COUNCIL OF THE CITY OF PHILADELPHIA

COMMITTEE ON FINANCE

Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, May 9, 2013
2:10 p.m.

PRESENT:
COUNCILMAN BILL GREEN, CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN W. WILSON GOODE, JR.
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN KENYATTA JOHNSON
COUNCILMAN DENNIS O'BRIEN
COUNCILWOMAN BLONDELL REYNOLDS BROWN
COUNCILMAN MARK SQUILLA
COUNCILWOMAN MARIAN B. TASCO

BILL 121037 - An ordinance amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Income and Receipts Taxes," by, including but not limited to, modifying certain definitions...

BILL 130225 - An ordinance authorizing the Office of the City Treasurer, on behalf of the City, to enter into an agreement with Wells Fargo Bank, N.A. for provision of payroll banking services...

BILL 130227 - An ordinance amending Chapter 19-200 of The Philadelphia Code, entitled "City Funds - Deposits, Investments, Disbursements," by amending Section 19-201, entitled "City Depositories," by authorizing the City Treasurer to deposit funds in Bank of New York Mellon...

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COUNCILMAN GREEN: Good afternoon. The Committee on Finance is called to order. I'd ask the Clerk to please read the title of the bills we will be considering.

THE CLERK: Bill No. 121037, an ordinance amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Income and Receipts Taxes," by, including but not limited to, modifying certain definitions, all under certain terms and conditions.

Bill No. 130225, an ordinance authorizing the Office of the City Treasurer, on behalf of the City, to enter into an agreement with Wells Fargo Bank, N.A. for provision of payroll banking services to the City, under certain terms and conditions.

Bill No. 130227, an ordinance amending Chapter 19-200 of The Philadelphia Code, entitled "City Funds - Deposits, Investments, Disbursements," by amending Section 19-201, entitled "City

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Depositories," by authorizing the City Treasurer to deposit funds in Bank of New York Mellon, under certain terms and conditions.

COUNCILMAN GREEN: Thank you.

I note for the record the presence of a quorum in the persons of Councilmembers Blackwell, Greenlee, Goode, and Reynolds Brown.

We are going to take the bills in this order: First, the Bank of New York Mellon, 130227; then we will hear 121037 relating to changes to the BIRT tax; and finally deal with 130225.

Can I ask the Treasurer to please come forward, state your name for the record, and proceed with your testimony.

(Witnesses approached witness table.)

MS. WINKLER: Good afternoon, Councilman Green and members of the Committee on Finance. I am Nancy Winkler, City Treasurer for the City of

Philadelphia. I'm here today to testify in support of Bill No. 130227 that amends Chapter 19-200 of The Philadelphia Code by amending Section 19-201, entitled "City Depositories." Specifically, to update the list of financial institutions that the City is authorized to deposit funds.

With me today are James Lanham, Deputy Treasurer, and Mark DiSilvestro, Assistant Treasurer. There are also representatives of Bank of New York Mellon here in the audience, Peter Cunningham, Managing Director of Global Client Management, and Charles M. Elliott, Bank of New York Mellon Treasury Services, Certified Treasury Professional.

Bill No. 130227 authorizes the Office of the City Treasurer to deposit funds in Bank of New York Mellon, under certain terms and conditions. Bank of New York Mellon meets the requirements to become an authorized depository, and the

Administration supports this bill.

Bank of New York Mellon has affirmed in writing to the City that they will participate in the annual lending disparity study.

This concludes my written testimony. I am available to answer any questions you may have at this time.

Thank you.

COUNCILMAN GREEN: Thank you.

Are there any questions from the Committee?

Councilmember Goode.

COUNCILMAN GOODE: Ms. Winkler, could you have the representatives from the bank come forward?

MS. WINKLER: Certainly.

(Witnesses approached witness table.)

MR. CUNNINGHAM: Good evening, Councilman.

COUNCILMAN GOODE: How are you?

MR. CUNNINGHAM: Fine.

COUNCILMAN GOODE: State your

name for the record, please.

MR. CUNNINGHAM: Peter Cunningham.

COUNCILMAN GOODE: You were removed from the list of City depositories. Can you explain for the record why you were removed from the list?

MR. CUNNINGHAM: I don't believe that we had been removed from the list. I think that we may have not submitted to the lending study.

COUNCILMAN GOODE: You were removed from the list because I removed you from the list.

MR. CUNNINGHAM: Oh, you did?

COUNCILMAN GOODE: Yes.

MR. CUNNINGHAM: Okay. I'm sorry. That was before my time.

COUNCILMAN GOODE: Do you now understand the requirements?

MR. CUNNINGHAM: Yes, we do.

COUNCILMAN GOODE: And you're going to comply with the requirements?

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MR. CUNNINGHAM: We expect to, yes.

COUNCILMAN GOODE: And did you approach the City or did the City approach you about becoming a depository again?

MR. CUNNINGHAM: I think we approached the City.

COUNCILMAN GOODE: Okay. Thank you.

MR. CUNNINGHAM: You're welcome.

COUNCILMAN GREEN: Any further questions from members of the Committee?

(No response.)

COUNCILMAN GREEN: Seeing none, anybody else here to testify on this bill?

(No response.)

COUNCILMAN GREEN: Seeing none, we will move to Bill No. 121037. I think the COO of the Department of Commerce is here to testify, Kevin Dow.

Also, for the record,

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Councilmember Tasco and Councilmember O'Brien and Johnson have joined the Committee.

(Witness approached witness table.)

COUNCILMAN GREEN: Thank you. Before you proceed with your testimony, I will take the opportunity to say that this is another collaborative effort between the Council and the Administration. This bill is a follow-on to work done in the, I guess, last session of City Council with bill ending in 554, which provided for single sales factor apportionment to manufacturing companies. We followed that up this year -- well, single sales factor apportionment for all companies, but primarily that only benefits companies in the City of Philadelphia that sell tangible goods, which would mean that the playing field is completely level for, say, for example, manufacturers or distributors, whether they are headquartered in the City of Philadelphia or not, because they will pay the same tax to the City of Philadelphia in either case based only on one single factor, their sales inside the City of Philadelphia versus their sales outside the City of Philadelphia.

Earlier in this term we passed a bill that exempted private investment funds from the BIRT tax. As a consequence, we've had over one-half of $1 billion in investment funds moved into the City of Philadelphia and have collected far more in wage tax in that short time than we ever collected from private investment funds. Many of those funds will be invested in the knowledge-based economy and the future of the American economy and today's manufacturer of 80 years ago and, that is, software companies. And so we'd like to put the sellers of those products, software products, on a level playing field with their competition across the country, and as a consequence, we and the Administration have worked on a bill that will level the playing field for software manufacturers so that as companies are invested in and grow and become profitable, there will be no incentive for them to move to the suburbs and that we can retain those companies that are currently conducting that business today.

With that, Mr. Dow, please proceed with your testimony.

MR. DOW: Thank you, Councilman. Good afternoon. My name is Kevin Dow. I'm the Chief Operating Officer for the Commerce Department in the City of Philadelphia. I'm here today to testify on Bill No. 121037 in support of that bill.

We support the bill, as the Administration believes it will help spur continued growth in the information technology within Philadelphia. As Philadelphia's industrial base has declined, much like what Councilman Green

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has stated, over the years, the tech industry is beginning to take its place. The employment opportunities for Philadelphia residents is far too much to ignore, and this Administration wants to do everything possible to support that growth.

I'd be happy to take any questions at this time.

COUNCILMAN GREEN: Any questions from members of the Committee?

(No response.)

COUNCILMAN GREEN: Seeing none, anybody else here to testify on this bill?

COUNCILWOMAN TASCO: Just tell me, what does this bill do?

MR. DOW: Well, the bill changes the -- it actually gives -- the way in which we calculate the sales factor or the taxes for companies in the City is by apportionment. And by apportionment, I mean there is a formula that we use based on payroll, property, and receipts. This bill would limit the taxing ability to companies in the IT industry, and there's very specific NAIC codes which identifies those companies in this bill, which we appreciate, that would limit it to a single sales factor to receipts. It would essentially level the playing field for Philadelphia-based companies with its competition outside the City.

COUNCILWOMAN TASCO: Okay.

COUNCILMAN GREEN: Any other questions from members of the Committee?

(No response.)

COUNCILMAN GREEN: Seeing none, anybody else here to testify on this bill?

(No response.)

COUNCILMAN GREEN: Thank you. I will ask --

MR. DOW: Thank you.

COUNCILMAN GREEN: -- Councilmember Tasco to please chair the hearing and proceed with the next bill, 121037, after which I'll ask her to go into a --

COUNCILWOMAN TASCO: We just did 37.

COUNCILMAN GREEN: I'm sorry; 130225, for which I must recuse myself, and then I'll ask her to go into a public meeting and we'll take it from there.

Thank you, Councilmember.

COUNCILWOMAN TASCO: Okay. Thank you.

We now call on those who are here to testify on Bill 130225.

(Witnesses approached witness table.)

COUNCILWOMAN TASCO: Good afternoon.

MS. WINKLER: Good afternoon.

COUNCILWOMAN TASCO: Would you please state your name for the record, please, and begin your testimony.

MS. WINKLER: I'm Nancy Winkler, City Treasurer for the City of Philadelphia.

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Good afternoon, members of the Committee.

COUNCILWOMAN TASCO: Could you speak into the mic, please.

MS. WINKLER: Sure.

Good afternoon. I'm Nancy Winkler, City Treasurer. I'm here to testify today on behalf of Bill No. 130225. Bill No. 130225 will authorize the Office of the City Treasurer, on behalf of the City, to enter into an agreement with Wells Fargo Bank, N.A. for provision of payroll banking services to the City. Bill No. 060387 as adopted by City Council requires the City Treasurer to conduct an RFP process to select a City payroll depository. That bill also requires that no contract be executed with the selected vendor until it has been approved by City Council by ordinance.

Let me provide you some background. The Office of the City Treasurer issued an RFP for payroll banking services in October of 2012. The responses were reviewed by an evaluation team that included representation from OEO, the City Treasurer's Office, the Finance Department, OIT, and our banking services consultants. After reviewing the responses submitted, the evaluation team selected Wells Fargo Bank, N.A. and Bank of America for interviews. These were the two lowest cost providers.

Based on the selection criteria for the RFP, the Committee ranked the banks. Wells Fargo Bank, N.A. received the highest ratings, was the lowest cost, and was selected to be the vendor. The contract has now been negotiated. We are in the process of negotiating a back-up contract with Bank of America, but it has not yet concluded due to difficulty in reaching agreement on certain terms required by the City's general provisions related to liability.

This concludes my testimony. I am happy to answer any questions you may have at this time.

COUNCILWOMAN TASCO: Are there any questions?

Councilman Goode.

COUNCILMAN GOODE: Thank you, Madam Chair.

Good afternoon again, Ms. Winkler.

MS. WINKLER: Good afternoon.

COUNCILMAN GOODE: You're familiar with the requirements of Bill 130011, which is the latest bill that added new requirements?

MS. WINKLER: The quarterly reporting?

COUNCILMAN GOODE: The quarterly reporting, also the addition of community reinvestment goals as exhibits to the bill.

MS. WINKLER: Yes.

COUNCILMAN GOODE: And the community reinvestment goals and the fair lending plan that were attached to this bill were from 2012. You've agreed to make sure that they are updated and submitted as amendments to the bill?

MS. WINKLER: Yes.

COUNCILMAN GOODE: And you will enforce the quarterly reporting requirement?

MS. WINKLER: We will require quarterly reporting. We have spoken -- I have spoken to Wells Fargo and confirmed with them that they are prepared to meet the quarterly reporting requirements. And also I'd like to say that there are members of Wells Fargo Bank here today.

COUNCILMAN GOODE: Thank you.

Thank you, Madam Chair.

COUNCILWOMAN TASCO: Any other questions?

(No response.)

COUNCILWOMAN TASCO: There being no further questions, is there anyone else here to testify on this bill?

Would you come forward, please.

(Witnesses approached witness table.)

MS. GEMMELL: Good afternoon, Madam Chair, members of the Finance Committee. My name is Anne Gemmell. I'm the Political Director at Fight for Philly. Thank you for the opportunity to speak to you today about Mayor Nutter and the City Treasurer's choice of banking partners for the coming year.

First, I'd like to express relief. Fight for Philly is very relieved that the life of the contract is only one year. However, we're still opposed to this choice.

Now, I find it a great irony that at this very moment, there are about 500 Philadelphia students who gathered here first and started marching up towards the School District building to protest the cuts that are falling on their head. Wells Fargo and other banks were involved in swap agreements that helped deepen the debt of our School District, but you'll never see it in the School District's budget, because every swap agreement was rolled into subsequent bond deals until the bond deals approached half a billion dollars. So the point now where the interest rate is -- the amount of interest on the School District budget, as you all know, is 12 percent of the School District's budget.

But I want to speak quickly about Wells Fargo's community reinvestment goals. I had the opportunity to review these documents that were a required step of becoming a City depositor. Wells Fargo seems very proud of their hands-on banking financial education program. My son, Harrison, in sixth grade last year experienced this curriculum of financial literacy firsthand. Even a sixth grader recognized it immediately as propaganda to restore the damage that's been done to Wells Fargo and other banks' brand due to the greed that crashed our economy in 2008.

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Curriculum like this is nothing more than a way to manage and -- manage the damage to the brand, but also get into kids' heads as early as possible that these banks and their brands are good things, when in fact it's not the case at all.

The real financial education our kids received started in 2008, and it goes like this: Banking greed crashed our economy. The banks were bailed out with taxpayer money, and then they lobbied in bigger -- bigger percentages of their profits than ever to have access to special Federal Reserve programs. This investment of lobbying dollars protected laws that were friendly to off-shore tax havens. They collect hundreds of millions in swap payments from our schools. Not only Philadelphia, but 107 school districts in Pennsylvania and 86 Pennsylvania municipalities had swap agreements, managing almost $15 billion in debt throughout the

Commonwealth. Just in Pennsylvania. The news of mega bankers' unending scams indicates a remorseless, corrupt culture, literally rigging global interest rates, flagrantly violating new lending rules. And now just this month, just this week, a bigger ICAP scandal is erupting involving the rigging of interest rate swaps markets. The whole markets, the whole market is rigged. Every day you can read about new scams.

Tuesday it was announced that the New York City Attorney General, Eric Schneiderman, announced that he's pressing charges against Bank of America and Wells Fargo for their violation of the National Mortgage Agreement. Every week. It's to the point where it's not even news anymore.

In addition, Wells Fargo has poured millions of dollars into lobbying against commonsense reforms that would protect American consumers. Wells spent 18.86 million in lobbying from 2008 to

2011. That's 11 million from 2008 to 2010, plus an additional nearly $8 million in lobbying expenditures in 2011 alone. According to Los Angeles Times, the bank spent 27 percent more on lobbying in 2009 after getting bailed out, and then in the three years from '08 to 2011, Wells focused its lobbying against consumer-friendly bills on issues like mortgage reform, foreclosure prevention, anti-predatory lending laws, overdraft fees, credit card reform, tax simplifications, derivatives markets, and the creation of an independent consumer financial protection agency. All the things that would protect little people Wells Fargo lobbied against.

Wells Fargo CEO John Stumpf sits on the Board of Directors and executive committee of the Financial Services Roundtable. This Roundtable lobbied against the Employee Free Choice Act. This measure would have given bank workers who make $10 an hour a voice on the job through a union and allow them to bargain for stronger whistleblower protections so they can speak out against harmful consumer practices. Wells Fargo spent money to lobby against that.

So the Wells Fargo financial literacy curriculum for kids that is in our schools right now doesn't get into any of this, but the bank does think it's important that they reach 2,700 kids with this literacy curriculum, and they think it's laudable that they've distributed about $1 million per year in community grants since 1998. This is a mockery. This is a bank who received a federal tax refund, a refund. So they're so good at avoiding taxes and sheltering their profits in off-shore accounts that they get a federal refund of $680 million instead of pay a single dime in taxes to the American taxpayer.

They made billions last year and serviced over $2 trillion in mortgages. The damage that they have caused to our country and the School District and our city is so much greater than the value of a few feel-good grants cited in their community reinvestment document.

Here is the real lesson in financial literacy for our kids, and it's a constant stream of bad news. Tens of thousands of our kids were affected by school closures just this year, with undoubtedly more on the horizon. Hundreds of thousands of kids will be affected by the austerity slamming down against -- cutting their sports, arts, musics, counselors, and teachers. The banks are absolutely to blame.

It's really a favorite in City government to blame Arlene Ackerman and mismanagement of the stimulus funds, but you know what, that's stale. That's old. There's a lot of blame to go around, and the reality is that we're in a situation right now and what is the plan? And I think when the Mayor just this morning talks about shared sacrifice and says that the blue-collar workers gave up so much money per paycheck so that the teachers should too, what about the banks? Do the banks really need to pay 200 -- do they really need to get paid $280 million a year, 280 million just in interest payments a year? They are making, I'm told, 4, 4 and a half percent interest on the bonds. They are lent money at practically zero percent interest rate by our government. Our tax dollars bailed out the banks, and they have lobbied to keep the interest rates from the fed at near zero. So when they charge our children 4 percent interest rate, that is pure profit, pure profit on the taxpayer. Who is going to publicly ask for them to share some sacrifice? It wouldn't even be a sacrifice. This money -- it would be nothing to them to refund the cancellation payments from the swap agreements, to waive some service fees on the debt management. Who is going to stand up and ask them to share some sacrifice as well? Like I said, it wouldn't even be a sacrifice for this sector.

Our Mayor is not going to lead on this. I have no hope of him standing up to the private sector mega rich in our region. Council, it's up to you. It's up to you to see the forest of the financial sector corruption instead of the tiny bark of contributions that Wells Fargo claims they have made to our communities or the tiny bark of the difference between choosing Wells Fargo Bank and another bank that met the requirements as well and maybe would charge the City a little bit more. That's tiny bark compared to the forest of trees, the forest of corruption.

I don't even think our deposits are safe with these banks. Every day New York Times DealBook, every day, every month Matt Taibbi writes about it in the Rolling Stone. Every day there's investigative bloggers telling about new ways the banks are up to their same old tricks. There's no remorse in the financial sector. Our dollars are not safe with these banks.

So on behalf of our city, on behalf of the schools, I think that -- I urge you to refuse to do business with Wells Fargo and refuse to approve this contract with any bank who has helped crash our economy with their greed collected from our kids with the swap scams, dodged federal taxes, and show no sign of reform since the bailout in 2008. There are alternatives, but we just lack the political will to fully explore the alternatives. And I urge you to reduce the one-year contract and use the time -- maybe to a month-to-month agreement and use the time to explore other options. There are banks who were not involved in the global meltdown, who did not market toxic swaps to the District, who did not flagrantly violate the National Mortgage

Agreement or robo sign foreclosures or set up shops for payday lending. Those are the banks that deserve our business, not Wells Fargo and other similar banks. They do not deserve our business.

I've attached just this week, just this week new news about things that Wells Fargo is involved in to my testimony. And here with me is Public Banking Institute, who has evidence of alternatives.

COUNCILMAN GOODE: Madam Chair, questions for Ms. Gemmell.

COUNCILWOMAN TASCO: Councilman Goode.

COUNCILMAN GOODE: Ms. Gemmell, I've been fighting big banks before it became popular. So I actually have some problems with the testimony, and I'll start with you said you reviewed the community reinvestment goals?

MS. GEMMELL: Right.

COUNCILMAN GOODE: What were the goals?

MS. GEMMELL: Well, the goals are relative, right? The goals are improvement. The goals are relative to --

COUNCILMAN GOODE: The goals are actually numbers.

MS. GEMMELL: Right, but it's all relative numbers, relative improvement to the previous year.

COUNCILMAN GOODE: They're not relative numbers. The goals are specifically how many home mortgages, how many home refinances, how many home improvement loans, how many small business loans the bank is going to do within low and moderate-income neighborhoods. Those are the goals. What's wrong with the goals?

MS. GEMMELL: No. Those goals are great, and compared to the meltdown where there's a huge dip in those and in banks reaching those goals, I can see there's been improvement.

COUNCILMAN GOODE: I'm

specifically asking you locally about the community reinvestment goals that you said you reviewed.

MS. GEMMELL: I reviewed --

COUNCILMAN GOODE: What were the goals?

MS. GEMMELL: I reviewed the grants and I looked specifically at the curriculum. I was personally offended by the curriculum that's put into our schools that poses as --

COUNCILMAN GOODE: In 2011, Wells set a goal of 389 small business loans in low and moderate-income neighborhoods. Do you know how many they did?

MS. GEMMELL: I know it was an improvement. I don't have the numbers in front of me.

COUNCILMAN GOODE: In 2011, Wells Fargo committed to 1,626 home mortgages. Do you know how many they did?

MS. GEMMELL: No, I don't. I

have it -- I don't have it in front of me.

COUNCILMAN GOODE: In 2011, Wells Fargo committed to 112 improvement loans. Do you know how many they did?

MS. GEMMELL: No.

COUNCILMAN GOODE: They set a goal of 389 small business loans. They did 783. They set a goal of 1,626 mortgages. They did 3,336. They set a goal of 112 improvement loans. They did 149 improvement loans. So which banks do you think we should be doing business with?

MS. GEMMELL: Well, I think that we should start with the list of banks who weren't involved in the global meltdown. I think that the goals are very worthy goals, but at the same time --

COUNCILMAN GOODE: The question I asked --

MS. GEMMELL: At the same time, now they're under investigation.

COUNCILMAN GOODE: The question is, which banks should we be doing business with?

MS. GEMMELL: Well, my understanding is that PNC submitted a bid and TD Bank submitted a bid. Neither one of those banks are involved in global financial derivatives or rate rigging or neither one of those banks are under investigation for violating the National Mortgage Agreement.

COUNCILMAN GOODE: Does that make them more qualified?

MR. NUESSLE: What was that question?

COUNCILMAN GOODE: I asked her a question.

MS. GEMMELL: I think the way that the laws are written now, it may not be written in -- the requirements may not be written in a way that looks at the forest, right?

COUNCILMAN GOODE: Let's talk about the forest. We're going to have a

long discussion right now.
Have you drafted responsible banking legislation?
MS. GEMMELL: Of course not. No, I haven't.
COUNCILMAN GOODE: How many responsible banking ordinances have you reviewed?
MS. GEMMELL: I'm sure not as thoroughly as you've reviewed them.
COUNCILMAN GOODE: Did you review the latest lending disparity study released last month?
MS. GEMMELL: No, I haven't.
COUNCILMAN GOODE: This is it. It's kind of thick. It's a lot of reading, but I read the entire thing.
Are you familiar with the performance rankings within that study?
MS. GEMMELL: No, I'm not.
COUNCILMAN GOODE: Are you familiar with the rankings on home mortgage and small business loans?
MS. GEMMELL: No, I'm not.

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COUNCILMAN GOODE: The American dream is to buy a home or start a business. So should those rankings matter to us?

MS. GEMMELL: Of course they should matter, but I would contend that investigation of mortgage -- violation of the National Mortgage Agreement should also matter.

COUNCILMAN GOODE: I'm asking you whether those performance rankings should matter.

MS. GEMMELL: I answered that, yes, they should.

COUNCILMAN GOODE: Do you know what the performance rankings are based upon?

MS. GEMMELL: There's a wide range of metrics, I know that. I can't rattle them off.

COUNCILMAN GOODE: One of the things they are based upon, which I've raised in the past and my colleagues have been here for a while, I used to completely attack Wachovia, the predecessor, for the lack of home mortgages to African Americans. Do you know where PNC and TD Bank, which you just touted, rank in terms of that?

MS. GEMMELL: That's not something I looked at. I'm --

COUNCILMAN GOODE: Let me tell you how good I am at this. In terms of the entire market, the entire market did about 19 percent of home mortgages. In terms of our depositories, they did about 23 percent of their mortgages to African Americans.

MS. GEMMELL: I'm sorry. Are you talking about PNC or Wells Fargo?

COUNCILMAN GOODE: I'm about to get there.

In terms of all the banks in the market, they did about 19 percent of their mortgages to African Americans. In terms of all depositories, they did about 23 percent of home mortgages to African Americans. In terms of Wells Fargo, what do you think they did?

MS. GEMMELL: Probably much higher percentage.

COUNCILMAN GOODE: 24 percent. Now, what do you think PNC did? 15 percent.

MS. GEMMELL: 15 percent instead of 24 percent.

COUNCILMAN GOODE: What do you think TD Bank did?

MS. GEMMELL: Probably lower than PNC.

COUNCILMAN GOODE: 4.3 percent. But you want us to do business with TD Bank.

Thank you for your testimony.

MS. GEMMELL: Can I say something?

COUNCILMAN GOODE: Whatever you want now.

MS. GEMMELL: So I understand where you're coming from and I understand you've worked on this issues for decades.

COUNCILMAN GOODE: Won national

awards for it.

MS. GEMMELL: I'm very aware of that.

COUNCILMAN GOODE: I've been a speaker at every national committee and conference they have on local responsible banking ordinances.

MS. GEMMELL: I know. We all have issues that we're invested in.

COUNCILMAN GOODE: I'm very serious about this. I actually do the homework.

MS. GEMMELL: Councilman Goode, I did some homework on what my kids were being sent with homework in terms of bank propaganda in their classroom, and I know that Wells Fargo --

COUNCILMAN GOODE: But you refer to that as community reinvestment goals. They are not the community reinvestment goals. The community reinvestment goals are how many home mortgages, how many small business loans you're going to do in low and moderate-income neighborhoods. Beyond that, our lending disparity study examines how you lend to African Americans, how you lend to Hispanics, how you lend to low and moderate-income areas. We have a wide range of studies, very thick study.

MS. GEMMELL: Yes. I see that study. I also --

COUNCILMAN GOODE: So if you're actually talking about community reinvestment goals and fair lending plans, then speak about that. You could talk about the national situation. I buy that. But when I asked you the question who we should do business with in terms of banks, you didn't provide an answer.

MS. GEMMELL: Well, I'm sorry you're not satisfied with my testimony.

COUNCILMAN GOODE: You didn't tell me which banks we should do business with.

MS. GEMMELL: Well, I'm not -- that's not my job. I'm not on the

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Finance Committee.

COUNCILMAN GOODE: Well, last year --

MS. GEMMELL: What I'm trying to do --

COUNCILMAN GOODE: Last year you had a complaint about it, right?

MS. GEMMELL: Yes.

COUNCILMAN GOODE: And an RFP went out?

MS. GEMMELL: Yes.

COUNCILMAN GOODE: And you were aware of the RFP?

MS. GEMMELL: Yes.

COUNCILMAN GOODE: And any bank you wanted to respond to the RFP could respond to the RFP.

MS. GEMMELL: Several banks --

COUNCILMAN GOODE: Which they did not.

MS. GEMMELL: I must be getting information from --

COUNCILMAN GOODE: And one of the banks that did respond, TD Bank,

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which you just touted, only gave 4.3 percent of their home mortgages to African Americans.

MS. GEMMELL: Well, I also know they don't foreclose on African Americans either. Fight for Philly shares an office with the Affordable Housing Alliance and I've talked to those counselors endlessly, and I said, Who is in here providing the biggest hardship for African American families?

COUNCILMAN GOODE: Do you have any data?

MS. GEMMELL: I can certainly get data from them.

COUNCILMAN GOODE: The data is actually within here.

MS. GEMMELL: I understand that. I understand that, but in conversations with people who do the work every day of counseling people through foreclosure prevention, TD Bank is never mentioned. PNC is never mentioned. The culprits are Bank of America and Wells

Fargo. Those are the mortgages that are in front of the affordable housing counselors of people who are dealing with foreclosure all the time.

COUNCILMAN GOODE: How can TD Bank foreclose on African Americans without giving them a home mortgage?

MS. GEMMELL: Well, PNC is not in there either. They're lending to -- 15 percent of their mortgages in the region are lent to African American families.

COUNCILMAN GOODE: How can TD Bank --

MS. GEMMELL: They're not in foreclosure.

COUNCILMAN GOODE: How can TD Bank foreclose on African Americans if they won't give them a mortgage?

MS. GEMMELL: That's a very valid point.

COUNCILMAN GOODE: It's an extremely valid point.

MS. GEMMELL: But PNC is not

there either.

Look, I didn't come here to advocate for one bank or the other. What I am trying to say --

COUNCILMAN GOODE: Neither did I.

MS. GEMMELL: Right, so --

COUNCILMAN GOODE: If Wells Fargo didn't place first in the study in terms of home mortgages and didn't place first in the study in terms of small business lending to African Americans, to Latinos, to low and moderate-income areas using our performance ranking, unless you question the methodology -- you can do that if you want, but if they didn't place first, if they placed poorly as they did in the past, I would be on your side. But this time you're raising an issue of swaps, which is an unrelated issue. We're not here to discuss investments. We're actually here to discuss where the payroll account should go. Now, if there was an investment

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decision before us and we were trying to decide whether we should let Wells Fargo invest our money, your testimony might be valid. Your testimony might be relevant.

MS. GEMMELL: Well, do you think when you deposit the payroll, that it's not being invested by Wells Fargo? There are no rules. Once you hand it over to the banks, there are no rules. They're going to do whatever they want with it, into derivatives, into global finance, into high-risk hedge agreements. I don't think that our deposits are safe.

COUNCILMAN GOODE: Do you know where the rules are? They're within a contract. That's what we're approving today.

MS. GEMMELL: Well, it's a shell game when the financial sector -- and once Wells Fargo gets the money, they're going to do whatever they want with it.

COUNCILMAN GOODE: We have a contract and that's what we're approving

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today.

MS. GEMMELL: We all had contracts, and they didn't matter when the meltdown happened. None of it mattered. None of the contracts mattered.

COUNCILMAN GOODE: Next.

COUNCILWOMAN TASCO: Any other questions?

(No response.)

COUNCILWOMAN TASCO: Any other testimony?

MR. NUESSLE: Mr. Chairman and members of the City Council, my name is Frank Nuessle. I teach courses in sustainability in the Organizational Dynamics program at the University of Pennsylvania and I'm a Director of the Pennsylvania Project and the Director of Research for the Public Banking Institute.

Both of these organizations are not-for-profit and non-partisan. We advocate and educate for the creation of a network of public partnership banks here in Pennsylvania and around the nation at the state, county, and municipal level, advocating for new models of municipal banking that can contribute to economic development, job creation, local strong banking, and credit markets and sound municipal finance.

The proposed contract with Wells Fargo to hold City deposits and manage the payroll puts the City Council between a rock and a hard place.

On the one hand, many people in this city and perhaps on the Council already realize that to do business with the too-big-to-fall Wall Street banks is dangerous. These Wall Street banks almost collapsed the American economy, which led to a massive unemployment and home foreclosures while these same Wall Street banks peddled interest rate swaps which have caused cities, school districts, and municipal authorities hundreds of millions of dollars.

On the other hand, local banks aren't currently a real option for the City Council even though local Pennsylvania banks are far more prudently managed and are actually better regulated. Yet local banks often lack the technical capacity to manage the City's complex banking and reporting requirements and/or unwilling or unable to collateralize the City's large deposits.

Yet there is a third option. In more than 20 state legislatures and a growing number of cities and counties across the United States, new models of municipal banking are being developed to get cities like Philadelphia out of this bind and provide a real alternative to banking only with Wall Street.

One such model of municipal banking, which we urge Council to explore, is creation of a public bank of Philadelphia modeled on the very successful Bank of North Dakota. The concept is very simple. Philadelphia public funds can be used to capitalize a public bank, which then works in partnership with local community banks, credit unions, and other local financial institutions to increase the volume, lending limits, and affordable commercial lending, which then expands local businesses, creates jobs, supports homeownership, student loans, and generally supports local economic development.

A Philadelphia public bank would put the common wealth of Philadelphia to work for the common good of Philadelphians.

The benefits of this banking model for the people of North Dakota have been significant.

On the second page of the handout that I think you were provided, there's a graph which shows that on a loan per capita basis, the community

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banks in North Dakota since 2006 have lent out four times as much as the U.S. average. Also on Page 3 there is a table which shows -- which compares Vermont and North Dakota on a number of different metrics. The reason Vermont, because it has about the same population as North Dakota. You'll notice that North Dakota unemployment as of 2010 is half that of Vermont. There're also in North Dakota five times as many local banks as there are in Vermont. The percent of deposits in out-of-state banks as of 2009 is almost three times as much in Vermont as in North Dakota. But, most importantly, economic development lending in North Dakota is ten times that of Vermont.

Now, let me ask you this question: How safe are City funds on deposit with Wells Fargo and the other Wall Street banks? This question was asked only two days ago in a revealing article that appeared in the U.S. News and World Report, which is attached to my testimony and which I urge you to read.

Given the inherent risk of the Wall Street banks, the lack of any meaningful federal regulation, and their exposure to the derivative markets and the plans of the central bank to raid depositors when the next crash occurs, this could be an urgent consideration for the Council.

For those interested in a deeper dive into these issues and the benefits of public banking, you may want to attend a public forum that is being hosted by Professor Richardson Dilworth, who is the head of the Drexel University Center for Public Policy, which will take place at Drexel on Thursday, May 23rd. The agenda for this forum is also attached to the material that I provided.

To conclude, we understand Council's urgent need and limited options to manage City banking at this time, and we applaud the Council's decision to limit the Wall Street -- excuse me; the

Wells Fargo contract to the term of one year. We would also encourage Council to investigate these new models for municipal banking so that one year from today, the City of Philadelphia can conduct all its banking locally in ways that drive economic development, create jobs, and support strong local banking and sound City finances.

Thank you.

COUNCILWOMAN TASCO: Thank you.

Questions?

Councilman Greenlee.

COUNCILMAN GREENLEE: Just very quickly. Thank you, Madam Chair.

Sir, as I understand your testimony, you're really talking about something you think we should do in the future, and I get that.

MR. NUESSLE: Well, yes. Exactly right. What I would urge the Council to consider is to begin the investigation into the possibility of having the City of Philadelphia establish its own public bank.

COUNCILMAN GREENLEE: I understand.

MR. NUESSLE: Because you not only would save a lot of money, but you would also reduce the risk that is inherent in the Wall Street-managed system currently that you're depending on.

COUNCILMAN GREENLEE: I get that, but my question is, on this bill today that we have before us, it doesn't sound like you're speaking against that bill today. Is that a fair statement?

MR. NUESSLE: Well, no, no, because you have to do something right now.

COUNCILMAN GREENLEE: So, no, you're not speaking against the bill as of today; is that right?

MR. NUESSLE: No, no. That's correct. I mean, I would recommend the same option that Anne spoke to a moment ago, and, that is, to consider it on a month-to-month basis rather than on one year. But we do applaud the City Council for limiting the term of this contract to one year.

COUNCILMAN GREENLEE: Thank you.

Thank you, Madam Chair.

COUNCILWOMAN TASCO: Councilman Goode.

COUNCILMAN GOODE: Thank you, Madam Chair.

Which banks other than a public bank would be qualified to hold our payroll deposits?

MR. NUESSLE: Well, right now I don't think that the smaller local banks here in Philadelphia would qualify to handle your rather complex payroll requirements.

COUNCILMAN GOODE: My question is, which banks would qualify to hold our payroll deposits?

MR. NUESSLE: Well, I think the same banks that Anne mentioned, PNC and

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TD Bank and certainly Wells Fargo, and I'm sure there are other Wall Street banks that would qualify.

COUNCILMAN GOODE: Okay. Thank you.

COUNCILWOMAN TASCO: Are there any other questions?

(No response.)

COUNCILWOMAN TASCO: Mr. Shapiro.

MR. SHAPIRO: Members of Council, nice to see you again. I'm Stan Shapiro. I'm Vice Chair of Neighborhood Networks, and I want to endorse the comments of Anne Gemmell and Frank Nuessle. They compellingly laid out the case for why it's time to move our money from the institutions that crashed our economy, placed the City into a fiscal crisis, and have left our pension fund a-cripple.

I just want to add a bit of context from my perspective.

The funds we're talking about

are the resources that have been given to the City by its residents. They're the pulled resources of one and a half million of us or also been borrowed or granted to the City based upon the full faith and credit, again, of all of us as represented by you, our government. Every one of those dollars serves two purposes, the first of which is the purpose for which you've appropriated them. That includes all the services the City provides, whether it be police protection, fire, street, library or whatever. It also includes the building repair of the City's infrastructure insofar as they're spent in the capital budget.

But every one of those dollars does something else while it's waiting to be spent. They're invested, short, medium or long term, and right now they are invested for the purposes of those very entities that nearly destroyed our world and may do so again.

Exhibit 13 of the City's Fiscal Year 2012 financial report states that the City has investments of almost $6.4 billion. 27.3 percent of that sum, over 1.7 billion of that total, is invested in corporate equities. That's the line item in the City's financial report. Corporate equities, $1.7 billion.

Another 14.1 percent is invested in corporate bonds to the tune of $900 million. You know what corporate bonds has done to the economy of the world. The crashing of the economy of the world is due to what happened in the corporate bond market.

Well, what are those funds being used for? The report doesn't tell us. Are they being used for mountaintop removal in West Virginia? To manufacture death-dealing cigarettes to fund the operations of oil companies that are causing climate change? We don't know. It's not in the financial report, and it's not in the financial report because we don't ask the banks what is happening to the money that they are investing. That's their business with our money.

What we do know is that there are housing developments that need to happen in North, Northwest, and West Philadelphia whose construction could put Philadelphians to work. We know that there are cooperative enterprises striving to be born in the City of Philadelphia that could put unemployed ex-offenders to work in our city. There are small businesses in Philly that need working capital to expand and put graduates and put graduates of our high schools to work. And it's true, of course, as we've heard in the dialogue over the last period of time, that Wells Fargo does a certain amount of that lending. But that's a portion of the portfolio that they have and it's a tiny portion of the $6.4 billion that the City has as its investments that are reported in its financial report.

So I think what the three of us are saying is that there's a bigger picture, that right now we're looking for the best that we can expect from the privately controlled banking system that we have. It is not the only kind of banking system that we can have. We understand that we can't shift from one to the other overnight, and I for one am not going to suggest that where we are right now doesn't require that we get the best bang for the buck that we can possibly get under this structure, and Wells Fargo may produce that. And I have no criticism of that at the present time, but I think we're all urging this Committee and this Council to look at real opportunities for change, opportunities that have been tested in the State of North Dakota and that the City really ought to look at.

Thank you very much.

COUNCILWOMAN TASCO: Thank you very much.

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The Chair recognizes Councilman Greenlee.

COUNCILMAN GREENLEE: Thank you, Madam Chair.

Again, Mr. Shapiro, I guess I got kind of the same question. It sounds to me again like Mr. Nuessle, you're saying the system should be changed, but you're not really speaking against this bill as we sit here today, right?

MR. SHAPIRO: I don't have any objection to this particular bill.

COUNCILMAN GREENLEE: You don't have any objection to this bill?

MR. SHAPIRO: No.

COUNCILMAN GREENLEE: So really there's sort of a difference of opinion. We got two people who want the whole system changed, but are not speaking against the bill, and one person who is speaking directly against the bill; am I right?

MR. SHAPIRO: I believe that the overriding philosophy that all of us have is identical. We're dealing with a very difficult situation.

COUNCILMAN GREENLEE: Right.

MR. SHAPIRO: I think that all of us are looking for the maximum investment that we can get at this time and in the future in loans to underserved communities in the City of Philadelphia. If we have small differences that are nuances, I don't think -- I would hope that that would not overwhelm the thrust of our testimony, which is that we need to get out of this trap.

COUNCILMAN GREENLEE: You want a different system, I get that, but today, obviously we're going to vote on a bill today. You are not urging a no vote today; is that correct?

MR. SHAPIRO: Correct.

COUNCILMAN GREENLEE: Thank you.

Thank you.

COUNCILWOMAN TASCO: Councilman Goode.

COUNCILMAN GOODE: Mr. Shapiro, you're a former employee of City Council, so you've watched a lot of this unfold and you probably know that Council didn't have approval authority in terms of the payroll contract before.

MR. SHAPIRO: Yes.

COUNCILMAN GOODE: In fact, it was just an agreement between the Administration and a certain bank, and former City Treasurers testified to the fact they just gave it to the largest bank, and then when that bank got bought out and a new bigger bank came, they just gave it to that bank. And essentially through the work that we've done here, we've required community reinvestment goals, we've required an annual lending disparity study, we've required a fair lending plan, we've required that before someone holds our payroll deposits that in some ways establishes banking relationships for employees and in some cases pensioners, that we basically have that institution come before us, approve it so we can ask them the tough questions. And you've watched the predecessors of Wells Fargo come before this Committee and/or this Council and be attacked for what was a worse record.

Every institution had an opportunity to apply or respond to an RFP. There was a fair process that had to take into account community reinvestment goals and fair lending plans and all of that. Do you know of any other banks that you would recommend should have participated in that process that did not?

MR. SHAPIRO: Well, I would have hoped that some of the credit unions would have participated in the process, but they apparently did not, and I'm not -- again, I think that the work that you in particular and Council alongside you in making banks produce plans that would serve the needs as best as possible of the low-income, African American, minority, female populations of the City is tremendous and laudable. I would just hope that you wouldn't -- and I know that you won't -- rest on those laurels. I know that you're always trying to improve those records. I think that you've been incredibly responsible in modifying our local law to get the most that we can, but I think we are living -- things continue to evolve and we're living in a time when there are considerations that perhaps we wouldn't have dreamt up a few years ago when you got started. We didn't really believe that these banks -- first of all, there was Glass-Steagall and banks were banks and investment companies were investment companies, and that's no longer the case, and we weren't in this situation where we expected any moment that these banks, regardless of their great lending record, could actually destroy the economy. And we came this close to doing that. So I think it's legitimate for this Council going forward, as tremendous as the work is that you've already done, but going forward to look at these additional considerations and also the fact that the public bank means that the funds of the City would be completely under your control and not farmed out to institutions which would give back as much as you could get from them, but would enable you to fashion a plan with a much greater resource base than you now have. So these are new things that I just ask you to look into.

COUNCILMAN GOODE: Just for the record, the very first bill that I introduced in City Council in 2000 was a bill that authorized the City to invest in community development financial institutions through the use of promissory notes. And so the model you're talking about is not that dissimilar in terms of having the City directly invest in community development financial institutions. I've actually also pushed Wells Fargo to do the same, and they will get CRA credit for it.

So I'm not against the model in terms of taking the resources that we have and invest them in institutions that are going to focus directly on the community.

MR. SHAPIRO: Tremendous. Thank you.

COUNCILMAN GOODE: Thank you, Madam Chair.

COUNCILWOMAN TASCO: Thank you.

Any other questions?

(No response.)

COUNCILWOMAN TASCO: Anyone else here to testify on this bill?

(No response.)

COUNCILWOMAN TASCO: We will say that Councilman Goode has been tenacious in this area in terms of holding the local banking community accountable, and certainly he has come a long way with Wells Fargo. Prior to that, it was Wachovia. He started with

Wachovia, and I think has made some great strides for the people of the City of Philadelphia.

Certainly the Council is always open to new ideas, but that takes time, and so in the meantime, we have to do the business with those people who feel that they're capable of handling the payroll, because that's what we're talking about today, the payroll account, and there are a number of banks who don't have that ability to do that. But in the meantime, at the same time, I'm sure that Councilman Goode will be following through on other issues around banking in Philadelphia as well as across the country.

So we thank you all for your testimony.

(Thank you.)

COUNCILWOMAN TASCO: Now, that concludes -- you want to go ahead.

COUNCILMAN GREEN: Thank you very much, Councilmember Tasco. I appreciate you chairing the Committee for that bill.

We will now move from -- I guess we will recess the hearing and go into the public meeting. And the first bill we will deal with is 121037. Amendments have just been passed out for this bill. I will explain them to everybody.

The state law that allowed us to implement what was then the BPT and the BIRT tax says that the Revenue Commissioner shall determine apportionment. It is the Administration's position that determining apportionment means that we don't have the ability to legislate with respect to this tax, that they get to do it all themselves. It is my view and the view of Council's attorney who worked on this with us that we, of course, can legislate. We are the legislative body as the State Constitution and the enabling act that creates a first-class city, we are the legislative body that has all authority of the General Legislature with respect to any matter in the City of Philadelphia that has not been preempted by the state. Giving permission to the Department of Revenue does not prescribe City Council's ability to legislate what the Revenue Commissioner or Revenue Department can say with respect to apportionment or do at all. So our authority comes not from the enabling legislation, but it is available to us with respect to any taxes that we may impose or have the authority to impose as a city, and that applies in this case.

What these amendments do is leave the bill, as we believe we have the authority to, but it says that if a court of competent jurisdiction concludes that the Administration's view is correct, that it would be done in a way that the Administration has agreed with us is acceptable. And so that's the purpose of these amendments. It doesn't change the substance of the bill at all.

So I would ask Councilmember Greenlee to move the amendment and then the bill.

COUNCILMAN GREENLEE: Thank you, Mr. Chairman. I move the adoption of the amendment to Bill No. 121037 that was just explained.

(Duly seconded.)

COUNCILMAN GREEN: It has been moved and seconded that the amendment to Bill 121037 be approved.

All in favor?

(Aye.)

COUNCILMAN GREEN: Any opposed?

(No response.)

COUNCILMAN GREEN: Hearing none, the ayes have it.

Councilman Greenlee, if you would please move the bill with a suspension.

COUNCILMAN GREENLEE: Thank you, Mr. Chairman. I move that Bill No.

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121037, as amended, be reported out of this Committee with a favorable recommendation and that the rules of Council be suspended to allow for first reading at our next session of Council.

(Duly seconded.)

COUNCILMAN GREEN: Thank you. Having been moved and seconded that Bill 121037 be reported from this Committee with a favorable recommendation, that the rules of Council be suspended.

All in favor?

(Aye.)

COUNCILMAN GREEN: Any opposed?

(No response.)

COUNCILMAN GREEN: Hearing none, the ayes have it.

Councilmember Greenlee, 130227.

COUNCILMAN GREENLEE: Thank you, Mr. Chairman. I move that Bill No. 130227 be reported out of this Committee with a favorable recommendation and move further that the rules of Council be suspended to allow for first reading at our next session of Council.

(Duly seconded.)

COUNCILMAN GREEN: It's been moved and seconded that Bill No. 130227 be reported from this Committee with a favorable recommendation, that the rules of Council be suspended.

All in favor?

(Aye.)

COUNCILMAN GREEN: Any opposed?

(No response.)

COUNCILMAN GREEN: Hearing none, the ayes have it.

I now would like to turn the Chairmanship of this Committee over to Councilmember Tasco and will recuse myself from this bill for the reasons stated in the memo and given to the Chief Clerk. Thank you.

COUNCILWOMAN TASCO: The Chair recognizes Councilman Greenlee to move Bill 130225.

COUNCILMAN GREENLEE: Thank you, Madam Chair. I move that Bill No.

130225 be reported out of this Committee with a favorable recommendation and that the rules of Council be suspended to allow for first reading at our next session of Council.

(Duly seconded.)

COUNCILWOMAN TASCO: It has been moved and properly seconded that Bill 130225 be reported out of Committee with a favorable recommendation and a request that the Council -- suspension of Council's rules so that this bill can be heard at Council's next session.

All in favor?

(Aye.)

COUNCILWOMAN TASCO: Any opposition?

(No response.)

COUNCILWOMAN TASCO: There being none, the motion is carried.

This Committee is now adjourned. Thank you very much.

(Committee on Finance concluded at 3:10 p.m.)

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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