:11 77:13
Supreme 52:14	17:13 38:5 43:9	93:10,12	61:12,17 63:17	93:22 95:10
sure 10:14,20	44:25 54:19	think 11:3 18:8	64:11,24	type 22:18 23:2
29:22 30:16	55:17 56:2	22:20,24 23:18	top 60:25	76:17
32:3,10 33:22	57:23,24 60:6	30:9 39:16	topic 64:6	
47:12 60:9	60:16 71:15,19	40:23,24 43:13	total 29:19,22	
surplus 80:8	74:3	44:22,24 45:16	34:14 48:24	U
suspended 9:21	territory 70:24	45:17 53:23	84:19	unaffordable
suspension 99:11	testify 9:24 19:11	56:10 68:22	tourism 8:4	34:4
system 16:25 22:5	27:6 86:12 99:4	69:4,10 70:17	training 65:10	unavoidable
23:4 24:23 45:3	testimony 4:17,19	72:11 75:14,23	transcript 104:8	77:24
57:24	5:8,16,22 10:6	75:25 77:6	104:20	uncollected 91:25
	14:10 18:2,3,6,7	80:18 81:25	transfer 6:2,4,7	92:5
	18:9,18 19:3	93:22,24	6:24 7:18 8:16	underlying 68:18
T	25:4 26:25 29:9	third 49:11,14	9:3,8,13 36:12	understaff 75:6
table 5:2 13:8,11	31:20 33:2,14	Thirty-eight 49:2	75:2 82:25	understaffed
18:25 40:16	62:10 73:25	thought 42:19	83:14 86:14	64:13
66:11 79:6	78:15,24 79:13	70:14 72:15	transferred 17:23	understand 39:7
96:14	83:21,25 84:3	87:10	20:15	53:4,13 54:13
take 40:16 56:23	86:7 90:15 94:8	thousand 7:14	transferring	55:17,21 58:10
83:2 84:2 85:23	95:12,17 96:20	thousands 20:18	80:16	59:7 64:22
taken 38:2,3 65:8	thank 5:19 10:5	23:7	transfers 2:24	68:13,24 84:14
104:6	10:11 26:18,21	three 41:22 42:3	3:17,25 4:7,11	95:22
talk 26:14 78:3,4	26:22 29:14	81:4	75:7,8	understanding
talked 54:7	39:17,19 41:17	Thursday 1:7	trash 89:21	36:10 41:20
talking 67:5,7,8				45:11 67:25

undisputed 2:21 67:10,10 68:8 68:19 69:7,9,18 70:8,18 71:4,14 72:8 80:9 82:2	voting 47:4 69:24 82:24	43:15 50:2 58:7 58:13 59:19 61:15 63:19,21 64:13,18 65:16 68:8 69:12 70:8 70:11,12 74:22 91:6 98:20 99:12	wrong 11:22 wrote 57:7 91:24	young 44:5,6
unexpected 65:2	W		X	Z
unfair 90:2	W 1:10 2:7		X 65:25	zero 67:17
union 11:7 13:24 14:9 41:10 59:15 79:22	wage 8:20 16:6 19:23 34:22 35:16 37:19	we've 14:22 30:24 30:25 34:5 37:23,24 38:2,2 39:11 44:3 48:18 62:20 78:8,8,10 93:8 98:7,15	Y	\$
unions 40:2 48:20 76:3	walk 39:13,15	whatsoever 63:11	Yeah 50:20 72:4	\$1,200,000 19:17
unrealistic 86:25 94:14,22 95:16	want 11:11,21 12:14,14 13:21 23:13,17,24 24:5 37:11,17 37:18 38:18,24 40:4 44:8,12 45:9 57:6 58:22 63:9 72:19,21 77:7 85:23 91:4 93:5	William 79:16	year 2:18,25 3:18 4:2,8,12 5:25 9:8,12 12:8 24:15 26:5,11 27:16,17,17,20 28:2,2,7,10 32:14 33:21 36:18 37:3 38:14 47:2,3,9 48:11 50:21 51:3,8,8,12 53:7 53:19 55:19 57:16 58:20 60:6 61:15,22 63:11 69:8 74:11 76:16 77:13,16 78:2,9 78:20 86:20 87:14 88:10 89:10 91:13 92:21,23,24 93:19 94:17 97:19,25 98:11	\$10 31:7 \$100 31:8 75:19 92:20 \$11 77:13 \$114 32:8 \$128 27:18 \$130 32:14 \$134 31:9 39:7 \$179 91:23 \$20 31:7 \$200 29:24,25 39:3 50:9 \$21 27:23 70:25 89:9 \$3.6 77:21 \$30 57:14 58:18 \$32 89:9 \$36 48:12 \$38 33:3,16 36:19 48:12 49:12 \$4 57:16 \$40 75:12 \$400 55:22 \$43,000 7:7 \$44 75:10 \$45 6:2 31:21 32:6 \$450,000 25:6,11 25:19 96:23 \$467,160 19:20 \$5 57:16 \$5,450,000 25:11 \$5.45 97:13 \$50 75:12 92:13 \$500 92:20 \$6 8:18 \$65 85:4 \$66 27:11 33:6,9 39:4 70:23 75:12 87:7 \$66,000,000 2:21
update 30:14 43:12	wants 83:24	witness 4:21,25 4:25 18:24,24 79:5 96:13,13	years 33:16,23 34:15 36:18 37:16,24,25 48:3 49:22 52:4 58:6,14 61:23 62:5,11 64:17 64:23 65:2,9,10 65:23,24 70:3 72:24,24 74:25 76:21 77:13 78:12,19 81:4 82:11 88:3,20 89:5 90:11 92:22 93:9	
urged 86:21	wasn't 58:25 75:20	witnesses 46:12 71:13 79:5 95:25	year's 51:12,12 53:6 78:24 87:22 88:8	
use 2:18 7:2 8:2 9:6 16:9,10 21:9 24:6,7 25:25 27:8 32:7 38:8 59:21 64:25 66:7,8 71:4,5,13 80:7	water 89:19	wish 66:14 95:2		
usually 70:5	way 5:17 14:18 17:10 20:25 23:21 36:3,3 42:24 43:15 45:2 47:6 48:6 49:12 52:3 70:12 73:15	woman 44:6		
V	ways 20:24 21:8,9 21:13,18 73:10	women 80:2 82:9 90:5		
vaccine 6:22	weeks 47:17	won 81:15		
valid 73:14	went 43:8 65:9,23 68:20 92:4 95:10	word 67:10 71:4,5		
value 57:10,14 58:10,11,12,18 59:8,9 61:21,21	we'll 17:11 26:16 47:16 53:20 66:7 71:12 75:8 78:16	words 13:12		
values 60:6	we're 21:21 23:6 23:7 31:2 33:8 33:19,23 34:19 34:20 38:15	work 17:5 35:20		
variable 44:19		workforce 76:18		
variety 89:18		working 37:24		
various 8:19 9:16 25:15 34:11 55:2 60:20 77:8 88:22 89:23		works 17:12		
vehicle 6:15		worse 47:15		
versus 60:2		wouldn't 33:10 47:22 59:17 61:13 65:7 69:3 92:22 94:8		
Vice 2:11		wounds 83:4		
view 53:14 64:20		write 92:5		
violations 89:22		written 73:16		
visitors 90:7				
vote 69:4 70:19 99:17				

\$700 43:24 44:3	40:1 41:1 42:1	46:11,12	3 6:16	46:1 47:1 48:1
\$8 57:13,16	43:1 44:1 45:1	187,000 6:20	3.7 58:19	49:1 50:1 51:1
\$80,000 85:23	46:1 47:1 48:1		3:50 103:22	52:1 53:1 54:1
\$85 48:24 49:5	49:1 50:1 51:1	2	30 61:23	55:1 56:1 57:1
\$9 17:24 20:14	52:1 53:1 54:1	2 1:7 8:8	30th 32:16 80:24	58:1 59:1 60:1
23:20	55:1 56:1 57:1	2.5 19:23	32,000 6:6 7:18	61:1 62:1 63:1
\$90 88:12	58:1 59:1 60:1	2:15 1:7	320 77:15	64:1 65:1 66:1
	61:1 62:1 63:1	20 58:14 92:19	33 34:13 35:21	67:1 68:1 69:1
0	64:1 65:1 66:1	93:18	39:22 48:25	70:1 71:1 72:1
09 38:11	67:1 68:1 69:1	200 6:25 28:5	338,000 6:25	73:1 74:1 75:1
	70:1 71:1 72:1	30:21 33:7	34 92:3	76:1 77:1 78:1
1	73:1 74:1 75:1	39:12,16 49:17	35 95:20	79:1 80:1 81:1
1 32:13 80:22	76:1 77:1 78:1	49:20,21 67:8	35,000 7:6	82:1 83:1 84:1
1,200 54:18 55:21	79:1 80:1,6 81:1	71:8 84:18	38 28:9 49:21,24	85:1 86:1 87:1
1,600 54:22 55:22	82:1 83:1 84:1	2008 78:9	50:4,12 69:13	88:1 89:1 90:1
1.1 6:24	85:1 86:1,13	2009 65:8 80:10		91:1 92:1 93:1
1.2 6:5 9:5 17:20	87:1 88:1 89:1	80:22 82:16	4	94:1 95:1 96:1
19:25 21:24	90:1 91:1 92:1	90:4	4,000 79:22	97:1 98:1 99:1
24:11,17	93:1 94:1 95:1	2010 89:5 91:18	40 50:21	100:1 101:1
1.4 6:23	96:1 97:1 98:1	2011 89:6 91:18	400 1:6	102:1 103:1
1.9 7:23	99:1 100:1	2012 28:3 87:8	43.8 6:10	50 37:14 89:3,10
1.98 9:9	101:1 102:1	88:25	44.8 32:4,5	91:13,17 92:4
100 63:20	103:1,3,6	2013 1:7 2:18,25	45 27:19	93:17
11 91:23	130244 1:15 2:6	3:18 4:2,8,12	450,000 7:13 26:3	
11.5 7:3 75:4	2:23 5:22,24	5:25 86:19	467,000 7:9	6
111 80:20	101:19,23 102:8	2014 32:16	47 8:24 10:17	60 91:8,13
114 51:2	130245 1:15 3:16	2015 31:21 32:9	12:17 34:13	65 84:17
12 28:13	5:23 8:14 99:20	88:20	35:21 39:22	66 27:21 30:19,24
122.8 7:14	99:23 100:8	2017 86:20 88:4	48:25	33:8 39:15 67:6
13 8:15 9:2,8,12	130246 1:15 3:24	2018 88:4	48 58:2	80:8 81:18
20:17 24:12,13	5:23 8:25	203 88:2		86:14
27:8,17 42:13	100:11,14,23	2168 13:10	5	
80:10 98:11	130247 1:15 4:6	2186 8:24 10:18	5 6:13 25:20	7
130158 103:17	5:23 9:7 102:11	10:23 12:17,24	5.5 9:14	7.2 6:17 75:3
130172 85:4	102:14,24	15:3,4,10,18	5/2/13 3:1 4:1 5:1	70 91:13
130185 1:15 2:6	130248 1:16 2:7	16:14,23 35:20	6:1 7:1 8:1 9:1	75,000 6:11
2:16 3:1 4:1 5:1	4:10 5:23 9:11	22 63:13 79:21	10:1 11:1 12:1	
6:1 7:1 8:1 9:1	101:2,5,15	244 4:18,21 17:14	13:1 14:1 15:1	8
10:1 11:1 12:1	14 27:15 34:7	17:18	16:1 17:1 18:1	80 89:10
13:1 14:1 15:1	14.6 75:2	245 10:16	19:1 20:1 21:1	80/20 61:18
16:1 17:1 18:1	14.7 6:15	246 17:13,16,19	22:1 23:1 24:1	84 87:13
19:1 20:1 21:1	15 27:20,24 32:4	18:2,4,18	25:1 26:1 27:1	85 34:15
22:1 23:1 24:1	32:13 71:2	248 4:18,22 25:4	28:1 29:1 30:1	
25:1 26:1 27:1,7	16 88:20	26 77:25	31:1 32:1 33:1	9
28:1 29:1 30:1	17 88:20	26,000 95:11	34:1 35:1 36:1	91 91:12
31:1 32:1 33:1	18 27:16	29-year 79:17	37:1 38:1 39:1	925 15:15 16:19
34:1 35:1 36:1	185 4:19 26:25		40:1 41:1 42:1	96 91:12
37:1 38:1 39:1		3	43:1 44:1 45:1	97 91:24