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# *Committee Meeting*

OF

JOINT COMMITTEE ON THE PUBLIC SCHOOLS

SCHOOL FACILITIES AND CONSTRUCTION SUBCOMMITTEE

*“Marc Larkins, CEO of the Schools Development Authority, will present an update to the Subcommittee and will be available to answer any questions. The Subcommittee will also hear from several other invited guests.”*

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**LOCATION:** Committee Room 16  
State House Annex  
Trenton, New Jersey

**DATE:** June 20, 2012  
11:00 a.m.

**MEMBERS OF SUBCOMMITTEE PRESENT:**

Senator Donald Norcross, Chair  
Senator Ronald L. Rice  
Senator Samuel D. Thompson  
Assemblywoman Connie Wagner



**ALSO PRESENT:**

Melanie Schulz  
*Executive Director*

Sharon M. Benesta  
*Chief of Staff*

*Meeting Recorded and Transcribed by*  
The Office of Legislative Services, Public Information Office,  
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**SENATOR DONALD NORCROSS (Chair):** Good morning, everyone.

I'd like to call this meeting of the Schools Facilities and Construction Subcommittee to order.

Do you call roll call here? (negative response)

We don't do roll call. I'm used to my other committees.  
(laughter)

This will be our first meeting since we reorganized, and certainly there are folks who have moved on. But Melanie is still here, who has been the glue that holds this together for quite some time.

At this point, before I go to ending my remarks, I'd like to open it up for any of the members.

Senator.

**SENATOR THOMPSON:** I'll (indiscernible) remarks for later.

Thank you.

**SENATOR NORCROSS:** Assemblywoman.

**ASSEMBLYWOMAN WAGNER:** Thank you, Senator.

This is my very first meeting. I am new to this Committee and I have much to learn. I'm looking forward to seeing how many schools we can fix and build with your help and our support.

**SENATOR NORCROSS:** You can't get any simpler than that, which is good up here because typically it usually takes about 30 minutes to say what she said. (laughter)

With that, the first on our list to come up and give some testimony on where we are, and to answer your exact question, is Marc Larkins, CEO of the Schools Development Authority.

Marc, it's good to have you back with us.

And timing is everything. (laughter) Senator Rice is with us.

Marc, once again, it's good to see you.

There are a number of issues that we've talked about over the past year. But we're entering a new phase. You've begun a school. And I'm looking forward to hearing an update.

Welcome.

**MARC D. LARKINS:** Thank you, Mr. Chairman.

Good morning, and good morning to all the members of the Committee. It really is a pleasure to be back before you. It has been a little bit of time, and we have moved the program along a bit. And I'm happy to be here this morning to update the members.

With the members' indulgence, I would just actually like to take some time to reflect on the period of time since we were last together and to talk a little bit about the progress that we've made on the program.

I believe the last time we were together it was right around the time of the announcement of the 2011 capital program, and that was really the launching pad for us taking the organization in a bit of a different direction. There were a lot of new ideas being discussed and introduced at that time, and that really was the first point of announcement for new projects under the Christie Administration. And if the members recall, back in March of '11 -- at that time we announced 10 new projects. The organization previously had a portfolio of 52 projects. That was in the 2008 capital plan. As you may recall, that 2008 capital plan received some significant criticism from the State Auditor. We took a look at the Auditor's comments, criticisms and made adjustments based on that and

introduced a new, evolving -- or what we call a *rolling* program, and it started out with 10 new projects.

At the time of the announcement back in March '11, we were pretty clear that of those 10, only 2 would make their way to construction advancement in 2011. The other 8 needed significant predevelopment work and design activity, and they would not likely be advanced into construction until this year.

Since that time we've also announced the second phase, or the second roll out of the program, or what we call *additions* to the program, and that was the 2012 additions. And as a part of that, we announced 20 additional new projects to the list. So right now, presently, we have a portfolio in our capital program of approximately 30 new projects. And when I say *approximate*, the reason why I hedge a little is because each project runs through its own planning and programming phase in consultation with DOE and the local district. And ultimately what happens with some of those projects is they tend to morph. So when we may indicate that there is one new elementary school that we want to deliver, after conversations with DOE and the school district, we might end up delivering two additions instead of a new elementary school. I highlight that because, for instance, in Bridgeton, that actually is what has evolved there. So whereas in '11 we announced a replacement school in Bridgeton, we've now, through these working-group conversations, evolved to a point of looking at potentially two additions to two existing schools there.

Yesterday afternoon we had the opportunity to release our biannual report. And that biannual report covers the time period from October 2011 to March 2012. The only reason I reference that is because

much of the information that I'm going to talk about this morning certainly occurred during that time period. But I also want to bring the members up to a more current point, more current -- specifically to present. And I'm sure with everything else going on you probably didn't have the opportunity to go through that. So I'm just going to take the liberty, if it's okay, to sort of work my way through some of that progress in that time.

I want to focus first on the work that we've completed from January 2011 to the present. If you focus on our program, there are really three distinct aspects to our program. The first is what we call our *capital* program, which is major construction. Those are new replacement schools or significant addition renovations to existing buildings. The second would be our emergent project program, which would be closer or more akin to repairs of conditions at existing facilities. And the third would be what we call our *regular operating district* program.

And for the members, certainly for the new members, the way our statute -- our legislation is set up, as I'm sure you know, is we focus mainly on the 31 former Abbott districts, what are now called *SDA districts*. And in those districts we fund essentially 100 percent of the capital work on their facilities. For all of the other 500-plus school districts across the state -- we call those *regular operating districts* -- and for those districts, what we do is essentially fund a portion of the facilities work through a grant. And typically the maximum amount is around 40 percent. Some districts tend to -- it varies a little bit. But that generally is what it is. We typically fund about 40 percent of the cost of the work in those districts.

So starting with our capital program: In terms of completed work in the last 18 months or so, last year we opened four new schools.

One was the Morgan Village School in Camden. The second was the Pemberton Early Childhood Center we opened last September. We also opened a new elementary school in Egg Harbor, Egg Harbor Community School. And then we completed a significant addition renovation to a high school in Egg Harbor Township.

I just want to focus for a moment on Egg Harbor and just briefly--

SENATOR NORCROSS: Marc, before you go on.

MR. LARKINS: Sure.

SENATOR NORCROSS: Just for clarification, were any of those started under your watch? Are these all that have started afterward?

MR. LARKINS: They were not. These all-- When we assumed the administration of the program, these were in progress -- in some phase of progress.

I just wanted to highlight Egg Harbor because Egg Harbor is a district that-- Under the prior legislation we had the authority to manage facilities work for non-SDA districts, depending on what category they fell in. In 2008, the legislation was changed and we no longer have that authority. And at that time, if a district requested, the SDA would take over the management of the projects in those districts. So what you would see going forward is, we would no longer SDA-manage a project in a district like Egg Harbor. But these were ones that were already in the cue and we were finishing up.

In addition to those four projects that we opened last year, we also completed and received a certificate of occupancy at the early part of this year for the West New York Elementary School No. 3, and that one

was a significant problem for the organization. It was one of those schools that had an atrium problem. And for the senior members of the Committee, you might recall that we had a number of projects in our portfolio that ran into major problems because of the inclusion of an atrium in the building and concerns about fire safety from DCA about those atriums. We essentially had to go back, redesign, and repair those. And West New York No. 3 was held up for a long time, and it's one that we finally got finished. We've also completed a demolition job on a long-neglected site in Jersey City that was previously planned for an early childhood center. So that really is the extent of our completions on the capital side.

If you jump to the emergent program-- And I just want to say this for a moment: I think that if you read the paper you get the impression that we haven't been doing much of anything in the SDA, and part of the reason why we're excited to have this opportunity to appear publicly and to have these conversations and discussions with the Joint Committee is because we feel part of our job is to correct misinformation that is sometimes disseminated.

In our emergent program, over the last 18 months we've completed approximately 30 projects, emergent projects, that were managed by the SDA. There were another two dozen or so that have been completed that were delegated out to the local districts. So, in other words, districts request an emergent project; we fund it, but we delegate it back to them to manage. And we do have the ability to do that. And through that method of delivery, those districts have completed about two dozen or so additional emergent projects.

As for the ROD grant program, in the last 18 months we've executed approximately 488 grants for regular operating districts. And just to give you an idea of the magnitude of what that means, those are jobs that -- projects that would be happening at approximately 295 schools in 140 districts throughout the state. The cost, or the State share, toward those projects is about \$148 million, and a total project cost for those 488 grants is about \$360 million. So that is a bit of a summary of the work that we've actually completed in the last 18 months.

Now I'm going to transition over to work that we would consider to be active. And when we say *active*, it means that there is some activity happening with respect to these projects. Predevelopment work -- I mentioned it earlier -- that's activity that really happened behind the scenes with SDA staff, DOE staff, and the local school districts. For instance, it's the working-group sessions that I mentioned earlier, i.e. Bridgeton. What we're talking about: Is a new school right versus two additions? And then once you identify what the right project is, we also still then have to work on programming for that project. So a district then has to -- we have to work with them to identify how many classrooms, how many students, what type of classes you're going to be providing in those facilities so that we design, and provide, and deliver the right type of space. So that happens behind the scenes, but it's still in our -- we consider it in our active portfolio.

And then there's the design work, whether it's in-house design that our staff is doing -- which actually is something very new to the organization and did not happen before we took over the administration; or whether or not we farm it out to an outside vendor to do the design work.

The public wouldn't see that tangible effort, but that's something that has to happen before we can start construction. And then, obviously, there is the construction phase.

So overall our portfolio -- our active portfolio right now consists of over \$2 billion worth of work. And the \$2 billion really only includes those projects that have been identified and for which we have a cost estimate. There are a number of projects that we know we need to scope with the district and DOE, but we haven't really identified -- so it's impossible to really assign a dollar value. But we know that those are projects and we're still actively working on planning for those.

That two-point -- over \$2 billion portfolio includes the 10 projects that I spoke about earlier from -- that we announced in 2011, and then the 20 that we announced in 2012. If you recall, in 2011 we estimated those 10 projects to cost approximately \$584 million, so that's one piece of it. The 20 projects that we announced in 2012 -- about 10 of those we anticipate to cost about \$675 million. The other 10 fall into that category that I just mentioned -- that we know there's a project, there's a need there, but we haven't finished the scoping so we can't assign a dollar value to those. So those are the two buckets in terms of projects that we're actively working on in the capital portfolio.

In addition to those, I just want to highlight that we also have other ongoing projects that are actually in construction today. So for instance, we're working -- actively working to complete the Columbus Elementary School up in Union City. Our effort is to get that school opened for September.

SENATOR NORCROSS: And that's an emergent?

MR. LARKINS: That is a capital -- that is a replacement building.

SENATOR NORCROSS: Okay. And that's one you've started since your tenure?

MR. LARKINS: Well, it actually started right before the Administration took over, so it's not one that ran through the new process.

Likewise, Elizabeth Morgan Village is one that had started a while before we took over, but it had stalled. It really was a problem project because it started as addition/renovation. When we attempted to begin the renovation, we learned that that portion of the building couldn't be salvaged. So we had to redesign it and then deliver a complete replacement school.

I'm sorry, that's Elizabeth Victor Mravlag. I may have said Morgan Village. I'm sorry, Victor Mravlag. That elementary school is one that we're actively working on, and we're looking to complete that. It won't be open for September. We're making every effort to have it open by January, but we're working with the District to understand whether or not they would even take a mid-year school delivery. So that one is something that we're trying to get finalized as well.

And as for Morgan Village, we're actively working on phase two of that, which includes the demolition of the preexisting building down there, and then the delivery of parking and open play space for the students.

I just want to run through, quickly, the activity that's going on on the 10 projects from 2011, because I think that's very important to discuss. First, we were in Elizabeth on May 16 to celebrate our first

groundbreaking for, really, the first project under this Administration that's moving into the construction phase. And that's for a new high school up in Elizabeth. The site work there has been ongoing since April, and we anticipate advertising the full construction package in the next 60 days.

One of the changes that we introduced -- just so I can explain when I say *full construction and site work* -- one of the changes that we introduced in the Authority was the separation, where appropriate, of pre-construction site work from the construction -- the full construction delivery package. And the reason why we looked at it and made that decision is because we found that a number of our issues with major change orders, significant delays, and problems with projects occur from a failure to completely clean a site before delivering it to a GC for construction.

Earlier in the program, what we typically did was to combine that site package with the construction award. And what happened in a lot of instances-- For instance, if you do that and you have existing structures on a site, sometimes you can't do the appropriate level of environmental investigation that you could if the structures were down before you delivered it to the GC. We advertise the package, ask the GC to do everything. Typically a GC, then, would demo the structures, start the remediation, and find that the environmental site conditions were much different than what was advertised and anticipated, mainly in part because we didn't have the ability to do a thorough enough investigation.

So we said, "Listen, it's better to do the investigation, to get the site prepared, and deliver it to the GC. It makes everybody's life easier." And that's something that we've instituted, and I think it's going to serve the program well not only in terms of dollar savings, but in construction

delivery time. Because ultimately if a GC gets a clean site, they can go right to work.

So what we've done in Elizabeth -- we did just that. In December we advertised for the site package. We have the GC out there now. They've demolished the buildings; they've started to prepare that site for construction. We anticipate advertising the construction package, which will be now informed from the site work to make sure that the conditions are as expected, are as reported; and then deliver it to a GC who can start the construction later this year. So that one is well underway.

In Long Branch -- for the new elementary school there -- we actually have already made an award to a GC for the construction of that job. And that award -- well, the award was made in early April. And on May 31 we gave the GC the notice to proceed to do what we're calling a *constructability review*. And the members may want to talk a little bit about it. I'm just going to highlight it briefly. Essentially what we're asking our GCs to do now -- and this is to address another problem that we identified in the program, which essentially was, we were encountering a lot of change orders and complaints from GCs that our design documents that we were advertising weren't complete or thorough. So what we said was, "Listen. Why don't we take the opportunity to have the GCs, before they actually begin the construction work, review our design documents and to identify any problems that they see on the front end so that we can fix it, so once construction starts we're not running into delays, we're not running into redesigns, we're not running into expensive change orders because we now have, as best we can, vetted those design documents on the front end?" That process, we anticipate, will usually take six to eight weeks. We're in

the throes of that process right now on the Long Branch job. We anticipate that that should be wrapping up toward the end of June, early July, and that the GC will actually be able to begin construction out there in the early part of the fall. So that project should be in full-blown construction in the next couple of months.

As for another project we advertised for full construction: the New Brunswick Redshaw School, a school that was demolished many years ago and New Brunswick kids have since been housed -- educated in a warehouse that we're leasing in New Brunswick. We've advertised for that project. We advertised on May 30; the bids are due on August 1. And we're advancing that project through, again, not a novel concept -- and actually something that's not new to the Authority -- but what we call *design-build*, which essentially means we contract with a GC who then subcontracts with an architect to complete the design and construct the building.

What we're delivering as part of our advertisement package is the first -- a completed first phase of the design, which is called *schematics*. And from there, we're asking the GC and their architect team to take those two final construction documents and to begin construction. The advantage there is it allows us to build in some of our sanitization effort -- which we can talk about a little bit -- and then also a faster delivery.

Typically with design-build projects, a GC could actually start construction while design is still being finalized. So, for instance, if they get approvals from DCA for the foundation forestructure, they can start to put those in while they're designing some of the rest of the building. So it is actually a quicker delivery method.

I'm just going to jump through the other projects from that -- from those 10. There are two projects in Jersey City. Jersey City 20: Our Board just approved an award for site preparation work June 6. That was our last Board meeting. So that site work should begin in the next two months or so. Jersey City 3: We're advertising a site preparation package in the next 30 days. Oliver Street, which is in Newark -- an elementary school -- we anticipate likewise advertising a site package in the next 30 days or so. Marshall Street, we just advertised -- Marshall Street, which is in Paterson. I'm sorry, I sort of refer to these things the way we know them internally. Marshall Street, which is another elementary school in Paterson -- we plan to advertise for a site package. I'm sorry, we actually advertised for that site package on June 13. Another elementary school in Paterson, PS No. 16: We gave the notice to proceed to the contractor for the site preparation package on June 15. West New York: We're demolishing an old office/warehouse building, and the award to the contractor was approved by our Board on June 6. So that really hits the highlight of those 10.

I just want to talk about the projects from our 2012 portfolio, because actually there's some activity already happening on those -- the ones that we just announced this year. But before I do that, I also want to make clear, or share with the members, that what sometimes is forgotten in our portfolio are those old projects that we haven't been able to close out or walk away from.

I mentioned quickly West New York No. 3, which was one of those atrium problems. Well, we have others. For instance, there is an atrium issue at the Paterson International High School, and we had to

redesign that atrium. That's something that we just advertised for the construction fix June 1. But we have about four or five of those old projects with major issues that we're still working on to get them completed. And when I say *old* with major issues, most of these buildings are already occupied, which actually makes our jobs a little bit more difficult, because we have to figure out how to do the work while the children are in school, or sequence it or schedule it so it happens when they're not there. But we're still working on finishing some of those, and some of those are multi-million dollar fixes.

So jumping to 2012 quickly, the projects that have some real activity happening, tangible, that people could see or should expect to see in the short-term: In Keansburg, we have a demolition package and site prep package ongoing, and that's been happening since January. We're presently working with the District to design their replacement school. In the meantime, we're demolishing the old building and preparing that site for construction of the new project once design is completed. Elliott Street, in Newark -- an old project that has been out there for a while -- again, a building that had been taken down, or I should say really destroyed by lightening and then demolished by the SDA. We're in full-blown school design for the new project, and we anticipate a fall advertisement, again using the design-build method. Phillipsburg: a project that had significant attention last year. There is a new high school that has been essentially designed. There are some finishing touches that we're putting on to refine the design. And we anticipate advertising that new high school in the early fall. We're shooting for a September advertisement for the new Phillipsburg High School. And in West New York, we're in the process of trying to

acquire a pre-existing Catholic high school to serve their high school needs there, which will be retrofitted for the District's use. We're currently working -- our lawyers are currently working with the Diocese to close that purchase.

The other projects from 2012 are all in that process of working group -- that scoping. That's something, again, the public wouldn't see. We met with each and every district, with DOE, and we're working through planning. What's the right project for those districts? So those all have something going on.

Again, just jumping now to the emergents in terms of active. Right now the SDA, including both our delegated emergents and the ones that we manage-- We have 39 active emergent projects that are in construction, we have 28 that are in design, and then we have 5 that are in what we call *predevelopment*. Predevelopment would be, for instance, an expert going out to identify the cause of a particular condition. What does that mean? So ordinarily what would happen with the emergents is, the local -- the districts will report to us that they have a, what we call, *condition*: water infiltration, a wall that seems to be collapsing, a structure wall that seems to be separating from the building. We then have to send in people to actually investigate and determine what the cause of that condition is. And from there, that's where you take it to the next step, which would be designing the fix and then getting a GC in to fix it. So when we say *predevelopment*, that's that activity which are -- concerns trying to identify the cause of a particular condition. So we have five that are in active predevelopment right now. Of those projects that I just identified, the value or anticipated cost is roughly \$46 million.

I just want to highlight another project, because I get the impression that there is some question as to whether or not the SDA drags its feet or doesn't move quickly enough with regard to these projects. A perfect example of one that we moved quickly on and one that is a significant undertaking was the conditions that exist at Wilson Avenue School in Newark. For the members who were on the Committee last year, you may recall after Hurricane Irene we had a Joint Committee hearing actually in Newark. Part of that hearing concerned some conditions that were revealed during the Hurricane -- significant water infiltration and other problems at the Wilson Avenue School.

There was a two-phase approach taken after the students had been removed from the building and reassigned to another building. The local school district agreed to do some interior work on its own -- do some mold remediation, do some repairs to walls, spackling, painting, etc. At that same time, the SDA undertook to identify and solve the conditions that caused the water infiltration. Essentially what we learned is that the scope of work or the effort needed there would include the replacement of a significant amount of windows, some exterior masonry work, some roofing work. The total anticipated cost is about \$2.5 million. From September or October of last year we ran that project through pretty much all the steps and we just advertised for the GC work on that job June 1. Obviously, for us, we have a procurement process, laws that we have to follow. So there is some time period there. But we anticipate getting that work started out there toward the latter part of the summer, early fall to get that building really patched up and in good shape for the students there.

The numbers that I just identified with respect to the active emergents we anticipate will only increase. And the reason why I say that is because we undertook a significant and thorough review of emergent project needs across our SDA districts last summer, and that resulted in the identification of about 76 emergent projects that needed to be dealt with. Of those, we have already actually delegated six of those projects out to the districts so that they can start the work themselves. For the others, they fall right now into one of those phases that we talked about -- predevelopment and/or design.

The issue with respect to the emergent program-- And I just want to let the members know why I'm being very high level and, unfortunately, I can't go into a lot of detail right now -- is because the ELC has sued the Department of Education regarding the program. And it seems, from the lawsuit -- what I glean from it is that their issue is with respect to the pace at which these projects are moving, or it seems that they don't believe that the projects are moving at all. I just wanted to dispel this idea that they weren't moving because, again, we've already sent 6 of those back out to the districts. And for the others, we're doing internal work. But because of that lawsuit, I hesitate to go into too much detail or do anything that might otherwise jeopardize or prejudice the ongoing litigation.

I want to jump quickly to the regular operating grants just so the -- to sort of round it out and complete it. We presently have over 1,000 active ROD grants that we're managing for our regular operating districts. And those are addressing pretty much just about every county. We touch in every county and hundreds, if not thousands, of school buildings.

There are other issues that we certainly can address. I know I've taken a big chunk of time so I want to defer to the members. But just to highlight some of those -- are our standardization effort. We've made major progress there. We've launched an effort to demolish existing structures that we have on sites that are not presently being used to help improve the aesthetics of neighborhoods and the safety of neighborhoods. We've also been working closely with DOE to look at potential legislative changes that we want to recommend to this Committee and the Administration to make our program more efficient and effective.

And the other highlight I think is very important to note is, we continue our effort as it relates to small businesses and getting them involved in our program. Actually, yesterday we just graduated another one of our internal SBE classes. Essentially what we've done -- and this is highlighted in our biannual report -- is, we used to outsource our Small Business Enterprise program, which is essentially set up to help train and educate small businesses on how to do business with not only the State, but more specifically the SDA. Once we came aboard, we weren't really satisfied with the results of that effort, and we in-housed the program. And so now we actually have staff running it. Kristin Maclean, who is sitting next to me this morning, our Director of Communications, actually is in charge of that program. Last year we had a very successful first class where we graduated 16 small businesses through that program. Yesterday we graduated another 12 from our second offering. We intend to do another offering in the fall. So far, of those 28 firms -- which we try to track and maintain a relationship with -- one of those firms has already gotten prequalified and obtained an award of a project through a regular operating

district grant. So we think that that is really successful. It's something that we're really committed to and focused on.

So having said that, I certainly appreciate the time that the members and the Chairman have given me this morning to update you on the work of our program.

Thank you.

SENATOR NORCROSS: Thank you, Marc. We certainly appreciate the report you gave.

There are a number of questions. You, along with others, for 12 to 18 months reviewed, as you came in the door, the projects that were there. You mentioned that. And there were 10 that you brought up, and then the additional 20. Through that process -- and we had several conversations on exactly what the process was and the rating, you put 10 projects on the list. You just now told me that as you're moving to the next phase of those projects, you've noticed -- was it Millville or Vineland that you changed from a school replacement and then wings? Why would that have not come up in your thorough, new process that you were in? And why is that changing now -- identifying shovel-ready project things that are ready to go? You mention all those issues. How was this missed?

MR. LARKINS: Sure.

Thank you, Senator. That actually is a great question and it gives -- and I welcome the opportunity to clarify the process. The issue-- Part of the issue for us when we came in was to really undertake a thorough and complete review of the program, but to do it quickly. The way the process worked, historically, was the school districts would make a request for a project to the DOE. The DOE would approve it, it would be

transmitted to SDA, it would get advanced. There was some but not a thorough-enough review of whether or not that project was the right project.

What that eventually led to was-- For instance, in Newark we have a school that we recently delivered where it's not at full occupancy. It's not even close. But part of it was the timing and the way that the project was reviewed and ultimately delivered. What we wanted to do was to say, "Listen. Our process has to include a thorough review." The problem for us in the summer of 2010 when we first undertook this was, Senator, we could not have looked at all 110 projects and sat with every district to undertake that review for all of those projects because it would have taken us years to do that. So instead what we did was, we took the projects as they were originally requested and included in the long-range facilities plan, did a review, but did not then have that second sit-down with the district to go through and look at all of the district information. So the ratings and the scorings that you refer to as part of our 2010 review, and ultimately the 2011 capital plan, relied heavily on the information that was transmitted from the school districts to DOE.

What we then said was, for those -- even for those 10 that we selected, we said, "Okay. Now, based on that information, you have been selected. Let us now delve deeper. We're going to come into the district, we're going to take a look at all of your facilities, we're going to look at your data to make sure, one, that it's accurate and complete; and then, two, we're going to talk to you about a holistic and complete plan that makes sense for your district, understanding that there is a limited number of resources." So that issue was actually not missed, but that review that

revealed that those two additions are probably more appropriate -- and the District agrees -- than their original request for a replacement school, did not occur until after the ratings were done.

But what I think the ultimate--

SENATOR NORCROSS: The ratings-- The projects we're talking about came out after your new rating system.

MR. LARKINS: Correct.

SENATOR NORCROSS: Okay. You just said that it didn't come out before that.

MR. LARKINS: I'm sorry, I may have misspoke. The review, the working group effort, the undertaking that I think you're focusing on that revealed that the plan for Bridgeton should be adjusted, did not occur until after the ratings were done.

SENATOR NORCROSS: So the next group of 20, are they under your more comprehensive review?

MR. LARKINS: They actually will run through the same process. And just to add a little bit more meat to the bones, the effort of the review really was to identify a need; not to say, for instance, this particular project scores higher than other projects. The effort really was to undertake-- So, for instance, in Phillipsburg-- There is a significant need in Phillipsburg at the high school level because of significant overcrowding. So that need-- Because of the data that we have, the only way that that could be expressed at the time was through the projects that had been requested. So some get validated, some don't.

If you look at the 2012 list, what you will see is that there are some districts that are identified with the school level. So, for instance, in

Passaic -- we'll say Passaic elementary school level. The reason why we do that is because the effort there really is to identify what the need is and then to scope the appropriate project to address that need. So the issue in Bridgeton is not that there was something missed or there was something wrong. There still is a significant need in Bridgeton because of overcrowding. The issue though ended up being, once we looked at the project that Bridgeton requested, that wasn't the right project to address the need.

I don't know if that helps, but--

SENATOR NORCROSS: Let's move on from there. That was the first 12 to 18 months. We're now 30 months into your tenure. I was looking down the list of capital projects. Has anybody in any of these started to actually construct a school yet -- not site work -- actual construction? Has that begun anywhere in New Jersey?

MR. LARKINS: No, Senator.

SENATOR NORCROSS: Okay. Talk a little bit about the constructability, which is a significant change. We're into that-- After the constructability comes back, are there change orders that would take place? How do you deal with the low bid, or what I would call *traditional*, and then after constructability when they have identified a half-dozen problems? How do you handle that? And is there a change order at that-- Why don't you walk through the constructability for me?

MR. LARKINS: So, the constructability is something that is new to our program in its present form. And I think it actually levels the playing field and makes our process a little bit more fair for our GCs. Let me explain why.

Historically, the concept of a GC taking a look at our designs and identifying some of these issues was supposed to be happening during the bid phase. So we would advertise a package. The GC was then responsible -- or all of the GCs, I should say, who submitted a proposal were responsible for taking a look at that package and actually identify problems. And what they would do is, through an RFI -- what we call an *RFI*, request for information -- process they would then communicate with us, and we would share that with the design firms. And ultimately they would ask questions and they were supposed to identify any issues that they saw in the designs.

There was some question as to whether or not that was actually happening, one. And two, they actually weren't being paid for that. And three, there really wasn't a time period for any given GC to really focus their efforts on that. So instead of doing and continuing to advance the work the way we did historically, we decided to implement this process which, again, has been used in other places and is often, I think from what has been reported to me, been used in private industry.

So essentially what we do is we set up a two-phase process. We advertise the package, which we believe is certainly complete. The low-bid environment has adjusted a little bit, and that's something else, Senator Chairman -- if you want to talk about, because we've actually instituted what are now called *price and other factors*, where price gets a weight and then the other factors get a weight. But if we put it in a strictly low-bid context -- so let's say the low bidder is awarded the project.

SENATOR NORCROSS: (indiscernible) as far as to select that.

MR. LARKINS: Sure, to make it simple.

The low bidder gets the award. So now there is a two-phase notice to proceed. The first phase of the notice to proceed is to do the constructability review. That's all they're doing. It's a six- to eight-week period. The way it's set up, it's set up for a couple of weeks with periodic meetings -- right now it's biweekly meetings -- with the SDA, our construction management firm if we have one, an outside design firm if we have one, and the GC. Ultimately, the effort there is for the GC to produce certain deliverables, which we call a *constructability review report*. At its essence, that report, in theory, is supposed to identify any problems that the GC has identified in the design documents or order package, because there are other pieces of the package. And from that, what we do is we review that report, the design firm reviews the report, our construction manager reviews the report. If we agree with what the GC has identified then we make the adjustments. Once the--

SENATOR NORCROSS: What does *make the adjustments* mean?

MR. LARKINS: Sure. It may mean some redesign, i.e., if a GC identifies an area where design is incomplete -- let's say a particular component of a system is not actually connected. Let's just take an electrical connection and say they look at the design and see the fire alarm isn't connected to the panel appropriately, or there is no outlet here, or whatever it may be. Then we ask the design firm, at no cost to the State, to fix it because it's a design error.

Ultimately, then what we -- the conversation with the GC goes directly to a change order. "Is this going to cost you more to deliver this

job?” And that’s a conversation that we had. Within every construction package there is a contingency that is there. It’s a construction contingency to deal with change orders during the job.

So what we have identified is a threshold. If the requested change order exceeds our internal threshold -- which changes depending on the job -- then what we say is, “Fine.” We will cancel the award, we will withdraw the award, nullify it, terminate the contract, and rebid it to the whole world so everyone can now have the opportunity to give us fair prices on the new package that has been fixed. If it’s within or below that threshold that we set internally, then what we do is negotiate the change order. We absolutely negotiate the change order and begin the construction process. So that, in a nutshell, in essence, is how the process is to play out.

SENATOR NORCROSS: That’s if you can identify through the GC that there are items that he notices.

MR. LARKINS: Sure.

SENATOR NORCROSS: But as we all know, the whole idea of construction is, when you go on site, there are unforeseen issues that occur outside of that.

MR. LARKINS: Sure.

SENATOR NORCROSS: Once you go through constructability and you both agree, then whose responsibility-- Does the GC then take the responsibility of that design as his own and has to make it work, or are there change orders that would occur after that?

MR. LARKINS: Sure. And actually this is where the process becomes no different than it is currently.

So if it's truly -- if it's an unforeseen condition, then it's absolutely on the SDA. It's up to us to then go chase the design firm for the cost -- the increased cost. So we are not holding the GC-- And our documents are actually -- we state that expressly.

We actually issued an addendum on the Long Branch job to clarify, because those were some of the questions that were coming back to us. We certainly don't--

But if it's something that the GC should have uncovered, identified, or presented to us during the review process, then it's on the GC. But that's where it's no different than it is today. Because our contracts that we sign with the GC today actually say the exact same thing. If there is something that during the bid phase -- where, again, they aren't getting paid for it; they don't have a real time; and they really aren't, in theory, focused solely on that effort-- If there is something that they should have identified in those bid documents before submitting their proposal and they didn't, it's on them.

So I think that the concern from the GC community -- and it's a fair one -- is that the SDA is trying to shift responsibility. Actually, we aren't doing anything different than we're doing today except for giving you the opportunity to do a thorough review -- actually paying you to do the review which we don't do today -- and then working with you in the process on the front end to make sure that all these things actually get adjusted and fixed.

SENATOR NORCROSS: So this is the first-- Are you doing this on every job -- the constructability?

MR. LARKINS: Not on the design-build jobs, because on those--

SENATOR NORCROSS: No, obviously.

MR. LARKINS: But yes-- On the traditional design bid bill, yes, the expectation is that we would have this process included.

SENATOR NORCROSS: Okay. Let's switch our focus to the emergent projects, because by the very nature they're the ones that are critical and certainly probably the ones that I hear most of -- that they're not getting done in what many folks would feel is an appropriate timeframe.

You had a reevaluation, what, six months ago of all emergent projects. Since that time do you prioritize -- I would assume on all these? What happens to the projects that have come in since then? Do they get fed into the system or do they sit until you do another review of that? How does that work?

MR. LARKINS: Because of the nature of the emergent project program, and the nature of the repairs and conditions that are reported, it has to be a flexible program. So for those that roll in post our review, we would consider those in the ordinary course. We wouldn't make anything sit on the side. And, again, I think Wilson is a perfect example, because Wilson is one that was not -- in terms of the expansive nature of it today -- was not one that preexisted. And it's one that we rolled in because of the nature of the issues there and have actually got that one moving along. So we're definitely flexible, and I think legally we actually have to continue to consider the requests.

SENATOR NORCROSS: Which leads me into the next question of-- The emergent projects had a budget that was set some time

ago, and most of that had to do with when the replacement schools were coming in. So the further down we go with replacement schools which haven't started, the emergent projects are growing. Where is that money coming from?

MR. LARKINS: That is a great point, and I think it's one that we are certainly looking at in terms of recommendations for change for the program. But we have one pot of money, Mr. Chairman. And any money that we afford to the emergent program takes away from the capital side.

What I want to say about our review -- and I know we draw some criticism. But when we joined the Authority, in 2008 there was approximately \$97 million set aside for emergents. When we joined the Authority, that pot was essentially close to nothing. There really wasn't adequate funding to do any more emergent projects. And so they were slowly, if at all, trickling through the process.

Based on our review, we identified that we were not only able to advance a very adequate and appropriate number of capital projects, some we're approaching and maybe -- we anticipate -- even more than the 52 in '08. But we were also able to peel off or set aside another \$100 million to do emergent work. So that new pot of money actually is a pot that resulted entirely from our review. Had we never made adjustments to the '08 plan, this conversation, our review last summer -- it would actually be much different because there would be no money presently existing for the emergent project program.

SENATOR NORCROSS: I have one last question, and then I want to turn it over to my colleagues to give them a chance.

On the ROD grants -- which we have been dealing with for quite some time and continue. The timing of those appears to be a major issue that we're hearing about -- getting released in enough time for the summer season of construction. Could you explain to me the process and allowing for the time so that the school districts can actually get this work out during the summertime when kids aren't in school?

MR. LARKINS: Sure.

Senator, for that program there really -- the process really is entirely dependent on the local school districts. For instance, the application -- or open application period comes around every so often when DOE identifies that we have an appropriate amount of money for the program, and identifies the appropriate scope of projects that they will consider. So, so far there have been three or four actual offerings.

Once the offerings -- once the requests come in during that offering period, DOE and SDA actually review it together. They determine whether or not the requested project is one that's appropriate or qualifies during that opening period. Once it's approved it's transmitted to us. Typically what we require then-- The biggest sticking point that I've found in my short time with the Authority is proof from the local district that they have the funding for their share of the project -- for their 60 percent of the project. We will offer the grant. Once all of those boxes are checked, the grant will then be approved. And then the actual timing of the work is totally dependent on the district because they have to deal with their local procurement laws in terms of how they actually advance the work.

The other criticism that we receive is timely payment. The way the process is set up right now is just reimbursement. It's not-- We would

sometimes, depending on the scope of the project, give some, what we call, *seed* or *start-up* money. But for the most part the process is reimbursement. So what I've committed to do is to maintain an open dialogue and line of communication with our local districts. I actually had the opportunity last month to appear at a meeting of the School Business Administrators. And I actually provided my e-mail, contact, whatever information they needed to reach me, and asked them to spread that, because they had their trustee representatives at the meeting. But unfortunately each ROD grant is somewhat unique because there are different funding mechanisms that districts come up with. There are some districts that will try to get the city to finance some of it. There are some districts that have to go to referendum to get their portion, so the timing of the execution depends on when the referendum happens. I don't know that they all fall into one nice process that I can describe.

SENATOR NORCROSS: So the issue has more to do with the local financing than it does with getting the notice-to-proceed letters out?

MR. LARKINS: Senator, I hesitate to say, because I don't want my remarks to be applied to a given situation. What I would ask is that if there is a particular situation, let me know. I guarantee you I will get on it; I will take care of it. But the issues that I have been made aware of thus far are not that "the SDA is not giving us the authority to go ahead with the work." They really are two-fold. One, "the SDA isn't paying us timely," -- I think that's the biggest criticism -- "We need our money." And then two, "We want another grant. We want another offering. Where is the next offering? We have projects backed up." But I have fielded individual requests from districts about isolated issues. So I hesitate to say

that in a given situation there's a -- it's us giving the notice to proceed. It's hard for me in the abstract to say.

SENATOR NORCROSS: Okay.

At this point I will turn it over to my colleagues.

Senator Rice, good to see you.

SENATOR RICE: Thank you very much, Mr. Chairman. I apologize for coming to the meeting late. I was in my office here in the State House (indiscernible) interest to relationships in corrections, which I've had a problem with. We may have to take some of those buildings for schools.

But I also want to say good morning to my members, to the members of our Committee here, as well as the Subcommittee, and to our new Co-Chair of our Committee.

It's good to see you.

ASSEMBLYWOMAN WAGNER: Thank you.

SENATOR RICE: Marc, you know, first of all let me comment and commend you. We don't do a lot of commending of administrative people because we don't have the kinds of relationships I think we should have as legislators. But one thing about you is, you will respond and you're honest about what you're not going to say and what you can say.

And I think that Senator Norcross has done a great job as Chair of this Subcommittee. It's been one of our premieres, if you will. And we're a responsible Committee, on behalf of the Joint Committee on the Public Schools, to receive information. And the questions he raised are questions that are being recorded and they're on the record, so we'll share them with our members. I want to make sure that the staff does that.

But there are other issues that impact concerns of residents of the state -- to know we're a very diverse state. And you did mention a minority business training. We also find that training is very helpful, and we need to get training and education out of the way as soon as we can so we can be prepared for jobs.

The question is: How many projects are ongoing now, actively, and what is the minority participation in terms of not small businesses-- See, I want you to keep in mind we separate the minority -- women and minority community, contrary to what McGreevey and them wanted to do. They don't want us to share anything. Let's be honest about it. We separate women and minorities in terms of what we are looking for and looking at in terms of equity and diversity. How are we doing with women and minority participation as small business contractors, professional service people -- and work with on the job with these contractors and these developers? And many of them don't want us either, but we have to force that and let them know we want to be partners now. We love them. I support them; they have to start supporting us. And I know some of them are here, so that's why I need to say it to them again.

Give me some update on that.

MR. LARKINS: Sure.

Thank you and good morning, Senator.

In terms of our effort, and outreach, and measures to ensure participation of minorities and women in business enterprises, we certainly do the best that we can within the parameters of the law. It's very difficult for us to take specific measures, i.e. set-asides and other things, at this point because of Supreme Court decisions and other legal restrictions on that. So

what we do is, through our small business efforts, we try to make sure that we're including the community.

For instance, with respect to our two recent classes that we've now graduated, before completing or finalizing the enrollment for those classes, we've made sure to make outreach to all of our legislators and our representatives of various groups where we think that the appropriate small business enterprise population is represented, to make sure that we're doing the best we can in terms of getting the word out.

The issue -- and I will be very honest with you. One of our major issues is making sure that we have these firms prequalified. For us, we cannot give work or receive proposals from firms that aren't prequalified. So that really is the first hurdle for us. And what I will say is--

SENATOR RICE: When you say *prequalified*, in what respect? Are you talking fiscally, or certified minority business, women businesses? When you mean *certified*, what are you talking about?

MR. LARKINS: Well, the first step is certainly to prequalify to do business with the State, both through DPMC and then through SDA. That's a process where they look at a number of different things. Moral integrity we look at, finances -- the State and SDA looks at. So the first step is to get them prequalified. And the numbers -- what I would say is it's really underrepresented. We don't-- I don't think we have the pool that we need. And that's part of why it's important for us to run these programs, because what we focus on through those programs is to make sure that our graduates do what they need to do to get prequalified.

The second step for us in tracking this information is to make sure that the firms that do represent these minority groups identify

themselves. We can't force them to register as minority, we can't force them to register as women-owned. So our data really is limited to those that are, one, prequalified, and then two, actually identify themselves as falling into one of those categories.

Let me go directly to the question that you asked. Because of the law that you passed -- sponsored and got through, Senator Rice and others -- we report this information very regularly, not only at our Board meetings but also through our biannual report. So in our most recent-- I'm just going to give you the data from our most recent biannual report that we released yesterday.

From October 2011 to March 2012, total SDA construction contracts \$3.4 million; total SBE participation is \$1.49 million. That percentage is approximately 43 percent.

Now, moving down to the two categories that you identified: Of the total SDA construction contracts -- that \$3.4 million or so odd -- the total contracts to minority-owned businesses represented was \$646,000, or 18 percent.

SENATOR THOMPSON: Senator, this is Page 27 and 28 of the report.

MR. LARKINS: Yes, I'm sorry.

And then for the small, women-owned business enterprises, of that \$3.4 million, \$757,000 was awarded to those small, women-owned business enterprises, or 21 -- almost 22 percent. And those numbers vary a little depending on the nature of the work. Ordinarily, I think we have more participation in our emergent projects, because those projects are open and usually smaller projects where our SBEs really bid directly. For our

major jobs -- since we single prime and bid to one GC, what we've been trying to do is help encourage the GCs to develop relationships with other subs, because a lot of GCs -- what we find -- will have particular relationships. So when they come and bid our jobs, they'll bring their team with them. We don't have the authority, ability to directly intervene or jump in between those relationships. But what we can do is try to encourage our GCs to be open-minded and look to some of these other businesses to get them involved in our larger capital work.

SENATOR RICE: I recognize the set-aside -- the demise of the set-aside programs in New Jersey and why it came out. And we should have challenged it because they were wrong. And that was McGreevey's and their mess that they wanted for their little contractual friends -- four guys out there in the woods who were never impacted by affirmative action. But that's okay. It means we still have to do our job.

So when you talk about the contractors, and developers, and other people doing the work, you may not have a set-aside; but what language do you put in the contract? Because if someone agreed to hire women and minorities, or to subcontract with them, then that's binding. And what I find is that the folks who run the system are not women and minority, basically. And they know that legally you can do that. Because if I'm not making any money as a contractor or developer, it means I don't eat and the people around me don't eat. And so I want to work with you to make sure that my needs get concern; and the opportunity to get work and sharing that work with someone else, even if it's not totally my A-team. We don't expect them to divorce the A-team, but we still have this family thing in New Jersey and these relationships to the exclusion of minorities, because

we don't go in the same circles. There is a way of addressing it. Are you looking at that, given your legal skills as well and knowing what it's like out there in the real world as an African-American?

MR. LARKINS: Absolutely, Senator. And what we try to do is to do, again, the best we can within the four corners of the law. And right now the law does not allow us to require GCs or anyone else to have a particular number of minority or women involvement in the jobs. What it does allow us to do is to require them to achieve certain SBE goals. So within that SBE framework we do the best we can. Right now our program has a goal of 25 percent on all of our jobs. And we actually achieve about -- we're running about 70 percent. Then we also have a separate -- in our emergent program we have a separate, what we call, a *set-aside* program for emergent projects where we carve some of those out for only SBEs to bid on those jobs. But again, because of -- I think you referenced it -- some of the current status of the law and some of the recent decisions, we don't have the flexibility or freedom to force achievement of certain other goals. But I think we do-- Considering that, I think we do pretty well. But we certainly can do better.

On the other side of that, we have a workforce compliance group that goes out and tries to do as best they can to monitor the information that's provided to us -- i.e., if a GC reports that they have five minorities on a particular job site, or six women on a particular job site, we have a group of individuals who work with our safety team who visit each job site and checks the rolls. So they'll walk the site and say, "Listen, GC, you identify that you have a minority woman plumber on this job. Where is she? What is she doing?" And if they find irregularities or other

problems, they certainly have the authority to stop the work. They'll report it and we'll take action.

But we do the best we can, Senator, again within the authority that we have under the law.

SENATOR RICE: Okay. Let me just-- I don't mean to-- This is a subject that I'm not going to go on with for too much longer. I know it makes my colleagues -- maybe not the ones here -- but many of them uncomfortable when we raise it. And I continue to raise it because I have to and the members of the Legislative Black Caucus have to. It's our moral responsibility whether we like it or not. And so I need to pursue this a little bit more.

In terms of requiring SBEs, it seems to me-- I'm almost certain that the language that required SBEs can be legal language in a contract that says that they have to assure that -- and meeting that goal of small businesses -- that it must be inclusive of women, minorities; and defines some of those groups -- African-American, Latino, women, and other such and such. And so you have them set a goal or a number, but you're making it very clear in this state -- we want diversity where it can be done. We know that there is a limited pool out there at the time for a lot of reasons. But I just don't think that contractors of good will would not want to participate with those that they can and help identify -- help them grow. The more people they get, the more opportunity they have to go elsewhere to get more work. And so that becomes important. And I'd like to see some language like that. And you can share it with the Committee once you kind of have it. And if need be I will legislate that -- once you give me the language -- it has to be in those contracts. Okay?

MR. LARKINS: Sure.

SENATOR RICE: So we have to stop saying what we can't do, because I don't allow the Attorney General or legal people -- the Administration -- to tell me-- There are independent sources that are lawyers too. And by the way, I went to law school. I just didn't do the arts stuff, I didn't do the electives. I did all the basic stuff, so you know I understand this stuff. And we can do that. I know we can legally do that.

I want to move -- just on the emergents again. The issue came up of \$46 million worth of emergency work, basically. Are those numbers included in the \$2 billion you mentioned when you prefaced your remarks in terms of development and school projects? Is that \$46 million within that, or is that an additional \$46 million that you're looking at?

MR. LARKINS: It's included.

SENATOR RICE: Okay. So technically, moving forward, there's at least identifiable -- because you haven't put numbers to the others -- \$2 billion worth of potential work out there that's coming forward, moving to the future.

MR. LARKINS: I would say that is absolutely accurate. The \$2 billion that I was referring to -- some of it does include awards and active projects, so some of that is active. But I certainly have no hesitation in saying there's absolutely \$2 billion worth of work to be expected, advertised in the coming year.

SENATOR RICE: I understand. The reason I raise that -- it goes directly -- it's directly related to the affirmative action component of why-- You can't lay \$2 billion-odd out there and say you have identified in New Jersey, through the working relationship with labor, the working

relationship with contractors -- and they're predominantly white contractors, basically, some others -- that minorities -- African-American, Latino, and women -- will get \$1 million worth of work. It just can't happen, okay? Whether that's goods and services-- And to say that that can't-- Because one thing the contractors do, they actually go out of state and bring in people. Now, I'm not suggesting that. We like our folks to come from the state, and we want everybody in the state working. And so that needs to be looked at, and you need to report to us about how you're going to monitor and make sure, as best you can where feasible, that that's done. If that means holding classes with all the contractors who are participating now to encourage them, others who will come into the system-- We don't care and I don't care how it's done, but it has to be done. I'm tired of being a Senator -- and my colleagues look at those of us who are African-American, Latino, and women like we're crazy when we raise the issues. And then our contractor friends and our labor friends want to paint us as anti-contractors, anti-labor, which is not true. We have votes -- pretty much 100 percent. But we can't be silent on that issue.

Another issue I want to bring up, and then I will yield, is-- Well, there's two things, and they go hand-in-hand. The emergent projects-- We had this discussion. Where is DOE on this? If I recall, if any district identifies emergents, you can hound them but DOE has to approve them in terms of the definition of what they define as being emergent. So are we still there? Because if I recall -- one of the last meetings, Mr. Chairman -- I believe we asked staff, as well as you, to provide some language to us for some potential legislation, because there are some of us who feel that you -- if you have to fix the emergent-- DOE doesn't know

anything about construction. I mean, you have to do all this stuff. You should be determining that emergent. Because that's slowing the process down, number one.

So where are we with that language?

And, staff, you can talk to me later about where we are. Because I actually worked with OLS on that, and maybe you forgot. Maybe we just kept you too busy. But that needs to be a priority on your list too.

Where are we?

MR. LARKINS: Senator, that would fall under the category of proposed legislative changes. Right now, the way the process is set up is exactly as you identify. It's something that we try to work closely with DOE on to make sure that there isn't a repetitive effort or delay in the process. But what our goal is, is to come up with a package of proposed changes not only on the emergent program, program-wide, but there are other-- In addition to that, there are other proposals that we're looking at as well. I know that members of the Committee have expressed a concern about the dollar cap in terms of the projects the districts can do themselves. So right now a district can't advance a project in excess of \$500,000 themselves without DOE approval. And we're also looking at that as well. So we're actively looking at a number of things.

To be honest, the process has taken some time in terms of trying to understand why the laws are what they are today -- make sure that in proposing a change we don't cause other issues. But we've actively been doing that. And I would say that process has been moving pretty well, and we've been working closely with DOE in terms of coming up with some recommendations that we want to share with the Committee. But as it

stands, we do not -- I can't tell you that we have crafted some language that would change the way the process currently works. Because it's the same for capital projects as well. I can certainly understand why on the capital side -- because of programming, educational issues that are impacted. But we're looking at the support for why it has to happen on the emergent side as well.

SENATOR RICE: Well, if you can get back to us. Because one of the things that frustrated the Chairman of this Subcommittee and led us into some real political differences -- not he and I, but some of my colleagues -- was this whole Hope Act, or whatever it's called -- Urban Hope Act. And that was primarily because-- The Chairman is right. It's taking SDA too long to get things done. And it's sad that we have to go out and find ways to -- even if it's parochial -- to address issues that are impacting us, because the taxpayers and voters want us to respond. It's the same with this. There is still an issue with DOE having to approve what is really documented emergent. And there should be definitions for what that means, and you should be able to handle that so we can expedite that piece.

The final thing is the land and abandoned buildings. How much land, statewide -- and if you don't have the information, send it to us based on municipalities and counties -- vacant land and abandoned buildings. Because I know at one time there were people who wanted to lease some land temporarily (indiscernible) decide what you're going to do with it. And you guys were saying no. Then I get in the midst of some legal issue down in Camden, if you recall. And then I was getting colleagues mad at me because I do respond to people. I don't ask permission to do that unless someone wants me to. And I won't get into that. But that was a

lease deal. (indiscernible), “If you can lease there, why can’t you lease here?”

Where are we with that? Because that was supposed to be an issue we were supposed to address legislatively as to who gets land priority.

You had mentioned before that you bid it to the world and we said, “No -- we don’t need to bid it to someone who is going to bring in a project that politically gets passed locally, that’s going to do more harm to the community than good.” So where are we with that, because I do think that the municipalities should get the opportunity to get that land back regardless of how the unions see it.

MR. LARKINS: Senator, we have undertaken and completed an inventory of all the property that we own, statewide, depending on how you identify it. There are certainly more than 50 parcels -- maybe more -- and again, depending on how you identify a parcel: if you do block and lot, or if you want to talk about a parcel being what properties have you acquired specific to a project. We look at it different ways. But what we can share with the Committee is that inventory so the members certainly have an understanding of where we own property and what it is.

In terms of the properties that I would consider vacant or where they have abandoned structures, you know, there are probably several dozen of those where we are undertaking an effort now to really look at those and make sure that we raze those buildings and that they’re not an eyesore or a safety hazard. That’s something that we recently started and it’s really underway.

The issue, though, is very timely. It’s one that we’ve been working very diligently on to really understand what we can do in terms of

divesting ourselves of that property. Certainly the first issue -- and I think the most appropriate and important -- is, is the district going to need a project? Is the district going to need a school at that site? And that really-- In certain districts, that becomes complicated, and in some districts it's very easy. Because in some districts, either the municipality or the school district has outright said, "We don't need the property, we don't need the site, we don't foresee a school." Those are the easy ones. But that really is the first box that we have to check.

The second legal issue -- which we've actually had conversations in the last couple of weeks with Treasury, DOE, the AG, and outside bond counsel -- is: Depending on how we dispose of the property, does it impact the bond covenants? Because all of our funding is through EDA bonds and they have certain covenants about what we can use our money for. And we have now used our money to acquire this property in pursuit of a school and now we're shifting in a different direction.

So we've gotten some preliminary guidance. To be honest with you, it's not complete so I think it would be inappropriate for me to go there at this point. I think there are opportunities for us to divest. I think we have to be very careful, and in each instance run it through bond counsel to make sure that what we're doing does not impact the bond holders.

So it's something that we're certainly looking at, Senator. In certain instances, also, we are now working directly with cities to make sure that we, in the short term, can make some use of our properties. There are certain cities that are looking to do some urban gardening and some other initiatives. Sir, we are, one, focused on trying to understand how and where there are opportunities to get some money back by disposing of the

properties for our program, because that money, again, will just go right back for additional projects. But then two, in the short term, trying to identify opportunities to make some beneficial community use of the property until we can come up with a long-term plan.

But you're right, Senator. You've raised this issue before. We'll certainly share the inventory with you and we look forward to continuing the dialogue. But there are a couple of hurdles in certain instances that we just need to work through. But we'll certainly focus on that in trying to make headway.

SENATOR RICE: Let me-- On that issue of bonding: One thing about the Legislature -- we're very creative, as people know.

Let me give you some creativity that I think, legally, can happen. Let's just say that Gloucester City has some land, or Newark has some land, and we want that land back to the municipality. And the concern is the bond -- what it does with the bond (indiscernible) stuff of that magnitude. Maybe we can legally do legislation where a city can agree on that piece that they're taking back; that they will back up your bond piece, or if they can credit the municipality to protect that piece that you feel would come out. In other words, the bond people look at the whole: you have a watermelon, take a plug out, there's a hole. But we'll plug that hole. We aren't plugging the whole watermelon -- you see what I'm saying? Which means to me that if you can tie the two-- Because with the bonding, the way the economy-- The only thing they really want is satisfaction that they're going to be protected. And they don't care if it's EIC or the county authorities that we put in place, they don't care if it's you, they don't care if it's the municipality -- they don't care who it is. So it seems to me that may

be one way to get around some of those (indiscernible) where you may have a bond issue problem. The others you won't have it.

And the question -- and I'm going out in reference to the Senator-- We're presented with all the schools, but I want to know what's happened to the school we visited in Gloucester where they had to close it off because we were going to fall in holes, and kids were still moving through. Senator, is that-- Can you give me-- Tell us, as a Committee, since we went there and actually witnessed what was taking place there, where are we with that? Then I'm finished.

MR. LARKINS: There are two things happening on separate tracks: First of all, we have delegated two emergent projects to Gloucester to deal with issues at that building. And I reference those because we anticipate those may be a short-term solution. The long-term solution is Gloucester City was part of our 2012 announcement; it's one of those 20 that were announced this year. As recently as the past two weeks we've been to Gloucester working with DOE and the local district to start developing the project, and the scoping and programming for a project down there. So that is certainly in the works. So my expectation is that within the next few months we'll certainly see something public about what the long-term solution will be for Gloucester.

SENATOR RICE: Do you concur, Senator?

SENATOR NORCROSS: They're working on it. (laughter) And I appreciate it. But certainly if it's your children, those schools -- and you've heard it, Marc -- it's incredibly, incredibly frustrating. And if you're one of the persons who used to live on the land that is now vacant for many years with nothing going up, you can certainly understand how they feel.

Questions from--

ASSEMBLYWOMAN WAGNER: Thank you.

First of all, thank you very much for coming and, for me, I have an awful lot to learn. And I need you to help me think through a process here, because I'm going to speak about the regular operating districts.

MR. LARKINS: Sure.

ASSEMBLYWOMAN WAGNER: And, you know, I understand that you contribute 40 percent towards a project. And I look at Bergen County and they've done exceptionally well in applying for grants and probably have a third of the share of grants money-wise. And travelling through Bergen County there are 72 districts. We have more districts than we even have municipalities. And I can go from one school and it be a state-of-the-art school, and I have some that are barely holding on. And when I go in it's like my school days relived: nothing much has changed. And they're dreary; they're clean, but they're not the state-of-the-art school that this community has.

And I was wondering: Did we ever consider varying the percentage that a district has to pay and what the State contributes? In other words, it's 40 percent. Some districts can't do it; some towns can't do it. They're not Abbott, but their schools are still falling apart. Did-- And I don't know, I don't have a history. Is that a possibility?

MR. LARKINS: Thank you, Madam Co-Chair.

Actually, as I understand it -- because this certainly precedes me; and I guess I'm trying to recount history and I apologize if I get something wrong. But as I understand it, historically there was another group -- I believe they call them *55 and over* -- and they're-- I'm sorry, 55

*and under.* And there was this variance in terms of how much the State would fund towards eligible costs. And it was tied, as I understand it, to school funding formulas. As I also understand it, that was changed by legislation in 2008. I certainly can't pretend to identify why that change was instituted. But that actually was connected to my reference earlier -- for instance, Egg Harbor. Egg Harbor was a district that actually received more than 40 percent and it was one of those districts where-- It was a time when the SCA had the authority to actually take over and manage those projects. But when the legislation was changed, there was this change instituted.

The other interesting thing is: Every district is not at that 40 percent level. There are some minor variations, but there isn't, for instance, a district where it's like 85 percent versus 100, or 70 percent versus-- There are some differences. But I think the change in legislation may have really impacted that, and now we really have these two distinct groups, whereas the SDA districts that are at 100 and then the other 500-plus that are at approximately 40 percent.

ASSEMBLYWOMAN WAGNER: One other question: When you mentioned the school district that had flooding damage. And, of course, the school would do what it had to do, but you had to fix the long-range problems -- the problem that caused it in the first place. Does that move the school up in priority for funding to get the work done over another school because you want to make sure that it gets done? Or does it simply just go in order?

MR. LARKINS: There is an effort towards some prioritization amongst the emergents. And that effort really is a recognition of limited

funding. So historically it was a first-in, first-out; and there would be some small projects that might just jump through that, some could say, were questionable. Because it really was just a first-in, first-out process. And as I indicated earlier, we really burned through \$97 million pretty quickly.

Now we are looking at the universe with an eye towards which ones are the most serious. Not to say that others sit on the shelf, but we certainly are looking at it in that regards, because now we only have a \$100 million. The issue, for instance, with Wilson though was the conditions there required the students to be moved out of the building. And they were being bused and transported to a different part of the city -- a different district. So the effort was to try to move that as quickly as we could to get the students back in. But each one is somewhat unique, so I don't want to give the impression that Wilson jumped in front of others or jumped the list, but we try to move them all as quickly as we can. But each one, because of the condition, the nature of the building -- some buildings have asbestos, some don't -- each one requires a different effort. So Wilson was just one that we were able to move along pretty quickly and get the kids back in.

ASSEMBLYWOMAN WAGNER: Well, I'm glad you did.

MR. LARKINS: Thank you.

SENATOR NORCROSS: Senator.

SENATOR THOMPSON: Thank you.

Relating to the topic that was just discussed there: When the original legislation for school construction was enacted, I do recall that, again, it did establish 100 percent funding for the -- what you call *SDA districts* today -- Abbott Districts in those days. And it seems like there was

about a 40 percent cap placed for the non-Abbott districts. Now, subsequent changes have taken place through the years; I'm not that well aware of just what has or hasn't taken place.

And for Senator Rice there, there's another table you might be interested in, relevant to your questions, on page 28. They do have the number of minority/female work hours by trade for every trade that is there. Overall it indicates 29.98 percent minority work hours in the various trades; for females only 0.91 percent. But that's probably related to -- not a heck of a lot of females in some of these professions. This is just for your information; you were looking for those kinds of numbers.

In our packet we have something here labeled, "Our children, teachers, and other school staff are at risk. Preliminary analysis prepared by Francis Gilmore, consultant, with NJ Work Environment Council." He's listed the deficiencies (indiscernible) percent of projects needed related to emergent projects. As I look over this I'm kind of astounded at some of the stuff that's listed here. And I just wonder if you ever get a request on an emergent project that you just say, "No, go get it fixed." I mean, for example: He indicates fire safety: "Fire alarm and/or smoke detectors need to be replaced." Two schools in one town, five in another, and so on. Now, this is the kind of item that I would think that, you know, if you have buildings out there and they weren't just built yesterday, you know there is going to be items come up every year that you have to have it covered. And that they are applying to the SDA to handle the fact that they need to replace their smoke alarms. I mean, I'm rather astounded by that. And you also have "windows in need of repair or replacement." Well, now, if you have a broken window, there's a hole in it, cracks or so on -- that's

emergent. You have to replace it right now. And that's the kind of thing that I think a school would say, "Our window's broke; let's go repair it," rather than submit to the Department of Education, who comes to you, and etc. No wonder you have to wait so long to get something done. I mean, these things I would think the local school district would just take care of rather than applying to you. I mean, if you didn't have all these things in there maybe there would be more time to spend on some of the more emergent stuff.

You also have "doors in need of repair or replacement." You have a door that needs repair or replaced, you go do it. You don't write to Trenton or apply here or apply there and wait, "My God, you know, I've been waiting a year or two years for SDA to come back and replace my doors." But there are numerous things like "various bathroom plumbing needs repair." If bathroom plumbing needs repair, you call a plumber and you go get it done.

So do you ever just say, "No. This is something you have to go out and get it done yourselves instead of waiting for us"? You ever do that?

MR. LARKINS: We actually do, Senator, and you make a great point. And that's some of the tension that we sometimes have with the local school districts. So for instance, last summer when we did our request for conditions from all of our SCA districts we received over 700 requests. Right off the top, from an initial review, we rejected over 300 of them for the exact point that you made, that we told the districts, "Listen, this is routine or required maintenance." And just to put it all in context, I often remarked internally that I'm not quite so sure why the word *emergent* was chosen for what we call these repairs, because just to set the framework:

If there's an emergency condition -- and I often hear that kids are currently in jeopardy -- if there's an emergency situation, the districts are responsible for addressing it. And there's no cap on that. They have the authority to go out and address the condition. What we deal with, and what we're calling emergents, are those that potentially threaten the safety. And there could be some debate as to whether or not there's--

SENATOR THOMPSON: But you know, if the fire alarm is not working that threatens the safety. But, again, it's a thing I think they'd call up and order a half a dozen fire alarms or get batteries or whatever instead of making applications, waiting for the State and somebody to come around and take care of it.

MR. LARKINS: Sure. So we often do--

SENATOR THOMPSON: Do you have clear regulations or whatever so people understand what really they ought to just be doing themselves and what they should be applying to you for?

MR. LARKINS: We believe they're clear and we also try to be as direct as possible in terms of guidance. When we respond to a request, if we tell them it's required and routine maintenance, we certainly are very direct in that. What often happens is either there will be some back-and-forth as to whether or not they disagree or, for some of them, if you wait long enough -- if you don't address it and you wait long enough, then all of a sudden the condition continues to deteriorate. So if you have a leaky roof and you don't send someone to patch it, all of a sudden you might actually need a new roof. And then all of a sudden you have an emergency.

SENATOR THOMPSON: I see all these roofs and then, again-- Repairing the roof is part of having a building. I mean, yes, when it

reaches a point when the whole roof is rotted and so you have to replace it - that's one thing; but okay, you have a leaky roof -- go fix the leak. And then you won't have (indiscernible).

Okay, one other thing: In your section on financial overview it states, "In the total, the Legislature is authorized \$12.5 billion in funding for the SDA." I think what-- Senator, do you recall, is it about \$8 million in the first package, the first time we did this?

SENATOR RICE: Eight-point-six.

SENATOR THOMPSON: So anyhow, they've authorized \$12.5 billion in funding for the SDA; \$8.9 billion for SDA districts; \$3.45 billion for RODs; \$150 million for vocational schools. Since the program's inception the amount of bonds issued to date to fund the program is \$8.649 billion, which would tend to suggest to me that there is about \$3.9 billion of bonding still available. Is that an accurate estimate?

MR. LARKINS: It actually is a little less than that, and let me explain the difference. So the bonds that have been issued end up representing either expenses -- money that we've paid -- or cash that we still have on hand. As it stands, on hand we have a little bit less than \$300 million in available cash. But we actually have commitments that haven't been paid out yet that haven't been bonded for. And those commitments are somewhere in the neighborhood of \$800 million or so. So our commitments exceed the cash that we have available, but we have the authority to go out and bond to continue to meet our commitments. So that would represent the difference.

But you're right. The numbers, just to be clear -- in terms of if you account for all of our identified commitments or our anticipated

commitments to date, we have somewhere around about \$1 billion left for the SDA districts -- that's inclusive of emergents and capital construction; \$450 million remaining, approximately, for the ROD Grant Program; and about \$30 million remaining for the vocational program.

SENATOR THOMPSON: So you're saying-- Talking about the uncommitted -- the bonds that we haven't sold yet and etc. -- the outstanding monies are not totally expended yet. There is about \$1.5 billion worth of bonding capacity that you still have left that you haven't committed one way or the other; so only about \$1.5 billion total out there is still available.

Okay. "No new bonds for construction of school facility projects were issued during the reporting period. The long-range facilities plans filed by SDA districts and RODs would require a financial commitment significantly exceeding that which the New Jersey Legislature has previously authorized -- \$12.5 billion -- to appropriately address all the school construction projects needed across the state." Is there available somewhere -- or if it is not, could you put together something -- that sort of summarizes-- You know, I don't care about this school and that school and so on; I want the big pictures -- sort of summarizes what we have accomplished with the school construction program since the first passage of it. How many schools we have actually constructed or will be able to construct with the current \$12.8 or whatever billion -- what our projections are on that? How many we've constructed, what are the-- In numbers, again, not specifics of this school and that school, etc. What are the things that we have been able to accomplish?

SENATOR RICE: Senator--

SENATOR THOMPSON: And what we see at this point in time we still have to do in the future. That is, how many more schools, based on your current information, do we need to construct? What's up or what our ballpark figure is, what's going to be needed there; and additional information. So we have some kind of point in time: where we are at, where we see we're going, and if we're talking 10 or 20 schools a year, how many more lifetimes we're talking about before we get the problems dealt with. Some kind of broad picture like that to give us where we're at, where we've been, where we are, where we're going.

SENATOR RICE: Senator, this is through the Chair: Marc -- it's okay, Mr. Chair -- what you need to do for the new members on the Committee, I think you need to go back as best you can to the genesis, because statewide there were  $X$  number of schools that were supposed to be built. And forget about -- you can't forget about it, but everything just went wacky, okay? Then I think the Senators and the Assembly persons on the Committee need to know that information. Then came "the Christie Administration" that looked at the program. And so you had this; you know what was built during this period of time. The Christie Administration came in, put everything on hold -- it looks like we're almost still on hold, but we have some movement going now -- and because of that you kind of reidentified the needs of whatever it's going to be. And then, since then some school districts actually backed out of some projects or they transferred some. So just package it like that so they can see the genesis of where we are; I think that's what he's asking. But then put a cost to that, because it was like how much money did we have -- like I said, then there were problems there -- but what did we have, what did you have when you

came in -- we did a bond issue that hasn't all been spent yet -- and then what you project going out with all these things.

SENATOR THOMPSON: I actually have no interest in what administration was here, when, and where. I mean, you know, schools and the needs don't change no matter who you have there.

SENATOR RICE: Exactly.

SENATOR THOMPSON: When we-- (Indiscernible), you and I were both there when we passed the first legislation.

SENATOR RICE: Right.

SENATOR THOMPSON: And I forget precisely how many billions were put in there. But I think we were all dreamers and idealistic in thinking the day we passed it, "Boy, we're going to take care of the school construction problems of the State."

SENATOR RICE: Yes, yes. He's rolling.

SENATOR THOMPSON: And then as time passed and that money disappeared we saw what we had accomplished and said, "Oh, my God." And so people came along and we passed another bill and put some more money out there. But I want to know here: Looking at the picture -- that completion date down there -- are we just dreaming? Or what's it going to take? Somewhere we need to start thinking about, "Where-- How are we going to get where we're trying to go, and what is it going to take to get there?" And that's the kind of information I'm looking for here.

SENATOR NORCROSS: We certainly can get that together. It's a moving target also, and I certainly take the time to--

Marc, as always, we appreciate you coming here. But the next time we sit in this room you're going to tell me how many schools have actually started construction, right? (laughter)

MR. LARKINS: Yes, sir.

SENATOR NORCROSS: All right. Thank you very much.

MR. LARKINS: Thank you, Chairman. Thank you to the other members.

SENATOR NORCROSS: Next on the list to testify, representing the State Building and Construction Trades Council, is A.J. Sabath.

Well, it's good to be here, A.J., because the Office of Emergency Management just issued an excessive heat warning. So we're doing much better in here. (laughter)

A. J. S A B A T H: Absolutely.

SENATOR NORCROSS: A.J., it's good to have you here.

MR. SABATH: And thank you very much.

My name is A.J. Sabbath, and I'm here on behalf of the New Jersey Building and Construction Trades Council. We're a trade association of the union building trades -- 15 of them -- which include the basic trades and the specialty trades. We also consist of 13 county councils, and we represent over 150,000 men and women who basically build the schools that you're discussing here today.

And I think we appreciate the effort that's being made by the School Development Authority and the effort by the Legislature with regard to the construction of schools. I think we share some of the concern that has been levied here with regard to the pace at which the schools are being

built. And we're coming at it from two-fold: The way that we operate as an organization -- we build the schools that are in our community. We're a local group and that's how things are structured. And I think -- so to the degree that we're building the schools for our friends, neighbors, and our children, this is also a lifeline and an economic engine for our industry. And it has been and it's been less so, and I think I'm just here to underscore-- And I've met and testified before the Committee on a number of occasions and my testimony of the last, I guess, year is the same: The unemployment rate nationally is hovering around 10 percent; the state's unemployment rate is just a little bit below that. And the unemployment rate in the building and construction trades ranges between 30 and 50 percent on a statewide basis. And there have been pockets of development that have been initiated by the work on both sides of the aisle through initiatives such as the Economic Stimulus Act of 2009, which allowed for public-private partnerships; the Urban Transit Hub; the Urban Hope Act; and others that have helped to supplement that.

But one of the things that I think is of concern in terms of our industry is the fact that, at a time when we're fighting to reauthorize a Transportation Trust Fund, and at a time that the State's still trying to figure out and question how many schools have actually been built since the reauthorization of the fund for the School Development Corporation, I think it's important that we recognize what we're really talking about here is not only the reinvigoration of the schools, the repair of the schools that are emergent and are in need of deferred maintenance to be corrected, but they're also lifelines for our industry.

SENATOR NORCROSS: Thank you, A.J.

Certainly in some of the programs that you've had together over the years in recruitment and otherwise, I guess the one that comes to mind is Helmets to Hardhats.

MR. SABATH: Sure.

SENATOR NORCROSS: It works much easier when there's employment versus unemployment.

MR. SABATH: Absolutely.

SENATOR NORCROSS: Yes, but won't you just expand on the Helmets to Hardhats helping some of the veterans who've come in?

MR. SABATH: Sure. Well, we have a number of programs where we either try to work through the local high schools and try to introduce some of the graduating juniors and seniors into what to expect with regard to an occupation in the building and construction trades. But we also do work with the Department of Military and Veterans Affairs -- and we're actually running a job fair next week -- where basically we work with the incoming soldiers, and also people who have veteran's status who might have been from a prior campaign but who are still eligible to participate. And our whole goal is to be able to provide an opportunity to enter a career in the building and construction trades. And with an unemployment rate of 30 to 50 percent the slots that we have-- I mean, we're fighting to clear our union halls and to clear our benches, and so it's even more critical for those programs where we're trying to reach out to high school students in urban areas, or we're trying to reach out to veterans to provide them information on our industry.

SENATOR NORCROSS: We appreciate it. Certainly it's a challenge just keeping the members working, but the next generation and

anybody who's outside working today will tell you it's not the most glamorous set of circumstances to go out and work. But it is a great living that folks can go into.

We're going to open up to questions.

Senator Rice.

SENATOR RICE: Yes, A.J., how are you doing?

MR. SABATH: I'm doing well, Senator.

SENATOR RICE: You know, I concur, and I think all of us agree that we have too many of our present-trained contractors and our union folk who work in the building and construction trades unemployed. We have to clean the house. But we also know that we live in a society today where the reality is that today, and moving forward, the majority of our labor force is going to be women and minorities. That's just a biological fact. That's based on when people have babies and nothing else. And so we also know that there's a lot of criticism or at least people make excuses for not hiring women and minorities, particularly coming out of the urban communities. That's where most of them live anyway.

MR. SABATH: Right.

SENATOR RICE: Even if they're trained. So we think it's wrong criticism and we've tried to work, in the past -- especially the Black Caucus and the rest of us -- with labor organizations. And I think we're doing the better job in getting them to understand that reality too. And most of them want to do it; every once in a while you let the president of some place or some locals -- like letting a politician down here -- you get the wrong one in the house and then they make all of us look bad. But the reality is that training -- we need to start the training back now. I know

there were some programs that we were doing -- job training -- and things like that, and it shouldn't just be YouthBuild. It has to be broader based than that.

Where are we with training with the trades? I know that some new projects in the Essex area -- the dollars that we had put there ran out. And there are dollars for training, by the way. And I think, Senator, I need to talk to you also, because we have dollars for training that I think the Governor may be trying to take away or do something with. But where are we with training from the Council's perspective right now?

MR. SABATH: Well, I think--

SENATOR RICE: I'm talking about training of women and minority participants to get them ready so once we do clean the union halls up, okay, we can start to--

MR. SABATH: Well, I think that-- First of all, Senator, I think you raised a good point. And I would also respectfully correct you on a statement you made earlier, because I don't think all the union contractors in the building trades have had very positive discussions with you, and you're a strong advocate for the community you represent. And I think you know we try to take every opportunity we have as a labor organization to think local. And when we work with local officials, and when we work with contractors and developers, and even large parent corporate entities that are looking to develop projects like the pipeline or others, no matter what the controversy is surrounding the issue, if it's something that's going to put our people to work and give us an opportunity to expand our ranks, we're going to take advantage of that.

And we invest a lot of money in training our own. I think the problem is we have a capacity issue, and it's a work capacity issue. And we could-- There's not enough jobs out there presently for us to handle our current membership. And, in some cases, our union halls are half full, and that's a very conservative estimate. But I think at a time when we're at a healthy labor market we personally make a lot of investments as labor organizations -- financially -- in our apprenticeship training programs. And, quite frankly, where there's economic development interest and there's opportunities for us to build and construct various projects, in some cases where there's project labor agreements, some of the contractors and the developers make an agreement to hire people right out of the community -- and we have actually opened up trailers and we're literally hiring people right on the job site from the local community. And I think that that's kind of a model we like to utilize. Unfortunately, there's not a lot of public works projects going on, and there's very little private development that's going on too, in large scale and in large capacity. So I think that this is a conversation that we need to continue to have in preparation for when the workforce is at -- I'm not going to say a normal level, because I think it's going to be a long time before that happens -- a much healthier, robust level where there is greater opportunities.

SENATOR RICE: Well, that's why the training is important now--

MR. SABATH: Absolutely.

SENATOR RICE: --because what we've found when we do get agreement on training programs, people like to train women and minorities while the work is going on. And we're saying, "Well, while you're training,

give us some work, too.” They don’t want to do that. And by the time they finish the training and are able to do the job, there’s no more work. And so the reality is that-- I’m going to get with you and the Senator because I have some things that I think we can do. I’m concerned about the training piece, because the training piece is going to impact not just school construction but every thing else we’re going to do. And I believe the economy is going to open up real soon and put a lot of our people back to work, based on things we’re doing here. We’re not depending as much on the Federal government, but I know we’re pushing transportation and things of that magnitude.

So I’ll get back with you on that.

MR. SABATH: Sure.

SENATOR RICE: And I’m sure my good friend Mr. Mullen is still the Executive Director (*sic*)?

MR. SABATH: Yes.

SENATOR RICE: Okay, all right. I’ll be talking to him too.

That’s all I have on that. But there is training money. We just--

SENATOR NORCROSS: Absolutely.

SENATOR RICE: We did legislation that we’re going to revisit, where one-half of one percent is set aside just for training. We have to deal with that.

SENATOR NORCROSS: I don’t think anything would make him more happy -- that they needed to train folks. That means it’s getting back on the pre-(indiscernible) program (indiscernible).

SENATOR RICE: Yes. They want to do it -- yes.

MR. SABATH: Well, some of that-- Just to clarify: There is money that is set aside for existing employ-- There's occupational safety training money; there is money for people who are currently on a job.

SENATOR RICE: Yes, we know.

MR. SABATH: And I think that what you're talking about is a pipeline development -- which is a little bit different -- and that's something we kind of depend on doing at a time when there is a lot of work in the queue. And right--

SENATOR RICE: We're collecting money right now, based on things that we did. It was my legislation, so I know -- in the Black Caucus. It's just that everybody forgot about it except for the Administration, who is trying to move it around. And that's why I am going to talk to Senator Norcross about it and we're going to figure out how to get that money, at least, into some of those areas. We may have to redo legislation to shift it, but it's there.

MR. SABATH: Well, we look forward to working with you on that.

SENATOR NORCROSS: Anybody else have questions for A.J.? (no response)

We appreciate you coming by and sharing that (indiscernible). We'll have more work coming very shortly. Marc will be sure of that. (laughter)

SENATOR RICE: Thanks, A.J.

MR. SABATH: Well, we look forward to that. Thank you very much.

SENATOR NORCROSS: Next on our list is from the New Jersey Work Environment Council -- Moriah Kinberg; and from NJEA, Marybeth Beichert.

Attrition?

M O R I A H K I N B E R G: Unfortunately she had to leave to go to another meeting, so--

SENATOR NORCROSS: Our apologies; we ran a little long.

MS. KINBERG: She did give you her testimony. So you guys should all have copies of that.

SENATOR NORCROSS: Very good.

MS. KINBERG: Good morning.

SENATOR NORCROSS: Good morning and welcome -- or good afternoon.

MS. KINBERG: Yes, good afternoon. Thank you for holding this hearing, Senator Norcross and members of the Committee. This has been very thorough. So I really appreciate the dialogue that you had with Marc Larkins. Lots of questions were answered, and I appreciate that very thorough report back by the SDA.

The New Jersey Work Environment Council is an alliance of labor, community, and environmental organizations that advocate for safe, secure jobs and a healthy sustainable environment.

MS. KINBERG: So healthy school environment is an issue that we've been working on for a very long time and we've been working with NJEA -- we have a team of industrial hygienists that provides technical support to teachers to remediate hazardous conditions in schools.

And I brought a few reports that we've actually released -- or one report that we released that describes the work we've done with NJEA, and another report that talks about the fact of the school environment and school facilities on students' health. So those are two reports for the Committee to review.

So as you know, a productive learning environment for our children is one of the most important investments we can make. Unfortunately, postponed maintenance is leading to decaying environmental conditions, much of which has already been discussed today.

One of the concerns we have is also around job creation. We feel that building new schools and repairing our schools is a huge opportunity to create jobs. And in 2008 the Bloustein School of Public Policy released a report -- I'm not sure if you guys reviewed it, it came out a while ago -- but at that time they did an analysis of the projected jobs that would be created if we had gone through with the plan at the time -- in 2008 -- for the SDA. And at that time they projected 10,000 jobs would be created each year if we had followed through with the projected 52 schools.

So that's just to give an idea of what job growth could be happening right now had we moved forward at the pace that we had projected. And I would love to know actually how many jobs have been created through the SDA over the last few years -- just to see in comparison what's actually happening in terms of job creation with these projects.

SENATOR NORCROSS: I think that would dovetail right onto the Senator's request on the jobs that we're looking at. We can get something, because I know the SDA keeps those figures. So we'll take a look at that.

MS. KINBERG: Yes, okay.

One of the issues that's been talked about quite a bit that we're also concerned about is the emergent repairs. We actually did that analysis that Senator Thompson was looking over, in which a detailed analysis of the original 716 emergent repair requests were made. And we recognize that half of those were immediately dismissed and that part of what happens with these districts is that they really can't afford to do repairs. And so that might be why some of them seem like, "Why can't you just go fix a window?" Well, school districts are really struggling. And that's also, I think, what happens when these repairs don't happen and then they become even worse.

Another problem that occurs is that some of them are emergent to begin with, and then they become an emergency, and the school district ends up repairing them.

Another issue that I think needs to be explored is, as Marc Larkins mentioned, that school districts, if they have an emergency repair, can exceed the \$500,000 limit. I'm not-- I think there may be some confusion with the districts on that, so that I just want some clarity on their ability to exceed the \$500,000 cap if it's an emergency repair, because I'm not sure that that's clear.

Another-- So when we-- The definition of emergent repair is one that is so potentially hazardous that it causes an imminent peril to the health and safety of students and staff. We've done a lot of work on occupational health and safety and, according to the New Jersey Public Employees Occupational Safety and Health Act, which covers all schools, "it is the policy of this State to ensure that all public employees be provided

a safe and healthful work environment free from recognized hazards.” The Act establishes an employer duty to “provide each of his employees with employment and a place of employment which are free from recognized hazards which may cause serious injury, physical harm, or death to the employees.”

The Act further states that “any order issued under this Act may require such steps to be taken that may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations under conditions where such imminent danger exists.”

So we’re just pointing out that that definition under OSHA is very similar to the emergent condition definition; and that in the 31 SDA districts there were 716 of these identified. And when we further looked at these we found that 102 involved leaking or collapsing roofs; 77 involved non-functioning heating and ventilation systems; 54 jeopardized fire safety; 35 involved unsafe or ineffective boilers; 32 involved structural problems such as collapsing ceilings or floors; and so on.

And we just wanted to talk a little bit about what is the significance of these. There are obvious physical hazards related to fire and electricity. Often less obvious are the air quality issues. As I said, 77 schools report HVAC systems in need of repair or not functioning at all. Schools with inadequate ventilation are likely to suffer from a buildup of pollutants resulting in a host of symptoms including drowsiness; headaches; irritation of eyes, nose, throat and upper respiratory system; chills, fever, etc.

In addition, concentration of any variety of possible indoor air pollutants may increase because the HVAC system does not dilute them. These may include asbestos, formaldehyde, fiberglass, radon, mold, etc.

So these are the conditions in which our students are being asked to learn and our teachers are being asked to teach in. And we see these as being very serious. And the fact it took -- the initial request was done in 2011 -- it took the DOE a year to respond to the school districts with their final determinations, which was going from 716 to 76. That's just way too long. And at this point, although the SDA -- Marc Larkins has recognized that they are moving forward on some of these emergent repairs, there is no timeline. And the communication with districts is-- There is just not communication happening with districts on repairs that need to happen.

So those are pretty much the points that I wanted to address.

And Marybeth is here from NJEA. NJEA is on our board and, as I said, we work very closely with the teachers' association.

**MARYBETH BEICHERT:** Hi, good afternoon.

I am Marybeth Beichert. I am the newest lobbyist for NJEA; I began in February. So I am very happy to be here; I'm glad to be part of this conversation.

It has always been NJEA's goal to promote and advocate for healthy and safe schools, to provide the best learning environment for our students. For the past two years the focus has largely been on education reform, particularly teacher tenure and evaluation. And in that discussion, somewhere along the line we have forgotten about the needs of our actual school buildings and they've gotten lost in the shuffle.

There's urgency there. And I wanted to speak to you particularly about a few things and I'm going to give me own story.

The average schools in New Jersey are over 50 years old. Now, that's really sad when you consider that in order for a school district to make those maintenance repairs such as windows or roof leaks and things like that, you have to be able to pass a school budget. That isn't happening in most of our districts in New Jersey. So every time a school does not pass a district budget, it makes it worse and worse and worse. And we've seen this problem over and over again.

And whether we call our districts emergent districts or not, too many of our schools are in dire need of major repair and renovation. And I can speak to you about my own district where I taught in Jackson for 13 years. The school that I taught in was a middle school and it was built in the 1970s; it was designed to be what they call an *open school*. So that open school meant that there were no walls within the school -- everybody was a pod: you were pod Core A, you were pod Core B, so on and so forth. The school was built on a concrete slab; and because it was a pod and we had community sinks and everything, there was carpet so that it was quiet and students could work at their own pace.

Well, as the town grew and more and more people moved into the district, they realized they had to put partitions in. It was too expensive to build another school that was desperately needed. So they put in metal walls. Metal walls on a slab concrete floor with carpet over them in the summer when there is no air conditioning -- because there are no windows in these metal rooms -- breeds mold, it breeds mildew and other creatures that we won't even get into.

So when I first entered my classroom that I was going to be teaching in back in late 1990, my carpet was held together with duct tape, which meant there was more mildew, more mold, and we couldn't prove it. And basically the remarkable thing about students is that they adapt to just about anything. And after a while they begin to think that that's what they deserve.

Well, NJEA does not believe that. We believe our schools can and should be better places for learning environments. And we believe that we have an obligation to make sure that those learning environments are safe and healthy.

So that is why it is very, very good for us to have this conversation today.

In 2010, New Jersey adopted the Common Core State Standards for Math and Literacy. In 2011, New Jersey became a governing board state in the Partnership for Assessment of Readiness for College and Career. These goals of PARCC are to create high-quality assessments, build a pathway to college and career readiness for all students; support educators in the classroom; and develop 21st century, technology-based assessments. These technology-based PARCC assessments will determine whether students are on track for college and/or career; assess the Common Core standards; measure the performance of high and low-performing students; provide timely data to inform instruction, interventions, professional development, teacher accountability, and student growth. This technology will allow administrators to reduce paperwork, increase security, reduce storage and shipping, and provide for more efficient scoring.

The Department of Education plans to have full administration of PARCC assessments by the years 2014-2015, although they also recognize that there will be many difficulties with this.

This, ladies and gentlemen, is where the rubber hits the road, so to speak. These tests designed by PARCC will be computer-based; our schools are not computer-based. The majority of them do not have the electrical, bandwidth, or high-speed capabilities that will be required to perform these State-mandated assessments. As it is, the majority of schools do not have enough adequate computers or proper computer labs for students to use on a regular, daily basis.

The 21st century college- and career-ready standards expect students to be technologically literate; however, the facilities the students attend cannot meet those expectations. It is our hope that the SDA will take a long, hard look at the investments that are needed to repair our schools and modernize them so that we can ensure that our students have the learning environments that are essential to their success. It is not enough to fix what is obviously broken in our schools -- we must fix what is standing in the way of student progress.

We are very willing to work with the Joint Committee on Public Schools and any other organization that is going to help us make sure that our schools are healthy, safe environments.

Thank you.

SENATOR NORCROSS: Thank you for your testimony.

I assume in your school system you had the teachers-- Is there somebody in each facility that is there to represent the teachers on health issues?

MS. KINBERG: Yes, we do. We have a group that does that.

SENATOR NORCROSS: So you have regular reports on these issues?

MS. KINBERG: Yes, we do.

Unfortunately, we have the information; what gets done with that information can become a fight. And it's a fight-- You're going up against your administrator, but your administrator is usually doing the best that they can do. So everyone is kind of in this ballgame together, so to speak.

SENATOR NORCROSS: Thank you.

Senator Rice.

SENATOR RICE: Okay, you're going up against the administrator; the administrator is doing the best they can do. There's something missing there because we have the Department of Education. So what does the administrator do? I mean, you have 619 districts, I believe, okay? It varies, but from an organization perspective I guess that's the best way to put it. Once NJEA is aware of some of these issues from the various districts, and you recognize you do have some principals or even superintendents who are doing the best they can--

MS. KINBERG: Right.

SENATOR RICE: --where do they weigh in together to show strength, and then let us know and let the Administration know? Because what my experience has been with school districts throughout the state is the superintendent and the principal-- The principal would tell the superintendent, because the teacher tells them; and it's obvious when you walk in the building you can see these things are happening. Then the

superintendent gets frustrated because they don't have enough help and then they may report it to the State. But I've never seen a coalition -- at least I haven't -- in a school district where the superintendent got so frustrated they got with the teachers -- you see what I'm saying? -- they got with the labor union leaders -- okay? -- and everybody who was frustrated blamed each other and said, "You know? Why don't we collectively go to the Department of Education, or to the State, or whatever?" It seems to me people who are more concerned about, "Well, I've guaranteed the superintendent so if I make any noise or form a coalition I lose my job." And my attitude is: lose your job. And that's the problem I have with those of us in the Legislature. We're scared we're not going to get elected -- get (indiscernible) elected. Just do the right thing, okay?

And so does-- I mean, is there any way to forge that? Is that happening anyplace where people are starting to come together in the districts? Because we can back you up for what we know. Our problem is oftentimes we'll do the right things, it's just that the people we are representing (indiscernible) split up on what needs to be done. We just go and do what we have to do regardless of who gets angry. Are there any coalitions forming out there besides the dissention that we've run into?

MS. KINBERG: Thank you for that question. I forgot within my intro to actually talk about-- The New Jersey Work Environment Council, along with the NJEA and parent and community organizations, actually are starting to work together around the issues of repairs and emergent projects. So I'm speaking on behalf of WEC, but also a coalition of groups that are coming together because of the severity of the issue.

And I think, in terms of the districts and the superintendents: I mean, I can't speak on behalf of them, but I think that there is-- They are wanting these repairs to happen and they are wanting new schools in their districts. And I think that-- I can't speak on behalf of them, but I'm sure that they don't want to cause trouble and they really want the SDA to continue to build schools. So I'm sure that they may have trouble speaking out sometimes.

SENATOR NORCROSS: And it's really-- In many ways it's no different than on the construction jobs. The one who speaks up is the one who gets laid off first. And that's why phone calls to OSHA take place, and they don't do it.

If you have a hazard that's so great, you're not going to call the administrator, you're going to call PEOSH.

MS. KINBERG: Right.

SENATOR NORCROSS: How does that-- Doesn't-- Don't they show up and have a report? And what happens when that report's issued? Then they'll have to move on it.

MS. BEICHERT: I agree with you, and I think -- to go back to what Mo was saying -- is that sometimes, though, there's a level of the trust. That if you report it to your administrator, your administrator is going to do the right thing. Sometimes that happens, sometimes it doesn't. But I think you also have to look at the district in particular. You know, the district that I taught in was considered a fairly well-to-do district. Not a wealthy district, but I think it was somewhere on the scale of, say, a *D* on the scale there. So any time an issue came up with, "Well, we have a school with no windows but that's the way it is. And the only reason we're going

to get rid of that school is if we raze it.” Well, we have a high school that was built back in 1968 where the windows-- The roof has been repaired several times, the windows have been replaced. But there are leaks all over. The top floor-- Because it was not built with air conditioning. That question was put to the public because the district was following the guidelines of how you go about getting these capital improvement projects passed. The public voted it down. So when we had a technology referendum -- you see this over and over again -- the public will vote these things down, and yet these are the very things that our students need to be successful. So somewhere along the line we’re missing that message as to how we’re going to upgrade these buildings without the taxpayer feeling that they’re the ones who are footing the bill for all this.

SENATOR NORCROSS: Senator, any other questions? (no response)

Well, certainly PEOSH is there for you--

MS. KINBERG: Right.

SENATOR NORCROSS: --as it is for others. I know that’s, in many times, a last resort. But that is what it’s designed for--

MS. KINBERG: Right.

SENATOR NORCROSS: --for when things get really bad.

SENATOR RICE: Some of the problems -- before you leave, through the Chair, Mr. Chairman -- one of the problems that we have to, maybe, pay attention to-- See, we don’t know unless you try to process and it becomes a barrier. I’ve had some problems with the State and PEOSH. Irvington High School, for example, was getting fined by PEOSH for the football field -- it was breaking up. (indiscernible). And they had reached --

and it was something like-- They had reached a point of almost \$500,000 in fines. It was emergent under SDA -- at that time it was Abbott school construction -- it was emergent but yet the State wouldn't do it. And to actually complete the whole problem rather than patch it up, and just do the field the way it would (indiscernible) be done before and avoid liabilities, the total project is \$1.5 million. And I asked the school construction people, I said, "Hold it. This doesn't make any sense. They already had \$500,000 in fines, okay? PEOSH was there." So then we had to locally really work with PEOSH and get them to agree -- get their little patch piece here and there. They won't fine you but you have to get it done right away. But the problem is that the local government budget, if you will -- school budget -- didn't have dollars to do the project on its own.

MS. KINBERG: Right.

SENATOR RICE: And so that's the concern. But I think it's in the right. You use the system, but then we have to know that you use it; and that down here there is a problem, particularly one that doesn't make any economic sense, etc. That problem -- we've mentioned to you, I guess, got resolved, etc. I'm not sure--

MS. KINBERG: Thank you very much.

MS. BEICHERT: Thank you.

SENATOR NORCROSS: Thank you for your testimony.

Any other comments? (no response)

Then this meeting is adjourned. Thank you.

**(MEETING CONCLUDED)**