

Report on the  
**Expenditures and Projections  
of Future Expenditures for the  
Emergency Repair Program**

June 2008

**State of California**  
Arnold Schwarzenegger, Governor

**State and Consumer Services Agency**  
Rosario Marin, Secretary

**Department of General Services**  
Will Bush, Director  
Will Semmes, Chief Deputy Director

**State Allocation Board**  
**Office of Public School Construction**  
Rob Cook, Executive Officer  
Lori Morgan, Deputy Executive Officer

Prepared by the

Office of Public School Construction  
1130 K Street, Suite 400  
Sacramento, CA 95814  
916.445.3160  
[www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov)



## Contents

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Executive Summary .....	1
Background .....	2
Eligibility .....	2
Emergency Facilities .....	2
Eligible Project Costs.....	2
Overview of the SAB and OPSC.....	3
State Allocation Board .....	3
Office of Public School Construction.....	3
Summary of ERP Expenditures .....	4
Total of ERP Funded Projects.....	4
Analysis of ERP Funded Projects.....	5
Projection of Future Expenditures.....	6
Estimate of Future ERP Expenditures .....	6
Attachment A - Education Code 17592.73.....	7
Attachment B - Senate Bill 6.....	8
Attachment C - Senate Bill 78.....	14
Attachment D - Education Code 17592.72.....	16



## Executive Summary

### EXECUTIVE SUMMARY

Education Code (EC) Section 17592.73 (for full text see Attachment A) requires the State Allocation Board (SAB) to provide to the Governor and Legislature a report of the Emergency Repair Account expenditures and projections of future expenditures by June 30, 2008.

The Emergency Repair Account was established, by Senate Bill (SB 6) (Alpert) Chapter 899, Statutes of 2004 (for full text see Attachment B), in response to the settlement agreement in the case of Williams v. State of California. SB 6 was signed into law on September 29, 2004, and is one of five bills enacted as part of the settlement agreement. SB 6 established two programs: the School Facilities Needs Assessment Grant Program (SFNAGP) and the Emergency Repair Program (ERP). SB 6 provided \$5 million for the ERP, which provides reimbursement to Local Educational Agencies (LEAs) for the cost of emergency repairs at eligible school sites. In addition to funding provided by SB 6, \$196 million was allocated under the Budget Act for Fiscal Year 2005/2006, \$137 million for Fiscal Year 2006/2007, and \$100 million for Fiscal Year 2007/2008. Per Senate Bill 78, Chapter 172, Statutes of 2007 (for full text see Attachment C), \$250 million from the Emergency Repair Account was transferred to the Proposition 98 Reversion Account during the 2007/2008 Fiscal Year. More funds will be made available to the Emergency Repair Account annually until \$800 million has been allocated. The ERP provides grant funding as well as funding to reimburse LEAs for the cost of repairing or replacing existing building systems or structural components that are broken or not functioning properly and that pose a health and safety threat to students and staff at eligible school sites.

The SAB is responsible for determining the allocation of proceeds from General Obligation Bond issues used for public school facilities funding programs. The Office of Public School Construction (OPSC), within the Department of General Services (DGS), is staff to the SAB and is responsible for monitoring the management of these funds and the expenditures made with them.

This report has been prepared by the OPSC, on behalf of the SAB, in compliance with EC Section 17592.73, to report to the Governor and Legislature the expenditures and projections of future expenditures for the ERP. The period captured for this report is from September 28, 2005 through December 12, 2007.

As of December 12, 2007, a total of \$89,799,107 was approved and apportioned by the SAB to LEAs for eligible ERP projects.

## Background

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### BACKGROUND

The OPSC's role in the Williams Settlement is to assist eligible schools in adequately assessing their facility needs and in conducting necessary emergency repairs, including health, safety and fire code hazards, through the implementation and administration of the SFNAGP and the ERP.

#### Eligibility

Eligible schools are those identified by the California Department of Education (CDE) as ranked in deciles 1 through 3, inclusive, on the 2003 Academic Performance Index (API) that were newly constructed prior to January 1, 2000. Prior to release of funds, LEAs had to submit a worksheet to the OPSC and identify the decile 1 through 3 schools under their jurisdiction that were newly constructed prior to January 1, 2000. Schools newly constructed on or after that date are ineligible and any funds apportioned for an ineligible school will not be released.

#### Emergency Facilities

Pursuant to EC Section 17592.72 (for full text see Attachment D), emergency facility needs means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school. These projects may include, but are not limited to, the following types of facility repairs or replacements:

- gas leaks;
- nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems;
- electrical power failure;
- major sewer line stoppage;
- major pest or vermin infestation;
- broken windows or exterior doors or gates that will not lock and that pose a security risk;
- abatement of hazardous materials previously undiscovered that pose an immediate threat to pupil or staff; and
- structural damage creating a hazardous or uninhabitable condition

#### Eligible Project Costs

Funding will be provided to meet the LEA's share of the repair costs of emergency facilities needs. To be eligible for funding consideration, the total project cost request must be \$5,000 or higher unless the LEA can justify its request for a lesser amount. Replacement of existing structural components or building systems is permissible provided that it is more cost-effective to replace rather than repair.

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## Overview of the SAB and OPSC

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### OVERVIEW OF THE SAB AND OPSC

#### State Allocation Board

Created in 1947 by the State Legislature, the SAB is responsible for determining the allocation of State resources including proceeds from General Obligation Bond issues and other designated State funds used for the new construction and modernization of public school facilities. The SAB is also charged with the responsibility for the administration of the Critically Overcrowded School Facilities Program, Joint-Use Program, Charter School Facilities Program, Career Technical Education Facilities Program, Deferred Maintenance Program, Emergency Repair Program, State Relocatable Classroom Program, and several other facilities related programs. Handbooks on these programs may be located on the OPSC Web site at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov). Printed copies may be obtained by contacting the OPSC directly. The SAB typically meets monthly at the State Capitol. At each meeting, the SAB reviews and approves applications for eligibility and funding, acts on appeals, and adopts policies and regulations as they pertain to the programs that the SAB administers.

The SAB is currently comprised of the following ten members:

- Michael Genest, Director, Department of Finance (Traditional SAB Chair)
- Will Bush, Director, Department of General Services
- Jack O'Connell, Superintendent of Public Instruction
- Rosario Girard, Governor's Appointee
- Bob Margett, Senator
- Jack Scott, Senator
- Joe Simitian, Senator
- Kevin de León, Assembly Member
- Jean Fuller, Assembly Member
- Gene Mullin, Assembly Member

#### Office of Public School Construction

The OPSC serves over 1,000 K–12 public school districts in California. As staff to the SAB, the OPSC is responsible for providing assistance necessary to carry out the law, regulations, policies, and programs of the SAB. The primary function of the OPSC is to administer the school facility funding programs and monetary resources available to the SAB, and produce positive results for the benefit of California's children with equity and integrity.

## Summary of ERP Expenditures

### SUMMARY OF ERP EXPENDITURES

#### Total of ERP Funded Projects

A total of 4,496 projects were approved and apportioned by the SAB from September 28, 2005 through December 12, 2007. The total apportionment for these projects is \$89,799,107. The average apportionment for this time frame is \$3,904,309 per SAB Meeting. The following is a report of reimbursements and grant funding provided to LEAs at the corresponding SAB Meetings:

SAB Meeting Date	Total Monthly Apportionment*
09/28/2005	\$16,725
10/26/2005	\$19,270
12/15/2005	\$31,868
01/25/2006	\$18,775
03/22/2006	\$160,080
04/26/2006	\$1,805,342
05/24/2006	\$571,192
06/28/2006	\$857,644
08/23/2006	\$2,721,487
09/27/2006	\$1,120,813
10/25/2006	\$2,003,231
12/06/2006	\$3,934,092
01/24/2007	\$3,277,113
02/28/2007	\$944,162
03/28/2007	\$2,779,918
04/25/2007	\$5,375,043
05/23/2007	\$5,141,704
06/27/2007	\$9,336,658
07/25/2007	\$7,985,409
08/22/2007	\$4,526,567
09/26/2007	\$4,835,473
10/24/2007	\$6,547,623
12/12/2007	\$25,788,917
<b>Total</b>	<b>\$89,799,107</b>

*NOTE: The project reimbursements and grant funding as listed above were based on expenditures and estimates as reported by the LEAs and have not been audited by the OPSC at the time of this report.*

\* Total Monthly Apportionment amounts are rounded to the nearest dollar.



## Summary of ERP Expenditures...

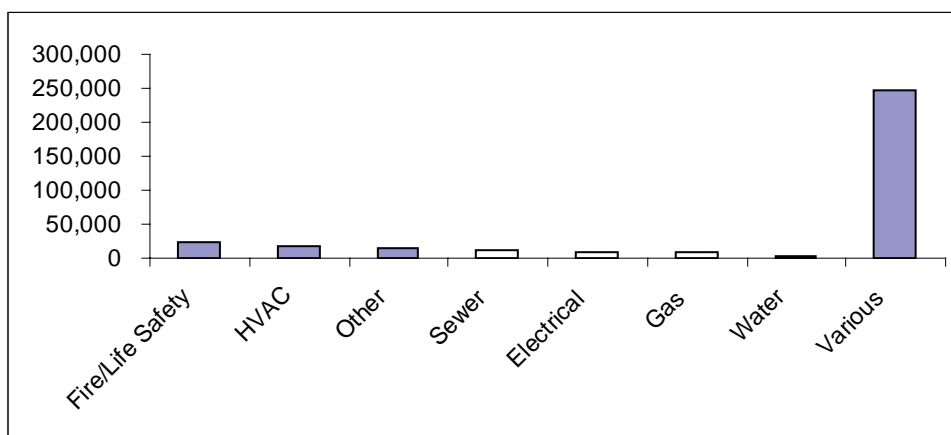
### Analysis of ERP Funded Projects

Out of 4,496 projects, 4,334 projects were repairs and 57 were replacements. The type of systems and components for these projects were Electrical, Fire/Life Safety, Gas, HVAC, Other, Sewer, and Water. In an effort to encourage LEAs to take advantage of the ERP, the OPSC has allowed LEAs to report various system components and system types on one application. At the December 12, 2007, SAB meeting, 105 projects for various system types and components were apportioned. The table below outlines the total number of projects in each category, total expenditures per category, and the most common repairs associated with the system or component.

Eligible System/ Component	Number of Projects	Total Per System/ Component*	Description
Electrical	146	\$1,414,251	Non-functioning or unsafe electrical system or wiring
Fire/Life Safety	149	\$3,446,452	Non-functioning or faulty fire/smoke alarms
Gas	27	\$215,788	Gas leaks
HVAC	754	\$14,382,769	Faulty or non-functioning HVAC systems
Other	3067	\$43,043,702	Non-functioning refrigeration units which lead to unstable food temperatures Removal of asbestos Damaged plaster and cement Roof leaks Removal of gang-related graffiti
Sewer	68	\$877,644	Clogged sewer lines
Water	180	\$629,583	Vandalized, broken and leaking sprinkler systems
Various	105	\$25,788,917	A combination of multiple system components and system types as listed above.
Total	4496	\$89,799,107	

\* Total dollar amounts are rounded to the nearest dollar.

The chart below illustrates the average of expenditures per project according to the system or component.

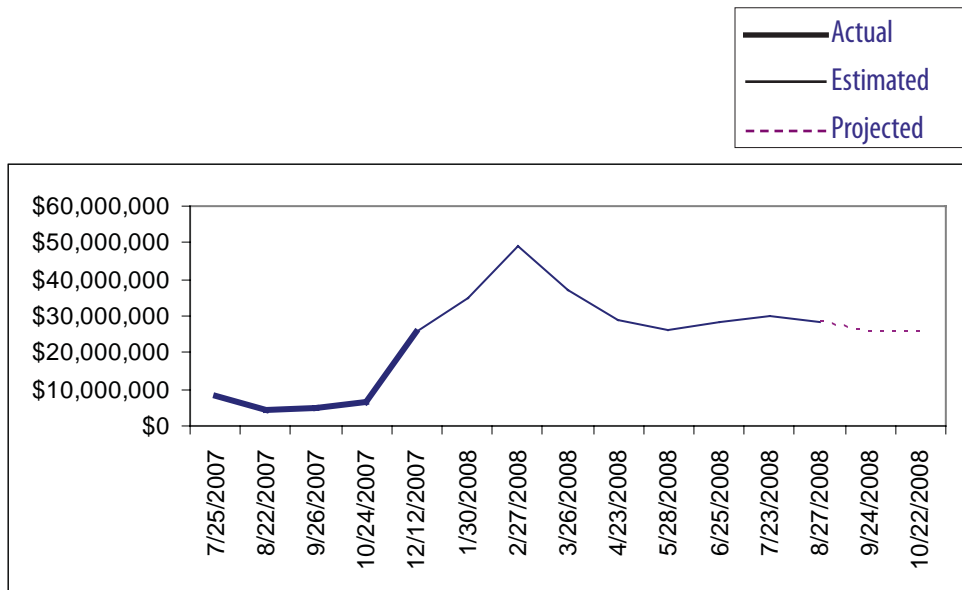


## Projections of Future Expenditures

### PROJECTIONS OF FUTURE EXPENDITURES

#### Estimate of Future ERP Expenditures

The expenditures for the period starting July 25, 2007 through December 12, 2007 are the actual expenditures as reported by the LEAs and funded by the OPSC. Based on the number of applications for reimbursement and number of grant requests received, the OPSC has projected the estimated State funding needed through July of 2008. The OPSC has also projected the number of grant requests that will be received and processed at the August, September, and October 2008 SAB meeting dates as represented by the dashed line in the chart below.



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**Attachment A - Education Code 17592.73**

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**ATTACHMENT A – EDUCATION CODE 17592.73****(ERP Expenditure Report Requirement)**

17592.73 The State Allocation Board shall do all of the following:

(a) Adopt regulations and review and amend its regulations, as necessary, pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), for the administration of this article, including those regulations necessary to specify the qualifications of the personnel performing the needs assessment and a method to ensure their independence. The initial regulations adopted pursuant to this article shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this article shall be adopted by January 31, 2005.

(b) Establish and publish any procedures and policies in connection with the administration of this article as it deems necessary.

(c) Apportion funds to eligible school districts under this article.

(d) Provide technical assistance to school districts to implement this article.

(e) Submit an interim status report to the Legislature and the Governor by June 30, 2005, by compiling the reports submitted pursuant to paragraph (6) of subdivision (d) of Section 17592.70.

(f) By June 30, 2008, report to the Legislature and the Governor on expenditures pursuant to Section 17592.72 and projections of future expenditures pursuant to Section 17592.72.

## Attachment B - Senate Bill 6

### ATTACHMENT B – SENATE BILL 6

Senate Bill No. 6

CHAPTER 899

An act to add Section 41207.5 to, and to add Article 1.5 (commencing with Section 17592.70) to Chapter 5 of Part 10.5 of, the Education Code, relating to school facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2004. Filed

With Secretary of State September 29, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 6, Alpert. School facilities: needs assessment: emergency repairs.

Existing law requires the governing board of any school district to furnish and repair the school property of its district and authorizes each school district to establish a restricted fund, known as the district deferred maintenance fund, for the purpose of major repair or replacement of specified items. Existing law requires the State Allocation Board to apportion from the State School Deferred Maintenance Fund, to eligible school districts, an amount equal to \$1 for each \$1 of local funds deposited in the district's deferred maintenance fund.

This bill would establish the School Facilities Needs Assessment Grant Program, to be administered by the State Allocation Board, for the purpose of awarding grants to school districts on behalf of schoolsites ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, as specified, to conduct a one-time comprehensive assessment of school facilities needs, as provided.

The bill would establish in the State Treasury the School Facilities Emergency Repair Account, to be administered by State Allocation Board, for the purpose of reimbursing school districts with schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, as specified, for emergency facility repairs, as provided. The bill would specify the source of the funds to be deposited into this account, including from the Proposition 98 Reversion Account, and would prescribe other requirements relating to the transfer of those funds.

The bill would require the State Allocation Board, for purposes of the above new program and account, to adopt regulations, establish and publish any procedures and policies for their administration, apportion funds to eligible school districts, provide technical assistance to school districts, and make specified reports to the Governor and the Legislature.

This bill would establish in the General Fund the Proposition 98 Reversion Account and would require the Legislature to transfer into this account moneys previously appropriated in satisfaction of the requirements of Section 8 of Article XVI of the California Constitution that have not been disbursed or otherwise encumbered for the purposes for which they were appropriated. The bill would require moneys that are appropriated in satisfaction of the minimum funding obligation under Section 8 of Article XVI of the California Constitution that would otherwise revert to the unexpended balance of the General Fund to be instead deposited in this new account.

This bill would appropriate \$250,000 from the General Fund to the State Allocation Board for the administration of the School Facilities Needs Assessment Grant Program and the School Facilities Emergency Repair Account for the 2004–05 fiscal year.

This bill would appropriate \$30,000,000 from the General Fund, of which \$25,000,000 would be appropriated to the State Department of Education for transfer to the State

## Attachment B - Senate Bill 6...

Allocation Board for grants to school districts under the School Facilities Needs Assessment Grant Program and \$5,000,000 would be appropriated for transfer to the School Facilities Emergency Repair Account. The bill would require the Controller to transfer those funds, as provided, upon receipt of certification from the Office of Public School Construction. The bill would provide that for the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation is General Fund revenues appropriated for school districts for the 2003–04 fiscal year.

This bill would state that the intent of the Legislature in enacting this act is to implement the settlement agreement in the case of *Williams v. State of California*.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Article 1.5 (commencing with Section 17592.70) is added to Chapter 5 of Part 10.5 of the Education Code, to read:

Article 1.5. School Assessments of Buildings and Emergency  
Repairs Grant Program

17592.70. (a) There is hereby established the School Facilities Needs Assessment Grant Program with the purpose to provide for a one-time comprehensive assessment of school facilities needs. The grant program shall be administered by the State Allocation Board.

(b) (1) The grants shall be awarded to school districts on behalf of schoolsites ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school newly constructed prior to January 1, 2000.

(2) For purposes of this section, schools ranked in deciles 1 to 3, inclusive, on the 2003 base Academic Performance Index (API) shall include any schools determined by the State Department of Education to meet either of the following:

(A) The school meets all of the following criteria:

(i) Does not have a valid base API score for 2003.

(ii) Is operating in fiscal year 2004–05 and was operating in fiscal year 2003–04 during the Standardized Testing and Reporting (STAR) Program testing period.

(iii) Has a valid base API score for 2002 that was ranked in deciles 1 to 3, inclusive, in that year.

(B) The school has an estimated base API score for 2003 that would be in deciles 1 to 3, inclusive.

(3) The State Department of Education shall estimate an API score for any school meeting the criteria of clauses (i) and (ii) of subparagraph (A) of paragraph (2) and not meeting the criteria of clause (iii) of subparagraph (A) of that paragraph, using available testing scores and any weighting or corrective factors it deems appropriate. The department shall provide those API scores to the Office of Public School Construction and post them on its Web site within 30 days of the enactment of this section.

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## Attachment B - Senate Bill 6...

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- (c) The board shall allocate funds pursuant to subdivision (b) to school districts with jurisdiction over eligible schoolsites, based on ten dollars (\$10) per pupil enrolled in the eligible school as of October 2003, with a minimum allocation of seven thousand five hundred dollars (\$7,500) for each schoolsite.
- (d) As a condition of receiving funds pursuant to this section, school districts shall do all of the following:
- (1) Use the funds to develop a comprehensive needs assessment of all schoolsites eligible for grants pursuant to subdivision (b). The assessment shall contain, at a minimum, all of the following information for each schoolsite:
    - (A) The year each building that is currently used for instructional purposes was constructed.
    - (B) The year, if any, each building that is currently used for instructional purposes was last modernized.
    - (C) The pupil capacity of the school.
    - (D) The number of pupils enrolled in the school.
    - (E) The density of the school campus measured in pupils per acre.
    - (F) The total number of classrooms at the school.
    - (G) The age and number of portable classrooms at the school.
    - (H) Whether the school is operating on a multitrack, year-round calendar, and, if so, what type.
    - (I) Whether the school has a cafeteria, or an auditorium or other space used for pupil eating and not for class instruction.
    - (J) The useful life remaining of all major building systems for each structure housing instructional space, including, but not limited to, sewer, water, gas, electrical, roofing, and fire and life safety protection.
    - (K) The estimated costs for five years necessary to maintain functionality of each instructional space to maintain health, safety, and suitable learning environment, as applicable, including classroom, counseling areas, administrative space, libraries, gymnasiums, multipurpose and dining space, and the accessibility to those spaces.
    - (L) A list of necessary repairs.
  - (2) Use the data currently filed with the state as part of the process of applying for and obtaining modernization or construction funds for school facilities, or information that is available in the California Basic Education Data System for the element required in subparagraphs (D), (E), (F), and (G) of paragraph (1).
  - (3) Use the assessment as the baseline for the facilities inspection system required pursuant to subdivision (e) of Section 17070.75.
  - (4) Provide the results of the assessment to the Office of Public School Construction, including a report on the expenditures made in performing the assessment. It is the intent of the Legislature that the assessments be completed as soon as possible, but not later than January 1, 2006.
  - (5) If a school district does not need the full amount of the allocation it receives pursuant to this section, the school district shall expend the remaining funds for making facilities repairs

## Attachment B - Senate Bill 6...

identified in its needs assessment. The school district shall report to the Office of Public School Construction on the repairs completed pursuant to this paragraph and the cost of the repairs.

(6) Submit to the Office of Public School Construction an interim report regarding the progress made by the school district in completing the assessments of all eligible schools.

17592.71. (a) There is hereby established in the State Treasury the School Facilities Emergency Repair Account. The State Allocation Board shall administer the account.

(b) Commencing with the 2005–06 fiscal year, an amount of moneys shall be transferred in the annual Budget Act from the Proposition 98 Reversion Account to the School Facilities Emergency Repair Account equaling 50 percent of the unappropriated balance of the Proposition 98 Reversion Account or one hundred million dollars (\$100,000,000), whichever amount is greater. Moneys transferred pursuant to this subdivision shall be used for the purpose of addressing emergency facilities needs pursuant to Section 17592.72.

(c) The Legislature may transfer to the School Facilities Emergency Repair Account other one-time Proposition 98 funds, except funds specified pursuant to Section 41207. Donations by private entities shall be deposited in the account and, for tax purposes, be treated as otherwise provided by law.

(d) Funds shall be transferred pursuant to this section until a total of eight hundred million dollars (\$800,000,000) has been disbursed from the School Facilities Emergency Repair Account.

17592.72. (a) All moneys in the School Facilities Emergency Repair Account are available for reimbursement to schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school, as defined in subdivision (b) of Section 17592.70, to meet the repair costs of the school district projects that meet the criteria specified in subdivisions (c) and (d) and as approved by the State Allocation Board.

(b) (1) It is the intent of the Legislature that each school district exercise due diligence in the administration of deferred maintenance and regular maintenance in order to avoid the occurrence of emergency repairs.

(2) Funds made available pursuant to this article shall supplement, not supplant, existing funds available for maintenance of school facilities.

(3) The board is authorized to deny future funding pursuant to this article to a school district if the board determines that there is a pattern of failure to exercise due diligence pursuant to paragraph (1) or supplantation. If the board finds a pattern of failure to exercise due diligence, the board shall notify the county superintendent of schools in which the school district is located.

(c) (1) For purposes of this article, "emergency facilities needs" means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school. These projects may include, but are not limited to, the following types of facility repair or replacements of:

(A) Gas leaks.

(B) Nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems.

(C) Electrical power failure.

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**Attachment B - Senate Bill 6...**

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- (D) Major sewer line stoppage.
- (E) Major pest or vermin infestation.
- (F) Broken windows or exterior doors or gates that will not lock and that pose a security risk.
- (G) Abatement of hazardous materials previously undiscovered that pose an immediate threat to pupil or staff.
- (H) Structural damage creating a hazardous or uninhabitable condition.
- (2) For purposes of this section, "emergency facilities needs" does not include any cosmetic or nonessential repairs.
- (d) For the purpose of this section, structures or components shall only be replaced if it is more cost-effective than repair.

17592.73. (a) The State Allocation Board shall do all of the following:

- (1) Adopt regulations and review and amend its regulations, as necessary, pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), for the administration of this article, including those necessary to specify the qualifications of the personnel performing the needs assessment and a method to ensure their independence. The initial regulations adopted pursuant to this article shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this article shall be adopted by January 31, 2005.
- (2) Establish and publish any procedures and policies in connection with the administration of this article as it deems necessary.
- (3) Apportion funds to eligible school districts under this article.
- (4) Provide technical assistance to school districts to implement this article.
- (5) Submit an interim status report to the Legislature and the Governor by June 30, 2005, by compiling the reports submitted pursuant to paragraph (6) of subdivision (d) of Section 17592.70.
- (6) By June 30, 2008, report to the Legislature and the Governor on expenditures pursuant to Section 17592.72 and projections of future expenditures pursuant to Section 17592.72.

SEC. 2. Section 41207.5 is added to the Education Code, to read:

41207.5. There is hereby established in the General Fund the Proposition 98 Reversion Account. The Legislature shall, from time to time, transfer into the Proposition 98 Reversion Account moneys previously appropriated in satisfaction of the requirements of Section 8 of Article XVI of the California Constitution that have not been disbursed or otherwise encumbered for the purposes for which they were appropriated. Moneys that are appropriated in satisfaction of the minimum funding obligation under Section 8 of Article XVI of the California Constitution that would otherwise revert to the unexpended balance of the General Fund shall instead be deposited in the Proposition 98 Reversion Account.

SEC. 3. The sum of two hundred fifty thousand dollars (\$250,000) is hereby appropriated from the General Fund to the State Allocation Board for the administration of Article 1.5 (commencing with Section 17592.70) of Chapter 5 of Part 10.5 of the Education Code for the 2004–05 fiscal year.



## Attachment B - Senate Bill 6...

SEC. 4. (a) The sum of thirty million dollars (\$30,000,000) is hereby appropriated from the General Fund according to the following schedule:

(1) The sum of twenty-five million dollars (\$25,000,000) to the State Department of Education for transfer to the State Allocation Board for grants to school districts pursuant to Section 17592.70 of the Education Code.

(2) The sum of five million dollars (\$5,000,000) for transfer to the School Facilities Emergency Repair Account for grants to school districts pursuant to Section 17592.72 of the Education Code.

(3) The Controller shall transfer any amount certified by the Office of Public School Construction to be needed to fully fund the grants provided pursuant to Section 17592.70 of the Education Code from the appropriation in paragraph (2) to the appropriation in paragraph (1). The Controller shall transfer any amount certified by the Office of Public School Construction to be unneeded to fully fund the grants provided pursuant to Section 17592.70 of the Education Code from the appropriation in paragraph (1) to the appropriation in paragraph (2). The Controller shall not make the transfer provided in paragraph (2) until receiving a certification from the Office of Public School Construction pursuant to this paragraph.

(b) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2003–04 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code for the 2003–04 fiscal year.

SEC. 5. It is the intent of the Legislature in enacting this act to implement the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, No. CGC-00-312236) and that local educational agencies, county offices of education, and state agencies with responsibility for implementing this act begin implementation as soon as practicable and with due diligence. Local educational agencies and county offices of education should use their best judgment as to the interpretation of provisions, recognizing that further implementation direction from the state in the form of statutes, regulations, and technical guidance may be provided in the future and may supersede local interpretations. The state recognizes that due to the date of enactment of this act and the time it will take to allocate the funding to local educational agencies and county offices of education, that full implementation of some of the provisions for school terms beginning in 2004–05 is impracticable.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are: In order to improve the condition of school facilities and to ensure the safety of pupils at public schools and to implement the settlement agreement in the case of *Williams v. State of California* (Super. Ct., San Francisco, No. CGC-00-312236) as soon as possible, it is necessary for this act to take effect immediately.

## Attachment C - Senate Bill 78

### ATTACHMENT C – SENATE BILL 78

#### Senate Bill No. 78 CHAPTER 172

An act to amend and supplement the Budget Act of 2007...

SEC. 60. Item 6110-485 of Section 2.00 of the Budget Act of 2007 is amended to read:

6110-485—Reappropriation (Proposition 98), Department of Education. The sum of \$480,674,000 is hereby reappropriated from the Proposition 98 Reversion Account, for the following purposes:

0001—General Fund

(1) \$100,000,000 to the School Facilities Program for the purpose of funding the School Facilities Emergency Repair Account as required by Chapter 899 of the Statutes of 2004.

(2) \$8,810,000 to the State Department of Education for the purpose of the Teacher Credentialing Block Grant 95 pursuant to Article 4 (commencing with Section 41520) of Chapter 3.2 of Part 24 of the Education Code to fund estimated participation in the 2006–07 budget year.

(8) \$4,100,000 to the State Department of Education for the purpose of funding community day school program deficiencies from the 2006–07 fiscal year.

(9) \$1,900,000 to the State Department of Education on a one-time basis for maintenance of the K–12 High Speed Network. The program shall provide a status report to the Department of Finance, Legislative Analyst’s Office, and budget committees of each house of the Legislature by March 1, 2008, on the use of these funds and whether any unplanned program savings are anticipated (due to vendor allowances, base program savings, or other specified matters).

(11) \$385,000 to the Superintendent of Public Instruction, on a one-time basis, for allocation to the Fiscal Crisis and Management Assistance Team (FCMAT) to conduct comprehensive assessments pursuant to Section 41327.1 of the Education Code. Of the amount appropriated in this paragraph, FCMAT shall use \$150,000 for an assessment of the Oakland Unified School District, \$125,000 for an assessment of the Vallejo City Unified School District and \$110,000 for an assessment of the West Fresno Elementary School District. The FCMAT shall provide a copy of the written report to the appropriate fiscal and policy committees of the Legislature, the Members of the Legislature representing those school districts, any advisory councils of those school districts, the Superintendent of Public Instruction, the county superintendent of schools with jurisdiction over those school districts, the Department of Finance, and the Office of the Secretary for Education.

(12) \$115,479,000 to the State Department of Education, on a one-time basis, to backfill the Deferred Maintenance Program.

(13) Notwithstanding subdivision (b) of Section 17592.71 of the Education Code, \$250,000,000 shall be transferred by the Controller from the School Facilities Emergency Repair Account to the Proposition 98 Reversion Account no later than 30 days after the enactment of the Budget Act. By March 31, 2008, the Director of Finance shall determine whether there are sufficient funds in the School Facility Emergency Repair Account to cover approved grants for the Schools Emergency Repairs Grant Program pursuant to Article 1.5 (commencing with Section 17592.70) of Chapter 5 of Part 10 of the Education Code. If the

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**Attachment C - Senate Bill 78...**

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Director of Finance determines that the amount available in the School Facilities Emergency Repair Account is insufficient to cover approved grants, the amount necessary to fund grants approved by the State Allocation Board shall be transferred back from the Proposition 98 Reversion Account to the School Facilities Emergency Repair Account.

(14) \$250,000,000 to the State Department of Education for the home-to-school transportation program, pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code, and Small School District Transportation, pursuant to Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code.

## Attachment D - Education Code 17592.72...

### ATTACHMENT D – EDUCATION CODE 17592.72

17592.72. (a) (1) For the 2005-06 fiscal year, all moneys in the School Facilities Emergency Repair Account are available for reimbursement to schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school, as defined in subdivision (b) of Section 17592.70, to meet the repair costs of the school district projects that meet the criteria specified in subdivisions (c) and (d) and as approved by the State Allocation Board.

(2) Commencing with the 2006-07 fiscal year, all moneys in the School Facilities Emergency Repair Account are available for the purpose of providing emergency repair grants to schools ranked in deciles 1 to 3, inclusive, on the Academic Performance Index, pursuant to Section 52056, based on the 2003 base Academic Performance Index score for each school, as defined in subdivision (b) of Section 17592.70, to cover the costs of school district repair projects that meet the criteria specified in subdivisions (c) and (d). The State Allocation Board shall establish a grant application process, grant parameters, substantial progress requirements, and a process for providing certification of the completion of projects. The State Allocation Board shall post the grant application form on its Internet Web site.

(3) For subsequent fiscal years, schools shall be eligible for funding based on the Academic Performance Index scores as specified in paragraph (2) of subdivision (c) of Section 1240.

(b) (1) It is the intent of the Legislature that each school district exercise due diligence in the administration of deferred maintenance and regular maintenance in order to avoid the occurrence of emergency repairs.

(2) Funds made available pursuant to this article shall supplement, not supplant, existing funds available for maintenance of school facilities.

(3) The board is authorized to deny future funding pursuant to this article to a school district if the board determines that there is a pattern of failure to exercise due diligence pursuant to paragraph (1) or supplantation. If the board finds a pattern of failure to exercise due diligence, the board shall notify the county superintendent of schools in which the school district is located.

(c) (1) For purposes of this article, "emergency facilities needs" means structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school. These projects may include, but are not limited to, the following types of facility repairs or replacements:

(A) Gas leaks.

(B) Nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems.

(C) Electrical power failure.

(D) Major sewer line stoppage.

(E) Major pest or vermin infestation.

(F) Broken windows or exterior doors or gates that will not lock and that pose a security risk.

(G) Abatement of hazardous materials previously undiscovered that pose an immediate threat to pupil or staff.

(H) Structural damage creating a hazardous or uninhabitable condition.

(2) For purposes of this section, "emergency facilities needs" does not include any cosmetic or nonessential repairs.

(d) For the purpose of this section, structures or components shall only be replaced if it is more cost-effective than repair.