

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CALIFORNIA STATE ALLOCATION BOARD  
PUBLIC MEETING

STATE CAPITOL, ROOM 447  
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, MAY 25, 2011  
TIME: 4:02 P.M.

Reported By: Mary Clark Transcribing  
4919 H Parkway  
Sacramento, CA 95823-3413  
(916) 428-6439  
marycclark13@comcast.net

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES

MEMBERS OF THE BOARD PRESENT:

PEDRO REYES, Chief Deputy Director, Policy, designated representative for Ana Matosantos, Director, Department of Finance

SCOTT HARVEY, Chief Deputy Director, Department of General Services, designated representative for Fred Klass, Director, Department of General Services

KATHLEEN MOORE, Director, School Facilities Planning Division, California Department of Education, designated representative for Tom Torlakson, Superintendent of Public Instruction.

SENATOR LONI HANCOCK

SENATOR SHARON RUNNER

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER JOAN BUCHANAN

ASSEMBLY MEMBER CURT HAGMAN

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Acting Executive Officer

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

LANCE DAVIS, Staff Counsel

P R O C E E D I N G S

1

2

3

4

5

6

7

8

CHAIRPERSON REYES: We're going to have -- another couple members indicated they would be running late because of budget issues and so rather than just have everybody here look at each other for a while, we can get going on those items that don't require a vote. Okay. Is that okay is you?

9

ASSEMBLY MEMBER HAGMAN: Yeah. Absolutely.

10

11

12

CHAIRPERSON REYES: Everybody else? I know that we don't have Senators present, but we won't take action without them.

13

14

15

ASSEMBLY MEMBER HAGMAN: Just, Mr. Chair, just notice who the on-time caucus is again. We point it out every week.

16

17

18

CHAIRPERSON REYES: I can't comment on that. I lose on that one today. Sorry. Even the administration folks are not all here, so --

19

ASSEMBLY MEMBER HAGMAN: Yeah, I know.

20

21

22

23

24

CHAIRPERSON REYES: But the Chair is here. All right. We can't establish a quorum, but we'll go ahead and take the roll call of those that are present and then we'll acknowledge that we do not have a quorum and then we'll move on those items that we can move on.

25

MS. GENERA: Senator Lowenthal.

1 Senator Hancock.

2 Senator Runner.

3 SENATOR RUNNER: Here.

4 MS. GENERA: Assembly Member Brownley.

5 Assembly Member Buchanan.

6 Assembly Member Hagman.

7 ASSEMBLY MEMBER HAGMAN: Here.

8 MS. GENERA: Scott Harvey.

9 Kathleen Moore.

10 MS. MOORE: Here.

11 MS. GENERA: Lyn Greene.

12 MS. GREENE: Here.

13 MS. GENERA: Pedro Reyes.

14 CHAIRPERSON REYES: Here.

15 MS. GENERA: I'll leave it open.

16 CHAIRPERSON REYES: Thank you. We do lack a  
17 quorum. So why don't we go ahead and move and,  
18 Ms. Silverman, if you can guide me through this rough waters  
19 for now, but I think that we can move onto the **Executive**  
20 **Officer Report.**

21 MS. SILVERMAN: Yes. That's correct. Draw your  
22 attention to Tab 3. I want to share six items tonight and  
23 one of them is -- obviously speaks to the success of  
24 priorities in funding. Again wanted to update the Board as  
25 of February apportionments that did go out to represented

1 \$87 million in projects. We actually had 100 percent  
2 success rate in that priority round which is great. Our  
3 last fund release request came in yesterday.

4 But the -- overall the success of the priority in  
5 funding, all the apportionments that we provided in  
6 December, January, and February, that actually summed over  
7 \$1.6 billion and that represented 480 projects.

8 Again the success rate translates to over  
9 99.92 percent, but those projects came in. One project  
10 didn't meet the certification deadline. It had some  
11 challenges with that and so that item will be brought  
12 forward to the Board for discussion and appeal.

13 Again priorities in funding just translates to a  
14 success.

15 The second item is the Seismic Mitigation Program  
16 update. The Subcommittee met for the third time on  
17 May 18th. That was just Wednesday of last week. Actually  
18 had very long discussion and recommendations are part of the  
19 agenda.

20 The third item is to share with the Board the  
21 priorities in funding cash management discussion. There was  
22 a fourth meeting actually held on May 17th which was last  
23 Tuesday, again also included --

24 CHAIRPERSON REYES: Would you give me a minute so  
25 we can establish a quorum. Mr. Harvey just joined us.

1 MS. GENERA: Scott Harvey.

2 MR. HARVEY: I guess I'm here, yes.

3 MS. GENERA: We have a quorum.

4 CHAIRPERSON REYES: Thank you. Please continue.

5 MS. SILVERMAN: Sure. So again we actually had a  
6 meeting last week for that cash management discussion. So  
7 with that, the agenda, we also include some recommendations  
8 from the Subcommittee.

9 The fourth item to share is the Assistant  
10 Executive Officer vacancy actually posted last Friday and so  
11 with that, the final filing date is June 20th. We actually  
12 published -- our job search announcements were put on Ed  
13 Join which is a California public education job search  
14 Website. Also posted -- will be posted on CASBO which is  
15 the California Association of School Business Officials, the  
16 Coalition of Adequate School Housing, and the Capital  
17 Morning Report. I think there was also maybe additional  
18 publications we are also politely may be seeking, so with  
19 that --

20 MR. HARVEY: If I can, I wanted to --

21 CHAIRPERSON REYES: Mr. Harvey.

22 MR. HARVEY: -- thank the Chair of the Personnel  
23 Subcommittee, Ms. Moore, who responded to a suggestion I  
24 made which was to be more aggressive in seeking out online  
25 opportunities knowing that in this day and age that may be a

1 more preferred solution for some of the other generations  
2 and the kind of folk that we're hoping to attract.

3           So I hope that you are aggressive in putting them  
4 on a number of them.

5           MS. MOORE: We took your suggestion and the HR is  
6 researching that and providing us with the best online areas  
7 that we will advertise it in as well coming probably later  
8 this week as well. So, yes, thank you for the suggestion  
9 and we're open to any more that people have in terms of  
10 creating a wide advertising and a wide -- deep field.

11           CHAIRPERSON REYES: Thank you.

12           MR. HARVEY: Thank you.

13           CHAIRPERSON REYES: Thank you.

14           MS. SILVERMAN: Okay. So we'll look forward  
15 posting to those additional Websites as well.

16           The fifth item to share is our July meeting date.  
17 As a result of some of the discussions with the Personnel  
18 Committee and obviously trying to aggressively follow a  
19 pattern of potentially bringing a candidate -- viable  
20 candidate to the State Allocation Board in July.

21           There is a proposal since we are challenges with  
22 trying to establish a quorum in late July is to move the  
23 meeting up by a couple weeks. So with that is to share with  
24 the Board to some extent that we have a new date for the  
25 July meeting to July 12th which is a Tuesday.

1           CHAIRPERSON REYES: So this will serve to announce  
2 at a Board meeting that we'll move the July meeting to  
3 July 12th.

4           MS. SILVERMAN: That's correct.

5           CHAIRPERSON REYES: So we don't need to take any  
6 vote or actions. This is just recorded in the Minutes, is  
7 my understanding; right? Thank you.

8           MS. SILVERMAN: Yeah. We will also -- to be  
9 determined is the time and obviously the location of that  
10 meeting.

11          CHAIRPERSON REYES: All right.

12          MS. SILVERMAN: The last item to share is our  
13 Labor Compliance Program regulations update. Just to share  
14 with the members that the Office of Administrative Law had  
15 recently notified us that the regulations were disapproved  
16 on two bases, the emergency criteria and also they wanted to  
17 have some clarifying language.

18                 So with that, staff will be working with the  
19 Office of Administrative Law to clarify the language,  
20 however, also resubmit those regs on a nonemergency basis.

21                 So with that, I'll open it up to any questions.

22          CHAIRPERSON REYES: Okay. So since the Board took  
23 action before asking you to work with OAL on emergency  
24 regulations for those issues, unless I hear objection, we'll  
25 take it as a request by the Board to work with the Office of

1 Administrative Law on those regulations and come up with a  
2 date that's appropriate to make that happen. Thank you.

3 MS. SILVERMAN: Definitely do that.

4 CHAIRPERSON REYES: Thank you.

5 MS. SILVERMAN: Do you want to go back to the  
6 Minutes?

7 CHAIRPERSON REYES: Let's go back to the Minutes.  
8 Although the Minutes included a request by Ms. Hancock who's  
9 not here. I'd like to have clarification from her on what  
10 she intended, but --

11 MS. SILVERMAN: We can move onto the Consent  
12 Agenda if you want.

13 CHAIRPERSON REYES: Yeah. Let's go to **Consent**  
14 **Agenda.**

15 MS. SILVERMAN: Tab 4.

16 CHAIRPERSON REYES: Thank you.

17 MS. SILVERMAN: The Consent Agenda is ready for  
18 your approval.

19 ASSEMBLY MEMBER HAGMAN: I'll move it, Mr. Chair.

20 CHAIRPERSON REYES: Mr. Hagman moves the Consent  
21 Agenda.

22 MR. HARVEY: Second.

23 CHAIRPERSON REYES: Mr. Harvey seconds. Any  
24 comments? Yes? No. Any comments from the public on the  
25 Consent Agenda or anything we've done so far? Thank you.

1 Moved and seconded. All in favor say aye.

2 (Ayes)

3 CHAIRPERSON REYES: Opposed, abstains. Ayes have  
4 it. Thank you.

5 MS. SILVERMAN: Tab 5 is the **financial section** of  
6 the agenda is again update to the Board as far as how we are  
7 looking at liquidating cash for the various bond sales.  
8 Again in March 2009, this Board actually did receive  
9 \$5.28 million. The funds being released for the month of  
10 April actually were zero, so we still have \$70,000 in bond  
11 proceeds in that particular category.

12 In the General Obligation Bond that we received in  
13 April 2009, the Board -- this program did receive over  
14 \$1.4 billion. There was actually no disbursements again  
15 this month in that category and so the balance of the bond  
16 proceeds is \$64 million.

17 The last chart item on your page is October 2009  
18 and November 2009. This program received over \$500 million  
19 and we released actually \$10.2 million this month, in the  
20 month of April, and that leaves a bond proceeds balance of  
21 75.2 million.

22 Direct your attention to page 116, top of your  
23 page, General Obligation Bond received for this program in  
24 November and December was 111 million. No bonds were  
25 disbursed this month. So we still have a balance of 27 and

1 a half million dollars.

2 In March 2010, this program received \$1.3 billion  
3 and we did disburse some funds as of April, 19.9 million,  
4 and that still leaves a balance of 193 million and again  
5 that money is as a result of the 18-month requirement.

6 And then in the lower categories, November 2010,  
7 we received nearly \$1.5 billion in bond proceeds. We  
8 disbursed 93.8 million. 140 million still exists, but again  
9 it speaks to the priorities in funding which is allocated.  
10 We're still processing those fund releases, so imagine by  
11 next month the amount should be down to zero with the  
12 exception of one process.

13 So for the total month of April, we actually  
14 disbursed \$123.9 million. And on page 118, again this is  
15 just a snapshot in time, just looking at our cash balances.  
16 We still have \$500 million reflected as of April 29th.  
17 Again those amounts would be liquidated quite aggressively  
18 in the green category which represents the November 2010  
19 bond category.

20 And then on page 119, again a new chart we  
21 presented a few months ago and as far as folks are tracking  
22 as far as how many rescissions are down the pipeline and how  
23 many projects does that represent, and so here's the bar  
24 chart that basically explains that we still have \$345  
25 million in projects committed and some of those represent

1 a -- high amount represented in October the 18-month  
2 timeline. So there's two -- \$189 million with the 18-month  
3 requirement that is actually still have time to come in for  
4 those projects.

5 So with that, I'll open up to any questions.

6 CHAIRPERSON REYES: Mr. Harvey.

7 MR. HARVEY: Just a quick question. Do you know  
8 at this point the status of the one project is still  
9 languishing, it was on the 90-day time frame? Those were  
10 projects that were supposedly shovel ready, ready to go.  
11 They made certain affirmations to that effect. Do you know  
12 what's at risk here?

13 MS. SILVERMAN: We do have that one project that I  
14 mentioned, but it was actually in an earlier cycle. It was  
15 in the April round, and so that project is going to be  
16 subject to an appeal that's going to be raised -- brought  
17 forward to the Board. So out of all the certifications,  
18 again the majority of those projects did happen. So again  
19 very high success rate.

20 MR. HARVEY: I should have acknowledged that we  
21 had a high percentage, but I was troubled to see we had one  
22 only because of all the promises made about I'm ready to go.  
23 I guess there are extenuating circumstances and we'll hear  
24 about it on the appeal perhaps. Thank you.

25 CHAIRPERSON REYES: Thank you.

1 MS. SILVERMAN: Tab 6.

2 CHAIRPERSON REYES: Tab 6.

3 MS. SILVERMAN: **Status of Funds.** Again just a  
4 reflection of what's provided in the Consent Agenda as far  
5 as your unfunded approvals this month.

6 The top category on page 120 is the reflection of  
7 Proposition 1D and the original allocation of \$7.3 billion.  
8 There's actually 24 projects in the Consent Agenda that  
9 represent modernization and so with the Consent approval, we  
10 are authorizing \$46.4 million in unfunded approvals for this  
11 agenda.

12 And then in the middle category represents  
13 Proposition 55, which is \$10 billion authorized by the  
14 voters. Again with the approvals provided in the Consent  
15 Agenda, \$9.7 million of unfunded approvals for new  
16 construction, represent six projects that are tucked in the  
17 Consent Agenda.

18 So a total for the School Facility Program, this  
19 month we reprocessed 30 projects for \$56.1 million.

20 And on page 121 in the middle category represents  
21 the Emergency Repair Program. We actually processed  
22 \$50 million in projects this month and that represents 108  
23 projects and so that reflects a total cash need for the  
24 Emergency Repair Program of \$438.2 million.

25 And on page 122, again the charts -- we show

1 activity in the charts actually this month is to reflect the  
2 preliminary apportionments that we took forward as far as  
3 the -- reflecting on the unfunded list. So some of the  
4 categories did move from not be accounted for before now to  
5 be activated on the unfunded list.

6 So with that, there is movement in the Charter  
7 Program and also reflected on the Environmental Hardship.  
8 So there's 63.3 percent of those projects in Proposition 1D  
9 have been apportioned. We still have a significant amount  
10 of projects on the unfunded list, represents over  
11 \$1.1 billion for Proposition 1D and that's 15 percent --  
12 over 15 percent of the bond authority and 21 percent of the  
13 bond authority still remains in Proposition 1D which is  
14 \$1.5 billion.

15 In Prop. 55 on page 123, the voters authorized  
16 \$10 billion. 88.2 percent of that has been disbursed as far  
17 as apportionments are concerned and we still have  
18 8.3 million -- excuse me -- 8.3 percent represented on the  
19 unfunded approval list and remaining bond authority for  
20 Proposition 55 is 355.9 million or 3.5 percent.

21 Prop. 47, 98.5 percent of the bond authority has  
22 been apportioned. We still have 118.8 million sitting on  
23 the unfunded list which is 1 percent and 23 just a fraction  
24 of a half percent -- 57 million of bond authority left in  
25 Proposition 47.

1           And then we have on page 125 tracking of the new  
2 construction bond authority. We still have -- actually  
3 \$504 million -- over \$504 million in bond authority left in  
4 new construction and that represents 3.4 percent of the bond  
5 authority authorized by Proposition 1D, 55, and 47.

6           And then the last chart, we wanted to reflect the  
7 Emergency Repair Program. Again we're tracking projects  
8 that we've been providing unfunded approvals. So we still  
9 have 18 percent of remaining settlement authority -- excuse  
10 me -- 18.4 million in remaining settlement authority and so  
11 we'll be exhausting that next month with the projects we'll  
12 be bringing forward.

13           CHAIRPERSON REYES: Thank you.

14           MS. SILVERMAN: And with that, I'll open it to any  
15 questions.

16           CHAIRPERSON REYES: Any questions from Board  
17 members? Is there any public comment on either of the  
18 reports?

19           May I have a motion to acknowledge receipt of the  
20 reports.

21           ASSEMBLY MEMBER HAGMAN: So move.

22           ASSEMBLY MEMBER BUCHANAN: Second.

23           CHAIRPERSON REYES: Moved and seconded. All in  
24 favor say ayes.

25           (Ayes)

1           CHAIRPERSON REYES: Opposed, abstentions. Ayes  
2 have it. Thank you. On the **Appeals. Farmersville Unified.**

3           MR. MIRELES: Tab 7 beginning on page 127 includes  
4 an appeal submitted by the Farmersville Unified School  
5 District which is located in Tulare County.

6           The district is requesting funding for their  
7 Freedom Elementary School, Hester Elementary School, and  
8 Snowden Elementary School projects.

9           There are really two main issues with this appeal.  
10 The first deals with the OPSC receive date and processing  
11 timelines for Snowden Elementary. The second involves the  
12 OPSC receive date for a certification to participate in the  
13 second priority in funding round for Hester and Freedom  
14 Elementary.

15           In regards to the first issue, the district  
16 submitted a modernization funding application back in May of  
17 2009. The district had also received financial hardship  
18 preapproval for this project. Financial hardship status was  
19 granted for a total of six months.

20           Unfortunately back then, the OPSC had longer  
21 processing times. When staff performed their analysis, we  
22 realized that the application had a -- they didn't meet the  
23 requirements to submit to request the pupil grants that's  
24 required by regulation. They had to withdraw to increase  
25 the pupil grants as required by regulation.

1           Unfortunately the withdrawal and resubmittal was  
2 after the six months that the financial hardship approval  
3 was good for. So it triggered another financial hardship  
4 review. It delayed the processing of the application. In  
5 total it took about 18 months to get an unfunded approval  
6 for this project. They ultimately received an unfunded  
7 approval at the February 22nd, 2011, Board.

8           If staff had notified the district sooner that  
9 there was a problem with the application and they had to  
10 withdraw and resubmit, it would have been within the six  
11 months financial hardship period. So we do recognize that  
12 we did delay the project and we do agree that the project  
13 should maintain the original receive date of May 19th --  
14 May 14th, 2009, and a corresponding unfunded approval date  
15 of January 2010.

16           So on that issue, staff agrees with the district's  
17 appeal and we recommend that the Board grant the original  
18 receive date and the unfunded approval date of January 2010.

19           CHAIRPERSON REYES: Hold on. Board members, does  
20 anybody have any questions on this issue? I'd like to  
21 bifurcate the two.

22           ASSEMBLY MEMBER HAGMAN: I'll move that one.

23           CHAIRPERSON REYES: Move that piece.

24           ASSEMBLY MEMBER BUCHANAN: Second.

25           CHAIRPERSON REYES: Moved and seconded. Unless I

1 have an objection, we'll go unanimous for those present.

2 Thank you.

3 MR. MIRELES: The second issue deals with the OPSC  
4 receive date for a certification letter for the district to  
5 participate in the second priority in funding round. The  
6 district had submitted certification letter to participate  
7 in the first priority in funding round. Unfortunately we  
8 didn't have enough cash to fund the projects.

9 So the district -- they submitted their  
10 certification later on Thursday, November 4th. The 30-day  
11 filing period for the second round was due on Monday,  
12 November 8th.

13 Unfortunately we didn't receive it until  
14 Wednesday, November 10th.

15 ASSEMBLY MEMBER BUCHANAN: Excuse me, Juan. They  
16 submitted or they mailed?

17 MR. MIRELES: I'm sorry. They postmarked -- they  
18 mailed it on November 4th -- Thursday, November 4th. Thank  
19 you.

20 So Thursday, they postmarked the certification  
21 letter. Monday was the deadline, November 8th. OPSC  
22 received it on Wednesday, November 10th. Because it was two  
23 days after the final filing period, we didn't allow this  
24 project to participate in the second priority in funding  
25 round. Thereby they were ineligible for the last cash that

1 was made available.

2 We fully understand the importance of these filing  
3 periods. We did have staff check all throughout the day.  
4 In fact we even had staff go out there after 5:00 o'clock to  
5 make sure that we captured all of these certifications  
6 because again we know how critical these filing deadlines  
7 are. But in this case, we didn't receive it until  
8 Wednesday, November 10th.

9 It's always been our past policy to go by OPSC  
10 receive date for these filing deadlines. At that point, we  
11 didn't have -- the regulations didn't state that they had to  
12 be physically received. The Board did approve regulations  
13 at the beginning of this year to clarify this regulation.  
14 However, before that it's always been our past practice to  
15 go with the OPSC receive date and that's the reason why we  
16 didn't allow them to participate.

17 We also sent school districts separate email  
18 announcements. We had a notification in our Building Blocks  
19 publication and we had information posted on our Website  
20 about the filing deadlines.

21 The district is concerned that they postmarked the  
22 application they thought in time to get here by the 8th.  
23 Unfortunately it wasn't received by that time. There's also  
24 some language from the district that we have as part of the  
25 appeal that they think that a more lenient process should be

1 established such as email notifications.

2 That hasn't been our past practice. That's  
3 something we can take a look for in the future, but because  
4 it hasn't been our past practice, we didn't allow it for  
5 this particular project.

6 Another fact that I wanted to mention is that we  
7 received a total of 174 -- 174 school districts submitted  
8 certifications for the second filing round for about 623  
9 projects. This was the second. There was a total of two  
10 districts that didn't submit it within the filing period.  
11 This is one of them.

12 We do believe that it was unfortunate that again  
13 they couldn't submit it on time. However, we were being  
14 consistent with our past policy to only accept  
15 certifications within a filing period. That is why we are  
16 recommending that the Board deny the districts appeal  
17 request.

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

19 CHAIRPERSON REYES: Is there anybody from the  
20 district here or anybody that wants to come forward and --

21 MS. JONES: Good evening. My name is Janet Jones.  
22 I'm Superintendent of Farmersville Unified School District.  
23 I've been with Farmersville for 25 years, 17 as  
24 Superintendent. This is my Director of Maintenance,  
25 Operations, Transportation, and Facilities, Raymond Navarro.

1 Raymond has served in that capacity for 32 years. We're a  
2 very small district. We're grass roots and we have our  
3 consultant Ken Reynolds.

4 We appreciate the fact that you're listening to  
5 our appeal. In 25 years, we have never had a postmark  
6 deadline. We're 200 miles one way, from Farmersville to  
7 Sacramento and on the date that my secretary postmarked  
8 that, I actually sent something to New York to my father and  
9 he got it within two days. So it's kind of amazing that it  
10 would take six -- from November 4th to the 10th to get here,  
11 but I'm -- we're disadvantaged for that.

12 And then we applied for the first priority. We  
13 didn't get it because there wasn't enough funds. The second  
14 one, the postdate, and then the third priority, we weren't  
15 allowed to apply because they went off the list from the  
16 second.

17 So it's a series of mishaps and I guess it's a sob  
18 story from us, but we've been in this process since '06  
19 waiting for our projects to be funded. I think we've been  
20 fairly patient with the district waiting for our projects.

21 MR. NAVARRO: Another issue is the 18-month delay  
22 relating to the hardship application. If things would have  
23 fallen into order and things been done in a timely manner,  
24 we wouldn't be here today. We would have hit our projects  
25 and completed our projects before the state of the economy

1 took a dump.

2           We wouldn't have even had to apply for the  
3 shovel-ready program because our projects basically would  
4 have been completed, but it just seems like there was one  
5 event after another. Applications were sitting someplace to  
6 be reviewed under hardship and nothing was moving and when  
7 we checked, we would always be told there's change in staff,  
8 there's certain issues going on, and we understand that.  
9 Everybody's affected by the economy, but it just seems like  
10 there's been one event after another and when we filed for  
11 the second priority round, it was a mishap with the postal  
12 department then. That was the bottom line on that.

13           CHAIRPERSON REYES: Ms. Buchanan, you had a  
14 question, and then Mr. Hagman.

15           ASSEMBLY MEMBER BUCHANAN: Yeah. There -- we  
16 agree with you that it was our mistake on the hardship which  
17 is why we approved that. Are these projects related?

18           MR. NAVARRO: Yes, they were all the same  
19 projects.

20           ASSEMBLY MEMBER BUCHANAN: They're different  
21 schools though; right?

22           MR. NAVARRO: Yes.

23           ASSEMBLY MEMBER BUCHANAN: So they're different  
24 applications.

25           MR. NAVARRO: Yes. There's a total of six

1 applications that went in when we filed for hardship.

2 ASSEMBLY MEMBER BUCHANAN: Okay. Is there -- are  
3 there any dates that we use on any of our forms or whatever  
4 or our lists that are anything but actual receive date?

5 MR. MIRELES: No. It's all based on receive date.

6 ASSEMBLY MEMBER BUCHANAN: Because on the one  
7 hand, I have sympathy, but if you mail something said on a  
8 Thursday afternoon, I don't know how you'd guarantee that it  
9 gets somewhere by Monday and I don't -- how long was the  
10 filing period?

11 MR. MIRELES: 30 days.

12 ASSEMBLY MEMBER BUCHANAN: The filing period was  
13 30 days, so if you didn't get in the first round, it seems  
14 to me that the prudent thing would have been to turn around  
15 and mail it in right away for the second round and now we've  
16 distributed the funds, so I don't know where we get the  
17 funds if they were to turn around and resubmit this in the  
18 next round -- have money -- if they'd be able to, would they  
19 qualify for that round?

20 MR. MIRELES: Right now, the district where they  
21 are on the unfunded list is we would need about \$180 million  
22 in cash to get to their projects.

23 ASSEMBLY MEMBER BUCHANAN: So --

24 MS. SILVERMAN: With the new date.

25 ASSEMBLY MEMBER BUCHANAN: With the new date. So

1 it's very highly likely that if they filed for the next  
2 round.

3           But the problem I have is that to my knowledge,  
4 it's always been based on receive date and I don't know how  
5 you ever guarantee that a post office -- like I said, you  
6 mail something on a Thursday, that you can guarantee it will  
7 get there on a Monday. I can remember driving up, you know,  
8 a distinguished school application one time that a school  
9 had just to make sure that it got received and stamped and  
10 it seems to me that if we go now to saying we're going to go  
11 with a stamp date, that we're opening up a big can of worms  
12 for all kinds of applications when in fact the prudent thing  
13 for you to do is to -- is we're going -- you know, we'll  
14 probably soon be opening up the next round. You need your  
15 application in on a timely manner and get funded because  
16 that's where you would be, you know, irrespective of the  
17 action on this appeal.

18           CHAIRPERSON REYES: Thank you, Ms. Buchanan.  
19 Mr. Hagman.

20           ASSEMBLY MEMBER HAGMAN: I think this Chair and  
21 Ms. Buchanan said most of my comments as well. It's just --  
22 the past when I've been on different boards or commissions,  
23 it's always been, you know, 5:00 o'clock deadline of a  
24 certain date and we even had potentially legal exposure if  
25 you went past something more that wasn't stated and in this

1 particular instance too, when we have funding by receive  
2 date and qualifications, I'm just -- maybe I'm not on the  
3 other side of the application. What would be the reason not  
4 to put it out at the very beginning or put it in overnight  
5 mail, Federal Express or something, just to make sure  
6 that -- because I understand we fund them as they qualified  
7 as we receive them as well; correct?

8 MS. SILVERMAN: That's correct.

9 MS. JONES: I don't -- we have -- our email  
10 was November -- the letter was November 1st to us.

11 ASSEMBLY MEMBER BUCHANAN: But I think  
12 Mr. Hagman's point though is if you're down to the wire,  
13 you're much better off overnighting it or at least picking  
14 up the phone on a Monday morning making sure it's in  
15 because, you know -- I don't know when there ever is a  
16 guarantee in the mail that something arrives.

17 ASSEMBLY MEMBER HAGMAN: Well, and you put so much  
18 time and effort into these things. I really have sympathy.  
19 I remember times when we put out RFP for different proposals  
20 and took hours and weeks and -- you know, hundreds of  
21 manhours into it and then they don't bring the amount of  
22 copies and it sounds very bureaucratic and I hate that  
23 because I'm anti-bureaucratic up here trying to keep things  
24 more practical.

25 But you do have outside parameters that you must

1 perform within. Otherwise you expose the whole process into  
2 legal challenges and -- you know, when you start talking  
3 about big dollars one way or the other. So I know we got  
4 scolded pretty well from our attorneys back at the county  
5 level that once you set parameters, you kind of have to kind  
6 of follow them unless you can show fault on your own side  
7 because otherwise you expose yourself to any other case out  
8 there as well.

9 I would definitely hope and encourage to -- once  
10 we get this next round out and some money back in. I mean  
11 unfortunately even if they -- right now we have no money to  
12 give you. So if we could encourage you to maybe get it in  
13 the first day it opens up and try to get you on that next  
14 list when we do have money, it'll probably serve the same  
15 purpose.

16 MR. NAVARRO: Excuse me. And I did call when I  
17 found out that we did not get funded and I asked is it a  
18 mistake sending it direct mail or should we Priority Mail --  
19 overnight mail and the response was that, you know, you can  
20 send it Priority Mail. You can send it overnight mail. It  
21 doesn't really make a difference. It's all depending if  
22 someone gets their physical hands on it and stamps it.

23 Now how can we be assured that is going to happen?

24 CHAIRPERSON REYES: Mr. Hagman.

25 ASSEMBLY MEMBER HAGMAN: Well, I was going to

1 say -- a lot of cases -- in our case back on my other  
2 commissions, we had a lot of people hand deliver it and  
3 physically make copy -- had a register receipt where they  
4 received it so you had some evidence or proof, you know,  
5 that type of thing. You putting a lot of faith and  
6 obviously a lot of effort into these applications and very  
7 frustratingly going through three years of waiting to get  
8 money for a project you should have got probably funded the  
9 first round -- that to have all that effort go through and  
10 put all that faith on the postal man or sorting person or  
11 whatever the case may be when it gets there -- unfortunate,  
12 you know -- I would definitely suggest get someone else that  
13 you could actually track for the future.

14           And I feel real bad too, but I know there's other  
15 cases of folks that were received after the date as well and  
16 I think once we start a precedent for one that we may have  
17 to open it up for others as well even though how sympathetic  
18 we may be.

19           CHAIRPERSON REYES: Any additional comments?

20           MR. HARVEY: If I may, Mr. Chair, I -- we did the  
21 right thing on the first item -- on the date for the  
22 financial hardship application. It's with a heavy heart,  
23 but I am going to move the staff recommendation on the  
24 second item denying the district's request for the reasons  
25 stated by my colleagues.

1 CHAIRPERSON REYES: Is there a second?

2 SENATOR HANCOCK: Second.

3 CHAIRPERSON REYES: Ms. Hancock seconds. All in  
4 favor of staff recommendation to deny, aye.

5 (Ayes)

6 CHAIRPERSON REYES: Opposed, abstentions. Ayes  
7 have it. Thank you.

8 MR. NAVARRO: Thank you.

9 CHAIRPERSON REYES: Can we go back to Tab 2, the  
10 **Minutes**. Ms. Hancock, we were waiting for you on the  
11 Minutes. And you have -- at the last meeting, you asked  
12 staff to prepare a report on the High Performance Incentive  
13 Grant Program and the Board went along with your request  
14 because it's a high priority issue and we asked and we  
15 placed it on the 90-day workload and we now have it  
16 scheduled for August.

17 But I'd like to get clarification because staff --  
18 further clarification on what it is you want. And so your  
19 request was originally for the High Performance Incentive  
20 Grant Program, but your staff later called the staff and  
21 wanted additional details. So I want to make sure we  
22 capture what it is you want and as a Board we support your  
23 request.

24 SENATOR HANCOCK: Thank you. Could -- I actually  
25 don't have the Minutes in my Board packet. It says they

1 will be forthcoming, but I guess I didn't get them.

2 Thank you, Kathleen.

3 CHAIRPERSON REYES: Thank you.

4 SENATOR HANCOCK: Okay. I'm not honestly sure  
5 where they are at this point.

6 MS. JONES: I think it's page 5.

7 SENATOR HANCOCK: They're on page 5 of the  
8 Minutes.

9 CHAIRPERSON REYES: Page 5.

10 SENATOR HANCOCK: Okay. Thank you. Yes. I would  
11 like to know how much money we have given out.

12 CHAIRPERSON REYES: Okay.

13 SENATOR HANCOCK: What projects we have approved.

14 CHAIRPERSON REYES: Okay.

15 SENATOR HANCOCK: How many applications we have  
16 received.

17 CHAIRPERSON REYES: Okay.

18 SENATOR HANCOCK: And from where.

19 CHAIRPERSON REYES: Okay.

20 SENATOR HANCOCK: And how many projects are on the  
21 list to move forward so that we'll know if we're succeeding  
22 in our outreach or if we need to undertake additional  
23 outreach.

24 CHAIRPERSON REYES: Okay. Does anybody wish to  
25 add any more to that list of items for staff to bring back

1 to us? I just want to make sure that we as a Board act in  
2 giving directions to staff in what it is we want.

3 So without any objection, that'll be the order of  
4 the Board then, to request staff to get that. Is that  
5 enough detail for staff?

6 MS. SILVERMAN: Yes.

7 MR. MIRELES: Yes.

8 CHAIRPERSON REYES: Okay. Thank you. With that,  
9 do I have a motion for approval of the Minutes?

10 ASSEMBLY MEMBER HAGMAN: So move.

11 ASSEMBLY MEMBER BUCHANAN: Second.

12 CHAIRPERSON REYES: Mr. Hagman moves, Ms. Buchanan  
13 seconds. Any comments? Any comments from the public on the  
14 Minutes? Okay. All in favor say aye.

15 (Ayes)

16 CHAIRPERSON REYES: Opposed, abstentions. Ayes  
17 have it. Thank you. Getting back on course.

18 MS. SILVERMAN: Tab 8.

19 CHAIRPERSON REYES: Tab 8 [**Overcrowded Relief**  
20 **Grant Program Funding**]. Thank you. I asked for that, yes.

21 ASSEMBLY MEMBER HAGMAN: Mr. Chair, I'll move all  
22 those, but I would like to say I have to abstain from the  
23 very last one because I have an employee that may have a  
24 conflict. So -- but I'll move that Tab 8 --

25 MR. HARVEY: Second.

1           CHAIRPERSON REYES: Been moved and seconded. Any  
2 questions, comments from --

3           ASSEMBLY MEMBER HAGMAN: Someone else will have to  
4 move the last item since I can't technically --

5           MR. HARVEY: I will move the last item too I  
6 guess.

7           CHAIRPERSON REYES: Okay. The -- you lost me in  
8 moving in the last --

9           ASSEMBLY MEMBER BUCHANAN: Mr. Hagman moved.

10          MR. HARVEY: I seconded. Can you just recuse?

11          ASSEMBLY MEMBER HAGMAN: I'll --

12          ASSEMBLY MEMBER BUCHANAN: And you're recusing --

13          ASSEMBLY MEMBER HAGMAN: I don't have a --

14          ASSEMBLY MEMBER BUCHANAN: You're recusing  
15 yourself. You going to withdraw your motion?

16          ASSEMBLY MEMBER HAGMAN: I have an employee who's  
17 actually tied in that school district and even though it's  
18 not with me, just to be safe, I don't want to vote on that  
19 last one.

20          CHAIRPERSON REYES: Okay.

21          ASSEMBLY MEMBER HAGMAN: So whatever we have to  
22 legally do --

23          ASSEMBLY MEMBER BUCHANAN: You're recusing  
24 yourself from --

25          CHAIRPERSON REYES: Right. He's recusing himself.

1 Thank you and the record will reflect that. Thank you so  
2 much.

3 MR. HARVEY: Just Chaffey.

4 CHAIRPERSON REYES: Okay. Thank you. Any  
5 comments from the public? All right. All in favor say aye.

6 (Ayes)

7 CHAIRPERSON REYES: Opposed, abstentions. Ayes  
8 have it. Thank you. With one recusal. Okay. Tab 9 **[Rules  
9 and Procedures for Postponement of Appeals Items]**.

10 MS. SHARP: Good afternoon. I'm Tracy Sharp.

11 ASSEMBLY MEMBER HAGMAN: Mr. Chair, we've been  
12 through this a couple times. I'll be happy to move it as  
13 staff recommended on Tab 9.

14 CHAIRPERSON REYES: Okay. Mr. Hagman moves.

15 MR. HARVEY: Second.

16 CHAIRPERSON REYES: Mr. Harvey seconds.

17 ASSEMBLY MEMBER HAGMAN: Great report, by the way.

18 CHAIRPERSON REYES: Any comments or questions?

19 Any comments from the public?

20 SENATOR HANCOCK: Well, the recommendation is seek  
21 direction from the Board.

22 MS. MOORE: Can we amend your motion to include  
23 the OPSC as an item on exceptions to rule?

24 CHAIRPERSON REYES: Item 8.

25 ASSEMBLY MEMBER HAGMAN: Yes, absolutely. Thank

1 you.

2 CHAIRPERSON REYES: Thank you. So it's been moved  
3 and seconded. We have comments? Comments from the public?

4 MR. SMOOT: Thank you. Lyle Smoot, Los Angeles  
5 Unified. My comment is on the last item. We would rather  
6 see OPSC go through either their Board member or the Chair  
7 to ask for a removal. Don't see a need to have another way  
8 for OPSC to remove an item from the agenda. Thank you.

9 CHAIRPERSON REYES: Okay. Thank you. So this  
10 actually helps the districts, so I like it the way it is.  
11 So all in favor say aye.

12 (Ayes)

13 CHAIRPERSON REYES: Opposed. Abstentions. Ayes  
14 have it. Thank you. Item 10.

15 MS. SILVERMAN: Tab 10 is just to advise the Board  
16 that there is actually bond authority available in **Career**  
17 **Tech Education** and so although we did close the last filing  
18 round in October 2010, there's \$29.4 million of projects  
19 that came back via rescissions in the second round.

20 So we do have bond authority available and so just  
21 wanted to share with the Board at the October round closing,  
22 we actually had been oversubscribed. We actually had  
23 \$135 million in requests for 97 applications.

24 So the question before the Board is would they  
25 like to declare the third funding cycle still open and use

1 those projects to be available for funding with respect to  
2 the bond authority or the second decision is declare the  
3 filing round closed and open up a fourth cycle, so again  
4 reevaluating those applicants again through CDE, Department  
5 of Education, and then again have a scoring and ranking and  
6 then come back to the Office of Public School Construction  
7 for funding.

8 ASSEMBLY MEMBER BUCHANAN: Mr. Chair.

9 MS. GREENE: I move Option 1.

10 ASSEMBLY MEMBER BUCHANAN: Yeah. I second that.  
11 I don't see any point to go through the -- we've just been  
12 through it, to put us through the work again.

13 CHAIRPERSON REYES: Mr. Hagman.

14 ASSEMBLY MEMBER HAGMAN: Thank you. I do agree  
15 with the process, but I'm thinking about our last appellant  
16 who missed one funding cycle, but then a new funding cycle  
17 was up, but they couldn't because they're on the first list,  
18 they got a second list.

19 For those who may fall through the cracks on  
20 those, is there a way of getting back at different funding  
21 cycles or would that be the matter in this case? Different  
22 files?

23 MS. SILVERMAN: It's a different file; right.

24 Because we actually have projects that were returned -- back  
25 as far as being available for funding for those projects.

1 It's just bond authority we're talking about --

2 ASSEMBLY MEMBER HAGMAN: Yeah. That's right.

3 Okay.

4 MS. SILVERMAN: -- not cash.

5 CHAIRPERSON REYES: Yeah, not cash.

6 MS. MOORE: Can I just ask a clarifying and then  
7 we'll I'm sure want to hear -- if we close the cycle, that  
8 means that we're only going to apportion this 29 -- or  
9 not -- this -- use this bond authority and then if any more  
10 comes back, we're going to open it back up to another filing  
11 round and I would caution us on that because this list --  
12 there's a substantial list. They've been through CDE. We  
13 actually think because it was a third filing round, they  
14 have the highest scrutiny and scoring that went on at the  
15 Department of Ed.

16 We would recommend not closing it if additional  
17 authority comes through and continue to go down the list.

18 CHAIRPERSON REYES: That will be Option 1.

19 ASSEMBLY MEMBER BUCHANAN: Yeah.

20 MS. MOORE: But they say and close the funding  
21 cycle.

22 ASSEMBLY MEMBER BUCHANAN: Yeah. So you want to  
23 leave it open which I think that --

24 MS. MOORE: I would. I would --

25 ASSEMBLY MEMBER BUCHANAN: -- makes sense.

1 MS. MOORE: Why close that option out.

2 ASSEMBLY MEMBER BUCHANAN: Right.

3 MS. SILVERMAN: We can augment -- if that's a  
4 motion, we can augment that.

5 CHAIRPERSON REYES: So --

6 MS. MOORE: A motion has been made. So would they  
7 accept an amendment.

8 CHAIRPERSON REYES: So we amend the --

9 MS. GREENE: Accept amendment.

10 CHAIRPERSON REYES: -- accept the amendment and --  
11 so the motion will be how, Ms. Silverman.

12 MS. SILVERMAN: To leave the filing round open.

13 CHAIRPERSON REYES: Okay. So not close the cycle.

14 MS. SILVERMAN: Yes.

15 CHAIRPERSON REYES: Not close the cycle. Lyle.

16 MR. SMOOT: Thank you. Lyle Smoot, Los Angeles  
17 Unified, again. By the way, that action is fine. We just  
18 have a question. We were the last project on the unfunded  
19 approvals list and as sometimes happens, you ran out of  
20 money halfway through the project -- program funding.

21 I just want to make sure that in this action we  
22 will -- since it was an unfunded and not an apportionment,  
23 we will get the balance of that project put in the unfunded  
24 list.

25 MS. SILVERMAN: You're saying you had a haircut.

1 Did you have a haircut with -- to that project?

2 MR. SMOOT: Yeah. Sure.

3 CHAIRPERSON REYES: My recollection is that you're  
4 willing to take a reduced level of funding for that -- I'm  
5 kidding.

6 MR. SMOOT: That's a different project, sir.

7 CHAIRPERSON REYES: I'm kidding. I think to the  
8 extent that --

9 MR. HARVEY: I thought it was for everything. I  
10 agree.

11 CHAIRPERSON REYES: I think -- my recollection was  
12 that we did not full funds for your program at the time and  
13 you were willing to accept that, but that makes sense. To  
14 the extent that additional resources come back and can make  
15 you whole, that seems to be reasonable.

16 MR. SMOOT: It -- because it was an unfunded  
17 approval. If it had been apportionment, then we --

18 CHAIRPERSON REYES: Got it. Got it. I'm with  
19 you. I'm with you, Lyle. I'm with you.

20 MR. SMOOT: -- understand -- good. Thanks.

21 CHAIRPERSON REYES: All right. Any other  
22 comments? All in favor say aye.

23 (Ayes)

24 CHAIRPERSON REYES: Opposed. Abstentions. Ayes  
25 have it. Thank you. 11.

1           MR. MIRELES: Tab 11 beginning on page 144 is a  
2 **conceptual approval for a facility hardship submitted by**  
3 **Marysville Joint Unified School District** for their Alicia  
4 Intermediate School Site.

5           The request is to abandon and replace the site  
6 facilities due to several health and safety issues, mainly  
7 the proximity to a natural gas pipeline, proximity to a  
8 noncommercial airport, and the presence of underground tanks  
9 and toxic soil conditions.

10           The first issue we'll discuss is the presence of a  
11 pipeline that is located on the front of the property line  
12 and is within 50 feet of the buildings. The pipeline is a  
13 16-inch pipeline with a 600 pounds per square inch or psi  
14 pressure.

15           The district did submit an engineer's report  
16 stating that an accidental rupture could result in jet fire  
17 that would cause the front of the buildings to be on fire  
18 instantly. Mitigation measures would require the facilities  
19 to be moved back at least 380 feet.

20           As is the case with all these facilities  
21 hardships, we do require a governmental concurrence to take  
22 a look at the engineer's report and to provide the  
23 concurrence that there is a health and safety.

24           The school district, OPSC staff, CDE staff have  
25 all tried to locate the appropriate governmental entity to

1 provide that letter of concurrence, but we have been unable  
2 to do so. In the past, we've used the Department of  
3 Conservation. They've been the agency that have provided  
4 these letters of concurrences. However, the staff person  
5 that provided that letter no longer works for the  
6 department. They retired and there isn't anybody else in  
7 the department that would grant the letter.

8           So we've been trying to find another agency that  
9 would be willing to provide the letter of concurrence. We  
10 haven't been able to find any. The district did receive a  
11 letter from the University of California at Berkeley, Center  
12 for Catastrophic Risk Management. Although technically  
13 they're not a governmental agency, they do have expertise  
14 and did concur with the engineer's report.

15           We also took a look at the fact pattern with this  
16 pipeline issue and compared it to other facility hardship  
17 pipeline issues that the Board has approved before. We do  
18 believe that they are similar to other approvals that the  
19 Board has granted, given the nature of the diameter of the  
20 pipeline, the pressure, and the proximity to the buildings.

21           It is for main reasons that the staff is  
22 recommending a conceptual approval for this site. As a  
23 conceptual approval -- the site also has other health and  
24 safety issues, again the close proximity to the airport. If  
25 the school were to be moved back, they would be closer to

1 the airport. There's also the potential to have toxics in  
2 the soils. They would require further study to determine  
3 the extent of the clearing costs for the sites for the  
4 toxics, as the site was formally a military base, but the  
5 main issue that we looked at was the pipeline issue and  
6 based on the engineer's report and the UC Berkeley  
7 concurrence letter, we are recommending that the Board grant  
8 the request for conceptual approval.

9           This would be an abandonment and replacement. The  
10 district would be abandoning this site and replacing a  
11 different school site. The recommendation is to also  
12 provide a maximum of 596 pupil grants which is just the way  
13 we determine funding for these kind of cases. It would be a  
14 total of \$15.7 million, 7.8 State share. These are  
15 estimated costs. Again this is a conceptual. Districts  
16 would have to go out and get the plans approved. We would  
17 adjust accordingly later.

18           ASSEMBLY MEMBER HAGMAN: Mr. Chair.

19           CHAIRPERSON REYES: Mr. Hagman.

20           ASSEMBLY MEMBER HAGMAN: Thank you. Also -- boy,  
21 it looks like they did an awful lot of due diligence to try  
22 to get that secondary source. I'll move the staff  
23 recommendations at this point.

24           CHAIRPERSON REYES: It's been moved. Is there a  
25 second?

1 ASSEMBLY MEMBER BUCHANAN: Second.

2 MS. GREENE: Second. Joan second.

3 CHAIRPERSON REYES: Okay. Ms. Buchanan seconds.

4 MR. MIRELES: And just to clarify, Mr. Chair. The  
5 last recommendation is because again in this case we didn't  
6 have a letter of concurrence from a governmental agency,  
7 that we would seek the Board's direction as far as  
8 establishing guidelines for future pipeline issues to  
9 determine if there is no governmental concurrence, what  
10 could we use to give us that comfort level and that is part  
11 of the recommendations.

12 CHAIRPERSON REYES: So Mr. Hagman, if I understand  
13 the motion, is from 1 through 8 for you --

14 ASSEMBLY MEMBER HAGMAN: Correct.

15 CHAIRPERSON REYES: -- and then we can discuss  
16 number 9. Any comments from the other Board members? Any  
17 comments from the public on 1 through 8?

18 MS. MOORE: I have comments, but I'm waiting. 1  
19 through 8?

20 ASSEMBLY MEMBER BUCHANAN: Page 148.

21 SENATOR HANCOCK: But it's recommendations 1  
22 through 8.

23 CHAIRPERSON REYES: 1 through 8. Recommendations  
24 1 through 8 and then number 9 is actually a little bit more  
25 conversation.

1 MS. MOORE: Right. Okay.

2 ASSEMBLY MEMBER BUCHANAN: I think we have people  
3 who want to speak here.

4 CHAIRPERSON REYES: Okay. We have comments from  
5 the public on recommendations 1 through 8. Please step  
6 forward. And it's been moved and second.

7 MS. TODD: My name is Gay Todd and I'm the  
8 Superintendent of Marysville Joint Unified School District.  
9 And back in 2005, we began an initial study of our  
10 facilities. We have 23 schools that span 70 miles and we  
11 were in the middle of the housing boom. So we were aware  
12 that we were going to be building some new schools and we  
13 wanted to look at our aging facilities to see what else we  
14 needed to do.

15 So we undertook a rather massive ten-year master  
16 facilities plan project and when we got the Alicia site,  
17 there were the reports that have been mentioned that came to  
18 our attention which were disturbing at best and when we  
19 looked at how we would go about mitigating those concerns  
20 for health and safety, it became obvious that we can move  
21 the buildings back. Two-thirds of the buildings would have  
22 to be moved to the back of the site, but then you're going  
23 to have other issues with cleaning up the toxic chemicals  
24 and whatever we might find or uncover as we begin our  
25 various studies for getting the site approved.

1           The Board did take my recommendation to heart. We  
2 moved the students out of that campus because of the health  
3 and safety issues. We brought in 18 relocatable classrooms  
4 to our other -- only other middle school in that geographic  
5 area and we have been aggressively pursuing another site in  
6 which to build a new Alicia Middle School.

7           We were very successful in passing two bonds.  
8 Thank you to our communities. The first one was in June of  
9 '06 for \$37 million. Our second one followed closely after  
10 that, November of 2008 for \$47 million. We do have the  
11 funding available to do our 50 percent and we are hoping  
12 that you will be willing to support our application for  
13 facility hardship.

14           CHAIRPERSON REYES: Ms. Moore, you had a question  
15 or --

16           MS. MOORE: I don't have a question. I have some  
17 comments.

18           CHAIRPERSON REYES: Comments?

19           MS. MOORE: Hello.

20           MS. TODD: Hello.

21           MS. MOORE: I just want to provide the Board with  
22 some context and some items to think about and it may fall  
23 more into Item No. 10 of the report, but I think we should  
24 be aware of these and I believe the district presents a  
25 compelling case as to why we should -- maybe that it's no

1 longer feasible for a school at that site.

2           However, just contextually we on all other  
3 pipeline abandonments, the pipeline has been on the site and  
4 this is the first time we are abandoning a pipeline that is  
5 in the street adjacent to the site as I understand it.

6           In Ed Code, districts are prohibited from siting  
7 now with a pipeline on the site. However, there is no  
8 Education Code that says -- that has any recommendations  
9 about siting adjacent to a pipeline. Hence, we have a  
10 pipeline protocol that's part of our regulatory scheme and  
11 that pipeline protocol indicates that when a school district  
12 sites near -- within 1,500 feet of a pipeline, it's  
13 prohibited unless you provide us with a risk analysis that  
14 meets certain criteria.

15           It is in place for the reason of site selection.  
16 It was not conceived of for abandonment. And so I just want  
17 the Board to be aware there are probably many school sites  
18 that are adjacent to pipelines in California and that this  
19 is the first time we're taking an action on a pipeline that  
20 is in the street adjacent to a school site.

21           The other public policy issue to me is what is the  
22 action then of -- for other schools that could be located  
23 adjacent to the same pipeline. Do we then say we should  
24 notify those schools, they should be doing their due  
25 diligence on this. Obviously this district has come forward

1 with their own analyses.

2           And then finally we do have a conundrum of not  
3 having a Division of State Architect, Department of  
4 Education, a State-level agency to oversee, you know, an  
5 engineering report because there is subjectivity to  
6 engineering reports. Not saying that there was any  
7 miscalculation here. Just saying that is an important  
8 component and they went it's not their problem, it's our  
9 problem at the State that we no longer have that and we did  
10 have it at one time.

11           So that to me is the contextual environment that  
12 we should be very careful that this -- about the precedent  
13 nature setting of this, that there are other projects that  
14 could very well come forward -- many possibly because we  
15 sited in California, you know, many before we ever had this  
16 protocol in place. And even with the protocol, there are  
17 projects that are adjacent to sites -- or that are adjacent  
18 to pipelines because the pipeline risk analysis said it was  
19 okay or they mitigated the risk to an acceptable level.

20           CHAIRPERSON REYES: I think that Item 9 deals --  
21 addresses the issue of what kind of guidelines we want to do  
22 going forward. I don't think that we're going to be in a  
23 position, we're going to tell school districts go out there  
24 and find out. I mean we're not doing a very good job at the  
25 seismic retrofitting these. I just don't think we want to

1 take a second sudden since we're not doing that well on the  
2 first one and God knows the needs are there.

3           But I think as districts come forward and make a  
4 compelling case to this Board, I think we need to listen to  
5 that. If we've taken the action now that we don't do siting  
6 and the school districts do their own assessment where they  
7 are, we need to consider that on a case-by-case basis -- or  
8 that's what we're doing now and I think the staff is asking  
9 us what are the guidelines so that we don't deal on a  
10 case-by-case basis.

11           I'm not sure that we will be able to give that  
12 kind of guideline right now to staff. I think for No. 9, I  
13 think that 1 through 8 has been moved, but we want to talk  
14 about 9 here in this conversation. I think that staff has  
15 to do some more research on what are the issues and what  
16 scenarios we have because I'm certainly -- I'm not the  
17 expert in this area and I'm -- with all due respect to my  
18 colleagues up here on the dais, I'm not sure that we're  
19 qualified to set those guidelines and set the direction.

20           So I think the direction is back to you folks and  
21 tell us what we ought to be looking, tell us what kind of  
22 risk, and follow the direction of the Department of  
23 Education who doesn't the site -- what is it -- you know,  
24 how exactly can we establish how that impacts those school  
25 districts that have now been built and maybe some sort of

1 education may be appropriate. I don't -- bring that stuff  
2 forward to us.

3 So I for one am ready to vote aye on 1 through 8,  
4 but on 9, I want you guys to do more homework and bring it  
5 to us on what we ought to be doing. But that's just one  
6 Board member. Mr. Hagman.

7 ASSEMBLY MEMBER HAGMAN: Mr. Chair, I'll amend my  
8 motion to include No. 9 to send back to staff for further  
9 report because my understanding too as a backup comment is  
10 there is some section in California Code of Regulations  
11 within 1,500 feet of the easement and obviously as our  
12 science gets better and our knowledge of how things work,  
13 either through earthquakes or soil, we build these schools  
14 50, 60, 70 years ago, we're going to come up with issues  
15 like this and my personal feeling on these things is  
16 hopefully we hire staff to give them freedom but still some  
17 kind of guidance in order to make subjective and objective  
18 decisions on what one's going to meet the criteria and we'll  
19 get more of that in the seismic one too. But I'd like a  
20 recommendation let them go back and bring some more experts  
21 up to testify on what those things should be and how many  
22 are we looking at. What kind of can of worms are we opening  
23 at that point.

24 CHAIRPERSON REYES: Ms. Buchanan, then  
25 Ms. Hancock.

1           ASSEMBLY MEMBER BUCHANAN: I guess I -- I think I  
2 agree with everyone here because in a way we're saying the  
3 same thing, but I think this case I think it's not correct  
4 to assume that the only reason we would be voting for this  
5 is because of its proximity to the natural gas pipeline  
6 because you also have a situation where on the one side  
7 you've got a pipeline, on the other side you've got an  
8 airport, you've got soils conditions.

9           So when I take a look at the cumulative effect of  
10 all of those and the fact that it seems to be agreed that  
11 students had to be moved from the campus, it seems to me  
12 that the weight of all these factors combine say that it  
13 meets our criteria for approval.

14           Past that, I hope we can come up with some  
15 objective criteria, but we know from all of our lengthy  
16 discussions on seismic, it really is difficult to try and  
17 fit every school in just, you know, a nice little box.

18           CHAIRPERSON REYES: Senator Hancock.

19           SENATOR HANCOCK: Thank you. I actually would  
20 like to deal with the part of the dilemma which had to do  
21 with the no State agency would issue a letter approving  
22 essentially the engineering report and saying that this was  
23 something we should move forward with.

24           And in this case, Mr. Chairman, I would think that  
25 we perhaps as a Board should ask the administration of

1 designate one State department to do this or contract with  
2 the UC risk assessment people who did finally send the  
3 letter for Marysville, but going on a wild goose chase  
4 looking for somebody who's willing to send a letter of  
5 confirmation for an engineering report seems like  
6 inefficient.

7 CHAIRPERSON REYES: And that administration -- we  
8 are looking at the administration and (indiscernible) part  
9 of the Department of General Services, are you suggesting  
10 that the Office of Public School Construction go out and see  
11 if they can come up with somebody? When you say  
12 administration, I need to be clear who we're talking about.

13 SENATOR HANCOCK: I was really thinking -- the  
14 only person that I know that has the ability to direct a  
15 State agency to do anything is the Governor.

16 CHAIRPERSON REYES: Okay.

17 SENATOR HANCOCK: We could go right to the  
18 Governor's office and ask and they could ask direction from  
19 somebody. I just -- to me it was kind of -- it was unusual  
20 to find that they had to look so far and so long to get a  
21 confirmation letter.

22 CHAIRPERSON REYES: Okay.

23 ASSEMBLY MEMBER HAGMAN: And, Mr. Chair, that  
24 would be part of the staff's recommendations, you know, that  
25 we make this in-house government department to go try to go

1 through or is there a private sector equivalent with the  
2 level of expertise that we get, you know, two separate  
3 independent quotes from or something like that.

4 CHAIRPERSON REYES: I think that would --

5 ASSEMBLY MEMBER HAGMAN: But that would be  
6 something the staff would work on.

7 CHAIRPERSON REYES: I think that could be part of  
8 number 9. They would have the staff come up and see if  
9 there's somebody at the -- at some level that could be a  
10 consistent resource for other school districts so they don't  
11 have to go -- we learn from your experience that there's  
12 nobody out there, but I think as part of the discussion of  
13 number 9 as the Chief Deputy Director of Finance, it'd be  
14 kind of hard for us to go tell the Governor what he has to  
15 do.

16 So we're going to have the staff kind of looking  
17 to see what kind of -- and they're still representing the  
18 administration that says they are part of the executive  
19 branch. I'm much more comfortable with that for one.

20 SENATOR HANCOCK: Oh, okay.

21 CHAIRPERSON REYES: Mr. Harvey.

22 MR. HARVEY: A final comment perhaps on this due  
23 diligence. Staff report says the Department of  
24 Conservation, California Geological Survey, at one time held  
25 that responsibility. As departments in these lean times are

1 beginning to define what their mission and critical  
2 activities are, I assume it would be a proper gesture to ask  
3 them if they intend to do this in the future. Just because  
4 someone retired doesn't mean that they're not going to go  
5 through the process of replacing that person at some point.

6           That's where it has always resided. I would hope  
7 we would start there and then fall back on whether or not  
8 there is another appropriate State entity or, perhaps as  
9 Senator Hancock has suggested, doing more due diligence on  
10 this UC Berkeley Center. That seems to have a nexus and I  
11 think it's close enough to being a governmental entity.  
12 It's part of the UC system.

13           So I would kind of track it in that fashion.

14           CHAIRPERSON REYES: Okay. Mr. Mireles.

15           MR. MIRELES: I apologize, Mr. Chair. There's one  
16 other thing that I needed to clarify. There is another  
17 component to the appeal that the appeal that the district  
18 recently withdrew which dealt with the eligibility for  
19 modernization that was generated at the Alicia Intermediate.

20           We had a recommendation that we removed because of  
21 the district's withdrawal, but we do want to include another  
22 recommendation that is to zero out the modernization  
23 eligibility at the Alicia Intermediate.

24           CHAIRPERSON REYES: That sounds reasonable.

25 Mr. Hagman, will you accept that as part of your motion.

1 ASSEMBLY MEMBER HAGMAN: Yes. Absolutely.

2 CHAIRPERSON REYES: So we have the motion of  
3 basically 1 through 9 inclusive of that -- or 1 through 8  
4 and then 10 inclusive of that and then number 9 that we give  
5 the staff direction that we provided. It's been seconded.  
6 Without objection, could we make that unanimous? Thank you.  
7 Unanimous of those present and voting.

8 All right. Thank you much.

9 **Seismic Mitigation Program.** And another  
10 three-minute conversation on that I'm sure. Okay. So we  
11 have -- why don't you start us off.

12 Yes, Mr. Harvey.

13 MR. HARVEY: If I may afford a personal privilege.  
14 I'd like to bring some new information to the table. It  
15 doesn't directly relate to what the Committee's action was  
16 per se, but it affects the -- I think the efficacy and the  
17 ability to keep momentum in this program.

18 What I mean by that is you may remember the  
19 Seismic Safety Commission was kind enough to give us  
20 \$200,000 which removed one of the obstacles districts faced  
21 which was this evaluation part of qualifying for the  
22 dollars. We've got contractors out there. We've gotten  
23 projects funded. That no longer is an issue.

24 The Commission was kind enough to say yeah, you've  
25 got a little bit of a surplus, less than 70,000, why don't

1 you zero it out so that we can get more of these evaluations  
2 done and then staff took the time to say why don't you  
3 get -- why don't you give us 50,000, if you have it, because  
4 that would increase again the number of school districts we  
5 can qualify in this program.

6           It's come to my attention that the Commission  
7 feels so strongly about having a certain kind of objective  
8 criteria and we'll hear about it in the staff presentation,  
9 one that recognizes a shake zone that steps it down, one  
10 that adds building categories to the qualification. They  
11 feel so strongly about those two criteria that they have  
12 told OPSC staff if you do something different than that, we  
13 are going to reconsider whether or not we'll give you the  
14 additional \$50,000.

15           So to me I want to know a little bit more about  
16 what happens -- what not having that 50,000 may do to the  
17 momentum in our program. I think it's something we should  
18 know about as we take action on this item.

19           So it's not directly in the item, but it's  
20 connected to the success of this program.

21           SENATOR HANCOCK: Can I ask a question.

22           CHAIRPERSON REYES: Ms. Hancock.

23           SENATOR HANCOCK: So, Mr. Harvey, in other words,  
24 you're saying the Commission would prefer the language  
25 that's on page 158, that we reduce the shaking factor and

1 add a few -- add two additional building type?

2 MR. HARVEY: Correct. When you hear the staff  
3 presentation, you'll learn that the Seismic Safety  
4 Commission was part of a stakeholder group that came --

5 SENATOR HANCOCK: Yes.

6 MR. HARVEY: -- up with that recommendation and  
7 they are tied to it. They identify with it. They think it  
8 is the best evaluative tool. I don't want to speak for  
9 them. I'll let staff make the presentation and --

10 SENATOR HANCOCK: But if we should go with those  
11 recommendations, we would get the additional money and we  
12 could move even faster on getting the money out?

13 ASSEMBLY MEMBER BUCHANAN: No -- no --

14 MR. HARVEY: Well, let me say it again.

15 SENATOR HANCOCK: No. I mean that's a compelling  
16 argument. That's --

17 MR. HARVEY: Also reconsideration doesn't  
18 necessarily mean denial, but they do want to take a new look  
19 at whether or not having criteria that's different than they  
20 recommended would mean they'd like the dollars -- the  
21 additional dollars committed. That I can say for certainty.  
22 We put the 50,000 at risk.

23 ASSEMBLY MEMBER BUCHANAN: I apologize. I had to  
24 take a quick break. Would you explain the 50,000 you're  
25 talking about putting at risk out of the 200 million we're

1 trying to spend?

2 MR. HARVEY: It's not that 200 million.

3 ASSEMBLY MEMBER BUCHANAN: Right.

4 MR. HARVEY: The 50,000 is an add-on to the  
5 \$200,000 we --

6 ASSEMBLY MEMBER BUCHANAN: Oh.

7 MR. HARVEY: -- got as a grant from the Seismic  
8 Safety Commission which is doing some evaluative  
9 structural --

10 ASSEMBLY MEMBER BUCHANAN: Right.

11 MR. HARVEY: -- qualification work for us. It's  
12 something the districts don't have to pay for.

13 ASSEMBLY MEMBER BUCHANAN: But they're not -- it's  
14 not doing structural work for you. I think that's the first  
15 thing we have to clarify because what -- and you can correct  
16 me if I'm wrong, but was AB -- AB or SB300 -- correct --

17 MR. HARVEY: AB300.

18 ASSEMBLY MEMBER BUCHANAN: -- AB300 that asked --  
19 because the seismic money wasn't being spent that asked that  
20 we come up with a list of schools or districts that might  
21 potentially have buildings that would be eligible for  
22 seismic safety dollars. Okay? And the original list that  
23 we came up with was by taking a look at geological maps to  
24 show districts or schools that might fall in that area and  
25 based on records we have, the building type because they had

1 to be Category 2 building type; correct? Okay.

2           And within that, we had narrative. So based on  
3 the best information we had, we said if you have this  
4 shaking factor and these building types within Category 2,  
5 those would be the most critical because the original intent  
6 of the money was to get the money to the most critical  
7 buildings; right?

8           MR. HARVEY: Right.

9           ASSEMBLY MEMBER BUCHANAN: Okay. So we had a  
10 program in place that went into effect in 2006 and here we  
11 are in 2011 and we've spent -- we've had three projects  
12 qualify and only qualify by the fact that we took the  
13 original shaking standard and we lowered it; correct?

14           So now -- please indulge me. So now we said,  
15 look, we wanted to spend this money on schools that needed  
16 seismic repair and clearly it's not coming out, so how can  
17 we find more schools that qualify and that's where we took  
18 and allocated this money for you to go out and help find the  
19 schools.

20           Now, we admit that that list is imperfect at best  
21 because originally when it was started, I know from the  
22 school -- when I was on the board, there were schools on  
23 that list where they had been completely torn down and  
24 replaced five years ago.

25           And now I know you've been updating those records

1 even more. But all that list is is a list of schools that  
2 might qualify. Those schools don't have to go out and do  
3 engineering reports and go through the entire process to be  
4 able to qualify for those funds. So all that is is a list.  
5 I mean strictly.

6           And so then we got into the question of what does  
7 the shaking number really mean and what is a safe shaking  
8 number and the report that you provided us for one of our  
9 meetings was we think this number is the right number. You  
10 know, the engineers couldn't say if you lowered the number  
11 that that really made a difference in terms of trying to  
12 measure the safety of the building.

13           And we also got into the discussion that while  
14 some of those factors might be good for giving you a glimpse  
15 at, you know, 10,000 feet looking at the entire State of  
16 California, it doesn't get into how we tailor specific  
17 conditions for specific schools.

18           And we heard testimonies from people like Piedmont  
19 in which I know, Senator Hancock, you're very familiar,  
20 where they actually had a shaking factor in excess, but  
21 because the building wasn't the right type and their  
22 engineers said by far it was the least safest building  
23 couldn't qualify for the funds.

24           So when we took a look at all that, it was when I  
25 suggested -- and it was -- we can relook at this, but the

1 proposal at the time we adopted, that if you have a  
2 situation where an engineer on site -- they've done -- and I  
3 happened to be -- the school gym in my school district was  
4 the first district that qualified, San Ramon High, where we  
5 lowered it and dealt with -- with liquefaction where you've  
6 gone through and you've done engineering reports and soils  
7 engineering and all that and they say the building's not  
8 safe for students to be occupying and you have DSA  
9 concurrence and we agree DSA concurrence could be based --  
10 should be based on some objective material but not holding  
11 to one standard, only -- you know, meaning both, you know,  
12 to taking a look at it, and if it's not safe for students to  
13 be in that school, why should -- you know, why isn't that a  
14 critical need and why shouldn't that school then be  
15 replaced.

16           So that's how we came up with those -- with the  
17 different criteria and I actually believe that using that  
18 criteria, you're more likely to have schools begin to  
19 qualify for this money than just by continuing to add  
20 schools to a list. Because we have the list and clearly if  
21 it were that easy, we would have spent most of the  
22 \$200 million by now. So that's my comment.

23           CHAIRPERSON REYES: Okay. Before we start -- and  
24 my goal was to first of all thank staff for putting this tab  
25 together and the following tab in such short time frames.

1 There have been a lot of meetings that have been going on  
2 and a lot of notes taken. So I just want to publicly thank  
3 you for -- I have nothing to the seismic and this is the way  
4 I've been keeping abreast of what's going on.

5 But I've been the cash management one and --  
6 priorities in funding and I know there's a lot of  
7 information. There's a lot of testimony going on, so I just  
8 want to say thank you for putting this stuff and including  
9 it in the report with such short time limits

10 So anyhow, anybody else want to comment on this.  
11 Ms. Hancock, do you have any interest on this issue? I  
12 think you know a little bit about it.

13 SENATOR HANCOCK: I'm just -- you know, I'm  
14 interested in getting as many schools to qualify and getting  
15 the money spent as soon as possible.

16 The way we do it, I think all the ways that have  
17 been laid out -- and I'd to thank the staff as well because  
18 they spent a long time talking with me and others about it.

19 But I was interested in the incremental approach  
20 that was talked about that might allow us also to have  
21 smaller projects where there roof tiles or hanging lights  
22 that needed to be fixed but that -- where you might not  
23 require a complete rebuilding of a school.

24 I happened to be down looking at schools for the  
25 U.S. Department of Education right after the Northridge

1 earthquake and one of the scariest things were some of the  
2 hanging overhead lights that had fallen. Fortunately there  
3 were no children in the building because it took place in  
4 the middle of the night.

5           But I do think those small details do matter. I  
6 would -- I was very impressed with Mr. Harvey's statement  
7 about the money that we might have to move projects faster,  
8 so I would be willing to look at taking the two  
9 recommendations on page 158 and asking the Subcommittee if  
10 they would consider adding provisions for an incremental  
11 approach for smaller projects and also perhaps a separate  
12 way of looking at schools that come in with engineering  
13 reports that say there's an imminent threat of collapse. It  
14 might encompass what the Subcommittee recommended and what  
15 is on page 158.

16           CHAIRPERSON REYES: Okay. Ms. Buchanan.

17           ASSEMBLY MEMBER BUCHANAN: I believe the  
18 recommendation already encompasses that because we're asking  
19 for an engineering report from the site which we need and we  
20 have agreed that -- you know, that DSA staff can -- I mean  
21 first of all, the buildings have to be Category Type 2 which  
22 would include these new types and we're not going to just  
23 start out at one shaking factor and lower it, you know, till  
24 we find enough that apply, and I mean they are able then to  
25 consider a lower shaking standard than the 1.68 based on an

1 evaluation of whether or not these buildings are safe to  
2 house students.

3           So I think we've given maximum flexibility there  
4 in the proposal.

5           CHAIRPERSON REYES: Mr. Hagman.

6           ASSEMBLY MEMBER HAGMAN: Thank you, Mr. Chair.  
7 I'm just going to back up a little bit. I know the purpose  
8 of this Board is to try to sufficiently get the -- what the  
9 role of the voters was, the bond money out to the schools  
10 that need it.

11           I'm going to go back to the need. We can't put  
12 everything in boxes. This State is too diverse with too  
13 many different climate zones, too much different building  
14 materials, all the rest of it, to put everything  
15 categorized. I'd like to give -- getting back to my  
16 original statement -- as much flexibility to the staff.  
17 They have a much better chance of looking through details,  
18 relying on expert reports, State or private or otherwise, to  
19 look at and come up and bring recommendations to us and an  
20 arguments for funding something or the other.

21           If we start bringing criteria down solely for the  
22 purpose of sending out funds to basically make work, I think  
23 that may be almost fiscally irresponsible. I'm okay with  
24 funding something that needs. I don't want to just lower  
25 rates just because we don't have enough schools applying.

1           If there are schools that have this issue, they  
2 have concerns about -- like we had that one a few months ago  
3 that did not fit the criteria, they were able to bring it to  
4 us, make a compelling argument to us, that say hey, we don't  
5 fit your square box, but we feel real nervous about this  
6 school potentially having a problem with a major earthquake,  
7 we would like to have funds, I think -- I would like to set  
8 the process for that.

9           But if I go out to all the school districts now  
10 and say, well, the State officially has declared that from  
11 one level to a lower level now that if you're in that  
12 shaking zone, your school could fall down, I just can't  
13 imagine, with all the parents be coming to every school  
14 board member in the State saying now -- we're just opening  
15 up a huge can of worms that every State -- you know,  
16 nervousness for those students in those classes and  
17 potential liability suits. The State declares now you may  
18 be in a seismic zone that we don't have the money to replace  
19 all of them now. We need to look at these things on a  
20 case-by-case basis.

21           To have some science there as a guideline is  
22 great, but just artificially bring it down because we're not  
23 spending money fast enough just seems -- this is public's  
24 money. We're paying interest on it, over 30 years, we want  
25 to make sure we do so based on science and a need. And I

1 think a lot of times -- and the staff correct me if I'm  
2 wrong -- a lot of school districts I think qualify and don't  
3 come forward maybe because they don't have the money  
4 internally to help them through the steps they need to do to  
5 get the grants from us.

6 I would be much more concerned about fixing those  
7 schools under the greatest need and maybe figuring out how  
8 we can help them move that process along if they don't have  
9 internal funds for that versus just opening it up to bigger  
10 and bigger fields to find out who has the money or the time  
11 or the inclination to go out and apply for these funds based  
12 on just arbitrary numbers. I want to see the science behind  
13 it basically.

14 CHAIRPERSON REYES: Ms. Moore.

15 MS. MOORE: Well, as a Subcommittee, we did  
16 consider I think what the Senator asked and that was the  
17 ground shaking and the types of buildings and we -- I think  
18 I can address what you're asking about as well, Assembly  
19 Member, and that is that an engineer has to say there's a  
20 potential for catastrophic collapse.

21 So that's a pretty high standard and as a school  
22 district that has to address that issue and pay for  
23 50 percent of that project, we believed that this -- as a  
24 Subcommittee unanimously that moving down incrementally was  
25 not getting to the real issue and the real issue was

1 catastrophic collapse.

2           And so we felt strongly that that -- but that by  
3 revising our criteria in this manner, it doesn't mean that  
4 there isn't science associated with it. The Division of  
5 State Architect has to agree with the engineer's report and  
6 they have to I would assume be doing that engineer's report  
7 in a manner that's acceptable engineering work.

8           So that was the approach that the Board took and  
9 it wasn't necessarily in my mind and other Subcommittee  
10 members could speak -- it wasn't let's get the money out.  
11 It's where is -- you know, let's get it to those that have  
12 the catastrophic collapse potential.

13           ASSEMBLY MEMBER HAGMAN: But did we fully fund  
14 everything on the first list or category? We haven't yet;  
15 right? All those schools have not been addressed because  
16 they may not have the 50 percent to match or may not have  
17 the engineer -- money to go out and get an engineer, may not  
18 be knowledgeable, but they're sitting on a quake for all I  
19 know. You know, that's why I'm saying you should focus --  
20 do as much outreach and maybe even do the criteria.

21           If they're really -- if they're the worst of the  
22 worst of the State because they're on fault lines and  
23 there's a reason you picked that number to begin with, a  
24 certain cutoff level and certain building type because that  
25 was the worst of the worst, but we have yet to address all

1 those throughout the State maybe because again the school  
2 district does not have the funds to do it.

3 I think we should look at maybe how do we support  
4 them and either give them more funds or be less of the bite  
5 of the apple for them because those -- what you're saying is  
6 those -- when we first bring this criteria, are the most  
7 potential chance of hurting a student at that level.

8 But since they didn't apply, we're going to make a  
9 bigger pot and let other people apply, but those hopefully  
10 are still the worst schools that we're looking at. We  
11 should be able to address them some other way. I don't know  
12 if there is, but --

13 MS. MOORE: And I think your concern and your --  
14 the idea about the fact that maybe why some are not coming  
15 forward is the 50 percent requirement. We investigated that  
16 as a Subcommittee and have been advised legally we cannot  
17 reduce that.

18 So that factor is not going to change over time  
19 and we -- the other factor, however, that we continuously  
20 heard from school districts as to why perhaps there weren't  
21 more coming forward was interim housing and on a two/one  
22 vote, the Subcommittee recommended that we include interim  
23 housing.

24 So that is a way that we were hoping that we could  
25 broaden those projects that are qualified to come in and,

1 you know, having sat here with other members of the Board  
2 for the last five years that we have not been successful in  
3 addressing the seismic issue, it was the Subcommittee's I  
4 think best effort to address that.

5 Obviously the Board can have their -- it will go  
6 forward for a Board vote, but I'm ready to move the staff  
7 recommendations inclusive of a -- with a couple of revisions  
8 that I think make it easier.

9 It's on page 154, the recommendations. They are A  
10 through D. I would -- on number 1, it must contain a  
11 building with any Category 2 construction type as defined, I  
12 would say, not listed because I think some people might  
13 confused if you were listed in the 300 report, but it's the  
14 Category 2 as defined in Assembly Bill 300.

15 And then on Item C where it says in the second  
16 line, has a potential for catastrophic collapse in a seismic  
17 event, probably that defines it better to say this is  
18 catastrophic collapse in a seismic event and I would add  
19 Item E to allow interim housing as recommended by the  
20 Subcommittee and as qualified by the staff, the different  
21 ways that you'd have -- the different things that you'd have  
22 to go through before that was ever granted.

23 And then I would add F to direct staff to come  
24 back with conforming regulations.

25 CHAIRPERSON REYES: Okay. So --

1           ASSEMBLY MEMBER HAGMAN: I hate to do this,  
2 Mr. Chair, but I -- our report on E earlier on interim  
3 housing, there were a lot of different variables in that and  
4 I'm not sure if I -- there were staff -- well, there was  
5 recommendation for interim housing globally. Then I know  
6 staff has put on some recommendations like need. They  
7 couldn't move them around, a whole bunch of other criteria,  
8 and we don't have that here.

9           I'm just wondering if that would be prudent to put  
10 it off for -- I hate to put it off again. We put this off  
11 for three months.

12           CHAIRPERSON REYES: Well, we can bifurcate that  
13 and come up with something else.

14           ASSEMBLY MEMBER HAGMAN: Okay. Besides interim  
15 housing and then bring that back with a full list of what  
16 those recommendations are.

17           MS. MOORE: Well, they would have to bring back  
18 conforming regulations that specify that.

19           ASSEMBLY MEMBER HAGMAN: Okay. Good.

20           MS. MOORE: So we would have another opportunity  
21 to review that and say whether that was an up or down on  
22 those regulations I think. Because you should have those.  
23 We had them in Subcommittee and we are in -- it is inclusive  
24 of that Subcommittee discussion and I think the intent there  
25 was that you had to do everything possible in your district

1 to house the students in existing structures and if you  
2 didn't have that capacity, then we would consider it for  
3 interim housing.

4 ASSEMBLY MEMBER BUCHANAN: And I would second  
5 that. I would just like to respond to Mr. Hagman for just a  
6 couple items. One is there is really no list. We have a  
7 list of schools that may fall within certain seismic areas,  
8 but there isn't a list of schools that are in danger of  
9 collapse because we don't -- unless you can afford to -- and  
10 the State can't afford to do this -- go out and do the  
11 engineering reports and analysis on each school, we can't do  
12 that. It's up to the school boards really and district  
13 superintendents to -- you know, that they're really  
14 responsible for the facilities in their districts.

15 We provide funding to help them move forward with  
16 new construction and modernization, in this case, seismic  
17 retrofits or replacements, but my -- I looked at this as a  
18 former school board member. I can remember when we had to  
19 abandon the San Ramon High gym. The architect said, you  
20 know, this isn't safe for kids.

21 And we -- you know, we placed it after we  
22 qualified for the funding, but I couldn't allow kids to  
23 be -- students and staff to be in that gym knowing that  
24 there might be a collapse.

25 And I can remember another situation. That was

1 the Morongo situation that was brought to us where the  
2 engineer said this school isn't safe and we actually  
3 concurred that the school wasn't safe, but it didn't  
4 technically meet one of the qualifications.

5           So I can't think of a higher need than a school  
6 not being safe to be occupied as a result of a seismic  
7 condition and that's why we moved in this direction rather  
8 than trying to have schools meet a strict requirement of  
9 1.68 or 1.65 or 1.58 shaking factor or specific building  
10 type because too often it's a combination of factors that  
11 result in that school not being safe as a result of a  
12 seismic event.

13           CHAIRPERSON REYES: What I find interesting is  
14 that the Board has gone through the whole discussion, thanks  
15 to Mr. Harvey kicking it off, without having a report from  
16 staff. And so I'm not sure if the Board needs a report from  
17 staff or not, but I do have some questions.

18           Mr. Ferguson, you've been -- you look like you  
19 want to say a couple things, so --

20           MR. FERGUSON: Sure. Chris Ferguson, Department  
21 of Finance. The Department of Finance supports the  
22 incremental option in terms of adjusting spectral  
23 acceleration rate over time downward to capture the most  
24 vulnerable facilities in the State. In other words, we  
25 would be repairing the most vulnerable on an incremental

1 basis.

2           We agree that we could add additional construction  
3 to -- or Category 2 construction type schools that were  
4 listed. We believe the Seismic Safety Commission has  
5 identified this, as the expert, as the best approach to this  
6 program.

7           To the extent that we do something that this Board  
8 takes an action contrary to what the experts are saying, we  
9 would be going away from what the scientific experts had  
10 recommended to us.

11           In terms of interim housing, we believe --

12           CHAIRPERSON REYES: Hold on. Hold on. Go back  
13 to -- I mean one of the items here is that they would have a  
14 structural engineer's report identifying the building  
15 deficiencies and reasoning for concluding the building has  
16 potential of catastrophic collapse in a seismic event.

17           MR. FERGUSON: And we recognize that and I  
18 understand that. In terms of what the Seismic Safety  
19 Commission presented to us though, you would not necessarily  
20 be addressing the most vulnerable facilities first if you  
21 were to take that approach. You would be addressing any  
22 facility that came forward with an engineering report  
23 regardless of the vulnerability which is the charge in the  
24 statutes that directs this program, that this program was  
25 designed to address the most vulnerable facilities in the

1 State.

2 ASSEMBLY MEMBER BUCHANAN: Could you please  
3 explain to me how a school that engineers say is not safe to  
4 be occupied, where the board members are forced then to  
5 evaluate that school and put the students on another campus  
6 how that does not meet a most vulnerable qualification.

7 MR. FERGUSON: I believe what I'm supporting here  
8 is what the Seismic Safety Commission presented to us as the  
9 experts in this area.

10 ASSEMBLY MEMBER BUCHANAN: Well, when I read all  
11 the reports, I read that as saying, you know, these criteria  
12 are what is -- you know, would be one way of identifying the  
13 most vulnerable which is why they assign those numbers.

14 The reality is we have \$200 million we've had for  
15 five years. We're not getting the money out to schools.  
16 There are schools of engineers who've said and even staff ha  
17 concurred -- have said are in danger of collapse as a result  
18 of seismic activity where the school boards have been --  
19 evacuated the students from those schools and we're saying  
20 they don't qualify. That's the problem I have if we accept  
21 that criteria.

22 MS. GREENE: If you look at page 154 on staff  
23 comments, we're asking DSA to grant concurrence with  
24 structural engineer's report. In the process, they'll draft  
25 a policy guideline that specifies the standards of

1 acceptable reporting. One report we ask for was ASCE 31  
2 which is an evaluative report -- evaluation type of -- set  
3 of requirements, but we've now asked for ASCE. Senator  
4 Hancock requested 41 which is much more stringent, is not  
5 evaluative. It's actually addressing these things. I --

6 CHAIRPERSON REYES: Where did we get 41? I  
7 don't --

8 MS. GREENE: Right here.

9 CHAIRPERSON REYES: That's 31.

10 MS. GREENE: Senator Hancock has already added 41  
11 and so the question is --

12 CHAIRPERSON REYES: She hasn't yet.

13 MS. GREENE: I'm sorry. She was going to.

14 CHAIRPERSON REYES: Okay.

15 MS. GREENE: Geological --

16 CHAIRPERSON REYES: I want to make sure we capture  
17 the right motion.

18 MS. GREENE: Okay. Since staff comments are  
19 suggesting that DSA would come back with actual standards,  
20 they might take into consideration what you're saying. So  
21 to stop us from moving forward and not accept that we've  
22 already got an intermediate step here in terms of standards,  
23 would you agree that DOF might be satisfied simply because  
24 DSA would come back with standards that you would be  
25 interested in?

1           They would look at all of them and come back.

2           MR. FERGUSON: And that's something we'd have to  
3 look at. I think ultimately our position is based on the  
4 scientific evidence that was presented by the Seismic Safety  
5 Commission.

6           Effectively we were told that the spectral  
7 acceleration rate and Category 2 construction type were the  
8 predominant risk factors that a school site faced in making  
9 those decisions. That's why we support this incremental  
10 spectral acceleration adjustment.

11           MS. GREENE: Okay. But we're already listing  
12 Category 2. Is it not correct that the 1.68 would still be  
13 in there?

14           ASSEMBLY MEMBER BUCHANAN: What we're really  
15 asking is that we don't -- that we allow them to use more  
16 than one criteria to evaluate the safety because if you --  
17 all you want is this line, my belief is we're going to be  
18 right back where we started several years down the road when  
19 we have schools that are coming to us that are not safe to  
20 be occupied.

21           So I don't think it should be a bright line. I  
22 think it should be criteria that they consider and whether  
23 or not they concur with the structural engineer's report  
24 from the school district.

25           CHAIRPERSON REYES: Okay. Who is just joining us?

1 Could you identify yourself, please.

2 MR. MCGAVIN: Yes. Thank you. I'm Gary McGavin.  
3 I'm a member of the California Seismic Safety Commission.  
4 By the way, I was the architect of record for the Landers  
5 Elementary School that was about four-tenths of a mile away  
6 from 8 to 12 foot of horizontal offset and I'm here for any  
7 questions that you might have or -- unless you want me to  
8 talk.

9 CHAIRPERSON REYES: I would like you to comment on  
10 this -- on the recommendations of the Committee of A through  
11 D for now. Page 154.

12 MR. MCGAVIN: Now, with respect to increasing the  
13 Category 2, we're in full agreement with that. Now, we  
14 believe that this will open up some of the vulnerable  
15 buildings.

16 With respect to the spectral acceleration, we  
17 are --

18 CHAIRPERSON REYES: It's not in this.

19 MR. MCGAVIN: Say again.

20 CHAIRPERSON REYES: It's not part of -- is it part  
21 of the recommendation?

22 MR. HARVEY: No, it's not.

23 CHAIRPERSON REYES: It's not.

24 MR. MCGAVIN: Okay. B, obviously if staff and  
25 students --

1           CHAIRPERSON REYES: Let me seek clarification.

2           MS. MOORE: I have a question for him.

3           CHAIRPERSON REYES: Let me ask a question. Does  
4 the spectral acceleration and the other factors stay in or  
5 are we talking, Ms. Buchanan, about factors? Right now it's  
6 a bright line. You have to have the 1.68. I have to have  
7 this type of category. Do we do away with those things or  
8 do they stay in the background as one of them in addition to  
9 this other stuff? How do --

10           ASSEMBLY MEMBER BUCHANAN: Well, I probably said  
11 is that I'm a school district and I have a school and the  
12 engineers say it's not safe to be occupied by students. So  
13 I submit, you know, a request to DSA saying we want to  
14 replace the building or whatever. We apply for the  
15 application. I give you the engineering report.

16           Then it's up to DSA to evaluate that and what we  
17 asked -- what I'm thinking -- what I thought we asked them  
18 to do was take a look at the criteria but also take a look  
19 at the engineer's report and decide if they concur with the  
20 report or not.

21           You know, and again I'll bring you the Morongo  
22 situation. I'll talk about the Piedmont situation where you  
23 had a school that, you know, was not safe, but because it  
24 didn't hit the bright line or the number, it didn't qualify.

25           So I mean I truly believe if a school's not safe

1 to be occupied by students and we concur with that based on  
2 evaluative criteria -- and what we were told at the meeting  
3 was that you have to -- you know, after you take your  
4 10,000-foot look at the State and the geological surveys and  
5 everything else, you have to be able to evaluate these on a  
6 school by school basis because the factors that apply to  
7 each school oftentimes are unique.

8           So what we want you to do is have your experts use  
9 their best judgment. If they concur, we want the -- and  
10 they concur that the dangers are a result of seismic, then  
11 it would qualify for the program. If they concur, then it  
12 won't qualify.

13           CHAIRPERSON REYES: Okay. Mr. Harvey and then  
14 Mr. Hagman.

15           MR. HARVEY: If I may, I would ask you to take a  
16 look at Subsection C. The term is a structural engineer  
17 does this report, identifying deficiencies, stating why  
18 there is a catastrophic collapse in a seismic event, but  
19 take a look at what it says.

20           The things that have to be considered are ground  
21 shaking --

22           ASSEMBLY MEMBER BUCHANAN: Right.

23           MR. HARVEY: -- no ceiling, no floor. That's a  
24 consideration.

25           ASSEMBLY MEMBER BUCHANAN: Correct.

1           MR. HARVEY: Liquefaction, faulting, landsliding,  
2 or other identified risks. So indeed we have opened up the  
3 criteria. We have no set a floor or ceiling for the shake  
4 itself, but that's a factor to consider --

5           ASSEMBLY MEMBER BUCHANAN: Right.

6           MR. HARVEY: -- making I think the Assembly  
7 Member's point that it's a district, school, site-by-site  
8 evaluative tool, and then as Ms. Greene has suggested, all  
9 of that has to be concurred in by DSA and they're going to  
10 develop policies that are based on some objective criteria  
11 whether it is ASCE 31 alone or that and the addition that we  
12 hear on 41.

13           So that's how I think we saw it working. The  
14 ground shaking was a factor, but it wasn't a single factor  
15 with an intensity attached to it. Is that fair?

16           ASSEMBLY MEMBER BUCHANAN: Right. Wasn't this  
17 all -- one criteria but not the sole criteria.

18           CHAIRPERSON REYES: Mr. Ferguson.

19           MR. FERGUSON: My thinking on that is that at the  
20 end of the day the State Architect would adopt similar  
21 criteria to what we have in front of us for the same purpose  
22 of determining their concurrence. It'd be one and the same  
23 as adopting it as the criteria for the program from the  
24 Board's perspective or from the State Architect's  
25 perspective.

1 ASSEMBLY MEMBER BUCHANAN: I don't think so  
2 because again I submit my report to the DSA that says the  
3 school's not safe and your architects look at it and they  
4 may say, okay, it misses the ground shaking by, you know,  
5 .02. However, when you take a look at the building type and  
6 everything else, we concur with the architect that these  
7 buildings aren't safe to be occupied by kids.

8 Under the current program, you wouldn't qualify.  
9 Under our criteria, you would, and that's why I believe you  
10 do need to take a look at the unique -- each school and its  
11 own conditions with the terms of the type of construction  
12 and all the factors that are unique to that site where the  
13 school is constructed.

14 CHAIRPERSON REYES: Go ahead.

15 MR. ZIAN: Mr. Chair, if I can just add that I  
16 think that's a fair characterization of what Assembly Member  
17 Buchanan mentioned there, that the -- you'd have more of a  
18 customized to looking at these sites, but again if you don't  
19 lose sight of the fact that you could have a building come  
20 in at 1.0 spectral acceleration or lower and you could have  
21 a building type that's, you know, a weaker category, not  
22 identified, not recommended by the Seismic Safety  
23 Commission, not recommended by DSA --

24 ASSEMBLY MEMBER BUCHANAN: Well, it has to be a  
25 Category 2.

1 MR. ZIAN: -- come in under this threshold  
2 criteria because you're in more subjective area, so I  
3 just -- so we don't lose sight of that. That's what we're  
4 losing here.

5 CHAIRPERSON REYES: Mr. Hagman.

6 ASSEMBLY MEMBER HAGMAN: Thanks. Well, kind of  
7 back to the original statement I made earlier is we have  
8 certain criteria to kind of give a guideline. Okay.

9 CHAIRPERSON REYES: Um-hmm.

10 ASSEMBLY MEMBER HAGMAN: The State's so big and  
11 everything else. We have this problem of putting everything  
12 in one category or the other. What we did like in Morongo's  
13 case is they came back and said look, we don't fit your  
14 category.

15 Staff has been able to fund it anyway because  
16 there's a health and safety issue based on other criteria  
17 that wasn't seismic. There is kind of like this artificial  
18 appeal process that gives hopefully thinking people the  
19 ability to look at the totality of everything without  
20 necessarily opening up the flood gates for anybody.

21 We're looking at the worse of the worse. We're  
22 trying to do that right now. If we just -- we okay they  
23 drop it down one notch. I'm fine with that. Open it up.  
24 Change the 2A buildings, give a little more, but you're  
25 dealing with staff and you're dealing with people like ten

1 people down the chain is going to read this code and you  
2 could leave it open ended and you get anybody who basically  
3 signs a document that says your school may be at risk  
4 because of earthquake, then that opens up them to -- you  
5 know, the school board and everybody else, look, is this  
6 really that.

7           And you're going to have to have someone make some  
8 criteria to begin with to say is this automatic yeah, we put  
9 it on consent, it fits, or no, this is something, we have a  
10 question. That's what this Board's for. That's what we got  
11 staff for. We could call witnesses and we could bring our  
12 own experts in to say doesn't quite fit our criteria, but we  
13 do see this as an exception because of all the mitigating  
14 circumstances, just like we already have, we did it.

15           Why can't we continue on that path, give those  
16 school districts who have concerns, who want to change it,  
17 that are screaming at us saying we need money for this. Let  
18 them have some kind of process to appeal that to us, but  
19 we'll look at case-by-case basis.

20           I think that's what you're trying to say anyway,  
21 but once you put that in hard-core language, as it gets put  
22 down through the different levels of the district, that's  
23 when we have problems with interpretation of that versus  
24 someone like Morongo who put the time and effort, who  
25 basically bang their head against the wall several times and

1 said we couldn't fit your criteria, but we know it's unsafe.  
2 We moved our kids out.

3 They still came to us. We appealed it. We were  
4 able to give them the money. They're off. Hopefully  
5 they'll bill.

6 ASSEMBLY MEMBER BUCHANAN: We didn't give them  
7 seismic money. I have to --

8 ASSEMBLY MEMBER HAGMAN: But we still got them  
9 money for it.

10 ASSEMBLY MEMBER BUCHANAN: Right.

11 ASSEMBLY MEMBER HAGMAN: And then I think we  
12 have -- what's the cash management. We can look at it  
13 later --

14 ASSEMBLY MEMBER BUCHANAN: What list of schools  
15 are waiting to get money? That's the problem is you don't  
16 have schools applying because if they don't -- if they have  
17 buildings that are unsafe and they don't take that exact  
18 number --

19 ASSEMBLY MEMBER HAGMAN: So your premise was if  
20 it's unsafe and they move the kids out of there, they're  
21 probably letting somebody know we need more money to build a  
22 new school because they're moving kids out of there.

23 ASSEMBLY MEMBER BUCHANAN: But the question is if  
24 they're doing that because of a seismic condition, will they  
25 qualify for seismic dollars and we don't have --

1           CHAIRPERSON REYES: Ms. Hancock.

2           SENATOR HANCOCK: Let me try to work with a motion  
3 for just a minute because if -- I appreciate the Department  
4 of Finance wants us to stick with the scientific  
5 recommendations that we got and -- so if we added an E to it  
6 that said reduce the shaking factor to 1.60 from the 1.68,  
7 that would fit within your criteria, yes?

8           And then we have the Category 2 construction type  
9 as defined by AB300.

10          CHAIRPERSON REYES: Which we already have in A.

11          SENATOR HANCOCK: Yes, which we have in A. Would  
12 we need to add the RM1 building type and the C2A building  
13 type or are they in there now?

14          MR. HARVEY: They would be included in A.

15          SENATOR HANCOCK: Okay. So they're in there now.  
16 So then we have those two factors that were of concern to  
17 Finance and then it would seem to me that the other two  
18 would be all right the way they are. If we add especially  
19 catastrophic collapse in a seismic event --

20          ASSEMBLY MEMBER HAGMAN: And you also had the  
21 interim housing, whatever you --

22          MR. HARVEY: It's the second part.

23          SENATOR HANCOCK: And then DSA concurrence with an  
24 engineering report; right? So that if we move those four  
25 things and directed the staff to return to the Committee

1 with conforming regulatory amendments, to that I would want  
2 to add including what I'm calling an incremental option, but  
3 I don't know if that's correct -- an incremental option to  
4 take care of smaller projects such as ceiling tiles and  
5 lamps.

6 MR. ZIAN: The voluntary seismic?

7 SENATOR HANCOCK: Yeah. Yeah.

8 CHAIRPERSON REYES: Why don't you tell -- explain  
9 to us what that is, please.

10 MR. FERGUSON: If I could clarify. The  
11 incremental option I refer to is an incremental lowering of  
12 the spectral acceleration.

13 SENATOR HANCOCK: That's what I thought, so I  
14 need to call it something else.

15 CHAIRPERSON REYES: So from 1.60 to 1.57 to 1. --

16 MR. FERGUSON: That's what we would recommend --

17 CHAIRPERSON REYES: Okay.

18 MR. FERGUSON: -- every six months that it be  
19 reduced.

20 CHAIRPERSON REYES: Okay.

21 SENATOR HANCOCK: Well, I don't know that --

22 MS. MOORE: It's voluntary incremental seismic  
23 upgrade is the term.

24 SENATOR HANCOCK: Okay.

25 ASSEMBLY MEMBER BUCHANAN: Senator Hancock, can I

1 ask a question. Do you believe the school in Piedmont  
2 should have been able to qualify for seismic funds?

3 SENATOR HANCOCK: I think that if we do these  
4 kinds of things it probably would have.

5 ASSEMBLY MEMBER BUCHANAN: It would not have. It  
6 would not have. When they testified, they actually had a  
7 seismic -- their -- and they may be here, but their spectral  
8 acceleration was actually higher than that and under this  
9 they would not have been able to qualify because you're --

10 SENATOR HANCOCK: Even with the addition of the  
11 building type.

12 ASSEMBLY MEMBER BUCHANAN: That's exactly right.  
13 Because we're substituting a number for the analysis of  
14 professional experts/engineers that are telling us whether  
15 or not a school is safe to be occupied by kids. And then  
16 you put school boards in a very awkward situation because  
17 they have engineers that tell them they don't, but we're  
18 setting a bright line.

19 So if we have -- you know, if you think about the  
20 Morongo situation which was clear to all of us when you took  
21 a look at it and DSA even concurred, I mean you have to ask  
22 yourself if that is the criteria you want or if you want to  
23 rely on engineering experts and allowing them to take a look  
24 at the conditions specific to a school and a site.

25 CHAIRPERSON REYES: Mr. Ferguson, you had a

1 comment on that.

2 MR. FERGUSON: Yeah, if I could clarify. The  
3 Piedmont school didn't qualify because it was a wood frame  
4 construction type school. Under the proposal today, it  
5 would qualify. That would be an additional Category 2  
6 construction type that would qualify for the funding.

7 I'd also like to point out on the Morongo issue  
8 that the Division of the State Architect did not provide  
9 state level concurrence because they stated that it was not  
10 in imminent threat of collapse and that was presented before  
11 the Board.

12 So under that criteria, they would not have  
13 qualified, under --

14 ASSEMBLY MEMBER BUCHANAN: My recollection is that  
15 they concurred, but because the building type was built to  
16 the standards at the time it was constructed, they didn't  
17 qualify. Is that -- yeah.

18 MS. MOORE: That's my recollection.

19 CHAIRPERSON REYES: Mr. Hagman.

20 ASSEMBLY MEMBER HAGMAN: I was just going to ask  
21 staff, is there -- for these exceptions that we see, the  
22 ones that if we do this one jump down, have some kind of  
23 bright line just for starters, and you get a compelling case  
24 for someone who may not fit every category, but the totality  
25 of it look like it's immediate catastrophic danger, is there

1 a way to get funds under the health and safety part of it to  
2 them and how would you go about doing that and how would you  
3 bring that to us to make a decision?

4 MS. SILVERMAN: Under the current criteria, you  
5 file an appeal if you don't fit the boxes; that is correct.  
6 And that's the case -- what Morongo did. They didn't  
7 qualify for the seismic program, but they did qualify under  
8 facility hardship.

9 So it was a different pot of funds in which they  
10 qualified for.

11 ASSEMBLY MEMBER HAGMAN: But they still come out.

12 CHAIRPERSON REYES: Ms. Greene?

13 MS. GREENE: Chris, are you saying that it's an or  
14 situation?

15 MR. FERGUSON: That's what we would prefer that  
16 you have this and for the exceptions, they appeal to the  
17 Board for the Board's consideration.

18 MS. GREENE: But are you saying it's spectral  
19 acceleration or Category 2?

20 MR. FERGUSON: And. It's a combination of both.

21 MS. GREENE: That's not what you just said in your  
22 example.

23 MS. MOORE: If I may, since I'm the maker of the  
24 motion, politely, Senator Hancock, I'm going to try our  
25 motion first and if it does not pass, I think then it's time

1 for someone else to make a motion.

2 Ours was A through F which was inclusive of  
3 allowing interim housing was E and directing conforming  
4 regulations was F which means, Senator Hancock, I'm not  
5 accepting your amendments and I'd like to -- and it's been  
6 seconded. So if we could take the vote on that and then if  
7 that does not pass, I would defer to --

8 CHAIRPERSON REYES: Well, it's been moved and  
9 second and there can always be an alternative motion.  
10 Ms. Brownley.

11 ASSEMBLY MEMBER BROWNLEY: Yeah. I just -- I'm  
12 sorry I didn't hear what your motion was.

13 ASSEMBLY MEMBER HAGMAN: It's as recommended in  
14 here with E and F.

15 ASSEMBLY MEMBER BROWNLEY: It's A, B, C, and D as  
16 it's printed with E, the interim housing?

17 MR. HARVEY: Yes.

18 ASSEMBLY MEMBER BROWNLEY: And F, the conforming  
19 regulations?

20 MR. HARVEY: Yes.

21 MS. MOORE: Correct. But there were two other  
22 changes and so I'll go over them again.

23 ASSEMBLY MEMBER BROWNLEY: Okay. Okay. And what  
24 part of Ms. Hancock's motion are you not accepting?

25 MS. MOORE: She -- that motion does not include

1 reduction the spectral acceleration from 1.68 to 1.60 --

2 ASSEMBLY MEMBER BROWNLEY: Okay.

3 MS. MOORE: -- and it does not include the  
4 incremental -- the voluntary incremental seismic upgrades,  
5 which are what you were speaking to; correct?

6 SENATOR HANCOCK: Um-hmm. That's right.

7 CHAIRPERSON REYES: And the reference to AC41?

8 MS. MOORE: Well, I didn't know where that was in  
9 the -- that's not in the recommendations.

10 CHAIRPERSON REYES: Okay. All right.

11 ASSEMBLY MEMBER BROWNLEY: And I had just one  
12 question before we move on.

13 CHAIRPERSON REYES: Yeah.

14 ASSEMBLY MEMBER BROWNLEY: And I'm sorry. I think  
15 I -- I came in late, but I think I'm up to speed now on what  
16 the conversation has been. But for a structural engineer,  
17 is there a particular type of engineer that's certified for  
18 earthquake evaluations or just any structural engineer is  
19 qualified to do that?

20 MR. MCGAVIN: Basically as far as the State's  
21 concerned, any structural engineer. That's the --

22 ASSEMBLY MEMBER BROWNLEY: Any structural  
23 engineer?

24 MR. MCGAVIN: Right. A geoscientist that  
25 specializes in seismology or seismicity is a different

1 branch. That's not structural engineering necessarily, but  
2 the people that design schools and are tasked with taking  
3 those schools to the Division of State Architect for  
4 approval are licensed structural engineers in the State of  
5 California and there's not levels of structural engineering.

6 ASSEMBLY MEMBER BROWNLEY: Thank you.

7 CHAIRPERSON REYES: Okay. Before we go any  
8 further, can I hear from the public, if anybody has any  
9 comments. Yes.

10 MR. ZIAN: Could I make one point of  
11 clarification?

12 CHAIRPERSON REYES: Yes.

13 MR. ZIAN: In that alternate motion that Ms. Moore  
14 mentioned, the interim housing -- the -- which would be E,  
15 it's already in No. 2 -- Recommendation No. 2 and F is  
16 already in No. 3. So they're already there just so we don't  
17 get confused.

18 ASSEMBLY MEMBER HAGMAN: -- bifurcate it, 1, 2,  
19 and 3?

20 CHAIRPERSON REYES: My preference would be to  
21 bifurcate it, but that's not what she wants to do, so --  
22 that is her motion is to go A through F.

23 ASSEMBLY MEMBER HAGMAN: Okay.

24 CHAIRPERSON REYES: Yes, sir.

25 MR. DUFFY: Mr. Chairman, members, Tom Duffy for

1 the Coalition for Adequate School Housing. We are in  
2 support of this motion. We're very pleased that three  
3 members -- that the three members of the Subcommittee came  
4 to agreement on largely what was here and what has been  
5 presented here.

6           There has been, as has been noted, about a  
7 five-year struggle to try to have this program initiated. I  
8 think what is proposed will energize this program and will  
9 make it a comprehensive program for dealing with seismic  
10 issues in California. And I thank you for the opportunity  
11 to speak.

12           CHAIRPERSON REYES: Okay. Anybody else? Yes.

13           MR. PETTLER: Good evening, members of the Board.  
14 Matt Pettler with School Facility Consultants. Real  
15 quickly, there was a discussion earlier about not having a  
16 list of districts lined up waiting and that's largely true,  
17 but there is a small list in that there's one district, West  
18 Contra Costa Unified School District, that received a  
19 conceptual approval, but that conceptual approval hasn't  
20 guaranteed that project funding.

21           The district has -- I think is -- wants the  
22 program opened up and sees the need for that but wants to  
23 make sure that their funding is protected in essence, that  
24 other projects that may be less vulnerable aren't able to  
25 get the funding ahead of that project that's already been

1 conceptually approved at the higher, for lack of a better  
2 word, criteria. Thank you.

3 SENATOR HANCOCK: Can I ask a question on that?

4 CHAIRPERSON REYES: Ms. Hancock.

5 SENATOR HANCOCK: Yeah. Well, my understanding is  
6 that there actually is a number of programs in the pipeline  
7 right now, including West Contra Costa, but others that  
8 would use about \$99 million of the 199 million. So we're --  
9 and I'm assuming those would all stay in the queue and they  
10 would be ahead of whatever else happens?

11 MR. ZIAN: Not at this point. That was an earlier  
12 recommendation of the Seismic Subcommittee. There was no  
13 recommendation out of the Committee on that, but that was  
14 one of the proposals to set aside funding for all the  
15 known universe, the 21 new ones that we've recognized. But  
16 that is not something before us today.

17 CHAIRPERSON REYES: Okay.

18 SENATOR HANCOCK: Well, I'm -- that's of concern  
19 to me because I really did think that we were -- that all  
20 those projects that have been approved to be in the pipeline  
21 were going to move forward.

22 ASSEMBLY MEMBER BUCHANAN: I don't believe -- I  
23 mean I don't believe any -- that the projects you've  
24 identified are approved. The list you gave me as I recall,  
25 and please correct me, was that these are potential, but

1 these projects still have to do their engineering reports,  
2 apply, and everything else.

3 MR. ZIAN: That is correct. We --

4 ASSEMBLY MEMBER BUCHANAN: Now, your project may  
5 be different, but the list to which you refer was list of  
6 schools that if they want -- we don't even know definitely  
7 that they qualify yet. The list of schools that they  
8 could -- if they went forward, they might qualify if they  
9 did all their engineering reports and everything else, but  
10 that list -- but that's not a list of projects that have  
11 already been approved that meet the criteria and that are  
12 ready to be funded.

13 I believe there were a couple projects that fell  
14 into your category.

15 MR. ZIAN: West Contra Costa --

16 ASSEMBLY MEMBER BUCHANAN: Right.

17 MR. ZIAN: -- does have a conceptual approval.

18 ASSEMBLY MEMBER BUCHANAN: Right.

19 MR. ZIAN: They meet all criteria and they've come  
20 in --

21 ASSEMBLY MEMBER BUCHANAN: Right.

22 MR. ZIAN: -- and they have received Board  
23 approval. No apportionment, nothing else, but a conceptual  
24 approval.

25 ASSEMBLY MEMBER BUCHANAN: Right. And I would

1 expect that --

2 MR. ZIAN: The other 21 have been preliminary --

3 ASSEMBLY MEMBER BUCHANAN: Right.

4 MR. ZIAN: -- qualified for --

5 ASSEMBLY MEMBER BUCHANAN: And I would expect  
6 projects like yours would continue to stay on the list, but  
7 for other projects, we have no idea, you know, what the  
8 scope of those projects are at all, which is why we weren't  
9 dealing with those specifically because they still have to  
10 do all their work and move forward and get approval.

11 SENATOR HANCOCK: Okay. I thought they were all  
12 in the same position as West Contra Costa.

13 MR. MIRELES: West Contra Costa, if I could  
14 clarify, is in the same position as several other facility  
15 hardship conceptual approvals. The Board has granted a  
16 conceptual approval, meaning that they meet the criteria for  
17 a facility hardship, but there is no reservation of bond  
18 authority for those projects.

19 CHAIRPERSON REYES: Right.

20 MR. MIRELES: West Contra Costa is included. They  
21 still have to go out and get the plans approved. When they  
22 come in and submit a funding application, at that point, if  
23 there is remaining bond authority, they will get that  
24 reserve.

25 MS. MOORE: So what would have to happen is that

1 other projects -- if the Board approved the action today,  
2 other projects would have to get through DSA before Contra  
3 Costa -- 193 million worth would have to get through DSA  
4 before Contra Costa would and in order -- if we want to  
5 address that potentiality, we could add G that Contra  
6 Costa's conceptual approval is ahead of all other approvals.

7 MR. MIRELES: There's something that we --

8 CHAIRPERSON REYES: Mr. Mireles.

9 MR. MIRELES: I'm sorry. There's something that  
10 we -- the Committee asked us to explore reservation of  
11 authority for these projects. We did take a look at the  
12 program. We did consult with legal counsel.

13 We cannot, according to our legal counsel, reserve  
14 authority at the conceptual stage because it's in advance of  
15 plan approval and that's why we have created a system that  
16 we presented -- that we had before the Committee to try and  
17 establish that, you know, keeping in mind how much money  
18 we're approving up front and having that money available  
19 whenever the projects go through the planning approval  
20 stages and submit an application.

21 That process was not acted on by the Committee,  
22 but it was what our legal counsel opined that we would have  
23 to do to be able to do what you're suggesting, Ms. Moore.

24 ASSEMBLY MEMBER BROWNLEY: You described West  
25 Contra Costa School District, whatever, as hardship money.

1 MR. MIRELES: A facility hardship.

2 ASSEMBLY MEMBER BROWNLEY: Facility hardship.

3 Well, that's a different pot of money; right?

4 CHAIRPERSON REYES: Right.

5 MR. PETTLER: It's -- yeah. Just to clarify, it's  
6 not facility hardship. It's seismic and it is a conceptual  
7 approval and I agree with Juan. I guess the way I would  
8 differentiate it from the facility hardship conceptual  
9 approvals is there's no contemplation of changing the  
10 criteria for the facility hardship and so -- but there is on  
11 the seismic.

12 And so again the concern is that one could argue  
13 that this project is a more vulnerable project given that it  
14 meets the more stringent criteria and the concern would be  
15 if other projects -- they may not have to go through DSA.  
16 They may already be through DSA and they're just waiting for  
17 a change in the regulation, would jump ahead of that project  
18 in terms of being able to access the funding.

19 CHAIRPERSON REYES: Mr. Hagman.

20 ASSEMBLY MEMBER HAGMAN: I'm sorry to belabor the  
21 point, Mr. Chair, but I'm still concerned. Is there a  
22 way -- maybe we're just looking at this all wrong and is  
23 there a way to use seismic money on hardship cases or appeal  
24 cases that have been brought to us that don't fit current  
25 criteria? Can we or can we not do any kind of like Morongo,

1 actually use the right pot of money so to say?

2 MR. MIRELES: That's a legal question.

3 MR. DAVIS: The Bond Acts actually designate a  
4 certain dollar amount for seismic mitigation, so --

5 ASSEMBLY MEMBER HAGMAN: But it's used for that  
6 purpose.

7 MR. DAVIS: For seismic mitigation; right.

8 ASSEMBLY MEMBER HAGMAN: So in -- back to our case  
9 example of Morongo, they did not currently qualify under the  
10 current criteria that the regulations stated, but they were  
11 appealing for seismic upgrades. Could we -- even though  
12 they didn't fit our regulation, through an appeal process  
13 that's voted on -- and they made the case to it -- can we  
14 use seismic dollars for that project?

15 I know we didn't in this case. We went to a  
16 different pot of money, but since it was seismic upgrade,  
17 could we do it that way.

18 MR. DAVIS: The Bond Act doesn't give us authority  
19 to be able to move from one designated pot to another. So  
20 in this case, we have money set aside for facility hardship  
21 separate from seismic mitigation and in that case, I believe  
22 it was Morongo, we used facility hardship funds rather than  
23 the seismic mitigation.

24 ASSEMBLY MEMBER HAGMAN: But could we. If we took  
25 that action -- because what we're doing is setting arbitrary

1 criteria to say who qualifies, who's the most needy. We're  
2 trying to deliberate that.

3 If we determine this school or a school is seismic  
4 need, even though it doesn't fit current criteria, through  
5 an appeal process, could we use seismic money?

6 MR. DAVIS: We're still going to need criteria to  
7 determine who falls under seismic mitigation.

8 ASSEMBLY MEMBER BUCHANAN: That's --

9 MR. DAVIS: It depends --

10 ASSEMBLY MEMBER BUCHANAN: -- why we're going  
11 under this process now because the problem is we've been in  
12 effect -- we keep beating this dead horse for five years  
13 trying to set these numbers and schools that we know are not  
14 safe are not qualifying. And they can appeal, but then  
15 we've got to be able to fit them into another program.

16 CHAIRPERSON REYES: Okay. So we have a motion and  
17 a second. I think we've had a little bit of conversation on  
18 this. I'm just going to say I prefer that we split the  
19 issue because I have concerns about using interim housing in  
20 this scenario.

21 MR. HARVEY: So do I and as a result, I'm going to  
22 offer a substitute motion which would have us vote  
23 sequentially and separately on 1, 2, and 3.

24 CHAIRPERSON REYES: Okay.

25 MS. MOORE: I'll accept that.

1           CHAIRPERSON REYES: Okay. So as moving the  
2 motion, you remove your initial motion then and go with  
3 the -- take into --

4           MR. HARVEY: She seconded the second.

5           CHAIRPERSON REYES: You seconded the second.

6           MS. MOORE: It's the same motion, but it's  
7 bifurcating it; correct?

8           CHAIRPERSON REYES: Bifurcated. Thank you. Okay.

9           ASSEMBLY MEMBER BROWNLEY: Is there a second?

10          MR. HARVEY: She seconded it.

11          CHAIRPERSON REYES: She seconded it. Okay. So  
12 let's move for that. Call the roll on Item No. 1 to accept  
13 A through D with the amendment spoken to crossing out listed  
14 and including in seismic event. All in favor say aye. Oh,  
15 call the roll. You want to call the roll on this one?  
16 Okay. Call the roll.

17          MS. GENERA: Senator Hancock.

18          SENATOR HANCOCK: Aye.

19          MS. GENERA: Senator Runner.

20          SENATOR RUNNER: Aye.

21          MS. GENERA: Assembly Member Brownley.

22          ASSEMBLY MEMBER BROWNLEY: Aye.

23          MS. GENERA: Assembly Member Buchanan.

24          ASSEMBLY MEMBER BUCHANAN: Aye.

25          MS. GENERA: Assembly Member Hagman.

1 ASSEMBLY MEMBER HAGMAN: No.

2 MS. GENERA: Scott Harvey.

3 Kathleen Moore.

4 MS. MOORE: Aye.

5 MS. GENERA: Lyn Greene.

6 MS. GREENE: Aye.

7 MS. GENERA: Pedro Reyes.

8 CHAIRPERSON REYES: No.

9 MS. GENERA: It carries.

10 CHAIRPERSON REYES: Thank you. Item 2, allowing  
11 for additional for interim housing as recommended by the  
12 Committee and I've made my comment on that. Call the roll.

13 Mr. Harvey.

14 MR. HARVEY: No. You made your comment. That's  
15 fine.

16 CHAIRPERSON REYES: Okay. Okay. So we don't have  
17 to take another motion because the motion was take them one  
18 at a time. So thank you. Call the roll.

19 MS. GENERA: Senator Hancock.

20 SENATOR HANCOCK: I'm not sure what the second  
21 motion is.

22 MS. MOORE: Interim housing.

23 CHAIRPERSON REYES: Interim housing for -- to  
24 include interim housing in the funding -- or funding for  
25 interim housing. We have not done that before.

1           SENATOR HANCOCK: Right. I understand that and  
2 I'm not voting on that.

3           CHAIRPERSON REYES: Okay.

4           MS. GENERA: Senator Runner.

5           SENATOR RUNNER: I'm not voting either.

6           MS. GENERA: Assembly Member Brownley.

7           ASSEMBLY MEMBER BROWNLEY: Aye.

8           MS. GENERA: Assembly Member Buchanan.

9           ASSEMBLY MEMBER BUCHANAN: Aye.

10          MS. GENERA: Assembly Member Hagman.

11          ASSEMBLY MEMBER HAGMAN: No.

12          MS. GENERA: Scott Harvey.

13          MR. HARVEY: No.

14          MS. GENERA: Kathleen Moore.

15          MS. MOORE: Aye.

16          MS. GENERA: Lyn Greene.

17          MS. GREENE: Aye.

18          MS. GENERA: Pedro Reyes.

19          CHAIRPERSON REYES: No.

20          MS. GENERA: It doesn't carry.

21          CHAIRPERSON REYES: Thank you. And the Committee  
22 recommendations are approved, so the Committee will come up  
23 with regulatory amendments to come up with one -- provision  
24 one then.

25          MS. MOORE: Don't we have to vote on 3?

1           CHAIRPERSON REYES: Yeah. I'm just going to find  
2 out what it does. 1 through -- D and F. Call the roll,  
3 please.

4           MS. GENERA: Senator Hancock.  
5           Senator Runner.

6           SENATOR RUNNER: Aye.

7           MS. GENERA: Assembly Member Brownley.

8           ASSEMBLY MEMBER BROWNLEY: Aye.

9           MS. GENERA: Assembly Member Buchanan.

10          ASSEMBLY MEMBER BUCHANAN: Aye.

11          MS. GENERA: Assembly Member Hagman.

12          ASSEMBLY MEMBER HAGMAN: Aye I guess. You have to  
13 make regulations for it. Even if I opposed the -- okay.  
14 All right.

15          MS. GENERA: Scott Harvey

16          MR. HARVEY: Aye.

17          MS. GENERA: Kathleen Moore.

18          MS. MOORE: Aye.

19          MS. GENERA: Lyn Greene.

20          MS. GREENE: Aye.

21          MS. GENERA: Pedro Reyes.

22          CHAIRPERSON REYES: Procedural aye.

23          MS. GENERA: It carries.

24          SENATOR HANCOCK: And Hancock, aye as well.

25          CHAIRPERSON REYES: Thank you. I wanted to

1 publicly thank the Committee for all the work they did.  
2 This is a lot of work. A lot of work took place. I don't  
3 think everybody's happy with the outcome, but it was a lot  
4 of work.

5 SENATOR HANCOCK: I just wanted to make one  
6 additional motion --

7 CHAIRPERSON REYES: Yes.

8 SENATOR HANCOCK: -- since we're making all these  
9 motions.

10 CHAIRPERSON REYES: Ms. Hancock.

11 SENATOR HANCOCK: And that would be --

12 CHAIRPERSON REYES: Ms. Hancock has a motion,  
13 please.

14 SENATOR HANCOCK: -- to add the voluntary  
15 incremental upgrade option when they come back with  
16 regulations for us.

17 CHAIRPERSON REYES: And could you define the  
18 incremental upgrade just for -- so that everybody's clear.

19 SENATOR HANCOCK: Well, what I'm thinking is that  
20 it's for smaller focused projects that may not involve  
21 completely rebuilding or remodernizing and you could even  
22 say such as light fixtures, et cetera.

23 CHAIRPERSON REYES: Okay.

24 SENATOR HANCOCK: And if staff has a better way to  
25 word that, could you do that.

1           MR. ZIAN: DSA has proposed and they will be  
2 working on more specific guidelines for how it works  
3 procedurally, but in essence the way it would work would be  
4 an incremental approach where you do not exceed the  
5 50 percent of the current replacement value of a building  
6 and which if they don't cross that threshold, then they can  
7 in essence -- the detail's to be worked out by DSA -- avoid  
8 in some cases not meeting all the Building Code requirements  
9 to bring it up to current Building Code requirements,  
10 whatever that would be based on the age of the building.

11           So that's -- so they could voluntarily shrink the  
12 size of their project and just go in and deal with the --

13           CHAIRPERSON REYES: Zone on the --

14           MR. ZIAN: -- seismic repair needs, yes.

15           ASSEMBLY MEMBER HAGMAN: Second.

16           CHAIRPERSON REYES: It's been moved and second.

17 Mr. Harvey.

18           MR. HARVEY: Just so for --

19           ASSEMBLY MEMBER BUCHANAN: Do we need a motion? I  
20 mean do you want them to bring that back as an item for the  
21 agenda?

22           CHAIRPERSON REYES: Want to make sure that it gets  
23 included in the regulatory and it was not included and when  
24 it was proposed to be included, it was not accepted as an  
25 amendment. So we do want to put it in as a motion.

1 ASSEMBLY MEMBER BUCHANAN: Okay. All right.

2 CHAIRPERSON REYES: So it's been moved and second.

3 Mr. Harvey, you have a question? No.

4 MR. HARVEY: No. I've -- you've clarified for me.

5 CHAIRPERSON REYES: Okay. Okay. So do we need to  
6 call the roll or -- call the roll; okay.

7 MS. GENERA: Senator Hancock.

8 SENATOR HANCOCK: Aye.

9 MS. GENERA: Senator Runner.

10 SENATOR RUNNER: Aye.

11 MS. GENERA: Assembly Member Brownley.

12 Assembly Member Brownley?

13 ASSEMBLY MEMBER BROWNLEY: I'm not voting.

14 MS. GENERA: Abstain. Okay. Sorry.

15 Assembly Member Buchanan.

16 ASSEMBLY MEMBER BUCHANAN: No vote.

17 MS. GENERA: Assembly Member Hagman.

18 ASSEMBLY MEMBER HAGMAN: Aye.

19 MS. GENERA: Scott Harvey.

20 MR. HARVEY: Aye.

21 MS. GENERA: Kathleen Moore.

22 Lyn Greene.

23 Pedro Reyes.

24 CHAIRPERSON REYES: Aye.

25 MS. GENERA: Does not carry.

1           CHAIRPERSON REYES: Thank you.

2           SENATOR HANCOCK: I have one more motion I'd like  
3 to try. I've been told and I cannot say that I fully  
4 understand the reasons, but under what we just voted on,  
5 West Contra Costa is left out of the protection and unless  
6 there is specific wording about their conceptual approval  
7 remaining and keeping them on the list, they could in fact  
8 be dropped as a result of this motion that we just made and  
9 I don't know if their consultant is still here and if he  
10 could comment on that.

11           CHAIRPERSON REYES: Can we just make a motion that  
12 whatever we do causes no harm, no foul to whoever's already  
13 on the list? Is that fair? Do we need -- is that enough  
14 clarification for staff?

15           MR. DAVIS: I believe our issue, Mr. Chairman, is  
16 at this point we can't give them a reservation of funds  
17 until we actually have an application that's approved and  
18 all the steps are approved.

19           CHAIRPERSON REYES: Okay.

20           MR. DAVIS: If we do that, then it is actually an  
21 apportionment and we can't do an apportionment without going  
22 through those steps and that's what's preventing us from  
23 being able to reserve specific dollar amounts for that  
24 project.

25           MR. PETTLER: If I may. I guess a question or

1 maybe a way to get there is could the regulations or the  
2 criteria be set up where the criteria protects them, not a  
3 reservation of funds. So you're not actually reserving the  
4 funds, but the criteria in such a way where they qualify  
5 ahead of other projects. Just trying to look for an angle  
6 again under the spirit of being able to protect my project.

7 ASSEMBLY MEMBER HAGMAN: How long would it take  
8 you to get your stuff done?

9 MR. PETTLER: Yeah. They anticipate being out of  
10 DSA in the next three months. So the hope is that they'll  
11 be there --

12 ASSEMBLY MEMBER HAGMAN: How long would it take to  
13 get regulations?

14 MR. PETTLER: Yeah.

15 ASSEMBLY MEMBER HAGMAN: Six to nine months?

16 MS. SILVERMAN: Who knows.

17 MR. PETTLER: So, you know --

18 ASSEMBLY MEMBER HAGMAN: So it may get done before  
19 the new regulations take place; right?

20 MR. PETTLER: That is possible.

21 ASSEMBLY MEMBER HAGMAN: So then you have -- if  
22 they get it done in the next three months --

23 MR. PETTLER: That's correct. We'd appreciate  
24 your help with DSA on that process as well, so --

25 ASSEMBLY MEMBER HAGMAN: And if it takes six or

1 nine months before the new codes come in, then they should  
2 be protected.

3 MS. SILVERMAN: They're fine.

4 CHAIRPERSON REYES: Ms. Silverman, please --

5 MS. SILVERMAN: I think as far as conceptual  
6 approval, they have actually 18 months to come in with their  
7 project. So again the goal is to move along quite fast and  
8 they have the criteria already established for them. It's  
9 just when they come in for funding, again the goal is to  
10 accelerate those projects --

11 MR. PETTLER: Right.

12 MS. SILVERMAN: -- coming through the door, so  
13 we --

14 MR. PETTLER: Agree. Yeah. The district is  
15 hopeful it's not an issue. They don't anticipate taking the  
16 18 months that they are provided conceptual approval. Again  
17 just the concept is there that they could get skipped over,  
18 so I want to make sure --

19 ASSEMBLY MEMBER HAGMAN: I think encouragement for  
20 the Board to get it done.

21 CHAIRPERSON REYES: Yes. Okay. Thank you.  
22 Another easy one. **Priorities in funding.** We can do this in  
23 three minutes flat.

24 MR. MIRELES: Tab 13, beginning on page 167,  
25 Mr. Chair, is a report from the Committee on priorities in

1 funding/cash management and to provide recommendations on  
2 three separate issues, the first dealing with fiscal crisis  
3 regulations, second dealing with remaining bond authority,  
4 and the third is how to make apportionments in the future.

5           The Committee met on four separate occasions, the  
6 last of which was last week on the 17th, and the  
7 recommendations are as follows.

8           When choosing the fiscal crisis regulations, the  
9 Committee recommended to reserve approximately \$73.5 million  
10 from the next bond sale for Charter School Program projects,  
11 for their advanced fund releases for site and design, and to  
12 extend the charter school regulations for another year.

13           Basically the discussion was that charter schools  
14 have not been able to access the State funds to get started  
15 in terms of getting the designs, getting the plans approved,  
16 acquiring land, because they don't have local match as other  
17 school districts that do have local match, they can get  
18 started with the projects. So I think the Committee was  
19 making a suggestion to sort of level the playing field for  
20 charter schools.

21           The reservation would be available for six months  
22 after the cash becomes available. If the cash is not used,  
23 then it would be at the discretion of the Board to be used  
24 for other purposes.

25           Also once the cash is accessed by charter schools,

1 then the Board can then take an action to declare those  
2 projects active, meaning that they were going to continue  
3 their processing timelines established in regulations.

4 The second issue dealt with --

5 CHAIRPERSON REYES: Hold on. Let's deal with  
6 this. This is it; right? For charter schools, this is all?

7 MR. MIRELES: Yes.

8 CHAIRPERSON REYES: Is there a motion to approve  
9 this?

10 ASSEMBLY MEMBER HAGMAN: I have a question.

11 CHAIRPERSON REYES: Mr. Hagman.

12 ASSEMBLY MEMBER HAGMAN: Thank you, Mr. Chair. I  
13 just have a question. This requirement had a little bit of  
14 money for design -- design money for design. So what  
15 happens upon construction or if they start constructing and  
16 they have to go keep their priority level? How does this  
17 process work so that they could get --

18 MR. MIRELES: They're going to get the funding for  
19 site and design to get started. Once they come in and  
20 submit a funding application, which means that they've  
21 received all the plan approvals, then they'll get placed on  
22 the unfunded list just like any other project.

23 ASSEMBLY MEMBER HAGMAN: But if they've already  
24 been in this process since 2005-'06 and they're going to be  
25 put on the bottom of that list, how do they keep their level

1 so to speak because they could be put at the very low --  
2 bottom of the list at this point, but they've been going  
3 through different -- you know, different processes.

4 MR. MIRELES: This is something that was discussed  
5 extensively at the Committee and the idea was they're given  
6 the money to get started, but once they get the money, they  
7 get the plans to acquire the land, then they would be in the  
8 same level field as other school districts and they would be  
9 on the unfunded list just like any other school district  
10 which it would be at the bottom of the list depending on  
11 when they would come in.

12 I don't know if any of the main members want to --

13 ASSEMBLY MEMBER HAGMAN: How do make --

14 MR. MIRELES: -- comment on that.

15 ASSEMBLY MEMBER HAGMAN: -- because they've been  
16 working with their own set of rules all this period of time  
17 and now they're -- school districts have been doing their  
18 own, you know, protocol for all this time. Now they're  
19 putting together -- they're basically starting from scratch  
20 again and it's not on their fault a lot of times to be in  
21 this position five years later. So I don't know if there's  
22 even recommendations for it, but --

23 CHAIRPERSON REYES: There were basically three  
24 options. One option is status quo and their five years  
25 turns into ten years because of they'll never have their

1 money to get going.

2           The one option was to give them the money to get  
3 going and move to the top of the list and that didn't seem  
4 fair that they would get that kind of priority.

5           The middle option was to give them the money to go  
6 forward. We have done that already to the tune of about  
7 90 million before and this was what the hold is right now  
8 and that's how we arrived at less than 80 million and then  
9 they go in on the list like anybody else. That seemed to be  
10 the most equitable.

11           ASSEMBLY MEMBER HAGMAN: Is there any kind of  
12 application date -- everything's done by date received.

13           CHAIRPERSON REYES: Right.

14           ASSEMBLY MEMBER HAGMAN: But the apples and  
15 oranges there are trying to make apples. Any way to  
16 transfer some of those dates somehow that they'd be in the  
17 works. I don't know.

18           CHAIRPERSON REYES: Well, the problem is that some  
19 of them have not been in the works because they didn't have  
20 the money. We're not letting them get in the playing field.  
21 They've been on the bench the whole time.

22           And so now they actually get a uniform so they  
23 have a chance to bat.

24           Public comment.

25           MS. TOPP: Thank you, Mr. Chairman and members.

1 Moira Topp (ph) on behalf of the California Charter Schools  
2 Association and first certainly want to say that we are  
3 supportive of the Subcommittee action and the action before  
4 you, very much appreciate all of the attention that was paid  
5 to it during the Subcommittee process and the length of time  
6 that you devoted to it.

7           And we do think that the site acquisition money  
8 is -- site design money -- excuse me -- is important and a  
9 good first step. We do have the same concerns that  
10 Mr. Hagman made which are -- well, we're kind of faced with  
11 a situation where as you described, if we went with the one  
12 date, it puts charter schools at the top of the list. This  
13 potential action then puts them effectively at the bottom of  
14 the list and so I guess what we would like to do is continue  
15 to work with you, with your staff, to see if there is some  
16 middle ground to be found with respect to -- to making sure  
17 that we really do meet I think your suggestions, your  
18 guidance, your impetus to get shovel-ready projects done  
19 because essentially if all we're doing is funding site and  
20 design and then putting construction at the very bottom of  
21 the list, I don't think we're going to get to the  
22 construction that you're hoping to see, at least in a quick  
23 fashion and we think there are truly public -- or charter  
24 schools that will be ready for construction earlier than  
25 they are -- than they would be ready to go at that bottom of

1 the list.

2           It just doesn't seem -- we were kind of in that  
3 all or nothing situation. So again our request is that we  
4 work with your staff to see if there is something else we  
5 can come back to you with that maybe has a different proxy  
6 for a different date. There are all sorts of dates in this  
7 process.

8           ASSEMBLY MEMBER HAGMAN: Anybody have any idea  
9 what numbers we're talking about? How many sites may be  
10 potentially ready at this point? I mean based if they had  
11 funding? Would you go for a bond fund and keep a percentage  
12 toward this and then give them six months to get started.  
13 If now, okay, all bets are off.

14           I mean you want to get the ones that are most  
15 ready to go and that are capable of going and that's what  
16 they would be under their old program if we had the funding  
17 stream and the mechanics to do it. But since we don't have  
18 that, we're mixing in with another group, but we do want to  
19 take those priority ones that have been sitting there  
20 waiting to go.

21           So is there a way -- have you see if we left -- if  
22 we pass this down, is there room for that opportunity later  
23 to take a look at that?

24           MR. MIRELES: We can certainly take a look at  
25 that.

1 ASSEMBLY MEMBER HAGMAN: If that's the Chair and  
2 the Board's direction. I don't -- I'm just --

3 MS. MOORE: Maybe as a starting point for that, we  
4 go back to Proposition 55 projects. They're not the latest.  
5 They're not the earliest and it seems that they -- they're  
6 maybe the bulk of those 55s that have not moved forward to  
7 construction to review.

8 CHAIRPERSON REYES: Jim and then Chris.

9 MR. BUSH: Yes. Thank you, Mr. Chairman. My name  
10 is Jim Bush, School Site Solutions. I represent a number of  
11 charters, a number of them in the 55 Proposition, and I  
12 would agree with Ms. Moore.

13 I would think that as money gets returned into the  
14 program that you've allocated that maybe is unclaimed that  
15 you could recycle that into construction projects and limit  
16 those initially to Prop. 55. They have been struggling  
17 since 19 -- excuse me -- 2005 to try to make their projects  
18 work and I don't know how much of the 96 million was  
19 actually claimed and I know one round is done and another  
20 round is coming up, but probably not all of it was claimed  
21 and I don't know if this 73 million will all be claimed for  
22 design apportionment and it would seem to me you could  
23 recycle that unclaimed money into a pot for  
24 construction-ready maybe just Prop. 55 projects.

25 CHAIRPERSON REYES: Mr. Ferguson.

1 MR. FERGUSON: Chris Ferguson, Department of  
2 Finance. We would support the staff's option as written.  
3 In this case, we believe providing funds to charter schools  
4 for site and acquisition and design costs would allow those  
5 projects to begin to move forward, to move to a place where  
6 they would be able to then construct.

7 Adding them to the unfunded list to compete in  
8 priorities in funding we think is a fair option at this  
9 point.

10 CHAIRPERSON REYES: What are your thoughts on the  
11 Prop. 55 option that Ms. Moore put forward?

12 MR. FERGUSON: We do believe that those projects  
13 have been disadvantaged against others. They were unable to  
14 move forward since December 18th of 2008. Once AB55 was  
15 frozen -- those loans frozen, they could not proceed until  
16 the Board recently took action to provide the 96 million.

17 Until that occurred, they could not move forward.  
18 Unlike a traditional school district, they don't have access  
19 to developer fees or internal borrowing sources to move  
20 forward on their own.

21 CHAIRPERSON REYES: Senator Runner and then  
22 Mr. Harvey.

23 SENATOR RUNNER: Well, I am concerned along with  
24 Assembly Member Hagman about the timing. Is there a  
25 deadline for Prop. 55 funds to be used and that would be an

1 issue because they'd have the site and design and then be,  
2 what, 14 more months to actually get the building as far as  
3 the dates.

4 So I am concerned and wish that the Charter  
5 Schools Association and the other charter schools would get  
6 to meet with the staff and have some kind of firm decision  
7 on that.

8 CHAIRPERSON REYES: Mr. Harvey.

9 MR. HARVEY: I don't want to beat the dead horse,  
10 but I too think the suggestion on Prop. 55 has merit --  
11 statement about the disadvantaged situation they have and  
12 the fact that I would encourage the association to work with  
13 staff. I mean everyone has the right to do that and  
14 hopefully they'll come back with something that works.

15 CHAIRPERSON REYES: Okay.

16 MS. TOPP: Mr. Chairman, I'm sorry --

17 CHAIRPERSON REYES: Yes.

18 MS. TOPP: -- with your indulgence. One point of  
19 clarification I just wanted to see if we could address and  
20 that is that the motion or the recommendation is that it's  
21 reserving the \$73.5 million from the next bond sale. I  
22 assume this is a technical -- that the presumption is that  
23 that is for any new monies including any rescissions that  
24 might come or -- and that is not specific to bond funds or  
25 is that not true.

1           CHAIRPERSON REYES: Well, we're looking at a bond  
2 sale. I think that is what the Committee was looking at the  
3 time. Ms. Silverman, is there a distinction of that or  
4 difference for those purposes?

5           MS. SILVERMAN: No, but I think the issue that's  
6 being raised is whether or not the funds that come back from  
7 rescissions are a result of those projects not moving  
8 forward, whether or not that money could be reserved for  
9 additional projects being moved for the charter program.

10          MR. HARVEY: I think the direction was for you to  
11 actively consider that --

12          MS. SILVERMAN: Right.

13          MR. HARVEY: -- as you work with all of the  
14 gathered folk because Prop. 55 had the disadvantage. That  
15 may make sense.

16          CHAIRPERSON REYES: So the Chair will entertain a  
17 motion on that then.

18          MS. MOORE: Well, just so I understand, what is  
19 you're saying is rescissions of all projects possibly or  
20 charter projects?

21          MR. HARVEY: Charter.

22          CHAIRPERSON REYES: Charter projects.

23          MR. HARVEY: Charter projects.

24          MS. MOORE: So if someone that had actual dollars  
25 rescinds that we reapportion that out into preliminary sites

1 first before -- where else would it go?

2 MS. SILVERMAN: There is money earmarked for the  
3 charter program as a result of the last bond sale, am I  
4 correct, for priority funding round? Is that --

5 MS. MOORE: Right. So where else could that --  
6 those funds go?

7 MS. SILVERMAN: So if the funds are returned back  
8 and those projects didn't perfect in that certain timeline,  
9 could that money be used for future charter projects being  
10 funded?

11 MS. MOORE: What I'm asking is could it go any  
12 other place?

13 MS. SILVERMAN: Yes.

14 MS. MOORE: It can?

15 MS. SILVERMAN: It can be.

16 MS. MOORE: So that's a choice of the Board.

17 MS. SILVERMAN: Potentially any other place.

18 MR. HARVEY: Right. That's why we need to hear  
19 it.

20 MS. MOORE: Okay.

21 ASSEMBLY MEMBER BUCHANAN: So can I clarify just  
22 from a --

23 CHAIRPERSON REYES: Yes.

24 ASSEMBLY MEMBER BUCHANAN: You agree that you want  
25 the 73.5 million to be able to allow these projects to go

1 forth planning. I remembered at a previous meeting whoever  
2 it is said that's most important for us, more important than  
3 construction because we can't build if we don't have the  
4 plans.

5 So is the motion to approve that now and then we  
6 want to come back at another meeting with what other options  
7 like B to get funding.

8 MR. HARVEY: Yes.

9 ASSEMBLY MEMBER BUCHANAN: Okay. So we're  
10 really -- we have one motion and the other is just direction  
11 for staff.

12 ASSEMBLY MEMBER HAGMAN: And I think the motion  
13 also include direction that if there's money from the  
14 set-aside from last bond sale that came back from charter  
15 schools that that could go forward, not necessarily wait for  
16 the sale?

17 ASSEMBLY MEMBER BUCHANAN: They're going to bring  
18 those options back just at the next meeting I --

19 CHAIRPERSON REYES: There was a request that I  
20 think Ms. Moore was supporting of an issue of allowing some  
21 of the Prop. 55 money that is available to be made available  
22 for construction in those cases, so those items move to the  
23 top of the line on Prop. 55.

24 MS. MOORE: I was not supporting that at this  
25 meeting.

1           CHAIRPERSON REYES: Okay.

2           MS. MOORE: I was saying that that's the second  
3 phase, bring back the ideas to the Board, because I don't  
4 think we know the universe. I think we need more data to  
5 make an informed decision there.

6           CHAIRPERSON REYES: But the Board is open for  
7 that.

8           MS. MOORE: Right.

9           CHAIRPERSON REYES: And we would want to do that  
10 sooner rather than later.

11           ASSEMBLY MEMBER HAGMAN: So we got a motion to --

12           CHAIRPERSON REYES: Staff recommendation. Okay.  
13 Is there a second?

14           ASSEMBLY MEMBER BROWNLEY: Second.

15           MR. HARVEY: Second.

16           MS. GENERA: Senator Hancock.

17           SENATOR HANCOCK: Aye.

18           MS. GENERA: Senator Runner.

19           SENATOR RUNNER: Aye.

20           MS. GENERA: Assembly Member Brownley.

21           ASSEMBLY MEMBER BROWNLEY: Aye.

22           MS. GENERA: Assembly Member Buchanan.

23           ASSEMBLY MEMBER BUCHANAN: Aye.

24           MS. GENERA: Assembly Member Hagman.

25           ASSEMBLY MEMBER HAGMAN: Aye.

1 MS. GENERA: Scott Harvey.

2 MR. HARVEY: Aye.

3 MS. GENERA: Kathleen Moore.

4 MS. MOORE: Aye.

5 MS. GENERA: Lyn Greene.

6 MS. GREENE: Aye.

7 MS. GENERA: Pedro Reyes.

8 CHAIRPERSON REYES: Aye.

9 MS. GENERA: It carries.

10 CHAIRPERSON REYES: Second recommendation is to  
11 not to mess with the bond authority -- go ahead.

12 MR. MIRELES: We have -- before that, we have the  
13 recommendations regarding the Critically Overcrowded Schools  
14 fiscal crisis regulations.

15 CHAIRPERSON REYES: Um-hmm.

16 MR. MIRELES: The recommendation from the  
17 Committee was to remove the inactive status and consider all  
18 those projects to be active. That affects -- this is on --  
19 I'm sorry -- page 168. It affects the 33 remaining  
20 inactivity Critically Overcrowded Schools projects and they  
21 would have about ten months to convert, meaning that they  
22 have to get plans approved by DSA and CDE and submit them to  
23 our office to be able to meet the statutory requirements for  
24 the program.

25 So the Committee recommended to remove the

1 inactive status for those fiscal crisis regulations.

2 MR. HARVEY: I'll move the Committee  
3 recommendation.

4 CHAIRPERSON REYES: Been moved. Second?

5 ASSEMBLY MEMBER BUCHANAN: Second.

6 CHAIRPERSON REYES: We have a second. Call the  
7 roll.

8 MS. GENERA: Senator Hancock.

9 SENATOR HANCOCK: Aye.

10 MS. GENERA: Senator Runner.

11 SENATOR RUNNER: Aye.

12 MS. GENERA: Assembly Member Brownley.

13 ASSEMBLY MEMBER BROWNLEY: Aye.

14 MS. GENERA: Assembly Member Buchanan.

15 ASSEMBLY MEMBER BUCHANAN: Aye.

16 MS. GENERA: Assembly Member Hagman.

17 ASSEMBLY MEMBER HAGMAN: Aye.

18 MS. GENERA: Scott Harvey.

19 MR. HARVEY: Aye.

20 MS. GENERA: Kathleen Moore.

21 MS. MOORE: Aye.

22 MS. GENERA: Lyn Greene.

23 MS. GREENE: Aye.

24 MS. GENERA: Pedro Reyes.

25 CHAIRPERSON REYES: Aye.

1 MS. GENERA: It carries.

2 MS. SILVERMAN: The last recommendation as far as  
3 the fiscal crisis regs was to recommend -- the Committee  
4 obviously had a lot of dialogue related to the  
5 recommendation of re-reviewing -- establishing a re-review  
6 period for financial hardship projects sitting on the  
7 unfunded list.

8 And with that, the Committee did recommend to  
9 allow the current financial hardship regulations to become  
10 inactive as of July 1st. Also prove a process in that  
11 financial hardship re-reviews would be instituted for  
12 this -- for the period effective July 1st, 2011, and for  
13 those projects that are limited to on the unfunded list,  
14 added to the list as of February 25th, 2009, to June 30th,  
15 2011.

16 I believe the conversation was trying to create a  
17 bright line test as far as when we would re-review the  
18 financial information would be in effect. So we did an  
19 example as far as if a project was added on the unfunded  
20 list effective in January 2011 and the Board did have the  
21 ability to fund a project as of November 1st, it -- what is  
22 the timeline in which we would be reviewing financial  
23 information and I believe it was really clear at that point  
24 in time at the discussion that a review of the financials  
25 would only be in effect from July 1st moving forward.

1           So those projects who were sitting on the unfunded  
2 list for more than six months, that prior funds prior to  
3 that date would not be included in the review.

4           So with that, we bringing forward the  
5 recommendations of the Subcommittee --

6           CHAIRPERSON REYES: Ms. Greene.

7           MS. GREENE: I would like to move a change in the  
8 recommendation and to have it read allow the current  
9 financial hardship re-review regulations to remain in effect  
10 until July 1st, 2012.

11           CHAIRPERSON REYES: Is there a second for the  
12 motion?

13           ASSEMBLY MEMBER BROWNLEY: I'll second that.

14           CHAIRPERSON REYES: Ms. Brownley seconds. Any  
15 comments? There's a mic, there's a chair, take it.

16           MR. WALRATH: Thank you, Mr. Chair. Dave Walrath  
17 representing Small School Districts Association. We're  
18 still in fiscal crisis. We still have huge entry year  
19 deferrals. We're speaking in favor of Ms. Greene's motion  
20 to retain the current regulation through July 1, '12. We're  
21 making this request because the current provisions give  
22 certainty to school districts. They know what they owe.

23           If you reopen, then you have uncertainty and in  
24 this period of fiscal crisis that we are facing at the local  
25 level from the deferrals -- counts, not really sure what our

1 budget is going to look like next year, whether there will  
2 or will not be tax extensions. We need certainty for  
3 planning purposes.

4           So we're asking that you adopt this motion because  
5 it will provide a certainty on what is the contribution from  
6 the local district for the project so they can continue  
7 whatever planning they've been doing without changing the  
8 rules midstream prior to funding. Thank you.

9           MS. FERRERA: Anna Ferrera on behalf of the County  
10 School Facilities Consortium. I think we've been in that  
11 very same spot all throughout this discussion. CSFC is --  
12 just believes that the emergency situation that we were in  
13 before, we're still in now and there's not funding flowing  
14 from AB55 and we're just very, very concerned that any  
15 change would cause more problems and for all the reasons  
16 Dave Walrath just stated. So we would be very much in  
17 support of the Greene proposal.

18           CHAIRPERSON REYES: Okay.

19           MR. GONZALEZ: Thank you. Richard Gonzalez of  
20 Richard Gonzalez & Associates. I'm not going to speak to  
21 the points that they've presented, but if you chose to go  
22 with the original recommendation by the staff, I would  
23 recommend there be at least one clarification being made.

24           If I'm a financial hardship school district and I  
25 have one project that's currently on the unfunded list, as

1 you have shared in the Subcommittee, Mr. Reyes, it would be  
2 grandfathered in through July 1st, 2011. Okay.

3 But if a district comes in with a subsequent  
4 application after that point while that one is still on the  
5 list, these regulations say that the district would be  
6 subject to re-review and that means local matching  
7 requirement on that project that may be on the unfunded list  
8 has now been changed.

9 So my recommendation would be -- or ask that you  
10 consider that the requirements for a local match on the  
11 project that's currently on the unfunded list would not be  
12 altered as a result of having done a re-review of the  
13 financial hardship, that that re-review would only impact  
14 the new project that came onboard. Thank you.

15 CHAIRPERSON REYES: Mr. Harvey.

16 MR. HARVEY: I support the Committee's action for  
17 the following reason. I think the action recognizes that  
18 there is a continuing fiscal crisis and what it says is  
19 we're going to pick a proper time to reinstitute review  
20 because if you have money to put into a project, you no  
21 longer are a financial hardship district, you probably  
22 should put the money in.

23 Alternatively if you're a district which over time  
24 now is a financial hardship district, you should have the  
25 opportunity for that review and to qualify for the hundred

1 percent financing.

2 I think we had a very robust discussion about  
3 equity and fairness and it was the Committee's  
4 recommendation to endorse this process where you pick a time  
5 and the re-reviews start at that point in time because at  
6 some point out of equity for all of California school  
7 districts, you should be rewarding by hundred percent  
8 financing those that are truly hardship and those that have  
9 dollars to commit to a project should.

10 So I'm going against the substitute motion.

11 ASSEMBLY MEMBER BUCHANAN: Could I just get --

12 CHAIRPERSON REYES: Ms. Buchanan.

13 ASSEMBLY MEMBER BUCHANAN: -- clear that when we  
14 looked at this, the intent was not to penalize any districts  
15 for that time period and to extend it and move forward. So  
16 could I just get clarification on the rationale to make it  
17 January -- or July 1 of 2012 instead of July 1, 2011?

18 MS. GREENE: This was the very first issue on my  
19 very first Board meeting and financial hardship is one of  
20 the areas that small school districts have a very hard time  
21 with re-review because it involves an enormous amount of  
22 effort for them.

23 My concern at this point with this specific one is  
24 that financial hardship is sitting on a list through no  
25 fault of its own and we're picking some arbitrary date to

1 determine at this time that you still are a financial  
2 hardship.

3           It penalizes the planning process that the school  
4 district has sat through and held only to their money in  
5 order to encumber what they need. They've already go it.  
6 It's encumbered and it was explained to me in briefing that  
7 by being encumbered it doesn't count.

8           But the real question is this is a special  
9 category. It's always been a special category and so my  
10 concern is you can't turn around to a district that's been  
11 planning and sitting for three years and say, oh, by the  
12 way, these four months now you either owe us money or, as  
13 Lisa said, you qualify for even more.

14           The number that would qualify for more would  
15 probably be less than the number that would be penalized.  
16 That's my concern.

17           ASSEMBLY MEMBER BUCHANAN: So July 12th moves it  
18 up one year --

19           MS. GREENE: For reconsideration again because  
20 it'll come back in a year.

21           ASSEMBLY MEMBER BUCHANAN: Because it seems to me  
22 you're almost arguing for a complete change in the  
23 regulations regarding financial hardship, but at a minimum,  
24 you want to extend it a year.

25           MS. GREENE: Since we're playing a time game,

1 these were dates.

2 ASSEMBLY MEMBER BUCHANAN: Right.

3 MS. GREENE: I'm speaking to that date.

4 ASSEMBLY MEMBER BUCHANAN: Okay.

5 CHAIRPERSON REYES: I guess my concern is that the  
6 enormous effort involved -- it's going to be an enormous  
7 effort at any time whether you do it July of 2012 or 2011.  
8 Both dates are arbitrary from my perspective.

9 I think what we're trying to do is say you have a  
10 six-month look-back at anything that happens pre-July 1st of  
11 2011 is grandfathered in. So it's only stuff that really  
12 when you do the six-month look-back is the stuff that  
13 happens after the January of 2012 and at some point we have  
14 to look back.

15 I mean it's if you qualify for financial aid  
16 and -- but you take a year of leave or take your admission  
17 for the following year. Well, you ought to be applying for  
18 financial aid. Because you qualify then, you should always  
19 eligible [sic].

20 You may have greater need. You may have less  
21 need. So I think that the interest is to do and apply this  
22 six-month look-back business statute. So that's the kind of  
23 logic of the Committee.

24 MR. DAVIS: Mr. Chairman, just from a practical  
25 perspective, simply all we do with the regulations is push

1 that back a year to -- as it is right now, it's going to  
2 sunset on July 1, which means the only way we're going to  
3 prevent it from sunseting is, if I understand correctly,  
4 going through emergency regulations to get it in place in  
5 time.

6 That might possibly be a problem for us,  
7 establishing there's an emergency change that day.

8 CHAIRPERSON REYES: So --

9 MR. DAVIS: Under the other plan, basically we're  
10 looking at sunset, but we're just setting a date -- this is  
11 the date we're going to establish we're looking at --

12 CHAIRPERSON REYES: But if we do nothing, it  
13 sunsets. So we have a look-back.

14 MR. DAVIS: Correct.

15 ASSEMBLY MEMBER HAGMAN: So what we probably have  
16 is -- so we approve the substitute motion, then we have a  
17 hard time getting that into the --

18 MR. DAVIS: We'll have to do it, yeah. It's  
19 emergency regulation and trying to get that through.

20 MS. MOORE: I think that's how it went before as  
21 well as I recall because --

22 MR. DAVIS: I believe you're correct.

23 MS. MOORE: -- we -- it was because we did not  
24 address hardship in the original emergency regulations  
25 around the fiscal crisis. So we had the same situation

1 previously. It's not unusual to this program.

2 MR. DAVIS: I just bring it up in the light of our  
3 most recent regulations.

4 CHAIRPERSON REYES: Okay. So staff  
5 recommendation -- we have a motion to do it 2012 and that  
6 would require regulations -- emergency regs. Okay.

7 MR. DAVIS: Correct.

8 CHAIRPERSON REYES: All right. Is there a second?  
9 Is there a substitute?

10 ASSEMBLY MEMBER BROWNLEY: I have a -- I second  
11 it.

12 CHAIRPERSON REYES: Yes. You second that. Okay.  
13 Ms. Brownley seconds. Any comment from the public on this?

14 ASSEMBLY MEMBER HAGMAN: We already got it.

15 CHAIRPERSON REYES: We got it already. Sorry.

16 All right. We have a vote. I think the Chair's option --  
17 preference would be to let them sunset on the 2011.

18 MR. HARVEY: That's mine as well.

19 CHAIRPERSON REYES: Okay. Take the vote, please.

20 MS. GENERA: Senator Hancock.

21 SENATOR HANCOCK: Aye.

22 MS. GENERA: Senator Runner.

23 SENATOR RUNNER: Aye.

24 MS. GENERA: Assembly Member Brownley.

25 ASSEMBLY MEMBER BROWNLEY: Aye.

1 MS. GENERA: Assembly Member Buchanan.

2 ASSEMBLY MEMBER BUCHANAN: Can you tell me what  
3 we're voting on? Are we voting on --

4 ASSEMBLY MEMBER HAGMAN: To extend to 2012.

5 CHAIRPERSON REYES: We're basically asking staff  
6 to go and extend this regulation to 2012 -- July of 2012 as  
7 opposed to letting it sunset which is what the Committee  
8 worked on.

9 ASSEMBLY MEMBER BUCHANAN: Okay. Well -- no vote.

10 MS. GENERA: Assembly Member Hagman.

11 ASSEMBLY MEMBER HAGMAN: No.

12 MS. GENERA: Scott Harvey.

13 MR. HARVEY: No.

14 MS. GENERA: Kathleen Moore.

15 Lyn Greene.

16 MS. GREENE: Aye.

17 MS. GENERA: Pedro Reyes.

18 CHAIRPERSON REYES: No.

19 MS. GENERA: It doesn't carry.

20 MS. MOORE: Wait a minute. What's the vote count?

21 MS. GENERA: Four, four. Four ayes, four nos.

22 MS. MOORE: And we need?

23 CHAIRPERSON REYES: Six.

24 MS. GENERA: We need six.

25 CHAIRPERSON REYES: Okay.

1 MR. HARVEY: I would move the Committee  
2 recommendation.

3 MS. MOORE: I have an amendment then. I -- if  
4 we're going to move Committee recommendation because I think  
5 there's not clarity from what the Board -- the Subcommittee  
6 recommended and that was that the re-review was only to  
7 start on July 1st, meaning, as you said, Pedro, that  
8 anything up until July 1st is grandfathered; correct?

9 CHAIRPERSON REYES: Right.

10 MS. MOORE: So how it reads right now is that  
11 there would be a re-review for projects beginning -- that  
12 are on the list as of February 25th through June 30th with  
13 only the -- after July 1st the adjustment would be  
14 considered.

15 So you could be asking for financials back to  
16 2009; is that correct?

17 CHAIRPERSON REYES: No.

18 MS. MOORE: Okay. So tell me how that works.

19 MS. SILVERMAN: If you look at page 186k --

20 MS. MOORE: Yes.

21 MS. SILVERMAN: -- it's actually the regulation.

22 ASSEMBLY MEMBER BROWNLEY: 186?

23 MS. SILVERMAN: 186k.

24 ASSEMBLY MEMBER BROWNLEY: 186?

25 CHAIRPERSON REYES: 186k.

1 MS. MOORE: Tell me how it works then.

2 MS. SILVERMAN: Again it's just qualifying that if  
3 you are an older project sitting on the list that we would  
4 only review the district's fund activity on or after  
5 July 1st, 2011, and consider any calculation or adjust --

6 ASSEMBLY MEMBER BUCHANAN: Right.

7 MS. SILVERMAN: -- to the district's matching  
8 share.

9 MS. MOORE: But the first sentence says a project  
10 added to the unfunded list will -- oh, okay. The first  
11 sentence says -- no. Excuse me. The --

12 MS. SILVERMAN: Any new project.

13 MS. MOORE: Okay. All right. So I'm a project  
14 that came in February 25th, 2009. How do you treat me?

15 MS. SILVERMAN: You're an older project.

16 MS. MOORE: Um-hmm.

17 MS. SILVERMAN: I will look at your updated funds  
18 from July 1st, 2011, prospectively. I would not be looking  
19 back at your prior funds.

20 MS. MOORE: Okay. Thank you.

21 CHAIRPERSON REYES: Okay.

22 ASSEMBLY MEMBER BUCHANAN: That's what we  
23 discussed as I recall.

24 CHAIRPERSON REYES: So Mr. Harvey moves. Is there  
25 a second on that?

1 ASSEMBLY MEMBER BUCHANAN: Second.

2 CHAIRPERSON REYES: Ms. Buchanan seconds. Yes,  
3 sir.

4 MR. GONZALEZ: Richard Gonzalez again of Richard  
5 Gonzalez & Associates. I was under the impression that part  
6 of the discussion in the Subcommittee was that the review  
7 would not exceed a six-month window prior to the point of  
8 re-review.

9 CHAIRPERSON REYES: The look-back is only for six  
10 months.

11 MR. GONZALEZ: That's not reflected in the  
12 regulations as I read them from the copy I have.

13 CHAIRPERSON REYES: That's in statute. It's 180  
14 days is what look-back is in statute; right?

15 MR. GONZALEZ: I understand, but the revised  
16 language, sir, that's in here as Ms. Moore was starting to  
17 read, there's no references to a limit of six months.

18 CHAIRPERSON REYES: If the district submits form  
19 within 180 days of the OPSC -- I'm looking F -- that doesn't  
20 change.

21 MR. GONZALEZ: Okay. Okay. 180 days.

22 CHAIRPERSON REYES: That's six months.

23 MR. GONZALEZ: Six months. All right. Thank you.

24 CHAIRPERSON REYES: That was not changed by  
25 anybody.

1 MR. GONZALEZ: I apologize.

2 CHAIRPERSON REYES: So we didn't touch it.

3 MS. FERRERA: Anna Ferrera on behalf of the County  
4 Schools Facility Consortium. We would -- you know, we would  
5 just ask that there would be language that would clarify  
6 that it's not just a look, that the fund -- when you look at  
7 G on 186k and it says only on the district's fund activity,  
8 that's not the language that is being used in A where you're  
9 talking about financial records and that sort of thing.

10 I did have some language that I wanted to provide,  
11 but I think if there could be something more clarifying on  
12 how far back you can actually look at the financial records  
13 rather than fund activity and we'd be happy to work with  
14 staff to provide that language.

15 CHAIRPERSON REYES: Work with staff. I mean I  
16 look at F as saying 180 calendar days. That's what the  
17 statute says, so look back at 180 days.

18 MS. FERRERA: And as long as we can clarify that  
19 it isn't a review prior to that and that it's only going  
20 forward, we're okay with that as well.

21 CHAIRPERSON REYES: I -- just -- I guess it's  
22 getting late, but I look at this as the entirety. I don't  
23 view it as one paragraph at a time. So I look at F and it  
24 says 180 days. G is clarifying how far back you can look.  
25 Unless I'm missing something, that's sort of how I would

1 apply this regulation. So I think it's -- but staff, you  
2 guys can -- think that this needs clarity for folks?

3 MS. FERRERA: I'm just concerned about the  
4 language that's used that isn't -- you know, as long as we  
5 can make it uniform with Section A, I think is what we would  
6 be very concerned about and I'm not sure what fund activity  
7 means in G.

8 CHAIRPERSON REYES: So you're looking at 3.

9 MS. FERRERA: I'm looking at G.

10 CHAIRPERSON REYES: G. But you're also looking at  
11 3 though. That's your 180 days.

12 MS. GREENE: No, she's not. She's just looking at  
13 fund activity.

14 MS. FERRERA: No. That was another issue.

15 CHAIRPERSON REYES: Okay.

16 MS. FERRERA: I just --

17 MS. SILVERMAN: I hear -- you're saying in A  
18 reflects the financial records --

19 MS. FERRERA: Right.

20 MS. SILVERMAN: -- on the second sentence. We can  
21 say that the district's -- only review the district's  
22 financial records on or after. Does that help?

23 MS. FERRERA: And then just to make sure that it's  
24 going forward, that's fine.

25 MR. DAVIS: Mr. Chairman, it sounds like --

1 CHAIRPERSON REYES: Yes.

2 MR. DAVIS: -- just that word fund activity and so  
3 substituting those words with financial records.

4 CHAIRPERSON REYES: Okay. That takes care of it?

5 MR. HARVEY: I will accept that change in my  
6 motion.

7 ASSEMBLY MEMBER BROWNLEY: I'm sorry. What was  
8 the change?

9 MR. HARVEY: It reads financial records -- Lance,  
10 where is the actual language.

11 ASSEMBLY MEMBER BROWNLEY: Instead of fund  
12 activity?

13 MR. DAVIS: In Section G there at the bottom of  
14 186k, the sentence for projects added to the unfunded list  
15 between February and June only the districts -- and the  
16 original word was fund activity and I believe that's what we  
17 found was a little bit vague -- and changing fund activity  
18 to financial records on or after July 1st, 2011, will be  
19 considered in calculating.

20 CHAIRPERSON REYES: Will that work?

21 MR. HARVEY: She said that would work.

22 CHAIRPERSON REYES: So --

23 MR. HARVEY: I'll accept that.

24 MS. FERRERA: Yes.

25 CHAIRPERSON REYES: Thank you.

1 MS. FERRERA: And we're happy to work with staff  
2 on that.

3 CHAIRPERSON REYES: Thank you.

4 MS. FERRERA: Thank you.

5 CHAIRPERSON REYES: A motion and a second. Roll  
6 call. Any more comments by anybody? Thank you.

7 MS. GENERA: Senator Hancock.

8 SENATOR HANCOCK: Aye.

9 MS. GENERA: Senator Runner.

10 SENATOR RUNNER: Aye.

11 MS. GENERA: Assembly Member Brownley.

12 ASSEMBLY MEMBER BROWNLEY: Not voting.

13 MS. GENERA: Assembly Member Buchanan.

14 ASSEMBLY MEMBER BUCHANAN: Aye.

15 MS. GENERA: Assembly Member Hagman.

16 ASSEMBLY MEMBER HAGMAN: Aye.

17 MS. GENERA: Scott Harvey.

18 MR. HARVEY: Aye.

19 MS. GENERA: Kathleen Moore.

20 MS. MOORE: Aye.

21 MS. GENERA: Lyn Greene.

22 MS. GENERA: Pedro Reyes.

23 CHAIRPERSON REYES: Aye.

24 MS. GENERA: It carries.

25 CHAIRPERSON REYES: Thank you. Okay. We have the

1 room for another 12 minutes. We have informational items,  
2 but we took care of a lot of discussion --

3 MS. SILVERMAN: We actually have transfer --

4 CHAIRPERSON REYES: One more. Mr. Mireles, yes.  
5 One more.

6 MR. MIRELES: Two more, sir. The next one is  
7 transfer of bond authority. The Committee recommend that  
8 there be no transfer of bond authority at this point.

9 MR. HARVEY: Move that recommendation.

10 ASSEMBLY MEMBER BROWNLEY: Second.

11 MR. MIRELES: Okay. And then the --

12 ASSEMBLY MEMBER HAGMAN: We don't have to do it  
13 again because --

14 CHAIRPERSON REYES: Unless there's an objection,  
15 it'll be unanimous. Okay.

16 MR. MIRELES: Okay. The last one is on cash  
17 management.

18 ASSEMBLY MEMBER BROWNLEY: Move it.

19 MR. HARVEY: Second.

20 CHAIRPERSON REYES: Staff recommendation moved and  
21 second. Comments.

22 MR. SMOOT: Thank you. Lyle Smoot, LA Unified,  
23 one last time hopefully.

24 This is to ask that you not stop the certification  
25 period nor as this says started on July 13th and go for 30

1 days. The 30-day requirement was something you did because,  
2 you know, you wanted to shut them off and get the money out.  
3 There's no need to do that and so, number one -- so number  
4 one, I'd say -- I'd ask you to just not stop and just say  
5 you can certify anytime you want to after -- starting  
6 July 13th.

7 Almost everything's -- this process, if you don't  
8 do something like that requires you to recertify every six  
9 months and it also creates some unintended consequences  
10 because if you certify in the first 30 days in January or  
11 July or whatever and then you get a bond sale in November or  
12 December, even though you would have been glad to certify in  
13 September, you'd be locked out.

14 So I just ask that you open it July 13th. Just  
15 don't end it and that certification's good until it's  
16 funded, period.

17 MR. MIRELES: Mr. Chair, if I --

18 CHAIRPERSON REYES: Mr. Mireles.

19 MR. MIRELES: We need to have a final filing date  
20 because we need to know how many applications are  
21 received -- recertifications to be able to match that with  
22 the bond sale to be able to --

23 CHAIRPERSON REYES: I concur with the need for the  
24 time limit. It's been moved and second. Call the roll,  
25 please.

1 MS. GENERA: Senator Hancock.  
2 SENATOR HANCOCK: Aye.  
3 MS. GENERA: Senator Runner.  
4 SENATOR RUNNER: Aye.  
5 MS. GENERA: Assembly Member Brownley.  
6 ASSEMBLY MEMBER BROWNLEY: Aye.  
7 MS. GENERA: Assembly Member Buchanan.  
8 ASSEMBLY MEMBER BUCHANAN: Aye.  
9 MS. GENERA: Assembly Member Hagman.  
10 ASSEMBLY MEMBER HAGMAN: Aye.  
11 MS. GENERA: Scott Harvey.  
12 MR. HARVEY: Aye.  
13 MS. GENERA: Kathleen Moore.  
14 MS. MOORE: Aye.  
15 MS. GENERA: Lyn Greene.  
16 MS. GREENE: Aye.  
17 MS. GENERA: Pedro Reyes.  
18 CHAIRPERSON REYES: Aye.  
19 MS. GENERA: It carries.  
20 CHAIRPERSON REYES: Thank you. Okay.  
21 MS. SILVERMAN: The subsequent tabs are reports.  
22 CHAIRPERSON REYES: **Reports.** Mr. --  
23 ASSEMBLY MEMBER HAGMAN: Move to receive the  
24 reports.  
25 CHAIRPERSON REYES: Move to accept the report.

1 Mr. Hagman, you actually requested Item 15.

2 ASSEMBLY MEMBER HAGMAN: I'll review it on my own  
3 time, Mr. Chair, and bring back any questions. I need to  
4 look at it.

5 CHAIRPERSON REYES: Okay. Thank you. And then we  
6 have on Tab 16 the **tentative workload**, you have **meeting**  
7 **dates**. I do point out that on page 226 the July 27th -- we  
8 were not going to have a quorum so we moved that and we  
9 moved it early because we're going to be doing some workload  
10 stuff, the position issues, and then we're going to have a  
11 light workload, but we'll take care of some issues there.

12 And then you have the usual stuff in the back and  
13 thank you, everybody, for flying.

14 MS. JONES: Closed session?

15 CHAIRPERSON REYES: No closed session. Thank you.

16 MS. JONES: Thank you.

17 CHAIRPERSON REYES: Any public comment? Thank  
18 you. Meeting adjourned.

19 (Whereupon, at 6:50 p.m. the proceedings were recessed.)

20 ---oOo---

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA            )  
  )  ss.  
COUNTY OF SACRAMENTO        )

I, Mary C. Clark, a Certified Electronic Court Reporter and Transcriber, Certified by the American Association of Electronic Reporters and Transcribers, Inc. (AAERT, Inc.), do hereby certify:

That the proceedings herein of the California State Allocation Board, Public Meeting, were duly reported and transcribed by me;

That the foregoing transcript is a true record of the proceedings as recorded;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on June 9, 2011.

\_\_\_\_\_  
Mary C. Clark  
AAERT CERT\*D-214  
Certified Electronic Court  
Reporter and Transcriber