

# Committee Meeting

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## ASSEMBLY STATE GOVERNMENT COMMITTEE

"To receive testimony concerning certain personnel practices in the Executive Branch of State Government"

LOCATION: Room 319  
State House  
Trenton, New Jersey

DATE: July 14, 1992  
1:30 p.m.

### MEMBERS OF COMMITTEE PRESENT:

Assemblyman Robert J. Martin, Chairman  
Assemblyman John Hartmann, Vice-Chairman  
Assemblywoman Virginia Haines  
Assemblyman David C. Russo

### ALSO PRESENT:

Assemblyman C. Richard Kamin  
District 24

Assemblyman Louis A. Romano  
District 33

Frank J. Parisi  
Aide, Office of Legislative Services  
Assembly State Government Committee



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*Chairman*  
JOHN HARTMANN  
*Vice Chairman*  
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**New Jersey State Legislature**  
**ASSEMBLY STATE GOVERNMENT COMMITTEE**  
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**C O M M I T T E E   N O T I C E**

TO: MEMBERS OF THE ASSEMBLY STATE GOVERNMENT  
COMMITTEE

FROM: ASSEMBLYMAN ROBERT J. MARTIN, CHAIRMAN

SUBJECT: COMMITTEE MEETING - July 14, 1992

*The public may address comments and questions to Frank J. Parisi,  
Committee Aide, or make bill status and scheduling inquiries to  
Deborah Del Vecchio, Secretary, at (609) 292-9106.*

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The Assembly State Government Committee will meet on Tuesday, July 14, 1992 at 1:30 P.M. in Room 319 at the State House, Trenton, New Jersey for the purpose of receiving testimony concerning certain personnel practices in the Executive Branch of State Government. In particular, the Committee will address the recent hiring of new State employees in large numbers immediately before a freeze on such hiring was imposed and at a time when it was apparent that layoffs would be necessitated by the Fiscal Year 1993 budget.

The Committee has invited Anthony J. "Skip" Cimino, Commissioner of Personnel, Alan S. Gibbs, Commissioner of Human Services, and Scott A. Weiner, Commissioner of Environmental Protection and Energy to provide their testimony at this meeting.

Issued 7/8/92



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**ASSEMBLYMAN ROBERT J. MARTIN (Chairman):** I would like to call this meeting of the Assembly State Government Committee to order. We do have a quorum. I want to take note that, of our members, Assemblyman Kenny is on vacation, but filling in on the Democratic side is Assemblyman Romano. Assemblyman Baer, I understand, is at the Democratic National Convention. Assemblyman Kamin is here subbing for Assemblyman Rooney. Assemblyman Russo is on his way, and should be here momentarily. I know the Commissioners are here, and we do not want to delay it further because they do have busy schedules. Senator LaRossa is here, as well. Those four persons will be testifying before the Committee this afternoon.

Just procedure-wise, I have a short opening statement that I would like to make, and Assemblyman Hartmann, who is here, the Vice-Chair, has asked to make an opening statement. Also with us is Assemblywoman Haines, on the Republican side.

With that, I will begin my opening statement: Thank you all for attending this meeting. I want to thank Commissioners Cimino, Weiner, and Gibbs, for coming here today to answer this Committee's questions. I would like to start by outlining exactly why this Committee meeting has been called.

Since the Legislature's budget override, our concerns have been piqued by puzzling reports that several executive branch departments have conducted new hirings in the month of June, when it seemed obvious that layoffs would be needed to balance the budget. The layoffs were obvious as early as April. To dispel the notion that layoffs were not imminent, I would like to quote a few newspaper articles:

First, as of April 5, an article in The Star-Ledger stated that: "Republicans Seek to Eliminate Unnecessary Personnel," and quoted Senator Bob Littell as saying, "We will eliminate them." On April 23, another account in The Star-Ledger had Assembly Speaker Chuck Haytaian acknowledging the fact that as many as 2500 State workers could lose their

jobs due to the budget. It goes on to specify that Republicans intended to target unclassified jobs, and that Haytaian said that paring the State payroll was the best way of keeping down future budget increases. In fact, the same article quoted Senate President DiFrancesco as saying he believed that Commissioner Cimino had finally recognized -- is finally recognizing -- that there may be a need to impose some layoffs after July 1.

Referring to a letter from Commissioner Cimino, DiFrancesco was quoted in the April 24 Trenton Times as saying: "It is an important indication that the administration recognizes there may be a need to implement layoffs." The list goes on. There seems to be no doubt, then, that from early April the layoffs were inevitable. Certainly any new hiring would, at the very least, be inappropriate and not substantiated by the then current situation.

But hirings apparently did go on, and not just in April and May, but right up until after the budget was presented on June 18. For example, I have a report that an individual was hired by the Department of Human Services on June 24, six days after the Legislature presented its budget outlining the layoffs that would be necessary to reduce government waste. There were many other hirings, perhaps as many as 500, that took place at a time when the budget constraints seemed obvious.

We were also concerned about the manner in which the executive branch chose to pursue layoffs. It seems that instead of following the budget's language and releasing nonclassified middle managers and top-heavy bureaucrats, direct service providers have been targeted.

These hirings and firings have necessitated this meeting. Hopefully, these events can be explained, in full, to this Committee. A couple of people have made reference, including our staff, to this being somewhat similar to the



midnight judges, going back -- at least in my historical memory -- to the administration of Adams. I don't want to categorize things. I want to hear the facts as best we can. I think we have the people here who can best enlighten us as to what is going on. I think we are all concerned. My office even -- in Morris County -- has had some indications that people who have been hired should not have been the ones -- where others seem to have been protected, for whatever reasons.

I think we are all concerned. I know Mr. Hartmann, whose district includes the City of Trenton, has been particularly anxious to get some understanding of what is going on. I would like John to give his opening statement, and then we will hear from Senator LaRossa.

ASSEMBLYMAN HARTMANN: Thank you, Mr. Chairman.

Mr. Chairman, as a freshman legislator, I am greatly disturbed and somewhat disillusioned to see the games being played by this administration. It is a pathetic and cynical game designed to foster fear and anger within the corridors of State government by threatening draconian layoffs. It is all being done out of a mean-spirited, partisan, political strategy.

It is distressing to see bureaucrats willingly and callously using the jobs of working men and women as weapons of critical warfare. This is not about inflating layoff numbers in order to redirect public anger at the Republican Party. This is about real husbands with wives and daughters and sons. This game must end.

Mr. Chairman, even before the State budget was adopted, the Florio administration proclaimed that they would be forced to lay off in excess of 6000 workers, despite the fact that the language in our budget dictated that layoffs be targeted at 14,000 personnel in middle management making over \$50,000 per year. In fact, legislation I sponsored, which is sitting on the Governor's desk today, would further guarantee that layoffs would be held to a bare minimum. Once again, I

urge the Governor, today, to show some compassion for the rank and file State workers by signing my legislation -- the Endangered Workers Protection Act. Sadly, the Governor continues to march ahead with his plans to fire massive numbers of rank and file employees, in direct violation of the budget law, while hiding behind his hand-picked Attorney General's interpretation of the State Constitution.

Mr. Chairman, the truth is, if the Governor is using the Constitution as a prop to protect his political patronage jobs, this is blatantly wrong. Mr. Chairman, I have received, and my office continues to receive, phone calls and letters from State employees who are seeing firsthand how callously the various departments are implementing layoff plans which protect cronies and target low-paid union employees. I have been told that many layoff plans go after the whistle-blowers and people who lack political connections. I have even heard some reports that some departments are willing to cut several federally funded positions in order to get at one State employee who has ruffled some feathers in their department.

Taken together, these incidents paint a large and disturbing picture of the administration; an administration bent on revenge and out of control. However, Mr. Chairman, despite all of these disturbing events, I take today's hearing as a sign of hope. The fact that Commissioners Cimino, Gibbs, and Weiner have agreed to come today to answer our questions, offers some hope that we can overcome the partisan bickering, and implement the budget as it was intended. I look forward to hearing what they have to say today.

ASSEMBLYMAN MARTIN: Thank you, Assemblyman Hartmann. Is there any other Assembly member who wishes to make an opening statement? (no response) Seeing none, Senator LaRossa asked to speak before the Commissioners, and we will honor that request. Senator LaRossa, this is your home territory, the City of Trenton. Thank you for coming.

S E N A T O R   D I C K   L a R O S S A: Thank you, Mr. Chairman. Bear with me for just a moment while I pull a couple of these things out of here. (witness rearranges his papers)

Mr. Chairman, and members of the Committee, thank you very much for allowing me to testify here today.

My colleague, Assemblyman John Hartmann, and members of the Assembly State Government Committee, I want to frame my remarks in terms of the administration's hiring of 466 workers just prior to the implementation of a hiring freeze, and in obvious and direct violation of the legislative intent of the current budget document, which is the law under which this State is currently operating.

As a member of the Senate Budget and Appropriations Committee, I participated for months in over 20 hearings, and heard from over 300 people who testified on this budget. We labored to make sure that this administration would find it extremely difficult to extract its warped sense of revenge on rank and file direct service government workers. Our intent was, and still is, middle and upper management "fat," political hacks who are recent hires, and high level, high salary carryovers, who should have been removed when this administration took office.

In approaching today's important meeting, I need only remind you about a trumpet blast heard last Thursday in which the administration appears to have sounded a retreat on the all-out layoff numbers war. As I have stated, we will wait and see whether or not the final plan is the right plan for New Jersey.

With that in mind, I am very grateful to you, Mr. Chairman, and your Committee, for conducting an in-depth review of the circumstances under which the 466 employees in question were hired.

While Commissioner Cimino and I have publicly disagreed on layoff numbers, I stand by my statement that he is "an honorable man."

I firmly agree with the Commissioner's recent comments, that it is difficult to understand how hiring is going on in the middle of a budget crisis of the proportion that was playing out in the months of May and June.

As an Assemblyman, in January of 1991, Commissioner Cimino was quoted as saying that he questioned this administration's "level of understanding, command of relevant information, and its compassion." The then Assemblyman Cimino also said that lawmakers made mistakes because dialogue, thoughtful analysis, and exploration of alternatives were prevented, and he called for cautious deliberation of the proposed layoffs. He went on to state, "I believe this Legislature must act to check the runaway juggernaut of the administration, and if I am to draw a line and say, 'No more,' it is here on the issue of people's jobs." All quotes are from a local newspaper, page 13, Thursday, January 17, 1991, as the Commissioner's testimony.

Where you stand often depends on where you sit, and even though the Commissioner is a member of this administration now, I believe he will cooperate with the Legislature in completing a plan that is right for the citizens, taxpayers, and workers of New Jersey.

To that end and belief, let me take one more of the Commissioner's statements from his testimony of January 17, 1991: "If layoffs are the answer, I would rather save three \$20,000 positions in the classified service and give up a \$60,000 project specialist, no matter to whom they are related."

Finally, let me ask my fellow Committee members and all who testify before this Committee, to keep in mind that we must focus on what is best for the State of New Jersey and its citizens, including those citizens who are employees of the State.

As it relates specifically to the issues before us, I have a set of questions that I would greatly appreciate the Committee addressing:

1) How can an administration which was on the verge of implementing a hiring freeze, and faced with a layoff number of any consequence, turn around and hire, as reported, 466 new workers?

ASSEMBLYMAN MARTIN: Senator, just so we're-- How many questions are you posing here?

SENATOR LaROSSA: Five.

ASSEMBLYMAN MARTIN: Okay.

SENATOR LaROSSA: I'm sorry.

2) What message does that send to middle managers eligible for layoffs? What message does that send the rank and file workers the administration threatened to lay off?

3) If layoff plans are subject to the approval of the Commissioner of Personnel, then why are lists of names and job titles circulating throughout the departments, and why, according to the people themselves, have pink slips gone out?

4) What are the titles of the new hires, and what positions are they replacing?

5) Are these new hires, as is being speculated, being put in place so layoff numbers appear inflated?

While the focus of this hearing is the 466, I would hope that this Committee would expand either this, or future meetings, to address a couple of situations that have been brought to my attention which I think are absolutely essential to the work of this Committee:

1) In DOT, bus inspectors who annually check out New Jersey's 6200 commercial buses, including casino buses and New Jersey Transit buses, will be gone by October. If this is a plan that was not approved and subsequently rejected, then why create so much anguish and make it public in the first place?

2) In the Department of Education, a 23-year employee, whistle-blower and bargaining unit treasurer, was given a pink slip. According to DOE bargaining unit representatives, in order to "get" to this employee, six people

had to be laid off. Of the six, four are federally funded. Laying off federally funded positions does not save the State money, and, in fact, causes the State to give back \$238,000 in Federal funds.

In your statement, I have attached a letter from DEP employees regarding layoffs in the Division of Parks and Forestry. I will save you the time and agony of having to read through that, but I think there is one paragraph, at the very end, which I think is very pertinent:

"I would appreciate your keeping my inquiry confidential, as I fear immediate reprisal and the loss of my job due to the disclosure of this information. Any assistance or information you could provide regarding this situation would be greatly appreciated by myself and my co-workers."

That letter, if you would please take the time to read through it, is indicative of a substantial number of letters, testimony, and inquiries that I have received, and I'd be more than happy to make all of them available to the Committee, which I have in my hand here. I've not had the opportunity to go through every single one of them, but these are comments and requests from State workers and people throughout the State government who are calling in to try to get some idea as to why these activities are being engaged in, rather than the legislative intent of the budget document.

Finally, Mr. Chairman, last year this administration sent out almost 40,000 layoff notices. S-995, sponsored by Senator Ambrosio and myself in the Senate, and Assemblyman Hartmann in the Assembly, specifically addresses this type of problem. It is also an attempt to limit the anguish caused by premature, unapproved, and unauthorized layoff plans and procedures being released. I hope the Governor will act on this and Assemblyman Hartmann's companion bill, quickly.

Mr. Chairman, since I announced the formation of the Layoff Monitoring Task Force, information such as these

incidents have been pouring into my office, and so far, I have received information from the following departments: Education, DEPE, Health, Human Services, OTIS, the Department of Personnel, the Department of State, Taxation, and Transportation, so far.

As I said, I will provide this information to the Committee at your request, or as it becomes available. I will not bother you unless it is documented, or unless I am able to produce witnesses who may have to be protected under New Jersey's whistle-blower law.

In anticipation of being accused of grandstanding or pandering to my constituency, I can only comment that my constituency wants effective, efficient, and equitable government, and that is what I am attempting to deliver. Please keep in mind that my wife, my mother, father, sister, brother, and I, are all public employees. That's nothing to be ashamed of; only a lot to be proud of. And the time has come to stop public employees from becoming an endangered species.

I hope that as this Committee moves forward, that the shell game of the 466 is the foundation for a more extensive investigation of the personnel methods and procedures initiated at the direction of this administration. I would further hope that this investigation is one other means by which the legislative intent of the FY '93 document is enforced. That budget document is the law under which the State is operating, and until the courts rule otherwise, it is that law that is to be followed.

Thank you, Mr. Chairman.

ASSEMBLYMAN MARTIN: Thank you.

Any questions for Senator LaRossa?

ASSEMBLYMAN HARTMANN: I have one.

ASSEMBLYMAN MARTIN: Mr. Hartmann.

ASSEMBLYMAN HARTMANN: Senator, as a proponent of union issues, how do you-- Your Task Force-- What exactly is





going to be your lineup of researching this? What do you think are some of the leads you're going to be following?

SENATOR LaROSSA: Well, as far as following the leads, inasmuch as the Task Force specifically does not have the formal power or authority of law, what we are doing is trying to make and use that as a clearing house to assemble information in some type of logical system and delivery format, so that we can in turn document it, and then turn that information over to the Committees -- the standing Committees -- via either the State Government Committees or the Appropriations Committee, and hope that the standing Committees that are already in effect will work on them. But, again, we're trying to not have the Committee's work be deluged with a lot of duplicate information. Hopefully, we'll be able to be somewhat of a clearing house.

ASSEMBLYMAN MARTIN: Senator LaRossa, I want to thank you again.

SENATOR LaROSSA: Thank you, Mr. Chairman.

ASSEMBLYMAN KAMIN: Mr. Chairman, if I might ask a question?

Mr. Chairman, through you, I'd like to ask the Senator if there is any-- In going over the list of departments that you have received some information from, could you give us a percentage, or are there any, say, flagrant violators? Are you getting more correspondence from one department as compared to others?

SENATOR LaROSSA: Inasmuch as-- Again, it's fairly early on, but the thickest file by far, is the Department of Education's. One gives an instance where it lists in the last 10 months an assistant commissioner having hired 12 new people, eight unclassified, three classified in Civil Service, and one management. A great majority of those hires were in the last two to three months, and one new manager hired as recently as four to five weeks ago. What we have in a lot of the other

departments, which go into-- We talk about the flagrant violations, as you mentioned. I would refer back to the letter which is in the testimony here, which comes from someone talking about one, two, three, four, five, six, seven, eight, nine State park facilities being closed, and the situation of some 400-plus parks and forestry employees absorbing the overwhelming percentage of cuts in DEP.

Please understand that this information is information that is coming into my office, and at this point, I can do nothing more than present you with the information. And, again, some of these people are somewhat fearful for their positions. But, again, in all fairness to the Commissioners in these departments and the Commissioner of Personnel, you know, I would hopefully be able to supply you with information and, should an investigation move forward, you know, these pieces of information would be the basis of some of the things that would be investigated.

There's a lot of innuendos, a lot of rumors, a lot of hearsay, and what I always tell people is, "Put it in writing. Don't take up my time with rumors." If they're willing to put it in writing, then it's my feeling that there is something more substantive -- that they will take that and sign their name to it. But, at all costs, what I will try to do is protect their interest as well. Some of the other-- As I said, Education is one of the large ones.

In terms of flagrant, not in terms of numbers, but flagrant in terms of some of the activities -- a cut of a federally funded professional scientific position -- being cut so that money could be reshuffled to cover a bureau chief who is -- and I'm reading, this is not my characterization -- a favorite of the assistant commissioner, who has no Civil Service position since it was a political appointment. Is an action like this the intent of the Legislature? I think not. And, again, these are the kinds of letters that I am receiving. I try to--

ASSEMBLYMAN MARTIN: What department was that?

SENATOR LaROSSA: That's DEP.

ASSEMBLYMAN KAMIN: Thank you, Senator.

ASSEMBLYMAN MARTIN: Anyone else? (no response)

Thank you, again, Senator LaRossa.

SENATOR LaROSSA: Mr. Chairman, what I will do is, I will go through this with a fine-tooth comb, and at your request, make it available so that, again, you don't have to-- You've got enough to deal with. I'll try to make it as painless as possible.

Thank you.

ASSEMBLYMAN MARTIN: Commissioner Cimino gave me the courtesy of calling me this morning. We talked procedurally. It's my understanding that-- I believe he would like to come up along with the other Commissioners, and you would all sit at the table together. Is that what you'd like to do?

COMMISSIONER ANTHONY J. CIMINO: If that's permissible, Mr. Chairman?

ASSEMBLYMAN MARTIN: As long as we can find enough seats, which we'll scrounge up somewhere. I think that would be appropriate at this time.

COMMISSIONER CIMINO: Mr. Chairman, with me, of course, is the Director of the Office of Management and Budget, Richard Keevey. Of course, you know very well Commissioner Scott Weiner of the Department of Environmental Protection and Energy, and all the way over is Commissioner Alan Gibbs, of the Department of Human Services.

ASSEMBLYMAN MARTIN: Skip, do you have an approach that you'd like to proceed on?

COMMISSIONER CIMINO: I have an opening statement, if I could, Mr. Chairman? And, thereafter, I believe that both Commissioner Weiner, as well as Commissioner Gibbs, also have opening statements. If you will allow them into the record, we would appreciate that. We'd like to express our views, if we could?

ASSEMBLYMAN MARTIN: That's fine. We're not talking about half-hour speeches--

COMMISSIONER CIMINO: Well, actually we thought we'd give you a five-hour filibuster, Mr. Chairman, if that's possible? (laughter)

ASSEMBLYMAN MARTIN: We'll be glad to hear your testimony.

COMMISSIONER CIMINO: Assemblyman Kamin-- I know that you're always patient, Assemblyman Kamin.

ASSEMBLYMAN MARTIN: We try.

COMMISSIONER CIMINO: Mr. Chairman, just let me start by saying good afternoon, and thanking you for this opportunity to come before the Assembly this afternoon. Certainly it's my pleasure to come before a group of members of the Assembly with whom I've had the pleasure to work, and yourself, Mr. Chairman, when we served on the same Committee together; Dr. Romano, and Assemblywoman Haines, who served as the Clerk; Assemblyman Russo and Assemblyman Kamin, who served as colleagues. I appreciate the opportunity.

Mr. Chairman, members of the Committee, I'd like to begin by expressing my appreciation for the Assembly's interest in the personnel matters before the State of New Jersey today. Indeed, Mr. Chairman, with respect to my appearance before your Committee back in January, the personnel matters before the State of New Jersey today and the people of New Jersey, are far graver than they were in January, inasmuch as Governor Florio had not proposed a single layoff in his budget document. And today, standing before us, are significant numbers of layoffs for the work force of the State of New Jersey.

I received formal notification of this Committee's meeting last Wednesday, from you, Mr. Chairman. I subsequently received a letter from Vice-Chairman John Hartmann, in which the Assemblyman posed five specific questions with respect to the very sensitive and deliberative process of evaluating

layoff plans submitted by State agencies. If there are no objections, Mr. Chairman, I would like to answer each question in the context of this statement, then answer any other questions you may have about work force reductions and State hiring.

ASSEMBLYMAN MARTIN: All right. Do you want us to pose questions as you read these?

COMMISSIONER CIMINO: No. I thought what I would do is respond to Assemblyman Hartmann's written questions, and I thought that that would give us a broad context of the framework within which to work, so that you have some sense of understanding in an attempt to provide you with information.

Assemblyman Hartmann's first questions was: To what extent, if any, is the Department of Personnel using the guidelines contained in the budget language in evaluating layoff plans submitted for approval? In a follow-up, Assemblyman Hartmann also asked: Have you provided written guidelines to the other departments for use in formulating layoff plans?

Mr. Chairman, and members of the Committee, as you know, the Attorney General has raised constitutional questions with respect to the language of this budget requiring another branch of government to single out a certain class or a group of workers for layoff, namely management and administrative personnel in the unclassified and classified service, whose annual income exceeds \$50,000 a year. Indeed, Cabinet officers were advised by the Attorney General that we were not legally obligated to implement work force cuts in accordance with the budget language. However, I have been directed by Governor Jim Florio to insure that these cuts, in point of fact, do not fall unduly hard on the rank and file workers.

Mr. Chairman, that has been Governor Florio's direction since June 18. He has never wavered from that direction. He has been specific about that direction. He has

been clear about that direction. He has been concise about that direction. The Governor, indeed, has instructed me to insure that layoffs are fair, are equitable, are across-the-board, and defensible; defensible in the public courts of this State; defensible in the court of the Legislature, and defensible in any other venue.

To answer your follow-up: Cabinet officers have been told both verbally and in written form, by the Governor and myself, to craft layoff plans which to the extent possible are true to the budget language, and concentrate first and foremost on management employees earning \$50,000 and above. I am therefore not going to approve a plan that lacks any proportional continuity in the distribution of layoffs.

In question number two, Assemblyman Hartmann asked: What guidance has the Department of Personnel received from the Governor's Office concerning the use of budget language in evaluating layoff plans? Mr. Chairman, I believe my response to the first question succinctly and satisfactorily responds to Assemblyman Hartmann's second question.

Question number three: Has the Department of Personnel suggested alternatives to layoffs that may be utilized by departments? For example, has there been any fiscal creativity? If so, what are they? If not, are any such alternatives being explored or developed by the Department of Personnel?

The Committee, Mr. Chairman, should be apprised that under the Administrative Code-- And I know, Mr. Chairman, you know this full well. You have chaired this Committee on a number of different occasions. Indeed, your service here in this Legislature has been distinguished. The law that follows, and the Department of Personnel governs, is the fact the Administrative Code under Title 11A -- the reformed statute that was put forward back in 1986-- The law for this Department is constitutionally charged with administering

30-day layoff plans which are being submitted to the Department of Personnel, and which are routinely submitted by any governmental entity in the merit system.

So, Mr. Chairman, the layoff plans that come in from the various departments of this government are no different than the layoff plans that affect 130,000 at the county and municipal level. We operate under the same rules. I've expressed that, Mr. Chairman, for the six months that I've been in this job, at least 12 times before this Legislature.

There are certain criteria which must be met. The Department of Personnel, the government of the State of New Jersey, is following that criteria. One of the criteria is that the appointing authorities -- and in this case, the appointing authorities are the State departments, themselves -- must take prelayoff action to minimize the need for layoffs. Some examples of the prelayoff actions -- layoff alternatives, as they are called -- typically include releasing provisional appointees in advance, and temporary employees first, and shifting employees to another funding source if that funding source proves viable.

Mr. Chairman, the Governor's direction to me has been that the plans need to be fair; they need to be equitable; they need to be across-the-board. But the operative statement from Governor Florio has been that these plans need to be humane. They need, in fact, to do all that they can to minimize the severity of what it is that has been propounded here.

The Governor feels intensely bad about that, because he never put forward a single layoff in his budget. We never called for layoffs in his plan. I'm not at liberty, Mr. Chairman, to elaborate on the specific fiscal creativity contained in any layoff plans which may have been submitted to the Department of Personnel. Let me interject here that the layoff process is an internal administrative process.

Mr. Chairman, I hope that we can get to the point where we understand the severity of what is going on. I hope we can get to the point where we understand the difficulties that are out there for the various members of the State work force. I hope that everyone in this room, and in the State of New Jersey, understands that these are not faceless bureaucrats; that these are people who prosecute crime. These are people who work on bridges. These people are who work in our State parks and our laboratories. They pay mortgages. They have families. This is not a game, and the Governor has not approached it as a game. I would hope that we understand that, Mr. Chairman.

Let me add that the Attorney General in his July 9 memo indicated that layoff plans submitted by State agencies are to be treated as internal documents, and should not become public record until they have been approved by the Department of Personnel. And, Mr. Chairman, there is not a single plan that has been approved yet by the Department of Personnel. There are those that are moving towards tentative approval; there are those that have not. The Commissioners, as appropriately, have been informed. That communication remains internal as it should, because this is a highly sensitive process.

The Department, itself, has not developed any fiscally creative alternatives to be adopted for use by State agencies in order to minimize the layoffs. The fiscal steps suggested by the departments in an appropriate way must be reviewed and authorized by the Office of Management and Budget, because they are responsible for the monetary aspects of the government.

In question four, Assemblyman Hartmann formally requests copies of layoff plans which have either been approved or disapproved. Due to the tentative and internal nature of the layoff plans, I respectfully ask this Committee to honor the confidentiality of this highly sensitive process. Upon



plans' approval, I would be happy to share them with you and to respond to any questions. Indeed, Mr. Chairman, at the point when those plans are approved, they will become documents of public record. The entire population of the State of New Jersey is entitled to it at that point, but they are not entitled to it, nor is the Committee, nor is anyone else individually entitled to that until such time that we have rendered those documents in an approved state.

The fifth, and final question Assemblyman Hartmann asked in his letter, regrettably also falls into the "too-early-to-tell" category. Mr. Hartmann asked in his question for the latest estimate of layoffs, how the estimate was reached, the average salary of the workers to be laid off, and the proportion of this number earning over \$50,000 annually. Until all layoff plans are approved -- and as I've said, Mr. Chairman, there's not a single plan that has been approved yet -- it would be neither possible, nor prudent, to estimate the number of layoffs which would be necessary based on what has been submitted by the various departments. The only comment I could make can be put very succinctly and simply this way, Mr. Chairman: Whether this number is 1300, it is 1400, it is 2000, it is 4000, it is 6000, this will be the biggest layoff in the history of the State of New Jersey. Let me repeat that, Mr. Chairman. Whether it is 1300, 1400, 2000, 4000, or 6000, this will be the single biggest layoff in the history of the State of New Jersey.

As I've indicated to you earlier, Cabinet officers have been instructed by Governor Florio and myself to follow, to the greatest extent possible, the spirit of the budget language, so that the rank and file are not unfairly and unduly impacted by layoffs. If these plans are not fair, they are not equitable, and they are not across-the-board, my responsibility as the Cabinet officer administering the layoff is clear: Reject the plans.

Let me conclude, Mr. Chairman, by saying this: No one has a greater respect for the State worker than I do. Indeed, Mr. Chairman, I have had the opportunity to represent the overwhelming number of those who are in the work force of the State of New Jersey, because in the aggregate, 40 percent of them work here in Mercer County. State workers are not, as I've indicated, faceless bureaucrats. They paint the bridges; they prosecute criminals; they heal the sick; they care for the infirm; and, indeed, they do have mortgages. They do try to put food on the table. They do send their children to college. They pay auto insurance, and most of all, they pay taxes. State workers are entitled to be treated with respect and sensitivity, especially now when the specter of job loss is a very real and frightening cloud hanging over their heads.

I have approached this layoff process in a very deliberative and careful manner. One of my underlying goals is not only to minimize the layoffs, as has been my instruction from the Governor, but to minimize the anxiety that workers may feel prior to the final layoff plan approval. I know that this Committee recognizes that there are lives behind the numbers, and shares my interest in making sure that the watchwords for this process are sensitivity, fairness, and equity.

I thank the Committee for this opportunity to discuss the layoff process and answer the Vice-Chairman's questions. I would now be happy to answer any further questions. Indeed, I would like to turn it over to Commissioner Weiner, and thereafter, Commissioner Gibbs, for their opening statements.

ASSEMBLYMAN MARTIN: All right, just one moment while we get our mikes set up.

ASSEMBLYMAN KAMIN: Mr. Chairman, if I might, a question to you?

My understanding is that the major reason for this hearing was in fact to address those hirings that took place during the month of June -- 466 members -- and I don't believe

Commissioner Cimino addressed that portion of our concerns. Maybe, perhaps before going on to the other Commissioners, you could ask him to focus specifically on that portion of today's hearing?

ASSEMBLYMAN MARTIN: I respect their request that the three Commissioners at least give their opening statements. After that, I think that we can-- We'll start, if we can do it-- It may interplay, but-- I have a couple questions of Commissioner Cimino myself, but I'll reserve them until we hear from Commissioner Weiner and Commissioner Gibbs.

Commissioner Weiner.

COMMISSIONER SCOTT A. WEINER: Thank you, Mr. Chairman. I've provided to members of the Committee and your staff, copies of my testimony which includes two attachments that I'll be referring to. Rather than taking the time of reading through it all, or going through it all, I just want to highlight a few points.

As I sat here, Mr. Chairman, and I listened to your remarks, those of Assemblyman Hartmann, and Senator LaRossa, I thought to myself that I first came to the City about 20 years ago. I was a young man then. I was 23. I was an aide to then Assemblyman Al Burstein during his first term, and I became enamored. In fact, the seed of public service was firmly planted in me at that time, and I hoped that one day I would be able to fulfill my own goals by serving from the Legislature, but never did I imagine that I might be able to even one day serve in the important position I've served in.

Over those 20 years, I've worked with a lot of people in this room. I've worked with many of you. I've worked with you in governmental positions. I've worked with you in private positions. And let me say, both as a friend and a colleague, as I look back over those 20 years, I understand partisan posturing. I understand what we all do. But never in my life did I expect that I would be hearing or partaking in the type

of rhetoric that has been forthcoming over the past few weeks, certainly from some of you specifically.

I looked forward to the opportunity of coming here today so we can end this terrible process and get down to the business of running a government, each with our collective responsibilities.

Despite all the rhetoric, and despite all the headlines, and despite all the verbiage we heard today, these were hardly secret midnight hirings that took place. These were hardly secret hirings of political hacks. And, Assemblyman Kamin, I'll be happy to address the 57 people that were hired in my Department. I'm going to address them specifically in a moment. We all know, but I don't want the point to go unnoticed, that a simple phone call or request could have ended all the uncertainty that this Committee has, and your colleagues have. But I understand that that course, which had been the rule of the day -- the order of the day for so many years -- would not have been as dramatic as calling for this hearing, or would not have been as dramatic as Assemblyman Hartmann referring to the subpoena power that loomed over all of us. Well, the fact of the matter is that each one of us sitting here, and all of our colleagues in the Cabinet, have tried and tried, and tried again, to meet with you and your colleagues to explain the God-awful impact of this budget, and this is the first opportunity that I've been given since its introduction.

Let's look at the 57 hirings that took place at the DEPE during the month of June. First, let me state the obvious: The Department of Environmental Protection and Energy has wide-ranging responsibilities. You all know it well. We've discussed them officially, and unofficially. But a point that seems to constantly slip by, is that over 80 percent of our Department is funded by sources other than the general funds of the Department: bond funds, trust funds, Federal funds, permit fees, and the like.

As Senator LaRossa pointed out, the nonhiring of one of those positions, the layoff of one of those positions, in and of themselves, doesn't do one thing to balance this budget, unless -- and I'm going to come back to this point later -- unless you do what you did in this budget, which is you cut deeper into a program than the total amount of general funding that had been provided the year past. What does that do? That means you're taking \$1 million of radiation fees that have been paid by that regulated community to balance the budget. We didn't do that. With all due respect, you did that and your colleagues did that in the budget.

All the positions that were the subject of the 57 June hirings are part of an ongoing process to manage a Department whose responsibilities continue irrespective of the budget, unless you completely eliminate a program, and where you did, those programs have been shut down, and where you shut them down you came back a day later, and said, "Well, it's up to you, Commissioner, to set your priorities. We're going to take all the money away from the Cooperative Coastal Monitoring Program, but it's up to you to find a way to run it." We tried to do that. All these positions were offered inside the Department. None of them were accepted. All the positions were positions where recruiting started six to eight months before June. It's part of an annual process. Most of these recruitments started in January of 1992. Job offers were made in April and May. And, yes, they were made in April and May, and with all the rhetoric that has been discussed in April and May, the fact of the matter was, we still didn't know what the budget looked like. We didn't know where the cuts were going, and specifically in my Department, again, stressing Senator LaRossa's point, a nonhiring in a fee-supported position would not help balance the budget. All it would do is further exacerbate the delays that have been suffered by the regulated community, which you and your colleagues so aptly criticized us for.

Thirty-four of the positions were filled before the Appropriations Act was introduced. You will recall, I'm sure, that Commissioner Cimino, on behalf of all of us, made constant pleas that fell on deaf ears to let us know what the budget was going to look like. So, until June 18 we were all shooting in the dark. But in my case, we looked at these positions and we said of the 57-- In fact, 49 of them are fee supported. Of those, 33 are professional positions. They're scientists; they're engineers; they're people who go about the business in the classified service in entry level professional positions of protecting the environment in the State. Sixteen of those positions were part of our Affirmative Action Program; eight were State funded, and those State-funded positions were principally in the Park Service -- and I'm going to come back to the Park Service.

I trust that this information will drive a stake through the heart of some of the rhetoric that you've expressed previously, and today. But what's most troubling to me, is to listen to some of the remarks today and previously, to read the remarks of some of the members of the Legislature as they demean the worth and value of public employees. Like many of you, I've been in and about this business for over 20 years. I came to it out of a firm belief that being in the public service, whether it's an elected, appointed, or just plain old folk worker, is a very noble calling. And with all the bluster that one can, your colleagues say, "only," or your colleagues say, "merely," that we want to get rid of middle managers earning over \$50,000. I won't even bore you with the information I've provided as to how few there are that fit into the budget language in my Department.

But, who are these middle managers earning over \$50,000? Are they fat and lazy bureaucrats? Not in my Department. In my Department they're bureau chiefs and others who have worked their way up over the years. They were

recruited into the positions that some of these 57 people were recruited into, in the belief that if they worked hard enough, and if they tried hard enough, and if they did the people's business hard enough, one day they could become a manager. And now they listen to the fact that they've reached a threshold where they can support their family. They're earning over \$50,000. They've worked all these years to hear all of us say, "Get rid of them," because by definition they're expendable.

What's even worse for me is that you and your colleagues have ignored reductions which have taken place over the past two years. Not just statewide in every department, but in my specific Department we went through the single biggest reorganization of an environmental agency in the country. We eliminated middle management positions. We shuffled people's responsibilities around. Nobody paid any attention to that. Whole job titles were eliminated, but with an institutional arrogance you say, "Off with your heads. Another 50,000 we'll take out."

And when you're confronted with this reality, you respond by incorporating meaningless language into the Appropriations Act. I'm not just referring to the fact that it's unconstitutional. I'm referring to the fact that it makes no sense. It is impossible to do. I'm not questioning the intent. Who among us wouldn't want to achieve what the Republican Majority suggests that we achieve? We're going to cut spending by \$1 billion and it's going to have no impact. What a wonderful, wonderful thing to do. I don't believe that you believe it, and I don't believe that you think that we believe it.

ASSEMBLYMAN MARTIN: Commissioner, I-- There was posturing on our side. There's been posturing by Commissioner Cimino and by you. I think it's about even now. I don't really want to have this thing continue in that vein.

COMMISSIONER WEINER: Fine. Let me answer some specific questions.

ASSEMBLYMAN MARTIN: I would hope that you can address that. I think its been even up to now.

COMMISSIONER WEINER: Let me answer some specific questions, then, that have been raised. Number one: The question was raised by you, sir, about the manner of layoffs and how the layoffs have fallen the way they have. I'd like to refer you and your colleagues to the second attachment of this document -- pie charts. These are not new documents. I've been circulating these since the day after -- or two days after -- the Appropriation Act was introduced. If you turn to the second page, the second pie chart, you'll see 83 percent of the Department is non-General Fund supported. Seventeen percent of the Department is General Fund supported. We have taken that money and put all but 4 percent of it toward continuing the activities that are always continued -- support of natural resources. That's where that money goes.

What's the point of this, Mr. Chairman? When you cut \$12 million of General Funds through \$50 million spending and 17 percent of that is allocated to the Park System, that's where the cuts are going to fall. Laying off people in fee-supported programs does not do one thing to balance the budget, as Senator LaRossa pointed out -- number one. Number two, it's against the law. In an act that you all passed last year as part of the Doria package of environmental reforms, we are specifically and appropriately precluded from doing that.

If you read the budget language, I am literally in checkmate. Anything I do violates the law, assuming it's constitutional. I'm waiting for the day when you or your colleagues serve me with a complaint that I've violated the law. It is impossible. It is simply impossible.

The next sheet, sir, outlines that rationale. I won't bore you with it now. I've written this in letters. I've circulated this to you and your colleagues, and yet I'm called here today as if I'm committing some type of crime with secret



hirings. The final page is how, and the choices are available to make those cuts.

Second point: Reference was made to complaints by DEPE parks' personnel that cuts were falling unfairly on them. My reference to our own budget situation attempts to address that. I can assure you, like all of you who did not come to the Legislature to close the Park System, I didn't come to this Department to do it either.

Thirdly, and finally, reference was made to a position in my Department that had been eliminated on the accusation it had been targeted, a position funded by Federal grants; a scientific position this referred to. If this is the position I think it is, what had happened was you all cut out \$200,000 from our Land Use Regulation Program, a State general funding. We then faced the "Hobson's Choice" of continuing our Permit Review Program at its staffing level or our mapping program at its current staffing level. Given the intent and clear direction of the Legislature, and an appropriate one, to make sure that we can help spur on economic growth and opportunity, we elected not to cut back in the Permit Review Program, and unfortunately had to cut back in the mapping program; something which distresses me personally very greatly. That's the result of that reduction. I'd be happy today, or any other day, to go through each one with you, one by one, until we hit all 145.

I thank you very much.

ASSEMBLYMAN MARTIN: Thank you, Commissioner.

Let me just acknowledge that Assemblyman Russo is also with us. He's been here for some time. I didn't note it when he came in.

Commissioner Gibbs.

COMMISSIONER ALAN S. GIBBS: Thank you, Mr. Chairman. I appreciate having an opportunity to be here today. I have prepared formal testimony which I had distributed to you and members of your staff before the hearing

began. It's for the record; I don't intend to read it to you. I would just like to summarize it orally, if you would permit me to do that.

I'm not going to address the Department's layoff plan dealing with the Fiscal Year '93 budget. I'm really going to just address the issue of why did the Department of Human Services hire 176 people in the month of June.

I'd like to start by saying that we are responsible for a lot of different programs from Medicaid to Welfare, to services for the blind, services for the deaf, for mental health programs, programs for the developmentally disabled, and programs for youth and families. But I want to address my remarks really to three of our major program areas, those dealing with the mentally ill, the developmentally disabled, and for children who are at risk, and perhaps in doing that can make clear to you why we hired 176 people in June.

First of all, the Department of Human Services operates seven psychiatric hospital facilities around the State, with an average daily population of 2700. In the course of the year we admit about 5100 to those hospitals. We also discharge about 5000 people. We employ in those hospitals about 5100 -- 5200 people -- 5000 of which provide direct care services to the mentally ill.

We operate 10 centers for the developmentally disabled, with an average daily population of 4650, admitting last year about 300 and discharging a little over 600. We employ 8855 people in those institutions, 8200 of whom provide direct patient care.

We also operate four residential centers for troubled youth, operated by the Division of Youth and Family Services. We operate 21 day training centers around the State for the developmentally disabled, and we operate a rehabilitation center for the blind.

Outside of institutions, we carry a caseload of more than 50,000 cases dealing with children who are in trouble. Last year we opened 58,300 cases and closed 61,000. We investigated over 53,000 charges of child abuse and neglect. We have some very serious responsibilities that deal with the welfare of people who are at risk of abuse and neglect, or the welfare of people who suffer from developmental disabilities or mental illness. It's in that context that we see populations who are dependent in institutions, with a turnover of those people. You should also expect that just as those institutions aren't static, our employment is not static. That is to say, in any given month we lose about 100 people for one reason or another. They leave the staff; they retire; they quit; and some get fired.

In June of this year, we hired 176 staff. Let me break down what we hired: We hired 13 nurses; we hired 88 human services assistants and cottage training technicians, the people who care directly for patients. We hired 33 direct support staff, which includes grounds keepers, food service, and laundry. We hired 11 social workers which include family service specialists for the Division of Youth and Family Services. We hired nine teachers; we hired two operating engineers; we hired two police. We hired three clinical psychologists; we hired one dental hygienist; we hired one assistant recreation supervisor. We hired 11 clericals, and we hired two project specialists for the newly mandated Family Development Initiative. In total, we hired 176 people. We lost in that month, 102. Our employment for the month showed, therefore, a net gain of 74.

I think I can probably summarize for you what I think is important to remember. We need to maintain, in all of our institutions, a level of staff that guarantees people active treatment. We cannot allow the staff to shrink to a level where all we provide is custodial care. You can see from hires

that we put on the payroll in June that, with the exception of two, they were all directed at institutions. I think it was appropriate.

Now, there were funds available in the Fiscal Year 1992 budget to put them on the payroll, and there were funds available in the Governor's recommended budget to continue them on the payroll in Fiscal Year 1993. I did not know what the budget of the Legislature was going to look like until June 18. And until I finally understood the impacts of what it means to cut the interdepartmental accounts, which was several days later, I did not have an opportunity to put a hiring freeze on. But on June 24th I did just that.

There was nothing secret about this. There was nothing inappropriate about it. We did what we needed to do. Thank you.

ASSEMBLYMAN MARTIN: Mr. Keevey, did you want to make any statements?

R I C H A R D F. K E E V E Y: No, thank you, Mr. Chairman.

ASSEMBLYMAN MARTIN: Okay. Having heard from the three Commissioners, you don't mind if we direct questions to whomever? So, it will be open to the extent it will be informal. I will recognize members of the Committee, if they have questions. Just identify who they will be directed to. I have one just general question for Commissioner Cimino, and then I'll allow the Committee members a chance to ask questions.

In terms of the total number of layoffs, there have been varying numbers put out by the administration, and in some cases by you, up until the budget was enacted into law. I mean, there were numbers as much as 10,000, and there were numbers varying below that. It is your position now, as I understand it, not to give any more estimates until after you've had a chance to review all of the plans, and approve all of the plans. Then you'll be able to make it a statement of accuracy, but you won't make any more estimates until that is completed?

COMMISSIONER CIMINO: That's correct, Mr. Chairman.

ASSEMBLYMAN MARTIN: And your schedule of reviewing these plans-- I understand that that work is serious, as you indicated. No one's trying to diminish that. Do you have any idea of when you'll be able to complete this analysis of the different departments?

COMMISSIONER CIMINO: Mr. Chairman, I think what we ought to tell you is that a directive went from Mr. Keevey and me last Friday, to those departments of government where the plans were rejected, that they should turn around those revised plans by next Friday. We are hoping that we will be able to inform all of the departments some time next week, once all of the analysis has been done.

But let me express to you, Mr. Chairman, a couple of things: First, and foremost, the number that we put out there-- I've seen it bandied about in the press, in one local tabloid, that we said there would be 10,000 layoffs. This administration never said 10,000 layoffs. This administration said that when you encouple the attrition number with what was the original perception of the interdepartmental hit here, that we could go upwards of 10,000 people in a reduction in force. Thereafter, there have been some changes. Quite frankly, I'm happy that the Legislature owned up to its responsibility to fund the increment. If it had not, there would have been more layoffs on the table.

Another particular piece that we're looking at -- which is part of what my colleague here, Mr. Keevey, and I need to -- and we talk about this every day -- is whether, in fact, some of the fiscal concepts that are being brought to us by the departments are fiscally sound. If they are fiscally sound, then the Governor's directive to minimize the layoffs can go forward. If they are not fiscally sound, then the layoffs are back on the table.

Another large piece of what it was that we said would be impacted here -- whom we have not had a report from because of their own autonomy -- is the higher education community. We have not had a single report yet as to the impact in the higher education community. And, indeed, there very well may be layoffs, or the higher education community may choose to up fees. There are a number of variables that exist, unfortunately, Mr. Chairman. We're not pleased by it. None of us in the administration are pleased by it. We don't want anybody to be any more disrupted in their lives than is necessary. It's unfortunate, but those are the kinds of inexactitudes that we need to deal with each and every day. That's just to give you some sense.

So, we have tried to encapsule this, if you will, and we have indicated that we'd like those rejected plans -- those revised plans -- to come back to us by the end of the week so we can further analyze the impacts here.

ASSEMBLYMAN MARTIN: As Commissioner of Personnel, are you simply approving or rejecting the plans as they come in, or do you have direct input into actually some of the decision making within each of the departments?

COMMISSIONER CIMINO: What is, in fact, happening is when the plans come in to us with regard to specific areas-- I've said, and I've said publicly, that in some instances some of the plans according to the directions that I've been given have appeared -- I want to make sure that word is on the record -- have appeared bottom heavy. We are analyzing that. We have had discussions with the departments where we think that is a problem. They are aware of it. Those internal discussions have gone on. With regard to some of the other aspects of it, from a fiscal perspective, that is not my responsibility; that is, indeed, Mr. Keevey's responsibility, and he is addressing some of those areas within the various departments as their plans come forward.

ASSEMBLYMAN MARTIN: Do you plan to release the departments one at a time, or is it your idea to approve all of the departments at some specific point; in other words, simultaneously?

COMMISSIONER CIMINO: That's a good question, Mr. Chairman, and the reason that's a good question is because that's something we are agonizing with, and that the Governor of the State of New Jersey is agonizing with. We don't, at this point, know what is actually the most humane way to do this. We don't want there to be a single day more of pain than is here, and we really haven't come to the conclusion yet whether it is better to do this in a surgical way with a single announcement, or to deal with this and alleviate the pressure in some of the departments by doing it individually. We are trying to come to an assessment of that, simply because, as the Governor has instructed me, he wants this minimized. He wants the least disruption as possible. That has been his message from the very, very beginning. I know that's difficult for some people to accept, and I understand, but that has been his direction.

ASSEMBLYMAN MARTIN: When you approve this, I take it that you will be personally satisfied that no department will be bottom heavy, as you use the term, as opposed to a fair proportion of positions from top to bottom?

COMMISSIONER CIMINO: We are going to assess the plans to ensure that there's fairness and equity and if, in fact, there are reasons why things do not happen, we'd like to know why those reasons do not exist.

Mr. Chairman, again -- and I know I'm being redundant -- but it's important for me to say to you and the members of the Committee, this Governor has said to me from day one, "Skip, these plans have to be fair; they have to be equitable; they have to be across-the-board. We do not want more layoffs than are necessary. We want it minimized, but we have to do it

in a fiscally responsible way." And it has been his intention from the very beginning, as he has said, that this plan is now the law and to the best of his ability he will live within the parameters, and he will implement the law. And, in point of fact, that's what the charge has been to me, Mr. Chairman, to implement the layoffs that were in this plan.

ASSEMBLYMAN MARTIN: Questions for Commissioner Cimino?

ASSEMBLYMAN HARTMANN: Assemblyman--

ASSEMBLYMAN MARTIN: Mr. Hartmann.

ASSEMBLYMAN HARTMANN: First, Commissioner, I hope this didn't keep you from attending the Democratic National Convention. I saw it on TV last night. I think your -- our Senator Brown -- did a very good speech, and likewise, Assemblyman, I hope it didn't cost you an enjoyable time.

I have a list of questions. I know you were fairly specific about what you're willing to answer or not answer, but let me just ask you them and if you feel you prefer not to, that's all right.

COMMISSIONER CIMINO: I'd be happy to.

ASSEMBLYMAN HARTMANN: Thank you. Did you inform the Commissioners that they had to present a layoff plan to the Department of Personnel?

COMMISSIONER CIMINO: Say that again, sir, I'm sorry.

ASSEMBLYMAN HARTMANN: Did you inform each Commissioner that they had to present a layoff plan to the Department of Personnel?

COMMISSIONER CIMINO: We've informed each Commissioner-- I did not inform the Commissioners; the Governor informed the Commissioners that everyone would file an appropriate layoff plan with the Department of Personnel.

ASSEMBLYMAN HARTMANN: And did these plans include classified as well as unclassified layoffs?

COMMISSIONER CIMINO: The plans that were put forward-- The Governor had indicated they should be fair and



equitable, and they should deal with the management perspective as I've indicated, and, indeed, as his -- the memo, the most recent memo that we sent-- What was it, Friday?

MR. KEEVEY: Friday.

COMMISSIONER CIMINO: The most recent memo again, as of Friday, reiterated the Governor's assessment of what ought to happen here.

ASSEMBLYMAN HARTMANN: And the Department of Education there, they had unclassified layoffs as well listed in--

COMMISSIONER CIMINO: My understanding, while I have not seen every aspect of the Department of Education's plan, is that the Department of Education's plan has been rejected, and I'm not at liberty to go into detail on that rejection, nor why it was rejected.

ASSEMBLYMAN HARTMANN: There are altogether, from what I'm reading, eight plans that have been rejected overall?

COMMISSIONER CIMINO: There are probably nine plans that have been rejected.

ASSEMBLYMAN HARTMANN: What's been the ninth?

COMMISSIONER CIMINO: Law and Public Safety entered onto that list yesterday.

ASSEMBLYMAN HARTMANN: Okay, thank you.

Did the Department issue layoff notices before plans were submitted to your office? And, more specifically, did the DOE issue layoff notices to specific employees?

COMMISSIONER CIMINO: It may very well have done that, Assemblyman. It may well have issued some layoff notices, and that may not be that. While it may look on the surface as an inappropriate action, Assemblyman, it may very well not be, because what we are attempting to do-- Assemblyman, this is probably the most difficult thing that this government has ever traversed in this respect; we've never been here before. For many of these Cabinet officers, it is a difficult thing to do, because we've never been here before. For the Department of

Personnel, in all candor, we have never been here before. So this is difficult to deal with.

Aside from that, you've got several categories of individuals here, unclassified, unprotected persons. And I have to tell you, Assemblyman, with regard to the legislation that's gone in, I've told the press very candidly, if, in fact, what has been propounded to be done in the budget of 1400 managers going here, there would be no need for all the bills, if you will, that protect this class and this class and this class, because there would be 1400 people that could go in an instant because they have no protection, if that were the case. Unfortunately, we're going to go well beyond that number that has been propounded, so there are different classes. One class is unclassified and unprotected. Those individuals-- If it were John Hartmann or Skip Cimino, quite frankly, they could go tomorrow. They have no status. They have no rights. Even though they may be very, very good employees, and, indeed, many of them are, they have virtually no rights whatsoever to job protection.

The second group is unclassified and protected. That is one of the caveats that we negotiated in good faith with the CWA and with Local No. 195, and, indeed, I hope it's one of the caveats that we resolve with AFSCME and the portion of the negotiations we're dealing with with them where we have given a level of a 45-day notice within the contractual arrangement.

And then the third piece of those who can go is the classified service. Now, the turnaround on those plans needs to be not later than July 31. I've indicated to the Commissioners that we will do our responsibility and provide the appropriate time for them. They need to notify people by August 1, so they can leave the payroll by September 18 -- at the end of the pay period, September 18 -- to comply with your mandate, as a Legislature, to report back here October 1 on who it was that got impacted.

ASSEMBLYMAN HARTMANN: With DOE, the plans to rescind the unclassified layoff notices-- Would these apply also to the layoffs that were given since the plan was rescinded? Have these layoff notices since been withdrawn also, to the unclassified workers?

COMMISSIONER CIMINO: I'm not sure. I've not spoken to the Department of Education other than to express to them -- and I expressed to Commissioner Ellis' assistant the other day -- that, in point of fact, as I had spoken to Commissioner Gibbs and Commissioner Weiner that day, the plans were being rejected.

ASSEMBLYMAN HARTMANN: All right. Our appropriation has-- This again applies to DOE. I just want to air it out, and maybe if you don't know you can try to find out for us.

COMMISSIONER CIMINO: Sure.

ASSEMBLYMAN HARTMANN: Our budget has language which mandates that employees with five years, or between five and ten years of career service, cannot be laid off. How do you feel about this, and has this been applied to the DOE?

COMMISSIONER CIMINO: Well, affectionately I've called that the "baseball contract." You know, sort of like in baseball where you serve five years on one team, you got ten years of service you can't go anywhere. The dilemma with that, in all candor, Assemblyman, and I know this is difficult for some people to understand -- and I'm not suggesting you're among those-- I'm saying that there are those in the Legislature who cannot understand this. The level of the severity of the interdepartmental hit that the Legislature put upon the executive branch of government virtually forces us into a posture where we need to contemplate more layoffs than what we had even thought of. When we get into that, we ultimately reach a point where we are going to go after, or are unfortunately going to deal with people who shouldn't have had to be dealt with. And, again, I'll go back to my original

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statement. If Governor Florio's budget had been adopted, there wouldn't have been a single layoff in this government. We had an ambitious attrition program.

ASSEMBLYMAN MARTIN: Okay, Skip, you made the point three times now. I give you credit. We know what the Governor's budget request was, but the law is enacted.

COMMISSIONER CIMINO: I just want to get to the final point, Mr. Chairman, if I could. We had, and we encourage, an ambitious attrition program. We've had a good voluntary furlough program. Indeed, Commissioner Gibbs' Department has done an outstanding job of voluntary furlough. We've had the appropriate directions. We never thought we were going to take this kind of an approach to the budget. We've tried to keep it as humane as possible.

ASSEMBLYMAN HARTMANN: But people with more than 10 years of service therefore may be laid off?

COMMISSIONER CIMINO: There very well will be people here-- There may be people here who will have greater than 10 years of service who may, in point of fact, be laid off. Yes, sir, to answer your question.

ASSEMBLYMAN HARTMANN: Despite the budget language which was the reasoning you gave just now?

COMMISSIONER CIMINO: Despite the budget language and despite the fact that I'm not so sure, as has been indicated by the Attorney General -- we're following his directive -- that the language is permissive and it is not mandatory, and therefore we are treating it in that venue.

ASSEMBLYMAN HARTMANN: Okay. I just have one more question, I guess for Commissioner Weiner.

There was a layoff plan for your Department. Has that been canceled, or--

COMMISSIONER WEINER: No.

ASSEMBLYMAN HARTMANN: Okay.

COMMISSIONER WEINER: It was filed as a request for further information made by Commissioner Cimino, and that information has been forthcoming.

ASSEMBLYMAN HARTMANN: Was that one of the nine departments we were talking about earlier, where the plans were rescinded?

COMMISSIONER CIMINO: A total of nine departments' plans have been rescinded or rejected.

ASSEMBLYMAN HARTMANN: And one of them was not--

COMMISSIONER WEINER: It was.

ASSEMBLYMAN HARTMANN: Your plan was--

COMMISSIONER WEINER: The plan was rejected. There was a request for additional information. That additional information has been forwarded to the Department of Personnel.

ASSEMBLYMAN HARTMANN: Okay. I'm glad you clarified that. Do you know Mr. John Weinberg?

COMMISSIONER WEINER: I do.

ASSEMBLYMAN HARTMANN: We have a memo from him stating that -- and we can give you a copy -- apparently the DEP rejection -- "rejection" is in quotes -- rejection of the DEP layoff plan late last week was more in the form of a request for additional information.

COMMISSIONER WEINER: That's correct.

ASSEMBLYMAN HARTMANN: Okay. So it wasn't actually-- It's not one of the nine rejection plans, because it wasn't a rejection.

COMMISSIONER WEINER: It was a rejection. It was a rejection because, based upon the information submitted, Commissioner Cimino and his staff were unable to do the type of review requested by the Governor. When that information was brought to my attention, we assembled the additional information requested by Commissioner Cimino, and that information has been submitted. Now what will come of the plan over the next review, I have no idea.

ASSEMBLYMAN HARTMANN: But is was rejected because it was bottom heavy?

COMMISSIONER WEINER: It was one of the nine. It was rejected because of the need for additional information.

ASSEMBLYMAN HARTMANN: But not because it was bottom heavy.

COMMISSIONER WEINER: You're going to have to ask Commissioner Cimino. I was asked to submit additional information.

ASSEMBLYMAN HARTMANN: Okay. Was that rejected because it was bottom heavy, that particular DEPE?

COMMISSIONER CIMINO: We looked at that particular plan, and it was in that group that was characterized that way, Assemblyman. We asked for additional information so that we could understand the reason for the plan. Those communiques may very well have come in. I'm not even sure at this point if all of the information has been back. I take it that Commissioner Weiner has submitted that, and when we get the opportunity to go through that analysis we'll then be able to look at whether the plan is acceptable or needs further revision.

ASSEMBLYMAN HARTMANN: All right. Thank you. I'd just like to make one comment, Commissioner: I know you might be on different sides of this argument, but I'm well aware that since you've represented the 14th District you have had the concerns of the State workers foremost in your mind.

COMMISSIONER CIMINO: Thank you very much, Assemblyman.

ASSEMBLYMAN ROMANO: Mr. Chair, if I may?

ASSEMBLYMAN MARTIN: Mr. Romano.

ASSEMBLYMAN ROMANO: Assemblyman Russo and I served on the Assembly Select Committee on Civil Service, at which time our good Commissioner Cimino testified. I think it would be important for this assemblage right here, that you would explain your plans over the year and what they have proved to

be, for example, the Voluntary Furlough Program. There were certain personnel techniques that you had employed along with Mr. Keevey. Would you kindly explain the savings that you had procured in -- how should I put it -- a humane way to bring about a reduction in the work force.

COMMISSIONER CIMINO: Well, actually the reduction of the work force is not a credit to myself; it's a credit to Governor Florio, Assemblyman. Governor Florio, upon entering office, found a work force that was substantially bigger than what he envisioned. He began to move to reduce that work force. The net result of that today is that we stand with 4000 people less in the employ of the State of New Jersey than what existed. Governor Florio found 908 project specialists in the employ of the State of New Jersey when he came into office. We have reduced that number by 66 percent. We're now down to 329 and, indeed, the most recent directive to the members of the Cabinet was to completely deal with that issue in a desire to eliminate all of the project specialists where we possibly can. Governor Florio found a massive number of provisional hires when he came into the government. They're in excess of 5000. He had reduced that somewhere down in the neighborhood of between 300 and 400.

He also put forward, in a humane way, an attrition program and a hiring freeze. The hiring freeze was limited because of the necessity for direct care. Aside from that, we had an attrition program last year, and he has put into the budget this year, that I'm happy the Legislature has agreed with -- an ambitious attrition program that results in 2500 in the aggregate, which really breaks out to 50 jobs a week, or 200 jobs a month, and he has moved in that way. He has also put forward, as everyone is well aware, an early retirement program. It was an appropriate program. We shed 2513 people from the work force by virtue of the Early Retirement Program, and we, in fact, did a number of things in that area.

So those are the kinds of things that we've done. The Voluntary Furlough Program got off the ground two months late. We met our goal even being two months late. I credit the State work force for that. Certainly they have been willing participants in the Voluntary Furlough Program. We encourage that again this coming year, for every day of voluntary furlough that we use, it goes towards being able to save someone in the employ of the State of New Jersey. It has certainly been well done in that area.

ASSEMBLYMAN ROMANO: Could you bring us up to date on the most recent amount of money saved by the voluntary program, because when we had met, it was still at, I think, \$4.5 million? I understand now it has reached--

COMMISSIONER CIMINO: Six million dollars now.

ASSEMBLYMAN ROMANO: Six million dollars on the Voluntary Furlough Program.

COMMISSIONER CIMINO: That's correct.

ASSEMBLYMAN ROMANO: Thank you, Mr. Chairman.

ASSEMBLYMAN MARTIN: Mr. Russo.

ASSEMBLYMAN RUSSO: Commissioner, I want to thank Assemblyman Romano for asking that question, because we did hear testimony and I think it's a good point. I think it has been a positive step, and of course, I'm not going to ask that many questions because much of what you said today I have heard, as has Assemblyman Romano.

With regard to the Furlough Program, if we've saved approximately \$5 million or \$6 million -- and that has been official, I agree with you -- what period would that be for, Commissioner?

COMMISSIONER CIMINO: That was for the 10 months effective September 1, 1991 through June 30, 1992.

ASSEMBLYMAN RUSSO: Okay. Are you in any type of position to have an estimate of the efficacy of the Furlough Program with regard to dollars for the next 12 months?



COMMISSIONER CIMINO: I think that we'll definitely do the six million, because I think that those who participated this year will do it again. The only restriction we have on the Volunteer Furlough Program is, you can't take a volunteer furlough today and go work for somebody else. But if you want to use it for child care, if you want to use it for school, you certainly can do-- I mean, you want to use it for the purposes of assisting at home in some way, you can do those things.

I think we will see a greater utilization of the Volunteer Furlough Program this coming year, because we will have the two months of summer use -- July and August -- that we really didn't have for use last year. I would simply say, in all candor, Assemblyman, if you took the six million and divided by 10, I assume that we're probably talking \$600,000 a month -- somewhere in there. So maybe we get to the outside to \$7.2 million this year, hopefully.

ASSEMBLYMAN RUSSO: Would those projected funds -- again, no one's holding you to that -- but with those basic projections, would you be able, from your post, to in essence apply those funds and avoid layoffs, of whatever level, with regard to the issue of humanity here?

COMMISSIONER CIMINO: Assemblyman, I think that's a key point. The fact of the matter is, we get these plans in; these Commissioners have applied the anticipatory revenue of voluntary furlough to offset their layoffs. Even with that, the level of layoff here is going to be extremely severe. So they've already utilized the savings. They've taken the savings. We anticipated that in terms of June. We issued an order out from our office saying the Voluntary Furlough Program will continue in Fiscal Year '93. When the original order was written, it was written artfully enough to allow that to continue, even though, in point of fact, it had not been included by the Legislature in the Fiscal '93 budget. We have allowed that to happen--

ASSEMBLYMAN RUSSO: So you're factoring it in, you're saying?

COMMISSIONER CIMINO: We are factoring it in. Even when you factor it in, and when these gentlemen do what they're supposed to do, we still have a level of severity here that no one contemplated which will ultimately result in more layoffs.

ASSEMBLYMAN RUSSO: Thank you.

ASSEMBLYMAN MARTIN: Assemblyman Kamin.

ASSEMBLYMAN KAMIN: Thank you, Mr. Chairman. Good afternoon to the administrative team. Glad to have us here in a serious sense that it is time for us as a Legislature and as an administration in working together on issues as you've outlined them, Commissioner Cimino. I heard you say whether it's 1300, 1400, 4000, or 6000, it's a significant number. So is 335,000 which is the number of private sector jobs that have disappeared over the last two years. They used to pay the freight for the 1300 or 1400, or whatever the cuts might be.

Now, I think something that will be helpful to the benefit of this Committee, and on Thursday when we meet with the Joint Budget and Oversight, is to talk about some legislative and administrative history.

I'd like to talk about, through you, Mr. Chairman, to the panel, a hiring freeze, going back as well to the Kean administration which had a hiring freeze for Fiscal Year '90 that was implemented, and as I understood it, was absorbed and followed by Governor Florio. In order to -- for the last six months of Fiscal Year '90 and the first six months of the Governor's term -- balance the books, he implemented a hiring freeze. So, I'd like to know how it worked then. I'd like to know how it worked since then, because we've had an on again, off again expiration of the hiring freeze. So, through you, Mr. Chairman, if anyone on the panel-- Perhaps Commissioner Weiner, perhaps Mr. Keevey might have some insights on this issue.

MR. KEEVEY: Perhaps I can speak to that since I was probably part of both freeze exercises. Freezes are implemented for a couple of reasons: 1) In a crisis situation where we are incurring significant revenue shortfalls and we have garnered a lot of bottom-line savings pretty quickly-- When that happens in the latter part of the fiscal year, and we have already disbursed large amounts of State aid, and have contracted for many of our grant programs, one of the only things that we are able to turn to is personnel savings. So, in the short run, when we're able to implement ironclad freezes, we are able to garner some savings as the result of not replacing people. It becomes the situation, however, particularly in the case of Human Services and Corrections, that if carried to its extreme and we permitted no deviations in that hiring freeze, we would very soon run into crisis situations.

In the Department of Human Services, in the mental hospitals, in the mental retardation facilities, if they are not adequately staffed, we are subject to lose large chunks of Federal dollars, upwards of \$200 million if the Joint Accreditation moves through those institutions and says you do not have the proper nursing care; you do not have the proper psychiatric care, etc., etc. So over the course of any of the freezes that we have been in and out of, we have provided a mechanism for agencies to apply to the Office of Management and Budget and make a case as to why they would need an exemption to that freeze -- the ultimate freeze. In some cases where there are Federal grants it would be counterproductive to continue for an indefinite period of time a freeze in that situation, even though in the beginning we had implemented, for example, an ironclad freeze.

If the Department of Health, which they are doing currently, comes in and says they have a Federal grant, new in nature, to operate a campus program -- campus, to define the

term, for drug treatment and alcohol treatment, and if we do get an exemption to the hiring freeze, we will not be able to maintain and sustain the Federal grant. That's one of the things we're looking at, for example, in the Health Department's layoff plan. Are they able to reduce the number of layoffs, and take some of the people that otherwise would have been laid off and move them over to this campus grant in lieu of hiring new people? They are able to do that in some instances, but in other instances, because of the discipline of the people involved, we may have to grant an exemption to do that.

So given those caveats, my conclusion is it's a short-term action, sometimes necessary because of falling revenues in the late part of the year. In this particular year it will be more necessary just in order to balance this budget. Because of the magnitude of layoffs that have to occur, because of the very aggressive attrition program we have built in here, and due to the fact that we have much, much more reduced turnovers in State government than we had three or four years ago, so that when people leave we are really going to be hard-pressed, from my perspective, to grant exemptions even though we will be impressed by the arguments and even though we will probably run the risk of losing some Federal dollars, we have a bottom-line responsibility to balance the budget, not to go into a deficit situation.

So we will be much more difficult in exercising exemptions to the hiring freeze this year than we have been in the past because of those continuing reductions in State government. These reductions, I might add, come on top of a 4000 to 5000 reduction that's occurred in the last fiscal year; unprecedented in State government. We've never reduced the employee count by that much, and when you add on top of that another attrition program of 2500 and another layoff plan of upwards of -- we're not sure yet, but it could be as high as

5000, it could be as low as 3000-- We're not sure of that number yet, but adding them together we will never have reduced the State work force by that amount. Our concern is where we make the reductions; how it affects, for example, care in the correctional institutions, and DYFS direct care services to the families that they serve. We have to weigh those kinds of things together and exercise some kind of intelligent review of freeze exemptions.

ASSEMBLYMAN KAMIN: Through you, Mr. Chairman, it's a follow-up. So we've had, in effect then, with the exception of the exemptions which, perhaps, Commissioner Gibbs or maybe Commissioner Dunston from Health, areas that generally do look for -- or Corrections -- the exemptions-- We've had that policy in place for the last 30 months in the Florio administration, as well as the preceding-- It was nine months of the Kean administration, I believe.

MR. KEEVEY: I would say during the Kean administration we had one for six months, we took it off, and six months later we put it back on. In the beginning of the Florio administration, we immediately went into one in order to balance that budget, and then at periodic times from then we have gone into a freeze almost extensively, but with a process of exemptions.

ASSEMBLYMAN KAMIN: Okay. So the only hirings then would have been through exemptions?

MR. KEEVEY: That's correct.

ASSEMBLYMAN KAMIN: In the past 30 months--

MR. KEEVEY: Right. In some cases they were specific exemptions where someone had to apply, and in other cases they were blanket exemptions. For example, in the case of Human Services, during last year, because of the early retirement and the very aggressive attrition that occurred in that Department, the Commissioner made the point to us that they were in danger of losing accreditation if they could not get back 200 or 300

retirements because they came at critical areas. So, we negotiated with the Department in terms of saying, "You have the dollars to hire back"-- I forget the number -- "approximately 250. We agree that the critical areas are nursing care in the mental hospitals, direct aid care in the mental retardation facilities, and a certain level of DYFS workers. We will block out X amount of positions for you to hire in only those areas." So we took that approach also, as well as individual exemptions, but blanket type exemptions in certain defined areas of each department.

ASSEMBLYMAN KAMIN: In a procedural sense, are those exemptions by the departments-- Would Commissioner Gibbs give his request to Commissioner Cimino prior to coming to OMB for the exemptions?

MR. KEEVEY: Not in the past.

ASSEMBLYMAN KAMIN: Not in the past?

MR. KEEVEY: Because this was a budgetary matter. It was a matter of whether or not the program needed to move on or not, and the bottom-line concern was if those people were needed, in anybody's reasonable opinion, but there were no dollars, we would not grant exemptions no matter what, unless we were able to coerce another department to give up the money; it's not likely to occur. In this particular mode that we're now going into, because of the very extensive layoffs that are going to have to occur and all of the rights of bumping, etc. that are going to have to occur, I think there will be a closer linkage in terms of the process of approval between the Department of Personnel and the Office of Management and Budget. Because not only is it a bottom-line responsibility that we have in the Budget Office to make sure that we have a balanced budget, but we also have all the implications of the personnel ramifications. Because of the layoff, the bumping, and rehiring from lists, etc., we have to be much more careful. If we were going to make any attempt to hire back, we

had to make sure we had all the rights of the individuals who had been previously laid off, for example, protected.

ASSEMBLYMAN KAMIN: Thank you, Mr. Keevey.

Through you, Mr. Chairman, to Commissioner Cimino: Up until now, then, I guess the Department of Personnel has not had the capability of understanding the big picture of what was taking place; that the exemptions came to you after the facts so that until the establishment of this budget, which is, I guess, the reason that there was more direct communication by your Department to the other different departments to submit plans for layoffs to be approved that prior to that had always gone through on being-- Not necessarily would you have the full assessment of hirings and firings to know where you were on a day-to-day basis. Is that correct?

COMMISSIONER CIMINO: That's essentially correct, Assemblyman Kamin. As Mr. Keevey said, we are working closer, in conjunction, and, indeed, since we have literally put -- in our jargon -- the gate down at the end of June, there have been a number of discussions. We've virtually been in discussion every day on what people would like us to do in terms of exceptions, and as you said, many people make artful reasons for why there ought to be. Our responsibility is to effectively enforce the absolute freeze that is in place right now.

ASSEMBLYMAN KAMIN: Well, here's where we can work together, Mr. Chairman.

MR. KEEVEY: Just a couple of points, if I may, Mr. Chairman?

ASSEMBLYMAN MARTIN: Let Mr. Kamin pose his question.

ASSEMBLYMAN KAMIN: Thank you, Mr. Chairman. Here's where I think we can work together. I'm referring back to an article in The Star-Ledger of March of 1990 when Governor Florio targeted the State employees -- was targeting some layoffs coming on the heels of his assertion that he wanted to

eliminate up to 20 percent of middle management positions in State government, which he said could be done without missing a beat in the deliverance of services. This is an article entitled, "Mid-level Staffers Face the Ax." It's something that the administration has worked. It's something that we as politicians, and I think, the public, feels; that the public service sector has been overstaffed by middle management. That being the case, as a target, is that something the administration still feels is a worthwhile goal, where you can, in fact, get 20 percent of that middle management and not miss a beat, or did we accomplish that goal sometime over the past two years and I missed it?

Through you, Mr. Chairman, to any one of the panel members.

COMMISSIONER WEINER: Let me try, if I may, Assemblyman Kamin?

ASSEMBLYMAN KAMIN: Why did I sense that Commissioner Weiner might want to bite a dead apple?

COMMISSIONER WEINER: Well, because I think you know, because of our previous discussions, the type of reorganization that my Department has gone through over the past 18 months, and part of that reorganization was driven by the goal that you refer to, the Governor articulating in March of 1990. You know, and maybe your colleagues know, the Department now is structured much differently. A level of managers, a position known as the Deputy Director, has been eliminated from the Department, and some of those individuals that held those positions have left the Department. Some of those individuals have taken on other assignments in the Department. You and your colleagues know that our Department, like any other department, grows in ebbs and flows.

For example, to underscore the terms that Mr. Keevey and Skip Cimino are making, we recently announced a new obligation imposed on us by the Federal EPA in the Stormwater



Permitting Program; that's going to require new hires. We're not going to start doing that until we've laid over-- In fact, part of our layoff plan identifies those positions and other positions that we anticipate a need for that would warrant the type of budgetary exemptions that Mr. Keevey referred to.

ASSEMBLYMAN MARTIN: Commissioner Weiner, I don't-- I do mean to cut you off, because time is precious for all of us. We'll acknowledge--

COMMISSIONER WEINER: I'm just trying to answer the question.

ASSEMBLYMAN MARTIN: I think your Department may not be the best example, because it did go through an extraordinary reorganization and amalgamation--

COMMISSIONER WEINER: Okay.

ASSEMBLYMAN MARTIN: --and so forth, so I don't know if it would answer a general question. If there's-- Either Mr. Keevey or maybe Commissioner Cimino, if you can't answer it, you can't answer it. I think the question was, in a general sense there was an overall scheme of a 20 percent reduction in middle management. Has that been attempted to be employed in any sort of structural way since that was announced in 1990?

COMMISSIONER GIBBS: I don't have the numbers with me, so I have to deal with it in general terms. But, when I became Commissioner in March of 1990, at the start of the administration, one of the first things that I did was to conduct a complete review of the Department's management structure, and its headquarters operations, and by the summer of 1990 I had made some, I think, dramatic reductions. I consider them to have been in middle management, but middle management are the kinds of words that mean different things to different people. But what I did was reduce the number of Assistant Commissioners, ended the work of two bureaus in the central office -- just abolished the work and laid off the

people who did it -- and downsized another unit of Department representatives. All of those people were doing work and being compensated at a fairly good level. I don't remember whether they were all over \$50,000 or whether we had-- I'm sure we had a range of salaries, but at least as I looked at their functions those were mid-management functions, if you will; they weren't direct care. So that was done before we got into the Governor's announcement of further downsizing and we went through the hiring freeze and the layoffs of a year ago. I could just tell you, in my Department I have been targeting administration and making reductions there, and this goes back for two years. So when we talk about, "Let's do more mid-level managers now," we're talking about doing that on a shrinking base.

ASSEMBLYMAN KAMIN: Mr. Chairman, through you: Just to remember that over the course of a year on average, just on attrition, we would do conservatively -- correct me if I'm wrong, Mr. Keevey -- about 3 percent. What a trick under normal circumstances, and the administration, to its credit, did, in fact, downsize the work force. But there has been, as Commissioner Weiner referred to, the growth of the DEPE in ebbs and flows. I'm not sure because of all the legislative things we keep giving DEP to do over the years-- Mostly it's been growing.

What I wanted to chat a little bit further about is how this exemption program will work in the future. What concerned me was the size of the hiring during the month of June, at a time when certainly the language was out there that there were going to be layoffs, not just June, but May, April, and, in fact, even as early as March, indicating what was going to happen with this year's budget.

A couple of things concern me: First of all, let me ask, through you, Mr. Chairman-- I ask Commissioner Cimino, referring to a letter we heard about, direction from the

Governor's Office to the different department heads essentially ordering them to disregard the budget language as being unconstitutional-- In view of language that you referred to today with your remarks of -- I wrote down -- "craft plans which are true to the spirit of the budget," was the directive that you've now been given by Governor Florio-- Which is it? Is it the letter that apparently emanated from the Governor's counsel, or is it crafting language and plans now to work with the budget in the spirit of the budget?

COMMISSIONER CIMINO: Assemblyman, the fact of the matter is, that from the very beginning each and every department was told that the language of the budget would be treated permissively. Now, that's not to suggest that that makes the language constitutional. They're looking at it as being permissive language, not mandatory language, which is entirely different from what, in fact, is in the document. However, the Governor has said that within the spirit of the framework of the document, that we ought to look at this with regard to the management. We ought to look at this in a fair, equitable, and across-the-board way, simply because he did not, as he has indicated to me both verbally and in writing, want this to unduly fall down on the rank and file workers of the State of New Jersey.

ASSEMBLYMAN KAMIN: Okay. So, that's now being said in Cabinet meetings, verbally as well as to members of the departments?

COMMISSIONER CIMINO: He has given the direction that this should be looked at in that vein.

ASSEMBLYMAN KAMIN: All right. Very good.

ASSEMBLYMAN MARTIN: Let me just interrupt for a second. A related question, I think, is one that needs to be asked at some point, and that is: With these hirings -- and there were hirings, I mean the Department of Human Services, I think, talked about 176 and acknowledges it, makes a case for

those hirings-- DEPE has talked about 58, I think was your number. The people that were hired recently, is there a chance, other than what you would call the exemption area, as you define it, and this would be directed to Commissioner Cimino-- Would those people take positions that other people who are given pink slips between -- when somebody is let go? In other words, could they be used as substitutes?

COMMISSIONER CIMINO: In answer to your question, I would submit, Mr. Chairman, it's not likely when it comes to the classified service of the State of New Jersey, nor is it likely when it comes to the unclassified service that has union protection, because they have status rights below the unclassification. The answer to your question is yes, perhaps, if one looks at an unclassified, unprotected individual, what people view as, you know, effective, even what the Legislature has viewed as fair game. Can that happen? I wouldn't sit here and tell you it could never happen. We're talking about a work force of 74,000-plus people, you know. I'd be foolhardy to sit down-- I'm not going to say that, but there is very, very, very little likelihood of that occurring.

ASSEMBLYMAN MARTIN: Well, I think what all of us -- especially Mr. Hartmann, who has mentioned before his district is 40 percent of the State employees -- that there would be some assurance given today by you and the Commissioners that those hirings that took place in June are not going to be at the expense of someone who will lose their job in July, while these recent hirees take their place.

COMMISSIONER WEINER: In the case of my Department, I can't say categorically that won't happen. What may happen, is that some of the people hired in June may end up being bumped out of their jobs as the positions go down and down and people assert their rights. Everybody who came in understood that at the time. But the fact of the matter is, as I sit here today, none of us know how that bumping will eventually fall out. As

I pointed out in my testimony, an overwhelming majority of the 57 hired were entry level positions that were fee supported. So, unless somebody has crossover rights, which they may, we just don't know. We're going to let that-- Nobody was hired to fill a position that would otherwise be vacated, or to perform a function that would otherwise be vacated by a laid off employee.

ASSEMBLYMAN MARTIN: Mr. Kamin, do you want to continue?

ASSEMBLYMAN KAMIN: I do.

ASSEMBLYMAN MARTIN: Do you need a moment? Let me pose a question to Mr. Weiner.

I understand your point about the 17 percent of your budget which is not fee related. There is, however, an assumption in your argument, is there not, that some of these employees in the fee area that -- not all of them -- by whatever grants or how the law is structured for that fee -- that there's a fixed number of employees. I don't think there is in each and every case, and I probably think that would be the exception rather than the rule. So there is the possibility, I would assume, that by some level of increased productivity, by some method of creative -- better performance, if you will -- that the number of employees in those fee-related areas could be reduced and still achieve some level equivalent in terms of overall productivity that you have now.

COMMISSIONER WEINER: Sure. We do that every day. But let's assume we did that, and let's assume, just hypothetically, we look at one of the fee programs, we pick a \$50,000 employee in that function and say we could live without this function because we can increase productivity, we could use technology, whatever the situation is. We eliminate that position. Keep in mind that that doesn't do one thing to balance the budget, that that \$50,000 that's saved, theoretically, does not -- cannot be used to offset the \$12

million in budget cuts that have been imposed upon the Department.

ASSEMBLYMAN KAMIN: This is an important point, Mr. Chairman. I think we--

COMMISSIONER WEINER: And this is the point, Mr. Chairman, respectfully, I've been trying to make for months, before the Appropriation Committees and otherwise. It doesn't add to it one bit. Not only that, but you and your colleagues appropriately were concerned, over the years, that the Department might be taking money in fees from the regulated community, and taking money, hypothetically, in the Solid Waste Program and using it to fund an air program, or paying for people over here; money wasn't going for its intended purpose. We have withstood every order that came down. But to give the public even added comfort, we agreed with you and your colleagues that a specific statute should be passed that prohibits that.

ASSEMBLYMAN MARTIN: And that's because the fees are limited in their use to only a specific area. That's your point.

COMMISSIONER WEINER: That's right.

ASSEMBLYMAN MARTIN: So if there was some legislation that was adopted that created -- took more of these fees and put them into general revenue purposes, it would give you more flexibility, may create other problems for you, and you may oppose it. But it would provide more flexibility in terms of your work force.

COMMISSIONER WEINER: That's absolutely correct. And it has been said, and this, again, is an important point-- It's been said by members of the legislative staff that if you take a look at the language in the Appropriation Act that cuts out our -- the DEPE's -- management and administration account, that that language was intended to go Department-wide, and I acknowledge that. In fact, as I said, there's only two places

to go in our Department -- management and administration, where half the cuts fell, and natural resources, where the other half of the cuts fell. I said if the Legislature directs me to do what you're suggesting, I will do it. I will manage my budget. I will say, unabashedly, I think I'm a pretty damned good manager, but I will not do something that clearly violates not just the spirit of what we've been talking about over the years, but the express provisions that were enacted as part of Assemblyman Doria's provisions.

So, I'll figure out any solution you will want. None of us want this result. I've said that from the day that I took a look at the Appropriations Act. I don't think there's a legislator among you who wants the result that's necessitated by the way the Department's funded. We all have to make some tough decisions, and if that's the policy decision the Legislature wants to make, I will tell you I will carry it out, and we will make cuts that will have some impact in the fee programs. I think we can do it. In fact, we've made some reductions in the fee programs because, just so you know, we're dealing again with personnel reductions. There have been personnel reductions in the fee programs because the loss of State funding would have resulted in an increase in fees, and we are very sensitive to the impact on fees. We've taken a look in those areas to see if we could increase productivity, or suck it in a little bit in terms of productivity, and unfortunately had to make some layoffs in those areas in order not to burden the fee structure even more.

ASSEMBLYMAN KAMIN: Mr. Chairman, if I might. To follow up on this point: This is exactly why the budget language was structured the way it was. We just heard Commissioner Cimino say that the administration is trying to liberally interpret the budget language in a very positive way. If I refer to the actual budget document, it goes against the argument that's being made by Commissioner Weiner today,

that you can't use the fees. I'm arguing that, in fact, you can. This budget language supersedes that law and says you can. It doesn't mean you have to restrict your layoffs to just 20 percent of your budget. And also, you have a Joint Budget and Oversight Committee with which to work, hopefully starting Thursday, if not before. So the doom and gloom scenario that you've laid out today is absolutely wrong.

COMMISSIONER WEINER: Assemblyman-- I'm sorry, I don't mean to cut you off.

ASSEMBLYMAN KAMIN: And if I may, I want to go on to a specific point. Let's go to parks. Let's assume your doom and gloom scenario. The budget for park management was as follows: Fiscal Year '92 was \$23.5 million; for Fiscal Year '93, as submitted by the Governor, \$23.573 million, exactly as we had flat funded. Our budget cut it to \$23.148 million, a reduction of \$425,000, or less than 2 percent. Now if we use your doomsday scenario and all those numbers that are out there -- that we're going to close six parks, layoff 74 full-time employees and 103 seasonal people -- that at a conservative number would generate over \$2 million worth of cuts, yet we only cut the budget 473. How can we have both?

COMMISSIONER WEINER: I'll be very happy to answer that. First, I will have to respectfully disagree with your analysis of the language. And this isn't me talking--

ASSEMBLYMAN KAMIN: Okay, let's back up to that because this is a very critical important point.

COMMISSIONER WEINER: It is important, but before you do that, just so you understand, this isn't Scott Weiner, Commissioner--

ASSEMBLYMAN KAMIN: Scott Weiner, attorney?

COMMISSIONER WEINER: Not even Scott Weiner, attorney. This is the advice that I've gotten from the Attorney General on this point. And I understand that the Office of Legislative Services had a counterpoint. We have



suggested staff to staff that rather than arguing over that, all it takes is some simple express language. I'll be happy to have the Deputy Attorney General sit down. If that's the Legislature's intent, give me the comfort and don't ask me to violate an opinion of the Attorney General. We will find a way to do that if that's your intent.

ASSEMBLYMAN KAMIN: So you're going to bring that language with you to us at the Joint Budget and Oversight Committee on Thursday.

COMMISSIONER WEINER: That language is already in your collective staffs' hands and it has been since two days after the Appropriations Act was introduced. Now, that will--

ASSEMBLYMAN KAMIN: Okay. I haven't seen--

ASSEMBLYMAN MARTIN: Just so we're-- The language you're talking about would be some expression by the Legislature that this language in the budget would supersede any other existing law, including the limitations on the use of fees.

COMMISSIONER WEINER: That's right.

ASSEMBLYMAN KAMIN: I'm on the Joint Budget and Oversight Committee and the language here, in fact the budget document, page 45, says: "If reductions are made of employees of classified service, the Commissioner shall provide written notice and justification of such action to the Director of the Division of Budget and Accounting and the Joint Budget and Oversight Committee." I haven't gotten any communication, and I'm on that Committee.

COMMISSIONER WEINER: I will tell you that I have corresponded to-- In fact, I provide you with a copy of the letter that was sent to Senator Littell the day of the Joint Appropriations Committee hearing. It was circulated to every member of the Legislature. We have been communicating with both staff of OLS and JBOC. We will communicate with everybody. This is no secret. I'll be very happy to work with it.

Let's go back to the money situation. Just so you understand, that if you will concede to me the sincerity of my argument even if you disagree-- Now, let me tell you-- (laughter)

ASSEMBLYMAN KAMIN: Wait a minute. That's an awful lot to ask, Commissioner. Through you, respectively.

ASSEMBLYMAN MARTIN: I don't think he has to, but we're interested.

COMMISSIONER WEINER: Even if you don't, I'm going to tell you anyway. When we approached these cuts, and the cuts into the parks, Assemblymen, respectively, are driven at that \$5.4 million reduction, there's another \$7 million that was spread throughout the Department. For the sake of this discussion we're managing our way through that.

The \$5.4 million presents the following dilemma. I gave the following directions to my staff: I said, "First and foremost, look for nonpersonnel items that we can cut in terms of General Fund expenditures," and I'm assuming I'm under the General Funds. As a result of that we had to eliminate this busing program, \$450,000. We reduced the seasonal program, not without any joy, but so we would impact seasonal employees before we'd impact full-time employees. We then went to the management and administration area, the central area, nonnatural resources. The direction I gave to Assistant Commissioner White and his staff and Deputy Commissioner Fox's, was to take down all those personnel levels to minimal due diligence levels. I want enough people left, and only enough people left, funded by the General Funds that will avoid me being sued for malfeasance. I'm still responsible for a \$250 million budget, approximately 4000 employees. After that was done, we went to the central account for parks, and said, "Before we go into the field and field operations through Assistant Commissioner Hall and Director Marshall, reduce your central office operation to minimum due diligence levels." All those numbers are spelled out in the attachments for you.

ASSEMBLYMAN KAMIN: If I may interrupt for just a moment, didn't we also have significant carryforward funds that were available for your use?

COMMISSIONER WEINER: Some points about the carryover funds: All those carryover funds were budgeted in our presentation to the Governor. It was included in the budget that was submitted to the Legislature. Those carryover funds either represent moneys that are encumbered on behalf of an applicant or were applied directly to either reduce fees -- because we had some money left over, so our need for revenues first came from carryover funds before they went back to the regulated community or to reduce requested appropriations-- All that money was accounted for as part of our appropriations request.

Let me, if I may, slay another myth that came up during the legislative debate. There was discussion among some of your colleagues that the Department had 39 more million dollars in funding this year than last year, therefore, what is all this brouhaha about cuts? That \$39 million, I think you know, represents the direct appropriation, as appropriate, of money otherwise raised by fees that used to be all budget. That's not new money. That's not found money. That's all earmarked, targeted, encumbered money paid by the regulated community.

ASSEMBLYMAN MARTIN: Let me ask Commissioner Gibbs a question, if I may?

Since you have, if not the-- You have the largest Department, and in trying to go through this layoff process, is each division head responsible for coming up with a sub-plan which you in turn review? Could you walk me through how you're attempting to go through this painful process?

COMMISSIONER GIBBS: Yeah. First of all I'll give you the scope of things. There were some directed cuts aimed at staff in the budget as enacted in Mental Health primarily. The

biggest impact on us is our share of the cuts in the interdepartmental accounts, and together between the directed cuts and the interdepartmental account shortfalls, I'm looking at a \$49 million salary account problem. We're looking at roughly the loss of 1500 or so funded positions, of which 300 are vacant, or 1200 funded and filled positions which have to be met either by a layoff or by attrition, by a combination of both, or by some other buy out to avoid that.

My approach is the one to be as faithful as I can to the spirit of the language in the Act, saying that this ought to be directed at mid-level management defined at \$50,000, and that I should be making decisions based on priorities and based on a review of the work that we do. In that context then, I looked both at the central office of the Department and at the central office of each of the divisions, and had each of the divisions submit to me for review and approval their plans to meet certain targeted levels, with the express instructions to those divisions that the first thing we do is make drastic cuts in administration before we ever get involved in any direct care positions.

ASSEMBLYMAN MARTIN: When you give them a target, are you targeting a number of positions or a dollar figure, or what do you mean when you say target?

COMMISSIONER GIBBS: Dollars. But these dollars, because they're salary account dollars, translate into positions. So, they're given both, if you will, a dollar and-- They do not necessarily get targets set by me, from me, that are proportionate. I'm doing my best in the plan, which has not been approved; which is still under review. I don't like to say it was rejected. I like to say it hasn't yet been approved.

ASSEMBLYMAN MARTIN: When you say proportion you mean it doesn't necessarily flow evenly across-the-board--

COMMISSIONER GIBBS: That's right. Not every division is getting a 10 percent cut or 5 percent cut; not doing it that way. Some things are more important than other things: direct care, the care of patients in institutions. It's very important. So, I'm doing my best with respect to the Division of Developmental Disabilities and the Division of Mental Health and Hospitals, not to get into direct care. I'm going to have to. I mean, I cannot make it without having some impact on direct care. The initial layoff list that eventually gets approved probably won't see very many direct care positions on it. You're going to mostly see administration. You're going to see a lot of functions eliminated. You're going to see a lot of high people laid off. It's going to be pretty much in the spirit that you would expect. But the fact--

ASSEMBLYMAN MARTIN: Is there any attempt--

COMMISSIONER GIBBS: Well, can I finish?

ASSEMBLYMAN MARTIN: Go ahead.

COMMISSIONER GIBBS: Yes, sir. Go ahead, I'll come back.

ASSEMBLYMAN MARTIN: Well, it was related to what you're saying. Are all-- When you target a position that has to be removed, is it necessarily-- Mr. Cimino would be involved with this, too. Do they all necessarily occur at the same time? Might there be some that you would phase out because of recognition that the funding could occur over a period of time, so that some positions, for example, might be the immediate ones, but others might occur in January or March of next year?

COMMISSIONER GIBBS: Well, no, I cannot do that because the number of positions I'm talking about is staggering, and the longer I keep somebody on the payroll, the more people I eventually have to kick off. So, I need to act rapidly. I really can't stagger these over the course of the year. It's going to take through September to get through a

layoff process anyway. So to the extent that you think you need to lay off 10 people or 20 people, assuming that you're going to get annualized savings -- given all of the bumping -- you're going to have to lay off more than 20 people because you're going to lose a quarter of the fiscal year while people stay on exercising bumping rights.

I want to say something about the issue of patient care and accreditation. What I said to you was that you are not likely to see-- You will see some direct care positions hit, but you're not likely to see a lot of layoffs in the direct care area. But with a hiring freeze that doesn't have any flexibility for relief during the course of the year, and I cannot replace the 100 or so people who leave institutional employment every month. At some stage in this fiscal year we will lose accreditation. That's how serious this problem is.

ASSEMBLYMAN ROMANO: Mr. Chairman--

ASSEMBLYMAN MARTIN: All right. We'll take Mr. Romano, and I think Mr. Kamin.

ASSEMBLYMAN ROMANO: Just a few comments and questions, through you, Mr. Chair.

There is no one here that would be more gratified to learn that there was a way of using money in DEPE that would preclude or obviate any further reductions in employees. However, I would just have to advise my colleagues, because I happen to know of this issue, the money that we happen to be talking about is restricted fees by certain people under regulation, and now what we're doing is taking those fees and just using it as tax money. So we're slipping over from a fee into a tax from those particular people who put the money in for certain reasons which no longer is there. Am I correct, Mr. Weiner?

COMMISSIONER WEINER: That's a view. That's a fair view.

ASSEMBLYMAN ROMANO: Secondly, I'm sorry Assemblyman Hartmann is not here. In his letter that he addressed to Commissioner Cimino he used the term, which was ascribed to Commissioner Cimino, of fiscal creativity. And before you had answered -- and that was question number three -- you had explained that given time one would have prelayoff, you would have releasing provisional or temporary employees, and if given time, this whole process that's taking place right now -- because there is no time -- had we gone along and gone along with the furloughs -- which provides a nice, let's say, a saving, not enough, early retirement incentives, plus if you go back to when you testified before the Select Committee, retraining of employees to do other tasks, is this what we're talking about, the fiscal creativity that Mr. Hartmann is referring to? I don't know where you said fiscal creativity that he picked up, so had we been given time this whole scenario might not be as drastic as it turned out to be.

COMMISSIONER CIMINO: We tried to-- Assemblyman, to answer your question, I've written to the legislative leadership. I think it was alluded to earlier today. I've written to the legislative leadership of both respective Houses asking for some sense of what it was that the Legislature was contemplating, back -- I guess it was in mid-April -- so that we effectively could begin to prepare for what it was. Much to his credit, Speaker Haytaian indicated that he thought it would all be 2500 unclassified, unprotected individuals and "effectively political hires." Well, one of the problems -- not one of the problems, one of the facts -- is that Governor Florio hasn't hired anywhere near that in terms of political hires. Be that as it may, that's one of the issues.

The second thing is that we never heard from the Senate President with regard to that issue whatsoever.

When we talk about a level of creativity, if within the departments they have the opportunity to utilize some

recurring Federal funding to preclude layoffs, fine. So be it. That's something that Mr. Kievey will deal with and we will deal with that.

I was pretty dismayed when we saw the introduction of the budget plan when I was refused the opportunity to appear before the Senate Appropriations Committee. We simply wanted to do that to suggest that there was a level of a problem here that wasn't being -- perhaps hadn't been seen, and we wanted to explain the level of interdepartmental cuts happening and occurring, what they meant to real people. We were not given that opportunity.

ASSEMBLYMAN MARTIN: Mr. Kamin.

ASSEMBLYMAN KAMIN: Thank you, Mr. Chairman. I want to go back to our point about the flexibility as it was described by Commissioner Cimino, and I did take a fast look at some of the language in the Attorney General's opinion where, in fact, even he indicates-- Read the section on related personnel as designed to provide the agency with flexibility and funding staffing adjustments, while maintaining the integrity of the programs. So, we're all kind of looking in the same direction and yet, when I go to the letter which I now have a copy of -- and I do recall reading it now -- Commissioner Weiner's letter of June 22 to Senator Littell -- on the second page your comment is, in the second paragraph, "The key assumption on our part is that these reductions are not intended to reduce unclassified or other personnel making \$50,000 or more in dedicated fees accounts, thus recovering those savings to offset the departmental management account." Well, my problem here, Mr. Chairman, through you, is that in your letter it's still a very strict interpretation and now there's new direction, it seems to me, from the administration, from Commissioner Cimino. Certainly from the language that we have in this budget document, all we need, I think, at this point perhaps, and from the Attorney General, is the



cooperation of you, as Commissioner, and we're going to be able to work out some of your problems.

COMMISSIONER WEINER: Well, that's very nice. I will do a lot of things for you, Assemblyman Kamin. What I will not do is violate the law or ignore the advice of the Attorney General.

If you'll allow me, that letter was written the day of the Joint Appropriations Committee where I wasn't allowed to testify to bring this issue directly to you. I spoke to Senator Littell personally, and I spoke to Assemblyman Frelinghuysen personally about this issue. The advice that we've gotten, as Commissioner Cimino pointed out, was, as much as possible to always treat the language as permissive, and try to comply with the spirit and intent of the budget, whether it's keeping the parks open, whether it's targeting middle managers. Whatever that language is, we all respect the intent and desire of the Legislature.

Subsequent to my writing that letter, there were meetings set up for every Commissioner with the Attorney General's Office in order to review, prior to the issuance of that opinion, specific problems. One of the problems I pointed out was that that language that you referred to, and, in fact, the language referred to in the Attorney General's opinion, points out flexibility for a department, if you will, that's 100 percent funded by General Funds, to move outside that area of management and administration and to make program cuts where appropriate.

I continued to be advised by the Attorney General that that language does not give me authorization to violate the law that you all enacted last year as part of the environmental management package of bills. All we need do-- All we need do, and this is all I've been asking for-- In fact, I thought that something might have been introduced along with the supplemental bills be appropriate-- I'm not even suggesting

that you pull money down. All I'm saying is, give me, as Commissioner, the comfort, the legal comfort that you can appreciate, that says it is your intent and your willingness for me to lay off people from fee programs, take that money from fees and put it on the table. If that's your intent, then give me the express language so that I don't violate a provision and I don't ignore the Attorney General's advice. I don't think that's asking too much.

ASSEMBLYMAN KAMIN: Well, through you, Mr. Chairman, there are two points I think we should make. One is that, in my view, the budget language, in fact, supersedes other documents, and that is the law and it does provide that flexibility. Secondly, in relation to your letter, we have not received anything from the Attorney General supporting your position that this is exempt.

COMMISSIONER WEINER: I will be happy to get it to you. That was directed by--

ASSEMBLYMAN KAMIN: So, maybe it requires a little bit of getting around the table here, but I think this can be done.

COMMISSIONER WEINER: Absolutely.

ASSEMBLYMAN KAMIN: And maybe Thursday is the day with the Joint Budget and Oversight to specifically straighten it out. But it's my view, not being an attorney -- Mr. Chairman, through you -- that's what this budget document does.

COMMISSIONER WEINER: And let me suggest, Assemblyman Kamin, I know that you and many of your colleagues believe that in sincerity. I know you do. I'm not questioning that. But what I'm suggesting, if you read that language, the advice I've been given is that that says to a Commissioner, "You're not restricted to your management administration account. You can make your cuts elsewhere in the Department, but in light of both the EMAP legislation, as well as the distinction between bond funds, General Funds, fee funds, and the like, that that can't reach into there without an express

provision." If that's what you intended, I will get all the people you want to the table on Thursday. I will get deputy attorney generals. I'm sure we can agree upon language. I want somebody to say to me-- I have a lot of respect for the Office of Legislative Services, but you understand my position. I can't rely on their advice.

ASSEMBLYMAN KAMIN: Would you share -- through you, Mr. Chairman, would you share to this Committee that advice, that written document to you that said we're wrong?

COMMISSIONER WEINER: The advice that I -- and I will get into the written document-- The advice I got was oral and was from the Attorney General.

ASSEMBLYMAN MARTIN: We can go on--

ASSEMBLYMAN KAMIN: Well, that's an important point, Mr. Chairman.

ASSEMBLYMAN MARTIN: It's important. It's a tough call. I mean, in my own reading up as an attorney, it's not absolutely set either way. I can understand Commissioner Weiner's reluctance -- it depends on your frame of mind -- but he's got a responsibility, so I understand where he's coming from.

I tend to agree with you, Dick. I think that the-- Generally as a principle of law, later language supersedes, but it's not directly on point. You can make a case either way and it's an open legal question to state. Maybe it can be resolved on Thursday.

COMMISSIONER WEINER: We'll help you solve the problem.

ASSEMBLYWOMAN HAINES: Mr. Chairman?

ASSEMBLYMAN MARTIN: Ms. Haines.

ASSEMBLYWOMAN HAINES: Thank you, Mr. Chairman. My questions are for -- and I'd like to thank the Commissioners for coming this afternoon. Commissioner Weiner, in regard to what specific area of your budget would be the forest resource management? I see where in Fiscal Year '93 the Governor had

appropriated, recommended, that we fund \$5,218,000. We ended up giving \$5,468,000, which is a quarter of a million dollars more. Earlier, unless I misunderstood you, you had more or less made a statement that overall your entire Department -- and you were going to look at all cuts, and here is this specific Department that did not have any cuts at all-- I mean, are you going to be reducing, and if you are going to be reducing, is this going to be rangers, is this going to be specially in your fire fighting service where that was increased \$300,000? I mean are there going to be rangers reduced for the, you know, forest fire service, like, specifically in North Jersey, which a source had told me it was going to be?

COMMISSIONER WEINER: Let me just again point out that the nature of the cuts into the natural resource area-- The Parks and Forestry program -- again, whether you agree or disagree, is a result of the assumption that we've had to make about limiting our cuts in the management and administration salary count of general funded positions, and they only exist in two areas. They exist in the area of central management administration and in Parks and Forestry. Now, with that particular item, the Department requested, as part of our appropriations request, an additional \$300,000 for fire fighting services, in part in response to our experience of the Lacey Township fires. That was given. Ironically, you also know that our operations account for forest fighting was reduced dramatically, so we weren't able to fight fires; we didn't have any equipment to fight them with.

Faced with this problem as we again are limited to the existing interpretation, a decision has been made and recommended by Greg Marshall and Jim Hall, in consultation with myself, and it's on this list that one of the things we look at before we impact deeper into the Park Service is the reduction in some of the forest management programs. The last thing

under consideration on the option list is a reduction in Section A, the northern part of the State. If that has to come about-- I'm encouraged by everybody's comments today, and it may not have to come about. If that has to come about, we've also said publicly it will not happen until after the fall forest fire season. So, it's a potential reduction that we put on for Calendar Year '93, although part of this year's fiscal budget.

This point that you're making, and some of the points Assemblyman Kamin made, flow from the restriction in terms of where I can look in the Department to make up these cuts. If that restriction is relieved, then other options come up, and frankly, I'll be filing a new layoff plan.

ASSEMBLYWOMAN HAINES: Okay. Also, by doing the-- If you do layoffs and cuts in forestry, there's "X" amount -- I think it's like three point something million -- that we receive in Federal matching funds. Do you know how much money we'll be losing?

COMMISSIONER WEINER: None of that would be jeopardized.

ASSEMBLYWOMAN HAINES: None of the Federal funds would be jeopardized?

COMMISSIONER WEINER: No, and our reductions are not -- except in the Section A area -- are not in the forest fighting area; it's in the forest management area. So, for example, the first reduction in the forest management area that was in consideration through the hierarchy was the tree nursery program -- a very important program. I'll defend that program, as I know you will, because of its importance. But we all have to make very painful choices, so before we went into the direct forest fighting service, before we even went to the field -- in the parks -- we looked at the reduction of the tree nursery program. These are the types of choices we're making. And, again, I don't want to belabor the point, Mr. Chairman, but if

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we're able to work out that language, then the layoff plan will be filed, and I'll be happy to review that with you when it's filed.

ASSEMBLYWOMAN HAINES: Even though the fire fighting was increased by \$300,000 over last year, there's still that possibility--

COMMISSIONER WEINER: Yes, because if you look, there was a net decrease, and again, I don't want to belabor the point. Take a look at the operations account; \$300,000 was put in one account, an almost equal amount was reduced in the other account. But be that all as it may, out of a limited fund, \$5.4 million was taken out in personnel reductions and we've even tried to go to nonpersonnel areas wherever we could.

I was down with you during the Lacey Township fires. I'm very sensitive to that issue. I know the Legislature is, witnessed by the fact that you put in \$300,000 in response to our request. That's why I believe that the consequences of this budget are unintended. It isn't what you intended. It isn't what you want, and it's not what we want to manage it to. I'm asking for your help to get me out of this problem.

ASSEMBLYMAN MARTIN: I believe Mr. Russo has a few questions.

ASSEMBLYMAN RUSSO: Yes. Thank you.

ASSEMBLYMAN MARTIN: I told the Commissioners that in about 10 minutes we'd be wrapping up, so if anybody has a last question, frame it and we'll try to move on.

ASSEMBLYMAN RUSSO: Commissioner Cimino, the State work force today is still approximately 75,000 people. We're down from 80,000 people when Governor Florio took over.

COMMISSIONER CIMINO: We're still down. We're down a net of 4000. We're still below the number that Governor Florio had when he entered office.

ASSEMBLYMAN RUSSO: Okay. How many of the State workers are unclassified of that 75? What figure today?

COMMISSIONER CIMINO: There are 11,148.

ASSEMBLYMAN RUSSO: About 11,000. Okay. About how many of the State workers earn more than \$50,000?

COMMISSIONER CIMINO: The classified service exceeds the unclassified service above the \$50,000 line; 5700 classified workers earn above \$50,000, 4017 unclassified. It's almost 17 -- 1800 more classified than unclassified.

ASSEMBLYMAN RUSSO: How many of the unprotected, unclassified could go back to protected status, roughly?

COMMISSIONER CIMINO: Unclassified, I would say you're probably talking in the neighborhood of about 500; 495 have underlining title rights.

ASSEMBLYMAN RUSSO: During the Select Committee hearings on Civil Service, we had heard some testimony, especially from CWA and some of the employee groups, which during the last number of years -- and it's not just during these last two years, okay; it goes back into the Republican administration -- that in essence middle management has increased basically at the expense of lower level workers; people who paint the bridges, etc. Would you tend to still agree with that, or would you still dispute that?

COMMISSIONER CIMINO: Well, I think that what we've heard is that-- I mean, what we've said is that there has been a reduction. There's been a net reduction in the size of the work force. A lot of that reduction, I think, has come at higher than the entry level positions. Again, a lot of-- I mean, there's been a reduction in the number of "project specialists," but a reduction in the number of provisionals-- Project specialists literally have left the payroll. So, there's been a reduction there. I think in fairness to my good friends in the organized work force, I don't think that they understand that, in particular, one organized representative group holds many of those above the \$50,000 line, if you will. I mean, it's, in fact, the union's own personnel or the people who contribute to the union who are above that \$50,000 line.

ASSEMBLYMAN RUSSO: Thank you.

For Commissioner Weiner: You know, one of the reasons I think we're here today -- not to pick on your Department, in fact, which is not probably the best example as we've all already heard for numbers of reorganization reasons-- You know, there were 466 people, which is, I think, a relatively considerable number, in general, when you're looking at the State work force, that were hired during the last month or the last days before the budget. And, for example-- And I think we all agree. These are actual people being hired and there are going to be actual people that will be laid off. Possibly different people, but they are people.

I know in my district, and I have a memo on this, that a young lady named Maureen Brown from West Milford, Passaic County, had been hired. One of the reasons I bring up her name is, she's an actual person who lives with her mom and dad, and she gave notice to her private sector job -- I'm not casting aspersions here. These things happen. This was not, in fact, your Department; it's Human Services, in essence. And this ended up where she, because of whatever, right after July was promptly notified that she would not have her new State position in Morris County and no longer had a private sector position, so now she's unemployed, which I don't think anybody in this room would like. That was front page on my local paper and probably your local former paper, the Bergen Record -- and we both lived in Ridgewood -- and rightfully so that was reported.

This Sunday, I saw in my local paper, which is the Bergen Record, and I had seen it several days before -- I should mention The Star-Ledger -- that of the hires in your Department-- I should ask you first: All those folks that were hired, do you approve on each one or do they occasionally go through the cracks?

COMMISSIONER WEINER: Do I personally?



ASSEMBLYMAN RUSSO: Yes.

COMMISSIONER WEINER: No. What I would do personally, is on each of those hires -- going back to the point made by Rich Keevey and Commissioner Cimino-- If we want authority to hire, I've had to submit a specific request to OMB to get a position freed up, because I can create a substance justification and a funding source. Then it takes months to fill a position. We won't even begin recruiting, because we don't want to get somebody down the line and then say, "Sorry, we're only kidding." I want to know that I have hiring authority. So, that position was one that was hired. Frankly, I mean, I know what you're talking about.

ASSEMBLYMAN RUSSO: I don't want to mention any names, any parties--

COMMISSIONER WEINER: Then let's not mention names. No, but we're talking about this--

ASSEMBLYMAN RUSSO: I'm just talking about general cynicism. When you see one-- I mean, the timing--

COMMISSIONER WEINER: I understand, but let me make two points.

ASSEMBLYMAN MARTIN: One person at a time.

COMMISSIONER WEINER: Sure. (laughter)

ASSEMBLYMAN MARTIN: Let the Commissioner answer and then we'll-- (laughter)

COMMISSIONER WEINER: We live down the block from each other.

The person we're talking about is the child of a person of prominence, so when that word gets out it can add to people's cynicism. What wasn't disclosed, of course, in the quick story or in the oral or written discussions, was that this person was an intern in the Department for a number of years, had been offered a job many months earlier, wanted to finish school, and then came on board. And, as you probably saw in the Bergen Record -- I saw the same story -- I think the

parent had a very good comment, "I hope my children aren't burdened by their last name."

My point in my opening remarks, Assemblyman, was that I understand and respect the need for this body to call to question 466 hirings. It raises a red flag, and it's something which you have an obligation to look at. I have worked with the Legislature for 20 years in one capacity or another, and always in the past there was a call; there was an inquiry: "What's happening. Explain it to us." And then if the explanation wasn't good, as you should, you hold this before a Committee and you glare the spotlight of public scrutiny and accountability on us. That isn't what happened here. It was a rush to judgment. It was a rush to judgment that somehow these were "midnight hires"; these were all political hacks that were coming in. That's my point in the opening statement. So I understand your point, and I agree with you. I hope that this process both provides a little more comfort for everybody who's watching us all collectively -- these two branches of government -- and allows us, as Assemblyman Kamin said, to move on with the business of government.

ASSEMBLYMAN RUSSO: I feel badly about bringing it up, especially to you, because I have known you a long time and I know your good reputation. But on the other hand, I would think we might both agree the timing in that kind of situation is probably very unfortunate. And you know, you're looking at a situation where perception, especially public perception-- I think you mentioned 23 years in this area, and I think it's gotten much worse in 23 years where probably the Legislature, both sides of the aisle, has an approval rating probably if not as bad, it's worse than the Governor's. And, you know, I don't think we're fostering anything by that happening and probably we're hurting the other 465 folks that are hired, from that perception. I'll leave it at that.

ASSEMBLYMAN MARTIN: Maybe on that note it would be appropriate to end. I just want to say one thing with respect to Commissioner Weiner.

ASSEMBLYMAN ROMANO: Could I have a minority comment when you're finished?

ASSEMBLYMAN MARTIN: You know, we could have made inquiries on, I suppose, 466 individuals. I mean, I, frankly, was shocked when I saw it; saw the timing. There have been some indications of at least a few people being hurt by the process. I'm not saying that maybe, you know, there could have been a different format, but I do think you've had an opportunity today to have a full opportunity to flush out whatever your points of view were regarding those as far as your individual departments, and as far as the administration in general. So, if you disagreed with the procedure, I think you were given the opportunity to at least explain yourself today.

COMMISSIONER WEINER: Absolutely. I think on behalf of all of us, we appreciate that. Work with you, Mr. Chairman, has always been fair and open, and I appreciate the opportunity that you gave us today.

ASSEMBLYMAN MARTIN: Mr. Keevey, and then we'll take Lou, and then we'll wrap up.

MR. KEEVEY: Just one other point for the record. Notwithstanding the comment of how many people were hired, I don't think we made the point clear enough that the net change in the payroll is only 86 people, because at the same time one is hiring, other people are leaving the payroll. I tried to make that point in my presentation, in one of the answers to Assemblyman Kamin, so the bottom line during those two months was a net change in payroll of 86 people. So, even though the Commissioner of Human Services hired 130, he lost 110. There was not an augmentation to the payroll of almost 500 people; in fact there were only 85.



APPENDIX





NEW JERSEY SENATE

DICK LaROSSA

SENATOR, 15TH DISTRICT

(MERCER COUNTY)

1450 PARKSIDE AVENUE

SUITE ONE

TRENTON, NEW JERSEY 08638

609-771-0330

COMMITTEES:

EDUCATION

BUDGET &

APPROPRIATIONS

OVERSIGHT

*Senator Dick LaRossa*

July 14, 1992

Mr. Chairman, my colleague Assemblyman John Hartmann and members of the Assembly State Government Committee, I want to frame my remarks in terms of the Administration's hiring of 466 workers just prior to the implementation of a hiring freeze and in obvious and direct violation of the legislative intent of the current budget document which is the law under which this State is currently operating.

As a member of the Senate Budget and Appropriations Committee I participated for months in over 20 hearings and heard from over 300 people who testified on this budget. We labored to make sure that this administration would find it extremely difficult to extract its warped sense of revenge on rank and file, direct service government workers. Our intent was and still is middle and upper management "fat", political hacks who are recent hires and high level, high salary carry overs who should have been removed when this administration took office.

In approaching today's important hearing, I need only remind you about a trumpet blast heard last Thursday in which the administration appears to have sounded a retreat on the all out layoff numbers war. As I have stated, "We will wait and see whether or not the plan is the right plan for New Jersey."

With that in mind, I am very grateful to you, Mr. Chairman and your committee for conducting an in depth review of the circumstances under which the 466 employees in question were hired.

While Commissioner Cimino and I have publicly disagreed on layoff numbers, I stand by my statement that he is "an honorable man."

I firmly agree with the Commissioner's recent comments, that, "It is difficult to understand how hiring is going on in the middle of a budget crisis of the proportion that was playing out in the months of May and June."

As an Assemblyman, in January of 1991 Commissioner Cimino was quoted as saying that he questioned this administration's "level of understanding, command of relevant information and its compassion." The then Assemblyman Cimino also said that lawmakers made mistakes because "dialogue, thoughtful analysis and exploration of alternatives" were prevented and he called for "cautious deliberation" of the proposed layoffs. He went on to state, "I believe this Legislature must act to check the runaway juggernaut of the administration. And if I am to draw a line and say, 'No more', it is here on the issue of people's jobs." All quotes are from a local newspaper, p-13, Thurs. Jan. 17, 1991.

Where you stand often depends on where you sit and even though the Commissioner is a member of this administration now, I believe he will cooperate with the legislature in completing a plan that is right for the citizens, taxpayers and workers of New Jersey.

To that end and belief, let quote one more of the Commissioner's statements from his testimony of Jan. 17, 1991:



As it relates specifically to the issues before us I have a set of questions that I would appreciate the committee addressing:

- 1 How can an Administration which was on the verge of implementing a hiring freeze and faced with a layoff number of any consequence, turn around and hire, as reported, 466 NEW workers.
- 2 What message does that send to middle managers eligible for layoffs? What message does that send the rank and file workers the Administration threatened to layoff?
- 3 If layoff plans are subject to the approval of the Commissioner of Personnel, then why are lists of names and job titles circulating throughout the departments and why, according to the people themselves, have pink slips gone out?
- 4 What are the titles of the new hires and what positions are they replacing?
- 5 Are these new hires, as is being speculated, being put in place so layoff numbers appear inflated?

While the focus of this hearing is the "Florio 466", I would hope that this committee will expand either this or future meetings to address the following situations that have been brought to my attention:

- 1 In DOT, bus inspectors who annually check out New Jersey's 6,200 commercial buses, including casino buses and New Jersey Transit buses will be gone by October. If this is a plan that was not approved and subsequently rejected, then why create so much anguish and make it public in the first place. This is a public safety issue and this plan, even though it appears to have been rejected, is indicative of the callousness and vindictiveness with which many of these original plans were developed.
- 2 In DOE, a 23 year employee, whistle blower and bargaining unit treasurer was "given" a pink slip. According to DOE bargaining unit representatives, in order to "get" to this employee, 6 people had to be laid off. Of the six, 4 are Federally funded. Laying off federally funded positions do not save the state money and in fact cause the state to give back \$238,000 in Federal funds. Again, if this is a plan that was not approved and subsequently rejected, then why create so much anguish and make it public in the first place?
- 3 I have attached a pair of letters from DEPE employees regarding layoffs in the Division of Parks and Fioiestry. As I read from the two letters you'll feel the frustration and pain of these Letter from DEP employee re: Div. of Parks and Forestry. Second DEP Letter - folder. Again, if these plans were never approved, then why create so much anguish and make it public in the first place.

Last year the administration sent out almost 40,000 layoff notices and S-995 sponsored by Senator Inverso and myself specifically addresses this type of problem. It is also an attempt to limit the anguish caused by premature, unapproved and unauthorized layoff plans and procedures being released. I hope the Governor will act on this and Assemblyman Hartmann's companion bill quickly.

Mr. Chairman, since I announced the formation of a layoff monitoring task force, information such as these incidents have been pouring into my office. So far I have received information from the following departments: Education, DEPE, Health, Human Services, OTIS, Personnel, Dept. of State, Taxation and Transportation so far. I will provide this information to the committee at your request or as it becomes available. I will not bother you unless it is documented or as I am able to produce witnesses, who may have to be protected under New Jersey's whistle blower law.

In anticipation of being accused of grandstanding or pandering to my constituency, I can only comment that my constituency wants effective, efficient and equitable government and that is what I am attempting to deliver.

Keep in mind, that my wife, mother, father, sister, brother and I were or are all public employees. That is nothing to be ashamed of, only lots to be proud of and the time has come to stop public employees from becoming an endangered species.

I hope that as this committee moves forward that the shell game of the 466 is the foundation for a more extensive investigation of the personnel methods and procedures initiated at the direction of this administration. I would further hope that this investigation is one of the means by which the legislative intent of the FY-93 budget document is enforced. That budget document IS the LAW under which this state is operating and until the courts rule otherwise, it is that law that is to be followed.

Prepared by D.R. LR

Department of Education Lay-Offs  
in  
The Division of Adult & Occupational Ed.

<u>Position</u>	<u>TITLE</u>	<u>Federal</u>	<u>State</u>	<u>No of Yrs</u> <u>with St.</u>	<u>Status</u>
* 00012031	Plan Area I		\$62,311.	22	ACTIVE
0903795	Plan Area I	\$64,620.		18	ACTIVE
0012057	Plan Area II		\$55,820.	15	RETIRED
0012018	Plan Area I		\$64,620.	10	ACTIVE
0908893	Plan Area II	\$55,820.		11	ACTIVE
0903699	Plan Area II	\$53,826.		7	ACTIVE
0903805	Plan Area I	\$64,620.		18	RETIRED
Total \$ Salaries		\$238,886	\$182,751		
		↑ Fed \$	↑ State \$		

\* Dennis Reiter, Whistleblower

- All 7 people deal directly with local school districts and all 7 have at least 5 yrs career service in title.
- 4 Federal positions were abolished to reach most senior position (Dennis Reiter, Whistleblower.)
- Federal position cost state no money. When 4 positions, federally funded, the state will lose \$238,886 or 1/4 of a million.
- The Division of Adult & Occupational Education is the division which will be returning 1/4 of a million \$.

July 9, 1992

Senator Dick LaRossa  
1450 Parkside Avenue  
Suite 1  
Trenton, NJ 08638

Dear Senator LaRossa:

Recently I have read several articles regarding your concern for classified state employees and their rights in the ongoing lay-off process within State government. I am one of those employees in my position with the Division of Parks and Forestry. The Division of Parks and Forestry has been designated by the Commissioner of the Department of Environmental Protection and Energy as the Division to absorb most of the budget cuts for this Department. On July 7, 1992 it was announced to all Division of Parks and Forestry employees the following facilities and services would be cut:

North Jersey Forest Fire Service  
High Point State Park  
Parvin State Park  
Jenny Jump State Park  
Liberty State Park  
Wawayanda State Park  
Parts of Wharton State Forest  
Round Valley Recreation Area  
Swartswood State Park

All these facilities would be closed effective September 8, 1992. All Division of Parks and Forestry employees will be given a lay-off notice August 1, 1992.

My concerns regarding this situation which are shared by some 400+ Parks and Forestry employees are the following:

1. The FY 93 budget mandated that State Park Service facilities remain open. They are being closed despite this mandate.
2. We have been instructed that when lay-offs begin our bumping rights are limited by geographical area within the Division of Parks and Forestry. For example employees at High Point State Park can only bump other P&F employees within Sussex County. This is in direct violation of N.J.A.C. 4A:8-1.5 which states that bumping rights are department wide.
3. It does not appear that the lay-off will be enforced for Senior Executive Service Unclassified employees in the \$50,000+ salary range within this Division.

Senator LaRossa  
page 2

4. The ongoing transfer of unclassified/classified employees from State funded accounts to Fee funded accounts.
5. The certification of unclassified employees to positions (titles) within Civil Service status.

I would appreciate your keeping my inquiry confidential as I fear immediate reprisal and the loss of my job due to the disclosure of this information. Any assistance or information you could provide regarding this situation would be greatly appreciated by myself and my co-workers. If you need any additional information my number at work is [REDACTED] and at home is [REDACTED].



TESTIMONY OF COMMISSIONER SCOTT A. WEINER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ENERGY

JULY 14, 1992

before the  
ASSEMBLY STATE GOVERNMENT COMMITTEE

Thank you for the opportunity to appear before you to discuss employment activity at the Department of Environmental Protection and Energy during June of 1992.

As you are aware, DEPE is responsible for wide ranging responsibilities which require regular and ongoing recruitment and replacements. As you will see from the accompanying analysis (Attachment 1), in June DEPE filled 57 vacant positions. These hirings culminated recruiting efforts which began much earlier in the year, and in one case in September of 1991. Some applicants were offered jobs in April 1992 through May 1992, but final paperwork wasn't completed until June 1992. All of these hirings conform to procedures and requirements of the Department of Treasury to assure budget control and of the Department of Personnel to assure that civil service and merit system rules apply.

Forty-nine of the positions are funded through fees and bond funds, and all are non-managerial positions. As such, these hires had no effect on the state budget. Nor could they have helped prevent any layoffs necessary as a result of the \$12.4 million reduction legislatively mandated for the Fiscal Year 1993 budget.

Eight positions are funded through state appropriation, but in each of these cases, DEPE attempted -- unsuccessfully -- to hire from within the department before recruiting externally. All were part of an ongoing

recruitment effort which began well before the Legislature introduced the Appropriations Act on June 18, 1992. While some of the state-funded positions may well be impacted by the layoffs and resulting bumping activities, we don't know that as of today. All eight employees are aware of their exposure to possible layoff.

Attachment 2 shows DEPE's unique funding circumstances, which forced 20 percent of the department -- those programs funded by state dollars -- to absorb all of the legislatively mandated personnel cuts.



## Analysis of DEPE's Hiring During June 1992

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- ☐ DEPE's June 1992 hirings culminate months-long recruitment process. Hiring in classified service is a lengthy, ongoing process resulting from planning for anticipated vacancies.
- ☐ In June, DEPE filled 57 vacant positions, most in non-state funded program areas.
- ☐ Recruitment for many of the positions started as early as January 1992.
- ☐ Some applicants were offered jobs in April or May 1992, but final paperwork wasn't completed until June. *(For example, commitments were made for entry level Environmental Engineer, Environmental Specialist and Chemical Trainee positions during the months of April, May and June, and Park Ranger position hiring commitments were made in May.)*
- ☐ Of the 57, 34 were hired prior to June 18.
- ☐ In all cases, hiring was necessary to continue providing services.

### THE DETAILS

- ☐ PUBLIC ACCOUNTS THAT DEPE HIRED 70 EMPLOYEES DURING THE MONTH OF JUNE ARE INCORRECT
  - 4 were hired by Board of Regulatory Commissioners, an in-but-not-of agency with its own budget and hiring authority. DEPE merely processes its paperwork.
  - 7 offers of employment were withdrawn.
  - 2 applicants turned down offers for employment.
- ☐ 57 EMPLOYEES WERE HIRED DURING JUNE 1992
  - All 57 are non-managerial positions, represented by employee bargaining units.
  - 56 are classified civil service.
  - 1 unclassified position is a physician specialist, a position which is unclassified by law and is in an employee bargaining unit.

□49 POSITIONS ARE NON-STATE FUNDED

- 33 positions are professional, of which 16 are minority or protected class hires, resulting from Affirmative Action recruitment.
  - 26 were filled by entry level Environmental Engineer, Environmental Specialist and Chemist Trainee positions.
  - 7 were filled by skilled professional positions such as Research Scientist, Nuclear Engineer and Environmental Specialist.

\*In January 1992 college and Affirmative Action recruiting began. Oral examinations were administered from January through April, resulting in 490 eligible candidates. Civil service lists were received on 6/4/92, but until official certification dates of 6/10/92 and 6/11/92, DEPE could not make hiring commitments. Commitments were made to candidates and personnel actions were submitted at that point.

\*Departmental postings for these positions were unsuccessful.

- 2 positions are paraprofessional - e.g. Enforcement Compliance Investigators
- 14 positions are clerical.
  - 12 entry level
  - 2 skilled clerical

□8 POSITIONS ARE STATE FUNDED

- 2 positions are filled by entry level maintenance workers
- 3 positions are filled by Ranger Trainees

\*These positions provide preventative maintenance services and security to parks. A number of these are needed whether parks are open or closed.

\*Positions are spread throughout the state, and employees impacted by layoff are unable to relocate.

\*The recruiting and hiring process for the Ranger Trainee is lengthy. Union contract requires notification to all rangers to afford opportunities to relocate.

\*These state funded positions had been frozen and exemption had been requested and granted from OMB in February.

\*DEPE received the civil service list for Ranger Trainee in March, information packages were mailed to candidates on 4/9/92 and interviews were held on 5/13/92. Background checks and psychological exams were done on selected candidates. Selected candidates requested time to notify present employers, delaying effective dates.

\*These 3 positions replace three Chief Rangers who retired 7/1/92.

•1 position was filled by a Naturalist

\*DEPE had been awaiting a civil service list before the hiring process could begin. Interviews from an open competitive certification were completed 5/13/92. The employment package was also completed on this date. The candidate requested a 6/13/92 effective date to give his present employer adequate notice.

•1 Physician Specialist 2

\*Recruiting for this position began in September, 1991. Physician finished his residency in Occupational Medicine in May, delaying effective date.

\*Physician manages Medical Surveillance Program as required by OSHA and monitors Workers Compensation claims and SLI claims.

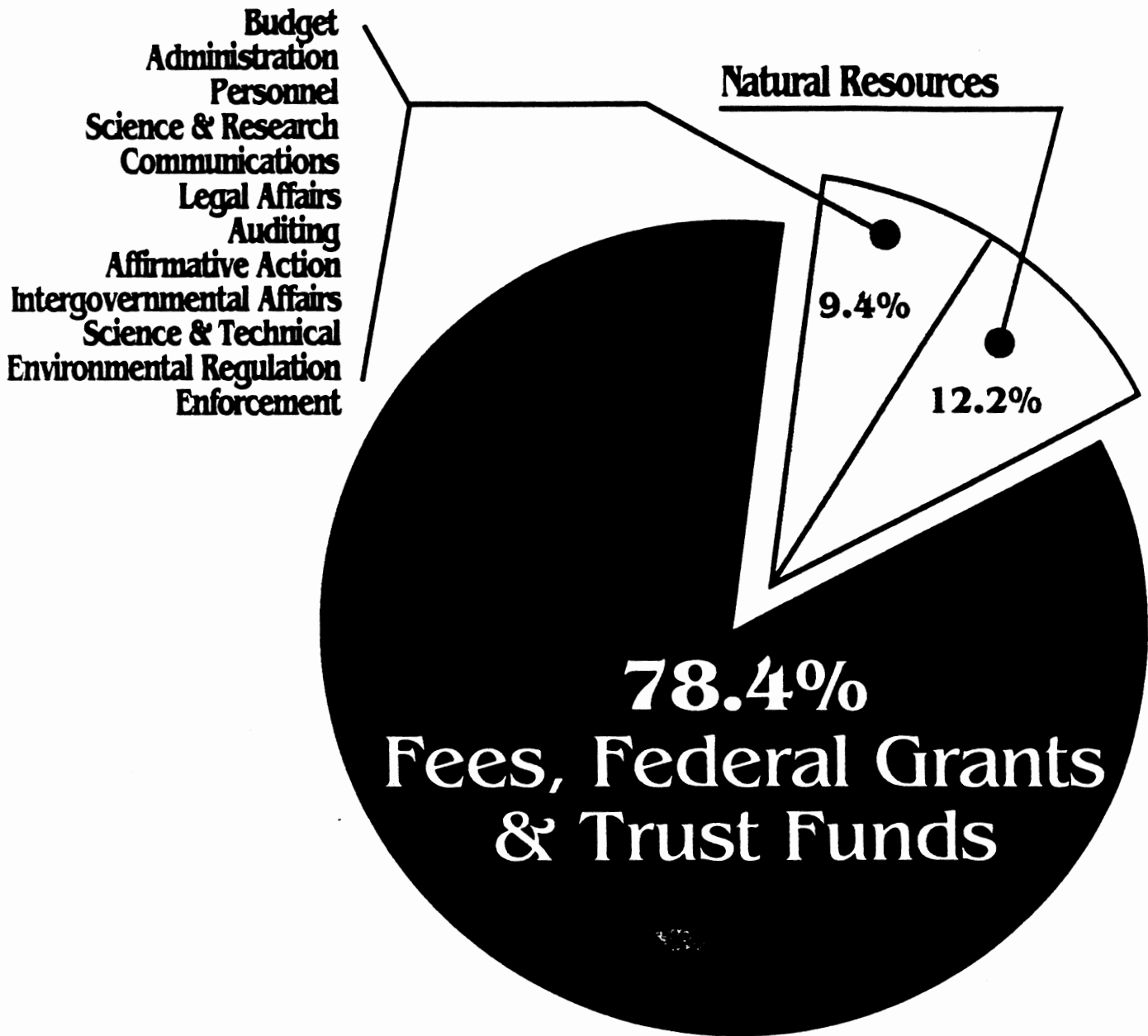
\*Department realizes substantial savings by reducing the lost time of employees, and the cost of outside medical evaluations/consultations.

•1 entry level clerical

\*Position was filled by an individual who has worked as an hourly employee part-time and full-time for four years. She had been offered a full-time position several times in the course of her employment. When she accepted the offer, two hourly positions were eliminated.

# HOW DEPE WAS FUNDED

In Fiscal '92 Budget

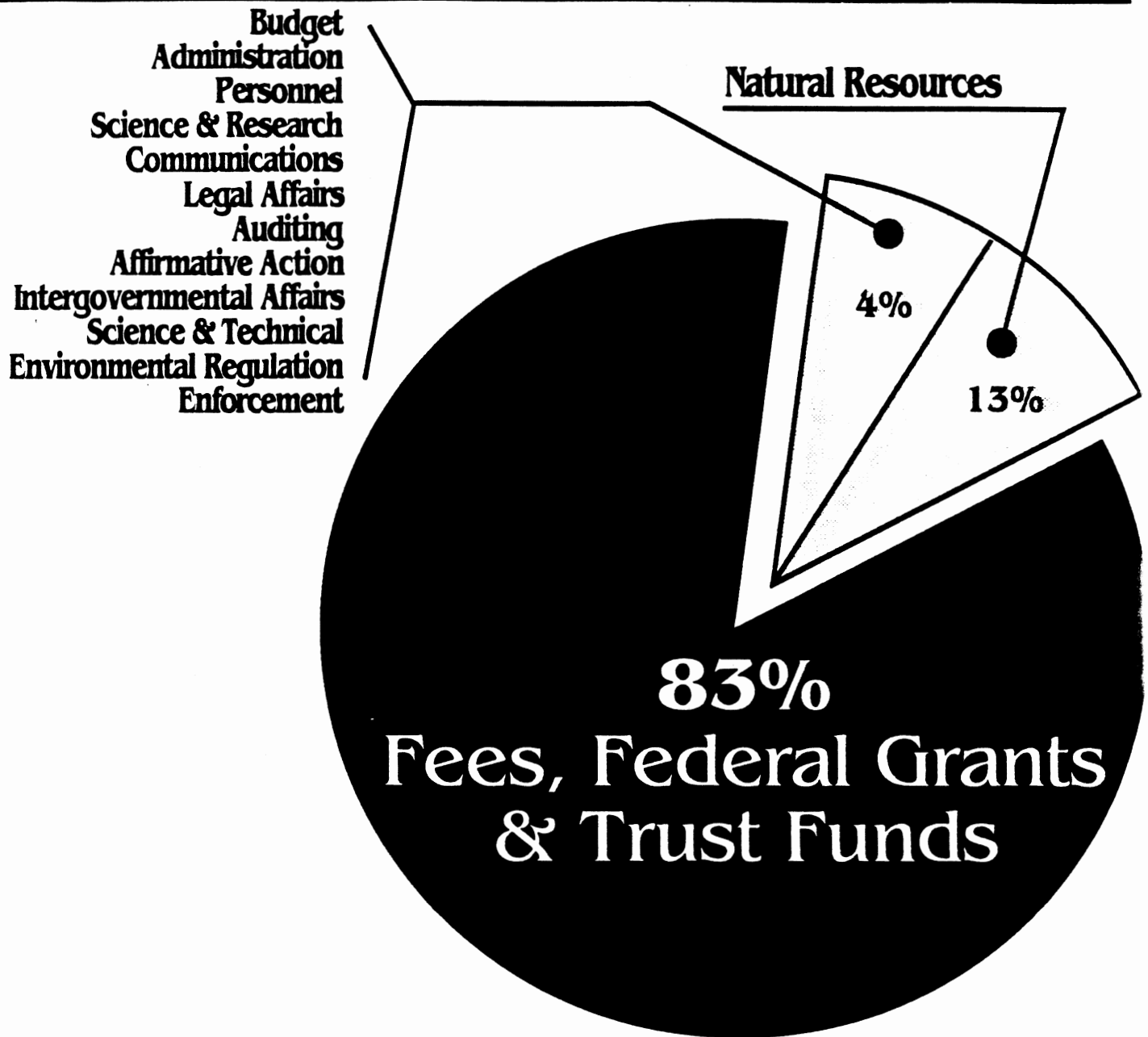


□ 78.4% (\$198 million) of DEPE's total operating budget comes from fees, trust funds and federal grants. Cuts in these areas will not help balance the budget unless fees become an indirect tax.

□ 21.6% of the budget (\$54.8 million) comes from state dollars. Of this \$30.4 million goes to protect and preserve our state's natural resources, including parks, forests, beaches and historic sites.

# HOW DEPE IS FUNDED

Under the Legislature's Fiscal '93 Budget



□ 83% (\$200.6 million) of DEPE's total operating budget comes from fees, trust funds and federal grants. Cuts in these areas will not help balance the budget unless fees become an indirect tax.

□ 17% of the budget (\$41.4 million) comes from state dollars. Of this, \$31.4 million goes to protect and preserve our state's natural resources, including parks, forests, beaches and historic sites. In other words, 76% of all state dollars received by DEPE is spent on natural resources.



# **Legislative Mandate vs. Reality: Impacts of \$5.4 Million DEPE Management and Administration Salary Reduction**

Of the \$12.4 million cuts, \$7 million have been itemized by the Legislature. The remaining \$5.4 million reduction is targeted at eliminating unclassified employees earning \$50,000 or more. Moreover, the amended Appropriations Act would require the department to keep the park system open despite this reduction.

## **ACCORDING TO THE LEGISLATIVE ANALYSIS:**

The \$5.4 million reduction calls for laying off 94 unclassified people who earn \$50,000 or more, and for keeping the state parks open.

## **IN REALITY:**

This budget reduction will require DEPE to lay off classified employees and will dramatically affect the management of New Jersey's natural resources.

## **WHY THE DISCREPANCY EXISTS:**

The discrepancy is related to the makeup of DEPE's budget.

□ DEPE's 1993 budget of \$242.1 million is funded in two ways:

- 83% (\$200.6 million) of the total operating budget is funded by fees, trust funds and federal grants.
- 17% (\$41.4 million) of the budget is funded by state tax dollars. Of this, 76% (\$31.4 million) goes to protect and preserve our state's natural resources, including parks, forests, beaches and historic sites.

□ Likewise, DEPE pays its employees' salaries from one of these two sources. In light of this:

- Only 209 employees who earn \$50,000 or more are funded by state tax dollars.
- Of those 209 employees, only 30 hold unclassified positions.

□ THEREFORE, ANY POTENTIAL LAYOFFS MUST IMPACT ON CLASSIFIED EMPLOYEES AND ON THE NATURAL RESOURCE ACTIVITIES, INCLUDING THE PARKS SYSTEM.

# Options To Address The \$5.4 Million Legislative Reduction To Management And Administration

## REDUCE MANAGEMENT OPERATIONS IN THE DEPARTMENT

SAVINGS

\$2,500,000

Staffing levels in budget, personnel, administration, science and research, communications, legal affairs, auditing, affirmative action and intergovernmental affairs will be cut to a minimal "due diligence" level of maintenance by laying off approximately 70 people.

## NATURAL RESOURCES IMPACT

2,900,000

- ☐ Reductions to Natural Resources central office management and support to "due diligence" levels  
Results in 16 layoffs \$658,000
- ☐ Close parks on September 8, 1992 1,000,000  
 Consider closing those state parks which are the most expensive to run, comparing revenues to operating costs:
  - Liberty State Park
  - Barnegat Lighthouse
  - Monmouth Battlefield
  - High Point State Park
  - Wawayanda
  - Parvin
  - Others?
 Results in approximately 45 layoffs
- ☐ Close some parks on August 1, 1992 1,230,000  
 Results in approximately 45 full-time and an additional 135 seasonal layoffs
- ☐ Reduce the number of seasonal employees who provide interpretive and visitor services by 115 345,000
- ☐ Eliminate virtually all firefighting and forest management services in northern New Jersey leaving the task to local firefighters 450,000  
 Results in 20 layoffs
- ☐ Eliminate Youth Recreational Opportunities Program 450,000  
 Provides transportation for 70,000 urban youngsters to state parks
- ☐ Eliminate Woodlands Assessment Program 56,000  
 Program audits plans submitted by owners of woodlands applying for farmland assessment tax breaks. This service would have to be assumed at the local level.
- ☐ Eliminate Main Street program 87,000  
 This downtown revitalization program has provided communities with the expertise to attract millions of dollars in new development to their downtown areas.
- ☐ Eliminate tree nursery and reduce forest management statewide 250,000  
 Results in 10 layoffs

JUNE 1992



**Testimony**  
**Assembly State Government Committee**

**Alan J. Gibbs, Commissioner**  
**Department of Human Services**

**Tuesday, July 14, 1992**

Good afternoon, Mr. Chairman and distinguished members of the State Government Committee.

In my testimony today I will address your concern with the hiring of 176 employees in the Department of Human Services during the period of June 1 to June 29, 1992.

In doing so I will provide you with an overview of the Department of Human Services' programs and staffing and outline the specific staffing changes during the period in question.

Through this report I will offer the rationale for these very necessary staffing changes.

As you know, Mr. Chairman, the Department of Human Services is the largest department in state government. We employ 20,815 staff. 17,476 of these individuals provide direct service to our clients.

Our staff serve New Jersey's most vulnerable citizens. Through offices and facilities that serve every community of this state, we reach out to abused children, troubled youth and families, the poor, elderly men and women, and to those who are mentally ill, developmentally disabled, blind, visually impaired, deaf and hard of hearing.

Every year we serve more than one million people, or about one of every eight New Jersey residents.

We have 17 major facilities: 7 psychiatric hospitals for those with serious mental illness and 10 developmental centers for those with mental retardation who may also suffer from autism, epilepsy, cerebral palsy, spina bifida, fetal alcohol syndrome, head injuries and other neurological impairments.

In addition, our Division of Youth and Family Services (DYFS) operates 4 residential centers that offer psychological and therapeutic services, recreation, and special education for youngsters who are unable to function appropriately in their homes, schools and communities; our Division of Developmental Disabilities operates 21 day training centers that offer training, therapy and recreation programs designed to develop the full potential of those with developmental disabilities; and our Commission for the Blind and Visually Impaired operates one rehabilitation center that offers vocational and skill training to people who are blind or visually impaired.

Our institutions are not fixed, static facilities. Rather, they have a constant, steady turnover in staff. We see even greater staff changes in DYFS.

Department-wide, our staff turnover rate is more than 6 percent per annum. The DYFS rate is about 8 percent per annum; it has been as high as 16 percent per annum.

In Calendar Year 1991, we saw staff turnover in the department of approximately 1,300, or an average of 108 people per month. Many of these people work in our institutions or in direct service in the community.

The impact of such turnover must be viewed in perspective:

- Our psychiatric hospitals employ 5,198 people: almost 5,000 of whom are involved in providing client services and direct care.
- Our developmental centers employ 8,855 people: more than 8,200 provide direct care.
- And DYFS employs 3,113 people: more than 2,600 provide direct care services.

There's also a constant shift of patients and clients. Let's look at the psychiatric hospitals. At the close of Fiscal Year 1992, there were approximately 2,700 people in our 7 psychiatric hospitals. Yet, admissions numbered 5,124 and discharges numbered 5,067.

We also saw movement in our developmental centers. At the close of Fiscal Year 1992, there were 4,656 residents in our 10 developmental centers. There were 296 admissions and 619 discharges during the year.

In DYFS, at the close of this fiscal year, the caseload stood at more than 50,500 cases. During Calendar Year 1991, DYFS opened about 58,300 cases and closed more than 61,000. They also received 53,700 reports of child abuse and neglect, of which 20,000 were substantiated.

Mr. Chairman, I offer these statistics—on high turnover rates, on staffing, and on admissions, discharges and case openings and closings—to portray the dynamic, fluid nature of the Department's work.

Into this picture, let me now place the 176 staff hired in the period June 1 to June 29, 1992, staff hired primarily for direct care in the institutions and the community.

The 176 staff included:

13 nurses;

88 human services assistants and cottage training technicians, the people who care directly for patients;

33 direct support staff, which includes groundskeepers, food service and laundry;

11 social workers, which includes Family Service Specialists for DYFS;

9 teachers;

- 2 operating engineers;
- 2 police;
- 3 clinical psychologists;
- 1 dental hygienist;
- 1 assistant recreation supervisor;
- 11 clerical; and
- 2 project specialists for the newly mandated Family Development Initiative.

Most of these staff were hired to do jobs that we need done 24 hours a day, every day of every week, year in and year out. All were hired to perform essential work.

In June 1992, 102 people left the payroll, making our net increase just 74 people.

During the period you are examining, we were authorized to begin a slight increase in staffing to reverse the drastic decline in staffing levels that occurred in the year and a half since a hiring freeze was imposed in December 1990.

The 176 employees in question were in the employment pipeline prior to June 1, 1992. Let me explain how that works.

Our institutions and offices recruit locally. They interview, select candidates, and process those candidates. This is in accordance with Department of Personnel policy.

However, once we make an offer of employment, we still need to carry out the required health screening of potential employees, complete the necessary forms, and have them fingerprinted.

The fingerprinting approval process alone takes 6 to 8 weeks. That's because we need to have processing by both the Federal government and the State Police.

When these 176 individuals were selected, 6 to 8 weeks prior to June 1, 1992, we had the need, the authorization and the funding to hire them. When they were finally brought on board we still needed them, we had the authority to hire them, and we had the funds to hire them in both that year's budget and in the Governor's recommended FY '93 budget.

It was not clear at the time these jobs were offered that the new budget would require contracting rather than expanding the payroll. And, as you know, the budget was not released until June 18.

Indeed, when circumstances became clear to me on June 24, I halted all further hiring.

I hope this explanation provides you with the detail you seek on these new State employees and I welcome your questions on this issue.





