
Public Hearing

before

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

“The Committee will continue to take testimony from invited guests concerning the administration of the ‘Water Quality Accountability Act’”

LOCATION: Committee Room 4
State House Annex
Trenton, New Jersey

DATE: September 19, 2019
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator Troy Singleton, Chair
Senator Ronald L. Rice, Vice Chair
Senator Brian P. Stack
Senator Christopher J. Connors
Senator Declan J. O’Scanlon, Jr.



ALSO PRESENT:

Jamie L. Jennings
Office of Legislative Services
Committee Aide

Alea Couch
Senate Majority
Committee Aide

Sarah Fletcher
Senate Republican
Committee Aide

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey



TROY SINGLETON
Chair

RONALD L. RICE
Vice-Chair

BRIAN P. STACK
CHRISTOPHER J. CONNORS
DECLAN J. O'SCANLON, JR.

JASON S. POSTELNIK
JAMIE L. JENNINGS
Office of Legislative Services
Committee Aides
(609) 847-3875
(609) 633-1228 fax

New Jersey State Legislature
SENATE COMMUNITY AND URBAN AFFAIRS
COMMITTEE
STATE HOUSE ANNEX
PO BOX 068
TRENTON NJ 08625-0068

PUBLIC HEARING NOTICE

The Senate Community and Urban Affairs Committee will hold a public hearing on Thursday, September 19, 2019 at 10:00 AM in Committee Room 4, 1st Floor, State House Annex, Trenton, New Jersey.

The public may address comments and questions to Jason S. Postelnik, Jamie L. Jennings, Committee Aides, or make bill status and scheduling inquiries to Jennifer Trott, Secretary, at (609)847-3875, fax (609)633-1228, or e-mail: OLSAideSCU@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The committee will continue to take testimony from invited guests concerning the administration of the "Water Quality Accountability Act."

Those individuals presenting written testimony are asked to provide 10 copies to the committee aides on or prior to the date of the meeting.

Issued 9/12/19

For reasonable accommodation of a disability call the telephone number or fax number above, or for persons with hearing loss dial 711 for NJ Relay. The provision of assistive listening devices requires 24 hours' notice. CART or sign language interpretation requires 5 days' notice.

For changes in schedule due to snow or other emergencies, see website <http://www.njleg.state.nj.us> or call 800-792-8630 (toll-free in NJ) or 609-847-3905.

TABLE OF CONTENTS

	<u>Page</u>
Melanie R. Walter, Esq. Director Division of Local Government Services Department of Community Affairs State of New Jersey	2
AJ Sabath Representing New Jersey Building and Construction Trades Council	23
Michael Travostino Director Government Affairs Associated Construction Contractors of New Jersey	28
Cheryl Norton President New Jersey American Water, and Senior Vice President Eastern Division American Water	39
Zoe Baldwin Director Government Affairs and Communications The Utility and Transportation Contractors Association	60
Evan Piscitelli Executive Director National Utilities Contractors Association of New Jersey (NUCA NJ)	68
Peggy Gallos Executive Director Association of Environmental Authorities	72
David Harpell Executive Director Jackson Township Municipal Utilities Association	78

TABLE OF CONTENTS (Continued)

	<u>Page</u>
Michael F. Cerra Assistant Executive Director New Jersey State League of Municipalities	84
APPENDIX:	
Testimony submitted by Melanie R. Walter, Esq.	1x
Testimony, plus attachments submitted by AJ Sabath	4x
Testimony Submitted by Michael Travostino	14x
Testimony submitted by Cheryl Norton	16x
Testimony, plus attachments submitted by Zoe Baldwin	20x
Testimony submitted by Evan Piscitelli	40x
Testimony submitted by Peggy Gallos	41x
Testimony, plus attachment submitted by Michael F. Cerra	44x
Testimony submitted by SUEZ Water	49x
pnf: 1-95	

SENATOR TROY SINGLETON (Chair): As we do in this Committee, when we start our hearings, we start our hearings with the Pledge of Allegiance.

We ask you to rise for the Pledge of Allegiance.

Senator Connors will lead us in the Pledge.

(all recite the Pledge of Allegiance)

Ladies and gentlemen, I ask you to please remain standing, if you wouldn't mind.

We lost a dear public servant, our colleague, this week; a former Mayor, a former Freeholder, and a member of this body. All of us -- whether you served with him for 10 minutes, 10 years, or a lifetime -- are saddened; and New Jersey has suffered a great loss with the passing of our colleague, Senator Bucco.

So we ask you to take a moment to not only reflect on his memory, but also say a prayer for his family during their difficult time.

(moment of silence)

Thank you.

Jamie, if you wouldn't mind, can you start with a roll call, please?

MS. JENNINGS (Committee Aide): Senator Connors.

SENATOR CONNORS: Here.

MS. JENNINGS: Senator Stack.

SENATOR STACK: Here.

MS. JENNINGS: Senator Rice -- Vice Chairman Rice.

SENATOR RONALD L. RICE (Vice Chair): (off mike)
Here; I'm here.

MS. JENNINGS: Vice Chairman Rice is here.

And Chairman Singleton.

SENATOR SINGLETON: Here.

All right; we're going to get started with today's hearing.

As we started the hearing last week, the same premise holds -- sort of what our focus is. At each of these hearings I want to reiterate it, because I think it is important.

The issue that we face here, with our water infrastructure in New Jersey, is, again, that our state currently lacks the means to assess the overall state of our infrastructure and its funding needs. The Water Quality Accountability Act was a measure to try and help us meet that standard, and we're going to look to try and make sure we can make sure we do that.

We had some great testimony during our first hearing; they provided us with some insights into some of those challenges. And we look forward to this hearing today to further our education on this topic.

So we will begin with the Department of Community Affairs, the Division of Local Government Services.

Come on down, please.

Melanie, just hit the button and the show is yours.

MELANIE R. WALTER, Esq.: Good morning.

My name is Melanie Walter; I'm the Director of the Division of Local Government Services within the Department of Community Affairs.

I'd like to begin by conveying a greeting from our Lieutenant Governor, Sheila Oliver.

I'd like to thank the Chairman, Senator Singleton, for the invitation to testify today before this Committee.

I would also like to extend a greeting and a show of appreciation to the other members of this Committee. Some of you I know, and others of you I have spoken to in recent days.

I'd like to commend Chairman Singleton and members of this Committee for inviting members of the public and from the private sectors, as well as other stakeholders, to participate in a public discussion on an issue that is so important and so vital to all of New Jersey's residents: water quality.

I understand that this Committee is evaluating the progress of the implementation of the Water Quality Accountability Act. You may also be considering whether additional amendments to the Act may be necessary to improve its efficacy.

Maintaining publicly owned and developed infrastructure as a public good is an important mission. The Department of Community Affairs appreciates this opportunity to participate in that discussion.

I appreciate the leadership of New Jersey Department of Environmental Protection in implementing the Water Quality Accountability Act; and their work in partnership with other State agencies, specifically the Board of Public Utilities, the Office of Homeland Security and Preparedness, and our Department, the Department of Community Affairs.

Although DCA, through the Division, may have a relatively minor role within this Act, I also acknowledge the importance of that role. There are 244 local government entity-owned water supply systems in New Jersey that are subject to the Act; they're subject to it specifically because

they have greater than 500 service connections. These include those owned by municipal utilities, water commissions, and MUAs.

The legal and regulatory environment for each class of ownership entity varies under New Jersey law. That can present certain challenges for consistent oversight when we're addressing municipal utilities, water commissions, or MUAs differently in each instance.

As you well know, the Act seeks to standardize some aspects of operations and planning. It requires system inspections and the development of an asset management plan that includes inspection, maintenance, repair, and renewal of each of those systems' infrastructure in a manner consistent with the American Water Works Association standards.

The Act has already established a public reporting regime that empowers the public to monitor water quality, identify infrastructure needs, and target additional funding where necessary. Every three years a certified report based on that asset management plan must now be submitted to the State DEP, BPU, and DCA.

An asset management plan alone is a valuable planning tool; but as the report certification requirement you already have in place reflects, being able to fund the recommended improvements under an asset management plan is imperative to ensuring that it has an impact.

Although DCA's involvement with the engineering and technical aspects of water quality and asset management is very limited compared to the other State agencies, I hope you view the Division as a resource in areas of budgeting and other financial aspects of capital planning for water infrastructure.

With that in mind, I'd like to share a bit of our involvement -- some existing efforts that we've undertaken that may help to inform today's session.

First, the DCA shares in your goal of increasing accountability, broadening public access to data, and improving the standardization of operational and reporting metrics.

Indeed, at DCA, we're pursuing this issue for all local units through the development and implementation of our FAST system. We've begun to centralize all local government budget and operational data on the FAST system's public portal, and we're committed to using that system and the line items contained therein, addressing water quality issues to support the WQAA portal being developed through DEP; as well as continuing to centralize and link our own data to improve the public's ability to extract and synthesize all available public information on this and a panoply of other issues.

Furthermore, the State's Calendar Year 2019 and Fiscal Year 2020 Best Practices Inventory has already incorporated three core competency and one unscored survey question related specifically to infrastructure planning. We will receive answers from all municipalities to these questions by the end of October of this year. Now, I say *municipalities* because only municipalities, not other entities, are required to fill out the best practices questionnaire. We expect that identifying the areas of need through this tool will be able to empower us to advance local water quality planning across New Jersey.

Beyond this more passive data collection resource, the Division has also mobilized to address capital needs where we have existing statutory

authority. By way of example, for the first time this year the Division has included capital and debt planning requirements within the Transitional Aid Memorandum. This ensures that the affected municipalities within that program are able to address important infrastructure and capital needs.

We have also consistently exercised the Local Finance Board's plenary authority to impose conditions on authority dissolutions that preserve accumulated surplus and reserves, and ensure that those funds remain dedicated to the system's operation and maintenance, rather than being diverted. And where applicable, we've directed rate increases by MUAs; but that particular power is very limited. It applies only in certain circumstances where there's financial difficulty and it's really unrelated to the operation of the system itself or the maintenance of the system.

Now, beyond these regulatory efforts, the Division's Local Assistance Bureau has also recently employed two part-time water and wastewater experts to assist with assessment and reform at the local level. This will include by-request management consulting services, and shared services and consolidation support, the latter of which will occur in coordination with the State Shared Services czars.

Finally, as we're developing a nascent risk identification and management support program -- it's a pretty exciting initiative -- the issues that are being raised through this Committee's work are under review, and they may also inform our development of the standards and internal warning signs in the field of water and sewer infrastructure. So what we hear from this process will help to inform this new initiative.

I very much look forward to a productive dialogue today, and in the future, about how best to ensure the improved and sustained quality of public-owned water systems in New Jersey.

Thank you again for inviting me to testify today. I'm available to answer any questions you may have.

SENATOR SINGLETON: Melanie, thank you for your work and for your very detailed testimony.

Thank you very much.

Before I kick it over to the members, I think, Jamie, we have -- Senator O'Scanlon has joined us. We want to make sure we get that on the record as well.

SENATOR O'SCANLON: Thanks, Chairman.

SENATOR SINGLETON: So the Division, in and of itself, I think, just to be clear-- The Division, while it approves budgets of water utilities, as well as the budgets of municipal utilities, authorities, etc., your Division has no role in, and doesn't review, frankly, the sufficiency of the local governments' water rates, infrastructure, and capital spending.

Is that fair?

MS. WALTER: Yes, Senator.

SENATOR SINGLETON: Okay.

MS. WALTER: We have the authority to ensure that the budget balances, but not to opine as to the sufficiency of the allocation.

SENATOR SINGLETON: Right.

And as you -- I know you are aware, the statute in question which we're talking about -- the Water Quality Accountability Act -- 58:31-7, which speaks to the asset management plan -- it says in there, "Each

water purveyor shall dedicate funds on an annual basis to address and remediate the highest priority projects as determined by its asset management plan.”

It’s my understanding that the asset management plans have been -- some have been certified that they are in receipt by DEP, but I don’t think anyone has submitted them.

Is that fair?

MS. WALTER: I believe 94 percent have been certified, and there are 76 that lacked the required signatures at this time.

SENATOR SINGLETON: I know that; but I guess my question is, they are certified, but they haven’t been submitted because they’re not required to be submitted for another three years. Is that correct?

MS. WALTER: I believe that’s correct, sir.

SENATOR SINGLETON: All right. So based on the reading of the statute and that component right there, at this juncture there is no department-- And it’s broken down by, I guess, three to have some oversight of some aspects of this: DCA, DEP, and BPU. No one can tell us, right now, whether or not each water purveyor is dedicating the requisite amount of funds, on an annual basis, to address and remediate their highest priority projects, as we sit here today.

MS. WALTER: That should be correct, yes.

SENATOR SINGLETON: Okay.

In your testimony here, on the second page, you pointed out -- you were talking about the DCA sharing in the goal of increasing

accountability. And I know that, and I appreciate the work that you all are doing to begin that.

Your colleagues from the DEP, last week, told this Committee that, essentially, they are hopeful to have their portal ready -- and I'm paraphrasing this -- at the, basically, three-year submission mark when the submissions have to come in. It's their hope that they will have it in three years. And when Senator Ruiz -- who sat on this Committee; and I think many of us around the dais -- expressed shock that we were waiting three years to have that kind of information submitted-- But you're talking about the work that you all are doing to centralize your Local Government budget and operational data on the FAST system. I believe that we're talking about in context to support the WQAA.

What is the time frame that you all are working under with respect to that?

MS. WALTER: Well, right now, we're going to have limited data, but data that's relevant to this in the area of capital infrastructure and line item appropriations. The FAST system budgets are currently being piloted in Fiscal Year 2020, to be implemented in Fiscal Year 2021. We have a team of testers who are willing to try out the system and put their budgets in to make sure everything's working. We've been very lucky to have partners in the community and with the different stakeholder groups. And so we'll be able to evaluate the restricted balances for any capital infrastructure and line items, and we'll be able to see the descriptions for each of the projects that are attached thereto.

So that, theoretically, would match against what's in the asset plan, and would be very helpful in informing the process.

And FAST is also an adaptive system. So if there are particular financial metrics that are developed out of recommendations here or through evaluation of the WQAA reports, we'll be able to put those into the system to generate annual reports of anyone not meeting those benchmarks.

SENATOR SINGLETON: So for, roughly, those 244 local government-owned MUAs, it is your intention that by Fiscal Year 2021 -- which would be, actually, faster than what the DEP folks told us last week, at least from your standpoint -- DCA will be able to have some broad stroke information as it relates to the water infrastructure asset management -- the allocation of resources towards it.

MS. WALTER: Yes, Senator.

SENATOR SINGLETON: Okay.

I'm going to allow some of my colleagues-- I may have some follow-up questions, but I'll allow some of my colleagues--

Senator Stack, if you would like, sir.

SENATOR STACK: Sure.

Melanie, it's great to see you again. Thank you for the work that you do in DCA. We've worked quite a bit together in different capacities, but thank you for all your work, and that your office does.

I just have a couple of questions, just in reference to what the Chair just mentioned.

Do you have the staff in DCA to oversee this type of program that we're talking about?

MS. WALTER: So, right now, what we have is a team of auditors, and they do a three-year cycle of audit evaluations. They're a very efficient, very strong crew; but we have about nine for the whole State of

New Jersey. So effectively, under local review, we have 1,300 budgets in New Jersey, and we get to a full audit of each budget once every three years; and we do a general certification in those interim years.

SENATOR STACK: Okay. It's not exactly on the topic that we're talking about, but if the Chair would allow.

Just on the lead pipes that we're hearing so much about recently throughout the state -- not only in Newark, but they affect all communities in the State of New Jersey; and throughout the country, even, especially the East Coast where the infrastructure is so old.

But what is DCA looking at in the way of what the BPU-- I tried to get answers from the BPU and haven't been successful with the Board of Public Utilities. But what programs are we looking at, that if we're going to-- Like in Union City's case, SUEZ -- and I know SUEZ had a representative who is here today -- but let's say SUEZ is replacing lines that are running up to the curb. From the curb into the house is the responsibility of each property owner; which is really unfair, because you can't expect the property to incur the cost of, possibly, \$8,000 to \$10,000 to change the hardware going in, and the piping going into the house, and the hardware within the house that has lead.

What is DCA looking at for low-income homeowners throughout the State of New Jersey? Is there any type of a program that you're coordinating with the BPU that we could offer residents? Some type of financial assistance, so that when it gets replaced up to the curb box -- whether it's SUEZ or one of the other water companies that services New Jersey -- are we going to be helping the homeowner throughout New Jersey

who is low-income, senior citizen, minority homeowners who don't have a lot of money -- that we could help them?

MS. WALTER: So as you know, this is a bit outside of the scope of what I was directly prepared for addressing today; but I can speak a bit about it, and hopefully can give you a bit of helpful information.

One of the challenges that we've dealt with in combating the lead service line issue has been the fact that because it's a private portion of the line, you need direct statutory authority to undertake those repairs through a public process. Much like you see with the lead paint abatement, there needs to be a specific provision that authorizes the use of public funds for those purposes, and essentially addresses the health, public welfare, and safety requirements to address the (indiscernible) clause implications that would otherwise arise.

Right now, there was the lead service line amendments under Public Law 2018 -- I think Chapter 114 -- which designates the line from the curb to the house as being eligible for local improvement; which means that the public entity can undertake the repair. But nothing that would specifically address the issue of those private entity service connections, or the public funding of direct replacement costs.

SENATOR STACK: Okay, I would just like to meet with you further on that; even if the Chair had some meetings on the lead pipes, I think that would be a good thing. Because we're hearing a lot about it now, but it has existed for so many years in the State of New Jersey I think we really need to take the bull by the horns, so to speak, and really get this job done once and for all. The fact that we're still talking about lead pipes and lead paint in New Jersey, in 2019, is a sad commentary.

Thank you very much.

SENATOR SINGLETON: Thank you, Senator.

Anyone else?

SENATOR RICE: Well, Mr. Chairman, I'm going to listen to this testimony, but just bouncing off the Senator--

I just want to say to you, as the Chair of this Committee, some of this stuff that needs to be done with the service lines has to be legislated. And I have some ideas; I'm doing some legislation now, because it has to be something that would be removed over a period of time.

And the problem that Newark is having -- I want to be clear for the record -- is not a water problem; it's a service line problem. And as I told the Governor when we had a meeting -- and DEP, and EPA, and everybody else -- is that, forget about Newark; we'll fix that. But what about the Perth Amboys, the Garfields -- all the cities that don't have the problem yet. They have American Water, United Water, etc. If they start using chemicals to keep the water good, and don't use them properly, they are going to have corrosion too.

So we need to fix it before we go-- There are ways to do that. We can have a conversation another time, Senator, on different kinds of legislation, as it relates to foreclosures and things like that; what banks can do, and other people can do, and transparency.

So I just wanted to say that's enough for lead; I know that's not the topic.

SENATOR SINGLETON: Sure.

SENATOR RICE: Okay?

SENATOR SINGLETON: Just a couple other questions, if I could.

Right now, is there any information or reports, that you could point this Committee to, that speak to or look at how existing water rates are able to address our state's water infrastructure needs? Are there any-- Is that research being done by the DCA, or do you know of another Department that's looking at that?

MS. WALTER: Sure. There are a few pieces of information that we might be able to cobble together that could be helpful.

Right now, under our current statutory structure, municipal water and sewer utilities -- in some instances, and under the budget law -- have to break out their individual utility budgets. So if they have a municipality of less than 10,000 people and it's a municipal-owned system, we have their capital plan for a three-year period. If it's a municipality larger than 10,000, we have a capital plan for a six-year period. And if it's an authority, we have a capital plan for five years.

Now, the piece that's missing from that is this efficiency, which seems to be what you're driving at. For that, you'd have to compare against rate studies that were undertaken. A lot of municipalities have had rate studies done, and the municipalities that are within our Transitional Aid program -- several of them in the last few years have undertaken rate studies, with our recommendation and support, to better determine whether they are getting -- whether they're charging by connection or by water usage; whether they are maintaining the system adequately through the rates that they need, or what adjustments may be required.

So those rate studies compared to those capital budgets may be able to give you some of the information you're looking for. We lack a single, centralized point of data for that topic, though.

SENATOR SINGLETON: That's an interesting point. And that leads me to think -- like, we have a statute in place -- there's a law in place that talks about property re-vals. But it is my understating, unless I'm mistaken, we don't have something similar that talks about rate studies, as it relates to water and water infrastructure. And I know you had mentioned your Transitional Aid program memorandum of understanding, and I'm assuming within that -- because I believe that's what I was alluding to -- you all have a little bit more of -- my words here -- a little bit more of a hammer to compel those communities to do things like rate studies.

Would it be beneficial that there should be, potentially, a statute that would require municipalities -- all municipalities or all investor-owned water utility purveyors to conduct a rate study every three to four years, or three to five years, so that we can find out whether or not we're keeping up with the infrastructure needs?

Are you familiar with any other state that does that, or does that seem like something that would make sense?

MS. WALTER: It's something that we've begun to implement within our program, because it makes sense.

SENATOR SINGLETON: Right.

MS. WALTER: Having a regular cycle of evaluation of your rates -- you may not always have to adjust them, but at least knowing what the need is makes sure that communities are able to better implement their water systems.

When you're 20 or 30 years behind on rates, making the adjustment in a single year is suddenly a tremendous burden.

SENATOR SINGLETON: Sure.

MS. WALTER: If you're regularly evaluating your capital needs and matching your rates to those needs, you can make sure that both the character of your community is reflected in your rate schedule, and that the needs of the water system are maintained.

SENATOR SINGLETON: And, again, on the-- And thank you for that, because I think there has to be a conversation about us-- And this has been what we've talked about; this Act, while-- I almost think it's misnamed as an *accountability* act, because it really is more of a record-keeper, right? It's really a recordkeeping function, because there's no -- and I said this last week -- there is no real accountability actually in the Act. Just similarly, like there is no requirement for any department to write regs in the Act. So because of all that, it's a little bit of a misnomer that we need to try and address. And that's part of what we're trying to do here.

On the third page of your testimony, you said -- in one of the paragraphs, it says about authority dissolutions. "Ensuring those funds remain dedicated to the system's operation and maintenance and are not diverted."

Now, it's my understanding that, right now, there is no New Jersey law that requires that municipalities dissolving water authorities, or transferring funds to municipal control, use those authority funds solely to maintain and/or upgrade their water systems. Is that accurate -- that there is no statute that compels that?

MS. WALTER: Yes, Senator, that's correct.

SENATOR SINGLETON: Okay. And with respect to-- If this were to happen, there's also -- my understanding -- no requirement that these municipalities are required, when they do the dissolutions, to create either an asset and/or fiscal management plan for the system before they formally dissolve the system; so that there is, again, this understanding of how we're going to do things and how that goes. So there is no statute that does that as well, correct?

MS. WALTER: Correct.

SENATOR SINGLETON: All right. But the piece that you all are doing with the local finance boards' plenary authority-- And I know-- I can speak firsthand, because in my county I know you all, I guess, tried to compel when a local community was doing this dissolution -- that they had to reserve this component. But absent some other tools and hammers that you have under your other existing authority, as a matter of statute there is not a law that compels that. So someone can dissolve their MUA, for instance; those resources can go almost to do whatever they want with it; and there's not a requirement whatsoever that that goes back to ensure their water infrastructure needs. Though the work that you all are doing is to try and force that to happen through your plenary role -- is that correct?

MS. WALTER: Yes, Senator.

The reason why we've been able to attach it as a condition on the dissolutions that we've done so far is that, under Subsection 20 of the Local Authorities Fiscal Control law, when we have a municipality initiate a dissolution, the Board is empowered to place conditions that would support the welfare of the system and ensure the continued operation for the community. So we've treated the need to maintain the system as an

element of that general power; but there is no specific language that requires it or directly empowers us to do so.

SENATOR SINGLETON: Got you; okay.

And this is a little bit off-topic; but since I have you, I just want to ask.

Under the Municipal Land Use law, or the County Planning Act, as it were, there is no specific requirement that the consolidation of asset management planning has to be something that's examined within a local master plan. There is no requirement of that right now, correct?

MS. WALTER: I don't believe so.

SENATOR SINGLETON: Okay, all right.

Anyone else?

Senator O'Scanlon.

SENATOR O'SCANLON: You inspired a follow-up question, because it's good line of questioning.

Thank you for being here, and the work you're doing.

Regarding the disillusion of an MUA and the potential siphoning off of funds away from system, there's nothing specific in statute mandating that monies coming out of an MUA stay within the system. You're saying you're using some of the leverage to ensure that happens.

I guess the bottom line is, is there abuse right now that we need to fix statutorily; or are you confident that you're ensuring that money isn't being diverted or hasn't been diverted?

MS. WALTER: You know, the person who sits in this chair changes. And in my experience as the attorney for this Board and as the Chair of the Local Finance Board, that's been the long-standing precedent

of the Board. But again, there's nothing that would require it. So going forward, that may not always be the case.

There is a need to ensure protection of certain assets, and I know there's a lot of debate about different ways to do that. Once things move into the General Fund-- Maintaining your sewer system isn't the most exciting use of funds, right? So ensuring that there's always resources available for that is something that we think is really important, because it preserves an important asset of that community. Billions of dollars were invested in it, and making sure that that money stays in the system and continues to develop that system to protect those hidden needs, to make sure that the residents are cared for and protected in a way that they might not realize, is vital.

SENATOR O'SCANLON: I understand that.

Ultimately, that's the crux of what we're talking about here -- right? -- is what are the long-term needs? How far behind are we?

And I realize that we're collecting a lot of information right now that will help us figure that out. But is there already an effort, within the Department, to get some idea of how far behind we think we are? And we've heard-- One of the reasons why we're here is because there's this looming belief that we are behind.

Now, there's the recently well-publicized instances of lead in water that's caused by changing chemical composition. But aside from that, there is a belief that we're way behind in maintaining these systems from a capital perspective. And it's going to be hard to go back and hold people accountable for that, because they're long gone, right?

So within the Department, is there a nascent effort -- is there a ballpark number that someone is thinking we're going to have to start investing, or increase investment? This gets back to another question from the Chairman about our present rates' ability to cover our future needs.

Has someone started to crunch these numbers? Do we have some estimate of -- perhaps we find we just have to spend the money more efficiently? Or there's going to have to be a dramatic increase in spending? Do we have, at least, some idea beginning to answer that question?

MS. WALTER: So a lot of that information is probably more accurately obtained from DEP, from the budgetary side.

What I can speak to is the fact that we have had applications coming in under WIPA, where it talks about long-term challenges within the system. We've had dissolutions coming in, where the primary argument is that we have 30 or 40 years of underinvestment, and now there has to be some new resource.

Now, I'm only seeing the ones that have reached the point where they're coming in under WIPA, or where they're coming in for a dissolution. So the entities that are operating day-to-day successfully -- and there are a lot of them -- I couldn't tell you.

I do know that the ones that come in front of me -- most frequently the reason is because there's a need for an external source of funds because there's a significant capital need that's been unmet.

SENATOR O'SCANLON: And that's what's scary. What is that ticking time bomb of the need for these external funds?

And the fact that we don't know these things is scary enough that we're having specific hearings on this.

But thank you; I appreciate your work.

SENATOR SINGLETON: Senator O'Scanlon asked you the question; and you answered it, but if you wouldn't mind, I'd like you to answer just a little bit more specifically, if you could.

Are you familiar with any -- and I jotted the question down I wanted to ask, as you were going back and forth -- are you familiar with any community that has specifically set aside money from the dissolution of their water system in an account to maintain their water infrastructure?

MS. WALTER: Yes, the ones that have come to the Board, we have required it. And those have then been checked in their budgets to ensure the funds remain available.

SENATOR SINGLETON: They've set it aside like, almost, as an escrow on their budget? They've said, "We're escrowing this money for this purpose"?

MS. WALTER: As either a trust fund or as a separate reserve, is typically how it's handled.

SENATOR SINGLETON: I thank you for that.

The trust fund and/or reserve specifically is identified for water infrastructure maintenance and improvements.

MS. WALTER: Yes.

SENATOR SINGLETON: Okay; thank you very much.

Anyone else?

SENATOR STACK: I just have a quick question.

SENATOR SINGLETON: Senator Stack.

SENATOR STACK: Melanie, maybe you can answer this; I'm not sure you can or not.

Are all water companies in New Jersey -- whether they are public, or private, or semi-public-private -- are all accountable by OPRA in New Jersey? Do they all have to comply with OPRA?

MS. WALTER: I would not think so, Senator, but I couldn't speak to that definitively.

SENATOR STACK: And what would be your position on that? Do you believe they should comply with OPRA? Because I think OPRA would be a big part of it. If we're checking to see that they're complying with the Water Quality Accountability Act, wouldn't we want to see exactly what's being invested?

I know there's an application to the BPU at various times. But don't you think the public should be able to pull it up on a website and see exactly what's going on with these water companies under OPRA? I mean, we all comply with OPRA, the government complies with OPRA. Somebody who's supplying water, you would think, it would be that important to comply.

MS. WALTER: So, Senator, it seems like a lot of that information should be available through the public portal, with the WQAA reporting. Not being an expert on OPRA I wouldn't want to opine, out of turn, as to the obligations or the reporting needs that would be applicable.

SENATOR STACK: Okay.

I'd like, if you could, if DCA could get back to me on that. If not, I'm looking to craft legislation on that.

MS. WALTER: Certainly; I'll convey it to the Government Records Counsel staff as well, since they're truly the experts on the subject.

SENATOR STACK: Thank you.

Thank you, Mr. Chair.

SENATOR SINGLETON: Great.

Melanie, thank you for your time this morning, and your information.

Thank you very much.

MS. WALTER: Thank you again for the opportunity.

SENATOR SINGLETON: Next up, we'll have Michael Travostino, Associated Construction Contractors of New Jersey; along with AJ Sabath, Building and Construction Trades Council.

SENATOR RICE: Mr. Chairman.

SENATOR SINGLETON: Yes, sir.

SENATOR RICE: Melanie, as you leave, the request the Senator made for information -- he forgot to tell you -- expeditiously.

MS. WALTER: Sorry?

SENATOR RICE: We need it right away.

MS. WALTER: Oh, absolutely.

SENATOR RICE: Okay; all right.

A J S A B A T H: Thank you, Mr. Chairman, and members of the Committee.

My name is AJ Sabath; and I drew the short straw, so I'm going first.

And I'm here on behalf of Bill Mullen, who's the President of the New Jersey Building and Construction Trades Council. The Trades Council is about 116 years old, created in 1903. We coordinate and provide resources to the 15 construction trades council members, trade union; coordinate activities for the 13 local county Building Trades

Councils, more than 100 local unions, and over 150,000 rank-and-file members

We help our affiliated trade unions to make job sites safer; deliver apprenticeship programs and journey-level training; organize new workers; support legislation that affects working families; and assist in securing wages, hours, and working conditions through collective bargaining and project labor agreements.

In addition, we work with our contractor partners. Our members are selected to perform a significant amount of public and private construction work. We work hand-in-hand in a labor-management partnership with our contractors, and form bilateral, cooperative trusts that promote and market talent, and productivity, and assets of the matchless expertise of union construction workers in New Jersey.

And we also collaboratively manage our benefits -- our pension and our health care collaboratively.

We very much appreciate your interest and your review of the administration of the Garden State's Water Quality Accountability Act. As the Committee may recall, the Building and Construction Trades Council members spend a lot of time working on public investments in our state's infrastructure, our roads, bridges, and tunnels through the Transportation Trust Fund; for our schools, through advocating for multiple funding reallocations and reauthorizations for the Schools Development Authority; as well as capital bond authorizations through voter referendums for our State colleges and universities, as well as libraries and technical schools.

We also spend a considerable amount of time working with private development interests, in many cases through public-private

partnerships, to promote and stimulate economic growth. With those private development interests, we work to promote legislation, regulatory areas, and promote opportunities through incentives, grants, and other government tools to spur economic growth and development. More recently, we are becoming focused on infrastructure and funding incentives for alternative forms of energy.

But, you know, one of the Garden State's next greatest infrastructure challenges is addressing the decaying and deferred maintenance over the state's patchwork of public and private water infrastructure systems.

There's an old adage that a business that does not take regular inventory goes broke. Not to state the obvious, but the inherent value of the recent enactment of the Water Quality Accountability Act is that it does just that, and it would require an inventory of the assets and liabilities of more than 500 service connections and over 300 water systems in New Jersey.

However, the asset management plan to inspect, maintain, and repair infrastructure will be the real challenge; and that challenge is, how to pay for it.

In reviewing how one of the state's other large infrastructure investments will be addressed regarding transportation, roads, bridges and tunnels, we need a similar type of response for our drinking water, wastewater, and stormwater infrastructure. We need to provide a long-term, sustainable solution that is financially sustainable; and having that asset management plan I think is the very foundation and, kind of, the important cornerstone in building that.

You know, the constitutionally dedicated gas tax that goes to the Transportation Fund took nearly 25 years to become a reality. And we don't have the luxury of that amount of time to address our water infrastructure challenges.

To that end, we'd like to provide you with a couple of key facts. I've provided much more detail, as far as background information, as well as research studies and some other scholarly articles; but these are some of the key facts from that.

Experts estimate that New Jersey's water infrastructure alone requires \$8 billion in repairs over the next 10 years to protect the drinking water supply, and maintain efficient and safe delivery of drinking water and dispose of waste -- \$25 million over 20 years.

Newark, as we discussed, is only indicative of the system and the statewide problem we are facing.

Leaky pipes in New Jersey lose over 30 percent of drinking water before it even reaches homes.

Lead is only part of the problem; water pipes and systems throughout the state have deep structural problems that require urgent attention. The Combined Sewer Overflow EPA waiver is a looming timeline for municipalities to meet Federal standards for removing CSOs from operation.

And, you know, a huge majority of New Jerseyans say that water infrastructure should be a priority for lawmakers, which is why we applaud this hearing. And, no doubt, any permanent and stable solution will require a substantial public investment. The good news is that

economists estimate that for every \$1 invested in water infrastructure, \$2.62 is generated in all industries in the same year.

Other important statistics include that over \$1 billion of investment means 13,787 jobs, with workers earning \$735 million from those jobs; and our economy would receive approximately \$143.1 million in new income tax revenue.

And we know from other public infrastructure projects that emergency repairs, such as water main breaks, cost up to 10 times more than regular infrastructure maintenance.

Our members are highly trained in this kind of work; and we are ready, willing, and able to perform the task at hand.

In closing, we just want to underscore that in other large infrastructure investment projects like this, that we model whatever we do with regard to financing in the same manner as -- because we're kind of dealing with quasi-government, municipal, as well as private water systems, is to treat the work as public work. And what that would mean is that it would be covered under the Prevailing Wage Act, which means that when contractors are bidding on the work for the repairs, that if pencils are being sharpened it's not going to be at the expense of the worker.

It would also apply to the Contractor Registration Act, which now has responsible contractor requirements that will ensure that a majority of the work is being performed by contractors who meet a very high standard, and from workers who are from the areas and the communities where the service is performed.

So I thank you very much.

I'll yield to the distinguished gentleman to my right, and then we can answer questions to you afterwards.

So thank you very much, Mr. Chairman.

MICHAEL TRAVOSTINO: Thank you, Chairman, members of the Committee, for the invitation to speak today.

Again, for the record, Mike Travostino, here on behalf of the Associated Construction Contractors of New Jersey, the statewide trade association representing union contractors in multiple disciplines, including building, heavy, highway, utility, and environmental construction.

We work tirelessly, as my colleague AJ said, alongside our labor partners to advance legislative initiatives that find solutions to the state's infrastructure issues, while creating opportunities for the strong men and women of our building trades.

Chairman, as you know, we're unique here in New Jersey. Labor and management, in most instances, it's truly a hand-and-glove working relationship. When we leave this Committee room this afternoon, we'll be working collaboratively; versus what some folks see nationally, which is somewhat of an adversarial relationship between labor and management. But we truly are working partners, as AJ underscored.

We submitted technical testimony, as it relates to the Act itself. But just to dive into a little bit of it -- the components of this forward-thinking law require water purveyors to dedicate funds, on an annual basis, to address and remediate high priority projects as determined by its asset management plan. In practice these plans will become the regional blueprint for repairing water infrastructure, from the smallest of our communities here in New Jersey to our large urban core centers.

Enforcing the intent of the enabling law, and Act itself, and explicit provisions in the said Act, are imperative to the success of water infrastructure rehabilitation and replacement. In addition to enforcement, the next logical step in addressing the state's water crisis -- as the Chairman of this Committee, legislative leadership, generally weigh options to amend or further enhance provisions of the Act would be -- just what AJ had said, and what we have been saying for quite some time -- the identification of revenue that could be used to develop a statewide plan to combat the water infrastructure crisis and issues we all face as New Jerseyans.

Chairman, we would be remiss at ACCNJ if we didn't further thank you for your leadership and guidance on issues such as recasting the state's Infrastructure Bank -- which always has had a water component, and now has a transportation piece as well. It certainly could be a viable solution to local municipalities looking to do a whole host of projects in and around water; and again, with an extremely low interest, finance loan repayment mechanism.

So thank you again, Chairman, for your leadership on that specific issue.

This is a statewide problem. Because these pipes are underground -- and whether it's lead, or the aging infrastructure itself -- it's out of sight, out of mind. So as headlines dictated in Flint, Michigan, it was initially a national crisis; and a lot of fanfare in and around that subject for the time being. It ultimately dies off -- falls off the radar for certain news organizations. And then it pops right back up in our home here in Newark. And this body, our constituents, our members, certainly the residents of that city have been dealing with that ever since. But it is a statewide

problem. So Flint, Newark -- it's a microcosm of the national issue. But again, specifically, and selfishly for New Jersey, a huge statewide issue here.

Our members, ACCNJ members have the expertise and certainly the workforce within the state's construction industry here to mitigate and eliminate most of the risks. Through the Chair, through legislative leadership, we'll continue to identify solutions to our state's water infrastructure needs.

And again, as AJ said, we stand ready, alongside our labor partners, to engage in future discussions; and we appreciate the Committee's time this morning.

Thank you, Chairman.

SENATOR SINGLETON: Thank you both for your time here.

Before I ask my questions, I'm actually going to turn to Senator O'Scanlon, because he had asked the question of the DCA prior.

And AJ, in your testimony, you, I believe, answered; but he may want you to expound on that.

So I'm going to allow Senator O'Scanlon to start.

SENATOR O'SCANLON: Thank you, Chairman.

Thanks for being here, AJ, and your perspective and the folks you represent.

Your first bullet point kind of goes right out. One of the biggest things that we're-- The first bullet point in your testimony, on the second page, goes after one of the biggest questions we need to answer: cost. You cite experts you've spoken to that say we're going to require \$8 billion over 10 years. Is that \$8 *additional* billion dollars; or is that \$8 billion of funds that we're already anticipating going into the system?

MR. SABATH: It's actually-- That's just cost; so that's just a calculation of cost. In other words, the total cost is \$8 billion.

SENATOR O'SCANLON: Okay; so we'd expect some percentage of that to already be planned for. In an ideal world, we hope that these systems we're anticipating their long-term needs, and the whole thing would be planned for.

But you don't have-- Do you have any handle on whether that's--

MR. SABATH: I can go back and review, because we-- When I say *we*, I'm talking on behalf of the 15 trades that we work with. We've become very sophisticated, in terms of how we kind of direct our attention and resources; and kind of really consult with experts. So we probably do have that information, so let me go back to some of my colleagues and I'll, through the Chair, send it to you, and send you the original research so you can review yourself.

SENATOR O'SCANLON: Through the Chair, please.

MR. SABATH: Yes.

SENATOR O'SCANLON: Having as many different perspectives on this as possible so we can arrive at dependable estimates, so ratepayers and taxpayers of New Jersey can understand just how deep this hole is, is critical for us. And it's critical for you in your planning--

MR. SABATH: Absolutely.

SENATOR O'SCANLON: --and your cultivating members, and training, etc.

So you guys ought to be a really good resource to be at that table, as we develop these estimates.

So I appreciate that; thank you.

MR. SABATH: You're welcome.

SENATOR SINGLETON: Thank you.

Anyone?

SENATOR RICE: Yes, I just want to--

SENATOR SINGLETON: Senator Rice.

SENATOR RICE: AJ, are you trying to push privatization of water utilities, water systems?

MR. SABATH: No.

SENATOR RICE: Are you trying to--

MR. SABATH: No, sir.

SENATOR RICE: --make sure that the unions and contractors do the work? Because I'm reading on your page here, where you're talking about Newark, and you kind use the word *privatization* at the same time.

I just want to be clear on the record, publicly. As a resident, former Councilman, Deputy Mayor, Senator, I've always argued to the mayors -- you don't sell 35,000 acres of water and water land -- watershed, that's an asset to a city, regardless of what your problems are. You find a way to fix it.

And instead of responsibility beyond Newark, okay-- And I just want to be clear that's not what the unions are pushing, because I've always supported labor, and I support contract work. But I have no problem fighting labor and contractors when it comes to taking away assets and giving it to a bunch of political people who have shown that they can't run systems either, regardless of what they invest.

So is that what you are promulgating?

MR. SABATH: To answer your question, to my--

SENATOR SINGLETON: Hold on for a second.

Senator, just so we can all be on the same page.

Where are you referencing?

SENATOR RICE: I'm referencing page 3.

MR. SABATH: I think he's referencing -- the Senator's referencing, kind of, two comments I made. And let me just respond to that --

SENATOR SINGLETON: Hold on for a second.

MR. SABATH: I'm sorry, Mr. Chair.

SENATOR SINGLETON: So, Senator, just again, I want to make sure I'm following.

On page 3, where--

SENATOR RICE: "In the recent op-ed, *Corporations can't fix Newark's water problem* by Matt Smith," and he talks about the fact that private water companies can offer such, and such, and such. So it seems to be an indirect way of promoting private companies to take over water systems.

SENATOR SINGLETON: So if I'm reading that, it looks like that second paragraph is what you're talking about there?

SENATOR RICE: Yes.

SENATOR SINGLETON: Where he says, "The recent op-ed--"

SENATOR RICE: Yes.

SENATOR SINGLETON: Because I'm not sure everybody else has it.

MR. SABATH: Oh, yes.

SENATOR SINGLETON: It says, “The recent op-ed, *Corporations can’t fix Newark’s water problem*, by Matt Smith,” the lobbyist of the Food and Water Watch, “is pure fearmongering and fails to present a clear picture about the many resources private water companies can offer in helping New Jersey communities, like Newark, address water infrastructure challenges.”

That’s the point that the Senator is talking about, for those who don’t have this in front of them.

So AJ, can you now just reference what you were saying there?

MR. SABATH: Sure.

So that information is just part of a package of information that we’ve provided to the Committee, which is a small part of an article.

The reality is-- To answer your question, in no way, shape, or form does the Building and Construction Trades Council advocate for privatizing water systems. You know, our comments are specific, and my comments, specific, are to the fact that New Jersey’s water system is complicated. You have municipal-owned water systems, you have, kind of, quasi-governmental systems. You have large, regional systems that many local jurisdictions are part of; and then you have private systems.

So our position is that, that specific work, if it’s going to be publicly financed and there’s a public interest in it -- regardless of whether it’s public or private -- should be considered a public works project so that there’s a price of admission to be able to obtain those State funds. You’re ensuring that people who are performing that work are trained, who have gone through approved, registered apprenticeship programs. You’re also

guaranteeing that people are being paid a fair wage, that health insurance is provided, that workers comp is provided.

So in no way, shape, or form, Senator.

SENATOR RICE: Well, I just wanted to mention -- that's not what this really says, if you read it. Because you went further and talked about 2010 in Trenton, and you talked about voters opposing.

So just make sure, if you come before me, as much as I love labor -- and you can check my record; 33 years you don't see any "no" labor votes; and I love contractors doing work who are competent -- I'm still me. And I just think that you can say what you mean and mean what you say in a clear fashion. But this seems to me to be an indirect push for somebody -- and maybe those companies are doing better with giving you what you want, in terms of benefits, in terms of work; I'm not sure. But please don't promulgate, from a labor union perspective and a contractor perspective -- at least union -- that we privatize. Let us make those decisions, because you'll confuse legislators, and then people will start buying some of them, okay? And we'll get confused, and the public.

We need to fix this -- this problem. I know about the combined sewer overflow problem. I was the Vice Chair of the Energy, Environment and Natural Resources Committee back in the 1980s; and the Chair of the subcommittee on Energy. I led the fight to give water -- for Combined Sewer Overflows. So we know we have problems; but that doesn't mean we privatize everything. I'm just not a believer in a lot of privatization. Some things it's good for. But please don't promulgate that, because that's not what this says, okay?

So you need to take this page out. The next time you present it, just take that page out, okay? If not, you're going to hear from me.

SENATOR SINGLETON: Anyone else? (no response)

Thank you gentlemen; we appreciate it.

MR. SABATH: Thank you, Chairman.

SENATOR SINGLETON: Thank you.

Next up, we'll have Ms. Cheryl Norton, President of New Jersey American Water.

SENATOR RICE: Mr. Chair.

SENATOR SINGLETON: Yes, sir.

SENATOR RICE: In fact, for the record, everybody needs to stop talking about Newark -- in these conversations around water -- and talk about the state. Because you're confusing people, as to what Newark's problem is; and it's starting to get to me. Because everybody is working collectively to deal with the service piece; but the issue we're talking about here is infrastructure at all levels of the water system. Just like we talk about infrastructure as it relates to highways and things like that; and the bridges become a priority. And that's why people like me, and Stack, and the rest of us can't get street paving money, okay?

So let's not confuse us. So just keep Newark out of the conversation until this Committee, or someone, has a conversation on lead service lines. When we talk about that, then you can say *Newark*, okay?

SENATOR SINGLETON: Senator -- because you were not with us last week -- the emphasis of the hearing is not to talk about any one particular community; and that has been the focal point of the conversation.

If someone references, as an example, one community -- I've specifically talked about communities in the 7th District; I did it last week and I did it again this morning.

So let's just stay focused on exactly what we're here to talk about, which is the Water Quality Accountability Act. Sometimes there is a need to, perhaps, reference a particular community. No one community is singled out. This is a problem that's indicative, not just in New Jersey, but across our country. I said that last week, and I'll say it again, I'll say it every time we're having this hearing. The water infrastructure challenges that we face are not indicative of any one community, one geographical area. It is a national problem that we, as a nation, have not invested enough in to address.

The Water Quality Accountability Act, and the context around that, is to try and figure out a better way for us to do that across the board in New Jersey.

So let's just -- we'll try and stay focused on that. If time to time a reference of a particular community comes up, we just remain focused. That is not indicative of any one challenge of any particular community or area in this state.

Ms. Norton.

SENATOR RICE: I get that, Mr. Chairman.

Through you, right quickly.

SENATOR SINGLETON: Vice Chairman--

SENATOR RICE: I get that--

SENATOR SINGLETON: Yes, sir.

SENATOR RICE: --and I'm on the same page with you. But if we're going to mention examples of communities, we need to be clear about what we're saying about the communities.

SENATOR SINGLETON: Understood.

SENATOR RICE: And I'm telling you, the clarity here is related to Newark; because every time Newark comes up, there's a different kind of conversation. Here, there's indirect talk about privatization, whether intended or not, that can be the interpretation.

So we're on the same page.

SENATOR SINGLETON: Right.

SENATOR RICE: Now, I have no problem with agreeing or disagreeing with you; I think you know that.

SENATOR SINGLETON: Yes, sir.

SENATOR RICE: But we're on the same page on this. I'm not going to be silent on how I feel about certain things; and I'm going to make it clear to the speakers how I feel. So we're not protecting anybody here. We're going to have dialogues; I just want to be clear.

So we can move on.

SENATOR SINGLETON: Yes, absolutely.

And Vice Chairman, I respect you immensely, as you know. But to be clear -- and I think you pointed out, because you asked the question directly and the question was answered by the previous panel--

SENATOR RICE: I'm good.

SENATOR SINGLETON: --how that wasn't reflective. And I associate myself with that--

SENATOR RICE: I got you.

SENATOR SINGLETON: --that effort of privatization.
Ms. Norton.

CHERYL NORTON: Thank you.

Chairman Singleton and members of the Committee, thank you so much for inviting us to be here today.

I think talking about water quality accountability and infrastructure is such an incredibly important topic. Chairman, as you just said, this is a nationwide issue. I've been in New Jersey for about five months now in my current role; but before that I worked in Missouri, I've worked in Illinois and Kentucky, and I've seen these infrastructure challenges across the United States, in all the states that I've been.

But there are also a lot of experts that have looked at it across the United States. The American Society of Civil Engineers rated the water systems across the U.S. at a D-plus, and the wastewater systems at a D-minus. And that's not something to be proud of; it's an indication that we absolutely have kind of missed the boat on making sure that we're investing in infrastructure in the way that we should.

New Jersey American Water is the largest water and wastewater provider in the State of New Jersey. We serve about one in three residents in the State of New Jersey -- about 2.7 million people -- so not a small organization.

We have seven water treatment plants. We have more than 250 wells, we have 20 wastewater systems and treatment plants, and almost 10,000 miles of main within the State of New Jersey alone. So again, we serve 192 communities and a lot of people across the state. We take water quality incredibly seriously at New Jersey American.

We have experts in our business to focus on water quality. We have engineering experts, we have cybersecurity experts. We want to make sure that we're meeting all the regulations that are required of us, but we also try to go above and beyond.

When this law was passed, back in July of 2017, we were already meeting a lot of the requirements of the law. But we dug in and made sure we did internal auditing to make sure that we were meeting all the aspects of this Act; but also, we're trying to do the right thing for our customers.

And as part of that, we have to take a proactive look, and we have to really dig in and make sure that we're investing in the way that we should. New Jersey American, in 2018, invested about \$330 million across the state. That's about almost \$1 million a day that we invested in infrastructure for our customer base; and we're very proud of that. We have the intent to invest about the same amount in 2019, and going forward, to make sure that our systems are sustainable, and that that makes sense for our customers.

In order to do that, we try to look for ways to maintain rates and make sure that that's the appropriate way to invest our capital. So when we start looking at all the regulations that are out there, including this Water Quality Accountability Act, we balance that with all the infrastructure needs and everything else that we need.

Emerging contaminants are an issue that are coming out. You hear about PFAS, and PFNA, and all different kinds of contaminants that are coming forward. And that's a drain on the infrastructure as well. And creating the right kind of funding and the right kind of rate structure in

order to be able to fund that kind of investment, in addition to these key things -- to keep our customers' water safe, and clean, and very reliable every single day when they get up to turn the tap on -- that's our goal; that's the drive that we have.

When we took a look at this law and we did the internal auditing that was part of that, we made sure that we were inspecting our valves, that we were inspecting our hydrants.

Our cybersecurity program is probably -- I would put it up against any other utility in the nation, just about. I'm very proud of our cybersecurity program and what we do to make sure that our computer systems are protected from all the hackers that are out there. It's amazing how many attacks we get every day on our system, and we track all of that. And we make sure that we stay very focused on keeping people out of our systems.

Those computer systems are responsible for dosing chemicals and making sure that our water quality is where it needs to be. They're also responsible for monitoring, and all of our business processes. And so we make sure that we keep things as tight as possible, from a cybersecurity perspective. And I don't think that that's something that we should take our eye off of, because I think that's getting-- You've heard about Baltimore, and the issues that they have related to ransomware and not being able to bill their customers. And we want to protect ourselves against that, so we stay very focused on that as well.

We have an amazing engineering team that focuses completely on asset management. And we make sure that we go in and that we're prioritizing the kinds of infrastructure improvements that are necessary --

throughout our state and throughout American Water -- to be sure that our customers have that safe and reliable service.

And we'll continue to do that. We're replacing our pipes on about a 100-year process, instead of 150 years, which is what the Act requires. We've tried to go above and beyond that, because we think it's that important. A pipe in the ground is probably not going to last much longer than 100 years, so we're trying to, really, bump that up and make those investments at the rate that makes sense for us and our customers, and to keep our systems sustainable across the board.

So as we look through the internal auditing, we also depend on the sanitary surveys that EPA does to make sure that we're doing those right things. We're also highly regulated by the BPU. I know they talked to you guys last week about how they regulate us. When you talk about the importance of rates, and rate studies, and making sure that we're charging the right amount of rates for the service that our customers are getting and the infrastructure needs that are out there -- we do that on a routine basis, as we go forward, to the BPU. We think that's very important too; we think that all communities should absolutely do that. It makes complete sense for communities to be looking at the assets that they have, the investments that they need, and also how are they going to fund that, going forward. And with money at the I-Bank and free money essentially going away, there's just not as many funds out there as what is needed across the board. So we want to make sure that we're being as proactive and as sensitive to that as possible.

We know that a lot of customers struggle to be able to pay all their bills; and so we want to do what we can to balance their water rates

and provide mechanisms for them to be able to have clean, safe water. Everybody deserves that across the State of New Jersey, and we're very excited to be providers of that.

And at that point, I'm happy to answer any questions that you might have.

SENATOR SINGLETON: Thank you, Cheryl.

Anyone with any questions before we begin?

No, Senator, please go ahead.

SENATOR O'SCANLON: President Norton, thank you for being here.

In the name of full disclosure, you deliver my water; I am a ratepayer. (laughter) I'm happy with the service so far.

MS. NORTON: Great.

SENATOR O'SCANLON: Although I turn the tap on -- and I should thank you more frequently when I do that and clear water comes out.

MS. NORTON: That's okay. (laughter)

SENATOR O'SCANLON: So you headed off a couple of my questions; and you probably were sitting here earlier-- One of the key things that I'm focused on is, what are our long-term costs and how far behind are we falling. For you to be very proactively aware of the lifespan of the pipes that you oversee, and that you are replacing them at a rate faster than the Act requires, because you've estimated what the real lifetime of those pipes is; and you spend about \$1 million a day, \$330 million last year -- my question is going to be, is that the right number?

But I guess it is. If you're keeping up on those pipes, are there things that -- are there are other areas where you're still falling behind because of rate constraints; or do you feel like it's a robust system, and 10 years from now, 15 years, 20 years from now, we won't be back here saying, "Oh, my God, they didn't make these investments over the past 20 years"?

You're confident that that discussion won't need to be had; that you are staying on top of it, and BPU's regulation of your rates, etc., is reasonable?

MS. NORTON: Yes; Senator, that's a great question, and it's a hard one to answer.

I can tell you that even though we spend about \$1 million a day, it's never enough. We always have a very long list of projects that needs to be done. And so the funding is going to continue to be needed across the board. We're not going to be able to invest at this rate and say, "Okay, well, in five years, we'll have everything fixed," right? This is going to be an ongoing challenge; and there will be things-- Our priorities shift every year, because we may go in thinking that we're going to do these 50 projects; and then we say, "Oh, wait." Through a leak detection study, or through some of our asset management, kind of, inspections and things like that, we'll find something that we say, "Wow, that's more important than 45 of these, so we're going to do this one instead of two of those." And we do those trade-offs all the time.

So we're constantly looking at it; and I think that's what it's going to take to ensure that, you know, 5, 10, 20 years down the road we're not saying, "Oh, my gosh, we completely missed this, and this is a big issue

for us.” We continue to look at it every year, and prioritize it. And I think that’s key to making sure we don’t miss something big.

SENATOR O’SCANLON: But as of now, you’re not feeling that there’s a looming crisis within your water system.

MS. NORTON: I do not.

SENATOR O’SCANLON: We’re hearing it, and you’re hearing us talk about the looming crisis in other parts of--

MS. NORTON: Yes.

SENATOR O’SCANLON: What percentage of New Jersey Water customers does New Jersey American represent?

MS. NORTON: New Jersey American serves one in three New Jersey residents. So we serve about 2.7 million people in the state.

SENATOR O’SCANLON: So for at least one-third of customers, we don’t have a looming crisis. It’s the best news I’ve heard about water systems in a long time, so that’s a help.

Have you taken over-- New Jersey American is always expanding, I would think. And I think you’ve taken over some private -- some smaller, private water companies.

MS. NORTON: We have; yes.

SENATOR O’SCANLON: Have you also taken over formerly public ones?

MS. NORTON: Yes, we have.

SENATOR O’SCANLON: A significant number?

MS. NORTON: Yes, I would say that’s how we’ve gotten to serve a third of the state -- is by taking over public and private utilities.

But yes, several public utilities as well.

SENATOR O'SCANLON: How bad is it? When you get in there -- and not mentioning any names; because you've done a batch, so no one can figure out what we're talking about.

MS. NORTON: Right.

SENATOR O'SCANLON: How bad is it? And you have taken over some of these systems in the last five years, let's say?

MS. NORTON: Right; yes.

SENATOR O'SCANLON: Okay; so how bad is it? You know your practices; you take over these systems, public and private. How bad is it?

MS. NORTON: You know, I think there are different levels of *bad*; and in most cases, municipalities don't want to sell their systems if they're running good, and they've been making good investments, and they have the rates where they need to be.

SENATOR O'SCANLON: Okay.

MS. NORTON: All right?

SENATOR O'SCANLON: Fair enough.

MS. NORTON: So when you look at WIPA, which is coming up, we know that there's one community, right now, that's looking at using WIPA, which shows that they're a distressed, kind of, system; that they're in trouble, basically.

And so I think more communities may use that, because there is a crisis in some areas. There are other municipal systems that are very well run. Of the ones that we've taken over, probably some of the biggest challenges are that they don't even know what assets they have. So one of the first things we do is ask for an asset list; and sometimes that's really

hard to get. Sometimes they have paperwork in a shoebox, or they don't have any paperwork at all. So the asset list can be challenging to build, in some cases.

A lot of times, safety is a big issue. We'll go in and do-- Safety is very important to us; it's one of our strategies, it's also one of our values in our business, because it's that important to us -- keeping our employees safe and keeping our customers safe.

And so, sometimes there are some major safety issues that we see when we go in there. And so that's separate from the infrastructure issue, but it's still a very important issue to us. And typically, the infrastructure within the systems -- they need-- If we're going to buy a system, we would typically tell them up front, "In the next five years, we're going to spend X million dollars in capital in your community," and that's an easy thing for us to say, because there's an unlimited amount of work that needs to be done.

SENATOR O'SCANLON: Got it.

Thank you very much; I appreciate it.

SENATOR RICE: Mr. Chairman, just a question for you.

SENATOR SINGLETON: Yes, sir.

SENATOR RICE: Could you have someone get to us a list of all the cities that the water entities own or represent, long-term? For example, United, American, etc.; versus those that are still public -- that are still owned by municipalities?

SENATOR SINGLETON: So through the Chair, Ms. Norton, if you would be kind enough -- and we'll ask this of the other folks who are coming -- if you would be kind enough to submit, through the Chair, a list

of all the -- if I am understanding correctly -- all of the municipalities in the State of New Jersey that New Jersey American serves?

MS. NORTON: Yes.

SENATOR SINGLETON: Could you send that through the Chair, and we'll make sure that's available?

MS. NORTON: Yes.

SENATOR SINGLETON: I know the folks from SUEZ, who were supposed to be here today, had to run out. So we'll put that on record as a letter we want to send to the folks at SUEZ as well, to get that same information for us.

SENATOR RICE: Also, in that information, can they split it up where we know that these were public and they took them over, versus the privates? Because they are doing both; they--

SENATOR SINGLETON: Understood.

Ms. Norton, if you would be kind enough on that list-- if you could designate if the municipality you took over was a former public entity that you took over, or if it was a private one. If you could submit that in connotation with that list, we'd appreciate it.

MS. NORTON: Yes, we will do the best that we can, related to that. But some of that is very far back history, so it may not be as clear. I have to find somebody who knows whether that was a public system or a private system.

We've been in business for over 125 years, so some of these systems we took over 100 years ago.

SENATOR SINGLETON: So if it's okay, if it's all right-- And then I'll, maybe, make the request a little easier. If you could tell us -- maybe, Vice Chairman, if this is all right -- perhaps over the last 20 years.

MS. NORTON: Yes, that would be fine; that would be easier.

SENATOR RICE: Yes, that's good.

SENATOR SINGLETON: Okay; thank you.

MS. NORTON: Yes, thank you; I appreciate that.

SENATOR SINGLETON: Just a couple of questions, if I could.

You referenced it in your testimony -- and I think it is informative -- and we talked about it last week -- this cycle of pipe renewals; the pipe renewal cycle that the legislation talks about, at 150 years.

That seems to fly in the face of what experts are telling us, and that you reinforced -- that it's closer to, like, 100 years or less.

Would that be a change that you think should be something in the Water Quality Accountability Act -- that should be done to be more consistent with not just industry practice and standards, but what experts say really a pipe renewal should be?

MS. NORTON: I think that it would be a big challenge to try to get everyone from where they are now to that 100-year cycle. I think the financial impact would be absolutely huge.

So I think it would be better to move it in steps; just my personal opinion. We would be accepting of the 100-year life; but I think some communities would really, really struggle to get to the 100-year without first making it to the 150.

But yes, I think 100 years is a much more realistic cycle than 150.

SENATOR SINGLETON: Senator Rice talked about this earlier, and I wonder if you could help us understand this a little bit more. And this is a broad conversation about the anti-corrosive agents that are actually used in the pipes. And it's a little step-aside from the WQAA conversation.

But many -- as the Senator correctly pointed out -- many of these agents sort of pull the lead from the pipes. How do you all determine what is the proper chemical balance that you're using to treat the water; and is there a set standard that should be applied across the board -- whether it's investor-owned, or public owned systems -- so that we're staying ahead of that? Because that leaching is what is causing such a great problem.

And in years past, there have been different anti-corrosive agents that have been used. I've heard things like chlorine -- chlorine has been used at certain points, and other chemicals are used. And they all have a definite effect on the piping.

So how do you all stay ahead of the science on that, to ensure that that's not the case, through the communities that you all are working in?

MS. NORTON: So there are several ways, Chairman, that we do that.

And as I stated it earlier, we have a dedicated water quality team -- that they are water quality experts. And so they stay very focused on that all the time. And you do have to be very careful; when you are

trying to treat for one specific compound or one issue, it can impact treatment of another issue.

And that's what's happened across the United States with lead, frankly. Different treatment changes have caused the water to become more corrosive, and caused the lead to leach into the system.

So we have water quality experts that pay attention to that. We also -- we're a learning organization, I would say, because we've been watching; we've been saying, "How can we keep that from happening to us?" And so what we've done is, we've implemented a process to where any kind of treatment change needs to go all the way to our corporate office so that there can be a review by a committee, if you will, to look at that treatment change and indicate any kind of significant impact that could happen there.

So we make sure that we've got the experts in place; and we're also making sure that we're having conversations around that to ensure that does not happen to us.

SENATOR SINGLETON: How big is that New Jersey American team-- That water quality team that you referenced -- how big is that?

MS. NORTON: I think that we have 25 water quality professionals in New Jersey American. And then we also have -- at the corporate level, we have a research arm of our business, where they look at different types of treatment and they try to anticipate new technologies that are coming out, and new instrumentation that could detect things at lower levels. And so that group includes, I think, another 10 or 15 people.

SENATOR SINGLETON: And when you were talking about -- you alluded to this -- that these charges that the BPU allows, like, investor-owned utilities to utilize--

MS. NORTON: Yes.

SENATOR SINGLETON: That is only utilized for -- you can only use those for replacing your lines, correct?

MS. NORTON: Yes.

SENATOR SINGLETON: You can't use those to replace the lines -- that I know Senator Stack and others talked about early on -- from the main to the person's house.

MS. NORTON: Correct. So if there's a meter, from the meter to the house -- that portion is customer-owned. We've been having discussions around trying to get regulatory treatment to where we can replace the entire line. It's the only way to make it affordable. Typically, what you will see is that, in many cases, the lead service lines are in the poorer neighborhoods of a community; and people in the neighborhoods cannot afford even \$1,000 to have their service line replaced. We believe the best way to do it is -- it's a health and safety issue. We believe that when we're doing a main replacement project, we should replace the entire line all the way to the customer's home; and then that should be included in as part of the cost of the project. So that that cost is socialized among all of the customers across the state so that the impact is only about 33 cents a month to a given customer. So that no customer is feeling that awful impact of having to replace a \$5,000 to \$10,000 service line.

SENATOR SINGLETON: Now, is that New Jersey American's current practice now to do that?

MS. NORTON: So currently, because we understand the importance of-- You can't not replace the whole line. So if we replaced part of that line -- our part, the part we own -- and we left the customer's portion there, that leads to contamination, that leads to -- by moving it around it causes lead contamination to happen--

SENATOR SINGLETON: Oh, yes.

MS. NORTON: --because it breaks loose from the pipe.

SENATOR SINGLETON: Right.

MS. NORTON: We understand the importance of that, and we're not going to allow that. So when we do a main replacement project right now, we are putting the entire line in; we're replacing the entire line, and then we're setting aside those costs -- in a regulatory asset account, in a special accounting form -- to try to get recovery going forward.

So we would love to be able to say that we're prioritizing our main replacement projects to get that lead out. But we have to figure out how we're going to be able to recover those costs, and we certainly don't want to have to charge those back to the customers.

SENATOR SINGLETON: So that's interesting.

So right now, so when you look at that now for the projects that you just talked about-- So working in older community X, and you're doing the replacement, you're actually, currently, right now, doing the entire replacement through your line, through the main, all the way through the house. Is that what you're doing right now?

MS. NORTON: As long as the customer signs off and allows us to replace their portion of the line, we're doing that. If they don't, we have them sign a release to say, "I understand that there could be lead

contamination coming into my house, but I don't want you to replace my portion of the line."

SENATOR SINGLETON: And those individuals who say "yes," -- they're billed individually with respect to that?

MS. NORTON: No, the ones who are saying, "Yes, it's okay," we replace their line; and then we set aside that cost of the project into a special account that -- when we go in for our next rate case, we're going to try to get that recovered in our next rate case.

But there's no -- we don't have any assurance, right now, that that's going to happen.

SENATOR SINGLETON: I guess the reason why I'm confused is because, like, on the DSIC you don't necessarily need a rate case to do the DSIC though.

MS. NORTON: Correct.

SENATOR SINGLETON: You, sort of, get that money upfront, to some degree.

MS. NORTON: To some degree, yes.

SENATOR SINGLETON: You get that money upfront.

MS. NORTON: Yes, it's a faster recovery process--

SENATOR SINGLETON: Correct, correct.

MS. NORTON: We haven't gotten approval to include lead service lines in the DSIC.

SENATOR SINGLETON: So that's my question.

So then because there's no, either, BPU regulation that tells you you can, and there's no statute that tells you you can -- an area which this Committee should probably consider -- and I've heard this conversation

-- would be to allow those funds. Because, I guess, where I struggle -- the DSIC funds are the ratepayers' funds; but right now, they're fixing the component that is yours and not theirs.

MS. NORTON: Correct.

SENATOR SINGLETON: So it would seemingly make sense that since it's the ratepayers' funds, it should be used, essentially, to fix the whole thing--

MS. NORTON: Correct.

SENATOR SINGLETON: --not just to be used to fix the piece that's owned by any company or any municipal-- Well, yes, but in this sense, it's investor-owned companies--

MS. NORTON: Yes.

SENATOR SINGLETON: --any investor-owned company.

So an area that would probably make sense would be to allow those resources to be used to fix the entirety of the piece. That does have a broader conversation about the socialization aspect of that cost, which--

MS. NORTON: Yes.

SENATOR SINGLETON: --I know Dr. Teodoro was with us last week and talked about. Because as you service multiple communities, sometimes you'll have community X saying, "Well, why am I paying" -- because I may be a newer community -- "for the lead service lines in another area?"

MS. NORTON: Right.

SENATOR SINGLETON: But I think there's a broader inherent good in that, because it's all the ratepayer money in the mix anyway.

MS. NORTON: I do; I think that's very important.

And you know, that's pretty standard. We do a project in one community, and when it gets spread out amongst everyone, you know, not everyone is taking advantage of that project; but there will be other projects that come along that everybody pays for. And it's the -- I think it's the most effective way to make water and wastewater services affordable to all customers, and to be able to socialize it in that way.

SENATOR SINGLETON: I know Senator Stack was -- that's what he was alluding to early on. And I know there are a lot of us who have begun to look at that topic. And to the Senator's edification -- because I believe he knows this already -- I know there are three states right now that allow that process to happen; allow lead service line replacement to be used (*sic*) from ratepayer funds in Pennsylvania, Wisconsin, and Indiana. They allow that already. And I would say, because of the broader challenges we have in our state -- rural, suburban, and urban -- New Jersey should be the fourth that allows something like that to happen. And I know there are a lot of folks who are working and thinking through that.

MS. NORTON: Yes.

SENATOR SINGLETON: Because you're right. Today's project may be in my town of Delran, where I live; and as Delran customers, we may pay for it. But the next project could be in the neighboring town over, and there's still an inherent public good associated with that.

My last question that I wanted to ask, before I have anybody else talk through -- I think a piece of this that often gets overlooked is also the workforce development aspect of this.

Now, you and the prior panel talked about it from the actual work side of things; the actual replacing lines and doing the infrastructure improvement. But the Clean Water Act -- especially Title I of the Clean Water Act, the Federal piece -- included money and resources that were related to investments in research and training. And I wonder if you could take a minute to talk about the--

Because, again-- Let me take a step back. Dr. Teodoro also mentioned that labor availability has a measurable impact on water quality. He opined, and his point was, the more highly trained your water quality team is, typically the water quality is a lot better. And I'm curious as to what are the types of investments that New Jersey American is making, with respect to workforce development of the individuals who are actually manning the systems, as they were? What are your investments, and how do you see that as a correlation between that investment and water quality?

MS. NORTON: We have routine conversations around that, because we're very concerned about the fact that, in the next five years, we'll have a third to half of our workforce that will be eligible for retirement, if they would choose to do so. So that's a huge number of people that could be leaving the business; so how do we bring people along, who are in the business currently, to be ready to step into all of those important roles?

Getting a certified operator in the State of New Jersey-- Again, I've not been here very long, but I found out very quickly that it takes a very, very long time to get that highest level of certification for a treatment plant operator or a distribution operator in the State of New Jersey. Ten years, is what I'm hearing, it take someone to get the highest level of

certification. That's a very long time, and it's hardly manageable to have to wait 10 years for someone to get--

SENATOR SINGLETON: Can I just stop you and ask you a question? Because on your other -- from your other background, in the other states you've worked in, do they have reciprocal agreements? Because I imagine New Jersey doesn't, if it takes 10 years. So if you have someone from Missouri, where you worked--

MS. NORTON: Right.

SENATOR SINGLETON: --do we have a reciprocal agreement for that individual's license to just be able to move over, based on their qualifications and training?

MS. NORTON: I believe that we do.

SENATOR SINGLETON: Okay.

MS. NORTON: But there are only going to be certain states that will be reciprocal, and I'm not sure which states they are.

SENATOR SINGLETON: Okay, thank you.

MS. NORTON: But I do know that we have someone right now who's trying to get-- You know, he's certified in Pennsylvania and Kentucky, and he's trying to get certification in New Jersey.

SENATOR SINGLETON: Okay.

MS. NORTON: So I know that they do; I just don't know with which states that they do that.

SENATOR SINGLETON: Understood.

MS. NORTON: In other states, it's been more like six years or five years that you have to have experience. And I understand they want to

have the highest level of experience for that highest operator. But it's a big challenge for us; operators are hard to find.

And also -- so from the water quality perspective and from the operator perspective, we try to do as much internal training as we can. But we also bring in outside trainers and we also send them to outside classes. We have company-wide meetings with the water quality team so that they can talk through the issues that they're facing and they can learn from each other. And again, we have a research arm that helps to bring new ideas and new techniques and technologies to the business, and then they share that throughout the business.

SENATOR SINGLETON: Awesome.

Senator Stack, did you have something? I'm sorry, Senator

SENATOR STACK: I did; I had a quick -- just a quick comment.

SENATOR SINGLETON: Please.

SENATOR STACK: I would just like to, first, commend you and New Jersey American Water for the program that you're running -- on the lead program. It's something that I've advocated-- I'm also the Mayor of Union City, and it's something we've advocated.

Right now we're doing -- whenever we do a major road project - - we pave a street over -- what we do, rather than pave, maybe, two or three streets, we do one or two. Because we go in and replace the sidewalks also for the residents, because obviously residents can't afford it, and we're trying to build up the infrastructure.

While we're doing that, our water company, SUEZ water -- we advocate going in and changing the lines. Right now in Union City -- and

Chair, you'd be interested to know this -- we're actually paying for -- to do it from the curb into the house; the City of Union City is doing it. We bonded it, actually, because we couldn't get SUEZ to do it.

And I'm not here to speak against them, but I just find it ironic that you guys are already doing that. I was actually looking to drop a bill on this, to require it -- if not for everyone, for low-income people. And in Union City -- which is a Transitional Aid community, a poor community -- it is very hard for residents to do that. That's why we're out there advocating and doing it. We're doing a road project right now on a major -- on Palisade Avenue in Union City, and we've replaced quite a bit. We spent about \$200,000 already on the program, just replacing them. It runs anywhere from -- depending on how tough it is -- \$5,000 to \$8,000 a line.

MS. NORTON: Yes.

SENATOR STACK: We had to bid the project, obviously.

But I praise you for doing that; it benefits everyone. And I understood the Chair's question before, but it benefits everyone. Just like under our sewer program -- we have North Hudson Sewer Authority, which represents five or six towns. And whenever they do work on the sewers in Hoboken, it may not be directly benefitted to Union City, but we're all on the same system.

MS. NORTON: Correct.

SENATOR STACK: The same thing with our water system. And I'd like to commend you on that.

If you could get us any information on what exactly American Water is doing on that replacement program, I would really appreciate that.

MS. NORTON: Okay.

SENATOR STACK: I really would.

MS. NORTON: Yes, I would be happy to do that.

SENATOR STACK: And thank you for your testimony.

MS. NORTON: Thank you.

SENATOR STACK: And Mr. Chair, if I may.

You said SUEZ left the meeting? Are they still here?

SENATOR SINGLETON: It is my understanding that they left.

SENATOR STACK: So we had a 10 a.m. Committee meeting, and they left the meeting at around 11 a.m.; okay.

Thank you very much; let the record reflect that.

SENATOR SINGLETON: Ms. Norton, thank you very much, thank you for your time.

MS. NORTON: Thank you; thank you for letting me testify.

SENATOR SINGLETON: Thank you.

Next up, we'll have Ms. Zoe Baldwin from the Utility Contractors Association.

Z O E B A L D W I N: Good afternoon.

Thank you for allowing us this opportunity to testify.

I was originally supposed to be joined by our CEO, who also serves as the Acting Chair of the Infrastructure Bank; but he, unfortunately, had to leave. But if you did have any technical questions, I'm happy to report back to the Committee on any I-Bank questions you might have.

So again, my name is Zoe Baldwin, and I'm the Director of Government Affairs for the Utility and Transportation Contractors Association.

The Water Quality Accountability Act laid essential groundwork for the State; and we look forward to continued efforts, such as this hearing, to ensure that all New Jersey residents have access to clean and reliable water.

We also commend the DEP, BPU, and DCA on their strong testimony. We agree that the WQAA can be transformative if the current law is adhered to.

Right now, the spotlight has been glaring on Newark; and the response from all levels of government to that emergency was swift and necessary. But as anyone in my industry can tell you, the real crisis extends far beyond city limits, and New Jersey will actually need more than just money in order to bring its water systems up to date.

This hearing and the WQAA, specifically, are critical because they address an underlying issue: governance and planning. In the face of this continuing crisis, we need to make sure that the State government has the regulatory tools it needs to certify the 500 or so water systems -- that they're maintaining and upgrading their pipes, including lead service lines.

To that end, UTCA has several recommendations regarding the way that the State can bolster its oversight and authority when it comes to water.

First, continue to implement the existing rules of the WQAA; second, expand the WQAA; and finally, increase funding and non-material support for all water projects.

We agree with the DEP, when they testified last week, that compliance has been mixed. And last week, the Department testified that they're working on a rule proposal that would have clear compliance and

enforcement steps baked in there. We strongly support the DEP's efforts in that regard; and actually, we urge DCA to take the same strong approach.

It's important to remember the DEP does not oversee the budgets of any water systems, regardless of who owns and operates it. Therefore, we ask the DCA be asked to increase oversight of the provision in the existing law that states, "each water provider shall dedicate funds on an annual basis, to address and remediate the highest priority projects as determined by its asset management plan." DCA did speak to that a little bit earlier, and we were very encouraged.

But we also urge the Legislature to seek compliance data on that aspect specifically, and to consider enabling the agency to have stronger enforcement authority in regards to that.

We cannot allow this law to consider lead alone. We must look to it as a primary tool in protecting our communities, not only from the issues we face today, but from the treatment upgrades, repairs, and replacements we'll need to make tomorrow.

UTCA also works with groups, like NJ Future, through the Jersey Water Works collaborative, where we serve on the Steering Committee and as the Co-Chair of the Asset Management and Finance Committee. From this experience we offer two amendments.

Require that lead service line inventory records be kept by every water system, unless DEP has found conclusively that no lead service lines exist in that area.

And second, expand the law's framework to wastewater utilities. Each year, 7 billion gallons of diluted sewage are dumped into New

Jersey's waterways; and the mechanisms established in the WQAA provide an excellent framework for similar stewardship on the waste side.

We don't need to wait for full compliance of this law to know that utilities of all shapes and sizes need more support from the State and the Federal government. Estimates have New Jersey's need at about \$40 billion, or \$2 billion annually over 20 years, to get us to a good state of repair. And while that certainly sounds daunting, there's good news. Our systems are already investing about \$1 billion a year through rates and through the Federal funding that comes into the Infrastructure Bank. But to get us into the end zone, here are some quick ideas that don't involve a global tax or bonding.

First, empower regulatory agencies to enforce compliance with capital planning and investment components of the WQAA; second, enable the I-Bank to receive WIFIA funds -- those are Federal funds; third, expand DSIC for wastewater. Support BPU's efforts to put that mechanism in place; and finally, streamline approvals at DEP for critical projects focused on replacing old infrastructure in existing communities. We shouldn't have permits held up if we're digging up 100-year old Main Street.

And lastly -- I'm not going to review it -- but AJ Sabath, earlier, testified on a report that we collaborated on that's in your folders. That was-- UTCA develops that economic multiplier data through a very wonky report that I'm happy to share with the Committee. What you have in front of you is the more readable vernacular version. And I just wanted to say thank you to our partners in that -- that was Jersey Water Works, American Water Works Association, the AEA, and the Water Environment Federation.

But there's a clear, economic incentive, and workforce incentive, on top of all of the public health; and it's just worth noting.

So thank you very much.

SENATOR SINGLETON: Thank you, Zoe.

Anyone with any questions of Zoe?

Please; Senator O'Scanlon.

SENATOR O'SCANLON: Just briefly, if you could elaborate.

You and I had a conversation recently, and we talked about enforcements tools, or lack thereof. You mentioned -- you referred to it a couple of times in your testimony. Could you just elaborate a little bit on how weak those mechanisms are right now, and why you're recommending we strengthen them?

MS. BALDWIN: Yes, absolutely.

And I will say what DCA testified to earlier, regarding the rate assessments -- there are these regulatory tools that could be strengthened for each of these three agencies that oversee all of our components of our water systems, where, instead of penalizing water systems, what we could be doing is rate assessments; the budgeting tools that were mentioned earlier; and really working to work with systems towards compliance and get them to do -- incentivize them to do the right thing. There's positive incentives we could use through priority in funding; there are a lot of mechanisms that we do have available, but we need to be able to use them.

And that's why I was very excited to hear DEP, last week, talk about the rulemaking that they're looking into, where they would like to be able to bake, kind of, some of that compliance in there.

And DCA, with the rate assessments -- I have to tell you that was a great -- that was a good thing to hear today. Because that's a full-scope look; because we do need to be conscious of the affordability piece of this, and that would make it -- take a lot more things into consideration when we're looking at rates.

SENATOR O'SCANLON: Thank you.

SENATOR SINGLETON: Zoe, quick question.

One of the points -- bullets on your tab here, *On Increasing Support to Systems*, it talks about enabling the I-Bank to receive the Water Infrastructure Finance and Innovation Act -- the WIFIA -- funds.

MS. BALDWIN: Yes.

SENATOR SINGLETON: And I apologize if I don't know this answer -- and I should -- but where do these funds currently go now? Would you say they-- If you're saying enabling the I-Bank to receive them, where do they go now?

MS. BALDWIN: Yes, so it's kind of interesting. It's a newer program that was modeled after a transportation program. It's been around for a long time. And it was a slow starter, so a lot of states were not using it. It's meant for large projects, mostly projects that are \$100 million and up. And not every state has the I-Bank system that we have; they don't all have the SRF. So in other states, the state has applied.

We've done nothing with it. But David Zimmer, the Executive Director of the Infrastructure Bank, has been working on ways he thinks that he'd be able to apply it to projects in New Jersey. And so it's more of a marketplace, a financial marketplace, than a grant program. But allowing them to directly submit letters of interest and apply for those funds directly

would be another tool in the toolbox; again, geared towards larger scale projects. But it's just -- they would just need the authority and the ability to do that.

SENATOR SINGLETON: I guess -- what's preventing them from submitting a letter to do that? What prevents that from happening?

MS. BALDWIN: There has been some internal back-and-forth over approvals with other departments. The I-Bank is *in* but not *of* the Treasury, as they are a financial institution.

SENATOR SINGLETON: Got you.

MS. BALDWIN: And I think that there's been some confusion or ambiguous conversation whether this should be stewarded by an environmental agency or by a financial agency. And so without-- I don't want to speak for other--

SENATOR SINGLETON: Let me, then, speak for somebody else then.

So it sounds like what you're saying, but not saying, is that the bureaucracy of, "This belongs to me and my Department's domain, and doesn't belong to some other," is preventing one group from being able to access resources of a significant amount that could be used to address some of the larger capital water infrastructure needs. These are all my words; I don't want anyone to think these are yours. But the way I'm understanding what you're saying is that there has become a little bit of a territorialism with respect to this potential use of these funds. And in turn, we're not using them, period.

MS. BALDWIN: I think that is the case.

SENATOR SINGLETON: Okay.

MS. BALDWIN: And I think that it's something that could be easily cleared up, because we do have this-- The I-Bank is able to apply directly for TIFIA funds -- which is the transportation version I mentioned - - just with sign-off from the Department, so that we're not competing with ourselves for money.

So I think it's an obstacle that is absolutely overcomeable; but that's where we are in the conversation right now.

SENATOR SINGLETON: Vice Chairman.

SENATOR RICE: Chairman -- just to back up on the Chairman's words.

So has that been the case in the past, or has that been the case with the new Governor -- the new Administration?

MS. BALDWIN: I know this idea--

SENATOR RICE: Have there been conversations with the new Administration about that kind of argument, if you will?

MS. BALDWIN: I know that the idea of accessing WIFIA funds has existed for several years.

SENATOR RICE: No, my question is--

MS. BALDWIN: However, the program was less usable until about this year, because there was-- Actually, Senator Booker did an amendment that made it a better deal, basically, for New Jersey.

So the concept has been there; we haven't tried to apply it because it was less relevant for the State.

SENATOR RICE: Okay; so that's historical. But now we have that new conversation.

MS. BALDWIN: Again, yes, I don't think -- I don't represent either of those agencies, and so I don't want to get in the middle of -- I don't want to speak out of school here, right?

But I do think that making sure that all of our agencies have the flexibility that they need is going to be able to help us maximize our finite resources, right? And I would hope that we can work through that, as a State. I just know that that conversation stalled, but I can't really speak to who, what, and where.

SENATOR RICE: Okay.

SENATOR SINGLETON: Thank you; thank you, Zoe.

MS. BALDWIN: Thank you so much.

SENATOR SINGLETON: Next up, we'll have Mr. Evan Piscitelli, National Utilities Contractors Association.

E V A N P I S C I T E L L I: Mr. Chairman, members of the Committee, it's a great pleasure to be here.

My name is Evan Piscitelli; I am the Executive Director of NUCA New Jersey -- that's the National Utility Contractors Association.

I was the lucky one -- I drew the best straw today, so a lot of the things that I had prepared to say have been said. And in the interest of time, I have submitted written testimony on behalf of our group. And I won't go over all of the things, but I do want to highlight a few things.

Again, the folks and the colleagues of mine who came before me did a really great job of explaining how dire the situation is, and that this legislation was a very good start. But more needs to be done.

And we also suffer from the problem that underground infrastructure is not seen, typically, by the public. And I want to

underscore the point that while we do have it in the headlines now -- and everybody's talking about lead, and water quality, and those sorts of things - - I don't want to see it leave the headlines, because that's not the only issue that we face. It's a much greater scope of decrepit, and failing, both water and sewer infrastructure.

So I thank you for having this hearing; I hope we have many more hearings. I hope we do fix the issues relative to lead. But we do have to keep in mind that the problems are much greater, and let's keep this focus on the infrastructure that most people don't see.

Our National President of our Board uses the example that if the general public had seen sewer pipes 15 feet off the ground around the state, similar to electrical wires, they would be appalled, and they would be scared, and you could really see how bad the situation is.

So again, I do commend everybody on this Committee for taking it so seriously, and the rest of the partners that we have in this game. So let's keep the focus on it.

Number two: This was a good first step to legislation, but we do need to put some more teeth to it, and kind of expand it in different ways. We were happy to hear the DEP, at least on the horizon, may be planning some regulatory action. We hope the DCA follows suit, and the other parties, other State agencies follow suit, because we do need some meat on the bones.

But ultimately, our industry -- and I speak from the contractors -- we have a lot of great contractors around the state. We can handle the work; there certainly is a capacity to do all this work within our state to help our own economy here in New Jersey. So that's an important thing.

Then it comes to money. Money is always the trickiest, and I know it's come up a lot in the hearing today. There are some interesting ways to use Federal programs; there are better ways to use our own Infrastructure Bank in the State of New Jersey. But we have to remember that if we don't do something proactively, it's much, much more expensive. I think the typical number that we use is that if an infrastructure job is done as an emergency -- so, a big water main break, or even what we're seeing with the pipe situation -- if it's done as an emergency, it can be 8 to 10 times the cost of doing it when it's actually supposed to be done. So we want to definitely let the public know that this has to stay in their minds and in their hearts; but also that if we are proactive -- which may cost a little more -- it's going to save money in the long run.

Again, my colleagues hit on a lot of other points. I'd be happy to answer any other questions, but I do thank everybody for their time today and for the invitation to me.

SENATOR SINGLETON: Anything from members of the Committee? (no response)

Evan, just a quick question, because I think -- and Senator O'Scanlon started us on this conversation earlier, about the actual true price tag of what we're talking about. Even with all the pieces that have been enumerated by you and your colleagues already -- better use of the I-Bank and better use of existing State funds -- if we're talking about the numbers that we've heard as a potential \$8 billion problem-- And I'm even hesitant to really talk about it in that context, because we don't know -- which is part of the problem; we don't know how big the problem is. But even in that context, even with utilizing the I-Bank, even with getting some

additional resources from the Federal government, and so on and so forth -- there's no other way for us to really fix this other than to come to the real sober conversation about whether or not there's going to be a larger-scale capital investment in our water infrastructure.

Even just to implement aspects of that-- Because Senator Connors pointed this out last week -- he was, like, some of these communities, they may not even know where some of their mains are. And if no one knows where it is, you're just poking around your town until you find it, you know? And that costs money.

So at some point, are we -- once the collected data is in, are we at the point where -- we've done large-scale transportation infrastructure investments -- are we at that point where that conversation has to begin in earnest? Because, you're right; the pipes aren't above ground, so no one sees the condition they're in. But the safe delivery of our drinking water matters a lot.

So are we at that point, or are we getting closer to that point where that conversation needs to be had in earnest?

MR. PISCITELLI: I think you pretty much answered the question; and I think we are at that point where we have to talk about a whole host of different ways to fund this. And some of it is Federal, some of it is Infrastructure Bank and more innovative financing. But some of it does have to be looked at in terms of real capital investment. And the numbers are large; but again, if you're proactive about it, you're going to spend less money. And we do have to look at a lot of different funding sources.

SENATOR SINGLETON: Understood.

Anyone else? (no response)

Evan, thank you very much.

MR. PISCITELLI: Thank you.

SENATOR SINGLETON: Thank you.

Next up, Ms. Peggy Gallos, Association of Environmental Authorities.

PEGGY GALLOS: Good morning, Senator.

My name is Peggy Gallos; I'm the Executive Director of the Association of Environmental Authorities.

And I'm joined by David Harpell; Dave is the Executive Director of the Jackson Township MUA.

I want to tell you a little bit about AEA. We're 50 years old; we were founded soon after the Clean Water Act and the Safe Drinking Water Act were passed. And we were founded to help authorities navigate the regulatory and financing landscape that they were dealing with at the time.

At that time there were millions of dollars in grants being offered by the Federal government and the State government to help modernize the wastewater system. Many communities created authorities -- either on their own or in partnership with other communities -- as a way of providing a focus on water and wastewater issues, and updating their systems.

Authorities originally that belonged to AEA were sewer authorities; eventually, drinking water and solid waste authorities were also members of AEA.

Authorities have an arm's length relationship with the creating municipalities. They have the ability to borrow money; and their professional staff's sole mission is the water, wastewater, or solid waste service that they provide.

Authorities must adhere, by law, to generally accepted accounting principles, or *GAAP*. They are self-liquidating. They may only charge fees to cover the cost of operating, maintaining, and doing the capital work that's necessary to have safe, effective, and affordable water in their systems.

We believe that the public authority model of delivering these environmental services is an effective and viable one.

Our member authorities employ more than 5,000 men and women. And we have a total membership of about 87 authorities; 23 systems in that group are drinking water purveyors, and they serve about 1.1 million people.

I have, in the written testimony, given you some information about awards -- national and state awards that some of our members have won; I won't go into that here. But I did want to tell you that we're very proud of our Environmental Professional Development Program. It's a program we started several years ago; we have trained about, I think, 75 men and women at this point. It's a management training program; it's intended to provide a comprehensive background to those in the early and mid-career, so that they can assume leadership and management roles in authorities. And that is the Environmental Professional Development Academy.

AEA supported the Water Quality Accountability when it was under consideration by the Legislature. In our comments at the time we said, “Our State’s water quality laws and regulations have tended to focus more on outcomes, and much less on asset management and financial planning. This bill changes that.”

The Water Quality Accountability Act broadened the circle of accountability for the drinking water system so that it includes not only the licensed operator, but also people who have the power to make budgeting and long-term planning decisions.

In light of previous testimony about the efficacy of systems based on size, we thought we would note that the Water Quality Accountability Act applies to all drinking water systems with more than 500 connections; which is, I believe the DEP said last week, about 300 systems. Small system customers should know that their systems, as long as they reach that 500 threshold, are equally accountable and must comply with the Water Quality Accountability Act.

AEA’s drinking water system members comprise about 13 percent of the systems that the Water Quality Accountability Act applies to. Our perspective is that while size and ownership are certainly characteristics of systems, performance evaluation can examine factors like the quality of management, the accountability to the community, accessibility and accountability of the decision-makers, transparency, and commitment to providing the necessary levels of resources.

Chair Singleton, you asked us today to think in terms of how we might improve the Water Quality Accountability Act, so I’ll just give you some of our recommendations.

One of our Authorities recently spent about \$30,000, and a number of months, applying for I-Bank funding -- the drinking water system. And they were given a letter telling them that they could proceed with awarding the contract; but it also said that the I-Bank didn't have the funds to lend to them at that point.

Ratepayers are picking up some of the tab for the Water Quality Accountability Act, but they need help. And so I'm going to echo what a number of other folks said -- that we would think that the State needs to think about some of those funding policies and new sources of funding. We think that there should be consideration given to going back to a policy that was changed 10 years ago, which was that public systems alone would have access to I-Bank funding. We think that public funds should not be used to leverage capital projects and acquisitions that further business plans and ROI.

We also think the State should consider creating additional funding. As our friends at the League have suggested, a Water Trust Fund or cashing up the I-Bank by increasing water allocation permit fees would be two suggestions.

With regard to the fire hydrant provisions of the Act, we would suggest that some more flexibility be introduced to allow an "or equivalent" approach; in other words, if the purveyor is meeting the spirit and the intention of the law, but doing the labeling in a slightly different way, that that be allowed to be considered compliance.

Regarding cybersecurity: We think that the provision should be expanded. Right now, they apply to the control systems of the water

purveyors. We think that that requirement for cybersecurity planning should be extended to the business systems of the systems as well.

We also think the State could play a bigger role in coordinating responses to ransomware and cyberattacks. We'd like to see the State help these utilities that have been impacted by these kinds of situations more.

We do think that New Jersey CCIC is a very valuable resource; and we would suggest that their resources in funding be expanded to meet the landscape that we find ourselves in, in terms of cybersecurity.

We once studied municipal budgets -- and this was several years ago -- but at that time we found that about \$80 million had been transferred out of budgets over a three-year period. And we know that our counties and the municipalities are partners of the Authorities, and sometimes funds do need to be shared. But, by and large, we think that water and sewer funds should be protected, and they should be used for the purpose for which they were collected.

Regarding asset management: We have a few suggestions for improving that aspect of the law, and some of those could be five-year operating and capital financing plans; cost of service studies; requiring a demand study that would be updated every five years; requiring a staffing plan, or a proof of revenue study.

I just also wanted to mention that asset management was a huge topic long before the Water Quality Accountability Act was enacted. It was something that our members were involved in, and the online training and the in-person training that operators and other professionals are required to have -- that topic has been, for a long time, a big part of that

discussion. And the previous DEP Commissioner, Commissioner Martin -- he also focused quite heavily on asset management.

So the Water Quality Accountability Act certainly, sort of, brings together a lot of those efforts; but it's something that's been on everyone's mind for a long time.

And lastly, just regarding the role of the Department of Community Affairs -- I think we would like to agree with what other speakers before us have said, which is that the DCA can play a more significant role in ensuring that the levels of funding for infrastructure, that need to be there, are there. And so we would-- And we've actually expressed that to the DCA in the past -- that the annual budget review process is a valuable opportunity for them to really look at levels of funding and that type of thing.

So those are really the main points that I wanted to raise.

Again, we're really happy that this is being discussed so thoughtfully today, and last week, and at future hearings. So we really thank you for the opportunity to be here.

And if you have any questions, we'd be happy to take them.

SENATOR SINGLETON: Thank you, Peggy.

Any questions from members of the Committee? (no response)

Peggy, just pointing to your testimony -- if I could, just a couple of things.

You say on the fire hydrant labeling that you would like to see the provisions made somewhat more flexible, or equivalent approaches. From a practical standpoint, what does that actually mean?

MS. GALLOS: I'm sorry, from a--

SENATOR SINGLETON: From a practical-- It sounds really nice, but I don't know what it means.

So from a practical standpoint, what does it mean when you say you want to have the provisions made somewhat more flexible?

DAVID HARPELL: Thank you, Mr. Chairman.

We did speak to DEP on this issue.

Right now we're allowed to put soft metal tags, branding, or paint for the hydrant markers. A lot of systems like ours, for example in Jackson Township, we use reflective tape for the hydrant markers because it's easier and more accessible for the fire departments. So we agreed, over the years, to put this reflective tape on to mark the hydrants. To comply with the law, now we're putting reflective tape and brass tags. So it just seems kind of an inefficient approach to label hydrants. The fire department doesn't want the brass tags, but we have to do it to comply.

SENATOR SINGLETON: Got it.

And Peggy, in your piece about the I-Bank funding and the change from 10 years ago, where the State -- you would like the State to return to the policy, from which it changed, where only the public systems alone could use the I-Bank.

The private companies -- they serve taxpayers as well, though. And all of the money that's in there is not just the taxpayers in municipal-owned systems who, sort of, are taxpayers where some of that money leverages -- makes its way to the I-Bank.

Why would we exclude, just because -- and I'm asking, more than making a determination on this -- why would we exclude those same taxpayers who are in -- and I think two of our colleagues have mentioned

that they are served by investor-owned utilities -- why would we preclude the taxpayers in those communities from having the systems be able to access I-Bank funds just because they're not municipally owned?

MS. GALLOS: Well, I just think that they have other sources of funding. They have more flexibility with borrowing money than some of the public systems do. And if we're thinking about ways to help fund some of these issues, that would be one way of doing it.

SENATOR SINGLETON: So roughly about 60 percent of the water system -- is what we've been told -- are publicly owned, while I think 40-some-odd percent are investor-owned. What if -- just thinking through, sort of, just maybe a middle ground approach -- what if any one year or any one cycle where the resources are being used, that that percentage would hold true; that no more than X amount of percentage, as it relates to investor-owned, could access those I-Bank funds, and then the remaining could use the municipal funds.

Because I will tell you, I'm a little bit uncomfortable with just saying that because my water system in my community is investor-owned -- and you're right, there are other avenues in which they can do that -- but it would seem-- I would be a little uncomfortable then, if there was an infrastructure need, that that's a tool that can be used to fix it, especially in some communities that may not have the financial wherewithal because of the nature of their communities to do it themselves -- why not just split the baby, and say, "No more than that ratio could ever be used in any one year," as opposed to just flat out saying they can never be used?

MS. GALLOS: Well, you may -- that may be a valid way of approaching things. But I think that the funds that are borrowed can be

leveraged for acquisitions and for return on investment. And so they're essentially using public funds to, as I say, further a business plan as well.

So that's -- there are some people who are comfortable with that, and there are some people who may not be.

SENATOR SINGLETON: Well, I mean, I agree. I mean, look, it's a double-edged sword, right? Because the investor-owned company has shareholders who they have to be responsible to. And they also, ultimately, have to be responsible to ratepayers as well. And from a municipal standpoint, the ratepayer and the taxpayer are the same person; it's just different pockets that it's coming out of for different means. They are the same person.

MS. GALLOS: They often are, yes.

SENATOR SINGLETON: Yes; so-- No, I understand that dynamic. And I was remiss in not talking about this issue with our panel before, so I will spend some time, later, having that conversation. Because there is that level of tension that one has to figure out. Because if you have a shareholder, they're expecting a certain return on investment with respect to their investment. And sometimes that can complicate the mechanics of where rates go, and how it applies to ratepayers as it moves forward.

The piece you have here about protecting funds -- that's noted in here -- it seemed to me that there was -- that we heard something different earlier when the DCA sort of sat here. And maybe I'm confusing the two things, because you said you all studied about 100 municipal and authority budgets and found that \$80 million was transferred from water and sewer funds. That's not the dissolution, though, of those funds; that's

just regular monetary transfers -- which is that, like, 5 percent rule or something like that?

MS. GALLOS: Right, right.

SENATOR SINGLETON: Okay.

MS. GALLOS: We were looking at the anticipated surplus from the utility -- that line of the budget.

SENATOR SINGLETON: Right.

MS. GALLOS: We were also looking at the -- I think they were the S9 forms; SS9 forms--

SENATOR SINGLETON: Right.

MS. GALLOS: --that the authorities have to file; I think it's in a different format now. But at the time we looked at it -- which was a number of years back -- they were SS9 forms. So we were looking at that part of the budget; we were also looking at the line called *anticipated surplus*.

SENATOR SINGLETON: Right. But that is still statutory; it's, like, no more than 5 percent is what I think the statute calls for -- right? -- that can be transferred?

MS. GALLOS: Yes, for authorities. The county or municipality that created the authority is, by law, permitted to use up to 5 percent of the operating budget.

SENATOR SINGLETON: Got you, got you.

Senator Rice, please.

SENATOR RICE: Yes.

On the issue that was raised through the question by the Chair -- 60/40, or whatever the numbers are -- and the funding -- did I hear you

say that the private companies can use it for leveraging by way -- use it for acquisition? Did I hear the word *acquisition*?

MS. GALLOS: Well, in the sense that the -- and I am having a little trouble hearing, Senator; I apologize. But if I understand you, the sense that the costs of the capital work or the acquisitions of systems is spread across the ratepayers in the state; they're all helping to pay for that.

SENATOR RICE: The Chair was talking about -- you were talking about -- you mentioned that the private companies have recourse and, therefore, the dollars should be used in the public side of the system.

And the Chairman mentioned maybe it should be whatever the percentage is; say, 40 percent use in that other-- But are you saying that even if we gave them 40 percent, they're using money not necessarily for the purpose intended; they're using some of the money for acquisition to expand the company's growth?

MS. GALLOS: Well, the funds are barred from the I-Bank; they go into the pot, so to speak, and the corporation is using its money to purchase systems, and the purchasing prices are recovered in rates, subsequently.

SENATOR RICE: Got you.

So as the Chairman said -- talking about, maybe, compromising-- I get that, because I think it would give more to the public side. But in a compromise, we need to find a mechanism -- if we were to do that -- to make it clear it could only be used for the purposes -- it could not be used for acquisition or other purposes. I don't care what the mix is. So there may have to be a separation of funds so we can get accountability. Because that's the problem I'm having. They take the money; then they

want to come in and buy my system, and then they want to buy *their* system, and buy *their* system. And they throw all these lobbies -- all this fancy money coming in from municipal taxpayers. And the media -- that we're running the system badly, rather than understanding our needs to have resources to get the systems right.

So just for the record -- because we're being transcribed -- we need to take a-- Even if we don't do the split, the compromise; for the record, I think we need to look at legislation to say they can't even do that now -- the way the system is -- that they cannot use dollars coming in for acquisition. That needs to be a separate line item, or some kind of -- where we get accountability.

Because if I was to look at the systems, half of these systems, to me -- I'm almost sure, as a former investigator -- I could find, through real thin lines, stuff going on. And I don't want to be the one to say that or do that. But, you know, I used to be a detective, so I understand what goes on in these authorities.

Mr. Chairman, I don't know-- The issue that you raised about the split -- I told her I thought that may be a good idea for consideration, because it means that more of the dollars will go into the public side for usage, right? But also saying about the percentage for acquisition-- And so even -- just to use your numbers, 40-60 -- on the 40 side, we need to maybe have legislation that would make it clear to the companies that there has to be a different line item, or different set-aside, where we can identify that that money is being used for the purposes we're giving it to them for, rather than co-mingling the money and using it for other things.

SENATOR SINGLETON: Understood.

SENATOR RICE: Okay? That was just a suggestion, you know?

SENATOR SINGLETON: Yes, sir.

MS. GALLOS: Thank you, Senator.

SENATOR SINGLETON: Anyone else for Peggy? (no response)

Great; thank you, guys. Thank you both.

MR. HARPELL: Thank you.

MS. GALLOS: Thank you so much.

SENATOR SINGLETON: Our last speaker will be Michael Cerra, New Jersey League of Municipalities.

MICHAEL F. CERRA: Good morning, Mr. Chairman, members of the Committee.

I thank you for the opportunity.

I'm Mike Cerra; I'm the Assistant Executive Director of the State League of Municipalities.

I also appreciate the fact that the Committee, by inviting us and engaging the League, views us as a partner in this process.

So included in the statement that I submitted to you was a Conference Resolution, that was passed by the League in 2016, which is really our policy statement on this issue. It's really looking forward to a 21st century infrastructure.

So this is a policy priority of the League, and I look forward to more engagement on this issue.

I have submitted a statement; I, obviously, will not repeat it or will not read it into the record. You have it. I will highlight some of the

major points, because we're trying to put on the table for you some big concept ideas -- in response to the requests of those given to the League -- as to how we could move forward and what tools might be made available.

From the outset, obviously we're very concerned about water quality in the state; that's why we're here. But I do also want to put out a bit of a positive message. I think the new law, the 2017 law, is working. It can be improved, and it should be improved. This is, sort of, a checkup; and it's appropriate to do so.

But progress certainly has been made; you know, the ball has advanced. Speaking from my membership, issues are being looked at in a way that they've never been looked at before. I think more progress has probably been made since the implementation of -- the effective date of this law, than in years and years beforehand.

So we are moving in the right direction; there's certainly room for improvement, and I think we share that objective.

So in that spirit-- And just for the record, I will also follow up with this Committee. I know this is not the last of the hearings; we are monitoring these hearings. So we will prepare a response document to some of our feelings and comments, maybe based on what I hear today, or in other hearings. So there will be further engagement.

My statement highlights, really, five major-- And these are all 30,000-foot, by design, concepts that we think you should consider.

And the first is, we seem to be in a precipice of a very favorable market for municipal bonds. Yields have been falling, which is making municipal bonds more and more of an attractive investment. Now would be a good opportunity to take advantage of that market, take a look at the

local bond law, and try to free up -- maybe in terms of borrowing capacity or term -- constraints that are currently on local governments. The local bond law, which is in Title 40A, puts a borrowing capacity and term limit, based on useful life. And the highest that I have been able to identify is 40 years for certain buildings, depending on the type of the building. It could be 40 years, 30 years, and 20 years.

If we are talking about a capital system, a capital investment for a system that will have a useful life of a 150 years -- and I know there was a debate earlier, which was interesting, whether 150 is the right number, or if 100 is -- but if it's that low of a term, can we take a look at whether or not a longer term than 40 years for the financing is appropriate? Particularly if we could take advantage of lower rates and taking advantage of the market as it currently stands.

So that would be the first one -- is that we believe we can work with you to implement some responsible and meaningful reforms or changes to the local bond law that might free up funds for local governments and for authorities.

The second concept is something that really isn't new -- and it was mentioned earlier by my colleague from the AEA -- which is water trust funds. Our suggestion is to take a look at the creation or authorize -- by voter approval -- the creation -- modeled on Open Space -- of funds allocated, dedicated for these purposes. This would allow local voters to effectively invest in their own water system. We know voters across the state have shown a reluctance to approve, through referendum, sales to private suppliers. Here, in Trenton, is an example; Edison is a recent-- This might be looked at more favorably. And this isn't new; as has been

mentioned, there are Open Space trust funds, there are affordable housing trust funds. There's also the snow removal -- well, they're not the snow removal funds; they're the funds for snow removal that were changed, post-Sandy, and they are now for emergency purposes.

This would allow local governments to establish their own funding; maybe seed money for larger projects. But to create a dedicated fund for water infrastructure investments.

The third recommendation is -- and no surprise that this is coming from the League, I suppose -- but a cap exception; but a narrow cap exception. Under the current law, a 2 percent tax levy can be allowed with four exceptions, one of which is debt service. So in a sense, that's already covered. But if there is a project that's being paid from the General Fund on a pay-as-you-go process, you can do that without taking funding away from other local priorities. So again, I think it would have to be tailored and narrow; but the opportunity to have a cap exception for pay-as-you-go projects probably would be an incentive to get some of these projects moving in a timely fashion.

The fourth suggestion is to clarify municipal authority over the lead service lines. Now, we're of the opinion -- I am of the opinion that municipalities -- it is implied by statute -- have the ability to require, as a condition of a certificate of occupancy, proof of testing for lead service lines. That opinion is not universally shared; and I guess, just, "Mike says so" isn't good enough for some folks. But there is some uncertainty and ambiguity. And again, we believe it's implied; but clarification to that I think would, one, not only encourage this body to take that action; but also it would preempt any litigation over the issue, which can occur now.

And lastly, and this is-- If these other four ideas are 30,000-foot, this is probably 60,000-foot -- is focusing on planning and development for the future. We don't want to just fix existing systems; we want to build an infrastructure going forward. And we have some extraordinary resources in this state, in terms of institutions of higher education. I don't want to start naming them, because I don't want it to seem like I'm favoring anyone. But we all know we have a strong academic sector that we think we can engage, work with the State, work with local governments, to plan exactly what we're talking about -- which is the infrastructure looking forward, for the 21st century and, hopefully, beyond.

So with that, again, I want to emphasize -- this has been a learning curve through this process. I know there has been some concerns about compliance, and I know there are concerns about signing of the certification forms. We have partnered with the DEP in the roll-out of this law, and we are continuing to do so. It has been a challenge; there's no question about it. Some of these systems are smaller; they deliver a good product, we believe. But it's a challenge to get the resources and the staff capacity in order, sometimes, just to meet some of the requirements under the Act. So some of the tools and suggestions we're advancing may benefit them as much, if not more, than larger systems.

So with that, I'll conclude. I certainly can answer, to the best of my ability, any questions or take back any questions that you have.

Again, I thank you for the opportunity; and I look forward to our continued engagement and partnership.

Thank you.

SENATOR SINGLETON: Thank you, Michael.

Anything for him?

Senator O'Scanlon.

SENATOR O'SCANLON: Sorry -- again.

Mike, thanks for being here.

So I have one question for you.

You mentioned that there is some entity taking a position that municipalities don't have the ability to require lead testing in water for the issuance of a C of O.

MR. CERRA: Correct.

SENATOR O'SCANLON: Maintenance ticket.

So without knowing who they are -- to make clear that I am an equal opportunity attacker -- what horrific entity is questioning your authority in order-- Questioning that is like saying, "We want to hide the fact you might be buying a house, bringing your children into it, and having them drink lead-tainted water." What horrific entity is it that is challenging your authority?

MR. CERRA: It's-- I don't want to name any particularly person--

SENATOR O'SCANLON: I want the name, through the Chair.

MR. CERRA: I think there's concern -- even within the municipal attorney world, because it's not explicitly authorized by the statute -- whether or not they have the authority to do so. We think it's implied, and I think we're prepared to defend that. But I think if you polled-- Municipal attorneys are, by definition, conservative -- lower case C.

SENATOR O'SCANLON: Fair enough.

MR. CERRA: They are risk-adverse, as they should be. So when they see something that isn't spelled out explicitly in the statute, they raise that concern.

SENATOR O'SCANLON: But isn't the risk-- If you feel that it's implied in the statute, isn't there risk for a municipality *not* insisting that-- Or they're afraid that someone is going to sue them, because lead is found in the pipes, the seller is going to find there's lead in the water, and the seller will be liable to replace the pipes, I guess, before they get a C of O.

MR. CERRA: Oh, on liability? No, I don't -- I haven't heard that raised--

SENATOR O'SCANLON: Well, what are they worried about then?

MR. CERRA: I think whether or not-- The question is, is the authority spelled out.

SENATOR O'SCANLON: Okay.

MR. CERRA: And I think--

SENATOR O'SCANLON: But whether it's spelled out or not, what are they afraid of, if they say, "Look, it's not spelled out," but insist on it anyway -- who are they afraid is going to take action to cause the municipality harm?

Okay; it's just--

MR. CERRA: All right.

SENATOR O'SCANLON: So I want it on the record--

MR. CERRA: I don't know if I can honestly answer the question, because--

SENATOR O'SCANLON: I want on the record that it is implied, and should be implied, and it's this legislator's opinion that it's there. And I'm happy to join with the Chair, and anybody else, to clarify it. That seems like an insane position for them to take.

When someone gets -- purchases a house or gets a C of O-- Look, we feel the State has a place in fire suppression and a whole host of other safety measures. They should feel safe that the water has been tested as well, for lead and whatever else.

Thanks.

SENATOR SINGLETON: Michael, may I ask you a question?

MR. CERRA: Sure.

SENATOR SINGLETON: Could you get, through the Chair -- because Senator O'Scanlon's point -- whether you don't want to name names or not, that's fine -- but can you get for us any case that has been brought by some actor against a municipality who's trying to enforce that particular requirement that, you talked about, has some level of ambiguity? If you would be kind enough to send that over; because I'd be curious, much like the Senator is, the argument as to why the plaintiff feels that they do not have to comply with this piece.

So if you could send, through the Chair, a listing of any cases in recent history that would do that -- that way you've not named any name, and I can read myself, and the Senator can as well; then we'll be able to address that that way. Because I would echo and associate myself with his comments -- that there should be no ambiguity about the rights and control that the municipality has to ensure that they're not handing out or

providing someone with a CO when there are lead service lines, potentially, in the home or business, and with someone who's buying.

MR. CERRA: I agree, and I'll gladly look into that and get back to you as soon as possible.

SENATOR SINGLETON: Thank you.

SENATOR CONNORS: Mr. Chairman.

SENATOR O'SCANLON: A quick follow-up.

SENATOR CONNORS: Go ahead; I'm sorry.

SENATOR O'SCANLON: Just real quick.

And if you can't find one, pledge to us you'll circulate, to all your municipal members, that there is no such case and they should feel okay to back off on (indiscernible).

MR. CERRA: Agreed; absolutely agree.

SENATOR SINGLETON: Senator Connors may be -- can be implied -- has to do with the salability of the house. So if you require, as a condition of a certificate of occupancy, that there be lead tests, and it's determined that there's lead because there are lead pipes in the house, there is no quick, remedial way to abate that issue. And therefore, an individual has purchased a house that they can't move into.

Now the municipality has another problem. Now they have the potential issue with the municipality being liable for a situation where a person can't get a CO; as opposed to testing for volatile organics, which there may be a remedial -- a quick remedial measure, through filtration or other means.

So I think, really, what it's doing is avoiding the whole lead pipe situation; which brings us right back to the very start of the issue of

lead pipes. But if you have an older house and you require, as a condition of certificate of occupancy, and then you deny the issuance of a certificate; then you have a house sitting there with lead plumbing and that municipality is now involved.

So I think that might be the thrust of the issue of why some legal counsel may be reluctant to issue an opinion; that, in fact, the municipality can do that. In addition to what you've said, Mike. I mean, most municipal law is permissive law; and municipal attorneys will take the stand -- if it's not something expressly authorized, then it can't be done -- as opposed to preventative law.

SENATOR RICE: Mr. Chairman.

SENATOR SINGLETON: Senator.

SENATOR RICE: So it's an interesting conversation; I'm glad it came about. Because I was going to suggest to you and inform you, and others, whether you support it or not, I'm having two pieces of legislation prepared. Because as I told the Governor and the people at the meeting on the Newark stuff, it's a statewide problem that needs to be addressed. We have to replace these service lines. And there's a financial piece to it.

So one of the things that I'm attempting to do is to get legislation -- because New Jersey still leads the country in foreclosures -- legislation to say, when these lending institutions take the property over, before they convey it, they have to replace those lines. So that takes care of a piece of our problem right there.

When I sell my house I have to disclose that there is -- we're talking about the service line; not the other problems -- the service lines are lead. And therefore, I can put it in the price of my sale, or the buyer can

put it in the mortgage because you aren't feeling it in the mortgage over 30 years -- not \$8,000 to \$10,000. You're not going to feel it.

And then, we at the State, in government affairs, come up with some type of -- you may call it a *water trust fund* or what have you -- a subsidy fund for those folks who aren't going anyplace -- people who are low-income, etc. -- so we can eventually get all this stuff out of the way. Because it's a lot simpler to do it that way then to try to do billions and billions of dollars; when we know when it comes to oil tanks we get them out now. We know that.

And I just wanted to bring that up to you, for the League to take a look at, because I'm doing legislation. To me, that takes care of two-thirds of the "economic costs;" because every day somebody is selling and somebody is buying. Banks are foreclosing like crazy, and they're conveying.

And also I think Newark did do a good -- I think they passed an ordinance that indicated that the folks who are coming into town looking for benefits to a system, and rehabbing and fixing properties -- with the tax abatement or something else -- that they now have to replace those service lines.

So I think it's going to take that type of legislation, in the aggregate, if you will, to reduce what the cost to government will be across the board to get New Jersey situated. And I think we'll get it done a lot quicker than we anticipate if we look at whether we can raise money bonds and things of that magnitude. So I just wanted to lay that out there for consideration.

And what that does, also, is to allow -- as the Chairman is trying to do right now -- the focus to stay on the other big stuff, in terms of the water infrastructure, as the Act that we're dealing with. Because that is where I see the issues.

That's just my perspective, after looking at this stuff, having these conversations, making all these meetings.

The one thing you can say about Newark -- that's why I tell people, "Don't worry about Newark; we're going to figure it out with the State's help and government help" -- but it opened people-- I can't say it opened people's eyes; it made a conversation come forward that should have been had a long time ago. And now we're starting to think about the types of things we can do, collectively, to fix problems statewide.

So those are just some suggestions of legislation coming down, okay?

SENATOR SINGLETON: Thank you, Vice Chairman.

Anyone else for Michael? (no response)

Guys, anything else for Michael? (no response)

We're good? Okay.

Michael, thank you; thank you very much.

MR. CERRA: Thank you; thank you, Mr. Chairman.

SENATOR SINGLETON: Ladies and gentlemen, that will conclude our hearing for today.

Our next hearing will be on September 25, at 10:00 a.m.

Thank you.

(HEARING CONCLUDED)

