

---

---

# *Committee Meeting*

of

## JOINT COMMITTEE ON THE PUBLIC SCHOOLS

*"Barry Zubrow, Chairman, and Scott Weiner, Chief Executive Officer,  
of the Schools Development Authority will present the Authority's 2007 Annual Report"*

---

---

**LOCATION:** Committee Room 11  
State House Annex  
Trenton, New Jersey

**DATE:** December 20, 2007  
10:00 a.m.

### **MEMBERS OF JOINT COMMITTEE PRESENT:**

Senator Ronald L. Rice, Co-Chair  
Assemblyman Craig A. Stanley, Co-Chair  
Assemblyman Joseph Vas  
Assemblywoman Joan M. Voss  
Assemblyman Bill Baroni  
Assemblyman David W. Wolfe



### **ALSO PRESENT:**

Assemblywoman Elease Evans

Melanie Schulz  
*Executive Director*  
Sharon Benesta  
*Chief of Staff*

Natalie A. Collins  
*Assembly Republican*  
*Committee Aide*

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

---

---

## TABLE OF CONTENTS

	<u>Page</u>
Scott A. Weiner Chief Executive Officer New Jersey Schools Development Authority	4
Carol Petrosino Program Manager New Jersey Schools Development Authority	23
Gerald T. Murphy Vice President and Chief Operating Officer New Jersey Schools Development Authority	30
<b>APPENDIX:</b>	
First Biannual Report on the School Facilities Construction Program submitted by Scott A. Weiner	1x
rs: 1-58	

**SENATOR RONALD L. RICE (Co-Chair):** Good morning.  
(audience response)

Thank you. That's what they do in my church. That's what we do in the classroom, too, I think.

That's what we still do, Assemblyman? You teach.

**ASSEMBLYMAN CRAIG A. STANLEY (Co-Chair):** That's right.

SENATOR RICE: I want to be sure.

First of all, it's good to be back with the Joint Committee on the Public Schools. And it's good to see all of you here.

We have called the new organization -- the SDA -- in this morning to bring the Committee up-to-date on their first biannual report.

There was a question asked to me earlier this morning whether or not we'll be calling SDA in on each report. And the response was yes. It is yes, because for those who may not know it, the Joint Committee on the Public Schools is a statutory Committee. We are charged with the responsibility of overseeing the Abbott school district mandates. So we will be calling them in, not just for biannual reports, but we'll be calling them in when we have questions, or concerns, or problems; or they have problems, questions, or concerns they need to bring to our attention.

So let me be on the record to say that, as we move into 2008, everything SCC (*sic*) does will continue to come to the Joint Committee on their own volition, if it's not legislative. And if it doesn't come to us because it's not legislated -- we will legislate it. That's what we do here. We set policies.

Let me give all the members an opportunity to say good morning to everyone and to wish you, in case we forget at the end, a very happy, safe, pleasant holiday season. We are told we can't say Christmas and all those other things. But I'm going to be on record to say Merry Christmas anyway.

So with that, why don't I just turn it over to the Co-Chair, Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Thank you very much, Senator Rice.

It certainly is good to be here. And we do need to get our update. As you know, with the last legislation that we passed concerning the New Jersey Schools Development Authority, there is a reporting mechanism in place for the New Jersey Schools Development Authority. And we're certainly glad to have Scott Weiner here before us, as always. And we have to commend the work that's being done. But we need to make sure that we continue to move forward with work that needs to be done.

It's obvious and it's very important that the Legislature provides additional dollars to move these projects forward. We haven't had additional-- We haven't provided additional bond capacity for the last few years, and it's getting to a point where we're going to have some serious problems if we don't provide some dollars so that the Schools Development Authority can do the work, and that these districts can do the work that needs to be done in the schools. Unfortunately, this won't happen before I leave. As you know, Senator Rice and myself have had -- have made numerous attempts, sponsoring legislation that would provide additional

funding. But we think it's very important-- We thought it very important that the New Jersey Schools Development Authority got its house in order before we move forward with additional funding.

I certainly welcome you here -- welcome all of you here -- and hope all of you have a safe holiday, and a very happy holiday, and a Merry Christmas for those who celebrate Christmas, and I know everybody had a great Kwanza -- or will have great Kwanza -- and Hanukah -- I know everybody had a great Hanukah. So I didn't just do Christmas. I did everybody, I think. (laughter) Did we leave out anybody?

Thank you, Chairman Rice, and thank all the members who are joining us here today.

SENATOR RICE: Before we let the other members speak, why don't I do a roll call? We may have other members coming in, but let's do a roll call of what we have.

MS. SCHULZ (Executive Director): Senator Rice.

SENATOR RICE: Here.

MS. SCHULZ: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Present.

MS. SCHULZ: Assemblyman Baroni.

ASSEMBLYMAN BARONI: Here.

MS. SCHULZ: Assemblyman Vas.

ASSEMBLYMAN VAS: Present.

MS. SCHULZ: Assemblywoman Voss.

ASSEMBLYMAN VOSS: Here.

MS. SCHULZ: Assemblyman Wolfe.

ASSEMBLYMAN WOLFE: Here.

MS. SCHULZ: And Assemblywoman Evans.

ASSEMBLYWOMAN EVANS: Here.

SENATOR RICE: Okay. Why don't we go to my right and any comments my colleagues have.

ASSEMBLYMAN BARONI: Welcome, everyone. Happy holidays. I'm looking forward to the presentation.

And you never thought I'd talk that briefly at one of these hearings. (laughter)

ASSEMBLYMAN STANLEY: Just had to add in something.

**S C O T T A. W E I N E R:** There's a lot of time left.

ASSEMBLYMAN WOLFE: Yes, I also want to talk about the three main holidays we're celebrating, and I wish everybody a festive time of year.

I'm very interested in this report today, because as we look-- Actually, I just received it yesterday. I note that my district ranks 37th in the number of funds expended, so I'm interested in this report.

Thank you very much.

SENATOR RICE: Assemblyman Vas.

ASSEMBLYMAN VAS: Good morning, Mr. Chairman, and Assemblyman Stanley, and all members today.

I'm looking forward to hearing the report from the New Jersey Schools Development corporation, particularly in light of the recent release of the proposed school funding formula. It's impossible to talk about improving the quality of education without improving the facilities in which we educate our young people in New Jersey. And I know that's the objective and the goal of not only the joint commission, but I believe of the

Governor and all the members of the Legislature. So I look forward to hearing the report today and continuing to work toward that objective.

SENATOR RICE: Assemblywoman Voss.

ASSEMBLYWOMAN VOSS: Thank you, Mr. Chairman.

I want to wish everyone a happy holiday.

As all of you know, education is probably the most important thing we spend our dollars on. And we have to make sure that we spend our dollars wisely, and well, and prepare our children for the future. And we spend about, I guess, a third of our budget on education. And we want to make sure that our children become the best they can be. And it's very important that they have facilities in which to learn that will prepare them for the future. So I look forward to the report.

And I know there's a great deal of concern in many of the districts because of the fact that many of them feel that they're not going to have the facilities and they're not going to have the finances that they need to do the job they need to do.

Thank you, Mr. Chairman.

SENATOR RICE: Thank you.

We also want to welcome a new member to the Legislature, but not new to government, and certainly not new to education. I've known her for over 20 years -- and you've been tied to the work -- and that's Assemblywoman Elease Evans.

Assemblywoman.

ASSEMBLYWOMAN EVANS: Good morning, Mr. Chair.

I'm honored to be sitting here at this point in time. And we all truly understand that education is extremely important. And it's our

responsibility, as legislators, to ensure all our people in this state a quality education. And we have to take this seriously, because some day they will be sitting where we are, and we'll be depending on them to be well-educated to handle the job.

And I want to wish everybody a Merry Christmas and a happy holiday, whatever you're celebrating.

Thank you.

SENATOR RICE: Thank you.

Sir, how are you?

MR. WEINER: I'm not miked. (referring to PA microphone)

SENATOR RICE: Go ahead, try it now.

MR. WEINER: There we go.

I'm fine, thank you, Senator.

Good morning to everybody on the Committee. It is an honor to be here today.

And if you like, I'm ready to go into the presentation.

SENATOR RICE: Scott, do you have anyone you want sitting with you? If so, you can bring them up.

MR. WEINER: No. I do have some members of my staff here who-- I think maybe you know Jerry Murphy, our Chief Operating Officer; Kristen, our Legislative Liaison, who ensures there's a line of communication open; Carol Petrosino and Bill Coonahan, both of whom are in our planning department.

But my normal sidekick who usually sits here, Barry Zubrow, sends his regrets. And I want to start with that. He, unfortunately, couldn't make it today. He had planned to be here. And I know this may

sound hard to believe, but we do look forward to the opportunity to come here. It gives us an opportunity to talk about the work that's been accomplished at the SDA, the work that's ahead of us. And certainly this Committee, over my two-year association with the program -- almost two-year association with the program -- has provided us invaluable guidance, feedback, constructive criticism -- criticism of all types -- but also recognition, and we appreciate it. So I send both Barry's regrets -- I bring Barry's regrets and his appreciation.

And particularly, for both he and I -- I think all of us at the SDA look forward to this presentation because, as you noted, it marks really the presentation of our first biannual report. And this is a report that came out of the recent legislation that was signed by Governor Corzine in August. And I also want to extend our appreciation to the members of the Committee and your colleagues, both for your support that led to the passage of the reform legislation this Spring, but also the just incredibly valuable suggestions and feedback we got in preparing the legislation.

We are now called, as you know, the Schools Development Authority. We think it's a much better descriptor of what we do. We used to be called the Construction Corporation. We're not a corporation, although we were structured as sort of one. And we don't construct anything. What we do is, we develop. We play the role of the developer. I've described our role as really being -- when it works right -- as a resource for a school district and a community. And we help a school district and a community manage the supply chain of a new school facility, from its design and its conception straight through to the day that we turn over the facility to the district.

So calling ourselves the Development Authority recognizes both our role, but also our governance. And this legislation was much more than just a change in name. And with your indulgence, I just want to touch on a couple of significant things that have come out of this legislation.

First, on governance: As you know, previously the SCC board was appointed directly by the Governor, without the confirmation or advice and consent of the Senate. That's no longer the case. And as one of the State's major authorities, the Governor nominates its members, and there -- goes through a traditional confirmation process. We thought, and we think, that that will increase the collaboration amongst us all.

Also, the board was restructured so it now has 11 public members, an increase of four public members, as opposed to the prior board that had only seven members; the rest being ex-officio or government officials.

Even more importantly, there were some significant program amendments. In the area of land acquisition, we all know the stories. And Barry and I have testified to this Committee before about them. When the school construction program would identify a piece of property, along with the community, that was an intended site for a school, owners or developers of that land -- perfectly within the law -- would continue the development of it, increasing the value and the cost to the State through condemnation proceedings.

We knew that the Department of Transportation had a tool available to it that imposed a moratorium on municipal development approvals once a site was identified, for a limited period of time, giving the public agency a chance to go in and negotiate or otherwise acquire the

property. This legislation now provides us with that same tool, and it should do a lot to control the cost of land acquisition, as will the provisions of the legislation that require inventory of available land in collaboration -- not just between the school district and the SDA, but also the municipal governing body, who needs to be an active partner from a planning aspect, but also in a land acquisition strategy.

Legislation provides for a much greater role, a much enhanced role for school districts. It was inconceivable to us -- and certainly I'm sure inconceivable to you and probably completely unfathomable to school districts -- that they were often left on the sidelines while our predecessors at the agency, despite the best of intents, went into a community, started developing schools and constructing schools without the type of collaboration with the school district that one would anticipate.

The legislation provides tools and expectations about that, most notably in the area of the future role that districts can play in managing their own projects. The prior legislation imposed, as you know, a \$500,000 cap on the size of a project that a local Abbott district could manage itself. That cap has been eliminated from the legislation, and we have already begun issuing grants to local districts in excess of that amount to self-manage health and safety or emergent projects that come before us. So they no longer have to deal with the bureaucracy. We issue a grant, we monitor that grant, we oversee that grant, but we utilize the expertise and familiarity of the districts to manage those projects.

We also-- The legislation also directs us and the Department of Education to develop a mechanism to evaluate the capability of individual

districts to manage their own new construction, major rehabilitation projects. And that program will be unveiled later in 2008.

The legislation also institutionalized the prioritization process. And this sounds like a very arcane thing. We've talked about it in prior hearings -- we talked about all the priority rankings and how that is done. But it addresses the major deficiency that I think existed in the prior program. Through 2005, the predecessor agency literally worked on everything. And not only did they work on everything, they worked on everything without prioritization, without any sequencing. Everything was of equal importance, everything was attempted. Again, despite the best of intents, it resulted in the collapse of the agency fiscally in mid-2005. And we think we've done a number of things to address that. But the prioritization process is one of the key tools that we use, along with the Department of Education.

As was noted, the legislation also requires us to report to the Legislature and, through you, to the public every six months. And I think that, as we go on in the future-- And we look forward to those meetings. It gives us an opportunity to talk about the program. You'll see that this report sets out some benchmarks of what we expect to achieve over the course of the ensuing six months and a year: how many facilities we expect to open, the amount of money we expect to spend. And we fully anticipate, as it should be, that among the first questions you'll be asking us six months from now is, "So, what happened? Did you build what you expected to build? Did you develop what you expected to develop? And if not, why not?" And the kind of accountability that I think the public expects will now have some grounding to it.

Today, I want to briefly-- And for those-- I want to underscore, I promise I will be brief. I just want to touch on just a couple things in the report. I want to discuss a significant management initiative that has really taken root since we last met in February, and then I want to answer any questions that you may have.

First, to the report: This report is intended to be a biannual report. It will be published every six months, in December and June, in accordance with the legislation. This first report is intended to provide background to everyone. So you will see lots of historic information in there. And we also chose a reporting period of January of this year through the end of September. And we chose September as a traditional closing period for the December report so we would be able to provide information about the start of a school year and how many facilities were in fact brought online for the start of the school year, a very important accountability.

One of the things that's been infused in the organization now is, it's not just good enough to complete a school construction project. It's got to be completed on time in order to start a school year. And a project that opens in November, while it's valuable, is much less valuable and much more disruptive to a community than one that opens in August or September, if not before, in order to give time to get organized.

The legislation, as you know, sets forth a number of required topics, all of which are addressed in this report. And we will continue to supplement, in our report, the additional information that we think is valuable. And we also welcome and look forward to suggestions from you, your colleagues, and the public of other information that people would like

to see. This is going to be the regular six-month tool to measure the progress and success of this multi-billion-dollar program for the State.

As I mentioned in my introduction to this report, I believe -- and I think any objective analysis will concur -- that the SDA, today, in the Fall of 2007, is a completely different organization than the one I encountered two years ago. And I want to discuss three points that I think contribute to that conclusion. That's not to say we don't have challenges, that's not to say we don't continue to have problems. But the fact of the matter is, we're a multi-billion-dollar development program that at any point in time has literally dozens and dozens of projects in the ground, representing a billion dollars of work in progress every year.

We believe our problems are getting less. We believe our turn-around time to respond to them is becoming acceptable. But we do have a number of achievements that we think underscore the fact that it's just a different organization.

First, I trust as all of you know, in September of this year the SDA opened 22 new facilities around the state, representing new desks in excess of 13,500 students -- or new desks for those students. Now, some of these projects had languished over the years. They should have been delivered sooner. Some of them literally came down to the day before the opening of school. But at the end of the day, the fact remains that 22 new facilities were opened, 13,000 new desks were built -- were open and available. They're all available. Some are still closing up their punch lists.

But the significance is not just in what I like to think -- that we can demonstrate our capability to execute. In fact, looking ahead to next September, September 2008, we are scheduled to open 22 -- or turn over 24

new facilities for next year. But it is literally just the tip of the iceberg in the number of facilities that are needed throughout the state, not just in the Abbott program -- or what we now know as the Abbott program -- but through all of the state's school districts. The need for school facilities can't be argued by anyone.

A second thing I like to point to are cost-savings and cost-recovery initiatives. We've initiated a number of cost-recovery actions, as I've reported to this Committee in the past, during 2007. And we are positioning ourselves to increase them in 2008, particularly in the area of environmental cost recoveries. Again, one of the major expenses -- and maybe even unanticipated expense when this program was born so many years ago -- was the total cost that would be spent on remediation of sites for schools. Those remediations have been successful. And now it's time to go back and try to identify the responsible parties, and make sure they're paying their fair share of the remediation and those costs don't merely fall upon taxpayers in New Jersey.

We had a number of cost-saving initiatives that management at the Authority launched in 2007. Most notably, I want to mention in-sourcing. It got some notoriety back in -- this time last year -- during the first quarter of last year. But the fact of the matter is, by taking direct responsibility for the procurement of IT equipment for schools, rather than have the general contractors do that, we've been able to save millions upon millions of dollars in costs. So we do it now with the same staff that has been procuring furniture for schools. We've in-sourced safety. We've been able to increase the amount of safety inspections that are done on any job site and also have been able to reduce the cost.

Sometimes, in-sourcing works. And that's not to take anything away from the quality or the professionalism of outside firms who can provide these services. But the fact of the matter is: this is what we do. We're responsible for the safety on the sites. And if we can have an in-house staff, we can reduce the cost on a per-diem basis and per-inspection basis. We've been successful in doing that.

One of our goals has been to reduce the cost of a project. And we haven't really started many new projects because of the funding situation. But we need to decrease the cost of projects that were currently in the pipeline. There are a couple ways to do that. One was just by reducing the cycle time of the projects. An estimated inflation rate of 10 percent a year -- if you just take that, reducing one month per year out of the development cycle for a project adds up to real money over the course of the year. So we've started an initiative to squeeze a month out of every project. Some projects were successful, some projects we haven't been as successful. But those are the kinds of things that we measure now.

We also took a look at the project contingencies or the project reserves. And two years ago -- a year and three-quarters ago, when Barry and I first took on our assignments -- we realized that the forecasting that was done by our predecessors, unfortunately, was not nearly as accurate as it needed to be. It was based on faulty information and faulty assumptions. We've been able to get the forecasting under control now, where we have confidence in our ability to project costs going into the future. Our ability to also reduce reserves-- And by the reduction of reserves, that frees up dollars to go into other projects. So we've been able to do that.

We've also taken a look at the project management firm model. And I think you're all familiar that the start of project-- In an attempt to quickly get the depth that a program like this would need, our predecessors went out and hired project management firms essentially to do everything. And you've heard me talk before about the problems that government runs into when it subcontracts out its essential responsibilities. Now, it's in the best of intents. That's what happened. And it did a number of things, including add costs without accountability.

We are in the process now of moving away from the project management firm model wherever we can. We are replacing PMFs with construction managers that focus exclusively in the area of management and construction of a project. It's our responsibility to liaison with the school district; it's our responsibility to work on the design of a project; it's our responsibility to take on those activities -- and not subcontract them out to others, and then turn and point to their accountabilities.

In terms of dollars, we're finding that when we go out to bid -- and we procure our construction managers by bid -- that we're receiving fees consistent with what the construction industry is seeing, anywhere in the vicinity of 3 percent. And that's in stark contrast to the fees of project management firms. So by moving to construction managers, in some cases on existing or planned projects, we've also been able to save significant dollars.

The third initiative I want to mention is the design manual. This was something I mentioned that was in development, in February when I was last here. We launched it in July. The design manual replaces the prior manuals that preceded it significantly. It does a couple of things.

It sets performance standards rather than prescriptive standards. We try and describe, and we think successfully -- with the input of the architecture community and school districts -- to say, "What should a 21st century school look like? How do you know what one looks like?" They're all not going to look the same. But there are certain performance standards that you want in a building in terms of its lighting, in terms of its energy costs, in terms of all these things. So we set those performance standards rather than prescriptive standards.

Very significantly, the manual incorporates and infuses, into the planning of any new school facility project, lifecycle costing. We take a look at -- and the developers and the architects are required to provide alternate plans for things like HVAC systems and the like. We all know the seduction of first cost. We all have been doing it and challenging ourselves when we buy major appliances for our home. And the seduction of first cost has plagued the school construction program. Because while it may seem economically efficient to buy the cheapest HVAC system for a school on the construction side, we are saddling that district with unnecessary costs for generations to come for all the years that that operates. So we are now taking a look at and require designers to give us alternates and to give, most importantly, the school districts alternates so they understand what it's going to cost to run the school and maintain the school when they have that responsibility. It's a very significant area, we believe.

Lastly, in that area, we believe that the design manual serves as a foundation for standardization. I believe that there will be another round of funding coming for this program. I'm not sure when it will be; I'm not sure anybody does. But it will come. And when it comes, we are going to

be responsible for the procurement of lots of doors, and windows, and other elements that go inside a building. And we believe there's no reason why those elements can't be standardized and still allow for communities to think about what kind of design is most appropriate for their community. But this allows us to begin to think about things like supply agreements with major suppliers, so that when a school is being built there will not only be consistency, but economies of scale and scope in those projects.

In that regard -- and specifically with regard to maintenance -- I want to mention that one of the elements of the report is a section that's called Recommendations for Change. In this first report, we mention three things. We could never do a report like this without mentioning the need that everybody knows for additional funding. The need around the State in what are now called Abbott districts, non-Abbott districts, far exceeds the available funding that is left.

We talk about public/private partnerships. And I look forward to talking to this Committee more about that. But it is a way to address issues both of Smart Growth in our urban areas, but also find ways to make the land acquisition costs in our cities much more practical in terms of school development; but most importantly to require and to promote planning in an urban setting, in a Smart Growth way of: How do we integrate schools into the communities and the development that community is doing?

And lastly, funding for maintenance. The problem is very simple: We as a State are investing billions of dollars in new facilities around the state, and school districts simply do not have the long-term financial wherewithal to maintain those facilities. And everybody may have

their own view of how we got to the problem we got to. My view is that for reasons that are varied and complex-- Starting in the late '40s, early '50s, investment in the education infrastructure in our cities began to wane, and it never recovered.

One thing leads to another. We're now looking at facilities that are well over 50 years old and pushing 75 to 100 years old. Not that that's too old for a school, but it's incredibly too old for a school that's not maintained. This is a problem that we have to address soon, or our successor generations are going to be sitting in this room or some other room wondering what we had in our mind when we invested billions of dollars and didn't provide for adequate maintenance support. And that's true not just in the Abbott districts, but it's true throughout the state. We have to begin to think about how these facilities are going to be maintained.

So, that's the report. I'll be happy to answer any questions.

I do want to take a couple minutes to talk about a major initiative that we've launched at the Authority, that I hope will give you, your colleagues, and the public comfort that we do -- we have greatly improved and we have our arms around fiscal controls at the organization.

As I mentioned previously, one of the major failures of the past was the fact that the agency worked on everything without a plan, without priorities, without any kind of sequencing. And it resulted in the collapse of 2005, where there was an inventory of projects that were being worked on, or were about to be worked on, that, at that time, almost three years ago, would have cost \$13 billion at a minimum. That's a number I'm taking from the February 2006 DOE report. The problem was, they only had \$1.4

billion. So that led to the financial collapse of our predecessor, which led to the capital plan of July 2005. And here we all are.

One of the things we wanted to do was correct some of those problems and say, "We need to know what's being worked on. We need to make sure that when a project is started, there are funds to finish it." And there are ways to stagger projects so you don't have to tie up all the funds for a project that may take years and years to complete -- because of land acquisition costs, or remediation, or relocation -- and begin to phase-fund the projects, and develop -- separate the projects into separate trenches. And you all saw that in our approach to the deferral plan of April, where we did that with some projects. We didn't stop funding them, and we didn't abandon them, which was what happened in 2005. We just said, "We're going to take these projects up to the stage of construction. When new money comes, we'll be able to construct it."

We did something which is so axiomatic and so simple that we don't take credit for it. We just want to let you know that common sense has come back to the agency a little bit. We set up teams to work on projects. We looked around at the agency and said, "Different functional groups all touch a project. So let's set up a team for every project and assign somebody from that functional group to be part of a team." And, in fact, like any good enterprise, it's the team that's responsible for the delivery of the project.

The concept of project teams is now infused in the organization. Every project is run by a team, which has a core team -- the essential project managers, the fiscal control group, land acquisition group, and the like -- and an expanded project team that will include everybody

who ever touches a project, importantly including the community, who sits on the project team. The district has a representative on the project team. And it's the project team that plans and executes a project. It's a great concept.

Now, importantly, we said, "Well, one of the other things that was missing historically were budgets." And we got our arms around the budget problem over the past couple years. But a problem continued through, really, the latter part of this year. And the problem was that the board is bored. The board that your colleagues confirm, the board that's nominated by the Governor, the board that's viewed for governance oversight, historically only approved the expenditure dollars that related to major construction projects -- construction projects over \$15 million that were competitively bid through a public procurement process -- or change orders -- all important stuff. They never set a budget. No budgets were ever set.

So we now have started this thing called *project charters*. And I apologize. I was going to have copies at your desk for you of a sample. I will leave them with Melanie, and they can be distributed.

But now, one of the key assignments of that project team is to develop a project charter. And that charter essentially says, "What is this project all about? What are all the elements of the project? How much is it going to cost? What's the budget that should be set? How long is it going to take? What are the milestones that people can be measured against?" And the project team, including the school district representatives, develop this charter. And it's introduced, first, as a planning document to the board. Every project from now on has to be approved by the board before a

dollar is spent. No longer can management itself start projects. So they all have to go to the board.

And the first thing the board will get is the initial charter. And it provides an estimate of what we expect those costs to be. And what the board is doing there is what any corporation does, what any business does, which is-- It says, "Okay. We're willing to allocate so much of our capital to this project. And until that authorization is given, we simply can't spend the money on behalf of that project -- on anything other than working on this document. That's the only thing we're authorized to do."

During the course of the ensuing months, things will happen. We'll be out actually procuring the design architects who work on the project. We will be putting the project out to bid. Stuff happens in any project. Every time there is a change, we have a set of operating procedures that lays out what management decisions can be made; what decisions have to go back to the board. And all those changes then get tracked on this charter document.

Now, hopefully this gives you some comfort that it's there, but it's not enough that we do this. These documents are all available to the public, and they're available to you. When a charter goes before the board for approval, it is part of the agenda package that goes to the board at its meetings. And as you know from our prior presentations, a very important initiative of Barry's, as Chairman, was to make the meetings more transparent. So all proposed charters would go up on the Web site prior to the board meetings so people see what's going on. And then once adopted or revised, there will be a separate section on our Web site that has the

charters for each community. So communities can go in and see what's going on with their project, as well as other details about their project.

We think that this is probably the most significant management initiative of the year, because it provides for budgeting, it provides for the appropriate role for a board, it provides for guidance both to management as well as to a school district so that budgets are set, and decisions are made, and the projects are constrained for any Abbott project the same as they are in any other community.

I'll be happy-- I love talking about this and would be happy to talk about it some more. We are currently in the process of getting charters approved for every project that is working today. We are about two-thirds of the way through that process. That process will be complete at the January board meeting. So by this time next month, all projects currently underway at the SDA will have a board-approved charter and a finite budget attached to it that can only be changed in accordance with the policy guidelines adopted by the board.

Let me conclude my remarks there.

Thank you, again, for your time.

I'll be happy to answer any questions you may have.

SENATOR RICE: Thank you very much.

I have a few questions for you, and I'm sure that the Committee members do, as well.

Let's go back to number one: the long-range plans that we continue to speak about and are referred to within your report. That is reviewed by DOE. Is that correct?

MR. WEINER: That's correct. The long-range facility plan is the basic planning tool that's developed by a district and that is ultimately approved by the DOE. That provides, then, the basis for prioritization and sequencing of future projects.

SENATOR RICE: Now, does this plan-- This plan is submitted-- This is a one-time submission. Is that correct?

MR. WEINER: It used to be every five years, and now, under the new legislation -- this is, vis-à-vis the DOE -- it is every five years, or as often as the Commissioner thinks is necessary. And a district is free to amend their plan as they see fit.

SENATOR RICE: Because it seems like we never get to completion of review of the long-range plans.

MR. WEINER: Well, that's been--

SENATOR RICE: And until we can get to completion of review of the long-range plans, you can't start your process with construction. Is that correct?

MR. WEINER: That's correct. And I believe -- this is when I get to turn to Carol Petrosino. They're almost there.

**CAROL PETROSINO:** That's correct.

MR. WEINER: When are we expecting all the long-range facility plans to be done?

This is Carol Petrosino, who heads up our planning group, and who is the principal liaison with the Department of Education.

The DOE is well into the finalization of the 2005 long-range facility plans. These long-range facility plans were due to be delivered in 2005, by districts. And I've only been associated with this program for two

years, but I wrote about this during the Interagency Working Group report era, and since then.

Among the problems-- Some of the problems were with the districts, some of the problems were at DOE. The good news is, those processes are almost complete. We're not getting -- or about to get the data we need to do the kind of planning that you're anticipating, Senator. And we're anticipating, based upon reports we get from DOE, that all that data and district alignment will occur by the first quarter.

MS. PETROSINO: Correct.

MR. WEINER: I don't mean to lead the witness.

MS. PETROSINO: That's correct.

MR. WEINER: So that should put us in a position, in the middle part of 2008, to develop some potential sequencing plan, should funding ever arrive.

SENATOR RICE: Thank you.

MR. WEINER: No problem.

SENATOR RICE: I want to ask the staff to make a note. We're going to be spending a lot of time with the Commissioner of Education in the new session. Just make a note that we need to have a discussion on long-range plans, and that process, and the time frames, etc.

The health and safety emergent-- My concern is, I know at least one district -- which happens to be my district, the district of Assemblyman Stanley--

I don't understand, when we talk about saving dollars at the State level-- Irvington High School is an old high school. But Irvington High School always had a track and field. The problem is -- we're not

looking to build a new one -- the problem is, you have to maintain what's there. And I thought when we started school construction, we were looking at emergencies, etc. And they certainly fit the category, from my perspective.

But it's interesting because they need about \$1.5 million, \$1.6 million. Now, we'll build new tracks and fields -- in fact, I think we did one in Perth Amboy, etc. -- which I think are necessary, regardless of what the State says, for all these schools.

But they have one. OSHA was fining them up to almost \$400,000. We were able to stop that, primarily because we managed to get OSHA to agree -- at least to get past the football season. They put some patches where people don't go into potholes and stuff, which is probably up now with the cold weather. Then they would kind of give them a waiver. And so they kind of settled at \$300,000-and-some.

If, in fact, they don't do that field, with the health and safety issues, the fines may kick back in. If it's going to go-- (indiscernible). Well, if you have \$300,000, \$400,000 now, it does not make any sense to not just go ahead and do a one-shot deal, and complete that project.

I know that's been brought to the SDA's attention -- formerly SCC. Could you explain to me where that is and why we're not being smart with the cost-benefit analysis of that particular issue?

MR. WEINER: At the outset, let me say that, since April, when we developed our deferred capital plan, we have money set aside in the reserve. And we call it a reserve for unforeseen events and emerging projects. So there is funding currently available to address emerging projects. In the arcane world of school construction program bureaucracy,

there is a distinction between an emergent project and a health and safety project, even though health and safety sounds like it would be very pressing.

What we now are talking about are emergent projects. All of our capital is tied up. But we realize that an emergent project -- one that represents eminent peril in an educational-policy point of view -- and that's the important point I want to make -- is one that should be funded. So in the division of labor between the SDA and the DOE, it is up to DOE, in accordance with their regulatory program, to determine whether something is an emergent project. And, again, I apologize for sounding arcane.

An emergent project is different than an emergency. Imagine, if you will, that a fire hits a wing of a building, and that wing is going to have to be rebuilt. But before it gets rebuilt the next morning, it has to be secured. The securing of the wing is an emergency which is funded by the district. It's an operational expense. The reconstruction is an emergent project, because it has to be attended to immediately. It's emergent. It's a capital project -- a school facilities project -- which we would fund and, if appropriate, we would manage.

This has been a very frustrating area for everyone, particularly the districts such as Irvington, that felt like they were (indiscernible). They felt like they were being caught in a bureaucratic doo loop and couldn't get out.

What I can report to you, of my knowledge -- and Carol has been our representative in this process -- is that, within the past month or so, DOE has solicited all the Abbott districts to identify any projects which they believe are emergent. All that information, I believe, is now in the DOE. It's being evaluated. And in the first week of January, we're

supposed to get the DOE determination of which projects they believe are emergent -- and they conclude are emergent. We will then proceed with our funding to fund those projects, and either manage them ourselves or let the district manage it as appropriate.

SENATOR RICE: Thank you.

So the final end of the process -- even if you were to walk in to determine it -- health-safety issue, determine it emergent, ultimately DOE has to sanction this. Is that correct?

MR. WEINER: Well, but in fairness, I'll go a step further.

We don't determine whether something is emergent or a health and safety issue. That prioritization process is done by DOE. They do that, applying their educational policy prerogatives. We just develop and manage the project.

SENATOR RICE: Okay. Thank you.

I'm going to raise another question, and then I'll let the members raise some, and then I'll come back to you.

The whole issue of -- you raised it in your report. And this is an issue we don't raise enough -- we used to, in the past when Senator Lipman and I were here sitting in the Senate. Now there are more African-Americans and Latinos, and I think we should be raising it and not be ashamed to raise it. When we raise issues, people like to give us a tag. I don't think we should be concerned if we are called *racists* when we know we are not.

But the reality is that this state is heavily populated and very diversified with people of all backgrounds. But for some reason, in this country and this state -- which is one of the most segregated -- minorities

particularly -- and woman and minorities in general -- continue to just have low percentages of support in most things that occur, particularly when it comes to work.

Now, every session we have-- I'm going to do -- because I know she is looking down at me -- God bless her -- a Senator Lipman thing. I'm going to ask you, "How are we doing for affirmative action?" They don't like the words *affirmative action*. But when I say affirmative action, I'm really talking about black folks. I'm going to ask that they identify them -- Latinos and women in particular.

Looking at all the construction that is taking place, the majority of it is in the Abbott districts. The majority of the Abbott districts are urban districts. The majority of their population, in terms of ethnic background, are women and minorities in general -- African-Americans and Latinos, in terms of large populations of minorities. But yet, only about \$4 million -- close to \$4.5 million -- 2.7 percent of the work went to African-American businesses. In the Latino community, Hispanic community, .67 percent -- a little over a million dollars -- \$1.2 million -- \$1.1 million. Asian-owned businesses, \$41 million, almost \$42 million.

Can you explain to me why that is, from your perspective? And what are you doing to really look at those numbers?

MR. WEINER: Sure.

And while I start to do that, let me invite up Jerry Murphy, who is our Chief Operating Officer.

Don't go anywhere, Carol.

MS. PETROSINO: Okay.

MR. WEINER: Jerry can sit on the other side. You get to stay.

He has the front-line responsibility. And I think you all know Jerry and his background in this area.

Without, in the least bit, wanting to be flip, the simple answer is, we're not doing enough, and we're not doing good enough. And Jerry is going to be able to talk to you in detail about some of our initiatives. We set a goal that I mentioned to this Committee a couple years ago, when we started.

In terms of businesses -- minority-owned businesses, women-owned businesses -- we want this program to be viewed as an opportunity to get work. There have been some obstacles in their way, and we could talk about how we're trying to beat those down. But what I've learned first-hand is, there's a greater need for mentoring. There are companies who can do modest-sized projects very well. The kind of work that becomes available here is not always modest-sized projects. They're opportunity projects. And we need to do a better job making sure that companies are prepared. It's not enough to say, "You're not prepared to do it." We've got to figure out how to get them prepared so they can do it. And there are ways to do that in an integrated way, I believe, in mentoring.

That same is true for individual workers, not just businesses. The goal that we've set is that anybody who lives in this state who wants to work on a construction project should feel like there's a front door into a project. Now, there's a limited number of jobs, and we're dealing with union issues and the like. But it's our obligation to figure out how to solve that problem. And in some programs, like with the carpenters, we've had great success. And we're trying to replicate that success amongst other trades.

Jerry.

**GERALD T. MURPHY:** Yes, Senator.

As Scott said, we are putting forth a mentoring initiative, which we hope to have in place for next year. Also, we're going to do a project with the small business workforce development centers to do more outreach into the minority communities to get more contractors ready.

One of the problems, as Scott said, is that a lot of the contractors just are not ready to do these size projects. One, because they don't want to do the paperwork, which unfortunately is required with the prevailing wage-- You have to do the certified payrolls and things like that. And also, the other obstacles -- main obstacles with a lot of them is that we have the contracts with the prime contractors. So it's like anything. When they get paid, the small contractor gets paid. A lot of these small contractors can't afford to wait for their money. So we're looking at some kind of initiative where we can somehow, without interfering with the prime contractor-subcontractor relationship, be able to get them their money so they can pay for their workforce weekly and not have to carry it for a month or two months. And that's one of the major problems there.

Overall though -- and unfortunately the small business, which is the mandate, as we know, from the GEOD decision -- overall, even this year, at this point, we're at 50 percent with small businesses. So that is a really good number. And we recognize, even from the start, that we do need to do more work in the minority area. I know that, up to this date, we spend about \$5 million on different programs -- training programs -- for those minority contractors, specific outreach into those areas. We did a bonding/working capital initiative with them, as well. So we have spent

money, but we still-- We see them -- those contractors going in other areas and doing work, but not necessarily on State work. They may do local municipalities or private work, because the paperwork is not as onerous, and obviously the pay comes in quicker than when it comes from a State or municipal government.

But we are looking at all those issues and trying to help and work through them. And we expect that we will be able to do better this year. I know the Governor's Office has a strong initiative in working with all agencies and all departments to also improve those numbers, as well. And we're a part of that initiative, as well; in fact, part of the pilot with them, to help them identify the problems and work through those problems.

SENATOR RICE: The issue of paperwork-- You need to identify what the problem is. Because I happen to know from interacting with some small businesses, oftentimes it's not that they don't want to do the paperwork, they don't have the time to do the paperwork because of the size of their company. So that's a capacity issue--

MR. MURPHY: Yes.

MR. WEINER: Right.

SENATOR RICE: --that we should be able to address.

On the other side of it, these contracts go to big business folk and old-boy networks. Let me say it again -- big businesses and old-boy networks. It seems to-- We should be forging some partnerships, not even so much you're going to give them a job, but you have to joint venture this. Let them learn along the way.

So really take another look at how that's done. If we have to legislate-- And I know if we want to legislate-- I know, oftentimes, the unions don't want it that way, or the contractors don't want it that way. But we don't care. I support contractors, I support labor, and they're going to have to support us. And that was a big issue. And I just came back from the National Black Caucus of State Legislators. So it's not only here.

These numbers really reflect the same thing the Legislature reflects in its makeup; to be quite frank, the administration and its makeup. But yet, we say we're not a segregated state when, in fact, we are, whether it's intentional or not. And I think it's behooving upon us to do a better job in those areas.

In terms of the population that are not enterprise people, but are workers themselves -- who are not contractors. I think the apprenticeship programs are good, but they graduate small numbers, given the number -- the kind of work we are doing. But there are also union jobs where some of these folks are still sitting up in union halls, because they're not going to send them to Sussex County; but they'll send Sussex County union folks to Newark, or Irvington, or Camden, which means that we're still left out. And so hopefully we can do a better job of increasing that and working with labor. And I'll help you where I can. I'll meet with labor if I have to. They beat me up most of the time anyway, even though I still help them.

But I want to ask a couple of things. I need you to make a note and ask staff to send you a memo if they have to. I need you to send a list of the types of enterprises that we're talking about. And I'd like the breakdown for the African-American-owned businesses. What does this

really make up, and who these entities are, so we kind of get an idea, geographically, of where they are. A separate list for Hispanic business owners and a separate list for the Asians, so we can see if this is geographically placed, we can see what is going on, and maybe be helpful in giving you some suggestions.

Also, I would like a list -- if you don't have it, you need to create one -- of the services that each of these entities are providing, whether they're professional services, contract services, what have you -- you know, soft-core stuff, engineers, etc.

I would also like to have the number of workers, skilled and nonskilled, who are African-American, Latino, Asian, and women, and minorities in general -- particularly African-Americans and Latinos -- given where these projects are. If there's work on those job sites for contractors; and a break down -- and a lot of them are union jobs -- whether they're journeymen, whether they're apprentices, whether they're carpenters. I want to know by trades. Because it's time that the Legislative Black Caucus, hopefully with the help of our other members -- sometimes we can get it -- start to raise these questions and hold these organizations that are making a lot of money, these organizations where there are memberships who are benefiting -- accountable by doing a better job of sharing in our participation for people who have to live in those towns.

I know in Newark, for example, we have a new mayor who is laying everybody off but continuing to bring people from outside -- New York -- in at higher salaries. In the meanwhile, we're building schools and arenas. And it seems to me that if we live there, we should be working some place. I mean, you just can't shut us out and then someone says,

“Well, you’re racist, or you can’t read, or you can’t write.” We’re getting tired of getting that thump. I can read very well. I’m just as bright -- probably brighter -- than most of my colleagues here. I have to put myself a little above, this way they can argue with me. But we need to know that kind of information. Because I’m sure that my colleagues are just as concerned. But they won’t raise the question, because it may not come to their attention. But I think if they see numbers, they’d be shocked and say, “How is that?” Colleagues I work with, and I know -- and that’s on both sides of the aisle.

So we need to start to document that. And be prepared that every time you come to a meeting of the Joint Committee, I’m going to raise the issue. And this is on behalf of the people I represent throughout the state, but also on behalf of Senator Lipman, God bless her. How are we doing with affirmative action? And I’m going to say affirmative action. SBD -- it’s good. But SBD, like everything else, cut out African-Americans, and Latinos, and women in general. That’s why we had affirmative action. And we were depending -- even though the Governor messed this up -- the former Governor -- we knew that, in the court case -- that the GEOD Corporation brought-- First of all, it should have never been dealt with the way it was, because GEOD was never harmed by affirmative action. They are part of a national movement to shut out affirmative action.

But we knew that school construction, SDA, would prove our case. These numbers make me feel we were right over two years ago, and proving the case that there’s a lot of discrimination taking place. And affirmative action is a very necessary element -- whether we call it necessary evil or necessary good. And so we need, kind of, that information so that

we can keep a record, as well, on our side; and help you, and the business community, and the unions -- where we can -- to improve on the things they're doing.

Let me end right there. I'll come back to you.

Questions from the Committee?

Assemblywoman Voss.

ASSEMBLYWOMAN VOSS: Scott, I want to commend you on the report. All of the questions I had you really answered.

But I just want to address something, Senator Rice, that we had spoken about. Although we are constructing schools -- and this is digressing a little bit -- we need to have curriculums in the schools that prepare young people for jobs. And this is one of the things that I hope you will help me work on, so that the children who will be going to these schools will have programs which will prepare them for the types of jobs that you're talking about. And it will not happen overnight, but it will happen. And I hope that you will work with me on that particular issue.

SENATOR RICE: I will.

Assemblyman Wolfe.

ASSEMBLYMAN WOLFE: Yes.

I'd like to compliment Scott Weiner on the work that he's done. I know that I and some of my colleagues have been rather difficult at times. I think this report indicates a lot of progress.

And I must say that you have appeared before this Committee, and the Education Committees, more than the Commissioner of Education. And I think that's very important. We don't see her that much. We see you, and you give us a lot of information that we really need.

But you did answer one of my questions. I had a question about the project charters. You explained that very well.

But at the beginning, on Page -- you don't have to look it up -- but on Page 7 you talked about -- you now have a holistic budget. Could you just, in a sentence or so, explain what you mean by that?

MR. WEINER: Well, *holistic budget* became a phrase that, in hindsight, I wish I hadn't coined two years ago. But it's really meant to mean a comprehensive budget.

During the transition, about two years ago this time, the transition team working on this issue met with Jerry and his colleagues. And we'd say, "Is there a budget for this project?" And some people would say yes. And we'd say, "How much is the budget?" And they'd tell us. And then we'd ask somebody else, "Do you have a budget?" And they'd say yes, and it was a different number. So the holistic budget is meant, internally, to mean a comprehensive, unified budget for a project.

ASSEMBLYMAN WOLFE: Okay, thanks.

And I just had another question. You have a very large section in the report regarding cost recovery. And I-- The question is: Cost recovery is for what? What are you recovering? Cost, but--

MR. WEINER: Well, it may be, as I mentioned before, environmental cost recovery, the cost of remediation against other potentially responsible parties. It may also be with contractors. We don't always get-- The State doesn't always get what it paid for. I mean, it's true in any project.

ASSEMBLYMAN WOLFE: Okay.

MR. WEINER: So up until last year, there were never any initiatives to try to recover costs that possibly shouldn't have been paid, either because of workmanship or the lack of delivery of services. So we're now going back to recover those costs.

ASSEMBLYMAN WOLFE: Okay. So in other words, you had an actual amount that you were seeking to recover?

MR. WEINER: Yes. And we try to, friendly-- We ask nicely first, then we mediate, and then we litigate.

ASSEMBLYMAN WOLFE: Right. And, ballpark, what percentage are you able to recover?

MR. WEINER: You know, we've never calculated a percentage, because it's an illusory number.

ASSEMBLYMAN WOLFE: Right.

MR. WEINER: But we're in the tens of millions of dollars of potential recovery.

ASSEMBLYMAN WOLFE: Okay.

Thank you very much. And keep up the work.

MR. WEINER: Thank you.

ASSEMBLYMAN WOLFE: Mr. Chairman, Happy Kwanza, holiday, Christmas, Hanukah.

I'm leaving.

Thank you.

SENATOR RICE: Thank you.

Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Thank you, Senator.

I appreciate you bringing up the Irvington field. Actually, Scott Weiner and I took a walk through that field last year, I think, about this time, or probably a little over a year ago. And it's certainly an issue that we need to address.

The issue of affirmative action, the issue of even the work -- the diversity of the SCC's workforce -- is something that we should all be mindful of, throughout State government -- the diversity of our workforce amongst several of our departments and certainly our authorities. Assemblyman Payne often brings that up in the budget deliberations -- that it's something-- The workforce ought to reflect the diversity of the state. It ought to, and we ought to certainly have that as a goal.

There's a particular issue-- I'll get a little parochial, even though I don't necessarily -- I don't think this is the greatest place for that. But there is an issue with projects that perhaps are completed but have things that need to be done. I forget how you phrase that. (laughter)

MR. WEINER: It's a punch list.

ASSEMBLYMAN STANLEY: Punch list.

And I know that we've got a few projects that came on line. So I'd like to know how do we work -- how do we prioritize that punch list, and how quickly do we address those things?

The other thing is something that's probably a little more disconcerting, and that is: I was really surprised to learn that what was on line to be an elementary school for -- and then converted to an early childhood facility-- A decision had been made, and I don't know how that transpired. But evidently the decision was made to make that an early childhood facility as opposed to an elementary school. And we had a

number of private providers that were being utilized for early childhood education. And they were-- And I guess as a result of that, they were no longer necessarily needed. But we now have an issue with utilizing some space that we really thought we were taking offline. And I'd like you to just comment on those kinds of things.

MR. WEINER: Sure.

ASSEMBLYMAN STANLEY: Thank you.

MR. WEINER: Unfortunately, I don't have a good answer for the second question, because the classification of a school, the utilization of a school, is way outside of our area. And that would be something that the local district and DOE would be determining. So I can't even begin to address that.

On the issue of the punch list: To try to humanize this a little bit, anybody that's ever done a construction project of your house with an outside contractor is probably familiar with a punch list. I'm finding that the experience I had as a homeowner, where I had a little addition done, is no different than when we're trying to develop schools. A contractor's enthusiasm often wanes as you get to the end of the project. And their ability to come and close stuff out wanes. Now, sometimes it's a recalcitrant contractor. And sometimes, frankly, it's been poor management oversight on our part. We haven't been doing a good enough job to manage the end of the project.

We have started an initiative looking at what we call *project closeout*. How do you get a project done? Unfortunately, I don't think we have-- We have one project that has been totally closed out. All the paperwork is done, everything is complete, nobody -- everybody is happy.

It would be a lot. So one of the things you're going to see popping up in the next report is project closeout and that initiative.

So where there's been a problem-- In the issues, for example, in Irvington, what we're doing now -- and we have in some other districts -- is, we're putting more senior management on it. We're working hand in hand with our project management staff in working directly with the districts. And it's not a complicated thing. I mean, Jerry and I visited a school just this week where this is a problem; and we noted both to our field staff, as well as the principal of the school. But it's our responsibility to sit down with the principal and make a list of every little thing. And we-- Nobody goes home and sees their family until there's a checkmark on that list. It's that simple. There has to be a plan. And that checklist has to be managed as tightly as we manage the big construction project. People are entitled to expectations of when it's going to be done. And when it's not done, there has to be some accountability.

Sometimes we encounter districts who believe that work should be part of our project, when it's really not. It's a gray area between maintenance and our work. Again, there hasn't been a time where we, as an institution, haven't sat down with the district and been able to work it out amicably. And, unfortunately, the problems have occurred through a lack of oversight or management.

So we're aware of that problem, we're attending to it. I would say, if any of you get any calls from superintendents in your districts talking about just the annoying, nagging problem of getting these punch list items done -- getting the tiles finished on the ceiling, getting the painting done --

to call us immediately. And we will get people on it, and you'll see some change within a day or two.

ASSEMBLYMAN STANLEY: Just two other quick issues: One is with respect to training and, perhaps-- And at one point, we talked about how this program ought to be a way to not just build schools, but to leverage the dollars and the opportunities that building schools afford -- to help with the redevelopment efforts in the actual municipalities in which these schools reside.

And I think the Assemblywoman's issue, with respect to wanting to see construction -- some type of construction curriculum-- I think that you gentlemen are very well-positioned to help facilitate something like that, or at least participate in those discussions. Because we have kids in schools that certainly could benefit from taking part in these -- in the building of these facilities. And it's just a tremendous opportunity.

The second thing -- and I -- you could comment on that if you'd like.

The second issue -- I usually do two at a time. (laughter) The second issue is with respect to green schools and with the energy costs being what they are. Perhaps we should make a higher priority on our taking advantage of energy-efficient models and green schools. Because our return on investment is going to be a lot better.

MR. WEINER: Amen. And that states, much better than I did, the goal of the design manual. Every school that's built to the design manual standards is going to be considered-- It's called a *high-performance school*. And depending on whether you look at LEED criteria, or other criteria, it would be meeting those criteria. And the issue of high-efficiency

heating and cooling systems brings -- right into the -- smack into the area of lifecycle analysis and first-cost analysis. So we are doing that. And architects now are required to come up with alternative plans that test the long-term lifecycle of maintaining a school.

ASSEMBLYMAN STANLEY: I noticed that the Neptune -- I believe it was in Neptune.

MR. WEINER: Yes.

ASSEMBLYMAN STANLEY: That school was an exceptional project. And I think it's a little bit the exception rather than the rule of how we go about getting these projects in the pipeline. But maybe you could comment on how that--

MR. WEINER: Yes, that's true for, I would say, the existing -- or the preexisting inventory of designs. There are others like it, but it's more the exception to the rule. With the new design manual adopted in July of this year, all schools that are designed subsequently -- from now on-- Unfortunately, we're not designing schools now. But all schools that are designed will be similar in that they'll be high-performance schools, and they will incorporate all those planning techniques and design techniques.

ASSEMBLYMAN STANLEY: Excellent.

Any comment on my initial question with respect to how we leverage the school construction projects that we have?

MR. WEINER: In terms of curriculum?

ASSEMBLYMAN STANLEY: In terms of curriculum and in terms of educational opportunities.

MR. WEINER: Not offhand, no.

ASSEMBLYMAN STANLEY: Okay.

MR. WEINER: We'll go to any meeting anybody wants us to go to. What I'd like to do is concentrate on how do we take the program -- going to another point that you made -- and really turn it into a community investment program. And that's something we can do. And I think the initiatives Jerry talked about aim at doing that.

ASSEMBLYMAN STANLEY: Thank you.

SENATOR RICE: Next, we're going to have Assemblyman Vas, then we're going to have Assemblywoman Evans, then we're going to have Assemblywoman Voss.

ASSEMBLYMAN VAS: Mr. Weiner, thank you for your very informative report. I want to ask a question that's sort of off-topic and maybe not addressed in your report. But I think it's relevant, again, in light of the fact that we are in the midst of talking about a school funding formula and hopefully getting ready to resume school construction in New Jersey, which-- Despite some of the horror stories that were published in the newspapers and accentuated by some of our Republican colleagues in the Legislature, I still believe that the Schools Construction Corporation served a very valuable purpose in New Jersey, and that there are a lot of successes that could be enunciated. And perhaps we should talk a bit about that at some point again.

But hopefully we're going to be resuming school construction in New Jersey. And unfortunately, there are a number of projects -- outstanding projects that were, to coin a metaphor -- a sports metaphor -- "We're teed up and ready to go" -- because of the unavailability of funding, are in the closet and need to be dusted off at some point and get ready to be put back into action.

Is there any hope that there are any funds under the original \$8.6 billion that, through the efficiencies that you brought forth, could be unencumbered and be utilized to resurrect either land acquisition, or resume some rehabilitation or construction in some of the school districts? And could you quantify, if so, what kind of dollars are we talking about? Because we always talk about school construction in terms of the billions. And in reality, a lot of these projects are in the millions. And millions of dollars in some communities can make a tremendous impact in relieving some of the overcrowded conditions.

And again, I don't want to be parochial-- My own hometown of Perth Amboy-- We now have classroom trailers outside our high school. Our high school was built 35 years ago. My high school class was the first class to graduate from there. And it was designed for a capacity of somewhere between 1,300 and 1,600. And it now has about 2,500 students in the classroom. That's a dangerous situation. There was a plan to acquire some property. It's a public body, where the property was going to be purchased -- public housing authority. And they're sort of in limbo about what to do with over 256 units of public housing that would serve, again, a needy community of people.

So any amount of money that could be rendered available through efficiencies is going to create some benefit. And maybe you could address that point.

MR. WEINER: Sure. I'd be happy to.

Looking at the total universe of the original \$8.6 billion authorization -- in round numbers, \$2.6 billion went to the non-Abbott program: a hundred thousand to vocational schools, \$2.5 billion to regular

operating districts. For all intents and purposes, that money is committed, those grants have been issued, and the money is gone. And the only qualification is, we launched an initiative during the past year to contact regular operating districts, who were grant awardees that we hadn't heard from in a while, to make sure that their projects were really going forward. And, if not, that we could retire those grants and make that -- those moneys available, potentially, for other grants.

What we found out was that almost all -- for all intents and purposes -- all of them were legitimately going forward. Some had been delayed. But at least now we have our arms, during the course of the year, around those total dollars. So assume that none of that money is available for your operating districts.

For the Abbott districts, there were two major contractions from the expectations, no matter how realistic, that have been created over the years. The first was in July of 2005, when the first capital plan was adopted. This was when the implosion occurred -- that we're all familiar with. And then a List of 59 projects was identified, stranding about 300-plus-or-minus other projects.

Then, in April of this year, because of the problem -- that was a ticking time bomb -- that was embedded at the time of July of 2005 -- was, there was never enough money to finish all 59 projects. But the reality was, nobody knew it. We first kind of discovered this in the first quarter of 2006. In the absence of additional funding, we had to take the unfortunate step of curtailing some of those projects or deferring them. So there are 27 projects that will be complete up to design but not construction.

Now, we currently have an active construction program that runs plus-or-minus a billion dollars a year of work in progress. So I just want to make the point that we are developing schools. Twenty-four schools will be developed in 2008. If no new money in the Abbott program was appropriated, we would be continuing to do work, albeit at a reduced level, in 2009 and 2010. And by the end of 2010, we'd run out of money, all the current work would be done, and all those projects would remain stranded.

When we adopted the deferral plan, we established a reserve of approximately \$155 million. And that reserve was for emergent projects, as I mentioned before, and other unforeseen events. And \$155 million is a lot of money. On the other hand, having lived through the legacy of the predecessor program, two or three bad decisions that would become uncovered could eat through a lot of that money. So the board of the Authority is waiting to see what happens with the prospect of new funding. Because we currently have over \$700 million of work to be done on projects that were deferred back in April. So when new money becomes available, we will take -- we will reinvigorate an appropriate reserve, given the nature of the amount of work we're doing, and start working on those projects.

So that's a very complicated lead-in -- a long-winded lead-in to the answer of that question, which is, no. We have sufficient funds to address emergencies that occur, and we anticipate that there will be new funding. What the structure of it will be, when it will come is anybody's guess. In the mean time, we're maintaining that reserve.

I think once we're certain that the money is authorized, then we'll take that reserve and begin deploying it to projects in the queue. But

there is no substitute for a new authorization to have meaningful work done.

ASSEMBLYMAN STANLEY: Anyone else have any--  
Assemblywoman Evans.

ASSEMBLYWOMAN EVANS: Thank you.

An observation -- and I think it's a serious question.

In the city of Paterson, they're building another high school -- a new high school. But the school is being built under Route 80. And my concern is the health and safety issue there. I don't know if you were on board when that came about.

MR. WEINER: Well, I wasn't on the board when it came about -- when it was designed. But I'm familiar with it. I've been to the construction site. I was there at the groundbreaking and the topping-off. And I'm aware that we've had a couple incidences of debris falling off of Route 80 onto the school property -- potential school property.

We have been in touch with the Department of Transportation, and we are working with the Department of Transportation to have a fence built. So I can't comment on the original design criteria. But I can tell you that we're now working to figure out the solution. We are building a fence, and it will be maintained by DOT, and DOT is confident that that will solve the problem.

ASSEMBLYWOMAN EVANS: Well, also, the quality of the air-- Because, I mean, for everyone that's going to be housed in there all day long -- with the cars-- I mean, it's literally driving over top of these people's heads all day long. And I see it as a serious health issue. It's

probably, I guess, too late now to change that. But there's some serious concern that I have about the health--

MR. WEINER: Well, it's certainly too late to redesign the building. But it is never too late, nor could it ever be too late, to address health issues that arise. So the starting point is, I don't want to diminish your concern at all. But schools in high-density, urban areas adjacent to highways is not new at all.

What will happen, with the cooperation of the Department of Health, is we will take a look at the air quality inside the school. If it turns out that there is a concern, then appropriate remedial action will have to be taken. But I'm confident that all the reviewing authorities believe that -- not withstanding the traffic that will go by on that road every day -- that it will not cause an indoor air quality problem. It's saying that the district air monitor will be working with them. And if it requires some additional fixes, or some additional remedial activity, we'll certainly be there to implement that.

ASSEMBLYWOMAN EVANS: Okay. Thank you.

SENATOR RICE: Assemblywoman.

ASSEMBLYWOMAN VOSS: Just a brief thing: I'm sure everybody here has read Inspector General Mary Jane Cooper's report on the SCC, which is really, really something.

And I've been in many schools where there was slipshod work done, toxic soil, the price of the land escalated, and things of this sort. And in the course of your comments, you made mention of the fact that you were trying to recoup some of these funds. Now, when I questioned the Inspector General, she said that it had been very, very difficult to recoup

anything, because there was very little accountability and there was no transparency. But you seem to intimate that it's possible to get money back. And I'm very interested in recouping some of this, because these people should be punished for what they--

MR. WEINER: Yes. I mean, there are different elements. And the Inspector General's report of early 2005 that you're referring to identified a wide range of problems. Some of those problems are just completely unrecoverable. Some of them are what Barry and I refer to as *institutionalized*. They were a result of bad contracts that were entered into. That's why I couldn't answer that question of what percentage do I think is recoverable. Because there are some that are simply not recoverable, for one reason or another. But there is work that is recoverable.

So, for example, during our era of responsibility, where we have a-- We are asserting -- and much to the chagrin of the general contractor community -- liquidated damages, which we have a contract right to, against contractors who were delinquent in delivering a building. Now, this opens up very legitimate questions of whose fault was the delay. But it was, if not the policy, the practice of our predecessors never to assert those claims. We're asserting those claims. Sometimes we assert them affirmatively as liquidated damage claims. Sometimes contractors have legitimate complaints about delay. And they'll come in and say, "We're entitled to so much more money," and we'll say, "Well, that's interesting. We think we're entitled to all these things." And then we enter into negotiations. Sometimes we have to litigate.

ASSEMBLYWOMAN VOSS: That was my next question: Will the litigation be as costly as what we can recoup? That's a big concern, I think.

MR. WEINER: Well, hopefully that will never be the case. Because unfortunately-- As you know, I still have a little lawyer DNA in me. And one of the most frustrating things about our society is that people can have rights but no remedies. And one of the evaluations we do is: Does it make sense for us to pursue every claim we have? And sometimes the answer is no, it's just not. But we look for the right cases, and we pursue them.

So I don't want to leave the impression that we're going to be able to recover all the costs that slipped away in the early years of the program. But I want to give you assurance of, where we can, we are. And in the future, we're being vigilant with the money, because it's all of our money.

SENATOR RICE: Thank you.

A couple of questions, and we're going to wrap up.

First of all, let me -- it's not a question.

Under the HOPE VI program of the Federal government -- that's the housing program -- there's what is known as the Section 3 clause. Would you pull that data and look at it, in terms of school construction? What the clause basically states is that within the Section 3 area -- and that's where the project is, and then it waves itself out -- that a priority be given to local businesses, and residents, and people where feasible. What that means is, if Kaslander Lumber, for example, in Newark can supply, at a

reasonable cost -- competitively -- the amount of lumber you need, then they should be given an opportunity.

MR. WEINER: Yes.

SENATOR RICE: If not, then you go to Woodhaven, or someplace else.

And as a result of that, we'll grow the small businesses in those areas who hire local people, hopefully -- we can insist on that. By the same token, we help continue to grow the urban enterprise zones that some of them are located in. Now, I can tell you from experience, warranting and dealing with contractors, some of them are doing school construction. Even when they build public housing in cities like Newark, they claim they can't find anybody to provide windows. That's not true. Royal Aluminum provides windows. They're a union shop. They may not provide the windows you want, but someone should talk to them, because maybe they could change what they do.

And what happens is that, from my experience -- personal experience and observation, which I can document -- the reason on that housing side -- I don't want school construction to be the same way -- that the local business is not enjoying some of this economic opportunity, if you will, that trickles down to local residents -- and to local government, by the way, when they pay tax and stuff like that -- is because the old-boy network continues to build, say, in a Camden or Newark, but then it buys supplies from *cousin Joe* -- that we don't know it's cousin Joe -- or an in-law in Roseland or someplace. And that's also a reason a lot of my colleagues don't like to work these kinds of clauses in the legislation that we try to do.

Now, I respect that. But to me, it doesn't make any sense for any legislator not to see the little hardware store on the corner grow, if it's possible. And so you need to look at that, in terms of how that can be worked in; and ought to, where it's feasible. If I can't give you 500 t-shirts in a day, and that's what you need, then I have to go someplace else. But I may be able to get you 100.

You see, it's things like that that I believe is really hurting minority and local government -- local businesses' participation. And so we need to be serious about that so that we don't have to handle some of these "contractors" and people who are winning these awards, or getting these jobs a little differently. Because I'll put them under the microscope. There is no use in me lying about that. They put everybody else under the microscope.

But from a question perspective-- You had spoken about the charter, and you did a good job -- I wasn't able to write them all down -- of the questions that that charter is really asking, that need to be answered. Could you forward to the staff -- and they'll get it to us -- that whole list of questions, the path you're traveling, and all this?

MR. WEINER: Yes. In fact, before we leave, we have a set to give to Melanie.

SENATOR RICE: Okay. Good.

The other question is: Can we take a look at school construction-- Now, when I say take a look, you may be talking about another 10 percent increase in cost -- maybe something less. But I'm starting to get concerns from contractors and others-- And they're not complaining, because they're making money. They don't care what you do.

But I like the ones that at least bring to your attention that maybe some of these schools are not going to last. And the expectations we have -- because we can't go through this in the next 20, 30 years -- you know, we look for schools to last a little longer. We don't want them staying 100 years, but we'd like to know that if we have to stay 100 that they'll last. But we may not be doing enough masonry inside, maybe too much sheetrock. So we need to take a look at that to see if, in fact, there is a need to reassess--

MR. WEINER: Sure.

SENATOR RICE: --not the design, but construction materials used on the school--

MR. WEINER: Yes.

SENATOR RICE: --before we get really out here with this budget piece.

MR. WEINER: I'm familiar with that issue. And we'll give you some information on it.

SENATOR RICE: Right. Because I hate to go into a pretty school and lean on the sheetrock and it goes in. And I've got to keep repairing sheetrock, and repairing sheetrock.

MR. WEINER: No, I understand.

SENATOR RICE: Okay. You all thought I wasn't checking on this stuff, huh?

That's your durability issue. Because in your report you said durability, right?

MR. WEINER: That's durability.

SENATOR RICE: All right.

The other issue you raise -- and I need some clarity on it. You talk about the need for funding. And we spoke about the \$13 billion. But you also indicate the statistics did not account for the received debt-service aid. Could you elaborate on that a little bit more?

MR. WEINER: I'm not sure.

SENATOR RICE: That's on Page 30 of your report.

MR. WEINER: Okay. Give me one minute, and I'll be able to elaborate.

SENATOR RICE: I read the report too.

MR. WEINER: I think what you may be talking about is the first paragraph.

SENATOR RICE: It's like the second -- Page 30 in the report, and it's like the second paragraph -- in the suburban districts.

MR. WEINER: Well, we try and make a couple points out of this. One is that, of course, as you mentioned, and Assemblyman Stanley has always mentioned, the school construction program is not an Abbott district program, it's a statewide program to support the construction of facilities.

With respect to suburban-- Well, first -- in the first paragraph -- for those people that don't have the report -- we try to estimate-- Because everybody asks this question: What's the total need in the Abbott districts? And the answer is: We don't know. The reason we don't know is, the long-range facility planning is not done. The last time anybody did an estimate was this time two years ago, January of 2006. That was the \$13 billion number. The only thing we all know for sure is that number is wrong. And when that number was published and repeated here, that number was

speculative. So we know it's wrong. And we anticipate that when all the long-range facility planning is done, we'll be able to come up with a more realistic estimate, based upon that -- what we now call the *Abbott program*.

So the second paragraph was merely meant to say that not only is it more than \$13 billion for the Abbott districts, that doesn't even account for the need -- in terms of State share -- for the non-Abbott districts, what we call *regular operating* districts. And that second paragraph merely would say we don't know what that number is. There is a debt service component that the State now does. But that's saying that -- you and your colleagues will be wrestling with, one day, hopefully in a funding bill.

SENATOR RICE: All right. So we're talking about the State overall debt service for getting the school construction dollars, such as the \$13 billion?

MR. WEINER: No, this is talking about debt--

SENATOR RICE: Or are we talking about the local share? In other words, you're talking about the school districts that actually get up to 40 percent from the State? And then they have to do their own thing on the other side? Or are we talking about that piece of debt service that they have?

MR. WEINER: All this is saying is that the statistics that we gave in the paragraph don't account for any need in suburban districts. Where, as of now, the districts since July 2005 -- regular operating suburban districts -- had to-- Their own option was to receive debt-service aid. There was no more grant aid.

SENATOR RICE: Right.

MR. WEINER: So we're not estimating what the new grant aid might look like, if there was going to be new grant aid.

SENATOR RICE: Well, any questions from my colleagues?  
(no response)

Let me, once again, thank you very much. And I concur with my colleagues. I just think, personally, for the record, you and your staff, your team, have done an excellent job. I'm not as critical of the old SCC as most people, in terms of some of its leadership. I'm more critical of the administration for not giving a little bit more (indiscernible) administration direction and letting the State loose, when some of the leadership of the past in your position were asking for help. I remember that.

And I also know that dollars were wasted, based on all the reports. And we have to move away from that and figure out how to get dollars to clean it up. Because my colleagues will argue about SCC, and they want everybody in jail from the past. And that's fine. And I'm not saying they shouldn't be if something was wrong. But they will never support us when we argue \$70 million was taken out of the city of Newark when the State took over that district. They didn't want anybody in jail. They didn't want anybody investigated.

And so we just need to move forward. Where we can recoup, we encourage that. We encourage you to be regimented about it. But we need to move forward. And my colleagues need to find a mechanism, working with the administration, to get you the \$13 billion at least to keep these programs moving. Because every day delayed is a day of added cost to what we have to do into the future.

So I want to thank you very much for the job you're doing.

MR. WEINER: Thank you.

SENATOR RICE: We're going to be speaking to you during the new session periodically.

But as I said at the beginning, for the public, we're going to spend a little bit more time with the Department of Education and hear from the Commissioner. Because I think there's some confusion over there relating to a lot of things. And I don't want that to be a barrier to the economic development aspect as it relates to these school districts.

But if you could check on the affirmative action-- Let's tighten that up. If need be, call your labor people in, tell them I said we need some help. They're going to tell you they don't care that much for me anyway. Call in the business people. They're going to probably say they don't care that much.

I don't care. I want to help them. But it's a two-way street. They're going to help the people that live in these cities. We're not going to stay on the corner, gang-banging. We're not going to talk about reentry and trying to help folks not do recidivism, when there are some opportunities there that we're not sharing in. And these are taxpayers' dollars statewide.

And so I have no problem meeting with you, and anyone else that you have to talk to that may be giving you a hard time or becoming a barrier to your conversations of bringing fairness into the system. And I will be around for the next four years, thanks to the voters and the good Lord. (laughter)

MR. WEINER: We look forward to it.

SENATOR RICE: God bless you. Have a good holiday.

MR. WEINER: Thank you. You, too.

MR. MURPHY: Thank you.

SENATOR RICE: Meeting adjourned.

**(MEETING CONCLUDED)**