

---

---

# *Committee Meeting*

of

## JOINT COMMITTEE ON THE PUBLIC SCHOOLS

*"Scott Weiner, Transitional CEO of the Schools Construction Corporation and Barry Zubrow, Chairman, New Jersey Schools Construction Corporation will brief the Committee on pertinent issues as well as the Interagency Working Group's latest report"*

---

---

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

**DATE:** May 25, 2006  
10:00 a.m.

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

Senator Ronald L. Rice, Co-Chair  
Assemblyman Craig A. Stanley, Co-Chair  
Senator Raymond J. Lesniak  
Senator Martha W. Bark  
Senator Thomas H. Kean Jr.  
Assemblywoman Joan M. Voss  
Assemblyman Bill Baroni  
Assemblywoman Jennifer Beck



### **ALSO PRESENT:**

Melanie M. Schulz  
*Executive Director*

Sharon Benesta  
*Chief of Staff*

*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>
Barry L. Zubrow Chairman Board of Directors New Jersey Schools Construction Corporation	6
Scott Weiner Transitional CEO New Jersey Schools Construction Corporation, and Special Counsel to Governor Jon S. Corzine School Construction, and Chair Interagency Working Group on School Construction	6
Gordon A. MacInnes Assistant Commissioner Division of Abbott Implementation New Jersey Department of Education	65
<b>APPENDIX:</b>	
Testimony submitted by Barry L. Zubrow	1x
Testimony plus Chart submitted by Scott Weiner	4x
NJCPSA Policy Brief submitted by Mary Jo Kapalko President New Jersey Charter Public Schools Association	9x
Testimony submitted by Mary T. Stansky, Ed.D. Superintendent of Schools Gloucester City Public Schools	12x

## **TABLE OF CONTENTS (continued)**

### **APPENDIX (continued):**

	<b><u>Page</u></b>
Testimony submitted by Lorraine Cooke, Ed.D. Executive Director Egenolf Early Childhood Center	15x
lmb: 1-44	
rs: 45-96	

**SENATOR RONALD L. RICE (Chair):** Good morning. We're going to start our meeting. And we have to, under the statute of reorganization this morning-- We have a quorum here, but I want a roll call first.

MS. SCHULZ (Executive Director): Senator Bark.

SENATOR BARK: Here.

MS. SCHULZ: Senator Kean.

SENATOR KEAN: Here.

MS. SCHULZ: Senator Lesniak.

SENATOR LESNIAK: Yes.

MS. SCHULZ: Senator Rice.

SENATOR RICE: Yes.

MS. SCHULZ: Assemblyman Baroni.

ASSEMBLYMAN BARONI: Yes.

MS. SCHULZ: Assemblywoman Beck.

ASSEMBLYWOMAN BECK: Yes.

MS. SCHULZ: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

MS. SCHULZ: Assemblywoman Voss.

ASSEMBLYWOMAN VOSS: Yes.

MS. SCHULZ: You have eight members. You have a quorum.

SENATOR RICE: Yes.

Assemblypersons, Chairs, I'm calling-- We had some discussion, informally, about reorganization and structure, and-- Okay.

Excuse me? Do we need to go in the back?

ASSEMBLYMAN BARONI: Mr. Chairman, I think-- If I could suggest, why don't we take a brief recess.

SENATOR RICE: Okay. Give us a moment, okay?

## RECESS

### AFTER RECESS:

SENATOR RONALD L. RICE: (Co-Chair) Okay. For the purpose of reorganization--

First of all, we did a roll call?

MS. SCHULZ: We did a roll call. We have a quorum.

SENATOR RICE: Okay. We have to, by statute, reorganize this Committee. And I'm asking the Committee members to consider Co-Chairs for the Joint Committee leadership -- and that's myself and Assemblyman Craig Stanley -- and to also retain the Committee structure we have in place, with the co-chairs and the members assigned.

Anyone opposed to that recommendation? (no response)

SENATOR LESNIAK: I'll make that motion.

ASSEMBLYMAN BARONI: Second.

SENATOR RICE: Seconded.

All in favor? (ayes respond)

Any nays? (no response)

So be it -- affirmation.

Okay. Good morning.

Now it's time to do some real business.

First of all, I want to welcome two new members to the Committee. Actually, it's three, but one is not new; she's been here on the Committee; she's just permanently assigned -- as is Assemblyman Vas. We also have with us our good friend and colleague, one of the senior Democrats in the State -- it's not age, it's tenure -- that's Senator Lesniak. We also have with us Assemblywoman Jennifer Beck. And so we shall be real good, working -- hopefully Summer -- with these subcommittees and the people on them and some accountability.

I also know there's been a lot of changes within the structure of the SCC, the Governor's Office with the transition -- a lot of concerns raised -- and I know we've been pulling things on the line to get more accountability, more substantial management in place with some coordination. But we're going to be hearing from you this morning. We're going to have discussions about accountability to this Committee and some time frames.

But before we do that, I want to give all the members, since we're just getting back together, an opportunity to say hello to you and each other. Why don't we start--

SENATOR LESNIAK: Why don't you start with your Co-Chair?

SENATOR RICE: --over here with the Co-Chair, and then bring it around, and come back over here.

**ASSEMBLYMAN CRAIG A. STANLEY (Co-Chair):** Thank you, Mr. Chairman.

First, let me just commend the Senator. This is a -- and I don't take this lightly -- the fact that we will be having Co-Chairs for this two-year

cycle, because-- First of all, this is a bipartisan Committee. It's a Joint Committee, it's a bipartisan. Both Houses are involved with it. So that makes it a very distinct body in the Legislature. The fact that you have the Assembly and the Senate together -- and there was a real problem a few years ago when the Senate always had the Chair. And so, as an agreement with Senator Rice today, we're going to have Co-Chairs, with the Assembly having a Chair and the Senate having a Chair, working together side by side, in order to make sure that we move the process forward.

I expect that we will be having more meetings for the Joint Committee, not less. I think the full Committee will meet more, because the issues facing the education in our state are greater than ever before. We're faced with issues of property tax reform. These things will not get done. The Joint Committee on the Public Schools was the first Committee to deal with education funding and costing out the -- the cost of a Thorough and Efficient education.

And I think, Mr. Chairman, this is something that we will certainly take on in the near future. But again, I thank all my colleagues for your support. I thank Senator Rice, who is my running mate -- he is my Senator -- for his support. And with that, we'll move on to our next legislator.

Assemblywoman Beck.

ASSEMBLYWOMAN BECK: Thank you, Chairman -- both Chairmen. (laughter)

I'm certainly honored to be on this Committee. I think there is no more pressing issue than the funding of our education and of the school construction. I know that, through the course of the Fall and the campaign,

that clearly -- that was an issue that people talked about. It's the largest driver for property taxes. Indeed, without reforming how we fund education and how we fund school construction, there's no way to reform the property taxes. So I am looking forward to the work that this Committee will be doing over the next several months. I'm committed to putting my energy into real reform, and I look forward to working with all my colleagues.

Thank you.

SENATOR RICE: Okay.

Assemblyman.

ASSEMBLYMAN BARONI: Thank you, Mr. Chairman, Mr. Chairman.

The Joint Committee on the Public Schools, in the two years that I had the opportunity to serve on it, and of course the Education Committee with my Assemblyman, Chairman Stanley -- it has been the Joint Committee on the Public Schools that has, time and again, focused attention on the issues of school construction in New Jersey. We have been through cycle after cycle, and conversation after conversation with a series of leaders that has gotten us, now, to where we are today. And I'm grateful that the Chairs of our first meeting of the year will address the most pressing issue. And as I have said before, it is the school construction debacle that has placed us in a situation that I have called, and others, the *single greatest fraud* on the taxpayers, students, and people in the history of New Jersey.

And I'm grateful to see Commissioner Weiner, Mr. Zubrow, who are here, whose reputations are outstanding. And I'm grateful for you

being here at our first meeting. We desperately need to fix this, because the Schools Construction project has lost the confidence of the people of New Jersey, and quite frankly, lost the confidence of the members of the Legislature. You two gentlemen have confidence brimming, and in your previous -- and we're certainly hopeful that you will bring that leadership to the Schools Construction Corporation. We desperately need it. And I'm grateful that you've taken the time to be here.

In some ways, you two are like the new branch managers on a bank that got completely robbed, and they brought you all in to fix out what happened. (laughter) And we're here to make sure you get the new combination to a brand-new safe, to make sure it doesn't get robbed again.

And thank you for being here today.

**BARRY L. ZUBROW:** Thank you.

**SCOTT WEINER:** Thank you.

**ASSEMBLYWOMAN VOSS:** I'm very proud to be working with our two Chairmen. I've been working with Craig on the Education Committee for the last three years. I'm a life-long educator. I've worked in every aspect of education from the classroom to administration. And so the workings of this Committee are extremely important to me.

I'm most interested in, of course, doing something to correct what has happened with the Schools Construction Corporation. And I'm very happy to say that I have known Scott Weiner since he was a young lad in one of my classes, and I know that he's going to do-- (laughter)

**MR. WEINER:** I have my homework today, Ms. Voss.

**MR. ZUBROW:** He's still young.

ASSEMBLYWOMAN VOSS: And I know that he is going to do wonderful things for the Schools Construction Corporation, along with Mr. Zubrow.

I personally am very interested in the Abbott districts. It is a great concern of mine. And I'm very concerned about the school districts that have been impacted by 1701. And so I'm looking forward to the work of this Committee and all of the members.

So thank you very much.

SENATOR RICE: Senator Lesniak.

SENATOR LESNIAK: Thank you, Chairmen.

First of all, I want to congratulate the Co-Chairs and tell a story of how, when I was a Chairman of the Assembly Environment Committee -- Senator Kean's father was the Governor -- I formed a Joint Committee on the Environment, and I expected to be Chairman of that Committee. And Senator Orechio grabbed me and said, "Son, there's never been an Assemblyman chairman of any Joint Committee, and you ain't going to be the first." (laughter)

So, Co-Chair Stanley, congratulations.

I want to welcome Scott Weiner. The last time I saw you, your hair was not quite as gray. Is it because of your short tenure as Executive Director?

MR. WEINER: No. It's thinner because of that. It turned gray a few years ago.

SENATOR LESNIAK: Barry was a great problem solver. I've worked with him closely in his real life at Goldman Sachs. Congratulations on -- your expertise is well-needed here.

I asked Senator Codey to appoint me to this Committee because of my frustration over waste, fraud, and mismanagement and corruption, quite frankly, and the spending of billions of dollars of school dollars. I believe there are many UMDNJs, or massive UMDNJs, throughout this state. With the state of our budget, if we don't correct these problems -- and they exist both in Abbott districts and non-Abbott districts -- but we have the problem of State tax dollars in the billions of dollars with very, very little accountability. I've asked the Co-Chairs to appoint me to the School Intervention Committee to expand the powers of -- in what way, because we have to get a handle on this. Our taxpayers are hurting, but most importantly our children are hurting, as well. So that's the reason why I'm on this Committee. I'm looking forward to serving with you all.

Thank you.

SENATOR KEAN: Thank you, Mr. Chairman. Thank you, Mr. Chairman. (laughter)

It's good to be back on this Committee. I think we were all dismayed when we saw the unfolding waste of taxpayer dollars over the last several years associated with the SCC. I look forward to ensuring that we have strong oversight, as the base of this Committee, immediately and going forward. I look forward to working with you, jointly, to ensure that we have the type of oversight that the taxpayers of this State both demand and deserve. And I look forward to continuing to be a very strong part of this Committee.

Thank you.

SENATOR BARK: Good morning, Mr. Chairmans. Is that correct? No. It's Chairmen, isn't it? Not with an S. (laughter) I was afraid you might correct me. (laughter)

It's certainly a pleasure to be back here in some ways, because there is a great deal of business to take care of in the way of education. Education is extremely important, and we have to do it right. And we have to do it right for two reasons: children and taxpayers. And so I'm delighted to be here, and I certainly look forward to what you're going to present this morning to us, because this is where we start.

Thank you, Mr. Chairmen.

SENATOR RICE: You're welcome.

Okay. Why don't we have Mr. Scott Weiner -- to give us a presentation. We need to know where we are, where we have come from, and where you think we're going so we can, maybe, help you get there by telling you where we should be going. (laughter) Okay?

MR. WEINER: Go ahead.

MR. ZUBROW: Okay. Very good. I think, if it's okay, Mr. Co-Chairman, I will open up the remarks this morning. And Mr. Co-Chairman and Mr. Co-Chairman, I want to thank you and the other Committee members for inviting us here today to share with you our initial efforts to bring much-needed reform to the Schools Construction program.

I am Barry Zubrow, Chairman of the Board of Directors of the Schools Construction Corporation. I'll focus my remarks this morning on the important steps that we have taken to improve the corporate governance, the management, accountability, and transparency of the Corporation. I'll then turn it over to my colleague, Scott Weiner, who is

serving as Special Counsel to Governor Corzine; and Chairman of the Interagency Working Group, examining all aspects of the Schools Construction program; as well as now serving as transitional CEO of the SCC. Scott will talk about the Working Group's most recent report, and the numerous efforts underway to work more closely with each of the school districts in order to prioritize existing and needed projects, as well as the management efforts to deliver those much-needed schools to our children.

By way of background, I spent most of my career at Goldman Sachs, working with companies to solve their strategic problems; as well as serving as the firm's chief credit officer, chief administrative officer, and chairman or co-chairman of a number of important committees, including the risk committee, the credit committee, and the property committee. I currently serve on a number of public and private corporate boards, as well as Chairman of the Board of Managers of Haverford College.

I was honored when Governor Corzine asked me to serve as Chairman of the Schools Construction Corporation, accepting his charge to focus on cleaning up the mess that had been created at the Corporation. The Governor has made it clear that this is a critical priority of his administration, and I intend to utilize my prior experiences to bring the type of management, and accountability, and program execution that all of us have a right to expect of a public works program of this size.

Since becoming Chairman in early February, I have been surprised by the depth of the problems at the SCC. Simply stated, the execution of much of the work by the SCC, going back a number of years, has been plagued by a lack of strategy, poor management, and failure to put

in place basic controls and reporting systems that would have allowed it to execute its responsibilities properly. I'm not going to dwell upon what went wrong. Others have studied and documented different aspects of the problems that we inherited. Rather, let me outline some of the initial steps that we have been putting into place to stabilize the situation and create a foundation for proper execution in the future.

First and foremost, the SCC has been drastically in need of strong management with clear lines of accountability and transparency. There has not been the requisite leadership across the organization to effectively manage the complexity of projects and issues the Corporation faces on a daily basis. We are extremely fortunate that Scott Weiner has agreed to serve as Transitional CEO, bringing his considerable executive background and skills to the Corporation. The Board has engaged the services of an outside executive search firm to seek a permanent CEO who will have the breadth of management skills, experiences, and talents to run this enterprise. We are at the very early stages of that search, but I remain optimistic that we will identify candidates who can help us continue down the path of reform that we are already on. Out of this process, we are also hopeful of identifying qualified candidates to fill the roll of chief financial officer.

We have worked to immediately improve a number of other critical senior management functions. We have hired a senior counsel to serve as the Corporation's chief legal officer. He comes to us with many years of excellent, practical experience in construction and land acquisition law. His oversight and review of these critical areas for the Corporation will be extremely important to allow us to clean up many of the messes that

have been created in the past. Abuses and missteps in land acquisition, contract administration, and contract claims is something that we immediately recognized as a priority to be fixed. And we are aggressively working to do that.

In addition, we are working hard to reorganize the core operating functions of the Corporation in the area of design and construction. A number of important personnel changes have and are continuing to occur in this area, and I am hopeful that we will be able to rebuild this group into a much more effective management team for our projects.

We are also in the process of institutionalizing a capital planning function. The objective of this group will be to provide a comprehensive review, tracking, and oversight for each of the projects being worked on or planned for the future. A by-product of this organizational design will be to break down the silos between the different functional areas of the SCC. Among the root causes of many of the missteps and misjudgments in the past at the SCC has been a total lack of internal communication and coordination. The left hand simply didn't know what the right hand was doing. An effective organization cannot operate that way, and we are committed to changing the culture at the SCC, as well as the culture of how the SCC interacts with local school districts and the Department of Education.

Although the SCC is obviously a governmental entity and an independent authority, it is also organized as a corporation with its own governing board of directors. The Governor is committed to making sure that we bring the very best corporate governance practices to this board, so

that it can effectively carry out its own oversight responsibilities. To that end, by Executive Order, the Governor changed the composition of the membership of the board so that the Attorney General no longer serves as an ex-officio member. Her role, and that of her Department, is to advise the Corporation on legal issues, but also to be independent and to be able to investigate, if necessary. Her investigatory responsibilities could obviously come in conflict with her role as a board member. We are pleased that the Governor filled her vacancy with a person with extensive criminal law experiences, Matt Boxer.

Most of the day-to-day oversight of the Corporation is provided through two committees of the Board: The Schools Review Committee and the Audit Committee. These committees are chaired by able and experienced board members, and are functioning now extremely well. They are also working hard. We have increased the number of meetings that the committees have, as well as the number of meetings that the Board has, so as to make sure that we can timely and effectively address the backlog of business that needs to come before the board.

We are also working to increase the transparency of the Board activities. We intend to post all Board meeting agendas on our Web site, as well as minutes of our meetings. This type of information, as well as basic financial data about the Corporation and our projects, is important to providing the public with a clear understanding of what the Corporation is doing and why.

As I have tried to indicate, we are seeking to create clear lines of management accountability and board oversight. To that end, both management and our Audit Committee are regularly reviewing the

Corporation's actions which have been taken to address the recommendations made by the Inspector General, the Office of Government Integrity, and the State Auditor. In addition, we have engaged the nationally recognized firm of KPMG to create and serve as our own internal auditors. They regularly report to the Audit Committee on their work plan and their progress. We are also finalizing a relationship with the Inspector General so that her office will have staff directly on site at the SCC. In addition, we are holding others equally accountable by aggressively asserting the Corporation's rights through errors and omissions claims.

The core of the SCC's business needs to be effectively and efficiently executing building and construction projects for schools. Essentially, the SCC needs to be a premier construction management organization. In order to achieve that end, it is clear that we need to expand the organizational accountabilities so that there is a single point person for each project -- someone who knows the complexities, the issues, and the requirements which will make for a successful project. Heretofore, there has been too much of a silo mentality within the organization. We are attempting to break that down and make sure that good cross-communication occurs between departments and with the many constituencies that have a stake in the successful building of our schools.

Much of this is also data driven. To that end, the SCC is working on establishing a project-budget tracking system that will detail project-level budgets and provide monthly updates with real and timely information. Without better information about the progress of projects and the issues being encountered in the field, neither the Corporation nor the districts that are our customers can be properly served.

Finally, it is worth noting that although this Schools Construction program has been plagued by problems, there has been a significant amount accomplished. In spite of the mismanagements of the past, there are a lot of good people at the SCC who are trying to do good work day in and day out. To that end, it's worth noting that in the Abbott districts the Corporation has completed 600 school facilities projects, of which 354 were for much-needed health and safety improvements; 20 projects were for totally new construction of schools; and 37 were substantial renovations or major building additions. In the non-Abbott districts, the Corporation has executed 2,500 grants worth close to \$2.2 billion. These grants helped to support an additional investment in those districts, of \$7 billion, for construction of over 1,400 school projects in 460 districts throughout the state, which represent approximately 80 percent of the non-Abbott districts.

While no one of the steps and approaches that I have outlined this morning represents a silver bullet which will change the way everything operates at the SCC, taken together, I do believe that they form a mosaic of managerial accountability and transparency, which, when fully functioning, will put the Corporation on a path towards success.

I'll be happy to answer questions, but allow me to suggest that my colleague, Scott Weiner, provide his perspectives, and then together we'll take your questions.

Thank you.

SENATOR RICE: Thank you very much.

Mr. Weiner.

MR. WEINER: Thank you, Barry.

And thank you to the Chairmen of the Committee, as well as the members. It's good to see you all again. Over the years, we've had a chance to work on other initiatives and problems together wearing different hats. I've prepared some remarks, which I believe you have a copy of. In the interest of time, I want to highlight some of the materials pertained in here, and then be available to answer questions also.

The remarks contain my State résumé. When I saw my former teacher, Assemblywoman Voss, it not only reminded me of time in high school in Fort Lee, but also I had the opportunity to serve for five years as a member of the Borough Council in Fort Lee and as the President of the Borough Council, as well as Vice Chair of the local planning board, at a time -- for those who know Fort Lee -- we were trying to figure out what the future of that community was going to be like and how we were going to provide for the education of an influx of children that were changing the demographics of our community.

The point being, that in order for us to address the underlying goals and objectives articulated by a Schools Construction program, we need to have an active collaboration among the entire community -- the school district, the governing body -- as well as those of us who have our offices here in Trenton.

In my opening remarks today, I want to focus on my role as both Transitional CEO and Chairman of the Governor's Interagency Working Group. And to that end, I want to touch upon the findings of the Interagency Working Group's second report, that was issued about a week ago, and then also talk about the methodology that we're using to establish a system to prioritize projects that are currently part of the SCC's capital

plan. But even more importantly, how we want to evolve from the current state today into a state where we have collaboratively developed strategic plans, as well as a capital plan to fund that.

I think you all know that Governor Corzine issued Executive Order 3 in February, and among other things, it established the Interagency Working Group. It's made up of the Treasurer; Barry is Chairman of the SCC; and myself, in my role as Special Counsel to the Governor; the Commissioner of Education; the Commissioner of Community Affairs; as well as the members of the senior staff of those organizations, in addition to a senior staff from the Governor's office, and a Citizens Advisory Council, which advises us. The goal and the charge to the Interagency Working Group was to provide a full review of the activities of the Schools Construction Corporation and provide recommendations on the future of the program itself, and very importantly to facilitate effective interagency collaboration. And I'd like to say that's one of the outcomes I think we've begun to achieve very effectively over the past few months. And that collaboration among agencies -- and I'll look forward to it with the Legislature -- is what's going to give the resources, the momentum, and the knowledge power to really improve the program.

Our work is ongoing, but to date we've released two reports, one in March and, as I mentioned, the last one about a week ago. Both reports articulate the critical finding that I'd like to emphasize: that there are a significant number of school facility projects that require funding in Abbott and non-Abbott districts. That may be axiomatic to those of you who sit around this table, but I think we all know that that point is sometimes lost in the broader New Jersey community. And to that end, the

Working Group has been focusing its efforts to develop a rational and reasonable estimate of what those costs might look like, and how we can plan to provide for both the funding to address those problems in a logical and effective method of planning.

The May report that we issued last week provided a summary of the accomplishments since the initial report -- and Barry has already detailed many of those. That report also discussed the initiatives of the Working Group in two critical areas: Possible statutory amendments that we believe will strengthen the program; and as I mentioned, the development of the methodology to provide for the prioritization of school construction programs, and to leave behind the legacy that the driving criteria for the program had been speed, regardless of educational need or priority.

My prepared remarks, which you have a copy of, summarize the report of the Working Group in the four areas that we looked at for potential legislative amendments, or legislative initiatives. We, of course, look forward to working with you and your colleagues in developing these over the coming weeks and months. Let me just touch, briefly, on each of the four areas.

The first area dealt with corporate governance. Our first report contained the recommendation that the current corporate structure and governance structure of the SCC be revised to a more traditional public authority, along with a new board of trustees or directors who would provide governance. Importantly, again, I want to emphasize the finding of the Working Group and its recommendation to the Governor, that we are confident that the SCC can provide an appropriate level of management,

oversight, and supervision of this program. And as Barry mentioned, we have launched a number of initiatives to achieve that.

However, we also believe that those objectives would be greatly enhanced by a new governance structure, as we've discussed in the reports. We're not intending to scrap the program and start brand new. We're not intending to abandon, either, the capital investment that's been made into facilities and buildings and desks and stationery, and toss that aside. And most importantly, we're not going to be abandoning the human resources that are available. And as Barry mentioned, we have found that the Corporation is staffed by men and women who are professional, who come to work every day wanting to do the best job they can, who want to contribute to the building of school facilities around the state. And as often as not, the Corporation itself let them down by not providing the kind of management or leadership that allowed them to do their jobs effectively.

The second area we talked about is land acquisition or site acquisition. This is an area well-known to the members of the Committee. It's an area that has gotten a lot of attention in the press. Suffice it to say, that this is an area that we think is critical to the long-term success of the program. This whole process needs to become more collaborative. And I think, as we look back at our best practices, we look back to try and determine those projects that went well and those projects that have had difficulty, the identification of a site for a school, which is done collaboratively by the community -- which means the governing body, which means the district, which means the community as a whole -- is a great predictor of what the project is going to look like going forward. There have been problems with site selection. We're challenged by the fact,

particularly in our developed urban areas, the sites available to build schools upon are limited. They're difficult to obtain. These are all problems that are solvable.

The Working Group, in its report, mentions a couple of initiatives that we're exploring that can begin to get at some of the root cause problems. One of them would be to extend to SCC projects the kind of moratorium that is currently provided for DOT projects, where applications and municipal approvals related to a site would be put on hold or abeyance during a specified period of time, giving the agency an opportunity to acquire the land at its then-existing value and use.

There are other initiatives talked about, including having municipalities include the identification of school sites as a required component of their municipal planning process. There are others that we can talk about. Suffice it to say, this is an area that we need to work collaboratively on.

The third area that the report discussed was the area of long-range facility plans and prioritization of projects, both by and among districts within the state. This is very much at the core of the work being done by the Department of Education. I want to acknowledge my colleague, Assistant Commissioner MacInnes, who is here, who has been driving these kinds of changes at the Department of Education, which quite simply will begin to institute a process where districts will be asked to look out over the stated five-year planning horizon to begin to prioritize the projects within their own districts. And then the Department of Education will be able to work with and among the districts to set priorities for the state as a whole. Notwithstanding the existence of the long-range facility

plan process in the past, it's my opinion that it's only been in the past few months that serious discussions of prioritization based upon educational policy has taken place in an effective and meaningful way.

Lastly -- the fourth area we touched upon -- was project management options and the procurement of how we -- the services of how we deliver a project. I think this Committee knows that the SCC had been organized around the concept of the project management firm. That is a model that can work and, in some instances, has worked very effectively, and has delivered very cost-effective, well-designed schools that communities and the State can be proud of. In other cases, it hasn't worked. There are lots of reasons for that, but suffice it to say that anytime that a cookie-cutter approach is used -- to say that one size fits all -- you run into the problems that you're denying management the option to choose more effective and more cost-effective options.

We've had some experiments and some demonstrations with other options. The Working Group is recommending that the SCC, or its successor, be authorized to look at a suite of project delivery options so that, in fact, at the inception of the project, all the stakeholders can sit around and answer the question of what's the best way to deliver this project. Maybe it's having the district take responsibility for the day-to-day oversight of the project. We've done that in some cases. Maybe it's a design/build option. Maybe it is the project management firm option. But rather than be pigeon-holed into a stated option, we're going to be suggesting that the suite of options be made available.

I'd like to turn now to try to clear up some confusion that may exist as to what does everybody mean when they talk about these lists of

59, and 69, and 79, and 315. I've only been back in Trenton, now, about three or four months, and I will admit and I apologize, I've been captured by the development of our own lexicon. I want to spend a few minutes and talk about what these lists mean and where we think we're going with them, and then talk about the process of prioritization. And then conclude with a brief comment about future funding.

I believe that Committee members should have before you lists of various projects that are captioned at the top. Let me just take two minutes to describe what those lists are. I think you all know that in July of last year -- just about a year ago, when the SCC determined that limited resources remain for the Abbott program -- it began the process of identifying the amount of remaining resources and identifying the projects that would have access to those resources. Sixty-nine projects were identified that were then under construction. And that has become known as the list of 69. Those are projects that were under construction in July of 2005. Many of them have been completed. All of them will be completed in approximately the next 12 months. When people refer to the list of 69, those are projects currently under construction, that were under construction in July.

You've also heard about the list of 59. What the SCC Board did last July was take a look at the available funding and created the first capital plan for the Corporation. And it applied those available funds against a set of projects. There were 59 projects included on that list. That's become known as the list of 59.

It used to be that those list of 59 represented 59 projects -- about 59 projects that were in development, getting ready for construction.

With the passage of time, some of them have, in fact, entered construction. Even more importantly, when we think about this list, the Committee knows that in its March report, in its initial report, the Interagency Working Group identified an approximate \$400-million-dollar shortfall in terms of the amount of money that was provided for in the capital plan, and the apparent need of capital to complete those 59 projects. And I'll talk about how we're managing and how we propose to manage that potential shortfall.

So those are the list of 69 and the list of 59. When the list of 59 was created last July, there remained 315 projects, or approximately 315 projects that have been approved by the Department of Education, through the long-range facility planning process, that had been literally sent over to the SCC for development and, ultimately, construction. Since July of last year, those 315 projects could not progress because of the lack of available funding. Those 315 projects are broken down into three groups again. They were first listed, in total, back in February of this year in the annual report published by the Department of Education. There's an appendix to that report that discussed future funding needs, based upon those projects in response to an order of the Supreme Court.

Those 315 projects are broken down into three buckets, if you will: 97 projects, or the list of 97, for which design work had begun but was suspended at the time of the development of the July 2005 capital plan; 84 projects for which some preliminary predevelopment work had begun, but no design work had begun yet; and finally, 134 projects awaiting predevelopment. And to give you a sense of what that means, those 134 projects were projects that had been approved by DOE, that had been

transmitted or were in the process of being transmitted to the SCC. And that's all that happened. No work was done. No predevelopment work. It's really just a transmittal of a need.

The group of 97 projects -- those projects for which some design work had commenced, but which had been suspended -- are viewed as the likely primary source of the next projects to be found in the queue. That list might be supplemented, in fact, by either priority projects -- that I'll discuss in a minute in the other two groupings of projects that haven't moved -- or new projects that are identified in the recently filed long-range facility plans.

You also have -- and I'll talk about this again -- a sheet that looks something like this (indicating) -- a flow chart. And to put context again to the initial planning process of the Corporation, the top half of the chart, if you have it, represents the planning process back in July of last year, where the Corporation identified the 69 projects then in construction -- the top box. The middle box at 59 projects, that I mentioned, were selected to continue with design and move on to construction. And the 6 demonstration projects that were part of the act, that had also been funded. Those three projects essentially represent the capital plan of the Corporation. The existing funds, of approximately \$1.5 billion uncommitted funds that existed in July of last year, were applied to those three activities leaving isolated 315 projects -- the box on the far right.

The bottom of the chart represents the planning process that the Interagency Working Group, the Department of Education, and the SCC are working on now. The first box, at the far left, is meant to represent a process which has now taken place, which has now been

initiated, where we are looking at the recently filed, long-range facility plans -- we being the Department of Education -- looking at those plans particularly in terms of their impact upon the projects for which design had been suspended -- the group of 97 -- as well as other health and safety projects that may exist either on the other two lists that were unfunded, or new projects that might have emerged since the creation of those lists.

Those lists are then subject to a prioritization, based upon educational needs and evaluation of those needs, so that they can be sequenced. And the first step of sequencing is identifying among the priorities. Those priorities, in a hierarchal order, are: health and safety, overcrowding, and early childhood education facilities; with a balance of the projects that are approved by DOE representing an educational need, but not one of the statutory or court-mandated priorities.

Those lists of projects ranked according to educational need and priority would then be subject to a further sequencing based upon realistic project development timetables, in terms of the need to identify and acquire land, possibly; the time to do design work; eventually go to construction and complete construction. And then, from that collaborative work, we will have the first comprehensive strategic plan for the Schools Construction program, where we will be able to look out over multiple years and see, in terms of educational need as a driver, the logistical realities of development and construction -- what the Schools Construction program, as an overall comprehensive program, might look like over a five-year planning horizon. That strategic plan is then integrated with available funding -- of course, which today is zero. But presuming the future of available funding, could develop a new capital plan.

When that process is completed -- what we hope will be over the course of the next couple of months -- for the development of the strategic plan, we will be able to change the lexicon and stop talking about lists of 59, 69, 315, and begin to talk about projects that are part of the strategic plan and projects that are part of the capital plan, and where they are in terms of their development. And we think that will help rationalize, and make accessible to the public at large, the work and activities of the Schools Construction program.

My prepared remarks and the most recent report of the Interagency Working Group goes into some great detail about the prioritization process. In the interest of time, I'll just refer you to my remarks. The important point I want to emphasize is, again, that this prioritization process is being developed by a task force of the Working Group, made up of a cross-section of agencies, as well as other stakeholders. And it is going to be part of the discussion that the SCC and the DOE will be having in the coming Summer months with districts and other stakeholders. And as mentioned in its report last week, the DOE and the SCC, on behalf of the Interagency Working Group, will be holding symposiums during the month of July -- both with Abbott and non-Abbott districts -- to talk about these prioritization processes, to talk about the process of strategic and capital planning for the Schools Construction program in the State, and get both feedback from the benefit of the views of the communities and of the stakeholders in this process.

I want to anticipate a question that might come up. We reported in last week's report that in doing the prioritization process we identified, through our preliminary analysis, the fact that at least 25 percent

of the projects in the group of 97 -- projects for which design work had been suspended -- have a higher priority than projects in the group of 59. When one takes a look solely at educational priorities, 25 percent of the 97 have a higher priority than some of the group from the 59.

Two points I want to make: One is, creating any list can be a complex calculus of results. So the list of 59 represented the best efforts of our predecessors in trying to manage the available funds. But a lot of work and community expectations has gone into that list of 59, and there is no suggestion that that list of 59 be abandoned at this time. That's the list we're currently managing to, under the current capital plan. However, we also identify, with the benefit of information and planning, that some of the projects in that list of 59 -- the current capital plan of the SCC -- won't begin construction for more than a year. And it begins to provide two opportunities as we begin to sequence projects not based only on educational priority, but the realities of design, the realities of land acquisition, the realities of the contracting process -- that two opportunities become available.

The first is, one way that we will be able to manage the shortfall in the current capital plan -- it will be, of course, looking for cost savings and trying to reduce the projected cost, and constantly reduce that deficit through better management and cost reduction. The other will be through sequencing and understanding that a project may not be a call on the capital plan, as it exists today, for 12, 18, 24 months out. The second thing it provides is an opportunity to sequence into that time gap, if you will, some of those projects that have a higher educational priority -- pressing health and safety issues, pressing overcrowding issues -- that would be

identified by the Department of Education. It is something that could be done but, of course, today we're working with finite resources.

So in thinking about this particular issue, I want to take a quote from our report last week, because I think it sums up the situation today. "And this situation of identifying both the opportunity to sequence projects, as well as the fact that we have high-priority projects that are not part of the capital plan, underscores the need to address the next round of funding at the earliest possible time, so that additional much-needed projects can be incorporated and sequenced within a capital plan so as to achieve maximum educational and construction efficiencies. When additional funding can be anticipated as part of the planning process, projects can be sequenced to reflect educational priorities and development schedules. Without that ability, the SCC must manage the remaining resources by limiting the number of projects that can be actively pursued so as to absorb the result of increasing cost."

Which takes me to the last topic I'd like to discuss in my opening remarks, and that's the question of funding. Without question, there remains a significant number of school facility projects to be built that require additional funding in both Abbott and non-Abbott districts. However, at this time, the Working Group was unable to quantify an amount for how much more funding should be provided to address the next stage of the Schools Construction program. We share this Committee's concern that the need is now, and we need to address this now. But we also believe that our investment in research and planning over the next couple months will provide us all with the information that we need to shape the next round of funding for the program.

During the coming months, in addition to the symposiums I mentioned before, the SCC, really over the next few weeks, will be taking a look at our re-forecast of all the projects -- of the 59, as well, as best we can, the 97 -- to understand what the real financial needs are for those. As Barry mentioned, we're going to be in a position to update that monthly and also to understand the real construction timetables and the development timetables for those, so we can do the kind of planning and strategic planning that I mentioned.

While that's going on, the Department of Education will be working with the Working Group's prioritization task force to understand the impact of recently filed long-range facility plans on the group of 97 projects, as well as any other identified priority educational projects. So we can by -- we anticipate -- August have a lookout over the next number of years -- five years -- to understand what the need is, and then be able to talk about what we believe the funding requirements will be to achieve those projects, and how those funding requirements themselves can be sequenced into funding troughs.

That concludes my opening remarks. Again, I want to thank the Committee and its members, and also I want to thank the Executive Director, Melanie, for also being very accessible to us. Melanie has had the opportunity to work with members of my staff in trying to share information. And once we get to this point of common information, it's then much easier for us to do common planning and shape a program.

Thank you.

SENATOR RICE: Thank you very much.

Let me start off with a few questions from the Chair.

We need to go back, first of all, and let's focus on the prioritization of these projects. We have argued, and I have argued for a number of years now, a couple years -- for the questions about school construction -- that we didn't create those problems within the districts. And you still continue to put all the weight on SCC. And I'm going to say it for the record again -- I would say the majority of your problems are on the administration side, not SCC, even if it was part of it. So we all have to bite some bullets, but we're going to go forward. We've also argued -- discussed with the new Governor prior to his election -- at least those of us who were concerned enough in the urban districts where the needs are the greatest -- that it's important that we fund these projects that are ready to go and get them into the ground this construction year, given the cost of everything that's going up tremendously. And we have yet to come to grips, and it's May -- construction time.

We need some dates specific on these projects. There are 59 projects and you talk about prioritizing -- that I don't know what that means. When I say I don't know what it means, it's because you also -- I don't think you mentioned it. In one of your documents, you mentioned two criteria to make a determination. Our problem with the criteria is because one of them is not defined well enough for me -- it's too broad, or maybe even too narrow. I need you to discuss that.

And you also-- I want you to know, for the record, when an administration will not respond to this Committee in a timely fashion, and when they respond, they responded in the wrong way as it relates to questions raised prior to you coming in-- I had staff call every district in the state -- Abbott districts. And so we know and have a good idea of those

projects that if, in fact -- which are different than the 59 by the way -- if, in fact, we gave them dollars today, they could put a shovel in the ground tomorrow. They can't wait until 2007 or 2008, because the cost goes up.

Now, we're going to build these schools whether you like it or not, whether the State likes it or not -- that's a court mandate, and we're going to continue to pursue that, and more people are getting actively involved and mobilized. And it's going to become extremely political. It's going to cost some people politically if we don't build them. They're for our kids. Can you discuss those issues in terms of prioritization, what the two criterias mean? When are we going to have the dollar amount for the 59 schools, plus the ones that, if we gave them money today, they could put a shovel in the ground? Because to say we can't calculate those dollars, to me, is not correct. I don't think it's correct with anyone on this Committee. We know the cost of construction right now. We know some anticipated costs. We know the cost per square footage. And so it seems to me we can get those rolling. We're crying we don't have dollars, but we can get them going. Won't you try to respond to some of that, okay?

MR. WEINER: The microphone doesn't want to let me. (referring to PA microphone) Ah, there we go.

Let me try as best I can, Senator.

First, at the risk of stating the obvious, I'm sure you know, and the Committee members know, that Governor Corzine, Barry, myself, everybody who works at the SCC, and the entire administration shares the commitment to build schools as quickly as possible.

One of the problems, if I may first, on the issue of cost, is it is possible to some degree to do estimates that one can organize around. One

of the historic problems with the SCC, I'd like to suggest, is information that at best source estimates, that at best was good faith guesses, developed a sense of certainty and finality that drove expectations. And we are trying as hard as we can to avoid that. There was a belief that we shared -- and it was established not maliciously -- that in July of last year, money was identified, approximately \$1.5 billion; 59 projects were cost estimated and there would be enough money to finish those projects. As we go back and look at it, I don't know if anybody could have done that to the precision that was articulated. Some costs were just being estimated, some land hadn't been acquired yet, construction costs were going up. And when those, as you pointed out, Mr. Chairman -- and when those plans were done, the agency didn't include any factor for inflation over time. These are some of the reasons why we're looking at the potential shortfall today.

What we want to do is understand two sets of costs. For the group of 59 projects, those are moving as fast as they can. Some of them have already moved into construction. They're going to be sequenced into construction. Understanding the costs of those projects is a simple requirement of basic management so that we know how to manage the available dollars. Looking at the priority for those 59 is not to hold any back unnecessarily, but to understand that in the event -- and I'll let people put their own adjectives to it -- but in the event that additional funding is not forthcoming, prudence requires that we manage to the available funds, which today are insufficient to complete the 59 projects. And it would be imprudent and something nobody would ask us to do -- and we certainly wouldn't do it -- to manage those projects as if there was unlimited source

of funding. Because, in fact, that's what happened originally at the SCC. That's what got us into the problem as a State.

In terms of the priorities, again I'll talk about the substance of the--

SENATOR RICE: Excuse me? I'm going to interrupt you on that--

MR. WEINER: Please.

SENATOR RICE: --because I don't want to lose the thought.

MR. WEINER: Sure.

SENATOR RICE: I'm making notes, and I don't want you to lose it, okay?

I have a concern. I have a concern because you talk about variables and elements in the construction costs that are readily available to you. And coming from legal and a number of backgrounds, both of you know that. You come from Wall Street, you know that. My bottom line is this, when you say additional funding forthcoming, I'm asking what is the cost of 59 projects? What is the cost of the additional projects that can go in? Because whatever that number is, is our determination whether we're going to fight for as legislators and argue with the government. Without knowing what that number is, we can't go forward. And this is the problem I've been having with the administration and the two governors. It's a problem that we've been having with SCC. They will not give us information we requested, we're entitled to. And I'm saying a suggestion to you, as Chair, again. I want those numbers to this Committee. If need be, we'll ask the legislators and find out if we can legally go get the numbers

ourselves and spend money to do it. But to tell me that, you're right, we may not give you the money you need-- But we've got to know the cost.

Everybody keeps telling us it's going to be more than we anticipate. It's going to cost more. Well, we know how to cost out things. And I'm asking you, in the next 10 days, give me some costs. And I'm asking staff to send a letter to the administration and the Governor saying that the Chair of this Committee wants to know the costs of the 59 projects they keep looking at over and over, and over and over again -- that they're trying to eliminate anyway they can -- and the ones that are in the list we have, of the ones that we were told were that's ready to go. Then we'll determine dollars and cents, and we'll fight that battle. I want to at least put that on record.

MR. WEINER: Well, let me talk loudly. There we go.  
(referring to PA microphone)

And let me start by apologizing if I'm seeming to communicate that there's an unwillingness to share information. I'll give you numbers right now. And yes, estimates can be done. But here's some of the reality of the legacy of the SCC that all of us -- you as legislators, this administration -- came into. There was no planning. There was never a holistic budget for a project. Imagine a project that includes the acquisition of land, some predevelopment work, some design work, some construction work, and eventually fitting out the school. You would think that there would have existed a budget for that project that could be managed. Didn't exist. It's about to exist in a week. And most of our activities have been spent, over the past few weeks, months, establishing the basis to get that kind of project-level budgeting done, so that we could answer the question,

rather than with rough estimates -- which is what everybody was given last July, because that's the only data they had.

So to answer your question, Senator-- I'm happy to answer it, but I want to put the caveat on that in terms of the 59 projects -- that we're still refining and scrubbing these numbers. It would be nice if the SCC had the level of management and information acquisition that we would all expect for a multibillion dollar project. It didn't, and it's getting there.

Today, the capital plan that was established in July, for example, had costs that we call the-- I'll give you the bottom line. The bottom line costs, after all the adjustments, was estimated to be -- this is the overall capital plan -- about \$3.6 billion. In the past few months, we've been going back to verify that, to make sure that we have enough money to finish those projects.

ASSEMBLYMAN STANLEY: That's the 59?

MR. WEINER: That's the entire capital plan. I'm giving you the entire-- The 59, the 69 -- I'll give you the 59 in a second -- the demonstration projects, the other activities of the Corporation. This is everything, so we can tie numbers in together.

Today -- in fact, as recent as Monday -- that estimate -- and for all the members of the press and everybody else here, I underscore the word *estimate* with a capital *E* -- is \$4.02 billion, a shortfall of approximately \$400 billion.

MR. ZUBROW: Million.

MR. WEINER: Million dollars.

Now, as a group of professionals and public officials, that situation is not something to be proud of. But I will say, unequivocally, as

somebody who's been here for about four months, I am very proud of the work that we've been able to do to get this kind of level of information, where I would sit here and put my name behind reading off numbers like that.

In terms of the group of 59, basically round numbers, about a billion-nine. And if the Committee will indulge us until tomorrow, we'll be happy to sit down with the Executive Director and go through all these numbers tomorrow or on Monday.

When we talk about the 315 projects, those costs were talked about at length in February of 2006, a few months ago, in the annual report issued by the DOE. The SCC put out that information. Every project list that you were given today was, in fact, published publicly in February. At that time, we estimated, as best we could, what those costs might be. And if you remember, the SCC talked about -- and I believe Barry talked about it, I know I talked about it -- publicly, the fact that those numbers had very little value. They certainly had no planning value. Why not? Because the estimates did not reach the level of specificity or quality that you would expect, that you'd want to make public policy decisions off of. They also represented an attempt to try to speculate what a high school might cost.

For example, there could be, within that last group projects which hadn't even begun yet, a decision that essentially says nothing more than, "Okay, community X should have a new high school for so many students." There are planning estimates. A high school costs so many tens of millions of dollars. But until you go in and say when it's really going to be built, when's the land going to be available for that, what are the design issues that go in there -- any number is just a raw planning number.

One of the things that we're exploring, Mr. Chairman, in ways to help improve both the communication, as well as the accountability, of the Schools Construction program to this Committee, is to think about not just monthly reporting of what our disbursements are. I mean, you're certainly entitled to that. But next time when we do funding, to say, "What do we reasonably expect for this amount of funding," because it can't be done with precision. And then to come back periodically on a regular basis to this Committee and say, "Here's what was expected. Here's what we're achieving. And if we're off the mark, here's why we're off the mark and here's the corrective plan," just like any business would do.

The reality is, members of the Committee, the SCC was not in a position to even begin to think about that kind of accountability six months ago.

SENATOR RICE: I'm going to move from questioning. Senator Kean has a question. But before I do that, you confused me with your numbers.

MR. WEINER: I apologize.

SENATOR RICE: Three hundred and fifteen is one set. We know that these projects are figured out, anticipated into 2010. I've always said I'm not concerned about 2010, we'll work those numbers up. They are going to change anyway, for a lot of reasons. But I've got to know what can go in the ground this year. I'm very adamant about this year. We're losing the construction season, and you're going to blame the world when the costs go up, and the Governor is going to cry "wolf" -- no budget. By the same token, I need to know about those that we don't have funding for -- that's not the 59 -- that can go in. And I'm saying it to you again, to tell

me as an adult and professional, and give me all the rhetoric about organization and managed construction accountability, which I know. I went to the same 101 course as you went to, okay? I don't have time for it. I understand that. I think we're in better shape to give numbers right now. We may have to go and bid, do what you have to do to get your numbers right, but we need to move. We can't-- This is May. And so I need to know those numbers.

You said 4.2 for all.

MR. WEINER: It's 4.02.

SENATOR RICE: I got really confused there. Are you talking about 59, plus those with shovels ready to go?

MR. WEINER: No, no.

SENATOR RICE: Because I know you're not talking about 315.

MR. WEINER: No. Let me start again. I apologize. The numbers I gave on the capital plan represent the 69 projects that are in construction, the 59 projects that are moving expeditiously to construction -- for which design work is ongoing, or has been completed, and we're moving into construction.

ASSEMBLYMAN STANLEY: Doesn't it represent the six projects also?

MR. WEINER: And the six demonstration projects--

ASSEMBLYMAN STANLEY: Sure.

MR. WEINER: --and other ancillary activities of the SCC.

ASSEMBLYMAN STANLEY: Sure.

MR. WEINER: My point there was to talk about the current funding level. What are the dollars going for today?

Now, Senator Rice, as you know, Barry and I met with you and your staff a few months ago, and we had a discussion about trying to align the list that your Committee had developed, based upon the district's claim that they could go to ground right away and what was available. My understanding is there are regular meetings among our respective staff. What we found is that most of the projects that were identified were among the list of 97. And in all fairness, while districts say that they could go into the ground tomorrow, in fact, they couldn't. They weren't being malicious. Going into the ground -- the design work isn't even done yet. The design work needs to be done. In some cases, the land wasn't acquired yet. There are other projects where design work hadn't even begun yet.

So if you'd ask the question of what would the cost of the 97 be -- the 97 projects that had been started, that had to be stopped -- we gave an estimate for that in February. And that number is just about \$5.5 billion, on a number I would never want to defend.

MR. ZUBROW: In today's dollars.

MR. WEINER: In today's dollars. And as you point out correctly, every day that we wait, those costs go up because of the inflationary push on construction.

Now, the reason why-- If you ask me -- if anybody says, "What's the cost of the 97?" I can give you a best estimate right now. But if you say, "What's the cost of the projects that have an educational priority that address" -- and one of your questions addressed the priorities -- "health and safety, overcrowding, or early childhood centers?" -- the three statutory

and court mandated programmatic priorities -- the honest answer is: we're trying to calculate that number based upon the DOE reviewing the plans to make sure that one of the priorities -- and updating the information for the 97 already-new projects that have come in so we can provide an estimate.

SENATOR RICE: Senator Kean, why don't you go.

Assemblyman Stanley, go.

We're coming back to this, because we're not totally on the same page for a lot of reasons.

Senator.

SENATOR KEAN: I'll defer to the Co-Chair, first.

ASSEMBLYMAN STANLEY: Thank you, Senator. I appreciate that.

Let me welcome Scott Weiner and Barry Zubrow, first of all, and thank them for presentation. And I think it's very important that we commend them for the work that they have done. Just hearing and looking through what you've provided us with, I think you bring a tremendous amount of credibility to this issue, which has been tremendously discredited. I think that when the folks who had come here, probably four years ago before us -- it was really a totally different situation.

Mr. Chairman, you and I recall sitting here and demanding -- demanding -- that we see shovels in the ground.

SENATOR RICE: Yes.

ASSEMBLYMAN STANLEY: Because at that time, not a single building had been built. Maybe one early childhood facility, at best, that had just been built, just so they could say they built one. But not a single facility had been built in the Abbott districts. And it was absolutely

incredible to Senator Rice, myself, and a number of members of the Committee that we could be so far in this process-- It was the Spring -- I forget -- the Spring of 2000, that shovels were supposed to be in the ground. And four years ago, 2002 I guess it was, we had no shovels in the ground and no buildings to show for it. So that was our demand to this new group, SCC, or the governor at the time, that we see shovels in the ground. Now, shovels went in the ground -- boy the shovels. They had dirt flying everywhere. (laughter) But the problem is, there was more mud flying than dirt, but-- (laughter) And in the process, I think speed did, in fact, perhaps take a toll.

And you know what, I'll retract that statement. I won't say that speed took its toll, but people should have been better at monitoring, at creating procedures. I'm happy to say or happy to-- I feel that you have provided some tremendous leadership in getting us to a point where we can begin to feel positive about where we are administratively with SCC, or where we will be shortly -- some of the recommendations that you are making.

I have a couple of questions. For instance, with respect to the priority task force. That's going to be a tremendous issue, prioritizing these projects, and especially in light of some of the things that you are proposing. I just want to make sure I understand clearly what you're saying with regard to how we're going to go forward. As you know, when we started SCC, it was started on the basis that this \$8.6 billion was available. And that when that ran out, we were going to provide some more, Senator. We were going to provide more. We knew at the time it was not enough to finish the projects that needed to be done. So we were going to, this

Legislature, with Senator Kean's help and Assemblywoman Beck's help, we were going to provide the funding necessary to continue to finish these projects.

Then what happened was everybody -- especially when you had a situation of mismanagement -- everybody said, "Time out." And they said, "No, we've got to stop." And everything and a lot of things came to a screeching halt, and we all have problems. You've got regular school districts that have had their referendums approved, and they're waiting for the matching funding to go forward. Because they don't want to start -- I guess some of them may have started projects already. Some of them may be holding off on projects until they get that assurance that they're going to get funds. And you have situations like you have on Dewey Street, in our district, Senator, or on Ellis Avenue and 21st Street in Irvington, where you have decimated areas -- completely decimated city blocks of abandoned buildings where there's no project -- abandoned houses, no neighborhood, no school. So there's a stoppage.

But I see, as I said to you earlier, Mr. Zubrow, I believe I see the light at the end of the tunnel with our administrative, and reorganization, and putting the necessary things in order. But I want to ask a question about how we're going to go forward in one of the proposals that you made. And you suggested that -- and I concur, I think (laughter) -- that we can now begin to manage these projects in a way, especially if they're high-priority projects, in a manner that says that we know we have  $X$  amount of dollars now. Now, and we know that we don't need all of that money right now for all the projects that we're working on in various stages. You're suggesting that, perhaps, we can take some of those dollars and use

them for projects that are higher-priority projects and get them started -- if they're not started yet, maybe in preconstruction or something along those lines -- so that we can utilize our resources more efficiently, and also make sure that we're dealing with priority projects as well. Now, can you elaborate on that just a little bit, if you understand what I'm asking?

SENATOR RICE: Mr. Chairman, Assemblyman, before you do that, let me put some things in perspective, because I hear what you're saying. I hear what they're saying. I read all these documents. I stayed up late last night to read other stuff. Be very careful. What they're saying is, we know we have this amount of money. This much money was allocated to 59 projects. But if you like the projects or not, 59 projects. There are no other dollars.

What you're saying on the prioritization -- that's why I want to revisit it -- is that maybe we could snag some of these projects out, because they don't have a high priority on your criteria. But you need to explain the criteria, and maybe look at some of the ones with projects with shovels ready to go into the ground, and you fit them in.

Now, let's assume the worst -- I disagree with your criteria for some reasons -- that we take out 10 projects out of 59 that we are funding for, when in fact we can fit in 10 with it. So we're right back where we started. That's why additional dollars are needed immediately. That's also why I look at your numbers. Had we passed a \$3 billion bond piece, going back a couple of years ago, we would have met those numbers, based on your numbers, for what was ready to go. So we were not off-track with the legislation. We got off-track with all the delays in government.

But go ahead and explain what the Assemblyman wants, but I want to be very careful of what you're saying. Because I hear you loud and clear, and I read this stuff. This is the one time I stayed up late reading. Because I'm holding your feet to the fire for these dollars -- and the Governor. I'm being very honest. But I think as you explain the two things you didn't -- the one thing you didn't mention -- the long-range plans and dealing with capital -- you did not mention your two criteria. I think they need to understand what they are. Education related -- or the way you put it, you said education is almost like you can't get anything but a building. That's why I want you to raise those two criteria.

MR. WEINER: Just addressing the criteria--

SENATOR RICE: Is he on? (referring to PA microphone) You on?

MR. WEINER: Yes.

In talking about the criteria, a couple things-- And without at all wanting to sound offensive-- I want to make clear that it's not my criteria, number one. Number two, in talking about criteria, I'm not wearing my SCC hat. I'm wearing my counsel-to-the-Governor's hat.

The reason I say that is, the criteria is educationally based and will be applied by the Department of Education. And I'm not trying to just pass it off on my colleague Gordon. But these criteria, which I mentioned in summary headline form, come out of the existing statute, and come out of the existing Supreme Court cases. And their ranking come out of those same sources. If one says health and safety, you get into an issue of, how does one define health and safety, and what is health and safety.

It's the same thing with overcrowding. When you get into overcrowding, are you talking about within the district as a whole, are you talking about within the school, are you talking about a facility, are you talking about a whole new school, are you talking about repair work that can save a school but address one of these problems?

It's the same thing with early childhood centers. Are you talking about a facility that is going to address a large portion of the need within a community or district, or are you talking about adding a couple of rooms? All of them are important. They have different priorities.

What's happening now is not that this prioritization system is being developed to be applied mechanically, without any input. It's just the opposite. What we're doing now is trying to think through the kind of questions you're raising so that in July, when we hold these symposiums with the districts, and with you, and your constituents, and other stakeholders around the state, we can begin to get input, explain a methodology, and then receive input on how it can be made better. That's the goal.

So there's one criteria. And the important driver in the first instance is, what are the educational priorities that are driving a facility. I think that's very important, and I think it distinguishes, frankly, this administration's approach and prior approaches. And I understand the drive of the Legislature and the State so many years ago to say, "Get shovels in the ground. Build schools. There's so much of a need. Just get it done." But we're at a point now, particularly with limited dollars, that one has to ask the difficult question of, "How do you sequence these?"

Secondly, once we figure out what the educational priority is, what happens if there is an important project that's going to be a new school, hypothetically? But there are certain realities. The reality is, the project hasn't been designed yet.

Well, you sequence it, you plan it, you understand what your available dollars can go to. And, today, we're trying to get a handle on what are the real costs of those 97 projects. What are the real costs of the projects that people say can go into the ground -- which, to me, means--

Senator, from what we researched -- is not that they're ready to go into the ground. They're not ready to bid documents yet, but they're ready to pull the design off the shelf, because it was suspended. And they're real, and they're live, and they're needed projects, and we should attend to them.

ASSEMBLYMAN STANLEY: Thank you.

That brings up another point which, I think, is very -- is critical. And this is, really, the frustration of Senator Rice.

We put ourselves in a situation where-- And, again, this is refreshing. The types of things that you're talking about should really put us on firm footing so that we can go forward.

One of the problems that we have right this minute is that there are things that we could be doing, but we can't do because we don't have the funding. And under the current way that SCC is operating, if you don't have the funding to complete the project, you don't start the project. As a matter of fact, everything is suspended except for what we prioritized. And not only that, but we're short -- we're going to shortfall on what we have prioritized already.

What we need to do, Chairman and Senators, is-- We really need to provide some type-- And we've said this time and time again. And it becomes more evident as you make your presentation. What we need is a -- is resources that we can basically--

Senator-- And I think we're in tremendous agreement on this.

We need resources that we can control -- we can assure the general public that we have a hand on the pulse -- our finger on the pulse of this -- of what's happening. But we need to make it available so that when we -- when we're presented with, perhaps, a group of projects that need *X* amount of dollars to go -- funding -- that we can release that.

The way we've done Green Acres over the years is on a project-by-project basis. It comes to the Legislature, the Legislature knows exactly what it's going toward, and we've been able to act and release funds on a project -- almost on a number of projects at a time -- maybe five to 10 projects at a time. And we've been able to review that.

Here we added another step. And thanks to a lot of the work of Mr. Weiner and Mr. Zubrow, we will be able to get, back to us, reports on exactly how these projects are going and the dollars that are being expended.

But the bottom line is that we really need to provide those extra dollars, as you say -- that emergency -- even if it is a situation of an emergency fund, or a -- what was the term that we were using -- a *bridge fund* -- between now and when we actually get some dollars readily available for a larger expenditure or bond. But we certainly need to make sure that we're not hampering projects, as we are now. Because under the current scenario, we are stopping progress, and it's-- And now it's not stopping progress

because the SCC doesn't have its act together, or we don't have the proper leadership, or we don't have good oversight. But we're stopping progress merely because we haven't been able to move that bridge bond that we need to move. So I certainly appreciate that.

I think, on the priority issue-- I think we need to find out who is on that priority task force, Senator, to make sure that it's dealt with in a way that we can all be comfortable with the process.

And my last question is, the 315 projects that were sent over--

Now, it's interesting to me that that 315 projects hasn't grown. Has DOE stopped sending over projects? Is that what's happened?

MR. WEINER: Yes.

ASSEMBLYMAN STANLEY: But that doesn't mean that there aren't projects out there that need to be done.

MR. WEINER: Oh, no. In fact, those projects are what came out of the former long-range facility planning cycle. There's that whole new round of long-range facility plans, as you know, that were filed, or to be filed now, or recently filed. That's going to generate its own list. But what we're hoping -- we, from a working-group point of view -- is that the efforts that Gordon has initiated, along with Acting Commissioner Davy -- to look at those, and work with districts, and say, "Don't give us everything that you need from now until 20 years from now. Let's talk about the next five years. And set some priorities in your district with what needs to be done for the next five years." That information is then going to be applied to this list of 315, if you will. And a new list will be created. New needs in the community are going to be identified. And some of them will be some of the former projects that were needed last year. They were needed five years

ago, and they're needed next year. And we need to get to them. Some of them are going to be new. And that's, again, one of the issues with our prior cost estimating, because we're estimating for something we don't even know the universe of.

SENATOR RICE: Our next speaker is Senator Lesniak, then it's going to be Assemblyman Baroni, then it's going to be Assemblywoman Voss.

ASSEMBLYMAN STANLEY: I think it was Senator Kean.

SENATOR RICE: Senator Kean.

SENATOR KEAN: Mr. Chairman, is there a--

SENATOR RICE: Go ahead.

SENATOR KEAN: Thank you, Mr. Chairman.

If I could take a step back to some of the projects that have gotten the funding-- And we had a lot of headlines last year -- a lot of decisions you made last year, a lot of school districts in both the Abbott and the regularly operating school districts that had made some difficult decisions as to -- in the regularly operating school districts, whether even to go to bond for these -- for certain projects.

Can you give us an update on what you've seen out there as a result of some of those decisions? As you know, we did have-- Number one, I want to see the progress. Number two, with the fact that a lot of the school board bonds went down in the state's elections in the last couple weeks, can you give us an update on what -- the money that has been authorized in those school districts? Is there a way you can talk about that at all?

MR. WEINER: Yes, let me get to it.

You're identifying another-- I mean, we spent a lot of time, recently, on the Abbott issues. This is a key, non-Abbott issue. This is a program which also, to date, has not met the existing need around the state. There's also been the problems of expectations that are reasonable, from the communities point of view, but may have been unrealistic, if anybody had been looking at what the available funding was.

Just to give you some perspective, in terms of money that's been spent for the non-Abbott projects-- There was \$2.5 billion in the original funding that was authorized. All of that has been committed, except for about \$30 million that we're holding back as a contingency to address unforeseen demands that will come up in some of those projects that we manage the construction of. And, therefore, we are responsible for the construction costs going forward. And of that \$2.5 billion, about \$1.3 billion has actually left the door and been spent. The rest of it has been committed.

I think that there is a lack of understanding in those communities as to what resources are available -- the fact that there is no money, currently, anymore. There seems to be some confusion that-- One of the things that we at the SCC -- I'll put my SCC hat on now -- have been working with the Department of Education -- and we hope the symposiums will address this -- is to get out into the community and explain what the current state of the program is -- which is, all the funds are committed. And no district should be making plans at all in anticipation of additional funds or additional matching, unless and until more money comes to the table.

There are some projects that are included in the to-be-funded list where the process of getting the money to them has not been as efficient

as it could have been. And I apologize for my understatement, but that's the way--

SENATOR KEAN: It is one.

MR. WEINER: We recognize that. We're working very hard to clean that up. We recognize that it's frustrating because communities went out to get budget authorization. They fought for it, they got it, and now they've got nothing to show for it. And it exacerbates the problem even more within those communities.

I wish I could say something different about the (indiscernible), but that administrative problem is endemic -- or was endemic at the SCC. It represents itself in getting money to districts under these grant programs. It sometimes represents itself in getting money to contractors or other vendors in a timely way. Again, all I can tell you is that we're doing better, and would be happy to provide information about how we're doing better.

SENATOR KEAN: That would be appreciated.

Thank you, Mr. Chairman.

SENATOR LESNIAK: Thank you, Mr. Chair.

No district should be making any plans at all until additional money becomes available. I couldn't have said that better myself.

As I articulated in my opening statement, I'm very concerned about waste, mismanagement, fraud, and corruption in our school district spending programs. I represent a district that has spent hundreds of thousands of dollars, and continues to spend money trying to acquire property that's contaminated with cancer-causing agents. And not only is that particularly disturbing, but the extent of that contamination is unknown.

Scott, I would presume that you would not disagree with me that any rational person, unless they have an ulterior motive, would consider that to be irresponsible spending of taxpayer dollars.

MR. WEINER: The way you present it, it certainly raises lots of questions.

SENATOR LESNIAK: Thank you, Scott.

And, also, I would presume that a site that is contaminated with cancer-causing agents, and the extent of that contamination is unknown, would not be a priority site, and would be pretty far down the list in terms of any acquisition under those circumstances.

MR. WEINER: The answer is yes. I think it's also important to point out that, although it's perceived otherwise, the SCC hasn't been in the business of going into a community and saying, "We're going to get this piece of land, and this is where you have to build the school." Those sites are identified by the community. They're part of the planning process. Sometimes, as I mentioned in my opening remarks, that's a very collaborative, effective process. Sometimes it's not. And you have sites that are identified that are inappropriate for schools. Sometimes you have sites identified that might be appropriate, but there are better sites in the community.

One of the hypotheticals we present is a situation where a community might have two pieces of property. One is green, it's clean, ready for development. Another one is highly contaminated. Some governing bodies might say -- and I'm not being judgmental, but this is a problem that we face on our end -- "Well, we're going to keep that clean piece of parcel for development, help build the economic base of the

community. And we'll have a school built on the contaminated one, because the SCC will come in -- the State, through the SCC -- clean it up. And we'll put it to good use." That is a situation that could occur. There could be very understandable reasons why a municipality might make those choices. It results in delay, because you're going to have to spend, potentially, years to clean up the site -- as well as the millions of millions of dollars to clean up the site. So this is part of the complexity of addressing that issue.

SENATOR LESNIAK: Thank you, Scott.

Let me be judgmental. I'm elected to be judgmental. I believe that spending money on a site that's contaminated with cancer-causing agents, and the extent of that contamination is unknown-- Aside from which, there is no money to build on it -- I heard you say it; I wrote it down here: "No district should be making any plans at all until more money becomes available." And it is not on anyone's priority list. I consider that, at best, to be irresponsible. I consider it to be illegal and, potentially, criminal. And that's my judgement.

Thank you, Scott.

MR. WEINER: Thank you.

SENATOR RICE: Next we have Assemblyman Baroni, then it's Assemblywoman Voss, then it's Assemblywoman Beck.

ASSEMBLYMAN BARONI: Thank you, Chairman, very much.

If I might, I'd like to ask a series of specific questions. I'm not sure commissioner -- or Barry -- which one is the best to answer. And I'll take you through them one by one.

At a recent -- it could have been the Education Committee.

Chairman Stanley, I'm not sure if it was the Joint Committee or the Assembly Education Committee.

The Inspector General, Ms. Cooper, came and visited with us, and laid out some of her findings. But one of the things that she mentioned was that she could not rule out -- I think that's to say it -- put it generously -- the possibility that criminal activity had taken place within the Schools Construction Corporation, and that she was, potentially -- although she didn't confirm it -- making referrals to the new Attorney General.

Have you found, in your time, any activity that was criminal on the part of anyone directly employed by the Schools Construction Corporation or contractually employed by the Schools Construction Corporation? (no response)

Is that a yes? (laughter)

MR. ZUBROW: No, I think the answer is that I am not aware, myself, of any actual criminal activity. Having said that, we are aware that the Inspector General, obviously, has made those comments and has a relationship with the Attorney General. And, obviously, it's up to the Attorney General to be investigating any criminal activity.

To the extent that there are any investigations, the SCC would cooperate fully -- and will cooperate fully -- with any investigation. I don't think that it's either my place or Scott's place to be seeking to investigate criminal activities. There are others who are much more adept and skilled at doing that.

ASSEMBLYMAN BARONI: Has the Inspector General referred any knowledge or information she has garnered through her

investigation to either one of you about any contractor or employee of the Schools Construction Corporation?

MR. WEINER: Well, the way you phrased the question, Assemblyman, yes. But I don't want to connect the dot that, because we've got information conveyed by the specific person, that it's necessarily criminal. So, to answer your question directly, yes. We do get information about conduct of employees that sometimes could represent mismanagement. And we take appropriate action with that.

Also--

ASSEMBLYMAN BARONI: Scott, let me interrupt you there, very, very quickly.

MR. WEINER: Yes.

ASSEMBLYMAN BARONI: You're correct. And thank you for clearing that up. It would -- not necessarily criminal activity. Your words -- mismanagement. Has anyone been fired?

MR. WEINER: Yes.

ASSEMBLYMAN BARONI: How many people have been fired?

MR. WEINER: One, at least since January -- mid-January. Other people have left.

Now, to give you a little more comfort on the point you're-- I want to underscore a point Barry made in his opening -- by the way, please call me Scott -- that Barry made in his opening remarks, which is that we're about to finalize an agreement with the -- to the Office of the Inspector General, and with Mary Jane Cooper, that will site members of her staff at the SCC, and, in fact, serve as an internal inspector general.

I know, of my own knowledge, that there are regular meetings between -- or discussions between the Office of the Inspector General, the Office of Government Integrity, and the Division of Law and Public Safety. In my role, I meet, and have met regularly -- as has Barry, in his role as Chairman -- with the Attorney General. And I recently met with the Director of the Division of Criminal Justice.

So, suffice it to say, there are open lines of communication between and among all our agencies.

ASSEMBLYMAN BARONI: Is it your expectation, through your meeting with the Attorney General and the Director of the Division of Criminal Justice, that this investigation is ongoing in the Schools Construction Corporation?

MR. WEINER: Yes, I think-- It's my impression -- but it's only an impression -- that they are doing what they should be doing.

ASSEMBLYMAN BARONI: Recently, there was an article in one of the publications -- probably more than one, and you deserve great credit for it -- for identifying a contractor who you believed to have misbehaved in their activity with the Schools Construction Corporation. I don't know the name of that contractor.

Is it your intention to identify bad actors in the world of contracting with school construction for the first billions of dollars spent, and then seek to debar them from further activity with the Schools Construction Corporation?

MR. WEINER: In fact, we do that now. There are debarment -- regular debarment proceedings.

I want to be clear, in case people think they can read between the lines of our colloquy, that the actions I think you're referring to are not about disbarment; but it's about our belief that there had been a failure on the part of that entity to do what they should do under their contract. And what we will be doing is enforcing, with vigor, our contract rights, whether it's to recover errors and omissions claims, to make sure that we get every bit of value that we should expect for the money that we're paying, and that there will be cooperation among all the various vendors and the Corporation.

MR. ZUBROW: And I think it's also important to point out that in those situations where we are seeking to enforce our contractual rights in our various agreements -- whether it's with design professionals or contractors -- the fact that there are disputes should not be taken to suggest that, in those situations, there is necessarily criminal activity.

ASSEMBLYMAN BARONI: Certainly.

Those contractors or folks with activity that rise to the level above -- a standard contractual dispute -- but rise to a higher level, Scott. And you, sort of, implied that there are plural possible debarments.

MR. WEINER: There are what? I'm sorry.

ASSEMBLYMAN BARONI: Plural possible debarments, companies and contractors that you no longer wish to deal with.

MR. WEINER: That's correct.

ASSEMBLYMAN BARONI: How many of them would you say there are?

MR. WEINER: I don't know. I can get you that statistic.

ASSEMBLYMAN BARONI: Would you get us the list of the contractors that you believe--

MR. WEINER: Sure. The vendors that have been-- I'll get you the ones that have been disbarred. I can't give you the ones that I think--

ASSEMBLYMAN BARONI: Of course.

MR. WEINER: And, again, the article that was recently published -- I think you're referring to -- talks about a case where we believe that, there, the contractor has an obligation to perform certain work in a certain manner. They disagree. They're entitled to disagree. We have contractual rights. We're going to enforce them.

ASSEMBLYMAN BARONI: Very briefly-- Thank you for your comments on that.

I have a couple very quick questions. One of the issues that came up repeatedly in earlier discussions about school construction is the reuse of architectural designs -- school districts who wanted to use the same design again -- that were told by the Schools Construction Corporation, "No, go out and redesign." Have you decided, as many of us have, that that was a very bad public policy, and have changed that? Or are you continuing the tradition of requiring each new project to be designed separately, even if architectural plans are perfectly legitimate as they were?

MR. WEINER: I became aware of that situation back in the December-January time frame. It made no sense to me then. It makes no sense now. It's not something which has been immediately addressed, because we're not facing that problem now, because we've stopped the design work. When we get ready to start up again, we will be addressing it.

There are questions of who owns the designs, how can the designs be used. But the requirement that says every project has to be treated as if it were a brand new project just makes no sense. It defies logic and common sense.

ASSEMBLYMAN BARONI: One of the other problems that we identified -- it came up repeatedly, and some of your predecessors pointed out -- was the practice of districts, after a project has been approved by the Department of Education, after they have been funded by your office -- then doing change orders after all that process had begun. We saw that escalate the cost. Has that process been stopped?

MR. WEINER: It's one of the recommendations that we've looked at for a statutory change, looking at the long-range facility planning. I think the conundrum that you're identifying is after a project has been designed, committed, based upon a long-range facility plan-- A district which, today, has the ability to change their plan as often as they want, whenever they want, does that. It gets approved by a predecessor at the DOE. And then, all of a sudden, the SCC is looking at scope and design changes that bring about delay, and added costs, and the like. So it was potentially a process that never ended. And there have been cases where we, as an entity and a State, have incurred additional costs because of changes that have occurred late in the construction process.

MR. ZUBROW: And I think you're also pointing out the -- one of the problems of rushing to get shovels into the ground in the past, where projects were allowed to proceed to some level of actual construction without full design and architectural drawings being in place and committed to. So that as the projects are progressing, it obviously became necessary to

have change orders that implemented the final design elements that hadn't been done in the very beginning. And that, obviously, leads to a higher cost project. And, frankly, I think history would suggest that it actually led to delays in those projects, as opposed to achieving what might have been the objective of trying to get the projects built faster.

ASSEMBLYMAN BARONI: Thank you very much for your answers.

Let me just say, very briefly, to conclude my questions-- If we're going to rebuild the faith of the people in New Jersey in the project you two are now overseeing, we need to prosecute criminals and continue to fire bad people. We need to go after the contractors who wasted our money. And we need to change some of these commonsense management mistakes that were made. And I give you great credit for admitting--

And, Mr. Zubrow, your testimony could have very well been written by Joe Malone. (laughter)

So you must do that. We're never--

And, Chairman Stanley and Chairman Rice, we're never going to be able to go back to the people of New Jersey and ask for one more dime as long as they think this program has failed miserably.

And I give you great credit for at least taking the step to begin to try to rehabilitate this program.

Thank you, Chairmen.

SENATOR RICE: The next speaker is Assemblywoman Voss.

Let me just say, while she is coming up to the plate there, you talk about incriminating people. Be very careful, and make sure you document what you're doing. Because I've seen people terminated that

haven't been part of the process. And I'm not so sure if you don't have some bad apples still hanging around, given the politics of all these governments and commitments -- of people getting elected. So I want to be on record saying that.

ASSEMBLYWOMAN VOSS: Thank you, Mr. Chairman.

First of all, I want to commend you, Scott. I have called your office on behalf of many of the districts in my district -- school districts. And I have gotten very substantive answers, which I appreciate very much, and so do the people who I represent. So I want to thank you, because you're doing a very efficient job.

Assemblyman Baroni and I are always on the same wavelength when it comes to educational issues. And he basically has asked several of the questions I was going to ask. I read, with great interest, the report done by the Inspector General, Mary Jane Cooper. And I was appalled at the way money had been mismanaged, the lack of oversight -- which, hopefully, is going to be corrected at all levels.

And I also have to go back. Having worked on many building projects in our municipality-- When work was not done properly, we sued the people who did the poor work. Now, I've been at several hearings in some of the towns where work was done over the last couple of years. And I am shocked at the shoddiness of the work. There was one school that had a gas pipe in the middle of the cafeteria. They had to put a waste basket over the top of it so that the children and people didn't fall. You cannot imagine the kind of work that was foisted on the people of the towns that were supposed to be getting quality work.

Again, I think that there should be-- Mary Jane Cooper did, basically, say that there was definitely room to assume that some of this was of a criminal nature. I hope -- again, I'm going to be reiterating what Assemblyman Baroni said -- that the contractors who were responsible for this shoddy work will never be employed again on any project. I mean, is this going to be something that--

MR. WEINER: That's clearly the goal and objective. And I guess there is still enough lawyer DNA in me that I want to be careful. (laughter) So in the kind of situation you're describing, yes, everybody would agree with that.

Again, I want to go back and underscore some of the points that Barry made early on. In the past few months, we tried to build up our capacity, both at the SCC as well in the Attorney General's Office, to pursue those claims. We hired an experienced construction lawyer, who is now in the process of building up a claims group -- we've had a claims group -- but now bring in another lawyer, all with the cooperation of the Attorney General, so we can go out and aggressively pursue those. People knew they were there, they just weren't being pursued. We're also going to be exploring why they weren't pursued. Maybe it was mismanagement, maybe some people made other judgements.

The Attorney General's Office, I also want to say, has been very supportive in providing the resources to us that we need, in terms of allocating the time of Deputies Attorney General, both in the Division of Law and the Division of Criminal Justice. So I think we're getting our capacity to where it needs to be, to achieve the kind of objectives that you're talking about and your colleagues are talking about.

ASSEMBLYWOMAN VOSS: Just to pursue that for a moment, we're all very concerned about the funding. And my wish would be that we could recoup some of the money that was spent. But I also worry about the fact that in the process of litigating these, we spend more money to recoup money than we will recoup.

MR. WEINER: That's a judgement that should be made, and will be made, as to the cost-effectiveness of pursuing any remedy. It will be nice when the agency is at a point where it can make those judgements because it has the capacity to consider all the options.

ASSEMBLYWOMAN VOSS: Thank you.

SENATOR RICE: Assemblywoman.

ASSEMBLYWOMAN BECK: Through the Chair, thank you.

SENATOR RICE: You're welcome.

ASSEMBLYWOMAN BECK: As a new member to this Committee, if you wouldn't mind just indulging me. I just have some, sort of, basic questions. I want to make sure that I have my understanding of the facts correct.

We had an \$8 billion school construction program.

ASSEMBLYMAN STANLEY: 8.6.

ASSEMBLYWOMAN BECK: 8.6.

Of that amount, roughly 2.19 was spent in the non-Abbotts -- 467 districts for 1,400 projects, correct?

MR. WEINER: In the non-Abbott districts, about -- around \$2.5 billion.

ASSEMBLYWOMAN BECK: And in those-- Can I assume, then, that the remaining districts, which are the 31 Abbotts, received the \$6 billion, roughly?

MR. WEINER: Roughly.

MR. ZUBROW: Yes.

ASSEMBLYWOMAN BECK: And all totaled, they had 600 projects that have been completed. There was health and safety, there was new construction, and then there was substantial renovation. Those numbers all added up to about 411 projects. What were the other 189 projects?

MR. WEINER: They were in the form of grants to Abbott districts. Under the current statute, an Abbott district, if they have a project that's under \$500,000, can manage the project themselves. And rather than it being a facility project, in terms of our head counting -- or bean counting -- it's considered a grant to an Abbott district. We give the money, they manage the project. And we manage the grant to make sure that the work is performed. So the difference is about 200 Abbott grants that have been issued, under \$500,000 each.

ASSEMBLYWOMAN BECK: Out of curiosity, I'd be interested in seeing--

MR. WEINER: Sure.

ASSEMBLYWOMAN BECK: --the listing of those projects -- more just out of curiosity than anything else.

MR. WEINER: Oh, sure. We'll provide that to the Committee, through staff.

ASSEMBLYWOMAN BECK: Great.

I know you spent a great deal of time -- and I do appreciate you going through the listing here of the 315 projects that are pending in the Abbotts. I'm curious if we have any sense of how many projects might be outstanding in the non-Abbotts, even though I know there is no funding left -- but still just curious if you have a sense of that.

MR. WEINER: Not quantitative. Let me see if any of my staff do. To me, it's qualitative. And I don't mean to be facetious at all. It's large. There is a tremendous need for school facility projects in and out of Abbott districts -- both Abbott and non-Abbott districts. The type of planning that goes on is just different because of the nature of the funding arrangements, and the fact that non-Abbott districts have the ability to both manage their own projects, and go out and look for and apply for funding through the grant program.

Maybe Gordon can--

**A S S T. C O M M. G O R D O N A. M A C I N N E S:** (speaking from audience) Assemblywoman, I think the districts have held back on making applications for covering the State share, if you will, when it was clear that funds had dried up. So I think we've seen a dearth of applications.

ASSEMBLYWOMAN BECK: All right.

Well, am I accurate in saying, then, that as we look at the 31 Abbotts, all total, they have 915 projects either completed or pending, and that we know that the cost of at least 756 of these projects is roughly going to be \$10 billion, in contrast to 467 school districts that got \$2 billion for 1,400 projects? Do I have that right?

MR. WEINER: I'm not sure where the \$10 billion came from.

ASSEMBLYWOMAN BECK: Well, if you agreed with me that \$6 billion has already been allocated and spent -- to our 31 Abbotts--

MR. WEINER: Right.

ASSEMBLYWOMAN BECK: --and that your rough number for -- I believe you said the 59 pending and the 97 was roughly \$4 billion.

MR. WEINER: That's part of the \$6.5 billion.

ASSEMBLYWOMAN BECK: So the \$4 billion that you discussed is actually-- So only \$2 billion has been spent in the Abbotts then.

MR. WEINER: No, no. The amount of money that's been spent in the Abbotts--

ASSEMBLYWOMAN BECK: I'm sorry.

MR. WEINER: I apologize. Six billion dollars in the Abbott projects -- round numbers. All of it has been committed, including to the list of 59 -- \$3.4 billion, \$3.5 billion has gone out the door; \$2.5 billion remains money that hasn't gone out the door yet, but which is committed to both these projects in construction and projects that are part of the capital plan -- the group of 59.

ASSEMBLYWOMAN BECK: And the \$4 billion would be for the 97? Just take me through that number, if you would.

MR. WEINER: The 97 would be the best -- the last estimate that was made -- which is rough at best -- that would be *ROUGH*, in capital letters and italics -- was about \$5.4 billion. That was published in February.

MR. ZUBROW: For those 97.

ASSEMBLYWOMAN BECK: And that is in addition to the \$6 billion already.

MR. ZUBROW: Yes.

ASSEMBLYWOMAN BECK: So \$11 billion for, roughly, 756 projects in--

MR. WEINER: No, no.

ASSEMBLYMAN STANLEY: No, it's not in addition. No, it's not.

MR. WEINER: I think the problem is-- Let's separate work that is actually being pursued and work that is not being pursued. Of the work that's being pursued, we've got the 600 projects to date. We've got the 59, and 69, and 128. And if we're going to head count all of those in the 59, one of the projects -- which is called *Newark's Health and Safety* -- is, in fact, about 12 to 14 -- I don't remember the precise number -- health and safety related projects that, back last year, were consolidated into one project, just for list-keeping purposes. All those represent the projects that would be pursued on the Abbott districts under the original \$6 billion.

Now, if somebody asked the question -- take the group of 97 as the last identified projects most furthest along in development -- what do you think it would cost to finish those? The rough, rough, rough estimate -- assuming you could build them all today. So we're using today -- in fact, we're using February dollars--

ASSEMBLYWOMAN BECK: Right.

MR. WEINER: --is \$5.4 billion. That's a rough, rough estimate. It could be less, it could be more. I don't know. That's one of the things we're trying to get our arms around now.

ASSEMBLYWOMAN BECK: Even though I was a math and physics major, I'm sorry to be sort of slow on that. So the total cost for all projects proposed, underway, completed, thought about is what?

MR. WEINER: Okay. Indulge me. Let me try it this way. For Abbotts -- because now you talk about all. All projects that are completed or in active construction or development -- \$6 billion.

ASSEMBLYWOMAN BECK: Inclusive of the 315.

MR. WEINER: No, because those are not active projects.

ASSEMBLYWOMAN BECK: Okay.

MR. WEINER: If I think of the 315-- Now I'm going to go to the February report. That's all 315 -- not just the 97, but all 315. At that point, back in February, with the same rough, rough, rough estimates, it was \$13 billion.

ASSEMBLYWOMAN BECK: So \$13 billion plus six is \$19 billion -- for 31 Abbott school districts, in contrast to--

ASSEMBLYMAN STANLEY: Mr. Chairman, can I just make a quick point?

SENATOR RICE: Hang on.

ASSEMBLYWOMAN BECK: I only have two more questions. I'm sorry.

SENATOR RICE: Let the Assemblywoman finish.

ASSEMBLYMAN STANLEY: Just with the issue of the 31 Abbott school districts. A lot of times we say 31 Abbott school districts, but it represents 25 to 33 percent of the state's kids. So I just want to make it clear. Because it sounds like 31 versus 611, as opposed to a fourth or a third of the state's neediest kids against the rest of the state -- the two-

thirds of the state's wealthiest kids. So I'd just like to make that point clear, because a lot of times we get lost in that.

Thank you.

ASSEMBLYWOMAN BECK: Thank you.

Sorry, Chairman. I appreciate that.

ASSEMBLYMAN STANLEY: Sure.

ASSEMBLYWOMAN BECK: I know that you had said that your position is that you're not scrapping the program. You're not going to start anew. And I question that. I question that for lots of reasons. Obviously, the fraud, the corruption that's gone on thus far-- We're talking about \$19 billion out of \$21 billion being spent on school construction going to 31 school districts.

MR. WEINER: No, no. I apologize for interrupting, but just to be clear -- because I apologize. I must not have been clear. The \$13 billion I mentioned -- the 315 -- is not going to be spent. The bonding doesn't even exist. It answered a question that the Supreme Court asked, which is, if those 315 projects were going to be completed, how much would it cost to complete them? For all sorts of reasons detailed in the February report, the SCC concluded it's an impossible number to estimate. But the best we could do is \$13 billion. It is incorrect to say that \$19 billion has been spent or allocated for the Abbott program. Only \$6 billion has been.

ASSEMBLYWOMAN BECK: I thank you. I appreciate that, Scott.

Let me just ask the following question, which is, then, of the projects that are proposed -- the 315 plus the 600 -- are you then suggesting that some of these will not be completed?

MR. WEINER: Yes. I think that some of the 315, likely, won't be completed. And the reason for that is not a funding issue. It's changing needs and priorities within the districts. Remember, there's new long-range facility plans being provided, developed. I know of some districts today who are rethinking the plans that exist. And they said, "You know, five years ago, we thought we needed this configuration of schools. We now figure that we need something different." So that's the reason.

At this moment -- to underscore a point that Senator Rice made -- if we draw a line today and just hypothetically say, "There is no new money. This is it. This is all the State's going to provide," then it's going to be -- the projects have been completed, the six demonstration projects, the 69 projects in construction, and some number, less than 59, of projects. That's it. If more money is provided, more projects can be done. But it's unclear what those projects would be right now. Because, in part, the districts have to make those determinations. We don't make the determinations.

ASSEMBLYWOMAN BECK: I would tell you -- and just a side story -- which is, I sat in front of 350 people in East Windsor, which is a non-Abbott school district that's been flat funded for five years. As a matter of fact, all 16 of my towns have been flat funded for five years. And there is no stomach in the general public to provide additional funding at this point, both for property tax issues and the waste, fraud, and corruption that's gone on with the school construction program.

That said, I do have just one follow-on, which is, you've given a list of proposed projects in the Abbott districts -- the 315 -- with some very, very general descriptions of what those projects are. I'm curious if we could get a little more detail. Are we talking classrooms? Is this health and safety? And if it is health and safety, what do you mean by that? I'd be curious to know -- understand what you mean by overcrowding. I can tell you that in Marlboro Township, we've got seven trailers full of kids. And if you want to see overcrowding, I'd love for you to come visit.

MR. WEINER: Sure.

ASSEMBLYWOMAN BECK: If you could give me a little more detail about the types of projects that are listed, I'd be very interested to hear that.

MR. WEINER: Sure. For the most part, that list that you see and the level of information that you have represents, sometimes, our total knowledge. And it's a legacy of prior years administration of the program. Because, literally, sometimes a program -- a project would come over, particularly with that last group, where nothing's been done to say, "This is a project to address *X* -- overcrowding -- and it's going to be addressed by a new school." That's what we know. That's how the project starts.

The interaction between the SCC and the DOE has been such to try and get better information. And the reason why the working group is saying that it will be until August that we can provide the kind of detail that you're looking for is because the Department of Education is going to meet with each of the 31 Abbott districts. And it's going to go over each of those projects and understand what those priorities are, because there are different gradations of overcrowding, which I tried to allude to. It's not my

expertise, nor is it the work of the SCC. But it's part of the overall school construction program.

At the same time, we're going to be developing, with the collaboration of anybody who wants to participate, a methodology to begin to prioritize the projects based upon educational need. We being the SCC, the DOE, the Governor's Office, you all, anybody who participates in those symposiums in July. The goal for that is to bring in active collaboration.

So by this Summer -- probably towards the latter part of the Summer -- we will be in a position to give you what the definitions of overcrowding are, because they're going to be collaboratively developed. We're going to give you -- be able to give you and everybody else in the State a list of projects and describe what it is. That level of information simply doesn't exist today, believe it or not.

ASSEMBLYWOMAN BECK: Thank you, Scott.

And let me just ask -- the amount of energy and time you're putting into this list -- will you be developing a similar list for non-Abbotts, going through it, and prioritizing it, finding out what educational needs are not being met in the non-Abbotts as well as the Abbotts?

MR. WEINER: Again, I don't want to be fastidious about this, but I'd be happy to answer-- But, in the past, the SCC got into some areas that it had no business getting into. It got into, either directly or indirectly, influencing educational policy. And I just want to make it clear, that's not how this administration views the role of the SCC.

So when you say, "Will you be doing it," yes, collaboratively, we'll all be participating. The SCC -- and I'm going to put on my SCC hat. We want to become the premier school construction company in the

country, as counter to recent practice as that sounds. We want to be able to work with the DOE to bring our expertise on the construction and design to that process. And we want to bring that to the communities to help them design the best schools it can for the coming decades.

But that process is going to result in the kind of collaboration I think you're anticipating and would want to see. So that's what we'll all be doing together.

ASSEMBLYWOMAN BECK: So if I understand what you've just said, you'll be collaborating with the Department of Education to reach out to the non-Abbotts to see if there are unmet school construction needs in those districts, as well.

MR. WEINER: We know there are unmet school construction needs. I mean, all you have to do is be a resident of the state and look around. The question is, going out and trying to categorize them, get our arms around them -- not from a school construction point of view, but from a Department of Education, educational adequacy, and need point of view. Then we can all debate those findings. But that will be part of the process going forward. That's the whole point of the long-range facility plan process.

ASSEMBLYWOMAN BECK: Thank you. I appreciate your time this afternoon.

MR. WEINER: Thank you.

ASSEMBLYWOMAN BECK: And I would just reiterate, again, that my experience -- my short experience in the Legislature -- that the general public has very little stomach for providing additional funding; that they are certainly in duress when it comes to property taxes; and that the

fraud, waste, and corruption that's gone on in the past, certainly, taints the future of school construction in this state.

SENATOR RICE: Thank you.

What we're going to do is, we're going to have one quick question come from the Assemblyman, then we're going to take a break for about five minutes so you can do the kinds of things you do on break.

(laughter)

But let me say this to the Assemblywoman. And this goes to everybody here. But I think most of the members, if not all, know me very well. The members of this Committee, from what I've -- and I've been around here for a long time -- are very committed. We're not selfish people. We have been arguing the case for non-Abbotts. And you'll find that I have a problem with my own party, because I try to be fair.

So as we go through these series, don't think that we don't support non-Abbotts. The courts made a very clear decision as to what we're supposed to do. And the reason we have non-Abbotts is because the legislative body and others felt that there is a need out there, whether the court addressed it or not. And we have to continue to do that.

And when you talk about Marlboro -- 11 or 10 trailers, or whatever the number was -- remember in Phillipsburg, there's 31-plus trailers. And we're going to come back and talk about that. We're going to talk about Gloucester City.

And so what happens here in Trenton-- If I say something -- because of the way I look -- sometimes people say we're racist. Someone who doesn't look like me could say the same thing. They're diversified, they love all people. When we say Abbott district, we're not talking about

the exclusion of non-Abbotts. We don't represent-- I don't represent just Newark. I want people to understand that, because it comes up once in a while. And I have to remind people, I also represent Belleville and Bloomfield. I used to represent Maplewood and South Orange, one of the wealthiest districts in the state.

And so we do have this objectivity about where we're coming from. And we do want to go back to find out how we're going to collaborate and get the information from the non-Abbotts. Because, for me, to move the city of Newark forward, or a township like Irvington, does no great justice for kids in this state, or people in this state -- including the taxpayers and voters -- if Belleville and Bloomfield aren't moving along proportionately also. They inherit our problems.

When it comes to criminal justice, it's the same thing. But there are some people who are so middle class, so wealthy, and so non-minority with the diversity, that every time we speak, they think we're "isolating" them, whoever they are, in the process.

That has not been my experience with this Committee. We're going to ask the tough questions. They're going to come at you, and we're going to balance them. Unfortunately, we can't do legislation from this Committee, but we can suggest some. And that's why I want to make sure that it's the clear direction of this Committee, versus the Education Committees in both houses. Because we can get confused. And we're going to lose our statutory direction and mission, if you will.

With that, let the Assemblyman ask one question.

SENATOR LESNIAK: Senator Bark hasn't had an opportunity to ask any questions, Chair.

SENATOR RICE: I'm sorry, Senator.

We'll let the Senator go first. Then we're going take a break. Then we'll come back with your question.

Go ahead, Senator.

SENATOR BARK: Thank you, Mr. Chairman.

And I appreciate the opportunity to speak, although I'm going to be very short, because I must leave very shortly. I have another engagement. But I'm very happy that I could at least have the opportunity to listen to both of you this morning.

I think you're on the right track. Wonderful things happen when you plan. And it seems to me that the planning was not there prior to your coming. So I appreciate that, because it seems to me we ought to be able to accomplish -- do it probably with less cost. In fact, I'm sure of that if you plan well. And so I'm very interested in the way you're going.

But I think the Chairman has some very interesting points. We need to be kept apprised of what your numbers are on, maybe, a month-to-month basis, or a week-to-week basis, something -- not daily, obviously -- but at least more frequently than we've had the opportunity to have that.

I only have one Abbott district in my district, but I have a lot of schools. So we appreciate that you're looking at both of those.

I really don't have any serious questions. I just wanted to have an opportunity to say that I certainly was very impressed with what you said today.

MR. ZUBROW: Thank you very much.

SENATOR BARK: And I'm glad I was here.

I'm sorry I have to leave, Mr. Chairman, but I do.

SENATOR LESNIAK: Mr. Chairman, I also have to leave.

SENATOR RICE: Sure.

ASSEMBLYMAN STANLEY: Thank you, Mr. Chairman.

I just really want to reiterate what you said. It's funny -- leading to my question -- the fact that Senator Rice, myself -- and I really think the Legislature as a whole -- most of us -- feel very passionate about education and, certainly, feel that there's a great disservice that's done when we attempt to pit Abbotts versus non-Abbotts, urban versus suburban.

Let me say this. And folks will try to vilify Newark and say, "Lot of money being spent." That does a tremendous disservice to our system -- to our education system, which is one of the greatest in the country, so it's one of the greatest in the world. And it does a disservice to us as we try to deal with issues of the day in a deliberative and critical sort of process.

So I just want to preface my question with that. And this was my question: How many projects are lying out there for districts -- for regular school districts -- that have had their referendums approved but we don't have funding for under the regular school district category? And how much are the dollars associated with those projects?

MR. WEINER: What I'd like to ask your indulgence on is, during the break, let me try and gather up that statistic for you.

ASSEMBLYMAN STANLEY: Okay, fair enough. Thank you.

SENATOR RICE: With that, we're going to take a five minute break. Actually, take eight, expect five. Thank you. (laughter)

**(RECESS)**

**AFTER RECESS:**

SENATOR RICE: Okay. Thank you very much.

I know that everybody has to go. And we're going to conclude on a couple of questions, and a couple requests.

First of all, for the Chairman of the SCC, and to the Acting CEO, I need to give you some of the requests first. Okay? This way, if you have to leave, you at least heard it from me firsthand.

I'd like to have, through the Chair, for this Committee, a copy of the capital plan for school construction. You keep mentioning the capital plan. But your documents also mention you'll be working on the capital plan. I'm trying to figure out-- Is there a difference between what you have and a capital plan -- and long-range strategic plan that you'll be working on over the next couple of weeks? Is there a difference?

MR. WEINER: Yes.

SENATOR RICE: You're good. (referring to PA microphone)

MR. WEINER: There we go. I see. It's like the -- my kids in the back seat of the car. (laughter)

SENATOR RICE: That's right.

MR. WEINER: Yes, Senator, there is a difference. When we refer to the current capital plan in my testimony -- my written testimony -- it's referred to as the 2005 Capital Plan. That was the capital plan that was adopted last July. And it represented the then SCC management's best attempt to add up the cost of all the projects that were in construction, and

those projects that were funded -- those 59 projects and other related expenses.

When we refer to a new planning process, we see the following steps -- and we tried to present this visually in that little flowchart. By August of this year, we hope to produce a document that will be called the *Strategic Plan*. It will identify the work that needs to be done over a period of time -- say, five years. It will be the result of, in the Abbott districts, looking at the long-range facility plans, having DOE present us with information, our taking a look at our best guess at sequencing and saying, "This is what the next five years of activity might look like."

From that, we would develop a capital plan. Now, I suspect -- if I can oversimplify the discussion -- at that point, Senator, you and your colleagues in the Legislature might ask the Governor -- because we will be providing this information to the Governor -- how much would it cost, do you predict, to do everything in your strategic plan? We would say that number is *X*. You might say, "Okay. We're only going to give you half of *X* right now." Once we know what that amount is, then we do a new capital plan that would take those available resources, apply them to the strategic plan. And that capital plan would drive the Corporation's activities for the coming period of time.

SENATOR RICE: Okay. Thank you.

Also, we need you to send, through the Chair, a copy of the members of the prioritization task force -- or work group.

MR. WEINER: Oh, sure.

SENATOR RICE: And while I'm mentioning that, in one of your documents you had indicated that you're collaborating and

communicating with the stakeholders better. Could you identify who the stakeholders are?

MR. WEINER: Sure. In its broadest sense, I use the word *stakeholders* to represent individuals other than those who are represented by school boards, district representatives. So it is people in the community, it's governing bodies, it's organizations like the Garden State Coalition, it's organizations like the Education Law Center, it's you and your colleagues in the Legislature. It's really meant to be a descriptive term for individuals other than those who are part of a school district organization.

SENATOR RICE: Will you send, through the Chair, a list of the stakeholders you're involved with thus far?

MR. WEINER: Sure, and also those that we hope to reach during the Summer symposiums.

SENATOR RICE: Okay. We appreciate that.

I need to get clarity. If I have to go back and do legislation, I'm going to do it. There is a separation, in terms of authority and mission, as it relates to the Joint Committee on the Public Schools versus the Education Committees in both houses. I want to reemphasize that. We have a mission, and I want to keep that mission focused. We're not subordinate to those groups on either side. Number one, it's joint from both houses and both parties. And I want to be communicated with on a regular basis. That's why we have a staff. And that's why Melanie has been appointed to that board. I hope she is still coming to board meetings.

They're not excluding you, are they?

MS. SCHULZ: No.

SENATOR RICE: Okay. I just want to be sure. I've got legislation. I just didn't pass it, because I'm on good will.

MR. WEINER: Well, in fairness, now that you've raised that, I'm not going to sit here and be disingenuous. There is a question that had been raised by Governor's Counsel on what it would describe as a separation of powers issue. It is not our issue. And I don't mean to, again, pass it off. But it is one that I would suggest Legislative Counsel may want to discuss with Governor's Counsel.

SENATOR RICE: Let me say this. There is a bill -- we just haven't moved it -- that would make sure there is no discretion, etc., primarily because it's the Governor that many of us think wants to really slow and stop the school construction projects. We hope that's not true. We hope that a lot of this organization and -- the slow process of putting people in line, and hiring people, and managing -- putting up kind of a plan, if you will -- is not a barrier to get us past this year, and another year, and another year, and other court actions.

But the Counsel can talk to me. And we can fight. And, if necessary, I may litigate with them, or we're going to do legislation. So you can take that back to them.

MR. WEINER: I will. I understand that.

MR. ZUBROW: Just one footnote, if you'll allow me -- which is that I think that we very much welcome and embrace Melanie's participation in all that we're doing. I think that we've tried to make sure that the lines of communication, flow of information, and reciprocal learning is totally there. And so without commenting on the other issue, I

think that from a substantive standpoint, we certainly seek to, and would like to, embrace all of her participation.

SENATOR RICE: Let me say it again. I want to be clear. I lose a lot of battles. I win some. But I'm very adamant about what I believe in. We do not pass legislation from this Committee. We're oversight. A lot of the problems you have in front of this Committee are cut down by dealing directly. And that's why that Executive Order was written and passed, prior to this Governor. If he has an issue with it, he should call me, because I do have a bill in. And we can discuss that.

But I want to make it clear-- And if she tells me she's being excluded, somebody better come talk to me right away, because I'm not going to be a happy camper, regardless of what the rest of the Committee says.

MR. WEINER: I understand.

SENATOR RICE: I'm still a State Senator, and one of the senior members.

Also, I would like to make sure that we have--

Now, we went over this draft. You went over recommendations for legislative change -- statutory change or some recommendations. But it didn't really say anything.

MR. WEINER: No.

SENATOR RICE: Well, do you have anything of substance? Because we need it right away. We don't want-- I don't want any more delays in stuff that's taking place.

MR. WEINER: The simple answer to your question is: Do we have it now? No. I know that it's being worked on, both in the Division of

Law and in the Governor's Office. What we wanted to do in this report, in meeting with you today, is to raise the topics. And that process can be accelerated by, I think, our meeting with your staff or other members to begin to flush some of this out, which I'd be happy to do.

But we have gone about the process of trying to identify all the areas that may be required or benefit by statutory change, and preparing a list of recommendations to the Governor, as we said in our report. That's where we are.

SENATOR RICE: Well, I would like to see, in a copy to this body -- and staff can work with you and, if need be, staff in both Education Committees can work with you, as well -- to expedite these recommendations. I know, in speaking with Assemblyman Baroni and others, we would like to make certain that whatever the recommendations are, this body gets an opportunity to see them first and have a discussion with you as a part of where we are going with oversight in our mission. And so we need to do that.

The final thing is the cost of the projects that are ready this year. We keep debating that. I'm going to say, again, that every time I pick the paper up -- this is no reflection of those of you sitting here -- I read that the Governor brought another person in from Wall Street. And when you talk about Melanie and other people, they say, "Well, there's a conflict, but we'll work through that." Well, we'll work through her, too.

The point is that I just can't believe all these Wall Street people keep putting the stock market up even when it crashes -- cannot tell us the amount of dollars we need.

Assemblyman Stanley is correct. We had a bill in for \$3 billion. Listening to people-- Had we moved on that bill some time ago, some of these projects would have been in the ground, because the numbers weren't that far off, give or take. They have increased since. We need a number that we can move. If we can take and move a \$150 million stem cell bill one day, and another person in another house disagrees with who should get the \$150 million, and the next day we put another \$150 million with it and make it \$300 million, and then we get ready to move it and somebody wants another \$50 million-- So all of a sudden, we have a \$350 million stem cell research bill. We don't know what it's going to produce. And it was done that quickly. And I don't think it should be done that way.

But when it comes to the kids education, we're going to bicker about districts that are Abbotts, non-Abbotts, and all that kind of stuff. And we have all these things in place -- which I agree with -- but it takes us forever. I have a real problem with that.

And the Governor is so proud of this stem cell bill, and so are the legislators who moved it. And I supported it. Two hundred million dollars for mental health -- we did it like that. Everybody is proud. But there's a big issue and problem when it comes to actually funding education and getting these doggone buildings built.

There's been problems in prison construction. I've been here 20 years. Go check the records. The same kinds of problems you see here-- But they kept building the prisons. They did not slow down. They did not stop.

And so we want to see some numbers. And hopefully you can get me some numbers real soon. I'm going to give you about 21 days to report back. I'm being honest. Either you have them or you don't have them. And when you don't have them when we call the meeting, you can report back and tell me you don't have them. Then I will take it from there. And I will meet with the Governor, prior to then, if he would entertain me. Normally, he would -- once he gets back from China.

So those things we do need. And I'm putting them on record. Because if we don't have date-specific -- even in terms of the timetables you're talking about -- July, August, those kinds of things -- then my greatest fear is, we're going to transition again. Hopefully we don't. But I get those rumors too. We know some people aren't going to stay here long, they want to go back home. I understand that. But then we transition. Someone else is going to come back and say, "Well, we looked at what they did. And here we start again." We don't need that.

And we're not the Governor's and administration's subordinates. I keep reminding every governor of that. "Read the Constitution. We are statutorily equal. Separate branches, but co-equal." So we will not subordinate ourselves -- at least I won't. And I won't have any member of my Committees, via my Chair, be subordinate in that fashion.

And that's not to scold you. I think you're doing a great job. But I've got to go on record with what I believe and feel. Okay?

MR. WEINER: I understand.

SENATOR RICE: Now, in terms of a couple of questions--  
And you can leave whenever you have to.

MR. ZUBROW: I very much appreciate the forbearance in letting me step out.

Thank you very much.

SENATOR RICE: Sure.

ASSEMBLYMAN STANLEY: Chairman, just before--

SENATOR RICE: Who are the lawyers? Send me the information. You don't have to say it publicly. I'd like to know who the lawyers are that are hired, and who the other lawyers are going to be that get hired. Is it a lawyer or law firm? And if so, what's the process if it's something beyond that. Because if we actually recommend people, nobody wants them. But when the administration wants to bring people in, they usually find someone with some long-term relationship that they claim are the best around, and they bring them in.

ASSEMBLYMAN STANLEY: Mr. Zubrow--

I'm sorry.

SENATOR RICE: Go ahead.

ASSEMBLYMAN STANLEY: I just have one quick question before you leave. And that is to you and Mr. Weiner. When are-- When would you say that the SCC-- Are we now on firm enough footing that you can be entrusted with a few more dollars so that we can proceed with moving on with some of these projects, that are high priority projects, that we have already identified? Should we be confident with you and Mr. Weiner now, going forward? And can we say, now, to the media and to our colleagues that, yes, we have an urgent need out there; we're comfortable; we should not feel that we need to hold up dollars because of

mismanagement, because of poor procedures, because of waste and inefficiency in the SCC? Can we say that now?

MR. ZUBROW: I'll let you reach your own judgments about your comfort level in saying that.

ASSEMBLYMAN STANLEY: How about your comfort level in saying you're there? (laughter)

MR. ZUBROW: I think that we would not be here this morning if we did not feel, as we said this morning, that we have put in place the essential ingredients of getting this agency turned around. And we very much feel that we are definitely on a path to the point where not only we, but you, can have confidence in saying that. And I think it is clear that, as we go through the work that Scott has outlined, over the course of the next -- over the course of the beginning of the Summer, to really prioritize the next group of projects that will require and identify the additional funding -- that then, collectively, we will all be able to say that not only do we have the right plan and prioritizations in place, but also the managerial support within the agency to carry it out.

ASSEMBLYMAN STANLEY: Mr. Chairman, I ask that question because it's a very important question. And at this point, it was-- Up until, let's say, six or seven months ago, it was somebody else's problem. Somebody else created it. And so it had to be fixed.

Now, gentlemen, the problem is you. (laughter) We need to move ahead. It's great to have all of these things put in place: the administrative, all the checks and balances. But if, at the end of the day, we're not pushing the ball forward, in terms of building schools, we're not doing anything.

But I have to ask that question, Senator, so that we can relay that to our colleagues. And that can't be used as an excuse not to fund what's necessary in the State of New Jersey.

Thank you very much, gentlemen.

MR. ZUBROW: Thank you.

MR. WEINER: Thank you.

SENATOR RICE: Thank you.

While he leaves -- exits -- just a couple more questions, and we'll be out of here, as well.

MR. WEINER: Sure.

SENATOR RICE: Could you discuss the facility efficiency standards, because I know that on the FES there are also recommendations regarding the unreasonableness and the potential barriers, in terms of the progress -- which we agreed with, by the way, from Day 1 of school construction.

MR. WEINER: Let me turn it over to my colleague Gordon MacInnes.

ASSISTANT COMMISSIONER MacINNES: Thank you, Mr. Chairman.

We've convened a group of stakeholders including people from academic institutions, representatives of districts, the Education Law Center, people who have been involved in the school construction program for a long time -- to review the current facility efficiency standards. And we hope to have a recommendation very shortly about changes that would be made.

The legislation that set up the Schools Construction program provides the very specific procedure by which the facility efficiency standards are revised. And that is in the -- through the issuance of the biannual report, which is due in March of every even numbered year. And we are late this year because we want to be able to include revised FES, as required by law, so that they would be available for legislative review.

SENATOR RICE: Okay. Do you have a list of who those parties are that's in the working group?

ASSISTANT COMMISSIONER MacINNES: Yes.

SENATOR RICE: Could you get that to the Chair?

ASSISTANT COMMISSIONER MacINNES: And I'll provide that through you, Mr. Chair.

SENATOR RICE: Thank you.

ASSISTANT COMMISSIONER MacINNES: Sure.

SENATOR RICE: Another question that needs to be raised here is, in the relationship between the SCC and the DOE-- And I understand that that has been changed. We need to know how that change is going to bring about, really, some transparency and some clarity to the whole process.

MR. WEINER: You've heard enough from me. I'll let Gordon start, then I will join in.

SENATOR RICE: Is it clear to him and you, both? (laughter) I mean, you've got it clear here, right?

MR. WEINER: That should build your confidence.

ASSISTANT COMMISSIONER MacINNES: First, I would say that until recently, there has not been an adult working relationship

between the DOE and the SCC. I think we are forging one. I think that the form it takes is to be in frequent conversation about problems before they emerge, and to treat each other with respect, and get the job done. And I think that in the last few months we've seen that emerge. I think it will take a more structured form as we go forward. But I think we're off to a good start.

SENATOR RICE: Thank you.

The final question is coming from me. And I will just throw them all, because it's the same category. Can you just give us the update on the problem with the Gloucester City Middle School -- where we are with the demolition, opposition? Where are we with Phillipsburg 31, in terms of moving that district up there? The numbers have already doubled, in terms of cost. Where are we with Ridge Street, in the city of Newark; Dewey Street; and where are we with Irvington, in terms of acquisition, or lease negotiation and demolition, security, and all those kinds of things?

MR. WEINER: Sure.

Gloucester: The demolition should commence and be completed within the next couple of months. Dewey Street: The demolition should be beginning in June. Phillipsburg: The problem there is the project itself. There you have cleared land that is readily available. There's obviously a need; it was pointed out before. It's not part of the capital plan. It's hanging out in that list of 97 right now, waiting for new money to become available so that project can get funded.

I don't remember what else was on your list that you just mentioned.

SENATOR RICE: Irvington.

MR. WEINER: Which aspect of Irvington?

SENATOR RICE: The middle school.

MR. WEINER: The middle school.

SENATOR RICE: Demolition. I believe they had about 60-some properties -- knocked out about (indiscernible) or something like that.

MR. WEINER: Not to belabor it now-- I'll find out this afternoon with everything else and transmit it to you.

But I want to talk about demolition in general. This is another area where the organization did not do a good job in really understanding the impact on the community, of stranded properties, of properties -- even when they're slated for demolition -- the impact it has on the community if there isn't proper fencing, if there isn't proper security, if there isn't a plan to attack it.

You and I had some conversations about some situations in Newark. It's taken too long. But it's being attended to now, as you know. We're doing an inventory of all these properties that we have, not just in the communities you've mentioned. There are other situations where we, as the SCC, own or control property for even sites that are finished, where we have boarded up properties adjacent to schools. And there hadn't been adequate thought as to what next to do with those properties.

So I will get you the information on Irvington. I'm sorry I don't have it at my fingertips. But I want to assure the Committee, through you, that this is an area where we're paying a lot of attention to, in trying to approach it much better and in much more recognition of the real impact that this situation can have on a community, in terms of quality of life, property values, and alike.

SENATOR RICE: Thank you.

Before you leave-- You discussed the health and safety issue numbers. I thought we had resolved all the health and safety issue schools-- That's how we started, with health and safety issues. How did we wind up with a need for additional dollars? Did something new come into the process?

MR. WEINER: Let me talk generically, because I don't know specifically about any project. But there are two things that could occur. One is a whole new need that never existed -- well, both the same roots. One is a whole new need that never existed before. Things happen and, all of a sudden, something that looked like it wasn't a problem four years ago has become a health and safety problem.

The other is, a project that was a potential health and safety problem never rose to that level. But with the passage of time, and the inattention because of lack of funding to move the replacement project about, that project may have -- or that facility may have deteriorated to become a health and safety problem.

So health and safety problems could always arise. And one of the things that we mentioned in the report last week is that any planning process has to accommodate new health and safety issues so that they don't get stranded. There always has to be some reserve, some ability for a new emergency that pops up so that it can be attended to.

SENATOR RICE: All right. The criteria you had mentioned before-- The one problem-- I said I'd go back to the criteria.

The problem I have with the criteria is, the one area of criteria said that determination is DOE stuff -- you indicated would be-- You

mentioned the word *educational*. And it gives the implication that if you build a school, that's where the priority is going to be -- on education -- pre-K, preschools, and education. I don't know what that means. Because my argument since -- to Commissioner Ellis (phonetic spelling) has always been that there is something else that is directly related to education besides the classroom. For example, the outdoor field.

His argument was -- and that's why he's not here -- was that he didn't see a relationship through the after school activities, and the track and field, that other people have with education. And I argued my case, which is very simple. You can never develop a young person to a healthy mind without a healthy body. That's why we have playgrounds, and gyms, and things like that, and not parking lots.

And so when I read this thing that says there are two criteria that we're going to deal with prioritization on-- And this one area talks about education. It gives me the impression -- in the 59 projects, for example -- or in future projects -- one may get excluded because they decide that, on this model, it's very necessary to have this particular thing that you may call an *amenity*. But we call it directly related to education for these kinds of reasons.

MR. WEINER: I understand. It's a very important point. I didn't mean to gloss over that. And I know that it's an area of concern and sensitivity.

The one point I want to make, without wanting to sort of shift responsibility or accountability, is the change that's occurring now is -- however that determination is ultimately made, it's not going to be the SCC

making it. In the past, the SCC has sometimes made those decisions. It's not ours to make.

What comprises educational adequacy and educational need is a question that, frankly, I'm going to toss over to my colleagues over at DOE for that dialogue. But the one comment I can make, from the SCC perspective, is that's not our call. Putting on my Working Group hat, I understand your point, I take your point, and I can assure you it will be considered, because it's at the heart of the definition of *educational adequacy*.

SENATOR RICE: Let me give an example before Gordon speaks. The West Side project is a project that becomes very important for those high schoolers. We took those people's properties, and we pushed the project for those high schools to have that area developed to what it's supposed to be.

We have to compete. And we have to get kids off of street corners. But we want scholarships like everybody else. You're not going to get them running through the neighborhoods with the Crips and the Bloods, and then you go out to Roseland or someplace and compete. We whip them anyway, because we're stronger, and we're smarter, and we're faster, and it's our culture.

But the idea is to go through -- doesn't make any sense. Because that's what has got that kid motivated in the classroom. That's the participation. So when I look at 59-- And people say, "Well, maybe we can use the money--" I don't want the (indiscernible) coming in and saying, "Well, we can put them on the backburner, because this one" -- East Side, or whatever is ready to go in the ground. That's not what my expectations

are. And that's why I want to know what the dollars are that we're talking about for what's ready to go.

MR. WEINER: Sure.

SENATOR RICE: We'll get (indiscernible) in 2010, or we'll get (indiscernible) in 2008. That's another story. But right now, we know we have a good grip on what should be going on in 2006 and 2007. That was our concern. We passed the budget. We put the legislation in where we're trying to go.

But with that, at least I gave a prelude to Gordon as to what my thinking-- Because I know the Department of Education. I know them, and I know them well. The new Commissioner, I don't think, has a good grip on it, based on where she comes from. But I know how they function over there with some of the subordinates giving their recommendations and putting the stuff--

So, Gordon, you can take it from there.

ASSISTANT COMMISSIONER MacINNES: Well, I agree with what Scott said about the issue of priorities. And I think that it's important to emphasize that nothing that we're doing is going to affect the list of 59. It is-- The only thing that will affect the list of 59 are practical consideration. That is, are you able to get the construction started this year? Is this a project, because of site acquisition issues or something -- construction will not begin for the second or third year? We are not doing anything to review the educational priorities on the list of 59. That's accepted as done. And so I want you to be clear about that, please.

And, secondly, I think the issue of priorities is contained very clearly in both the -- in both *Abbott V* and the legislation that was enacted

in 2000. And, in effect, we are going to ensure that the priorities set by the Supreme Court and the Legislature are honored. That does not mean that it's rigid. It doesn't mean that it's -- only projects of three kinds will be considered. Because we know there are other practical educational issues that must be considered. And we will.

SENATOR RICE: Okay. We're going to conclude at this point.

I want to thank you for the time you've given us. I know it's been a long day. We have been out a long time, and you've been transitioning a long time. You needed time to, kind of, get together. Just keep in mind that I know Assemblyman Stanley is going to remind you on the criteria for education. There is a difference in terms of our social needs. So when we construct buildings, we know we have to have social workers and others that people keep saying that we're not going to pay for.

The next meeting we have of the Joint Committee is going to be, Gordon, to bring in the Commissioner of DOE to talk about the funding and some other initiatives there. So she needs to be prepared for that. And we're going to ask the hard questions. Don't take them personally. But we're a little angry, and busy, and frustrated with our own leadership in the Governor's Office. I'll say that for the members who won't say it.

Thank you.

MR. WEINER: Thank you.

SENATOR RICE: Meeting adjourned.

**(MEETING CONCLUDED)**