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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

ANAHEIM CONVENTION CENTER
HALL A, ROOM 206
800 W. KATELLA AVENUE
ANAHEIM, CALIFORNIA 92802

DATE: WEDNESDAY, DECEMBER 10, 2008
TIME: 2:00 P.M.

Reported By: Mary Clark Transcribing
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Sacramento, CA 95823-3413
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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

THOMAS L. SHEEHY, Chief Deputy Director, Policy, Department of Finance, designated representative for Michael Genest, Director Department of Finance.

SCOTT HARVEY, Chief Deputy Director, Department of General Services, designated representative for Will Bush, Director, Department of General Services.

KATHLEEN MOORE, Director, School Facilities Planning Division, California Department of Education, designated representative for Jack O'Connell, Superintendent of Public Instruction.

ROSARIO GIRARD, CEO, Phoenix Construction, Inc., appointee of Arnold Schwarzenegger, Governor of the State of California.

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER WILMER AMINA CARTER

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

ROB COOK, Executive Officer

LORI L. MORGAN, Deputy Executive Officer

KATRINA VALENTINE, Assistant Executive Officer

REPRESENTATIVE OF THE DEPARTMENT OF GENERAL SERVICES,
OFFICE OF LEGAL SERVICES PRESENT:

HENRY NANJO, Senior Staff Counsel

P R O C E E D I N G S

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2
3 CHAIRPERSON SHEEHY: The State Allocation Board
4 will start to conduct its business in just a few moments.
5 We are two members short of a quorum, but we do have two
6 Assembly Members in the building who are on the Board today
7 and we expect them here any moment and when they arrive we
8 will start to convene business.

9 So -- and just in case any members of the Board or
10 staff here were not aware of the fact every microphone is
11 live at all times.

12 (Off record. Back on record at 2:08 p.m.)

13 CHAIRPERSON SHEEHY: Good afternoon, ladies and
14 gentlemen. We will convene the State Allocation Board
15 today. Ms. Jones, could you please call the roll and
16 establish a quorum.

17 MS. JONES: Yes. Assembly Member Fuller.

18 Assembly Member Brownley.

19 ASSEMBLY MEMBER BROWNLEY: Here.

20 MS. JONES: Assembly Member Carter.

21 ASSEMBLY MEMBER CARTER: Here

22 MS. JONES: Scott Harvey.

23 MR. HARVEY: Present.

24 MS. JONES: Kathleen Moore.

25 MS. MOORE: Here.

1 MS. JONES: Rosario Girard.

2 MS. GIRARD: Here.

3 MS. JONES: Tom Sheehy.

4 CHAIRPERSON SHEEHY: Present.

5 MS. JONES: Thank you.

6 CHAIRPERSON SHEEHY: Thank you. We do have a
7 quorum established today so we can conduct business.

8 Mr. Cook, have we had any comments or questions
9 about the **Minutes** today?

10 MR. COOK: No.

11 CHAIRPERSON SHEEHY: Is there anybody in the
12 public here that would like to say anything about our
13 Minutes? If not, we do need a motion.

14 MR. COOK: That's correct.

15 CHAIRPERSON SHEEHY: Does anybody here have any
16 questions or comments about our Minutes from the last
17 meeting? Seeing none, may we substitute the prior roll call
18 to approve the Minutes? Hearing no objection --

19 ASSEMBLY MEMBER BROWNLEY: Excuse me, Mr. Chair.
20 I think I need to abstain on the November 10th Minutes
21 because I was not present. It may pose a problem.

22 ASSEMBLY MEMBER CARTER: And I need to abstain as
23 well.

24 CHAIRPERSON SHEEHY: Well, we could -- today we
25 have just enough people for a quorum and you're entirely --

1 it's perfectly fine for you to abstain. We could always
2 approve these Minutes at our next meeting; couldn't we,
3 Mr. Cook?

4 MR. COOK: It's entirely possibly, although the
5 membership of that particular Board meeting no longer -- I
6 mean many of those members are no longer part of this body.
7 We may not have a majority of the -- I haven't counted
8 heads, but we may never have a majority of the Board that
9 was actually at that meeting.

10 CHAIRPERSON SHEEHY: Ms. Brownley, I'm happy to
11 defer to you on this. If you would like to abstain, you
12 can, and we'll just defer the approval of those Minutes, or
13 if you'd like to just --

14 ASSEMBLY MEMBER BROWNLEY: Well, I certainly want
15 to facilitate the business, but if there's any -- I mean if
16 there's any legal reason why --

17 CHAIRPERSON SHEEHY: Mr. Nanjo, could you
18 please --

19 MR. NANJO: There's no problem with the Assembly
20 Members voting as long as they're aware -- they're not aware
21 of any problems with the Minutes. So that's --

22 CHAIRPERSON SHEEHY: By the way, these are public
23 Minutes; right?

24 MR. COOK: Yes.

25 CHAIRPERSON SHEEHY: Are they public Minutes?

1 MR. COOK: Yes.

2 CHAIRPERSON SHEEHY: Mr. Cook, isn't it true that
3 we really didn't conduct any business publicly. It was all
4 in closed session. The only public business was to convene
5 the meeting and then adjourn it; is that correct?

6 MR. COOK: That's correct.

7 CHAIRPERSON SHEEHY: And report out. So,
8 Ms. Brownley and Ms. Carter, I appreciate the fact you
9 weren't at the last meeting, but at the last meeting, the
10 only public actions that took place was we established a
11 quorum, we called the roll, we immediately went into closed
12 session, we came out of closed session, and we made an
13 announcement. We announced -- what did we announced?

14 MR. COOK: We withdrew one item and deferred
15 another.

16 CHAIRPERSON SHEEHY: We withdrew one item and we
17 deferred on the other and those were the only actions.

18 ASSEMBLY MEMBER BROWNLEY: I will approve the
19 November 10th Minutes.

20 CHAIRPERSON SHEEHY: Ms. Carter, is that agreeable
21 to you?

22 ASSEMBLY MEMBER CARTER: That's agreeable.

23 CHAIRPERSON SHEEHY: Thank you. Then the Minutes
24 have been approved. All right. Mr. Cook.

25 MR. COOK: Yeah. A few things. One, this Board

1 has been extraordinarily productive over the -- my **Executive**
2 **Officer's Statement.**

3 This Board has been extraordinarily productive
4 over this last year. For calendar year 2008, including
5 items before you today, this Board has allocated or
6 apportioned nearly \$5.2 billion, including more than --
7 nearly -- well, actually more than \$2 billion in new
8 construction, a billion -- or pardon me -- 700 million in
9 modernization, 420 million in career tech facilities, and so
10 on. Anyway, just to provide a status of the bonds.

11 That's a substantial accomplishment and that means
12 an awful lot of projects on the ground out in school
13 districts.

14 Under high performance, as you well know that
15 you're at California Green Schools Summit, and we are
16 pleased to bring the Board to this event to, one, try to
17 introduce Board members and the rest of the community to
18 some of the benefits associated with going green in
19 California schools.

20 Including on this Board, we'll allocate
21 11.3 million of the 100 million that was set aside for high
22 performance schools. We are hoping to encourage additional
23 schools to apply for these funds and we have nearly
24 \$89 million still left to allocate.

25 Also in November, 86 bond measures went before

1 voters -- local bond measures -- for more than \$17 billion
2 in 33 counties. Voters approved 76 of these measures or
3 greater than 88 percent of the bonds that were put before
4 voters for just short of \$17 billion all together.

5 Also on today's agenda, we have 11 applications
6 for our overcrowding relief for approximately \$59 million.
7 If all of those projects are approved today, there will be
8 approximately \$900 million available to the next funding
9 round -- future funding.

10 And then annually -- deferred maintenance funds,
11 this Board annually apportions funds to school districts for
12 deferred maintenance which is funded out of general fund --
13 part of the Prop. 98 funds.

14 These funds -- we are planning to bring them
15 before the Board in January for allocation. And then we
16 also have for January items in general more than
17 \$800 million from Proposition 47, Critically Overcrowded
18 Schools Program, will be available for the Board to transfer
19 to new construction which will assist us there since our
20 current -- after this Board meeting, there will be less than
21 three months' worth of new construction funds otherwise left
22 in Proposition 1D.

23 CHAIRPERSON SHEEHY: Excuse me, Mr. Cook. When
24 will the Allocation Board be able to act on transferring
25 those funds and will that also require an action by the

1 State Legislature?

2 MR. COOK: Not for those funds. Those funds are
3 already set up in the Bond Act themselves to transfer to new
4 construction. It does take an action of this Board and
5 we'll be prepared to do it as early as this coming -- as the
6 January Board meeting.

7 CHAIRPERSON SHEEHY: Thank you.

8 MR. COOK: We also have a general site grant that
9 regulations are expiring December 31. We will be bringing
10 forward an extension of that grant at our January Board
11 meeting and we will also be bringing forward to our
12 Implementation Committee meeting a discussion of methodology
13 for analyzing data collected on our Project Information
14 Worksheet to make recommendations on adjustments to the
15 grants that are eligible come January.

16 And we will also be bringing up in January our
17 annual adjustment to the grants under the construction cost
18 index that's set in statute.

19 CHAIRPERSON SHEEHY: Ms. Moore.

20 MS. MOORE: Mr. Cook, are we able, if the Board
21 desires, to continue the general site grant, the 6 percent,
22 in January? I know that's a regulatory change, so in order
23 to be in regulation, I don't know, 90 days or so -- are we
24 able as a Board to in some manner include those projects
25 from January forward? And this is just the assumption if

1 the Board agrees to increasing the 6 percent -- or
2 continuing the 6 percent, if we are able to hold in abeyance
3 those full and final on projects from January until such time
4 as the regulations are approved?

5 MR. COOK: We will be looking at every option
6 available to make sure that school districts are able to
7 take advantage of that change.

8 MS. MOORE: And we've done that in the past ,
9 haven't we, held full and final open for a district until we
10 made a decision as a Board on some issues, I believe.

11 MR. COOK: That's correct.

12 MS. MOORE: Okay. I would like that as an option
13 as you bring that forward to the Board in January.

14 MR. COOK: That concludes my report.

15 CHAIRPERSON SHEEHY: Okay. Thank you, Mr. Cook.
16 And I guess we've set the bar pretty high in 2008, haven't
17 we. But we're going to have some new members on the State
18 Allocation Board and I'm sure 2009, we have the abilities to
19 meet that and set it even higher, so let's have that as our
20 goal.

21 Ms. Morgan, we have a **Status of Funds** report?

22 MS. MORGAN: Prior to that, we have --

23 MR. COOK: Yeah. What we have under Tab 4 and --
24 under Tabs 4 and 5 are **Consent** items.

25 CHAIRPERSON SHEEHY: Excuse me. Isn't Tab 4 part

1 of the Consent Calendar, Mr. Cook?

2 MR. COOK: It is.

3 CHAIRPERSON SHEEHY: Okay. So we can just -- can
4 we just do the **Consent Calendar** then?

5 MR. COOK: Yes. Absolutely.

6 CHAIRPERSON SHEEHY: All right.

7 MR. COOK: The Consent Agenda's ready --

8 CHAIRPERSON SHEEHY: Is there any member of the
9 public that has any questions or concerns with our Consent
10 Calendar today? Hearing none, do any members of the
11 Allocation Board have any questions or comments or desire to
12 pull anything off the Consent Calendar today?

13 Seeing none, may I substitute the roll call, if no
14 objections? No objections being heard, the Consent Calendar
15 has been approved.

16 Ms. Morgan, do you have a **Status of Funds** report?

17 MS. MORGAN: Yes. Thank you, Mr. Sheehy. On
18 stamped page 286 behind Tab 6 in your agenda is the Status
19 of Funds and the Board just approved under new construction
20 214.2 million in new construction out of Proposition 1D and
21 95.4 million out for modernization.

22 There were some rescissions and closeout
23 recapturings, approximately 4 million there, leaving a total
24 of 4.1 billion remaining from Proposition 1D.

25 Calling your attention to Prop. 55 in the

1 Critically Overcrowded Schools section, you'll see there is
2 a posting correction in the Critically Overcrowded Schools
3 and then we do have some conversions that happened as well
4 that captured some funds back, leaving a total of 415 in
5 Proposition 55, Critically Overcrowded Schools.

6 Following down to the next section, Prop. 47, the
7 counter posting correction in the Critically Overcrowded
8 Schools is also shown there as explained in the footnote and
9 there is also some project conversions that took place which
10 is the balance of those funds. That leaves 840.7 million in
11 Proposition 47 that Mr. Cook mentioned that will be
12 available for transfer in January.

13 Following the next page, there's just a minor
14 adjustment there. All in total, the Board has 5.6 billion
15 available to its disposal at the conclusion of today's
16 agenda.

17 We are funding 18.1 million in the Emergency
18 Repair Program, leaving 112.6 million.

19 And just to summarize that for you, with the
20 conversions and once we address the specials section of
21 today's agenda, the Board will have approved in just today
22 over \$726 million for over 460 applications. Quite an
23 accomplishment there.

24 The next page 288, what that is is a status of our
25 fund releases for those projects that have already been

1 apporportioned but not yet released and for Proposition 1D,
2 we've released 47 percent of what's been apporportioned,
3 1.5 billion to be released.

4 Proposition 55, we've released 80 percent leaving
5 1.8 billion, and in the older Prop. 47, 93 percent has been
6 released leaving 698 million.

7 The majority of the Emergency Repair Program funds
8 have been released as well. And unless there are any
9 questions from the Board, that concludes the Status of
10 Funds.

11 MS. MOORE: I just have one question. First of
12 all, congratulations to staff. I think that's a tremendous
13 amount of work, 700 million.

14 I do have a question since we've been averaging
15 about 2- to 300 million a Board meeting what you attribute
16 that this Board meeting is much higher than others. Do we
17 look forward to that in the future? Is it an anomaly? Just
18 a comment on that.

19 MS. MORGAN: The new construction and
20 modernization actually are fairly close to what our averages
21 are. It was 214 million for new construction and 95 for the
22 modernization.

23 When -- the other amounts are attributable to the
24 critically overcrowded school conversions. That was
25 125 million that was authorized.

1 Now the funds are being recaptured on those. My
2 summary is meant to show what the Board has actually
3 authorized. It's kind of the math works in little bit --
4 for the critically overcrowded schools since the
5 apportionments took place at a prior Board.

6 And then of course the specials section, we have
7 the two funding cycles for the career tech and the
8 overcrowded relief grant.

9 MS. MOORE: So do you anticipate in January and
10 throughout the first part of next year it'll be more in the
11 range of the 300 or so million a month that we've been
12 averaging?

13 MS. MORGAN: Yes.

14 MS. MOORE: Thank you.

15 CHAIRPERSON SHEEHY: Ms. Brownley.

16 ASSEMBLY MEMBER BROWNLEY: Sort of a parallel
17 question to that. On the modernization funds, it seems that
18 the money for modernization is not moving as quickly as the
19 new construction money and I'm just wondering the reason for
20 that.

21 MR. COOK: There was a substantial amount in
22 Proposition 1D set aside for modernization, more than in for
23 new construction because there was money left for new
24 construction in Prop. 55. But we move on average -- and
25 this is a three-year average -- 170 million a month in new

1 construction and about 65 million a month on mod.

2 Based on that very simple average, that leaves us
3 with -- we have still about 30 months' worth of money in the
4 Modernization Program. So --

5 ASSEMBLY MEMBER BROWNLEY: And there are projects
6 lined up in the pipeline?

7 MR. COOK: Yes, there are. Yeah. Although we try
8 to move projects from -- when we get them in the door,
9 between 90 and 120 days, they're before this Board for
10 funding. So, yeah, there are projects in the pipeline, but
11 the dollar volume of projects for modernization is just --
12 by history just a smaller dollar figure than new
13 construction.

14 ASSEMBLY MEMBER BROWNLEY: Current history.

15 MR. COOK: Yeah.

16 ASSEMBLY MEMBER BROWNLEY: Because in previous
17 history, it was more -- from previous bonds? No.

18 MR. COOK: No, no, no. Just what was authorized
19 in the bonds.

20 ASSEMBLY MEMBER BROWNLEY: Okay. Okay. All
21 right. Thank you.

22 CHAIRPERSON SHEEHY: Mr. Harvey.

23 MR. HARVEY: Rob, I have a question relative to
24 how we could our bond monies because as you point out, we
25 have some categories that are (indiscernible) pretty

1 quickly.

2 MR. COOK: Um-hmm.

3 MR. HARVEY: And in that regard, I think I read
4 somewhere that for every dollar we spend in an audit, we get
5 \$150 back, and I'm going to be very optimistic about the
6 Legislature taking action on the state budget so that we
7 don't have any interruptions in the flow of our bond monies,
8 but given the fact that we do have tight times, are you
9 aggressively auditing districts that may owe us money?

10 MR. COOK: We proceeding with our audit program.
11 We've also taken steps to increase the efficiency of that
12 program by training staff in U.S. Government accountability,
13 Yellow Book standards, and we've engaged with the Office of
14 State Audits and Evaluations to train staff so we're more
15 efficient and we're a little bit more effective.

16 The actual conversion rate is a dollar invested in
17 our audits returns about \$105, which is actually very
18 efficient dollar figure, just for a level of comparison,
19 even though it's not really comparable. Franchise Tax Board
20 invests to a 1 to 7 ratio I think.

21 But much of that is just -- is simple -- anyway,
22 that's --

23 MR. HARVEY: So you are doing it is the answer.

24 MR. COOK: Yes, we are doing it.

25 MR. HARVEY: Thank you.

1 CHAIRPERSON SHEEHY: Very well. Are there any
2 further questions or comments by members of the Board? Any
3 members from the public want to address any items we've
4 discussed? Seeing none, we are going to move on to our
5 **Consent Special** items. Ms. Morgan, could you please present
6 Tab No. 7.

7 MS. MORGAN: Yes. And to the pleasure of the
8 Board, we can just summarize all of them and then if they so
9 choose, they can take up the whole Consent Specials Calendar
10 in one vote, whichever --

11 CHAIRPERSON SHEEHY: What's -- hold on one minute,
12 please, Ms. Morgan. That's an excellent suggestion. Does
13 any member of the Board wish to have a full staff
14 presentation on Tabs No. 7, 8, 9, 10, 11, or 12? We have
15 six items today in our Consent Special.

16 We could have Ms. Morgan and appropriate SAB staff
17 do a summary and then we could vote on these all together,
18 but if any member of the Board would like to have one pulled
19 out, we could do that as well.

20 Seeing none, Ms. Morgan, could you go ahead and
21 summarize the six projects we have on our Consent Special
22 today.

23 MS. MORGAN: My pleasure.

24 CHAIRPERSON SHEEHY: Thank you.

25 MS. MORGAN: Thank you. Tab 7 is the Mesa Union

1 Elementary School District in Ventura County and it as well
2 as Tab 8 for Fortuna Union Elementary in Humboldt County are
3 both health and safety projects that have been previously
4 approved by this Board and they've asked for a time
5 extension to come in for their funding application of a
6 12-month extension.

7 Staff has reviewed their request and find it in
8 order and recommends approval as shown on the bottom of the
9 page 289 and 290.

10 On Tab 9 is the Exeter Union High School District
11 in Tulare County and what this request is is a
12 rehabilitation project. It had previously come before the
13 Board and when they got in there to do the work, health and
14 safety issues in structural in nature, they found that two
15 portions -- two additional portions of the same building
16 that had been previously approved by the Board as well as
17 two additional buildings had the same structural issues.

18 They went forth and revised their structural
19 engineer's report. DSA reviewed and concurred and staff
20 recommends that they get the expanded scope approved by the
21 Board. And at this point, they do have their DSA approved
22 plans for construction and so this is also a funding item as
23 shown on page 293, totaling 1.5 million in state dollars.

24 On Tab 10 is the Napa County Office of Education.
25 It is typically an item that would just be in our Consent

1 section, but because the ground lease for this particular
2 project is something less than 40 years for a governmental
3 entity, it needs to come before the Board.

4 The Board does have the discretion to approve
5 something less than 40 years as long as it's to the best
6 interest to the state. Staff has looked at the request and
7 it is we believe the most cost effective approach since this
8 is a two classroom addition to an existing school site.

9 So we're recommending that the COE receive their
10 funding. The item is attached on page 295 totaling
11 \$194,000.

12 On Tab 11, this is a state relocatable classroom
13 item requesting an extension to its lease and this will take
14 the lease to 2010 for the Menifee Union School District in
15 Riverside County.

16 On Tab 12, Proposition 55, the last funding cycle
17 for the Critically Overcrowded Schools Program provided a
18 preliminary apportionment with allowing the districts four
19 years to convert the project to a full construction new
20 construction project.

21 The statute also allowed for one-year extension.
22 The projects before you in Attachments A and B are
23 requesting that one-year extension and the items on
24 Attachment A list -- meet the listed criteria in regulation
25 and Attachment B are requests that are coming before the

1 Board under the final criteria of other evidence acceptable
2 to the Board.

3 Staff has reviewed the requests for these five
4 schools districts and find them to be in order and also
5 recommend that they get the one-year extension.

6 On Attachment C are seven projects that have opted
7 to rescind their critically overcrowded projects and they
8 have been notified and are aware of this action.

9 And so with that, I'll be happy to entertain any
10 questions anyone has.

11 CHAIRPERSON SHEEHY: Yes. Ms. Morgan, on
12 Attachment C where it lists the seven projects, 31.6 million
13 is being rescinded, are those school districts whose
14 project's being rescinded in agreement with the OPSC
15 recommendation?

16 MS. MORGAN: Yes.

17 CHAIRPERSON SHEEHY: Okay. Mr. Harvey.

18 MR. HARVEY: Point of clarification on this year's
19 extension and what it may mean if a district does not act on
20 the reservation. Is this another potential source of
21 revenue that could be transferred to new construction or
22 some other of our subcategories?

23 MS. MORGAN: Yes. Absolutely. This is not,
24 however, the pot of money that we'll be dealing with in
25 January --

1 MR. HARVEY: I understand.

2 MS. MORGAN: -- of '09. This will be available
3 for -- this particular group of funds for Proposition 55
4 will be available for transfer in January/February of '10 --
5 2010.

6 But you are absolutely correct. It's the same
7 language in the bond that if it were not used for critically
8 overcrowded schools, it could be transferred for new
9 construction by Board action.

10 MR. HARVEY: Is there any track record which would
11 say a certain percent of this we could almost count on? Is
12 it a high percent where they act on the reservation or are
13 the Schedule C more indicative of what happens?

14 MS. MORGAN: I don't believe there'll be many
15 rescissions. I think most of them will be perfected to
16 projects. However, these are preliminary apportionments
17 that set aside in most cases too much money for the project.
18 As we've been seeing when the projects convert, we're
19 actually getting a positive return back to the status of
20 funds, hence, why we have 800 million available out of
21 Proposition 47.

22 So I think the answer is yes to both. I think
23 they'll be converted and I do think we'll have money.
24 Presently we have over 400 million already in Proposition 55
25 critically overcrowded school funds. So that's already on

1 the table for January 2010.

2 MR. HARVEY: I say this with tongue firmly in
3 cheek, but next time you bring this, maybe you should
4 tombstone with the L.A. Unified overcrowded. I mean every
5 one of the these reservations save four are L.A. Unified.

6 MS. MORGAN: Yes, sir.

7 MR. HARVEY: Thank you.

8 CHAIRPERSON SHEEHY: Keep that tongue in cheek,
9 Mr. Harvey. Other questions or comments, members of the
10 Board? Is there any public comment on the Consent Special
11 items that we've described? Hearing none, may we substitute
12 the roll call for approval of this measure? Hearing no
13 objection, Consent Specials are approved.

14 MS. MORGAN: Thank you very much.

15 CHAIRPERSON SHEEHY: Next we have the **Specials and**
16 **Appeals.**

17 MS. MORGAN: I believe that at this point we would
18 like to request that Ms. Sharp join us. She's the
19 supervisor that oversees the team that worked tirelessly on
20 the **Career Tech Educational Facilities** and I'd be happy to
21 turn the floor over to her.

22 MS. SHARP: Thank you, Lori. My name is Tracy
23 Sharp. I'm the Program Services Supervisor for the Career
24 Technical Education Facilities Project, and if I may
25 indulge, I'd like to recognize my staff who are here today

1 who worked tirelessly on this program along with me. If I
2 could ask them to please stand up and be recognized.

3 (Applause)

4 MS. SHARP: Thank you. I appreciate that. So
5 today I'm presenting the second funding cycle of the Career
6 Technical Education Facilities Program. The program was
7 established by Proposition 1D. Prop. 1D provided
8 \$500 million for career technical education to build new
9 facilities and to modernize existing ones. It also allowed
10 for the purchase of equipment.

11 And since this is only the second funding cycle,
12 I'll go through a couple of details about the program to
13 refamiliarize you.

14 Maximum grant for new construction is \$3 million.
15 For modernization, it's 1.5 million and projects are defined
16 by their industry sector. There are 15 industry sectors
17 identified by Department of Education for career technical
18 education.

19 There are minimal eligibility requirements. It
20 must be -- a school district operating a comprehensive high
21 school may apply for new construction or modernization
22 grants or joint powers authority may apply for modernization
23 grants.

24 Applicants must first submit an educational plan,
25 a career technical education plan to Department of Education

1 for review and scoring and they must received at least
2 105 points out of a possible 170 to qualify for funding.

3 There are 244 projects presented today for
4 funding, totaling \$211,819,577. The projects are listed in
5 a specific order defined by their regulations as well as
6 within a service region.

7 So on Attachment A, you'll see that projects are
8 grouped in service regions. Service regions are basically
9 the 11 service regions of the California County
10 Superintendents Educational Services Association. The
11 reason for this was to give an equitable geographic
12 distribution of the funds.

13 150 million was set aside from the original
14 500 million for this second funding cycle. In addition,
15 those service regions that had funds remaining from cycle
16 one carried them over to cycle two. So the amount that's
17 listed here for each service region is based on a
18 proportionate amount of that 150 million based on the
19 '07-'08 high school enrollment plus any remaining funds that
20 they had from the first funding cycle.

21 Attachment A is on stamped page 311. I'll quickly
22 give you a short review of that. You'll see they're grouped
23 by service region. Each applicant is ordered by score and
24 locale. The locale is urban, suburban, and rural, once
25 again going back to that geographical distribution of funds.

1 And on the far right-hand side, we have a running
2 total of each of those -- the amounts allotted to each
3 service region. You'll see that some service regions are
4 oversubscribed and others are undersubscribed.

5 In order to fund those service regions that were
6 oversubscribed, we pool the funds remaining from
7 undersubscribed regions.

8 So at the bottom of stamped page 318, you'll see
9 the total amount of all applications submitted including
10 loans. For career technical education, financial is not
11 available, but there is a loan option available to districts
12 who do not have their 50-50 matching share. So you'll see
13 that amount represented there if the district was approved
14 for a loan.

15 Attachment B takes all of those applications from
16 the oversubscribed region, pools them together, and provides
17 funding for them. The bottom of stamped page 319, you'll
18 see the remaining funds after all applications were
19 approved. Remaining funds are approximately 82.8 million.

20 That concludes my summary. Are there any
21 questions about the program at this time?

22 CHAIRPERSON SHEEHY: Thank you, Ms. Sharp, and
23 thanks again to your staff for all your hard work on this.
24 We really appreciate it. Mr. Harvey.

25 MR. HARVEY: This is a way of educating myself.

1 I'm a rather new Board member. What is the public policy
2 reason for not requiring as we do in many other programs
3 that you demonstrate you have unhoused pupils or is that the
4 buildings are not older than a certain age? That's not a
5 criteria.

6 MR. COOK: Career technical education was a
7 program that was -- well, I think several people would
8 conclude was a program that languished for years without
9 strong sponsorship and within the last few years, that has
10 seen great sponsorship and these are programs that are
11 add-ons, that are -- you know, obviously do help train folks
12 for real jobs in areas that are really needed by our
13 economy.

14 And rather than housing kids, providing new
15 classrooms, this was considered -- the eligibility -- there
16 is no eligibility for this. You don't -- no requirement
17 that you have unhoused kids and also it just simply bypassed
18 those other requirements for a program because these types
19 of facilities were seen as needed out in the communities and
20 at schools to train our people.

21 MR. HARVEY: Since these facilities are often I
22 assume a part of a comprehensive high school, that is a
23 school that's doing other things, providing other curricula,
24 do the buildings get used for other educational experiences?

25 MR. COOK: They are required to be part of a

1 comprehensive high school as that goes. They are
2 certainly -- the grants come forward for the -- you know,
3 with an educational plan associated with them and what's
4 going to be used and I'm sure those facilities are also --
5 if they're underutilized are also available to other
6 programs.

7 MR. HARVEY: Okay.

8 CHAIRPERSON SHEEHY: Thank you.

9 ASSEMBLY MEMBER CARTER: Mr. Chair, I have a
10 question.

11 CHAIRPERSON SHEEHY: Ms. Carter.

12 ASSEMBLY MEMBER CARTER: Ms. Tracy, are schools
13 eligible to request -- if they've been funded in round two,
14 can they also request funding to continue from round three
15 their next scheduled?

16 MS. SHARP: It would be allowed if it additional
17 or different scope.

18 ASSEMBLY MEMBER CARTER: But from the same
19 district --

20 MS. SHARP: Yes.

21 ASSEMBLY MEMBER CARTER: -- same region. I'm
22 sorry.

23 MS. SHARP: Yes. There can be multiple
24 applications from one district. The applications are
25 defined by their industry sector, and as long as it's new

1 scope -- we don't want to approve more funding for the same
2 scope once a project has been approved but for new scope --

3 ASSEMBLY MEMBER CARTER: When you mean --

4 MS. SHARP: For the same program.

5 ASSEMBLY MEMBER CARTER: When you say scope -- oh,
6 same program.

7 MS. SHARP: Yeah.

8 ASSEMBLY MEMBER CARTER: One last thing on that.
9 If the same school from the same region -- say it's a
10 different school, but it's the same region, can the scope be
11 the same? I mean if it's a different school?

12 MS. SHARP: Yes. Yes.

13 ASSEMBLY MEMBER CARTER: Okay.

14 CHAIRPERSON SHEEHY: I have Ms. Moore and then
15 Ms. Brownley.

16 MS. MOORE: Thank you. I have four points.
17 First, Ms. Sharp, I know you've worked tremendously a lot
18 and my compliments to your staff. I also appreciate the
19 collaborative nature. You've worked with the Department of
20 Education on this.

21 I'd also like to recognize Dennis Guido (ph).
22 He's a director here and had a substantial part in the
23 program of -- on the California Department of Education side
24 and in scoring the grants and getting us to this point.

25 Secondly, I notice that from -- there were 290

1 applications. 244 were approved which leaves 46 that
2 applied and did not -- and are not being funded here today.
3 I'd like to hear about that and then secondarily, I think in
4 the same (coughing), Mr. Sheehy asked the question on COS,
5 are these districts in agreement with that result; do you
6 have any knowledge about that?

7 And then third -- the fourth point being if we
8 could look at what -- after all is said and done here today,
9 what our next options for the next -- the third round of
10 funding is.

11 MS. SHARP: Okay. I'll start with your first
12 question and if I forget one, please repeat. Thank you. We
13 did -- there were originally 295 applications approved by
14 the Department of Education -- approved meaning they got
15 they minimum score of 105.

16 The OPSC received 290 applications on the deadline
17 of April 30th. When we receive them, we do them for -- we
18 check them for completeness. Five applications were
19 incomplete and returned to the district at that time.

20 During our processing, there were eight applicants
21 who withdrew their applications for a variety of reasons and
22 there were 33 applications that were revoked by staff.

23 MS. MOORE: That were what by staff?

24 MS. SHARP: That were revoked.

25 CHAIRPERSON SHEEHY: Could you please -- I think

1 we'd like to hear you elaborate on some of the reasons why
2 they were revoked. Am I reading your mind, Ms. Moore?

3 MS. MOORE: Sure. And just also I would follow up
4 with are they -- have they been communicated with? Are they
5 knowledgeable that they're not on the list today and have
6 they had a response concerning that? And I know the
7 majority of which is one district.

8 MS. SHARP: Yes. The applicants were contacted by
9 letter that the applications were revoked with reasons
10 stated in there. One district contacted us and talked out
11 the reasons. The other district, I have not had additional
12 communication with regarding the issues surrounding the
13 application.

14 CHAIRPERSON SHEEHY: Ms. Brownley.

15 ASSEMBLY MEMBER BROWNLEY: Yeah. I just wanted to
16 follow up a little bit more on this line of questioning just
17 because I am very curious to know of the school districts
18 that were revoked, you know, what was it programmatically
19 that they were -- you know, or was it programmatic or was it
20 just simply their proposal in terms of, you know, bricks and
21 mortar and construction? But -- and I'm presuming it's
22 going to be primarily programmatic the reasons why it was
23 rejected and I'm curious to know what they might be.

24 MS. SHARP: They were basically noncompliance with
25 the regulations. We review applications when they're

1 submitted for compliance with the school facility program
2 regulations. Certain documents are required. Certain
3 information is required and all parts of the application
4 need to be in compliance with the regulations.

5 And if we are missing information, we will send
6 out first a -- we go through two steps of sending --
7 requesting additional information on projects, ask for a
8 response from the district, and then we have a second set
9 where we will ask for additional information from a district
10 at that point.

11 ASSEMBLY MEMBER BROWNLEY: So in essence a school
12 district proposed a certain career technical education
13 program and the Department of Education for various reasons
14 decided this wasn't a viable program. I understand that
15 you've got this list of criteria and there might be missing,
16 you know, reports or documents and so forth, but generally
17 just in a more global sort of sense so that I can understand
18 it --

19 MS. SHARP: Um-hmm.

20 ASSEMBLY MEMBER BROWNLEY: -- you know, there's
21 school districts trying to create a program and they didn't
22 meet sort of the programmatic objectives of the program so
23 that it would be indeed a successful program. Is that --

24 MS. SHARP: The program portion is what's reviewed
25 by the Department of Education.

1 ASSEMBLY MEMBER BROWNLEY: Right.

2 MS. SHARP: So -- and that score. So we're not
3 looking so much at their program. We're looking at the
4 facilities and the equipment --

5 ASSEMBLY MEMBER BROWNLEY: Right.

6 MS. SHARP: -- for qualification. And there's a
7 certain amount of support documentation that is needed to
8 support the grant amount that's asked for and that's what
9 we're looking at is documentation to support the grant
10 that's being requested.

11 So really we defer to the Department of Education
12 for the program portion.

13 ASSEMBLY MEMBER BROWNLEY: Okay. But these
14 projects --

15 MS. MOORE: If I may. Okay.

16 ASSEMBLY MEMBER BROWNLEY: Go ahead.

17 MS. MOORE: If I may assist with that. These do
18 not have a CDE programmatic issue. They were 295 projects
19 that --

20 ASSEMBLY MEMBER BROWNLEY: Okay.

21 MS. MOORE: -- met the threshold, the 105 points.
22 Five of them chose for whatever reason not to apply to OPSC
23 and then it became other -- I think what Ms. Sharp is
24 talking about is other program -- other requirements --

25 CHAIRPERSON SHEEHY: Facility.

1 MS. MOORE: -- overall --

2 ASSEMBLY MEMBER BROWNLEY: Okay. So all of the
3 applicants were viable programmatically.

4 MS. SHARP: Yes.

5 ASSEMBLY MEMBER BROWNLEY: Okay. Okay.

6 MS. SHARP: As reflected in their score from the
7 Department of Education.

8 ASSEMBLY MEMBER BROWNLEY: Right. Okay. All
9 right. And then just another question and, you know,
10 there's, you know, a larger fund for new construction, a
11 smaller fund for modernization on these programs and there
12 are, you know, urban, suburban, and rural school districts
13 and I'm just wondering if there are limitations for urban
14 school districts just because they're urban and they don't
15 have an expansive footprint in their campus which would
16 preclude them perhaps of building new facilities, new
17 programs that aren't in existing buildings and has that been
18 an issue?

19 MS. SHARP: In this case in this program, new
20 construction and modernization applications are all
21 considered equally. We don't have a designated amount
22 within the career tech program for new construction and a
23 designated amount for mod.

24 So they're all funded out of one single pot of
25 money.

1 ASSEMBLY MEMBER BROWNLEY: Okay. And then the --
2 if you will indulge me for one last --

3 CHAIRPERSON SHEEHY: Please. Ms. Brownley, please
4 continue.

5 ASSEMBLY MEMBER BROWNLEY: -- question here. So
6 are the classrooms -- are they traditional classrooms
7 generally or are they laboratories generally or some -- you
8 know, something I guess, you know, between traditional and
9 nontraditional classrooms? Is it --

10 MS. SHARP: It's quite a wide spectrum.

11 ASSEMBLY MEMBER BROWNLEY: Okay.

12 MS. SHARP: We see traditional classrooms as well
13 as shops as well as outdoor facilities in this --

14 ASSEMBLY MEMBER BROWNLEY: Okay. And then in
15 terms of equipment. So of the money specific on the
16 particular project, is there a larger propensity of money
17 spent on equipment versus building or is it the opposite?
18 Depending -- I guess it's dependent again on the program.

19 MS. SHARP: It is dependent on the program. Some
20 programs are much more equipment intensive than others and
21 it is up to the school district to define the scope of their
22 project. Do they need equipment for an existing program and
23 they have the facilities or do they want to improve their
24 existing facilities or build new ones.

25 ASSEMBLY MEMBER BROWNLEY: Thank you.

1 CHAIRPERSON SHEEHY: Ms. Moore, did you have
2 additional questions?

3 MS. MOORE: I have the final question, but I think
4 if we just want to continue. I see you have someone that
5 wants to speak.

6 CHAIRPERSON SHEEHY: Okay.

7 MS. MOORE: But we can talk about next steps after
8 we're all --

9 CHAIRPERSON SHEEHY: I see we have Mr. Blum here
10 from LAUSD. There may be others, but before we go to public
11 comments and questions, I'd like to recognize Mr. Harvey.

12 MR. HARVEY: Thank you, Mr. Chair. I want to make
13 sure I heard you correctly about one of the fall-offs. Did
14 you say something about incomplete applications?

15 MS. SHARP: Yes. There were five applications
16 that when they were submitted they were incomplete, which
17 means they were missing a required element and in that case,
18 we do contact school districts and give them an opportunity
19 to, if they are missing a required document for their
20 application, to submit that and in these cases, for whatever
21 reason, the district didn't submit the final documents and
22 so it was --

23 MR. HARVEY: Do we go back a second and third
24 time? It seems really a shame if they've met the threshold
25 programmatically. It's really just paperwork. It's not

1 missing a criteria or standard. It's something that can
2 easily be I assume added. Do you know why they didn't
3 respond? Do we go back more than one?

4 MS. SHARP: On these particular ones, I don't have
5 that information right away, but --

6 MR. COOK: And just so you're familiar with our
7 general processes and this holds true whether it's new
8 construction, whether it's modernization, whether it is this
9 program, if there's -- we have an application -- they do
10 intake on documentation. If a required piece is missing --
11 they're not doing qualitative review. They're doing just
12 a -- basically a piece count of the required documents.

13 If it's missing, there's a contact back to the
14 district. The district is required to submit that before it
15 is added to our workload.

16 In these -- in this type of program where there is
17 a cutoff date, you know, that deadline is much harder than
18 it is in say new construction. A new construction project,
19 if a district is nonresponsive with the documents, the
20 application is returned. They have an opportunity to, you
21 know, resubmit that as soon as they get the other document.

22 In this case, if they submitted an incomplete
23 application and they're not responsive, we ship it back.
24 They have to wait to the next cycle.

25 MR. HARVEY: Okay. So we don't hold it and just

1 allow them to add the additional --

2 MR. COOK: No.

3 MR. HARVEY: -- reports in the next cycle. They
4 have to take it back and resubmit.

5 MR. COOK: That's correct.

6 MR. HARVEY: So we had incomplete, we had
7 withdrawn, and we had revoked.

8 MS. SHARP: Yes.

9 MR. HARVEY: Thank you.

10 CHAIRPERSON SHEEHY: Ms. Carter.

11 ASSEMBLY MEMBER CARTER: How were the school
12 districts notified initially? Did they all just get a
13 notification that this program is available?

14 MS. SHARP: We provided workshops around the state
15 for -- when Proposition 1D first passed, there were a number
16 of workshops that were held in preparation for the first
17 funding cycle and that was in partnership with the
18 Department of Education.

19 And then when the second funding cycle was
20 planned, we again provided workshops at various locations
21 throughout the state so that school districts could come.
22 We posted information on our Website and I couldn't name all
23 the publications where things were advertised, but --

24 ASSEMBLY MEMBER CARTER: And you plan to do that
25 by the third --

1 MS. SHARP: Absolutely.

2 ASSEMBLY MEMBER CARTER: -- round? You don't know
3 when that will be -- when the third round will be available
4 for application?

5 MS. SHARP: It has not been yet arranged.

6 MR. COOK: No, it hasn't and we would have to do
7 that in consultation with the Department of Education so we
8 can set a deadline that both they can meet and we can meet.

9 MS. MOORE: I didn't hear the question because of
10 the rolling --

11 CHAIRPERSON SHEEHY: The question -- Ms. Moore and
12 for members of the audience, the question was when could we
13 anticipate the third round of funding and I'd like you to
14 answer that again and perhaps you could answer it -- answer
15 my question I'd like to tag on, will that third round of
16 funding be in the 2009 calendar year.

17 MR. COOK: That funding round will assuredly be in
18 2009 calendar year. We just have to work out deadlines that
19 school districts can meet to the Department of Ed and then
20 deadlines that we can meet as well. So -- and that would be
21 in consultation with the Department of Ed.

22 MS. MOORE: And is it that we can make those
23 decisions then and does the Board need to bless that
24 timeline, so perhaps what we could suggest is that in the
25 intervening month, our two agencies get together and we

1 propose a timeline back to the Board at the January Board
2 meeting so that we --

3 MR. COOK: Um-hmm.

4 MS. MOORE: -- can roll out this very popular
5 program out to a third round.

6 MS. SHARP: That is our plan.

7 MR. COOK: Yeah.

8 CHAIRPERSON SHEEHY: Are there additional
9 questions or comments from the Board before we go to public
10 testimony on this item? Hearing none, Mr. Blum.

11 MR. BLUM: Erik Blum from Los Angeles Unified. We
12 submitted -- in this round, we submitted 35 applications to
13 the CTFP program and thought they were all fully viable, so
14 we were dismayed and perplexed to receive 31 of them back to
15 us. They had been returned without going to the application
16 process.

17 We were dismayed because we thought they were
18 fully viable applications --

19 CHAIRPERSON SHEEHY: Rolling thunder. I love it.
20 I'm sorry. Mr. Blum, we did get quite a bit background
21 noise from the --

22 MR. BLUM: No problem. Would you like me to start
23 from the beginning?

24 CHAIRPERSON SHEEHY: Please.

25 MR. BLUM: Sure.

1 CHAIRPERSON SHEEHY: And I apologize for
2 mispronouncing your name. Could you start over --

3 MR. BLUM: Erik Blum from Los Angeles Unified. We
4 submitted 35 applications in this second round of the CTE
5 program and a couple of weeks ago received 31 of them back,
6 returned to us, notified that they were not going to be
7 approved as part of this process for cycle two.

8 We were dismayed and perplexed by that. Dismayed
9 because we felt we had submitted fully viable applications
10 per the process outlined out the regulations and perplexed
11 because our understanding in reading the regulations, which
12 appear to be quite clear, is that in this first submittal
13 through the OPSC process is that you can submit either
14 construction-ready or conceptual design stage projects.

15 The projects we submitted were largely in the
16 conceptual design stage and certainly were not fully
17 designed, do not have DSA approval, and the reason this
18 became a problem for us in this round is because the OPSC,
19 in the 15-day letter and 4-day letter process, was asking
20 for detail -- questioning -- asking detail about our
21 products which we frankly could not supply based on the fact
22 that these were in a conceptual deign phase, the level of
23 detail which would have been answerable had these projects
24 been fully designed and more or less ready for construction.

25 And so we're not clear or confused about anything

1 that might have changed in the process for cycle two, given
2 that in cycle one I think we had also similarly conceptual
3 projects that were accepted -- products that were accepted
4 in the cycle one round.

5 So we would like to talk further with OPSC staff
6 on this to try and work out some resolution on this and if
7 not, hopefully we can get to something there. If not, we
8 feel compelled to appeal the issue.

9 CHAIRPERSON SHEEHY: Thank you, Mr. Blum. Is
10 there additional -- are there additional questions or
11 comments from any member of the public on this item?
12 Ms. Brownley.

13 ASSEMBLY MEMBER BROWNLEY: Just follow-up to your
14 statement here. Can you just give me an example of, you
15 know, something that was in the conceptual design that
16 wasn't fleshed out I guess enough so that it didn't meet the
17 criteria and therefore rejected?

18 MR. BLUM: An example would be, you know, we had,
19 you know, equipment as part of the proposal in some cases,
20 equipment for the CTE program and we'd get detailed
21 questions about, you know, what exact -- you know, the specs
22 for the equipment and/or the vendor of the equipment and at
23 this stage, we don't necessarily know the vendor for the
24 equipment yet. We're still in a -- it's going to be a
25 lithography, you know, focus or what have you, whatever the

1 program may be. We're getting questions about, well, who's
2 the vendor and what's the -- you know, more details at that
3 level, which frankly we just couldn't answer at this point
4 because it's in conceptual stage.

5 ASSEMBLY MEMBER BROWNLEY: And so is one of the
6 issues here in terms of the life of the equipment in terms
7 of it being, you know, viable in terms of meeting the, you
8 know, basic criteria? Is that an issue here? You need to
9 know specifically what equipment it is and what vendor it
10 is, et cetera, because you need to be able to assess the
11 longevity or the life of the piece of equipment?

12 MS. SHARP: One of the requirements in statute was
13 that it has a minimum average useful life expectancy of ten
14 years. So in order to make sure that particular equipment
15 items do meet the requirements of the statute and
16 regulation, yes, we need to know specifics.

17 I would say that -- we do not ask for the vendor,
18 but we do need to know specifics on the equipment and in
19 some cases even -- maybe not a specific model number, but
20 enough information about the piece of equipment so that we
21 know is it a ten-year life span or is it maybe a less than
22 ten-year, what grade, so more detail can be -- is required
23 for that.

24 ASSEMBLY MEMBER BROWNLEY: And of the sort of 15
25 programs -- CTE programs that are approved by the Department

1 of Ed, are we -- we have a certainty that all of the
2 equipment that may be applicable to those 15 programs, that
3 all of the equipment at minimum would have a shelf life of
4 ten years?

5 MS. SHARP: Yes.

6 ASSEMBLY MEMBER BROWNLEY: So -- I mean I -- you
7 know, the first thing I think of is computers. Ten years is
8 sort of a long time for a computer, you know, so --

9 MS. SHARP: Those don't meet that ten-year life
10 expectancy.

11 ASSEMBLY MEMBER BROWNLEY: Pardon me?

12 MS. SHARP: Computers do not meet the ten-year
13 life expectancy so would not be funded.

14 ASSEMBLY MEMBER BROWNLEY: So if you were doing,
15 you know, commercial design and CAD drawings and, you know,
16 that sort of thing, just as one example, where it's pretty,
17 you know, computer driven and technical, but it doesn't have
18 a ten-year life, then therefore you -- you know, this might
19 be the -- you know, the labor need for California, but yet
20 we can't really provide a program for it. So --

21 MS. SHARP: Out of career tech funds; correct.
22 Yes.

23 ASSEMBLY MEMBER BROWNLEY: Okay. Well, I kind of
24 see that -- you know, just to express an opinion here, I
25 mean I kind of see that as -- I mean I understand -- you

1 know, I'm not being critical, but -- and I kind of
2 understand why we have to have all of this criteria, but on
3 the other hand, to limit ourselves in terms of programmatic
4 opportunities that we want our students to have and be
5 limited by this doesn't seem exactly right.

6 So I think somehow we've got to pick that out of
7 this process somewhere where we can evaluate that piece of
8 it with a greater emphasis on programmatic needs as opposed
9 to just general, you know, cost benefit needs -- in my
10 opinion. My humblest opinion.

11 CHAIRPERSON SHEEHY: Just as sort of a follow-up
12 on that, we've had two rounds of funding here. There's
13 going to be a third round. I don't know what the prospects
14 are -- it's possible. But in programs like this where
15 you're following statutory criteria, Rob, does your office
16 ever come back to the Board with recommendations on
17 statutory changes that might help the program function more
18 effectively and meet more programmatic needs because I think
19 Ms. Brownley made some excellent points, but it sounded to
20 me like from Ms. Sharp that they are stuck following the
21 statute.

22 So in a situation like this, do we have an
23 opportunity to amend statutes to address these types of
24 things?

25 MR. COOK: Well, that's one of the benefits of

1 having so many Legislators on this body. Over the course of
2 time when members of this Board have seen an issue with
3 existing statute, many of them have spontaneously taken
4 measures.

5 So as far as, you know, bringing Board issues that
6 are -- you know, that may constrain a program or may need
7 clarification or streamlining or whatever, that's easy for
8 us to bring forward and --

9 CHAIRPERSON SHEEHY: Well, I don't know if this
10 has been a practice of the State Allocation Board. This is
11 my third meeting, but I think your observation is a good
12 one. We do have six legislators on this Board and so I
13 would think that, you know, if in the course of doing our
14 work with the programs that we have on the books, if you
15 ever have ideas or suggestions that would be worthy for the
16 Board to consider, we could always adopt a resolution saying
17 that we'd like to pursue something legislatively. It
18 doesn't have to be one of the members of this Board. It
19 could be another legislator, but I certainly would be open
20 to looking at statutory changes where it'd help make these
21 programs work more effectively.

22 So I would encourage you and your staff to feel
23 free to bring those suggestions. Don't bring us hundreds of
24 them, please, but, you know, judiciously bring us some
25 suggestions when you think it's appropriate and obviously

1 members of the Board may have their own recommendations on
2 how to adjust some of these programs.

3 Are there additional -- yes, Mr. Harvey.

4 MR. HARVEY: I would be cautioned by our general
5 counsel or executive director if this question needs to be
6 asked perhaps on appeal rather than now, but I'm interested
7 in knowing if there had been a shift in what was accepted in
8 phase one as opposed to phase two relative to the quality or
9 quantity of the designs, the allegation being that they did
10 conceptual in phase one. Here they do exactly the same
11 thing in phase two and, boom, they're not on the list.

12 MS. SHARP: I would say yes, there were some
13 changes. There were changes to the regulations made and
14 approved at the January '08 State Allocation Board where
15 there were some minor changes to the regulations as well as
16 some additional required documents that were added to the
17 program.

18 Those were presented at the Implementation
19 Committee, approved by the Board, and then approved prior to
20 the submittal date of the funding cycle -- yes, the funding
21 cycle two.

22 MR. HARVEY: Okay. So the answer is that you did
23 change the ground rules, but you did it appropriately with
24 input and action and I assume it was to make it a more
25 efficient, better program. Those are my comments.

1 MS. SHARP: Yes.

2 MS. MOORE: Mr. Sheehy, a final --

3 CHAIRPERSON SHEEHY: Yes, Ms. Moore, please.

4 MS. MOORE: Well, again I think that the work that
5 you did is exemplary. I am troubled by the -- how many
6 revoked? 33?

7 MS. SHARP: 33.

8 MS. MOORE: 33 of which how many were one
9 district?

10 MS. SHARP: 31.

11 MS. MOORE: 31. So there is 31 in one district
12 and 2 in another district that were revoked. I think we
13 have to rely on staff to have reviewed that appropriately.

14 I'm concerned though that's a lot of projects that
15 people put a lot of heart and soul into to get to this point
16 and I'm sure you didn't take that lightly as you moved
17 through that process. But yet we're at a juncture where
18 we're not approving those projects.

19 And what -- not to keep the projects that are
20 ready to go today from moving forward, I would recommend
21 that wholeheartedly. However, I'm just troubled by the 33
22 that remain and I see a couple of options. Obviously
23 Mr. Blum has talked about whether they'll appeal. That's
24 their right and option.

25 But perhaps there's enough money in the third

1 funding cycle to accommodate these projects and to work out
2 whatever issues there are that have precluded them from
3 moving forward and get that done as the second option and
4 I'd like the district to consider that in the intervening
5 time that we come back in a month with our timeline on that.

6 But those -- and in addition to the two projects,
7 whatever districts those are, that were also revoked. We
8 didn't do that in the first funding round. Nobody was
9 revoked. Everybody got funded that made it through our
10 gauntlet and over into OPSC's processes as well and so I
11 think it's a little troubling and hopefully we can work out
12 the kinks of that and fund those projects in the third
13 funding cycle.

14 CHAIRPERSON SHEEHY: I do have one more additional
15 question. I'm sorry.

16 The LAUSD who had 31 of their 33 projects
17 rejected, now did they participate in the first round and
18 did we -- I just heard Ms. Moore say -- I wasn't here but --
19 for the first round. I just heard Ms. Moore say there were
20 no rejections in the first round. Did LAUSD have projects
21 that were approved in the first round? Perhaps Mr. Blum
22 could comment on that.

23 MR. BLUM: Yes. Just to clarify. We had 35
24 applications in the second round. Four of those were
25 accepted and 31 were rejected -- revoked. And in the first

1 round, we have five applications all of which were accepted.

2 CHAIRPERSON SHEEHY: I see. Yes, Ms. Girard.

3 MS. GIRARD: In clarification, were they
4 requesting the exact same thing as you were rejected for on
5 this one or were there just -- I mean just because you
6 submitted didn't mean it was the same type of submission.
7 So was that exactly the same that you were approved for
8 before and not approved for this time?

9 MR. BLUM: Well, I don't know what you mean by
10 exactly the same. I mean they were generally of a
11 conceptual design stage submittal.

12 MS. GIRARD: Were there computers in there? Were
13 there computer systems that were rejected the second time
14 around that were accepted the first time?

15 MR. BLUM: I don't know that off the top of my
16 head, but, you know, the general point I was making earlier
17 was that they were of a conceptual nature in the same sense
18 that these ones were also a conceptual design nature. They
19 were in the early stages of design.

20 MS. GIRARD: One more question.

21 CHAIRPERSON SHEEHY: Oh, please.

22 MS. GIRARD: The other schools, did they have
23 problems with the conceptual design -- meeting that
24 criteria?

25 MS. SHARP: They did not.

1 MS. GIRARD: Okay. Thank you.

2 CHAIRPERSON SHEEHY: All right. I'd just like to
3 add to the record that I too am troubled that any applicant
4 would have such a high percentage of their projects
5 rejected. It's troubling to me and at the same time, I'm
6 sure that you looked at all applications with the same sets
7 of eyes and used the same criteria.

8 So I'll be interested in following the progress of
9 this if there are any appeals and how that is handled and if
10 that's brought before this Board, we'll have a chance to
11 discuss it more.

12 Understanding that the ones that were rejected can
13 be appealed and that we do have over \$200 million in
14 projects that were approved, is there a motion today to go
15 ahead and approve the staff recommendation on Tab No. 13
16 with the career technical education funding?

17 MR. HARVEY: Move approval.

18 MS. GIRARD: Second.

19 CHAIRPERSON SHEEHY: I have a motion and a second.
20 Any objection to substituting the prior roll call? Hearing
21 none, item 13 is approved. Thank you, Ms. Sharp.

22 Mr. Cook, we have item 14.

23 MR. COOK: And I will introduce Ms. Brigitte Baul
24 to introduce that item.

25 MS. BAUL: Thank you, Rob. Good afternoon, Board

1 members. I'd first like to recognize my staff who worked
2 with me on the **Overcrowded Relief Program**. Please stand up.
3 Anetria Martin and Tasha Brennan.

4 (Applause)

5 CHAIRPERSON SHEEHY: Thank you, Ms. Baul. Please
6 continue.

7 MS. BAUL: Okay. This program, the Overcrowded
8 Relief Program, was born out of Proposition 1D. The purpose
9 of this program or this grant is to allow districts to
10 reduce the number of portable classrooms on overcrowded
11 school sites and replace them with permanent classrooms.

12 Today I'm here before you for the second funding
13 cycle for this program and I'd like to say that the Office
14 of Public School Construction received a total of 14
15 applications. Two were withdrawn by the district and one
16 was returned because it did not meet the program
17 requirements.

18 Eleven other projects are being presented for
19 approximately \$59 million and there are 140 eligible
20 portables to be replaced.

21 There will be approximately 900 million that will
22 be available in the third funding cycle and the final filing
23 date for applications is January 30th of 2009.

24 The Office of Public School Construction will be
25 bringing an item to the Board for future funding cycles.

1 And at this time, if there is no other questions, I have
2 concluded my presentation.

3 CHAIRPERSON SHEEHY: Ms. Baul, it seems like the
4 59 million that's proposed for approval today is a small
5 fraction of what's available. Why is that?

6 MS. BAUL: Well, that is what we received.
7 However, whatever the balance each funding cycle will be
8 rolled over into the next funding cycle and that is the
9 reason why we're at \$900 million. In the first funding
10 cycle, we received a total of six applications. Five were
11 funded and we had \$39 million that was appropriated. And in
12 this funding cycle, as I said, \$59 million approximately.

13 We're looking forward to it increasing.

14 CHAIRPERSON SHEEHY: What was the total amount
15 that Prop. 1D authorized for the --

16 MS. BAUL: \$1 billion.

17 CHAIRPERSON SHEEHY: 1 billion? Okay.

18 Mr. Harvey.

19 MR. HARVEY: I have similar interest to the Chair
20 which is it's a very well intended program. I mean the idea
21 of replacing portables with permanent facilities is
22 engaging, but we don't seem to be getting the applications.
23 In fact we must have had only 40 million in round one to
24 match this, leaving 900 million.

25 Two quick questions I guess. We're approaching

1 the third funding cycle deadline.

2 CHAIRPERSON SHEEHY: Um-hmm.

3 MR. HARVEY: Do we have any way of knowing how
4 many folk may be in the pipeline to give us an idea whether
5 it's going to be -- I'll use this phrase -- undersubscribed
6 yet again or whether in this third cycle we are going to
7 have more money out the door because I think that's all of
8 our desire.

9 And I guess at some point I would ask staff to
10 come back when appropriate -- I'm not saying it's
11 necessarily in the near term, but this to me may be a
12 candidate for discussion of moving money from the category
13 into an underfunded category. This one may need legislative
14 approval, but if this remains undersubscribed because people
15 are not wanting to convert portables into permanent
16 facilities, I think we've got higher compelling needs in new
17 construction, in the seismic retrofit, ideally in high
18 performance schools. I mean there are many other programs
19 that compete for these dollars, but I'm not there yet.

20 But do we have an idea of knowing what may be in
21 the pipeline for district -- or for cycle three?

22 MS. MOORE: If I may. We're the first stop on the
23 process, the Department of Education. One of the
24 requirements are that districts have to be 175 percent of
25 density which means they have 175 students per acre. That's

1 one of the criteria.

2 We've had over 159 worksheets in different
3 projects come through our office requesting that
4 calculation. It represents 24 districts and about 45,000
5 students, of which -- which pencils out in the estimate for
6 these projects at about \$550 million of which we've
7 apportioned I think 99.

8 So we have 406 eligible ones sitting out there
9 that most likely would come in in round three or more.

10 I would also offer that this program, you have to
11 be, you know, tied up with a bow at the end because you have
12 to have DSA approval. You have to have our approval and
13 these are complex projects on existing sites which are
14 always difficult to do in that we're saying we're going to
15 remove portables. We're going to build up.

16 So what are you doing while you're removing those
17 portables. Where are those students. Orchestrating those
18 types of projects are difficult for districts and that may
19 be part of the delay that is going on here right now in
20 accessing these funds.

21 I would be very cautious that we -- knowing
22 there's this amount out there, that we make any movement yet
23 I think on capturing these funds at this time knowing we
24 have an amount out there and could be some more. Maybe we
25 can query districts and say is there any more coming in.

1 Let's hold back money here for them for the purposes that
2 the voters voted for it before we recommend maybe the
3 difference being --

4 MR. HARVEY: Do you have a recollection in the
5 first two cycles how many of the initial applications
6 actually ended up going through the system?

7 MS. MOORE: How many applications did you approve?
8 I don't -- I'm not --

9 MS. BAUL: We had a total of six applications and
10 out of the six applications, five were funded.

11 MS. MOORE: That was first cycle?

12 MS. BAUL: Yes.

13 MS. MOORE: And second cycle we're doing today is?

14 MS. BAUL: Second cycle were 14 applications, 11
15 funded.

16 MS. MOORE: Okay.

17 MS. BAUL: To be --

18 MS. MOORE: And there's 159 that are eligible out
19 there.

20 MR. HARVEY: So I guess I was trying to determine
21 eligibility as opposed to follow-up. I didn't know if in
22 the first cycle there might have been 150 applicants, but
23 only 11 came through and the second cycle, you had another
24 150 eligible, but only 14 came through. I'm trying to get
25 an idea of how many actually -- because it is complex. You

1 have to have it tied in a bow -- how many actually come to
2 fruition.

3 MS. MOORE: I think we can certainly query the
4 districts and, you know, say how serious are you. The
5 feedback that we have is they're serious and the reason that
6 they're not before this Board yet is that they have to
7 perfect the project to construction stage to be ready to go
8 and that takes some time as do all projects that come before
9 this Board and then secondarily I think it's a little more
10 complex when you're, you know, orchestrating things just as
11 it's complex in modernization. You don't have a clean site
12 to work within. You have to work with existing students,
13 keeping them safe, keeping staff appeased and ensuring that
14 you can do the project while school is in session.

15 So I think we'll see activity for these funds.
16 It's probably slower than we would wish, but I would be
17 reticent to move out the known funds or recommend --

18 MR. HARVEY: I'm not recommending that. I'm not
19 recommending that. I said I would like to have it
20 contemplated and when staff deems it appropriate -- I'm
21 hoping that your numbers are realized because this is a
22 worthwhile program --

23 MS. MOORE: Yes.

24 MR. HARVEY: -- but I've been disappointed that it
25 hasn't resulted in that many eligible projects. So let's go

1 forward.

2 CHAIRPERSON SHEEHY: Thank you, Mr. Harvey.
3 Ms. Moore, were you able to address all the points you
4 wanted to?

5 MS. MOORE: Yes.

6 CHAIRPERSON SHEEHY: Okay. Are there additional
7 comments or questions from Board members on this item? I
8 see that we have Mr. Blum from LAUSD.

9 MR. BLUM: Just very briefly, I wanted to address
10 Mr. Harvey's comments as well as Ms. Moore's, that -- I know
11 there are many districts that have critically overcrowded
12 schools. We have quite a number of them in L.A. Unified and
13 we have full intention of utilizing and applying for as many
14 ORG products as possible.

15 We have -- as the comment was made I guess the
16 previous item of COS reservations, we have elected to apply
17 on the COS reservations first of which we'll have a bulk
18 going this next fall of '09, after which our only option
19 essentially for state funding will be the ORG program on
20 eligible projects. And so we anticipate significant number
21 of dollars based on eligible projects for ORG at that point.

22 You haven't seen anything from us yet. You've
23 seen one project from us so far because of the fact that
24 we're targeting the COS pots, which again with the extension
25 expires next October.

1 CHAIRPERSON SHEEHY: Thank you, Mr. Blum.
2 Additional comments from the public. Please identify
3 yourself for the record.

4 MR. ELATAR: Thank you. Wael Elatar from
5 San Bernardino Unified School District.

6 CHAIRPERSON SHEEHY: Okay.

7 MR. ELATAR: I just wanted to start first and
8 thank you for giving me the opportunity to speak on behalf
9 of the school district on this important issue for the
10 district.

11 We are the school district that we have three
12 projects that the staff referred to as either withdrawn or
13 been rejected or --

14 CHAIRPERSON SHEEHY: This is San Bernardino?

15 MR. ELATAR: San Bernardino Unified School
16 District.

17 CHAIRPERSON SHEEHY: Mr. Nanjo, was there any
18 comment that you'd like to make at this point in the
19 proceeding.

20 MR. NANJO: Sure. Thank you, Mr. Chair. Just
21 want to give Board members a little cautionary note that we
22 are currently in litigation with San Bernardino Unified
23 School District. Of course the superintendent here is
24 perfectly free to make any statement that he wants, but from
25 the Board members' standpoint, I'd ask you to be somewhat

1 reserved in any comments because of the ongoing litigation.

2 Thank you.

3 CHAIRPERSON SHEEHY: Thank you, Mr. Nanjo. Please
4 proceed.

5 MR. ELATAR: Thank you. Quickly referring to the
6 two withdrawn projects and get into the one that was
7 returned. The two withdrawn projects were complete projects
8 and received approval from CDE, submitted on time, and had
9 DSA approval. Everything is in place. But we did receive
10 indication from the staff of OPSC that all these three
11 applications maybe rejected. So the district really with
12 very limited option at this point in time elected to
13 withdraw these applications and resubmit these applications
14 under SFP and these applications right now are submitted
15 under SFP.

16 So they're not fully withdrawn completely. They
17 are actually in process with OPSC.

18 The third application had been an active
19 application under ORG and for the record, it's called Middle
20 College High School, very successful high school, a small
21 high school. Was the highest API in the County of
22 San Bernardino.

23 This application was rejected and returned to the
24 district in November 2008 not only under protest from the
25 district, but also without receiving the requested statute

1 for rejecting the application.

2 This also took place after the district provided
3 to OPSC legal opinion of why this project, including the
4 other two, should be processed under ORG.

5 Once the application was returned to the district,
6 the district immediately appealed the OPSC decision and
7 submitted the appeal form and as the legal counsel, it's
8 unfortunate that the district really had no real option but
9 to seek legal clarification on this issue.

10 So therefore I appreciate if the State Allocation
11 Board realize the importance of this item here and include
12 this appeal on the January 2009 for that particular project
13 for the January 2009 Board meeting for discussion and
14 action. Thank you.

15 CHAIRPERSON SHEEHY: Thank you very much for
16 addressing us today. Seeing no questions from the Board, is
17 the additional questions or comments from the public on
18 item 14, our ORG grant program?

19 Hearing and seeing none, is there a motion to
20 approve the staff recommendation on item 14?

21 MS. GIRARD: So move.

22 CHAIRPERSON SHEEHY: I have a motion by
23 Ms. Girard.

24 MR. HARVEY: Second.

25 CHAIRPERSON SHEEHY: I have a second by

1 Mr. Harvey. Is there any object this afternoon to
2 substituting the prior roll call? Hearing none, item 14 is
3 approved.

4 MS. BAUL: Thank you.

5 CHAIRPERSON SHEEHY: Thank you very much,
6 Ms. Baul. Mr. Cook.

7 MR. COOK: Yes. I would like now to introduce
8 Ms. Masha Lutsuk for item number 15, **Emergency Repair**
9 **Program Regulations.**

10 MS. LUTSUK: Good afternoon. The item that's
11 before you today consists of proposed regulation and form
12 changes to the Emergency Repair Program which I will refer
13 to as the ERP and the item begins on stamped page 577.

14 The program was enacted by statute approximately
15 four years ago as part of the settlement in the case of the
16 Williams vs. California to address the emergency facility
17 conditions at schools in the lowest decile rankings based on
18 the academic performance index.

19 The state provides 100 percent funding on either a
20 reimbursement basis or a grant which is advanced funding for
21 the project that hasn't been completed yet.

22 In the case where a grant may exceed the actual
23 final project costs, the recipient, which is the district,
24 must return the savings to the state and the savings then
25 shall be used to fund other projects.

1 The OPSC initiated these regulation changes to
2 streamline the savings collection process and expedite
3 return of funds into the program and the way that would be
4 achieved is instead of simply reporting the savings to the
5 OPSC or on a designated form and then waiting for the OPSC
6 to generate the Board item and initiate the collection
7 proceedings, the districts would be required to report
8 savings and remit the funds plus any interest at the same
9 time, then still present the item to the Board informing
10 them that the grant apportionment shall be reduced by that
11 amount, but we'd already in essence have the money in the
12 bank ready to be provided to other school districts.

13 And as you may be aware in following this through
14 our monthly meetings, the program has demonstrated a huge
15 demand. We have over 750 million project on the workload
16 list pending our review. We have received -- the program's
17 total allocation is \$800 million over the course of several
18 years. We are very close to half of that mark, almost
19 400 million that we've received from the Legislature.

20 We have discussed and had very good productive
21 discussions at the State Allocation Board Implementation
22 Committee meeting. We've also presented copies of our
23 proposals to the American Civil Liberties Union. They are
24 the attorneys for the plaintiffs and they follow our
25 progress and so far they've been really happy with our

1 implementation of the settlement legislation.

2 And during Implementation Committee, we had good
3 feedback and general agreement on the proposed changes. We
4 had some comments that we tried to accommodate and the most
5 significant one of those is the extension on the time limit.

6 Districts voiced concerns that the timelines
7 currently in regulations are not enough -- in some cases,
8 not enough to complete the more complex projects and in most
9 cases would not be enough to do the additional work required
10 to report and remit the savings.

11 So we are asking here in these regulations to
12 extend the timeline by three months. That would mean if a
13 district receives a grant like the ones presented to you
14 today, they have 12 months to complete the project and
15 provide the final accounting of expenditures to us. We are
16 wanting to extend that to 15 months.

17 And the more complex projects that require
18 Division of State Architect approval, that timeline would
19 move from 18 to 21 months.

20 So that's the gist of it and we are seeking the
21 Board's approval. We are asking for you to approve the
22 proposed regulation and form changes. We are also asking
23 you to approve an additional worksheet that we've developed
24 which is the detailed listing of warrants.

25 Districts will be required to submit that

1 worksheet or another worksheet of their own form but with
2 the same information when they submit their expenditure
3 report. This would greatly enhance the accountability of
4 the program.

5 And lastly we're asking you to authorize the OPSC
6 to file these regulations with the Office of Administrative
7 Law. And I love talking about this program, so I would take
8 any questions that you have.

9 CHAIRPERSON SHEEHY: Well, thank you, Ms. Lutsuk.
10 I'll give you an opportunity to talk some more. You -- part
11 of what you're asking the Board to approve is an extension
12 from 12 to 15 months. Why a three-month extension? Did you
13 do some sort of statistical analysis on all the applications
14 coming in? Did you just -- was that just -- I mean, you
15 know, how did you come up with three months. Why not four
16 months or five months or two months? I mean how did you end
17 up with 90 days?

18 MS. LUTSUK: I believe that was the result of our
19 discussions with school districts and their representatives
20 at the Imp. Committee meetings and the general comment was
21 it could take up to three months for a very large district
22 perhaps to interact with their accounting department, with
23 the County Office of Education to determine the amount of
24 interest the account was earning, how much savings, and
25 during what time the interest should be applicable to the

1 savings and to request their accounting department to
2 provides a warrant to the state.

3 CHAIRPERSON SHEEHY: So that three-month extension
4 proposal is a consensus from the Implementation Committee?

5 MS. LUTSUK: We believe so, yes.

6 CHAIRPERSON SHEEHY: Okay. Very good. Do we have
7 any additional questions or comments from Board members?
8 Seeing none, is there anybody here from the public that
9 would like to comment on the Emergency Repair Program
10 regulations and the proposed changes to those regs? The
11 next stop if it's approved today by the Board will be the
12 Office of Administrative Law where it will undergo further
13 review for legal validity and then pending OAL approval,
14 these would then become part of the new regs.

15 Seeing no comment from the public, is there a
16 motion to approve the staff recommendation on item 15?

17 MR. HARVEY: So move.

18 CHAIRPERSON SHEEHY: I have a motion by
19 Mr. Harvey.

20 ASSEMBLY MEMBERS BROWNLEY AND CARTER: Second.

21 CHAIRPERSON SHEEHY: Second by Ms. Brownley. Is
22 there any objection -- I'm sorry. Is that a second by
23 Ms. Carter? Let the record state the second was in unison,
24 Ms. Brownley and Ms. Carter.

25 Is there any objection to substituting the prior

1 roll call? Hearing none, item 15 is approved. Thank you
2 very much.

3 MS. LUTSUK: Thank you.

4 CHAIRPERSON SHEEHY: Mr. Cook, item 16.

5 MR. COOK: Yes. I would now like to introduce
6 Mr. David Thorman, State Architect, who will be presenting a
7 report on **Seismic Mitigation Program**.

8 CHAIRPERSON SHEEHY: Welcome, Mr. Thorman.

9 MR. THORMAN: Thank you.

10 MR. COOK: And just so I can fully inform the
11 Board about the parameters of what we have as far as Seismic
12 Mitigation Program. Proposition 1D authorized up to
13 \$199.5 million out of new construction to be available for
14 seismic retrofit, repair, or replacement for eligible
15 facilities and it required that those funds be made
16 available to the most vulnerable of Category 2 buildings
17 which -- specific category defined, but includes
18 unreinforced masonry, tilt-up structures, and so on.

19 In working with the Seismic Safety Commission and
20 with the Division of State Architect, we developed a program
21 and the following four criteria so that we could focus those
22 limited funds -- 199.5 million is a very limited sum to deal
23 with what could be an expensive program -- to focus those
24 funds on those most vulnerable facilities.

25 One element is that they have to be used for

1 students. It can't be a facility that is no longer actively
2 used for students. Two, it has to be of the Type 2
3 construction. Third is it has to be in a ground shaking
4 intensity zone -- this is in work with the Seismic Safety
5 Commission -- of 1.7G, representing G forces. And then a
6 structural engineering report come forward that identifies
7 the building as has the potential for catastrophic collapse.

8 Those four elements qualify a facility for these
9 funds and, Dave, if you want to step into the outreach
10 that's been done.

11 MR. THORMAN: Yes. I sent a letter out to the
12 districts that have the most vulnerable buildings. There
13 were 77 buildings and requested that they consider these
14 funds. We have followed up with phone calls and discussions
15 with these various districts and the result at this point is
16 that in terms of buildings, we have one that has been
17 submitted with the structural engineering report.

18 We have five buildings that are probable. That
19 means that we believe the districts will submit, but we have
20 not received a submittal at this time. We have five
21 buildings where the district would like to submit, but they
22 don't have matching funds and then we have two that are
23 going to submit, but they're going to tie in with some
24 modernization sometime in the future. And then we have five
25 that we've identified through another outreach with OPSC

1 that are possible submittals.

2 So we have a total of 18. Out of that, only one
3 that's actually submitted and five that are probable.

4 In terms of the retrofit cost, the one that's
5 submitted is \$6 million. The matching funds would be half
6 of that. One that's probable -- the five that are probable
7 is 15 million and then when you add all of them together, if
8 you go all the way up to the 18, that's \$63.9 million.

9 If we -- one of the options if in fact we find
10 that the projects -- that cost of retrofit is more than half
11 of the value of the project, there's a potential for
12 replacement.

13 If we were to replace all of these 18 projects --
14 if for some reason they all did get submitted -- it would be
15 114 million. The matching funds would be half of that.

16 The other consideration is financial hardship.
17 There's a formula based on history. We -- if you assume
18 that 20 percent are financial hardship and again if you
19 assume that all of these projects were to go through, that
20 would be a state matching fund number of 71.7 million out of
21 the 199.5 million.

22 That's the status at this time. We are aware of
23 five other potential projects from LAUSD. We don't know
24 what the size of the cost of those projects might be. These
25 are ones that somehow got missed on the original AB300 list

1 and we still have a number of other districts that we're
2 talking to. But at this point, that's the status of what
3 we've done.

4 CHAIRPERSON SHEEHY: Questions of the committee.
5 Mr. Harvey.

6 MR. HARVEY: David, the foundation for this
7 program really rests in the validity of the AB300 report.
8 That was a report that was done some six years ago and it
9 was kind of done from afar. It was not done on site. It
10 was an estimate of what might be at risk and you have gone
11 back out as I understand it and asked districts to validate
12 the information in that initial report; that is were we
13 correct in listing you, have you retrofitted the buildings,
14 are they no longer used by students.

15 I note in your report that only about 25 percent
16 of the districts have responded to date and if data is
17 important in this regard, we obviously need 75 percent more
18 response to get a better handle on what's really out there.

19 Can you tell me what your next steps are to go
20 back out and encourage districts to give us what we need to
21 know about the risk?

22 MR. THORMAN: Yes. Let me explain that the AB300
23 report -- you may not all be aware of this -- was done in a
24 very short period of time. It was essentially a paper
25 report. It was not one where we physically went out and

1 looked at the facilities.

2 Unfortunately, there are a lot of errors in that
3 report and that's one reason that we sent the request out.
4 This was a letter I sent out on September 22nd. And the
5 information that we have received is very detailed and is
6 taking a fair amount of time to analyze and then put back
7 into the report for the update.

8 There are a lot of changes from the original AB300
9 report. Now that's with the 25, 26 percent that we've
10 received.

11 We have other districts such as LAUSD have
12 contacted us and said that they just don't have enough --
13 the time that we set which was November 4th just wasn't
14 enough time and asked for a two-month extension. Other
15 districts have also asked for an extension.

16 In addition to that, we have a program of
17 physically contacting by phone all of the districts that
18 have not responded and we have staff assigned to do that.
19 We're doing it in a very methodical fashion to make sure
20 that we get information from all of these districts.

21 My suspicion is that a lot of them looked at the
22 report and said, hey, we've already torn down that building
23 or retrofitted. We don't need to report back, but we won't
24 know that until we physically talk to them.

25 MR. HARVEY: Well, I really appreciate what you

1 and Rob are doing because in California it's not a question
2 of if. It's a question of when and we have to make
3 absolutely certain we have done everything we humanly
4 possibly can to make buildings safe for kids. So I
5 appreciate what you're doing. I look forward to your
6 periodic reports between now and when you expect the final
7 list to be done in March of '09.

8 I am hoping that we can get this first
9 \$199 million out the door by going after -- Mr. Cook, as
10 you've categorized them -- the most vulnerable, the worst of
11 the worst, if you will, and then we can make the case by
12 (indiscernible) the next bonds for additional money but I'm
13 really very hopeful about this program because there are
14 (coughing) and we need to correct them. Thank you.

15 CHAIRPERSON SHEEHY: Additional comments.
16 Ms. Moore.

17 MS. MOORE: Just -- are you familiar at all with
18 the letter that William Savage wrote to the Board members?
19 Did you get a copy of that?

20 MR. THORMAN: I did not.

21 MS. MOORE: Do you have that, Rob?

22 MR. COOK: It was handed to me before the meeting,
23 but I haven't had a chance to review it.

24 MS. MOORE: Okay. I also as a Board member
25 received it I think sometime this week. Mr. Savage (ph)

1 indicated that he was not able to be here today. However,
2 you know, he's in a district that's in the midst I think of
3 earthquake country and I was taken by his suggestions and
4 his analysis of some of the issues that may be precluding
5 people from fully accessing the funds and I'm hoping -- and
6 given that you haven't seen it, I guess what I would like to
7 know -- perhaps if we come back in January, if you can look
8 at some of the suggestions that are being made and whether
9 they're appropriate, you know, and you analysis of those
10 suggestions in perhaps moving this program forward to be
11 available to more school districts and get the funding out.

12 And there's a -- one of his suggestions was
13 interim housing and I just spoke about interim housing on
14 other projects. Seems reasonable, but I'd like to hear
15 yours and the staff's recommendations around that and given
16 you haven't read the letter yet, could we have it at our
17 next Board meeting.

18 MR. THORMAN: I'd be happy to.

19 CHAIRPERSON SHEEHY: Just -- before we get to
20 public comment, I just want to make sure that we don't have
21 any more questions of our Board members at this time.

22 Seeing none, I think Mr. Duffy was first and then
23 we'll have you next and anybody else that wants to cue up,
24 please feel free to. Thank you, Mr. Duffy.

25 MR. DUFFY: Good afternoon and thank you,

1 Mr. Chairman. Tom Duffy for the Coalition for Adequate
2 School Housing.

3 The bond measure that created the seismic program
4 happened two years ago. I'm pleased to hear from David that
5 there is an applicant because there hasn't been to this
6 date.

7 Last year when the regulations were being
8 developed, we asked that several things be included. One of
9 them Ms. Moore just mentioned and it's in Mr. Savage's
10 letter and that is interim housing.

11 Imagine that you're a board of education and I'm
12 the superintendent of the district -- and I know you were a
13 board member in Santa Monica and I tell you that we have a
14 building that is seismically sensitive in that the
15 structural engineer's report indicates that it is subject to
16 collapse.

17 You would expect me to give you that news, then
18 give you the solution to the housing problem for these
19 students. There is no solution to the housing problem for
20 the students in this program because there is no interim
21 housing allowed.

22 Now, there is interim housing allowed in
23 modernization. We asked that interim housing be included
24 and it was not.

25 Districts who believe that they're -- if they're

1 on the AB300 list, Mr. Harvey, they may be eligible or may
2 be not. They may not be on the AB300 list and they may have
3 a building that could become eligible at some point in time.
4 The parameters were that wide.

5 But the matter of a superintendent going to the
6 board and saying we have this problem and I really don't
7 have any money for interim housing, I don't know what I'm
8 going to do with the kid. So that's a fundamental flaw in
9 the regulation that is current and we recommend and we wrote
10 a letter to the Board several months ago asking that the
11 regulations come back for reconsideration and review.

12 So that's one issue that we addressed.

13 A second issue that we addressed -- and this is a
14 communication again a year ago -- over a year ago -- we
15 asked that there be funding for the evaluations -- the
16 structural evaluations of buildings and that is not included
17 and there's an expectation the district's going to fund that
18 and come in and apply for funding.

19 If you took care of those two things, we believe
20 that you would have more applicants for this program.

21 The third thing we asked for -- and this was
22 probably the most difficult and, Mr. Sheehy, I spoke at some
23 length with your predecessor, Ms. Sheehan, about this, and I
24 indicated that if we have interim housing, if we allow for
25 the structural engineer's report to be paid for, and if we

1 create a list because we're going to run out of money if
2 this program is successful -- we create a list or a pipeline
3 of projects as we have done in the past in new construction
4 and modernization where districts could come in and say we
5 know you don't have any money left, but if you assure us of
6 funding in the future under the next bond, then we'll do
7 whatever we need to do. We'll take out a COP. We'll
8 borrow. We'll do whatever.

9 Our belief is that those three things which are
10 not in these current regulations are really critical to this
11 program.

12 Now, I have to say I have a great deal of respect
13 for Mr. Thorman and he and I spoke before this meeting. I
14 appreciate his actions and activities, the communications to
15 districts that he wants to further. We promise to assist
16 because people look at our Website and we're going to say
17 David Thorman, State Architect, is asking you to respond, so
18 we will encourage districts to do that.

19 So we're not wanting to stop anything that he is
20 doing, but we really believe that this is a flawed policy
21 and ask that you bring it back and revisit it. And thank
22 you very much for your kindness.

23 CHAIRPERSON SHEEHY: Thank you, Mr. Duffy. I have
24 a couple follow-up questions perhaps for you and/or for
25 Mr. Thorman or Mr. Cook.

1 Actually my first question would be addressed to
2 Mr. Cook and/or Mr. Thorman. What is the public policy
3 rationale for -- or what was and I suppose is the policy
4 rationale for excluding the interim housing from the
5 regulations? This is a 200 -- I understand this is a
6 \$200 million pot of money that was approved in Prop. 1D; is
7 that right?

8 MR. DUFFY: Yes.

9 CHAIRPERSON SHEEHY: Okay. So it was approved a
10 couple years ago. What is the -- first of all, was there
11 anything in the Proposition 1D that said you couldn't use
12 this money for interim housing and then secondly, when the
13 regulations were adopted, what was the public policy
14 rationale for excluding interim housing from those
15 regulations?

16 MR. COOK: This program was created in our
17 facility -- the area of law that's known as facility
18 hardship in that we have a standing program for facility
19 hardship. Ms. Valentine knows it inside and out.

20 But in facility hardship program longstanding,
21 there has been no interim housing included in that and there
22 were no additional dollars allocated for that.

23 Secondarily, with 199.5 million and a potentially
24 unknown level of exposure, that particular issue was -- you
25 know, was discussed at this Board when those regulations

1 were adopted and it was that we need to focus every dollar
2 we can on retrofitting the facilities with the limited
3 dollars that we have at our disposal.

4 And that is the same -- in fact all three of these
5 issues were considered by this body when those regulations
6 were adopted. And again the evaluations, there was an
7 estimate if all of the facilities that were -- I'm rusty on
8 the numbers. But if all of the facilities that appeared on
9 the AB300 list went forward with an evaluation against these
10 funds, the -- it would exhaust something on the order of
11 \$135 million without retrofitting a single facility.

12 MR. THORMAN: Excuse me. There's 7,500 projects
13 on the list.

14 CHAIRPERSON SHEEHY: Okay. Well, that's -- to me
15 that's sort of a chicken and egg issue. I mean, you know,
16 obviously we only had a \$200 million pot of money, but --
17 and, you know, we may or may not be able to get more money
18 in the future depending on what the Legislature, Governor,
19 and the voters of California can all agree to, but I want to
20 come back -- I mean the facility hardship program -- so it
21 never allowed interim housing as one of its options, but it
22 seems to me there's many different types of facility
23 hardships.

24 I don't pretend to know what they all are. There
25 are people in this room much smarter than I am that know all

1 of that, but it seems to me if you've got a building
2 that's -- could collapse in a seismic area, that's the type
3 of hardship that would really call for an interim housing
4 opportunity because what do you do if you're the
5 superintendent of a district and you find out that some
6 building or buildings are subject to catastrophic failure.
7 Do you just lie awake at night hoping that it doesn't happen
8 or do you take action to move your students out and I
9 just -- I guess I'm not completely comfortable with the
10 facility hardship program regulation answer that I heard.
11 It seems to me the seismic thing is a -- it's a zebra with
12 different stripes.

13 MR. COOK: Well, I mean there are certainly
14 degrees here, but facility hardship by their nature are
15 health and safety problems, health and safety issues that
16 require students to be moved out of a facility. Otherwise
17 they don't qualify as facility hardship. Seismic would be
18 one of those. Toxic mold would be another.

19 There are a number of different conditions that
20 can arise within a facility that make it --

21 CHAIRPERSON SHEEHY: So if there's a classroom
22 that has toxic mold, they don't -- they can't get any
23 assistance from the state in moving the students out into
24 some sort of interim housing? They have to stay in a
25 classroom with toxic mold? Is that part of the existing

1 regulations?

2 MR. COOK: The program under that is that they are
3 not given interim housing funding from the state. They are
4 given reconstruction money from the state.

5 CHAIRPERSON SHEEHY: I see. Okay.

6 MS. MORGAN: But if I may add also that --

7 CHAIRPERSON SHEEHY: Ms. Morgan.

8 MS. MORGAN: Thank you. For replacing a classroom
9 and you get a per pupil grant to do that under a facility
10 hardship whether it be for seismic program or facility
11 hardship. The per pupil grant allows you to spend it for
12 the project and interim housing would be an eligible
13 expenditure. The distinction here is that we don't give you
14 any additional line item for additional interim housing
15 funds.

16 CHAIRPERSON SHEEHY: That to me sounded like a
17 distinction without a difference. I'm not sure I --

18 MS. MORGAN: Well, if you were given \$3 million to
19 replace a building and part of that was to rent some
20 portables while you took the kids out and rebuilt it, you
21 can use part of that \$3 million for that purpose, but we
22 don't give you \$3 million plus \$50,000 more to --

23 CHAIRPERSON SHEEHY: All right. So it has to come
24 out of the existing funding on the per pupil grant formula
25 is what you're telling me.

1 MS. MORGAN: Yes.

2 MR. COOK: Um-hmm.

3 CHAIRPERSON SHEEHY: I see. Okay. I've got a
4 couple more things I'd like to follow up on. Now, Mr. Duffy
5 mentioned the evaluation funding which of course is critical
6 to get to your third point, which was creating a list or a
7 pipeline. You can't create a pipeline if you haven't done
8 the evaluation; right?

9 Now I know there are other state programs, for
10 example, the Brownfield Program that was authorized in
11 Prop. 1C that made funds available and -- I'm using this as
12 an example. Maybe it could be a model for this program to
13 look at in the future.

14 In that Prop. 1C Brownfield's funding, the CPCFA,
15 the California Pollution Control Financing Authority, that's
16 under Mr. Lockyer's purview, they're the entity that runs
17 that program and they actually make grants available to do
18 an evaluation to see what sort of Brownfield cleanup is
19 necessary.

20 Now if the folks that get that grant choose not to
21 clean up, then they ultimately have to pay that funding back
22 and they have terms -- flexible terms, but on the other
23 hand, if they do end up doing the cleanup, then that money
24 is granted to them. If they have a successful grant in the
25 state program, then they get that as part of their grant.

1 And I think the policy rationale there was that if
2 we want to do Brownfield cleanup, let's not stifle people
3 from determining the extent of their problem if they don't
4 have the funds right on hand right away to see what it is.

5 Is that a model that could be looked at with the
6 seismic funding consistent with what Mr. Duffy described?

7 MR. COOK: We'd have to look at that. What I --
8 this program was modeled after -- as it exists in statute
9 under facility hardship. It was modeled after our facility
10 hardship approach, which would include -- we have districts
11 who come forward, for example, for toxic mold.

12 Somebody has someone come in and evaluate a
13 facility. If they find that they have a problem and it
14 creates a health and safety issue, they're eligible to come
15 forward to this program for funding. If they evaluate that
16 facility and find that they don't have a problem, there is
17 not further application.

18 That's the model that we adopted in seismic as
19 well. If you examine a facility, turn out that you don't
20 have an issue, we don't pay for the seismic evaluation.

21 CHAIRPERSON SHEEHY: So then in order to make
22 funding available to do evaluations of some of these
23 buildings for seismic upgrades and repairs, that would
24 require what, a regulatory change? A change in regs or is
25 it a statutory issue?

1 MR. COOK: Yeah. It's regulatory.

2 CHAIRPERSON SHEEHY: It's regulatory. Okay. And
3 then finally I would just say that I think the value -- one
4 of the values -- and perhaps this is what Mr. Duffy would
5 drive to ultimately in creating a list or a pipeline is if
6 we want the Legislature to work with the Governor in
7 crafting funding for seismic retrofit in a future bond, it
8 would be helpful I would imagine to the legislators and to
9 the Governor to know what's an appropriate amount of money,
10 and it seems to me it's very difficult other than just
11 taking a guess to know what pot of money to come up with or
12 recommend unless there has been some sort of pipeline
13 created and there are more evaluations done.

14 And so I, just speaking for myself now, could see
15 some value in that so I think that's something that we
16 should think about and have more discussion about here and
17 in other venues.

18 Mr. Harvey.

19 MR. HARVEY: Couple things on the structural
20 engineering report that currently as I understand it is not
21 paid for by any of these bond monies you fronted as a
22 district and then I presume -- do you get the money back if
23 you're funded?

24 MR. COOK: Correct.

25 MR. HARVEY: And so -- two questions. What is the

1 magnitude of the cost?

2 MR. COOK: That is probably a range of, if I know
3 the figures well enough, about 8,000 to maybe \$16,000.

4 MR. HARVEY: So if it's an impediment and an
5 obstacle, it's not a huge number on an individual basis.
6 We'd have to get an idea of what it may be collectively.

7 I'd encourage both you and Mr. Thorman to take a
8 look at pursuing perhaps a loan approach from the
9 infrastructure bank, another entity in state government
10 which creates opportunities and loans money for
11 infrastructure, and maybe something could be crafted whereby
12 they would front the money for that review and then over
13 time, the district pay it back. So another way of maybe
14 getting at this without having to change our regulations.

15 And on the final pipeline issue, I generally would
16 be very, very supportive of a pipeline. However, I'm
17 wondering if having a valid AB300 updated report is better
18 because I'd like to know whether or not we create liability
19 for districts if you say, oh, here's the problem, but guess
20 what, you're going to have to wait for maybe a bond to pass
21 and the voters have to do it and, whoops, in the meantime,
22 you can be attacked I assume by someone for acknowledging a
23 problem and then not taking care of it.

24 So I would be a little cautious of pipelines
25 per se. I guess we'd have to define what we mean by

1 pipeline.

2 CHAIRPERSON SHEEHY: I don't know. I think
3 Mr. Nanjo could comment on this, but it seems to me hard to
4 be believe that a school would be held liable for an
5 earthquake situation if they didn't have the money to do the
6 work. I mean it's one thing if you've got the problem
7 identified and you've got the money, but if you don't have
8 the money, I mean, you know, State of California, you know,
9 had liability for a long time on its bridges and overpasses,
10 but we didn't have the money to fix them.

11 And then you had the Loma Prieta earthquake. We
12 had a quarter cent sales tax to help deal with that and then
13 also to help pay for seismic retrofit in the State of
14 California, we got the voters to approve some bond money so
15 that Caltrans could go out and seismically retrofit all the
16 bridges and everything.

17 I mean, you know, once we had the money and the
18 voters approved the funding, then it seems to me if Caltrans
19 hadn't gone out and done the work, there'd be a tremendous
20 amount of liability there, but if you don't have the money,
21 what do you do? Mr. Nanjo, do you want --

22 MR. NANJO: Well, and the question for each
23 individual school district honestly is whether or not they
24 actually have the money or not. The difficulty is depending
25 on the let's say creativity and aggressiveness of your

1 plaintiffs, just because the school district may not -- you
2 know, it appears that they don't have money without cutting
3 other fundamental programs, depending on the facts of the
4 individual situation, there could be liability even without
5 adequate cash flow for those particular projects. So that's
6 a very difficult situation the school districts are in.

7 CHAIRPERSON SHEEHY: I see. Okay. Now, I know we
8 have -- Mr. Duffy, did you get to make all your comments?

9 MR. DUFFY: Thank you very much. Yes.

10 CHAIRPERSON SHEEHY: You're welcome. Now I know
11 we have additional public comment. Please identify yourself
12 for the record.

13 MS. BROWN: Good afternoon. I'm Margaret Brown,
14 Assistant Superintendent for the San Ramon Valley Unified
15 School District in Contra Costa County. I'm a neighbor of
16 Bill Savage in West Contra Costa to my north.

17 And I truly believe that all school districts
18 would like to make their school buildings safer for students
19 and teachers and I think the Seismic Mitigation Program is
20 an excellent way in helping us make those schools safer.

21 But the primary barriers for school districts to
22 access these funds is fear of liability. It's huge. And a
23 very stringent definition of most vulnerable of buildings.

24 In San Ramon Valley, we had a building listed on
25 the AB300 list. We did the first seismic evaluation and it

1 came back pretty bad. We did a subsequent seismic
2 evaluation and it said, boy, it's in really bad shape, but
3 have a (indiscernible). So I go out and do some borings and
4 check the liquefaction, you've got a big problem, and those
5 reports came back end of February and said that the building
6 was in danger of a catastrophic collapse in the event of a
7 serious earthquake.

8 We're right on the Calaveras fault which connects
9 to the Hayward fault. So as Mr. Duffy was saying earlier, I
10 had the pleasure of going in to my school board saying I had
11 a report that said I have a gymnasium that's in danger of a
12 catastrophic collapse. So we closed the gymnasium mid
13 basketball season. Very popular thing to do at San Ramon
14 High where we have the number -- we have like the number one
15 basketball team. So very popular for me to do.

16 But we did it because it had to be done. We also
17 had the funds though to put on portables, to put portable
18 shower, lockers, to move the coaches into storage. I mean
19 we just packed it up, threw on the portables, and did it
20 because in San Ramon Valley, we have a bond measure and part
21 of that is -- there's a little language that says anything
22 that's safety -- you know, safety -- as a safety, but this
23 truly was safety so we could take and divert those bond
24 funds for interim housing.

25 Most school districts don't have that available to

1 them and it's pretty dangerous out there for school
2 districts to have these reports and then not be able to do
3 anything. I'm not a lawyer, but, you know, we're always in
4 fear of being sued. We are. We're always in fear.

5 And more importantly, we're fearful for our
6 students and our teachers that have to enter that building
7 and it's pretty darn scary.

8 So we did all the reports and we put together this
9 great application to the state. We actually tore down our
10 gym over the summer because we didn't want anybody
11 accidentally moving in. Coaches are notorious. There's an
12 empty space and they'll move in there for all their
13 equipment. So we didn't want anybody in the gym so we tore
14 it down.

15 But what we found out was because of the stringent
16 definition of what qualifies as a building for this program,
17 we didn't qualify. We had the right type of building,
18 precast concrete, but we don't have the right ground shaking
19 motion.

20 Under the state's criteria in their regulations,
21 you have to shake at 1.7 and we only shake at 1.685. So --

22 CHAIRPERSON SHEEHY: Sorry. Could you please
23 repeat that. I don't think I heard you correctly.

24 MS. BROWN: You have to shake at 1.7. Your ground
25 has to shake 1.7 or higher and we only shake at 1.685. I

1 have three reports that say that that building will fall
2 down, complete catastrophic collapse. The roof will pancake
3 down, but I don't qualify for seismic funds because you have
4 to be at 1.7 and I'm 1.685. So something needs to change.

5 CHAIRPERSON SHEEHY: Mr. Harvey.

6 MR. HARVEY: I have a process question. What is
7 to keep a district from applying for funds at anything under
8 1.7, say 1.685, you deny it because it doesn't meet the
9 regulations, they appeal it. We then would have the right
10 to determine whether or not that should be funded. Is that
11 not a possible scenario?

12 MR. NANJO: Stepping in as your legal counsel, if
13 you have set a regulation, you cannot take an action in
14 violation of your regulation without changing your
15 regulations. So that would be something that would prohibit
16 us from --

17 CHAIRPERSON SHEEHY: We'd be acting outside of our
18 authority, wouldn't we.

19 MR. NANJO: Well, yes. Correct.

20 MS. BROWN: How about if we apply --

21 CHAIRPERSON SHEEHY: This Board's been down that
22 road recently.

23 MR. HARVEY: Well, I tried.

24 MS. BROWN: Yeah. We want to look at rounding,
25 you know, things that we do in math.

1 CHAIRPERSON SHEEHY: Ms. Brown --

2 MS. BROWN: Sorry.

3 CHAIRPERSON SHEEHY: You mentioned you're not an
4 attorney, but I -- you'd be a darned good one. But I have
5 to believe you're a Delbert McClinton fan; is that true?

6 MS. BROWN: Sure. Yes.

7 CHAIRPERSON SHEEHY: Yeah, I knew that. I knew
8 that had to be the case because it reminds me of that
9 Delbert McClinton song he made so famous I'm Standing on
10 Shaky Ground Ever Since You Let Me Down.

11 Ms. Moore has some questions.

12 MS. MOORE: I don't have a question. I just have
13 a suggestion and that is -- but maybe Mr. Tao wants to speak
14 before I do that, so -- this is kind of -- wrap us up here.

15 CHAIRPERSON SHEEHY: Ms. Brown, did you have
16 additional --

17 MS. BROWN: Yeah. I just want to make one final
18 point. While we joke about it, we're very fortunate in
19 San Ramon Valley that our bond measure had money and we
20 diverted it from other projects to provide interim housing
21 and do this, but most districts are not that fortunate and
22 we're moving forward with the plans and we're going to
23 appeal and you'll see me back here several times and we're
24 going to appeal it because we think that this project should
25 be funded.

1 And we'll be back here, but there are districts
2 who don't even want the report because once they get the
3 report, they don't have any ways to do something, to take
4 some action, and that's I think the big -- I think that's
5 the biggest barrier of all.

6 CHAIRPERSON SHEEHY: I just want to say in all
7 seriousness -- I was trying to add a little levity. This is
8 a very serious situation. I'm pleased to see that you're
9 taking a proactive approach. You're obviously trying to get
10 the situation addressed. I can certainly feel and
11 understand and empathetic with your frustration over the --
12 your rating at 1.685. That's a very -- that's really
13 splitting hairs there.

14 But it is what it is and I appreciate your
15 testimony today.

16 MS. BROWN: Thank you.

17 CHAIRPERSON SHEEHY: Perhaps we can work with you
18 and other districts going forward to find ways to make the
19 seismic program work more effectively or more efficiently.

20 Mr. Tao, did you want to address the Board?

21 Oh, I'm sorry. Mr. Tao and then Ms. Brownley.

22 MR. TAO: Thank you very much. I could talk all
23 day about this particular program, but --

24 CHAIRPERSON SHEEHY: Please don't.

25 MR. TAO: -- I'm not. The -- I was not actually

1 planning on speaking today, but we represent quite a few
2 school districts that are actually looking at their AB300
3 list, have completed their analysis.

4 Many of the schools that are listed on the AB300
5 list are actual schools that exist that are unsafe. And in
6 the analysis that's been performed by many of the school
7 districts that we have, there's no way that they could meet
8 the criteria that have been set by the Office of Public
9 School Construction we are submitting to DSA and OPSC
10 because there's a peculiarity in the law and that's the
11 reason I came up.

12 And I would urge an unfunded list because of the
13 peculiarity in the law.

14 During the 1950s and '60s, there were a number of
15 Attorney General opinions that were created because of the
16 buildings that were pre-Field Act that needed to be taken
17 out of circulation. The Attorney General opinions continue
18 to be good law and they are extraordinarily problematic and
19 I'll tell you what the Attorney General opinions are.

20 There's 24 opinions of the Attorney General 155
21 which says a board member who takes steps to correct an
22 unsafe condition that is overruled by the rest of their
23 board members in order to correct an unsafe condition for an
24 earthquake -- unsafe structure could be subject to personal
25 liability.

1 There is another opinion of the Attorney General,
2 43 opinions of the Attorney General 209 that says that that
3 same board member and all of the board members of that board
4 could be hit with punitive damages.

5 There's also a third Attorney General opinion, 24
6 opinions of the Attorney --

7 CHAIRPERSON SHEEHY: I'm sorry, Mr. Tau. Are you
8 referring to this Board?

9 MR. TAO: No, no.

10 CHAIRPERSON SHEEHY: You're referring to local
11 school boards?

12 MR. TAO: Local school boards. Now, the law gets
13 interesting. What happens is if an appeal is made for
14 funding and the funding is turned down, the law shifts and
15 design immunity reattaches. So the personal liability of
16 the school board members disappears.

17 This -- all these Attorney General opinions then
18 essentially go away as far as personal liability is
19 concerned for those individual school board members.

20 So what we believe is it's extraordinarily
21 important to create an unfunded list which is probably a
22 little different than what it is that the Office of Public
23 School Construction is really looking at, but there's a
24 significant liability issue for local school board members
25 under these Attorney General opinions and the loss of design

1 immunity.

2 What essentially happened was AB300 was originally
3 supposed to be a private list and as a private list, it was
4 not going to trigger any liability issues. Unfortunately,
5 that private list became public when it was given to a
6 newspaper accidentally and when it was given to a newspaper
7 accidentally, it became a public list and all those
8 buildings became open to potentially not having design
9 immunity anymore, those buildings, many of which have been
10 checked for the school districts that we represent and
11 almost all of -- many of which are unsafe.

12 So we would urge the Board to actually consider
13 using the criteria under AB300 rather than the ratcheted up
14 criteria and there are a couple of issues with the ratcheted
15 up criteria.

16 The Category 2, the most vulnerable Category 2
17 buildings is only four structures out of, if I'm not
18 mistaken, 28. Two of those structures, most of which are
19 out of existence. The unreinforced masonry, almost all of
20 those are gone. The concrete tilt-up buildings, almost all
21 of those were taken out of circulation in the 1990s. So
22 there are only two categories that really apply.

23 I'll give an example. I have a school district
24 right now. 2.2 ground shaking doesn't qualify. Thank you.

25 CHAIRPERSON SHEEHY: Thank you, Mr. Tao. So you

1 are in support of -- it sounds to me like you're in support
2 of creating a pipeline.

3 MR. TAO: Yes.

4 CHAIRPERSON SHEEHY: Thank you. Ms. Brownley.

5 ASSEMBLY MEMBER BROWNLEY: Yes. I just wanted
6 to -- I don't have a question but a comment and that is to
7 sit here and listen to this testimony is -- and safety, you
8 know, in my mind and I think probably everybody's mind in
9 this room is paramount. Safety is the first piece of
10 discussion not in my opinion liabilities and other kinds of
11 things, but, you know, how are we going to make our children
12 safe at school is paramount.

13 So having heard the testimony, having heard the
14 fact that when Mr. Duffy testified, he gave three
15 recommendations which I understood could be fixed if we
16 wanted it to be fixed by regulations. I presume the fourth
17 issue that was presented by the superintendent from
18 San Ramon is something that also can be fixed by regulation
19 and recognizing that, I think it's incumbent on this Board
20 to pursue action in terms of trying to fix the regulations
21 and sooner versus later.

22 CHAIRPERSON SHEEHY: Thank you, Ms. Brownley.
23 Ms. Moore, did you have some thoughts? Would you help us
24 wrap this item up for today.

25 MS. MOORE: I -- she --

1 CHAIRPERSON SHEEHY: Ms. Brownley I think and
2 Ms. Moore are on the same page here.

3 MS. MOORE: She spoke my thoughts. I -- it is a
4 very serious issue. I think the fact that we have one
5 application in two years, we do -- it's appropriate for the
6 Board to look at the issue again. Perhaps we are too
7 stringent.

8 I think that all four points made, interim
9 housing, funding of evaluations, creating a list, and ground
10 motion issue, should come back to the Board. We fund
11 evaluations all the time in this program, particularly
12 geotechnical. This is another one that we need to fund and
13 I think by not funding that, we create a climate of
14 ignorance and that's not good for school districts or
15 students or staff.

16 So I'd like to see back at the next Board those
17 four issues, the staff's pros and cons on them, and the
18 ability of the Board to make decisions concerning them.

19 CHAIRPERSON SHEEHY: Ms. Moore, I have no issue
20 with anything you just suggested. I would like to
21 double-check with Mr. Cook and the Office though to see if
22 bringing back the report at the next meeting gives them
23 enough time to do a thorough review. Mr. Cook, could you
24 comment on that, please.

25 MR. COOK: Yeah. A couple of comments. One --

1 and as Assemblywoman Brownley has indicated, health and
2 safety is of utmost concern and I will tell you that our
3 regulations would look very different if the pot of money
4 was 2 billion versus less than 200 million.

5 And literally it's the tight pool of money that
6 has -- the statute obligates us to take care of the worst
7 first and that's why the regulations are as tightly drawn.
8 And while, with exception of I think Kathleen and maybe
9 Rose, the rest of you weren't present when those issues were
10 discussed, but that's how we got to where we are.

11 And that said, based on new information, which
12 we're hoping to get out of an updated AB300 list, we may
13 find that the criteria can be changed, altered, and perhaps
14 modified based on better information.

15 CHAIRPERSON SHEEHY: Well, I think -- I appreciate
16 that, Mr. Cook, but I think that -- it's always helpful --
17 certainly not harmful on any level to go back and take
18 another look at these issues. You've got several Board
19 members here that -- I think that would like to see some of
20 the pros and cons on these issues and have a further
21 discussion on this to see if they want to have some action
22 taken.

23 MR. COOK: Oh, don't take my comments as saying we
24 aren't going to --

25 CHAIRPERSON SHEEHY: All right. No.

1 MR. COOK: -- at all. It's just that there are
2 some considerations. I would love to see additional
3 information coming in from districts on an updated AB300
4 list. I think that will inform the discussion greatly.

5 CHAIRPERSON SHEEHY: Now therefore was January the
6 appropriate time or would it be more appropriate in
7 February? I want to make sure that there's sufficient time
8 for a complete analysis and evaluation of the pros and cons
9 of these different items.

10 MR. COOK: Yeah. Based on that, February would be
11 easier for us to accomplish.

12 CHAIRPERSON SHEEHY: Okay.

13 MR. THORMAN: If I could comment.

14 CHAIRPERSON SHEEHY: Yes.

15 MR. THORMAN: By February, we'll have a lot more
16 information. We'll be able to project better in terms of
17 what the true situation is. We should have a lot more
18 feedback in terms of AB300 plus these projects that we're
19 pursuing now, we'll know a lot better in terms of whether
20 they're going to submit or not and that'll give us some
21 percentages to look at.

22 CHAIRPERSON SHEEHY: Okay, Mr. Thorman. Yes,
23 Ms. Brownley.

24 ASSEMBLY MEMBER BROWNLEY: Well, I would -- you
25 know, my opinion on this, I would prefer to agendize it

1 earlier versus later, even with the understanding that we
2 might not be addressing the whole picture, but we could
3 begin to address the component pieces. We would also have
4 the opportunity for others to weigh in on this issue, but I
5 feel as though that this is a matter of urgency and I think
6 it's incumbent on us to begin to act quickly.

7 Now I want to act smartly, but I think that there
8 are pieces of this that we can, you know, start to work on
9 and begin the discussions.

10 CHAIRPERSON SHEEHY: Mr. Cook, having heard
11 Ms. Brownley's request, would it be possible to sort of,
12 using the terminology, chunk this out and maybe pick some
13 elements that we could agendize and hear in January and then
14 with the idea of being that you may not be able to address
15 all of it and get to some of it in February? Is that
16 possible?

17 ASSEMBLY MEMBER BROWNLEY: I was a school board
18 member during the Northridge earthquake and so was the
19 president of a school board when we had an earthquake. So
20 I'm very sensitive to these issues. Not that I'm more
21 sensitive than anybody else is, but I have had the
22 experience of an earthquake and have seen buildings
23 significantly damaged, so --

24 MR. COOK: We could probably break out a few of
25 these items and have a discussion at our January Board. I

1 don't think we -- ideally I would -- there are pieces of
2 this that the information is in districts' hands and a
3 little bit of time on some of them is --

4 CHAIRPERSON SHEEHY: Well, with the understanding
5 that you don't have a crystal ball and you can't materialize
6 the data and information that you need, why don't you see
7 what you can do. I think Ms. Brownley makes an excellent
8 point. I'm in agreement with the points that Ms. Moore made
9 and I -- but I do have one follow-up question and I must
10 profess my lack of knowledge.

11 I understand all the issues here we're asking you
12 to look at, the interim housing regulation, the funding for
13 evaluations which is necessary in my mind anyways in order
14 to create a list or a pipeline, but I'm not sure I
15 understand the ground motion issue, what that is.

16 MS. MOORE: That and I'll defer to Mr. Thorman,
17 but that is exactly what Ms. --

18 CHAIRPERSON SHEEHY: Ms. Brown?

19 MS. MOORE: -- Margie Brown was talking about. At
20 1.7, she was --

21 CHAIRPERSON SHEEHY: Denied.

22 MS. MOORE: -- she was denied and yet she has a
23 facility that will collapse. So I think we need to take a
24 look at that and I know that the objective was to -- we were
25 kind of trying to shoehorn the most egregious projects into

1 the funding, but I think it behooves us to not be so
2 stringent and to capture as many projects as possible to
3 move forward on this and I think that it's going to affect
4 another bond measure and that's the issue.

5 CHAIRPERSON SHEEHY: So the ground motion issue is
6 what? It's that at a certain seismic scale, what's the
7 threshold for damage?

8 MS. MOORE: We've created a regulatory threshold
9 level that I think we need to look at because we just had
10 evidence that that level may not get us what we want.

11 ASSEMBLY MEMBER BROWNLEY: And it also sounds like
12 you could have a ground shaking level that is -- far exceeds
13 the standard but miss another criteria and then not be
14 acceptable.

15 CHAIRPERSON SHEEHY: Okay. All right. Yes,
16 Mr. Harvey and then Ms. Morgan.

17 MR. HARVEY: On that point, it seems to me if
18 we're looking at the regulation, we need to look at it
19 instantly and we heard evidence of a 2.2, but because of
20 building type didn't match, they were not qualified either.
21 And if it's true that we have selected building type
22 Category 2 where two of the four types are not really
23 germane, I think building type is again something we should
24 evaluate.

25 All the criteria in my mind needs to come to us in

1 chunks.

2 CHAIRPERSON SHEEHY: And that's consistent with
3 what Ms. Brownley just said. Rob.

4 MR. COOK: The Category 2 issue is laid out in
5 statute. That is not a part of our regulations.

6 CHAIRPERSON SHEEHY: Fine.

7 MR. COOK: And we can discuss that.

8 CHAIRPERSON SHEEHY: On issues like that where
9 they're laid out in statute, we can still discuss that
10 because we may find --

11 ASSEMBLY MEMBER BROWNLEY: We need to identify
12 that.

13 CHAIRPERSON SHEEHY: -- interest in the
14 Legislature in addressing that and so I don't think that
15 should preclude us from looking at those issues.
16 Ms. Morgan.

17 MS. MORGAN: One last point, I'd like to encourage
18 all of the districts that feel that they have a G force rate
19 that is very close to the 1.7 to contact the Division of
20 State Architect. There was one district in particular that
21 thought that they had one that was not 1.7 and then once
22 they went through some calculations found out that they
23 indeed did qualify and seven facilities became available for
24 filing for funding.

25 And so there is a bulletin, if I'm not mistaken,

1 Mr. Thorman, that DSA either just issued or will be that
2 explains that explanation of how to go about determining the
3 G force, but it makes a very kind offer to have everybody
4 contact them and they'll do the calculations.

5 CHAIRPERSON SHEEHY: Okay. Excellent. Thank you,
6 Ms. Morgan. You know, this is not an action item. We've
7 had extensive discussion on this. I would like a quick
8 **legislative update**, please.

9 MR. COOK: Juan Mireles, head of our policy and
10 specials unit.

11 CHAIRPERSON SHEEHY: Mr. Mireles.

12 MR. MIRELES: Mr. Chair, members of the Board,
13 this report was created to give the Board an update on
14 recently chaptered legislation that may impact programs
15 administered by the Board.

16 Staff has included preliminary comments on each of
17 the bills. So far we have identified two bills that may
18 require regulatory changes. Those two bills are Senate
19 Bill 658 which phases out the year-round school grant
20 program and Senate Bill 1556 which allows certain elementary
21 school districts to use existing high schools in its area
22 boundaries for purposes of determining construction
23 eligibility.

24 Staff is planning to present any proposed
25 regulations to the Implementation Committee prior to

1 bringing them before you for your review and approval. So
2 again this is just a report for informational purposes.

3 With that, I'd be happy to answer any questions.

4 CHAIRPERSON SHEEHY: Are there any questions of
5 the committee -- Mr. Mireles? Any public comment on this
6 item?

7 Now, we're approaching the end of this meeting. I
8 know there are some additional issues that some members of
9 the public would like to talk about and I know one of them
10 at least is a very important issue. Mr. Duffy, did you want
11 to come address the Board?

12 MR. DUFFY: Yes. Thank you, Mr. Chair.

13 CHAIRPERSON SHEEHY: Certainly.

14 MR. DUFFY: Again Tom Duffy for C.A.S.H. We have
15 a significant problem in California that certainly the
16 Legislature and the administration is aware of and the state
17 superintendent and it's a cash flow problem. That cash flow
18 problem we know is going to impact this program. So that
19 you as a Board may take action to make apportionments, but
20 those apportionments have no money behind them.

21 School districts under the rules and regulations
22 of this body have to sign a contract in order to seek the
23 funding. So your apportionment ends in a contract and if a
24 school district signs a contract and you have no funds to
25 give them, we have significant problems.

1 You also have some time limits on this program so
2 that the district is approved and must move forward in a
3 timely manner in order to preserve their project.

4 You and I have talked many times, Mr. Sheehy,
5 about if I bring a problem to the Board I would also offer a
6 solution and what I'd like to do is to work with you, work
7 with your staff to communicate with school districts. We
8 can certainly do it through the C.A.S.H. Website and emails
9 and we can do it rather quickly.

10 But I don't think districts are aware of the
11 crisis that is here for us today and I -- Mr. Sheehy and I
12 had a very direct conversation on the floor of the
13 convention about this and I always appreciate his directness
14 with me and I'm always going to be that way with him and
15 that is we don't want people to get into trouble.

16 So I would ask that you ask your staff to work
17 with us so that we can communicate directly with the school
18 districts and tell me them to stop and think before they
19 move forward with anything today.

20 The other thing I would like is to ask --

21 CHAIRPERSON SHEEHY: I'm sorry. You just --

22 MR. DUFFY: Yes.

23 CHAIRPERSON SHEEHY: -- you got to your key point
24 and you sort of sped up and you tailed off.

25 MR. DUFFY: Okay.

1 CHAIRPERSON SHEEHY: You would ask what?

2 MR. DUFFY: I would ask that your staff work with
3 us in order to communicate that there may not be funds to
4 back apportionments that are made by the Board.

5 CHAIRPERSON SHEEHY: Okay. All right. Now, can
6 we just take that one for a moment, please.

7 That's a perfectly reasonable request, Mr. Duffy,
8 and I think that your concern is spot on and I think it's an
9 accurate assessment. The state -- it's not secret that the
10 State of California not only has a severe -- really just
11 terribly severe budget problem, both in the current fiscal
12 year and it's a terrible problem projected for the next
13 fiscal year, but on top of that, we are also entering just a
14 very severe cash flow crisis.

15 In fact as I sit here today, I think it's accurate
16 to say -- maybe the State Controller's office would correct
17 me, but I think it's correct to say there's not a single
18 dime -- not one dime -- not one penny left in the state
19 general fund. It is completely drained empty.

20 We're operating on borrowed funds from special
21 funds like the state highway account, the motor vehicle
22 account, and other special funds right now as well as
23 borrowed funds from the general public and some institutions
24 that invested in the RAN that was so successfully offered by
25 the Treasurer earlier this year.

1 And it has been publicly stated by the Treasurer
2 that given the state's cash position, California may in fact
3 not be in a position to market its securities and if the
4 Treasurer is accurate in that assessment -- I have no reason
5 to believe that he's not. If he's accurate in that
6 position, then that has a lot of implications on state
7 construction programs of which the school construction
8 program is one.

9 So I think your -- all of your concerns and
10 comments are very appropriate and timely. That said, I
11 don't think it's appropriate at this time to get out in
12 front of the State Treasurer or the Controller or the
13 Director of Finance, my boss, and I certainly don't want to
14 prejudge what the Legislature will do this month.

15 The Governor does have a set of proposals that
16 he's presented to the new Legislature. He has called a
17 special session. The Speaker and the Pro Tem have organized
18 for that special session and are actively working with the
19 Governor and with administration staff to see what proposals
20 can be enacted.

21 I think it's fair to say we're all hopeful that
22 there'll be action taken sooner rather than later. So
23 because the Treasurer has not taken any official action with
24 respect to the Pooled Money Investment Board and their
25 policy of loaning funds for projects and because the

1 Legislature is still actively working on the proposals that
2 the Governor has made, I'm not sure the timing is right for
3 the Office of Public School Construction to engage in the
4 way -- at this particular juncture, to engage in going out
5 to school districts and doing notification.

6 So with all due respect, while I share your
7 concern and I think as I've said several times now it's
8 accurate, I'm not quite sure that I would recommend that we
9 do that yet.

10 There will be a Pooled Money Investment Board
11 meeting a week from today on December 17th. I understand
12 that the Treasurer, Controller, and the Director of Finance
13 are going to have a public meeting on this very subject.
14 It's going to be a thorough discussion of all the issues
15 surrounding state public works projects, including the
16 school construction program, and I think that we really need
17 to wait and see what the Treasurer, Controller, and Director
18 of Finance have to say at that meeting, what the staff
19 analysis shows, and see what if any actions they take.

20 Perhaps after that meeting takes place on
21 December 17th, we may want to reevaluate the recommendation
22 that Mr. Duffy's made today as far as doing outreach to
23 schools and I -- you have my commitment as the Chair of this
24 committee that I'd be pleased to work -- well, please is the
25 wrong word -- I have no hesitation to work with the

1 Executive Officer of the Office of Public School
2 Construction, his staff to do anything and everything in our
3 power to make sure school districts understand what's going
4 on.

5 So this is a very friendly thank you, but I can't
6 go along with your request at this time, Mr. Duffy.

7 MR. DUFFY: And I understand.

8 CHAIRPERSON SHEEHY: I'm sorry. Ms. -- Rosario.

9 MS. GIRARD: I have just -- I understand the
10 concern being contractor, but I also know that -- I think
11 that maybe a place to protect the schools should they -- is
12 to go to their attorneys and get -- there are clauses in
13 these that you can cancel for convenience. That's a clause
14 that's in every one of my contracts.

15 So there is a way of protecting the schools and
16 they need to know that they can be protected from liability
17 there.

18 MR. DUFFY: Yes.

19 MS. GIRARD: And there's also within the contract
20 language that you could also put that the contract is based
21 on project funding. I also have those kind of contracts
22 with the government, so I clearly know that that kind of
23 language could be in there which doesn't bind anybody to
24 you. It's -- I know it's difficult because everybody wants
25 to know when I have a contract, I have a contract, but under

1 these type of situations that we have today, the schools
2 have to know there is a way of protecting themselves from --

3 MR. DUFFY: You're absolutely correct. Mr. Cook
4 and I had conversation about that just last evening that --
5 but that's part of the communication I'm talking about and,
6 Mr. Sheehy, you're very polite and very kind in listening
7 and I appreciate your response and I understand structures
8 of government. You don't control them all.

9 We will communicate with districts basically about
10 my communication to the Board. And may I just ask one other
11 thing for a moment.

12 CHAIRPERSON SHEEHY: Yes, Mr. Duffy. Please.

13 MR. DUFFY: The structures of the program, the
14 time limits and the like, at the appropriate time, it would
15 be helpful to ask your staff to look at those. If indeed we
16 end up with the problem that I am worried about, if there
17 are ways for us to assist districts so as not to collide
18 with law and regulation, the 18 months is in statute.
19 That's a real live thing.

20 If a district's not able to go -- if a district's
21 at the end of the 18 months right now -- they're at month 17
22 and they're not going to go forward because of -- they're
23 worried that the state doesn't have any money, what do we do
24 about that, so --

25 CHAIRPERSON SHEEHY: All right. I think --

1 Mr. Duffy, I think that's an excellent recommendation. I'm
2 wondering if the other Board members would agree. I'm going
3 to make -- I don't know if this needs to be a motion, but I
4 want to express an action for the OPSC to see if this is
5 agreeable to the Board members here.

6 Mr. Cook --

7 MR. COOK: Um-hmm.

8 CHAIRPERSON SHEEHY: -- in the event that the
9 Pooled Money Investment Board next week -- the meeting I
10 already described -- takes action to stop interim loans for
11 state public works projects which would impact this
12 program -- if that happens. I'm not saying it will happen.
13 I don't know. But if that happens and also if therefore the
14 Legislature is not successful -- were not able for whatever
15 reason in implementing either the Governor's proposals or
16 their own proposals that would get us to the same place
17 fiscally -- in other words, if we end -- if we get, you
18 know, to the end of December and we haven't had the type of
19 action that constitutional officers have called for on the
20 state budget, then I think it would be very appropriate to
21 have agendized for the January agenda recommendations from
22 OPSC that the State Allocation Board could consider on any
23 regulatory changes that would be necessary in order to
24 address some of the issues that Mr. Duffy has raised.

25 And as I understand you, those issues would be

1 things like the requirements -- when an application is made,
2 there is a certain number of days you have to get to
3 construction and all the various milestones that we follow
4 in this program when things are working normally, we might
5 need to make some adjustments to them.

6 Ms. Brownley.

7 ASSEMBLY MEMBER BROWNLEY: I certainly concur with
8 that and would just make one further suggestion and again I
9 hope certainly the two legislators sitting here who fully
10 understand the urgency of the Legislature addressing the
11 budget so that these things that we are fearful of will not
12 happen, but I think in the event that -- yeah, I mean I
13 think that we should have plans in place. So I think what
14 the Chair has just presented is a good one.

15 I would just want to add a little more
16 contingency, understanding that if we don't come back in
17 January, there's -- you know, there's a time frame up here
18 of what -- at the outcome of the meeting the way you've
19 described it happens on the 17th or 18th, whenever it is, and
20 from -- you know, the time frame between our next meeting
21 that the Chair along with OPSC could get together and decide
22 of some contingency plans in terms of informing school
23 districts what -- you know, what they should do under those
24 circumstances.

25 And certainly -- I'm not familiar enough with this

1 Board -- I haven't been on it long enough to know if we can
2 do something like that, to give you the authority to take
3 action on that in the event that it does happen.

4 CHAIRPERSON SHEEHY: That's an excellent
5 suggestion, Ms. Brownley.

6 Rob, our next meeting is scheduled for the 28th of
7 January; is that correct?

8 MR. COOK: That's correct.

9 CHAIRPERSON SHEEHY: Okay. So therefore under
10 Bagley-Keene -- which we operate under, right -- we have ten
11 days. Right? We have to ten-day notification; right?

12 MR. COOK: Um-hmm.

13 CHAIRPERSON SHEEHY: Okay. So then I'm going to
14 change my request from -- consistent with what Ms. Brownley
15 said because then we really will be in an emergency
16 situation.

17 MR. COOK: Um-hmm.

18 CHAIRPERSON SHEEHY: Well, maybe that's too strong
19 of a word. We'll be in a very serious situation vis-à-vis
20 the school districts and the school construction program --
21 school facilities program.

22 Therefore if we get to the end of December and the
23 contingencies I think Ms. Brownley's referring to is that
24 the PMIB has taken action to stop what are referred to as
25 AB55 loans. These are the loans that are made for state

1 public works projects until the projects get to a certain
2 point and then bonds can be sold to replenish the pool. And
3 it's the pool we're talking about, the Pooled Money
4 Investment Fund, which is unfortunately being drained dry
5 because of our current crisis.

6 If the PMIB takes action to stop the AB55 loans
7 and the Legislature for whatever reason is unable to send
8 the Governor proposals that would address the budget
9 situation, which would therefore mean that this AB55 loan
10 moratorium would continue indefinitely --

11 MR. COOK: Um-hmm.

12 CHAIRPERSON SHEEHY: -- if that happens, then what
13 I'm hearing from Ms. Brownley, and I think it makes sense,
14 we may want to just do a ten-day notice and do a hearing
15 just on that earlier in January, in other words, not wait
16 till January 28th --

17 MR. COOK: Um-hmm.

18 CHAIRPERSON SHEEHY: -- and have a hearing and see
19 if we can't get the ball rolling immediately to look at what
20 regulations need to be adopted or amended, whatever the most
21 expedient way is to do it, to address some of the concerns
22 that Mr. Duffy's raised that could get districts into
23 trouble by virtue of the fact that they're not going to have
24 the cash flow and therefore they may run into all sorts of
25 problems under this program.

1 Is that what you're suggesting?

2 ASSEMBLY MEMBER BROWNLEY: Yes.

3 CHAIRPERSON SHEEHY: Is that doable, Mr. Cook?

4 MR. COOK: That is doable. We will examine -- of
5 the issues that come to mind, I'm not -- I think there may
6 be administrative resolutions to some of them, but I --
7 we'll have to do a thorough of our regulations and statute
8 to see what solutions we can bring forward, but we'll keep
9 an eye on -- we will proceed very quickly.

10 CHAIRPERSON SHEEHY: And therefore my direction --
11 as long as my Board members here today are in agreement with
12 me, my direction to OPSC would be to start looking at those
13 issues right now.

14 MR. COOK: Yes.

15 CHAIRPERSON SHEEHY: And in the event that PMIB
16 takes action a week from today, I'd like you to dedicate
17 whatever resources you can that make sense in looking at
18 your organization to really get moving as quickly as you can
19 to develop options for this Board so that we can act in ways
20 that would help to ameliorate the problems that are going to
21 be created as a result of a continued protracted budget
22 stalemate.

23 Ms. Morgan.

24 MS. MORGAN: The only thing I'd like to add about
25 the construction contract signature requirement is that's a

1 hard requirement in statute, so just wanted to add that note
2 of caution --

3 CHAIRPERSON SHEEHY: Okay. All right. So we know
4 that the -- that's the 180-day rule is a statutory
5 requirement?

6 MS. MORGAN: The 18-month requirement.

7 CHAIRPERSON SHEEHY: The 18-month rule's a
8 statutory requirement? Okay. So I'm not familiar with all
9 the requirements and I don't know which ones are statutory
10 and regulatory. With that said, any statutory
11 requirements --

12 MR. COOK: Um-hmm.

13 CHAIRPERSON SHEEHY: -- that would need to be
14 adjusted I'm sure -- I'm just as sure as I'm sitting here,
15 we could get an urgency bill through the Legislature rather
16 quickly to address because I think notwithstanding the fact
17 that there's this stalemate going on in the Legislature
18 about the budget, I'm sure that all 120 legislators want to
19 protect the school districts in the state. They certainly
20 want to protect the school districts in their legislative
21 districts and I'm sure in their colleagues' districts as
22 well and I have to believe that a bill like that would move
23 through the Legislature quickly.

24 So if there are statutory issues that need to be
25 addressed with some sort of sunset clause on them because it

1 would be a temporary situation, whatever it is, please bring
2 those ideas forward so that we can talk about them, discuss
3 them, and take action quickly.

4 MR. COOK: Um-hmm. Absolutely. We fully
5 appreciate the gravity of the situation.

6 CHAIRPERSON SHEEHY: Okay. Now, are there
7 additional comments, Mr. Duffy?

8 MR. DUFFY: No. Thank you, Mr. Chair.

9 CHAIRPERSON SHEEHY: Any other public comments on
10 this item or any other item --

11 MR. YOUNG: One point of clarification,
12 Mr. Sheehy.

13 CHAIRPERSON SHEEHY: Yes.

14 MR. YOUNG: Since Tab 4 technically precedes the
15 consent portion in the book, could the record be clear that
16 when the Board approved the Consent Agenda it was also
17 approving Tab 4 --

18 CHAIRPERSON SHEEHY: Right. And I wasn't trying
19 to preclude discussion about Tab 4. Wasn't that just
20 dotting the I's and crossing the T's with Ms. Valentine's
21 appointment?

22 MR. COOK: Yes, it is.

23 CHAIRPERSON SHEEHY: And she did come before the
24 Board. The Board has already voted. We've already -- we've
25 talked with her in open session and closed session and if I

1 in any way rained on Ms. Valentine's parade, I am sorry. I
2 didn't mean to. I just felt we should move things along --

3 MR. COOK: And you will be sorry.

4 CHAIRPERSON SHEEHY: Ms. Valentine, did you want
5 to make any comment, Ms. Valentine?

6 MS. VALENTINE: No.

7 CHAIRPERSON SHEEHY: Okay. So let the record show
8 she's smiling. She's okay.

9 Yes. Our vote on the Consent Calendar included
10 Tabs 4 and 5. Are all the members agreeable to that?
11 Great.

12 Is there any more business to come before the
13 State Allocation Board today?

14 MS. MOORE: Have a final item, Mr. Sheehy.

15 CHAIRPERSON SHEEHY: Yes, Ms. Moore.

16 MS. MOORE: We've had no less than five requests
17 from the transition team concerning California and the
18 stimulus package and school facilities. It's news -- very
19 serious and I think that all -- because of the level of
20 interest and the amount of requests for information that
21 it's going to happen quickly.

22 And what I would like is -- we've gone down this
23 road before in 2001 with regulations that flow through the
24 Department of Education to the Office of Public School
25 Construction for distribution. We have regulations in place

1 for that.

2 In looking at planning because everyone talks
3 about expediency and job creation and this actually being an
4 economic stimulus, I think it behooves us to dust off those
5 regulations, bring them before the Implementation Committee
6 and to the Board as quickly as possible for standard items.

7 We don't know what may ultimately come out in the
8 stimulus package. It may be that the funding doesn't flow
9 through the Office of Public School Construction. It may go
10 directly to school districts. It may not happen at all. It
11 may come directly through the Department of Education.

12 But because we have a vehicle in place right now,
13 I think that we would be well served in California to be
14 prepared and to be able to tell the Federal Government that
15 we are prepared and that we can flow those funds out within,
16 you know, an -- and have them on the street within the
17 90 days that they routinely talk about.

18 And in order to do that, I think one of the ways
19 we could be ready is with taking a look at what we've done
20 in the past and have any recommendations for the future
21 attached to that.

22 Regulations take 90 days to change. We may be,
23 you know, out of money. So I'd like to see staff before the
24 January Board -- and I know there's a lot of work we just
25 heaped on the January Board, but this is expedient and if it

1 happens in January, we should be ready here in California
2 and I would hate for us to be sitting on the sidelines when
3 this all occurs.

4 CHAIRPERSON SHEEHY: I concur with your comments.
5 So, Ms. Moore, you're asking for OPSC to --

6 MS. MOORE: Pull out the regulations concerning
7 the federal program that we implemented in 2001, take a look
8 at them, look at what changes we know might be necessary
9 just in the routine workup of regulations, and then we
10 should be prepared -- we don't know what the program is
11 going to be.

12 They may say we're going to fund solar. We're
13 going to fund modernization. We're going to fund new
14 construction. We're going to fund deferred maintenance. We
15 don't know yet. We've given everybody -- everybody has
16 thrown their hat into this ring and said what they think
17 should be funded.

18 So we're not -- we can't tighten that piece of it,
19 but there might be other pieces that could be ready and then
20 bring that back before the Board so that we're at least
21 moving along in the process.

22 Again it may sidestep OPSC and State Allocation
23 Board, but I think if it does, at least we were prepared to
24 not be sidestepped. So that's what I would request.

25 CHAIRPERSON SHEEHY: Is that doable, Rob, because

1 that seems to make a lot of sense?

2 MR. COOK: Well, I'll put it under the label of
3 keeping our powder dry, being ready to go as soon as we know
4 what the program may look like, if one materializes. Glad
5 to take out regulations and take a look at them. If there's
6 poor definition -- just a couple of points.

7 One, this body created a federal model with those
8 prior funds.

9 CHAIRPERSON SHEEHY: Created what?

10 MR. COOK: We created the model that other states
11 emulated when that prior program was in place because
12 frankly we've got the best machinery of any state in the
13 nation as far as building program and moving money and
14 creating regulations. We're out in front of everybody.

15 So I don't doubt our ability to react quickly and
16 more quickly than any other state in the nation. So, but --
17 we will pull out the old regs and hopefully we can have a
18 good communication flow so that if it turns out to be solar,
19 we -- you know, or something else, we move those --

20 CHAIRPERSON SHEEHY: And, you know, Rob, you might
21 find some synergy in Ms. Moore's request of looking at those
22 federal regs and what we may need to do depending upon how
23 the stimulus package comes out, there could be some synergy
24 with some of these state funding issues we were just talking
25 about and other regulatory changes we're making.

1 So I really think the timing of Ms. Moore's
2 request -- obviously we just had the presidential election.
3 We've got a new administration coming in, but I think the
4 timing dovetails well with this other regulatory review that
5 we may -- that we are going to do but relative to state
6 funding.

7 So I think that they all tie together and I think
8 we should be prepared if necessary to talk about both of
9 them at our next meeting, and our next meeting -- just
10 announcing right now, our next meeting could be sooner than
11 January 28th. Our next scheduled meeting is the 28th, but
12 depending upon how events unfold in Sacramento relative to
13 the issues that we've discussed this afternoon, we could be
14 meeting sooner.

15 Are there any other -- yes, Mr. -- I'll get to
16 you.

17 MR. COOK: Just one notion on that, if we have --
18 and we may well have a meeting much sooner than January 28th,
19 we're going to have to jettison some -- obviously we're
20 going to have to focus that -- we're going to have to put
21 focused effort on bringing the most serious issues forward
22 to that meeting itself.

23 We have a lot --

24 CHAIRPERSON SHEEHY: Oh, you mean you can't do
25 both? You can't do an emergency meeting on January 12th and

1 have our full agenda for -- come on, Rob, don't burst my
2 bubble about OPSC. We got all this great staff.

3 MS. MOORE: One final comment I would make on
4 that -- on the whole federal piece is that I would hope that
5 all of us would take our, you know, bureaucratic hats off
6 because the objective is to move the money quickly and we
7 cannot have a tremendous amount of rules and regulations and
8 requirements and T's and I's dotted that precludes that.

9 And so I would ask that we really look at it in
10 that spirit. I think it was in that spirit previously, so
11 hopefully those regulations are -- we can dust off and say
12 this is good.

13 But the whole objective is to inspire, you know,
14 our economy particularly in California and I think that
15 that's a critical issue that faces us today.

16 CHAIRPERSON SHEEHY: And I would just note for the
17 record that getting projects that are ready to be funded,
18 funded quickly, not being held up by bureaucratic red tape
19 is an excellent public policy goal and I'm in full agreement
20 with it.

21 I know from my two decades in doing public finance
22 at the state and other places that sometimes there's some
23 friction between wanting to get money out on the street
24 right away and wanting to be accountable. I know that
25 Governor Schwarzenegger in supporting all of the bond

1 measures in 2006 that were successful made a very strong
2 emphasis on accountability.

3 We've established accountability Websites. We
4 have a number of state staff at the Department of Finance
5 and various other agencies like the Business,
6 Transportation, Housing Agency, Resource Agency, Department
7 of Education, other places that -- you know, whose jobs are
8 to make sure that these monies are spent where the needs are
9 highest and that the monies are spent consistent with state
10 law.

11 So I think -- you know, I'm in full agreement,
12 Kathleen, but I also know that from the state fund
13 perspective, I know that accountability is a very important
14 issue to Governor Schwarzenegger and sometimes the
15 accountability steps that we take do result in money not
16 going out quite as fast as it might otherwise, but we don't
17 like to see things on the front page of newspapers about
18 state funds being misappropriated.

19 So -- I know there's a balance there and I'm sure
20 that your staff is sensitive to that, Mr. Cook.

21 Okay. We have some further public comment, then
22 we'd like to adjourn.

23 MR. McDANIEL: Yes. Thank you. My name is Bruce
24 McDaniel. I'm the Superintendent with the Lennox School
25 District. Mr. Sheehy and Board members, I appreciate it.

1 I'll be very brief.

2 I wanted to give just a little background. We
3 have filed an appeal for the January meeting on the
4 Overcrowding Relief Grant and I know we have some new Board
5 members and the brief background is that we were one of the
6 very few districts that filed in round one and our
7 application was rejected then because we had not acquired
8 the property -- control of the property that was necessary
9 for our project which we were not able to do because we're a
10 financial hardship district.

11 And it was brought to the attention of the Board
12 and OPSC that the regulations precluded effectively all
13 financial hardship districts from participating in the
14 program because of not having the ability to acquire
15 property in advance.

16 That was acknowledged and we worked through the
17 Implementation Committee of modifying the regulations and
18 providing a vehicle for financial hardship districts to have
19 access to the program.

20 We attempted to participate at round two of
21 funding, but those regulations had not gone through the
22 Office of Administrative Law yet and it was deemed that that
23 was a necessary element for our application to be
24 considered.

25 So we're coming back on round three and those

1 regulations we were told in June when the regulations were
2 approved by the Board it would take six months for them to
3 go through the Office of Administrative Law to be approved.

4 To date, they have not yet been approved and our
5 appeal is to hold our application as applicable if they are
6 not approved by the January meeting when the round three
7 applications are due.

8 So I'm hoping the appeal won't be necessary. I'm
9 hoping the regulations come out on time and we'll get
10 approved routinely like everyone else that's ready for round
11 three, but if not, we're very, very concerned about that
12 possibility.

13 We've been waiting for a year. We had a valid
14 project from the very beginning and frankly we've endured
15 some hardships because of that time delay. So I just wanted
16 to bring that to your attention and look forward to the
17 January meeting.

18 CHAIRPERSON SHEEHY: Thank you. Yes, Ms. Morgan.

19 MS. MORGAN: I was informed by our supervisor that
20 handles the regulations that that package was submitted to
21 the Office of Administrative Law last Thursday with a
22 request for an expedited review and we anticipate that
23 they'll be ready no later than mid January and so I would
24 encourage Mr. McDaniel to get his application ready so that
25 he will make the cutoff before the end of January and we'll

1 be most happy to provide he and his district any assistance
2 he needs in preparing that application.

3 CHAIRPERSON SHEEHY: Excellent. Thank you,
4 Ms. Morgan.

5 Okay. That moment arrives. Is there anybody else
6 that had anything to bring before the Board? Seeing no one,
7 the State Allocation Board is adjourned.

8 (Whereupon, at 4:52 p.m. the proceedings were
9 adjourned.)

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STATE OF CALIFORNIA)
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