

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
SACRAMENTO, CALIFORNIA 95814

DATE: TUESDAY, JULY 12, 2011
TIME: 2:10 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 ALAN LOWENTHAL

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

CHAIRPERSON REYES: Go ahead starting with the roll call, so we can establish a quorum before Mr. Hagman steps out again.

6

MS. GENERA: All right. Senator Lowenthal.

7

SENATOR LOWENTHAL: I'm present.

8

MS. GENERA: Senator Hancock.

9

Senator Runner.

10

SENATOR RUNNER: Here.

11

MS. GENERA: Assembly Member Brownley.

12

Assembly Member Buchanan.

13

MS. GENERA: Assembly Member Hagman.

14

ASSEMBLY MEMBER HAGMAN: Here.

15

MS. GENERA: Scott Harvey.

16

MR. HARVEY: Present.

17

MS. GENERA: Kathleen Moore.

18

MS. MOORE: Here.

19

MS. GENERA: Pedro Reyes.

20

CHAIRPERSON REYES: Present.

21

MS. GENERA: We have a quorum.

22

CHAIRPERSON REYES: Thank you. Okay. We have the

23

Minutes.

24

ASSEMBLY MEMBER HAGMAN: Move the Minutes.

25

CHAIRPERSON REYES: Move the Minutes. Is there a

1 second?

2 MR. HARVEY: Second.

3 CHAIRPERSON REYES: Okay. I do have a correction
4 on the Minutes and the correction I think it should reflect
5 on page 3 after Financial Reports, that's when we went out
6 to closed session and then came back and did the Appeal
7 items. So since the Minutes are supposed reflect
8 chronological sequence of events, that'd be the one
9 correction.

10 And then also in the Minutes on page 6, when we
11 were talking about the San Joaquin County Office of
12 Education, there was some confusion and incorrect
13 information provided. And the issue was the penalty was
14 \$257,652 and the question was does the 79,000 that came in
15 as interest earned, does that count towards the 257- and the
16 response was provided yeah, it could be applied and the
17 correct response is it should not be applied.

18 The interest earned is interest earned on the
19 account that's due back to the account and the 257- is
20 actually a penalty for money the State had to pay. So
21 they're two distinct issues.

22 However, Senator Lowenthal has requested that we
23 put this item up for conversation again for an action item
24 and we'll be doing so for next month, to go on the record
25 and have a full discussion on it.

1 So I just wanted to correct that. So the Minutes
2 have been moved and seconded. Would you accept those as
3 corrections?

4 ASSEMBLY MEMBER HAGMAN: With the amendment.

5 CHAIRPERSON REYES: Thank you. All in favor say
6 aye.

7 (Ayes)

8 CHAIRPERSON REYES: Opposed, abstentions. Ayes
9 have it.

10 SENATOR RUNNER: I need to abstain. I wasn't here
11 for the meeting. Thank you.

12 CHAIRPERSON REYES: Duly noted. Thank you. And
13 at your request last month, we also held onto the charter
14 school issue that we'll be bringing up next month.

15 SENATOR RUNNER: Oh, great. Thank you.

16 CHAIRPERSON REYES: Okay. And I apologize. Were
17 there any public statements to the Minutes? Thank you.

18 **Executive Officer Report.** And, Ms. Silverman, if
19 you would, there is a lot of financial information that you
20 include in your report at some point. We've all had a
21 chance to read them and unless members have specific
22 questions on them or there's some specific piece that you
23 want to bring our attention to, I think we can move it along
24 further if we streamline that.

25 MS. SILVERMAN: That's correct.

1 CHAIRPERSON REYES: Thank you.

2 MS. SILVERMAN: We can do that. So if I can
3 direct your attention to Tab 3, page 14, there's two items I
4 wanted to share tonight actually related to the joint agency
5 workshop. We actually have a follow-up session tomorrow,
6 Wednesday, July -- okay.

7 Great. So Tab 3 again is just to reiterate two
8 issues or two items tonight is the joint agency workshop.
9 We'll have a second joint agency workshop tomorrow and we'll
10 actually be co-presenting with the Division of State
11 Architect and the Department of the Education and that
12 workshop will be held tomorrow at the Ziggurat Building in
13 West Sacramento between 1:00 and 4:00.

14 So far we've actually had 35 participants
15 scheduled to participate in the venue and that would be
16 obviously in person and online and the topics we're going to
17 cover is Department of Education will cover the site
18 approval. Division of State Architect will also introduce
19 the High Performance Incentive Grants Program and update on
20 DSA reviews and OPSC will also share with the High
21 Performance Incentive Grant Program modernization
22 eligibility and funding and site acquisition funding. So
23 those are the topics that we're going to share with the
24 stakeholders and school districts and we're hoping that
25 we'll have a lot of participation and look forward to that

1 tomorrow.

2 Also Project Information Workshop, this month in
3 the Financial Reports, we actually feature on page 72 and
4 74c some new kind of optics or graphics about the
5 information we collect on the Project Information Workshop.
6 Again this is something we splashed out last month. It was
7 just one piece of that data point, but now we've actually
8 broken down to bond sources and how many classrooms we
9 build, the square footages, and the type of facilities that
10 this bond program is providing specifically for new
11 construction.

12 Again the purpose is, is to get more data related
13 to the accessibility of the program and how successful the
14 program is and also we would like to share those graphics
15 and optics not only to our membership here but also to the
16 general taxpayers of the State of California to see what
17 their bonds are actually providing. So that's good
18 information that we wanted to share with the Board as well.

19 With that I open up to any questions.

20 CHAIRPERSON REYES: Mr. Harvey.

21 MR. HARVEY: You know, I was quite impressed with
22 what you just alluded to that Project Information Workshop
23 and the data that it can generate. You mentioned that what
24 we have before us only touches on new construction. Is this
25 something you could do for some of our other bond programs

1 like modernization, for example? I mean it's so valuable to
2 what we saw in new construction. It seems to me it might
3 have applicability in some of these other areas.

4 MS. SILVERMAN: Yeah. It would be great to
5 collect -- be able to expand and collect more information on
6 the other programs and what exactly it is providing. So
7 again I know it was really centrally focused around new
8 construction, but I think there is the possibility if the
9 Board would like to expand in other areas. And again that
10 speaks to the optics and actual progress we're making and
11 funding school projects.

12 MR. HARVEY: Exactly.

13 MS. SILVERMAN: Yes.

14 CHAIRPERSON REYES: Okay. Is there any public
15 comment on this -- on the Executive Officer's Report? Okay
16 We now move to the appeal items and you should know that the
17 Ceres Unified/Stanslaus School District issue has been
18 pulled.

19 MR. HARVEY: How about Consent?

20 CHAIRPERSON REYES: Let me clear --

21 MR. MIRELES: We got Consent.

22 CHAIRPERSON REYES: Let me clear the -- folks are
23 waiting around for. The Ceres Unified/Stanslaus School
24 District issue has been pulled and the Black Oak Mine
25 Unified/El Dorado has also been pushed -- I mean pulled.

1 That should seem to convene administrative resolution to
2 that. So just to adjust the agenda. Okay.

3 Let's go to **Consent** and if we could incorporate
4 under Consent Items 11 and 12.

5 ASSEMBLY MEMBER HAGMAN: So move, Mr. Chair.

6 CHAIRPERSON REYES: There's a motion for Consent
7 and Items 11 and 12.

8 ASSEMBLY MEMBER BUCHANAN: Second.

9 CHAIRPERSON REYES: It's been seconded. Any
10 questions or comments from Board members? Any comments from
11 the public? Lyle raises his hand as he rushes to the front.
12 That is rushing for Lyle.

13 MR. SMOOT: Yeah. This is as good as it gets.
14 Thank you. Good afternoon. Lyle Smoot Los Angeles Unified
15 School District. Since you included Item 12 in there, I
16 felt a necessity to rush right up here and talk about the
17 general site allowance.

18 We've seen you redo this general site allowance
19 for, what, five years in a row, whatever, and every year it
20 has to come back. It creates a lot of work for OPSC, a lot
21 of potential issues for school districts, a lot work for the
22 Board. Sometimes you've had to come back and make secondary
23 apportionments to cover that.

24 We would hope that you would just make that
25 general site allowance a permanent thing. There's a lot of

1 discussion about why it needs to be one year at a time, but
2 that discussion revolves around the AB127 adjustment. This
3 really has nothing to do with the AB127 adjustment since
4 that's a base grant discussion, you know, and if there was
5 an adjustment warranted based on the base grant, the Board
6 has the ability to adjust the base grant more than this
7 amount if they wanted to.

8 So we just don't see any reason to keep doing it
9 one year at a time. We'd ask you to just make it a
10 permanent adjustment.

11 CHAIRPERSON REYES: Okay.

12 MR. SMOOT: Thank you.

13 CHAIRPERSON REYES: Thank you. So we --

14 ASSEMBLY MEMBER HAGMAN: We still have the Consent
15 motion.

16 MR. HARVEY: Yep.

17 CHAIRPERSON REYES: Part of the Consent motion is
18 to have it for the one year. So unless somebody wants to
19 pull it off the Consent for full discussion, we'll go with
20 the one year.

21 ASSEMBLY MEMBER BROWNLEY: Can we ask a question?

22 CHAIRPERSON REYES: Sure.

23 ASSEMBLY MEMBER BROWNLEY: I'm just wondering from
24 staff if there's a rationale for doing it on a year-to-year
25 basis as opposed to a permanent adjustment.

1 MR. MIRELES: The original regulations were
2 approved annually to give staff some time to do a more full
3 in-depth analysis of the new construction grant adjustment.
4 That hasn't happened and that's why the Board has been
5 approving it annually since 2006.

6 ASSEMBLY MEMBER BROWNLEY: And the reason why we
7 haven't been able to look into the adjustment itself?

8 MR. MIRELES: There have been several attempts to
9 have that discussion in terms of the grant adequacy.

10 ASSEMBLY MEMBER BROWNLEY: Um-hmm.

11 MR. MIRELES: There were some reports that were
12 presented to the Board that were not adopted, but that was
13 all the progress that's been made in that field.

14 CHAIRPERSON REYES: The Board has not taken any
15 action to adopt the recommendations that have resulted from
16 that conversation. Senator Lowenthal.

17 SENATOR LOWENTHAL: This is -- we're really
18 talking about the new construction funds now; right? And
19 we're almost out of those anyway. So why don't we just make
20 it permanent instead of coming back since we're almost at --
21 you know, we're almost out of the funds anyway until
22 whatever we find in the future. And so I would pull this
23 item --

24 CHAIRPERSON REYES: Okay.

25 SENATOR LOWENTHAL: -- from the Consent.

1 CHAIRPERSON REYES: We'll pull from Consent and
2 have a conversation on this then. Okay. So we have then --
3 and would you revise your motion?

4 ASSEMBLY MEMBER HAGMAN: Yeah, which is Consent
5 minus 12.

6 CHAIRPERSON REYES: So Consent item plus Item 11.
7 And this -- do we have a second to the motion?

8 ASSEMBLY MEMBER BUCHANAN: Second.

9 CHAIRPERSON REYES: Okay with that? Okay.

10 MS. GENERA: Senator Lowenthal.

11 SENATOR LOWENTHAL: Aye.

12 MS. GENERA: Senator Runner.

13 SENATOR RUNNER: Aye.

14 MS. GENERA: Assembly Member Brownley.

15 ASSEMBLY MEMBER BROWNLEY: Aye.

16 MS. GENERA: Assembly Member Buchanan.

17 ASSEMBLY MEMBER BUCHANAN: Aye.

18 MS. GENERA: Assembly Member Hagman.

19 ASSEMBLY MEMBER HAGMAN: Aye.

20 MS. GENERA: Scott Harvey.

21 MR. HARVEY: Aye.

22 MS. GENERA: Kathleen Moore.

23 MS. MOORE: Aye.

24 MS. GENERA: Pedro Reyes.

25 CHAIRPERSON REYES: Aye.

1 MS. GENERA: It carries.

2 CHAIRPERSON REYES: Thank you.

3 MS. SILVERMAN: Tab 5 is the --

4 CHAIRPERSON REYES: Pardon?

5 MS. SILVERMAN: Are we moving on to Tab 5?

6 CHAIRPERSON REYES: Yes.

7 MS. SILVERMAN: Okay. Tab 5 is just again **Status**
8 **of the Funds** that we've been disbursing. On page 61 is
9 basically a summary of the funds that we have disbursed in
10 the program since we've gone -- since the freeze -- the hold
11 on the PMIB.

12 So the State has been successful in selling bonds
13 and we've actually been reporting out in each category how
14 much of the funds have been disbursed on a monthly basis.
15 And just to capsizize that on page 61, the summary that we
16 have actually provided this month and we just met just a few
17 weeks ago, so the update we have to share with the Board is
18 we disbursed \$81.9 million in the last few weeks. So again
19 that's the update we're providing to the Board.

20 And on page 63, it's just to highlight those
21 projects that are on time limit on fund release again just
22 for purposes of condensing the report. Here the projects
23 that -- schedule in July that they don't perfect, money will
24 definitely come back to the program. So again the rest is a
25 summary chart of -- there's about \$294 million that are on

1 the time clock and so with that, again notice to those
2 districts that have those time limits that you need to
3 secure contracts and come in with your fund release request.

4 So with that, I would open it up to any questions.

5 CHAIRPERSON REYES: Any questions from the Board?

6 Any comments from the public? Excellent.

7 MS. SILVERMAN: Tab 6 is the **Status of Funds**.

8 Again this is a summary of your bond authority that's
9 available for the program. In Proposition 1D, we actually
10 did have some activity this month. We wanted to share that
11 we actually have projects that we -- within new construction
12 that we actually switched the bond source.

13 In modernization, we actually provided \$48 and a
14 half million which represents 15 mod projects, 1 high
15 performance project, and 5 charter school projects.

16 So in summary, for Proposition 1D, we're providing
17 76.7 million in unfunded approvals which represent 23
18 projects. And the middle category which represents
19 Proposition 55, the voters authorized \$10 billion. We
20 actually are showing unfunded approvals of 56.9 million this
21 month. That represents three projects. Actually have a
22 charter school project that's also being posted as well and
23 so with that in total \$55 and a half million that represents
24 three projects in Proposition 55.

25 In Proposition 47, likewise we're posting some

1 amounts in new construction. That represents two projects.
2 Activity also in charter schools. So we're actually
3 providing in total for the School Facility Program
4 \$136.5 million in the last few weeks. So that's a pretty
5 significant drawdown to the program.

6 And then on the following page, on page 65, we
7 actually are showing some -- another project that's been on
8 the unfunded approval list again switching bond source and
9 that represents a hardship project and a hardship category.
10 So that represents 29 projects that we're moving forward
11 over the last few weeks.

12 And there's no activity for the Emergency Repair
13 Program and we'll bring back and action item in August.

14 And I just wanted to highlight really quickly on
15 some of these new charts or new information that we added on
16 page 72 and again this just reflective of the Project
17 Information Worksheet and the other data sets that we have.
18 Again to highlight to the Board, new schools versus
19 additions, again the chart represents 567 PIW information
20 that we received related to new construction projects. The
21 pie just summarizes that out of that project data, there's
22 34.6 percent or 196 projects that actually were new schools
23 and 248 projects or 43.7 percent represent classrooms only
24 and the other sector in that pie is 123 projects represents
25 classroom and subsidiary facilities.

1 So again if you map that out essentially side by
2 side, you can see the other pie chart actually reflects that
3 most of the money are being spent on new construction
4 projects. So that's a good illustration there.

5 The next illustration on page 73 is just a
6 breakdown of all the project costs that are being reported
7 throughout the State. Again it's just to highlight to the
8 Board where the money's being spent in the program again
9 specifically for the three years.

10 CHAIRPERSON REYES: Senator Lowenthal?

11 SENATOR LOWENTHAL: Nope.

12 CHAIRPERSON REYES: You're good? Okay.

13 SENATOR LOWENTHAL: There's no modernization when
14 you're talking about --

15 MS. SILVERMAN: No. This is just new construction
16 only. Yeah.

17 SENATOR LOWENTHAL: I just want to be clear.

18 MS. SILVERMAN: And then also on page 74, it's
19 just to highlight that the number of plans that are being
20 reused. This is again information that school districts are
21 providing us and so we're just again highlighting
22 specifically out of the data that we have that 85 percent
23 represents standalone plans and 15 percent represents the
24 reusing of plans in our data set.

25 CHAIRPERSON REYES: Thank you.

1 MS. SILVERMAN: And 74a, 74b, and 74c, it's just
2 an illustration breaking down -- broken down by bond source.
3 So the first illustration, I think we shared some what of a
4 graphic illustration last month.

5 This represents Proposition 1D. And we actually
6 have built 37 -- over 3,700 facilities representing
7 classrooms and 68 of those facilities represent multipurpose
8 room. Again you can read the chart -- standalone,
9 cafeteria, what have you. And this is again reflective of
10 Proposition 1D.

11 And then the lower portion of the chart represents
12 the square footage allotments for those projects in
13 classrooms. So we've actually had 5 million projects
14 represented -- excuse me -- 5 million in square footage that
15 was built for the classrooms and over 400,000 represents
16 multipurpose rooms and again the illustration should share
17 how much square footage that we built in Proposition 1D.

18 CHAIRPERSON REYES: Thank you.

19 MS. SILVERMAN: And I'm not sure if you want me to
20 cover the rest of the program, but here's just the
21 information and how it's used. Open up to any questions.

22 CHAIRPERSON REYES: Comments or questions from
23 Board members? Mr. Hagman and Mrs. Brownley.

24 ASSEMBLY MEMBER HAGMAN: I was going to say just
25 from where you started six months ago to where you're doing

1 now, these reports are very visible and very clean looking.
2 So thank you whoever's working on that in your IT
3 department, comes out very readable.

4 MS. SILVERMAN: Yes. We've got a great department
5 there. Thanks.

6 CHAIRPERSON REYES: Ms. Brownley.

7 ASSEMBLY MEMBER BROWNLEY: Yeah. I too -- it's
8 interesting to look at these charts and without really
9 drilling down at all, but it -- and looking at the type of
10 facilities just right off the bat, it seems a little
11 disturbing to me -- I don't know how others feel about it --
12 to have the Other category as the second largest component
13 in terms of building, you know, ahead of gyms and libraries
14 and restrooms and multipurpose rooms and et cetera.

15 So the asterisk says Other includes staff rooms
16 and conference rooms and resource rooms. So I guess
17 resource rooms are for special education? I presume. It
18 doesn't say it's special education, but I presume that it
19 is.

20 Anyway just an observation that, you know, looking
21 down the road, you know, that's something I think we might
22 want to revisit.

23 CHAIRPERSON REYES: And bifurcate it a little bit
24 more so we get a better sense of what it is.

25 ASSEMBLY MEMBER BROWNLEY: Yeah. I mean I'm not

1 sure that if I had issued these bonds this would be the
2 outcome I was looking for. Yes on the classrooms obviously,
3 but for the Other category to be the second highest
4 expenditure, I'm not sure that's what we intended.

5 CHAIRPERSON REYES: I think Mr. Hagman brought up
6 that point last month with this concern as well.

7 MS. MOORE: I'd make one comment to that in that
8 we only -- I think the Project Information Worksheet
9 indicates these broad categories. It doesn't drill down
10 further and into such things as you don't see on here, you
11 know, special education spaces. You don't see pull-out
12 spaces. You don't see things that might not be a classroom
13 but also might not be -- you know, also aren't clearly a
14 multipurpose and such.

15 And so there could be -- and without seeing all
16 the data and statistics, there could be a lot of things that
17 are very educationally appropriate that fall into the other
18 category and because we have limited the categories to which
19 they self-report in, we're not -- we don't get to see that
20 picture. Because we see a lot of that coming through the
21 Department of Education.

22 ASSEMBLY MEMBER BUCHANAN: It's 6.7 percent of the
23 total square footage. So when you look at it as a
24 percentage, it -- I would think it's not unlikely as to see
25 6.7 percent built in in terms of staff rooms or your

1 resource rooms or that sort of -- that square footage. But
2 I will say that I think this -- you know, the more data we
3 have, the better it is especially as we want to plan for
4 future bonds and everything. It's important to know where
5 the money is going and how it's being used and, you know,
6 have those questions answered.

7 CHAIRPERSON REYES: Yeah. That's the -- okay.
8 Ms. Moore.

9 MS. MOORE: Another interesting statistic to me
10 would be proportionality. For every classroom or every
11 student that we're building, how many of the cafeteria did
12 they get and how much of a library did they get because all
13 we get to see are the gross numbers.

14 CHAIRPERSON REYES: Um-hmm.

15 MS. MOORE: But we proportionally don't know if
16 that is meeting the service needs of the students that are
17 in the classrooms that are being provided here. So to me
18 that's another interesting data point that as we go forward
19 in a new bond measure we would certainly want to know. Are
20 we underbuilding for those spaces that are important in
21 schools as well in terms of meeting what the classroom ratio
22 is and I hope that we'll be able to glean that from the
23 statistics at some point.

24 CHAIRPERSON REYES: Thank you. Mr. Hagman.

25 ASSEMBLY MEMBER HAGMAN: Since I haven't built a

1 school -- I'm sure there's a lot of people here that have --
2 I'm sure there's some kind of standards that they have;
3 right? I mean you have to get approved by the State
4 architects and your consultants, so I'm not so much as
5 troubled as I'm sure there's parking lots, there's open
6 space, there's playgrounds. All that stuff has to be
7 facilitated in this overall construction cost. That's
8 probably the Other.

9 But if someone wanted to build something not with
10 a normal school, I don't think -- don't we have a check and
11 balance in the process before you release the funds and you
12 review the plans and you say this doesn't fit? I mean am I
13 being asked to now learn to understand these numbers or is
14 that already built into the system. I'm assuming that's
15 already built in the system here.

16 MS. SILVERMAN: Well, this category represents the
17 entire project --

18 ASSEMBLY MEMBER HAGMAN: Yeah.

19 MS. SILVERMAN: -- that the school built -- I mean
20 the locals built. So it may include State grants and also
21 their local funds, so --

22 ASSEMBLY MEMBER HAGMAN: Um-hmm.

23 MS. SILVERMAN: -- and then the fact that we don't
24 have that specificity to drill down in those other cost
25 categories or other areas that are being built, I think we

1 can add or enhance in those program areas to get a little
2 bit more precise information as far as -- what is it --
3 special education resource. Whatever that specific category
4 is, we can definitely drill down to get more specific and
5 enhance the data set that we are collecting.

6 CHAIRPERSON REYES: Okay. Thank you. Any
7 comments from the public? Seeing none, move to **Appeals**,
8 Item 7.

9 MR. MIRELES: Tab 7 beginning on page 75 includes
10 an appeal for the **Esparto Unified District**. The district is
11 basically appealing three things. One is to change the
12 unfunded approval from Proposition 47 funding to
13 Proposition 1D. Two is to change their unfunded approval
14 date from March 15th, 2011, to September 23rd, 2009, and
15 lastly to be able to be funded from either -- from
16 Proposition 1D as soon as funding becomes available.

17 This district received an unfunded approval back
18 on September 23rd, 2009, for a total of 1.2 million State
19 share. This is to add a music classroom, multipurpose,
20 teacher workroom, and toilets on an existing school site.

21 As part of the application submittal process, the
22 district on two occasions did check a box stating that they
23 will be initiating and enforcing an LCP program. Based on
24 that certification, staff matched that application with
25 Proposition 47 funding in order to be able to give the

1 district for those purposes.

2 In the fall of 2010, the district submitted a
3 certification to participate in the priorities in funding
4 round. In order to do so, they had to submit a
5 certification acknowledging that failure to submit 50-05,
6 which is a fund release request, within 90 days would result
7 in the project being rescinded without further Board action.
8 A rescinded application would revert back to the unfunded
9 list, at the bottom of the unfunded list with a March 15th,
10 2011, unfunded approval date.

11 Based on the certification, the Board awarded an
12 apportionment, but because the district did not initiate and
13 enforce an LCP, they weren't able to come in and meet the
14 90-day requirement of submitting a fund release request.

15 The statute requires an LCP for projects that are
16 funded either out of Proposition 47 or 55. Districts that
17 are required to initiate and enforce an LCP from either of
18 those funds do get initial grant if we fund them from those
19 funds. And the purpose of the LCP is to ensure the
20 appropriate compliance with certain labor laws for school
21 construction, such as appropriate prevailing wage agreements
22 for construction work.

23 The Board has previously approved fund source
24 switching. Most recently in the February 23rd, 2011,
25 meeting, it was from the Belmont-Redwood Shores Elementary

1 School District. We switched from Proposition 55 to
2 Proposition 1D.

3 The staff recommends that the Board does allow the
4 district to switch from Proposition 45 to 1D. We do
5 currently have cash in Proposition 1D funding. However, the
6 district is also requesting to revert back to the
7 September 23rd, 2009, unfunded approval date.

8 Because the district did submit the certification
9 acknowledging that it did not meet the 90-day timeline, they
10 will get a new unfunded approval date and because this is a
11 regulation requirement, staff is denying that request and we
12 recommend that the Board adopt Option 1 which is to approve
13 the fund switch but deny the change to the unfunded approval
14 date.

15 There's also a couple of other options. Option 2
16 would be to grant the district's request to switch funds and
17 to allow the date change from March 15th to September 23rd,
18 2009, and the third option is to deny the district's
19 request.

20 With that, again staff is recommending that the
21 Board approve Option 1, to approve the bond source switch
22 but not approve the date change. With that, I'd be happy to
23 answer any questions.

24 CHAIRPERSON REYES: Is the district here?
25 Representative from the district available? Please come

1 forward in case folks have any questions. Board members
2 have any questions? No? Mr. Diaz, you're up there. You
3 have some issues? Sir.

4 MR. BROCK: My name is Tim Brock and I'm the
5 Assistant Superintendent for Business Services, Esparto
6 Unified School District. It's a small school district in
7 western Yolo County. We have less than 1,100 students in a
8 K-12 environment.

9 We feel that the analysis by your staff is fair.
10 We feel that the Option 1 recommendation is fair based upon
11 our error. We -- being a small school district, we don't
12 have facility staff per se. We contact out that work and
13 basics -- only our consultant submitted those forms for our
14 signature, didn't catch it; so we realize that an error was
15 made and are grateful that you would consider their -- our
16 request and their recommendation.

17 CHAIRPERSON REYES: Ms. Runner.

18 SENATOR RUNNER: Well, I just have a question. If
19 we didn't move it back to September of '09, does that mean
20 you get building sooner?

21 MR. BROCK: Actually the building has already been
22 completed.

23 SENATOR RUNNER: Oh.

24 MR. BROCK: We had taken a bridge loan out. We're
25 paying interest only right now awaiting funding and, you

1 know, basically we'll do the best we can with what we have.

2 SENATOR RUNNER: Thank you.

3 MR. MIRELES: If I could clarify --

4 CHAIRPERSON REYES: Mr. Mireles.

5 MR. MIRELES: -- Mr. Chair, that the project is
6 currently 527th on the unfunded list. If the Board grants
7 the September 23rd, 2009, unfunded approval date, they would
8 be moved up to 36th place which would mean they would be
9 basically moving ahead of \$1.1 billion worth of projects.

10 CHAIRPERSON REYES: Okay. Mr. Diaz.

11 MR. DIAZ: Mr. Chair, members, thank you for
12 allowing me the opportunity to talk to you about this item.
13 As you know, this Board discussed the DIR regulations being
14 suspended. We had a long discussion in this body and staff
15 did a lot of excellent work dealing with trying to eliminate
16 some of the confusion caused by the rescission of those
17 regs.

18 Well, this is the second time that a district
19 comes to this Board asking for some type of forgiveness for
20 incorrectly stating that they are going to initiate and
21 enforce a labor compliance program, indicating that of
22 course this is -- the Belmont Shores example was not an
23 isolated incident, that there might be others.

24 So we may look at that discussion that we had on
25 DIR regs and say it was all for nothing because now what

1 we're seeing is this huge loophole that is being opened up
2 and the message that perhaps we're sending.

3 With what's happening here, I understand that
4 there's issues. The school has already been built. Labor
5 compliance was not done. So we're not sure what actually
6 occurred on that particular project.

7 But the message that is being sent out with these
8 approvals is that there is a way to circumvent the law and
9 if you're misstating that you actually have a labor
10 compliance program and don't fulfill those requirements that
11 you will be forgiven.

12 So I understand that there is Option 1. We're
13 supportive of that. We feel that the district needs to go
14 back to the end of the line and wait for their funding, but
15 also would ask respectfully that this Board direct staff to
16 work with the Department of Industrial Relations, to work
17 with us, to try to figure out a way to stop this from
18 occurring again and to send a direct message to districts
19 that they have to -- if they're applying and they represent
20 that they will have a labor compliance program based on what
21 the bond requirements are, that they will fulfill those
22 requirements.

23 So that's what we're asking for today.

24 CHAIRPERSON REYES: I'll have Senator Lowenthal
25 and then Mr. Hagman, but before we do that, I think

1 districts and the organizations that represent districts
2 need to be aware that our ability to move funding around is
3 diminished every day as money goes out. And so we have done
4 this in the past, but had this come a year from now or two
5 years from now, our ability to do that is going now be there
6 and the district is going to be in the hub because you've
7 made a commitment, but -- Senator Lowenthal.

8 SENATOR LOWENTHAL: Yeah. I'm trying to
9 understand what the recommendation is. You're saying that
10 you'd be supportive of Option 1 with an amendment to
11 Option 1? Is that what you're saying?

12 MR. DIAZ: Yeah. I -- you know, I --

13 SENATOR LOWENTHAL: You're -- because the -- I
14 agree we're not -- you're fine with denying the district's
15 request to change the unfunded approval. You're saying we
16 should grant the request to change the bond authority plus
17 do something else by -- is that --

18 MR. DIAZ: Absolutely.

19 SENATOR LOWENTHAL: But you're not saying deny the
20 shifting of the funds.

21 MR. DIAZ: I don't think it's a good idea to do
22 that.

23 SENATOR LOWENTHAL: Okay.

24 MR. DIAZ: I mean obviously that's what our
25 request would be for districts to get a strong message from

1 this body --

2 SENATOR LOWENTHAL: Right.

3 MR. DIAZ: -- that would send a strong message. I
4 understand that's sort of a heavy-handed --

5 SENATOR LOWENTHAL: That would send a very strong
6 message. But what you're saying is that's not -- what you
7 want to do is to ensure that we figure out a mechanism so
8 this doesn't continue to occur.

9 MR. DIAZ: Yes, sir.

10 SENATOR LOWENTHAL: That's really what you're
11 saying. So we wouldn't -- I'd be very interested in what
12 you're saying and so I would like to see, you know, if we
13 can get the wording down on something like that. You know,
14 I think it'd be very helpful to us.

15 CHAIRPERSON REYES: I have Mr. Hagman, then
16 Ms. Buchanan.

17 ASSEMBLY MEMBER HAGMAN: Thank you, Mr. Chair.
18 And just, you know, for all practical purposes here, we do
19 have a knowledge of where we send our money. I'm hoping you
20 are staying aware of that, if you're members, and -- but
21 there should be some kind of check-off process during the
22 design, when we're building it, and I've seen much smaller
23 projects have protests when they're not there and so I'm
24 wondering is that something that your school district became
25 aware of at the early beginning or no one even say anything

1 until it was all over and it popped out of the blue.

2 MR. BROCK: What happened, we didn't find out
3 about it until after the 50-04s were submitted incorrectly
4 checking the labor compliance box and we submitted the 50-05
5 for the fund release and that's when we found out about it,
6 so --

7 ASSEMBLY MEMBER HAGMAN: And that was after the
8 project's already been completed.

9 MR. BROCK: Right.

10 ASSEMBLY MEMBER HAGMAN: But the 50-04 gets
11 submitted ahead of the project and we as an agency or a
12 department would have a list of those projects. We should
13 be able to at least verify that something's in place, even
14 though you're certifying it as a school district. But what
15 we're finding out is school districts aren't general, you
16 know, contractors, and they don't have a lot of expertise
17 and a lot of the experience behind it, especially in the
18 smaller ones who do multiple projects. Same thing on, you
19 know, smaller cities when they build four or five municipal
20 buildings over a lifetime of a staff cycle there.

21 And so maybe that's something we can look at,
22 Chair, in the future is how our staff can augment or at
23 least have some kind of periodic checks. I know we're just
24 kind of distributing the funds, but we should have someone
25 saying, you know, at the beginning, middle, and end are you

1 complying with the standards and we won't have these
2 problems after the fact.

3 CHAIRPERSON REYES: Ms. Buchanan.

4 ASSEMBLY MEMBER BUCHANAN: First, who -- I'm just
5 curious, who is your consultant that filled out these forms?

6 MR. BROCK: It was an architect.

7 ASSEMBLY MEMBER BUCHANAN: It was an architect
8 that filled out the forms?

9 MR. BROCK: Uh-huh.

10 ASSEMBLY MEMBER BUCHANAN: This is where I am. I
11 think that the staff's recommendation allows you to not have
12 to dig into general fund revenues to repay these bonds, but
13 also recognizes that there needs to be some kind of
14 consequence and by putting you down further in the line
15 doesn't harm other districts and I think strikes a happy
16 balance between making you whole.

17 However, you know, as we've dealt with other
18 material inaccuracies, it always kind of drives me nuts when
19 districts sign things to say that they're going to be under
20 a construction contract and then they're not for a year or
21 in this case, where you signed two letters saying you had a
22 labor compliance program and you didn't. It wasn't just one
23 letter. It was two letters saying you had a labor
24 compliance program and they weren't in place.

25 So what I would ask staff is this, but I don't

1 think it needs to be part of the motion. But -- and I am
2 prepared to go ahead and make a motion to accept staff's
3 recommendation.

4 But I would ask staff that if it's possible -- and
5 you can respond to me -- to send a letter out to those
6 projects that are currently under the bonds that require the
7 labor compliance programs -- to send a letter out to those
8 districts reminding them that to receive funding, they have
9 to have an LCP in place and that if they do not have the LCP
10 in place that they will risk receiving final funding on
11 their project because it will be picked up in an audit.

12 And, you know, if someone's in the middle of a
13 project, you can still bring a labor compliance firm in at
14 that point in time and -- because many of them will go back
15 and they'll take a look at what's been paid and they'll be
16 able to verify because, you know, labor -- the people who
17 monitor this monitor it by sometimes maybe going out and
18 talking to workers on the job, but they also monitor it by
19 looking at records.

20 So if there's some way that we could send this out
21 just to remind them that you signed this, it needs to be in
22 place, and at the time of audit if it's not, that they then
23 are putting future fund receipts in jeopardy because, you
24 know, I agree with our Chair. It's worked out for Redwood
25 Shores -- or Belmont-Redwood Shores. It's going to work out

1 for you, but a district may come to us 6 or 12 months from
2 now and they're not going to get funds. So I would --

3 MS. SILVERMAN: May I -- yeah, we actually do two
4 things. In our -- when we actually do provide an unfunded
5 approval and the Board takes an action, we actually do send
6 a letter out, kind of after-Board letter to the district,
7 kind of remind them you've been allocated an unfunded
8 approval --

9 ASSEMBLY MEMBER BUCHANAN: Right.

10 MS. SILVERMAN: -- for this proposition, so it --
11 we put school districts duly noted. And the second thing we
12 do is when they come in to request the funds on the fund
13 release, we actually start instituting this requirement,
14 they have to show us that they actually have a labor
15 compliance program if they're requesting funds specifically
16 from that proposition.

17 ASSEMBLY MEMBER BUCHANAN: Right.

18 MS. SILVERMAN: So this is how this issue came up
19 is because they competed with priorities in funding and at
20 that time, they were going to submit their labor compliance
21 verification and they didn't have it. So that's how we've
22 actually instituted a step before it becomes an audit issue.

23 So we're trying to save everybody a lot of
24 grief --

25 ASSEMBLY MEMBER BUCHANAN: Right.

1 MS. SILVERMAN: -- on the front end and make sure
2 we do those --

3 ASSEMBLY MEMBER BUCHANAN: Right. So if you're
4 doing that or they're -- you know, it probably wouldn't even
5 hurt to send out another letter just saying we've had two
6 instances -- if it's practical because, you know, there's
7 going to be some point in time where this Board is going to
8 be looking at a project and we're going to have to say I'm
9 sorry and given the fact that I don't see the State's
10 economy just going like this in the near future, that could
11 have a huge impact on the general fund.

12 MR. HARVEY: If that's a motion to approve --

13 ASSEMBLY MEMBER BUCHANAN: That's -- motion is
14 to --

15 MR. HARVEY: -- No. 1 and your addition, I will
16 second it.

17 ASSEMBLY MEMBER BUCHANAN: Right.

18 CHAIRPERSON REYES: Okay. It's been moved and
19 seconded. Ms. Brownley had --

20 ASSEMBLY MEMBER BROWNLEY: Well, I was just going
21 to speak to what I thought Ms. Buchanan was making the
22 motion on and to just incorporate into the motion either
23 Ms. Buchanan's suggestions or other suggestions that staff
24 may have to come back to us at the next meeting of how we
25 can indeed close any loophole that we inadvertently may have

1 created to ensure that this just doesn't happen again and
2 that that be part of the motion and have staff to come back
3 with some suggestions about how we can do it.

4 ASSEMBLY MEMBER BUCHANAN: Well, can we maybe make
5 the motion to accept Option 1 and then direct staff to come
6 back at the next --

7 CHAIRPERSON REYES: I was going to ask can we
8 bifurcate that because one is approval of the district's
9 request with certain parameters and then the other one
10 directions to staff to do something.

11 ASSEMBLY MEMBER BUCHANAN: As a district -- and I
12 don't -- you know, and like I said, it's -- when you have it
13 on forms so people sign it, it seems like if you're signing
14 something you ought to know what you're signing, with all
15 due respect, and so I don't know if more needs to be done or
16 not, but if there's a way of making those districts who are
17 in the middle of these projects aware of it, that'd be
18 great.

19 CHAIRPERSON REYES: So I think I have motion from
20 Ms. Buchanan, second by Mr. Harvey to accept staff's
21 Option 1 recommendation -- or staff's Recommendation No. 1.
22 And then we'll go to the other item. Okay?

23 MS. GENERA: Senator Lowenthal.

24 SENATOR LOWENTHAL: Aye.

25 MS. GENERA: Senator Runner.

1 SENATOR RUNNER: Aye.

2 MS. GENERA: Assembly Member Brownley.

3 ASSEMBLY MEMBER BROWNLEY: Aye.

4 MS. GENERA: Assembly Member Buchanan.

5 ASSEMBLY MEMBER BUCHANAN: Aye.

6 MS. GENERA: Assembly Member Hagman.

7 ASSEMBLY MEMBER HAGMAN: Aye.

8 MS. GENERA: Scott Harvey.

9 MR. HARVEY: Aye.

10 MS. GENERA: Kathleen Moore.

11 MS. MOORE: Aye.

12 MS. GENERA: Pedro Reyes.

13 CHAIRPERSON REYES: Aye.

14 MS. GENERA: It carries.

15 CHAIRPERSON REYES: Okay. Now on the second
16 motion or the second issue is with staff, for staff to
17 provide a -- we know the universe of folks who are receiving
18 Prop. 47 funds, so we should be submitting --
19 notwithstanding your current system because clearly your
20 current system has cracks.

21 So if we --

22 ASSEMBLY MEMBER BUCHANAN: Well, only to the
23 extent that people, when they sign it --

24 CHAIRPERSON REYES: Then make it -- make the --
25 increase the enhanced information that they are at risk. So

1 somehow send a notice out and if we can impose on the
2 associations out there to also include this in a bulletin --
3 I'm looking at CASH -- that this has been an issue and that
4 our ability to swap funding source is diminished every day.
5 So if somebody's that -- jeopardy -- they will be in a lot
6 more jeopardy later on.

7 ASSEMBLY MEMBER BUCHANAN: And do we need a motion
8 or do we just need --

9 ASSEMBLY MEMBER HAGMAN: Just direction.

10 CHAIRPERSON REYES: I think just direction at
11 staff; right?

12 MR. DAVIS: Yeah, you'll need --

13 CHAIRPERSON REYES: That there's -- I think staff
14 has -- pardon?

15 MR. DAVIS: Mr. Chair, I don't believe you'll need
16 a motion for --

17 CHAIRPERSON REYES: No. I think --

18 MR. DAVIS: -- staff come back with some
19 recommendations and then the Board can look at those.

20 CHAIRPERSON REYES: I think we're asking -- I'm
21 looking at the whole Board and I'm thinking the whole
22 Board's heads in agreement.

23 ASSEMBLY MEMBER BROWNLEY: Well, I mean I think it
24 was just sort of disregarding what I suggested.

25 CHAIRPERSON REYES: Which is?

1 ASSEMBLY MEMBER BROWNLEY: Which was for staff to
2 also come back with any other recommendations --

3 CHAIRPERSON REYES: Oh, absolutely.

4 ASSEMBLY MEMBER BROWNLEY: -- that they may have.

5 MR. HARVEY: Yes.

6 ASSEMBLY MEMBER BUCHANAN: Yeah.

7 CHAIRPERSON REYES: Yes. So to enhance the
8 information.

9 ASSEMBLY MEMBER BROWNLEY: I thought he said just
10 to do what you had asked.

11 CHAIRPERSON REYES: No, no, no, no.

12 MS. SILVERMAN: No. I interpreted -- additional
13 enhancements to what we're doing currently.

14 CHAIRPERSON REYES: Whatever we can do to enhance
15 the sharing of information that they're at risk.

16 ASSEMBLY MEMBER BROWNLEY: Very good.

17 CHAIRPERSON REYES: Okay?

18 ASSEMBLY MEMBER BROWNLEY: Next month.

19 CHAIRPERSON REYES: Yes. Yes, Mr. Harvey.

20 MR. HARVEY: I -- question of staff. Where are we
21 on our intelligence regarding DIR and the regulations?

22 MS. SILVERMAN: Well, we know they put out some
23 proposed regulations and we actually are -- just received
24 that advanced copy this week. So we're looking through the
25 regulations. We would actually have more -- we were hoping

1 for more interaction with DIR, but we'll be reviewing those
2 regulations to see how they impact the program.

3 So -- and that's on a different issue.

4 MR. HARVEY: Okay.

5 MR. MIRELES: Mr. Harvey, were you asking about
6 the other -- the regulations the Board recently adopted in
7 terms of the grace period?

8 ASSEMBLY MEMBER BUCHANAN: Right.

9 MR. MIRELES: Okay. Those we did meet with the
10 Office of Administrative Law. There were some concerns
11 about those regulations and the authority behind the
12 regulations. We're continuing to have those discussions and
13 we do plan to bring back an item before the Board to have
14 further discussion on those regulations.

15 MR. HARVEY: Thank you.

16 CHAIRPERSON REYES: Okay. Item 8 has been pulled.
17 Item 9 has been pulled. We are at Item 10.

18 MR. ASBELL: Good afternoon, Mr. Chair and Board
19 members. My name is Rick Asbell. I'm the Operations
20 Manager with Fiscal Services.

21 If you'd please go to stamped page 96. The item
22 before you is to present the **Orange County Department of**
23 **Education's appeal to close an SFP project**, Community School
24 No. 8, to costs incurred and to recognize certain disallowed
25 costs from an OPSC review as eligible expenditures.

1 In October 2005, the Board approved a 100 percent
2 State funded separate design grant for this project. As a
3 reminder, financial hardship LEAs may ask for design and/or
4 site acquisition prior to coming in for a construction
5 grant.

6 Per statute, once an LEA receives a design grant,
7 they have 18 months to meet substantial progress
8 requirements or the project will be rescinded.

9 In June of 2007, Orange County did not meet
10 substantial progress on this project and requested and the
11 Board approved a request for an 18-month extension. Orange
12 County was still unable to meet the requirements and
13 requested to close the project to costs incurred in December
14 of 2008.

15 After the OPSC's project review was completed, the
16 OPSC sent its finding. Orange County disagrees with OPSC's
17 findings and is appealing the findings.

18 So as specified in regulation, site design and
19 construction apportionments are intended for specific
20 purposes. For example, design apportionments are to be used
21 for design, engineering, and other preconstruction costs.

22 Some uses of site apportionments include site
23 acquisition, DTSC fees, site hazardous removal, and site
24 relocation assistance.

25 Additionally as a part of site apportionments,

1 site -- other allowances are made for appraisals, escrows,
2 surveys, site testing, CDE review, and approvals. As
3 previously stated for this particular project, Orange County
4 received a design-only apportionment and did not request or
5 receive a separate apportionment for site acquisition.

6 So at issue are three types of disallowed
7 expenditures for this project, the first being legal fees
8 for the purchase of a surplus school site. These funds in
9 the amount of \$7,600 do not meet the intent of a design
10 apportionment. Had Orange County received a separate
11 apportionment for site acquisition, the legal fees would
12 have been an allowable expenditure using grants provided by
13 the apportionment for site other costs.

14 Orange County could have applied for site
15 acquisition grant by obtaining a CDE contingent site
16 approval letter and a preliminary appraisal.

17 The second issue concerns custodial and
18 janitorial-related services. These fees in the amount of
19 \$3,000 were for services to specifically create a
20 maintenance staffing evaluation report. This type of
21 expenditure is considered to be an operational and/or
22 maintenance cost and are not allowed under the SFP.

23 The third issue are legal fees for the request for
24 proposals and Qualification Assessment Selection of a
25 construction manager. Now, at this stage, keep in mind

1 we're still in the design stage. At this stage in the
2 project, there were no DSA-approved plans, no site acquired,
3 and thus the costs related to construction management in the
4 amount of approximately \$33,000 are premature.

5 Additionally legal fees for the requests for
6 proposals and Qualification Assessment Selection of the CM
7 absent documentation which establishes such costs are
8 necessary to the design of the approved project are not
9 related to the design grant apportionment.

10 The expenditure payment was for legal fees for a
11 law firm to perform a Qualification Assessment Selection
12 process to select possible CMs.

13 Now in its appeal, Orange County relies on
14 Education Code 17072.35 which contains broad language
15 describing how new construction grants may be used.
16 However, this provision does not specifically address when
17 an applicant has only approval for design and not site
18 acquisition.

19 SFP Regulation Section 1859.81.1 provides an
20 alternative that allows an applicant to separately come in
21 for design and site acquisition apportionments. Remember
22 the Board only approved and Orange County only requested
23 funds for design and not site acquisition.

24 So in summary, since the Orange County applied
25 only for design and not for site acquisition purposes, only

1 those expenditures related to design and not site
2 acquisition are eligible. Custodial costs or evaluations
3 which are related to general overhead or administrative
4 costs are not allowable costs, nor are legal fees related to
5 a request for proposal for the selection of a CM at the
6 design phase when adequate documentation is not provided to
7 demonstrate costs are for preconstruction services.

8 The Board and OPSC are charged with ensuring that
9 the SFP is administered consistently with statutes and
10 regulations. In this case, the Orange County went beyond
11 the intent of the design grant. Based on the information
12 presented, staff has administratively denied the district's
13 request.

14 Now there is an option for Orange County moving
15 forward to make some of the disallowed costs allowable after
16 the grant reduction occurs. On this particular project and
17 this project is closed, Orange County may reapply under a
18 new project number for another separate design and site
19 acquisition grant or a full grant.

20 The site-related legal fees would be allowable
21 under the site grant, which is under the new project and the
22 CM costs would be allowed under the construction or full
23 grant but would be considered a district contribution and
24 would reduce the Orange County's financial hardship
25 apportionment for the new project.

1 Under no scenarios would the janitorial costs be
2 allowed.

3 So in closing, allowing Orange County to use
4 design grants or legal fees related to site acquisition and
5 creating an RP for CM selection and for maintenance-related
6 overhead costs would set a negative precedent. It is
7 important to maintain standards and the intent of the
8 separate design grant.

9 And we have laid out the Board options at the
10 bottom of page 99. One is to take no action which will
11 allow staff's administrative action to stand. No. 2 would
12 be to grant the district's appeal. I'm open to any
13 questions.

14 CHAIRPERSON REYES: So the staff recommendation is
15 to take no action.

16 MR. ASBELL: Yes.

17 CHAIRPERSON REYES: Mr. Hagman.

18 ASSEMBLY MEMBER HAGMAN: Mr. Chair, I believe
19 there probably will be presentation here by Orange County,
20 but just a question --

21 CHAIRPERSON REYES: If we could have Orange County
22 folks come forward, please.

23 ASSEMBLY MEMBER HAGMAN: Just a real quick
24 question as far as general thing. They have this bigger
25 chunk of money that they haven't spent with their timeline

1 had have been sitting on it since 2005, so six years it's
2 been -- not being utilized. This is something that since
3 we're talking 50 grand out of 1. something million,
4 shouldn't we not at least get that 1.4 or whatever back and
5 is there a process once they -- because it's been in
6 dispute. So I'm sure it's been in dispute for a while now.

7 MR. ASBELL: Well, once the Board takes action on
8 what are the allowable and disallowable costs, we'll bring
9 another item back to the Board that basically lays out how
10 much money's coming back to the State for that original
11 apportionment.

12 ASSEMBLY MEMBER HAGMAN: I understand and this is
13 not really about this issue. About the process in general.
14 When you have a school district come to you and say, hey,
15 we're not going to do our job, we want to give you back some
16 of the money, but now you have a dispute over what's
17 allowable/what's not allowable.

18 And I understand that they're earning interest
19 just like we would have sitting in the account, but we have
20 a lot of projects that are being unfunded at this point
21 because they're waiting for a list of the money to come in
22 or whatever the case may be or may not be ready.

23 If we could somehow at least agree upon an amount,
24 which looks like 95 percent of it or 99 percent of the money
25 is agreed upon to come back to us because they're not going

1 to be utilizing it, that should be done way back a year ago
2 or whenever they decided they're not going to do it and then
3 you could have this -- more analytical about the process --
4 because they didn't really talk about 45,000.

5 Just in general, is there a process for that?

6 MS. SILVERMAN: I understand what you're saying,
7 but I know we create an accounting record for each of the
8 projects and -- so I mean we can actually institute that
9 change, but each project stands alone and then has its own
10 accounting record. So it would be an account journal entry
11 and then we'd follow up with subsequent item.

12 ASSEMBLY MEMBER HAGMAN: Yeah.

13 CHAIRPERSON REYES: Okay.

14 MS. BENKERT: Good afternoon. I'm Wendy Benkert.
15 I'm Assistant Superintendent for Business Services for the
16 Orange County Department of Education and Andrea Sullivan is
17 our director of facilities and maintenance and operation.

18 Orange County is ready to return \$1.5 million as
19 we have been for some time now. It's really just \$43,000
20 that's at stake. We believe that certain expenditures have
21 been improperly categorized during the audit and these
22 expenditures are all preconstruction services which are
23 eligible for funding that the LCD received.

24 Although the dollars at issue may be not
25 significant to the State, we believe as custodians of scarce

1 State resources we need to do our due diligence prior to
2 requesting the site allocation money to ensure that the site
3 is appropriate for our community school students.

4 The State is paying interest on bond funds, this
5 \$1.5 million that are sitting idle and unavailable to other
6 districts that could use the funds. Disallowing the
7 expenses in Orange County Department of Education's appeal
8 encourages districts to prematurely request millions of
9 dollars in site acquisition funds from the State.

10 There are larger policy issues at stake that are
11 precedent setting and many county offices have interest and
12 express support of the Orange County Department of Education
13 in this area.

14 CHAIRPERSON REYES: Okay.

15 MS. BENKERT: And Andrea Sullivan will be happy to
16 answer more specific questions regarding the expenditures in
17 question.

18 CHAIRPERSON REYES: Okay. Ms. Moore.

19 MS. MOORE: I have a question of staff and that is
20 if this project had not been rescinded and taken to --
21 through completion, would these costs have been allowed?

22 MR. ASBELL: For Item No. 1, which is the legal
23 fees, that would be yes. For the site acquisition, Item
24 No. 2, would be a no. There's no scenario in which we would
25 allow that. No. 3, assuming that it did go to a full grant

1 and it did perfect -- the project did perfect, we would
2 allow No. 3.

3 MS. MOORE: In my mind, if these are allowable
4 costs that we -- if the project had gone forward and I think
5 that the district had full intention of doing that until
6 they ran up to the time that they could no longer move
7 forward wit the project and went down to costs incurred and
8 I think that if a project -- if these were allowable costs,
9 we're hanging it up on a technicality that they didn't come
10 in perhaps and ask for the site acquisition funding and I
11 don't think that the district would -- if the district had
12 known that they were going to rescind and these weren't
13 going to be allowed, I believe they would have come in for
14 that and we would have held out even more money from the
15 State school building program that other people could have
16 utilized for that.

17 I think that they were prudent, that they -- that
18 these are allowable costs that we as a Board by getting in
19 to the weeds of this actually I think are questioning how
20 school districts manage their projects and saying that we
21 don't think that certain types of inquiry should go before
22 other types of inquiry, which actually I somewhat disagree
23 with. I think that the district started out with their
24 project, started out on all the different issues that a
25 district has to deal with when they begin a project and went

1 down the due diligence of that until a time that they
2 determined they weren't going to move forward with the
3 project.

4 So I think it sets a bad precedent of the Board
5 kind of getting into the weeds -- \$40,000 worth of weeds.
6 It's easy in hindsight to say maybe you should have come in
7 for the site acquisition at a certain point in this and done
8 those funds when the district never proceeded through the
9 project with the thought that they're going to rescind it at
10 some point.

11 So I'm prepared to move Items 1 and 3 for
12 approval.

13 CHAIRPERSON REYES: Mr. Lowenthal, do you have --
14 Senator Lowenthal, you have your --

15 SENATOR LOWENTHAL: Yeah. I tend to support that.
16 I'm just concerned about the -- a very small part and that's
17 the -- I think there's \$3,000 of the maintenance and
18 operations which may have been inappropriately used, the one
19 about the staffing, on determining M and O staffing levels.

20 So I would be --

21 MS. MOORE: I'm not proposing that item.

22 SENATOR LOWENTHAL: You're not proposing that.

23 MS. MOORE: I'm not.

24 SENATOR LOWENTHAL: So it's without that item.

25 MS. MOORE: Correct.

1 SENATOR LOWENTHAL: All right. I support it.

2 CHAIRPERSON REYES: Ms. Buchanan.

3 ASSEMBLY MEMBER BUCHANAN: I was sympathetic when
4 you came in and met with me, but I do have some questions
5 because, you know, it's -- sometimes you have small school
6 districts that don't really understand how programs work.

7 But, you know, when I talked about this further,
8 how many planning grants have you received?

9 MS. SULLIVAN: For this particular project, we --

10 ASSEMBLY MEMBER BUCHANAN: No. For your -- how
11 many hardship, financial planning grants for site
12 acquisition have you received?

13 MS. SULLIVAN: We've had many projects and we
14 still have eligibility to come in for more projects --

15 ASSEMBLY MEMBER BUCHANAN: Okay. Because --

16 MS. SULLIVAN: -- so --

17 ASSEMBLY MEMBER BUCHANAN: -- my -- but I've been
18 told -- and you can correct me if I'm wrong -- that you've
19 had a total of 16 planning grants. Of those only three have
20 gone forward. So we've spent -- the State has spent money
21 on 13 planning grants for you to look into finding sites and
22 basically no sites have materialized out of those. So
23 that's money that the State spent. It's, you know, lost
24 opportunity costs and it wasn't where you got two or three
25 planning grants and, you know, half of them didn't work out.

1 13 of the 16 planning grants that you received -- and this
2 is financial hardship money -- has been just money lost;
3 right?

4 MS. SULLIVAN: Well, it's come out of our -- of
5 eligibility.

6 ASSEMBLY MEMBER BUCHANAN: Right. But still I
7 mean it tells me --

8 MS. SULLIVAN: We --

9 ASSEMBLY MEMBER BUCHANAN: -- you've had 16
10 planning grants, so theoretically you should know how the
11 program works in terms of what's covered as a site
12 acquisition cost and what's covered under preconstruction or
13 construction costs.

14 MS. SULLIVAN: If I may address that particular
15 question. Related to the legal fees for site acquisition,
16 in those processes, we have included those same services and
17 expenses and they have been allowed previously and so we
18 were consistent with our process in doing that.

19 Now to speak to the number of applications that
20 we're not able to move forward for various reasons and I
21 think since OCDE started in the program, there have been
22 many where we have gotten far enough that we were, you know,
23 looking at the site similar to this project and without
24 support from the community for the school there, we
25 ultimately had to --

1 ASSEMBLY MEMBER BUCHANAN: I understand that with
2 this one, but I -- and I -- you know, it -- I myself would
3 not be hiring a construction contractor if I didn't own land
4 and couldn't move forward and I could understand it
5 happening for -- in a situation where someone is not
6 experienced, but where you've had 16 planning grants and
7 only 3 of them have moved forward, it's not where you don't
8 have experience in terms of what's covered under a planning
9 grant and what's not covered.

10 And then -- you know, and I believe you have State
11 hardship money also that's -- right now that's sitting in
12 the bank pending the construction of a staff parking lot;
13 correct? No?

14 MS. SULLIVAN: No.

15 MS. SILVERMAN: There was an ancillary facility
16 that related to an older item that the Board took up in
17 2002. There was actually an allowance for Orange County to
18 not contribute the certification of participation in order
19 to build their ancillary facility.

20 And so in essence that money was -- created a
21 special reserve fund in order for them to build that
22 established parking lot, although it goes against the
23 structure of the statute in which they should contribute
24 certificate of participation.

25 Although we understand it was a 2002 decision;

1 however, I think the premise of it is -- we continuously
2 review Orange County's Office of Education financial
3 hardship fund and, you know, there are some of these
4 residual funds that are still --

5 ASSEMBLY MEMBER BUCHANAN: So how much is in this
6 fund?

7 MS. SILVERMAN: There's about \$4 million.

8 ASSEMBLY MEMBER BUCHANAN: \$4 million.

9 MS. SILVERMAN: Right.

10 ASSEMBLY MEMBER BROWNLEY: I'm just -- \$4 million
11 in, I'm sorry, what fund is --

12 MS. SILVERMAN: In Fund 40; is that correct?

13 MR. HERNANDEZ: Yeah. It's --

14 ASSEMBLY MEMBER BROWNLEY: For a parking lots?

15 MR. HERNANDEZ: No. What Lisa's referring to back
16 in I believe the Board item was in 2002, is the COE was
17 allowed to issue a certificate of participation in order to
18 build an administration building and they were only going to
19 occupy a portion of that building and lease out the rest of
20 the building and use those lease revenue in order to pay for
21 all the lease payments so it would be a self-sustaining
22 project and any excess revenue beyond what was needed for
23 the payments would be used for their SFP projects.

24 And to date, I think what Lisa was getting to is
25 that even though they've collected over I believe

1 \$18.6 million in that lease revenue, none of that revenue
2 has been contributed to any SFP projects.

3 MS. MOORE: If this was information that was
4 germane to this project, it should be in the agenda item for
5 all to read. It seems that there is information that only
6 some members of the Board have or some members and I think
7 that's inappropriate when you're discussing an item in
8 fairness to the district or the County Office of Education
9 that is before the Board.

10 I'm having a hard time following what the issue is
11 because you just brought it up.

12 ASSEMBLY MEMBER BROWNLEY: Ditto.

13 ASSEMBLY MEMBER BUCHANAN: I think that's what was
14 given us. I guess --

15 ASSEMBLY MEMBER BROWNLEY: Yeah. I mean this
16 is -- you just passed this out on our desks. I haven't had
17 a chance to read it. I presume what you're saying is
18 relevant to this document and I'm not sure what you're
19 trying to justify or how this relates to what the item is
20 before us.

21 MS. SILVERMAN: Well, I think there could have
22 been a --

23 ASSEMBLY MEMBER BROWNLEY: This has to do with
24 certificate of participation?

25 CHAIRPERSON REYES: Go ahead.

1 MR. PETTLER: I would just say -- Matt Pettler
2 with School Facility Consultants. We work with the County
3 Office of Education on their funding submittals. I'm not
4 aware of that item. I don't see it as having a relation to
5 the appeal.

6 The County Office goes through their six-month
7 fiscal reviews and opens up their books to OPSC to evaluate
8 their funds available. That happens every six months. It's
9 been happening every six months for the last ten years.
10 That's, in my mind, you know, for a different forum if OPSC
11 thinks there's some funding available to contribute towards
12 a project. I'm sure the County is happy to discuss with
13 OPSC as they go through that process.

14 ASSEMBLY MEMBER BUCHANAN: I guess my bigger point
15 is this. You know, on the one hand, I want to support the
16 motion. On the other hand, you've got -- you've been funded
17 for 16 projects and there should be some understanding of
18 what's covered under a planning grant and what's covered
19 under construction.

20 And -- you know, and for the State -- I mean there
21 are plenty of schools that want hardship money that have
22 these problems and for the State to continue to fund
23 planning grants for projects that never come to fruition I
24 think is a problem.

25 MR. PETTLER: And I guess if I could just speak to

1 that quickly. Again I think there's two different cost
2 expenditures and they're distinct. I think the first is
3 related to the legal fees on the due diligence for planning
4 for the site. Those -- the County Office experience in the
5 past is those types of costs have been allowed and actually
6 there are several where those were allowed.

7 The second, I think that there's maybe a
8 misunderstanding on what exactly that construction
9 management expense is. I think typically when you hire a
10 construction manager many folks think that's actually to
11 manage the construction when you've got somebody out there
12 already swinging hammers.

13 In this case, the County Office was looking at a
14 lease-lease back delivery and in those situations, you bring
15 a team together in an effort to work on the planning process
16 collectively and part of that was bring in a construction
17 manager to bring the construction perspective.

18 So it wasn't in our mind jumping the gun because
19 they were providing preconstruction as it allowed in the
20 regulation services for that purpose.

21 ASSEMBLY MEMBER BUCHANAN: So -- but what's not
22 clear to me is why you're providing preconstruction services
23 before you actually own or have title or an agreement to
24 take title of a building.

25 MR. PETTLER: I think that, you know -- I think

1 these timelines all kind of run parallel to each other and
2 the County Office in good faith was moving forward with the
3 project and believed they were going to be able to secure
4 the site. As such they were going down their planning
5 process. They hired an architect to do a conceptual
6 schematic. They started working with consultants and legal
7 to set up the process by which they'd move that project
8 forward.

9 Unfortunately kind of in the eleventh hour, I
10 think they weren't able to get the seller to sell the
11 property and it's still sitting there in fact not sold. But
12 they were gearing up to move -- do everything they could to
13 move the project forward.

14 ASSEMBLY MEMBER BUCHANAN: Right. And I have
15 sympathy with the other district pulling the school out from
16 under you and I know there's problems with the NMBIAs (ph)
17 and everything. So could you explain to me exactly what
18 services the construction contractor provided them?

19 MS. SULLIVAN: The CM was selected for
20 preconstruction -- did I say my name already? I'm Andrea
21 Sullivan. The RF -- we did a request for proposals for CM
22 services for preconstruction items related to the
23 lease-lease back. That person was a part of a team to help
24 us establish lease-lease back agreements and in negotiations
25 and would inform us as to what market conditions are, what

1 else is going in there as far as getting even to a price.
2 And so it was really setting up and getting to -- far enough
3 to understand and have that available --

4 ASSEMBLY MEMBER BUCHANAN: And so what services
5 was the -- were the legal fees for? What were they --
6 what --

7 MS. SULLIVAN: They were for the selection of the
8 construction management that provided preconstruction
9 services.

10 CHAIRPERSON REYES: Mr. Hagman.

11 ASSEMBLY MEMBER HAGMAN: Thank you, Mr. Chair. I
12 just want to get some things put in a little more
13 perspective. We just had our last appeal that had 1,100
14 students. How many does Orange County -- how many students
15 do you have in your district?

16 MS. BENKERT: County Office -- about 9,000
17 students.

18 ASSEMBLY MEMBER HAGMAN: 9,000 students? And
19 you're looking for facilities throughout the County of
20 Orange and I know -- representing part of that county, I do
21 know how the market crash went from projections. We have
22 the same problems in my other parts of my district, Inland
23 Empire too. We're geared up for the housing boom. We were
24 looking at a lot of different sites as we expected a lot
25 more home construction, a lot more people in, and our

1 ten-year projection we're doing, just way off now, and so
2 we're -- through many of our school projects and all of a
3 sudden there's no houses, there's no students, even though
4 the school district was trying to prepare for that.

5 We do -- obviously want to be very fiscal sound
6 with our dollars and I think we all could agree first of all
7 let's take back the 1.5 million back that you don't need
8 right now -- get it back into circulation. And then -- so
9 we're talking about the 40 whatever thousand at this point.

10 On your previous projects, you said you had
11 several other projects that these expenses were categorized
12 and were basically paid for even though the projects didn't
13 go through; is that correct? And I don't know -- you know,
14 I have your paperwork and staff -- I haven't had a chance to
15 go over with it with our staff to say what's different about
16 previous jobs versus this job.

17 And if there is a consensus on this Board this
18 afternoon, Mr. Chair, I mean first of all, I support
19 Ms. Moore's motion. Okay. But if there is problems, then I
20 think when -- to do is let's agree to take back the 1.5-,
21 get that in circulation, and then kind of do apples and
22 apples comparisons and if we establish a process to accept
23 certain charges in the past, then we should be consistent.

24 And you're a large enough school district that you
25 have done this. So if there has been patterns we've

1 established and possibly there are future -- or past
2 administration stuff, either we have to clarify that or we
3 should be consistent with paying those charges.

4 So that's just my two cents' worth, Mr. Chair.

5 CHAIRPERSON REYES: I have Ms. Moore, then I have
6 Ms. Brownley.

7 MS. MOORE: Ms. Brownley first.

8 ASSEMBLY MEMBER BROWNLEY: Thank you. I just
9 wanted to say that I would also support the motion and I do
10 believe that, you know, our regulations don't spell out very
11 specifically the -- what our eligible costs and ineligible
12 costs.

13 It seems to me that there is certainly
14 justification from Orange County and other districts that
15 similar costs have been justified under this design
16 apportionment monies.

17 I had -- honestly not very familiar with this
18 lease-lease back process, but now that I understand it, I
19 think I understand the connectivity between a construction
20 manager and that process. So for those reasons, I would
21 support the motion.

22 CHAIRPERSON REYES: Ms. Moore.

23 MS. MOORE: I'll just reiterate the motion to
24 approve Items 1 and 3 for approval -- for support of the
25 County Office of Education.

1 SENATOR LOWENTHAL: Second.

2 CHAIRPERSON REYES: Well, it has been seconded by
3 Mr. Hagman. Lance.

4 MR. DAVIS: Just a clarification. The motion --
5 this background area where it has these three different
6 paragraphs, Ms. Moore's that we're looking at --

7 MS. MOORE: Okay. Help me out. I would --

8 MR. DAVIS: Page 97.

9 MS. MOORE: I would move approval of the legal
10 fees delineated in Item 1.

11 MR. DAVIS: On page 97.

12 MS. MOORE: And Item 3 for approval by the Board.
13 Is that better?

14 MR. DAVIS: Yeah. I just wanted to make sure we
15 were looking at the right numbers.

16 CHAIRPERSON REYES: And Mr. Hagman second that. I
17 do have a question. This is going to -- this was meant to
18 be a lease-lease back. Who builds it?

19 MS. SULLIVAN: We would go through a process to
20 select a builder.

21 CHAIRPERSON REYES: Can this money be used for
22 this, Ms. Silverman?

23 MS. SILVERMAN: Juan.

24 CHAIRPERSON REYES: Juan. Would a lease-lease
25 back be an appropriate use?

1 MS. SULLIVAN: In more recent years, lease-lease
2 back has been more prevalent and used by districts
3 particularly in Northern California and has been accepted as
4 a delivery method. So there are projects that are being
5 funded using that process as an alternative to the
6 traditional design/bid/build and districts have been very
7 successful using that model, and so it's consistent -- the
8 Ed Code Section provides for that.

9 MR. MIRELES: This has been a -- this delivery
10 method has been an issue and staff's position has been to
11 direct school districts to consult with their legal counsel
12 to -- if they go into this delivery method, to make sure
13 that they're abiding by the public contract code.

14 CHAIRPERSON REYES: Okay.

15 MR. MIRELES: So we've been advising them to work
16 with their legal counsel to see if they're abiding by all
17 laws.

18 MS. MOORE: Which are the very costs that are at
19 question here.

20 CHAIRPERSON REYES: Mr. Harvey.

21 MR. HARVEY: I don't want to make this too simple,
22 but, staff, if they had applied for the design and site
23 acquisition, this would not be before us.

24 MR. ASBELL: That would take care of Issue No. 1
25 on page 97.

1 MR. HARVEY: Would it take care of 2 or 3?

2 MR. ASBELL: It would not take care of 2. 3 would
3 come into play if they went to a full grant.

4 MR. HARVEY: Okay. So two-thirds of this wouldn't
5 be before us.

6 ASSEMBLY MEMBER HAGMAN: No, one-third.

7 ASSEMBLY MEMBER BUCHANAN: One-third.

8 CHAIRPERSON REYES: Ms. Buchanan.

9 ASSEMBLY MEMBER BUCHANAN: So I'd like to ask this
10 because I -- you know, I can tell the level of frustration
11 here and I can support this, but I'd like to ask that staff
12 come back with -- maybe we put on a future agenda a
13 discussion because when you talk about hardship dollars,
14 they're very limited and I think, you know, there should be
15 some plan of criteria where you do your planning and then
16 you your preconstruction or construction, but, you know, we
17 shouldn't be spending dollars on phases two, three, or four
18 if we don't have phase one done, and if that's not clear, we
19 need to make it clear.

20 I also don't know what to do about the situation
21 where you have 16 planning grants and only three that are
22 realized because that's also money that -- I mean it's not a
23 very good batting average and I don't know what the answer
24 is to that, but if we're spending money -- you know, if
25 we're giving out money and we're not eventually getting

1 classrooms, you know, there's something that's wrong with
2 that process.

3 So I would ask that we either bring it back for
4 discussion or have staff bring it back or whatever, but the
5 process needs to be improved because we have very limited
6 dollars. We're never going to be able to fund all the
7 hardship and we can't afford to fund projects that aren't
8 going to come.

9 I know in this it's not your fault that the
10 district pulled the agreement out from under you because
11 people in the community protested the proposed use of the
12 school, but at the same time, I don't want to see us
13 continuing to go down this road because it's not the way I
14 believe we should be spending hardship dollars.

15 CHAIRPERSON REYES: Okay. Ms. Hancock.

16 SENATOR HANCOCK: Yes. Just in regard to that,
17 I'm assuming that Orange County is a hardship -- because
18 it's a County Office of Education. I think really we ought
19 to look at changing that.

20 CHAIRPERSON REYES: And I think this is the issue,
21 Ms. Hancock. One of the issues that this came about is that
22 the conversation was, you know, the hardship issue and what
23 is -- we have -- you brought this up and we've had
24 conversations about the Constitution versus Government Code
25 that says that counties aren't able to issue bonds and

1 there's a reality. Can they issue bonds when you have 9,000
2 students countywide -- can you really issue bonds to pay for
3 that and so forth.

4 And this came about because I was asking the
5 question what else is out there. They're always hardship
6 and staff said, you know, there is the COP where they have
7 some money, but it's not considered part of the district
8 contribution to a hardship case.

9 And that's an action that this Board took back in
10 2002 and said the money that sits on this certification of
11 participation shall not be considered district contribution.
12 So perhaps this is something that the Board ought to
13 reconsider that when somebody's sitting on several millions
14 of dollars and they're applying for hardship or limited
15 resources to set aside money basically almost ten years, you
16 know, ago, we may want to relook at that and consider when
17 we're providing hardship dollars.

18 MR. HARVEY: I would say yes.

19 CHAIRPERSON REYES: Okay.

20 MR. HARVEY: I was going to go exactly the same --

21 CHAIRPERSON REYES: All right. So that's -- but
22 that's a different issue and I concur with Ms. Moore that
23 this is a different conversation that we need to have, but
24 this is where this came from when we were asking the
25 question what resources are out there for folks.

1 But at this point, the issue before us is we have
2 a motion to approve the district's -- but you're right. We
3 do need to consider and go back and have a conversation.

4 SENATOR HANCOCK: I agree and one of the things
5 that -- of variance which is what all these appeals
6 basically are -- brings up is what kind of precedent are we
7 setting and I would really like to know that because if we
8 are, are we going to see this kind of thing again.

9 And I look at what the incentives are for people
10 kind of moving ahead without having all the ducks lined up
11 because if there's no consequences for that, I believe that
12 was -- it's an issue in another appeal too. I mean how does
13 this play out that -- because I have to say I was not aware
14 of the statistics that Assembly Buchanan gave us, but 10 out
15 of 16 isn't a good ratio. And how many tax dollars --

16 ASSEMBLY MEMBER BUCHANAN: 3 out of 16.

17 SENATOR LOWENTHAL: 3 out of 16. It's 3 out of
18 16.

19 SENATOR HANCOCK: 3 out of 16; right. How many
20 tax dollars are we spending on this and is there anything in
21 this motion that lends itself to districts feeling that it's
22 okay to do that. Take a flier because in the end it'll be
23 State money if we're hardship because it's a hundred percent
24 State money. It isn't even any of our own people's money on
25 the line.

1 CHAIRPERSON REYES: And I think that's the main
2 concern for some of us on the Board that because it is State
3 money only. It's a hundred percent State money. The
4 districts don't have to use the colloquial skin in the game
5 and versus when they do 50-50, then there is some of that
6 money at risk on whatever actions taken.

7 But that's a different conversation, but I concur
8 with your concerns about the precedent setting. On the
9 other hand, do we want to encourage districts to come in and
10 ask for the full pot from the get-go and then not move
11 forward and not only tie up a million and a half but tie up,
12 you know, \$12 million.

13 ASSEMBLY MEMBER BUCHANAN: I would say there
14 should be a policy that they can't, that you have to do your
15 planning and be able to get the land before you do -- the
16 site acquisition before you get the other, that we should
17 not be tying up large sums of money.

18 CHAIRPERSON REYES: I have Mr. Hagman and
19 Ms. Moore.

20 ASSEMBLY MEMBER HAGMAN: I just want to make sure
21 when we talk about policy apples and oranges. When we're
22 dealing with the school district, one or two communities,
23 you know pretty well. When we're dealing with the county,
24 especially large counties of millions and millions of people
25 population and you deal with local jurisdictions that you

1 don't know that well, you have those political battles, I
2 think there's differences there that you have to be aware
3 of, but we could definitely bring it up for, you know,
4 discussion in the future, but one of the things I was just
5 thinking in the back of my head is X amount percentage of
6 your own skin in the game, 25 percent for planning, but if
7 you actually do completion, you actually go through the
8 project, you get that reimbursed or something.

9 You know, something where you don't have -- people
10 making a jobs program out of it at the same time that it is
11 by the code, 100 percent financed by us, but maybe if you
12 fail multiple times, then you do have some kind of penalty
13 on it, but --

14 CHAIRPERSON REYES: Senator Runner.

15 SENATOR RUNNER: Yes. Also with this motion and
16 it goes through, then they're able to reapply for another --

17 MR. ASBELL: They have that option, yes.

18 CHAIRPERSON REYES: Yes, they do have that option.

19 SENATOR RUNNER: Okay. Thank you.

20 CHAIRPERSON REYES: Ms. Moore.

21 MS. MOORE: Clearly, however, if this motion is
22 granted, the district will be deducted the ADA that
23 represents the 40,000. So the State would not be paying for
24 the ADA ever again. The district has to take that and also
25 not have a project or have those students represented.

1 So there is that wholeness that remains, but it
2 doesn't address the issue that Board members have concerns
3 about and that is there any incentive to be very careful on
4 the projects that a County Office of Education comes forward
5 with.

6 I think that's for a different day because in my
7 mind, this district has adhered to what we have heretofore
8 on how districts proceed with projects. We haven't been
9 down in the weeds of really second guessing school districts
10 in terms of who they bring on when because ultimately if the
11 project had perfected, that works itself out in the end.

12 If we really want to get into that level of
13 detail, I think it's something that we should discuss as a
14 Board and then school districts have the knowledge of that's
15 going to be the lay of the land. But it's easy to question
16 in hindsight that you shouldn't have done something at a
17 certain stage when County Office of Education and school
18 districts are dealing in a very complex world of, you know,
19 am I going to do lease-lease back, am I going to do
20 design/bid/build. You know, when am I going to acquire the
21 land. Who's my architect. Who's my appraiser.

22 I mean there's a lot of decisions that they make
23 at that level and it's easy to second guess that now, but
24 ultimately these costs would have been -- with the exception
25 of one, would have been allowed at the end. It would have

1 worked out and we wouldn't have been talking about it.

2 So I would hope that the Board would support the
3 district on this issue and if we want to take a greater look
4 at how we proceed in the future, I think that's a good
5 discussion to have.

6 CHAIRPERSON REYES: Senator Lowenthal and then
7 Ms. Buchanan.

8 SENATOR LOWENTHAL: Yeah, I'll be brief. I just
9 really -- I think I just want to echo what Assembly Member
10 Hagman -- I think what we're -- you know, County Offices of
11 Education have unique challenges different than regular
12 school districts.

13 These are -- you know, people come out of the
14 woodwork. They do not like these kinds of, you know,
15 community schools in their district, things they don't want,
16 and so they're presented with difficult, difficult
17 challenges that most school districts do not have the
18 variety.

19 So I think that when we're doing this we have to
20 also appreciate just the difficulties that County Offices of
21 Education have in setting up community schools because most
22 communities say I don't want in my community.

23 CHAIRPERSON REYES: Ms. Buchanan.

24 ASSEMBLY MEMBER BUCHANAN: I have -- I do
25 appreciate that.

1 SENATOR LOWENTHAL: Yeah.

2 ASSEMBLY MEMBER BUCHANAN: We've talked about
3 smaller amounts or --

4 CHAIRPERSON REYES: Um-hmm.

5 ASSEMBLY MEMBER BUCHANAN: -- or amounts of this
6 when we've done material inaccuracies where districts have
7 falsely certified --

8 SENATOR LOWENTHAL: No, I --

9 ASSEMBLY MEMBER BUCHANAN: -- that they were
10 ready. So in terms of the dollar amount, it's easy just to
11 say well, it's only so many dollars. It's -- I think
12 Senator Hancock also brings up a good point because we --
13 you know, if this comes up again, another district will say,
14 well, you know, you okayed this as a preplanning expense.

15 So I'm comfortable somewhat with moving forward as
16 Ms. Moore suggested, but I do think it is imperative that we
17 take a look at what we're doing and particularly, you know,
18 I agree with Senator Hagman. When you're not spending your
19 own dollar, it does make a difference.

20 And, yes, it's better that you don't tie up all
21 6 million, but I would say that money should never have been
22 tied up till you acquired the site anyway and I would like
23 us to have that discussion on how we move forward and what's
24 allowable or not allowable and how long we even allow
25 hardship funds to be tied up. Six years to me is too long

1 for a project anyway and -- because we have too many schools
2 that need this.

3 CHAIRPERSON REYES: Ms. Silverman, just one last
4 question. Have there been other issues that have been
5 resolved administratively that have not risen Board level on
6 this particular --

7 MS. SILVERMAN: Yes.

8 CHAIRPERSON REYES: So this is the three remaining
9 issues of how many?

10 MS. SILVERMAN: Yeah, this -- it was probably -- I
11 would guess about ten, Andrea, that --

12 MS. SULLIVAN: Correct.

13 MS. SILVERMAN: Somewhere in the area of ten items
14 that we were actually working with the district.

15 CHAIRPERSON REYES: So the stuff that gets
16 elevated to the Board is stuff that can't be resolved. So
17 it's not like everything where you have disputes are coming
18 to us.

19 MS. SILVERMAN: That's correct.

20 CHAIRPERSON REYES: Okay.

21 MS. SILVERMAN: So we did our best to work with
22 Orange County for the last year and a half, two years. The
23 project got funded back in 2005, but there was also an
24 extension in play that they asked to extend before they
25 rescind their project. I mean there was hope that they had

1 the ability to move that project along. They did request
2 that through the Board and likewise we're here today. So
3 we've been having these conversations for a while.

4 CHAIRPERSON REYES: We're down to the last less
5 than \$50,000.

6 MS. SILVERMAN: Yes.

7 SENATOR HANCOCK: I wondered if there was a way to
8 add to the motion some clarifying language that this is not
9 a precedent because I can see someone's going to be sitting
10 here five -- if there's any school bond money at all -- and
11 it will be a precedent.

12 CHAIRPERSON REYES: That's my concern too,
13 Ms. Hancock, that it is a precedent. This is what people
14 look to, but this is what the Board does too though -- so I
15 share your concerns.

16 ASSEMBLY MEMBER HAGMAN: Let's just do the motion,
17 but I think that's something that we could talk about
18 different ways of doing it. We have a whole list of them
19 now. By the time we run out of money, we'll be experts at
20 it and we'll have to start all over again, but as far as
21 different ways to incentivize, we've seen school districts
22 that are very fiscal sound. They have extra money. How
23 they get to keep it or -- you know, build new things, all
24 these different kind of after-project ideas now that we'll
25 become experts on and if we ever get a break, we can work on

1 it.

2 ASSEMBLY MEMBER BUCHANAN: I think the reason
3 Senator Hancock wants it in the motion is because if anyone
4 refers back to this action, it'll be clear to them in the
5 future.

6 SENATOR HANCOCK: But is the decision that we
7 can't include it in the motion?

8 CHAIRPERSON REYES: It's up to the person who made
9 the motion or if you want to make a substitute motion.

10 MS. MOORE: We have had testimony that this isn't
11 the first time that these costs have been allowed in
12 rescinded projects, so I actually think the precedent has
13 already been set and that I don't know what the words of
14 saying this is not a precedent would have an effect on a
15 future motion necessarily.

16 I'd like to take the vote on the motion and then
17 if we want to direct staff on how we might want to proceed
18 in the future, I think that's entirely appropriate.

19 ASSEMBLY MEMBER BUCHANAN: So could we just have
20 Ms. Silverman comment on whether or not we have --

21 MS. SILVERMAN: I'm not sure if we actually
22 clarified that point. I know there's -- they would actually
23 want us to look back at those projects. I would prefer to
24 go back and look at those projects, see whether or not those
25 allowances were provided.

1 CHAIRPERSON REYES: Or that have been audited yet.

2 MS. SILVERMAN: Or has been audited in the past
3 because I would hate to say that yes, it has or no, it
4 hasn't when I'm not really clear it has or hasn't.

5 MS. MOORE: That's --

6 CHAIRPERSON REYES: This is only -- because of the
7 audit.

8 MS. SILVERMAN: Right.

9 CHAIRPERSON REYES: Ms. Ferrera, you've been
10 sitting there patiently for a while. Let me think. I think
11 you support the district's --

12 MS. FERRERA: Thank you, Mr. Chair. Anna Ferrera,
13 County School Facilities Consortium. Very much in support
14 of Orange County's appeal and of the remarks that Member
15 Moore and Member Lowenthal have made.

16 County Offices have a very difficult time setting
17 these schools, although they are students of the districts
18 that they -- of their region and we are in support and we
19 are very concerned about the precedent it sets because we
20 believe that preconstruction is the magic phrase. I mean we
21 are very concerned that this is something that will be
22 disallowed in the future and prevent County Offices from
23 doing due diligence and taking up more funds than they need
24 to before they're prepared to go to that step.

25 So we would be very much in support. We welcome a

1 discussion and not all County Offices are financial
2 hardship. And that's -- we look forward to that.

3 CHAIRPERSON REYES: Okay. So you're opposite from
4 Senator Hancock. You want to keep it as broad as possible
5 in terms of what preconstruction is.

6 MS. FERRERA: We would simply say that that's what
7 the regulations state at this time and that we would want to
8 make sure that the message that we're sending is that due
9 diligence is encouraged and that, you know, it's not the --
10 you know, it's depending on where the line is set and if we
11 need to discuss what that is, then we welcome that
12 discussion, but I would say that, you know, I'm not seeking
13 to broaden anything. I'm just trying to make you aware that
14 it is difficult.

15 Orange County is in an urban area. You know, that
16 brings with it all kinds of issues with finding sites that
17 are suitable, not to mention the communities that we serve.
18 And so we would just welcome a chance to talk about that a
19 little more.

20 CHAIRPERSON REYES: Senator Hancock.

21 SENATOR HANCOCK: I'm sorry. I thought all County
22 Offices were hardship because they weren't allowed to bond.

23 MS. FERRERA: County Offices may say that -- you
24 know, when it gets to the point where you're asking to
25 become -- to receive financial hardship status, County

1 Offices can skip a step because they don't -- they aren't
2 allowed to receive developer fees and the bond issue that we
3 talked about. And so --

4 SENATOR HANCOCK: What's the bond issue? You mean
5 they're not able to issue bonds.

6 MS. FERRERA: The bond issue you raised at the
7 last -- right.

8 SENATOR HANCOCK: Yeah.

9 MS. FERRERA: And so there's already reasons why
10 County Offices are considered -- you know, can just apply
11 for financial hardship and receive it, but they're not all
12 financial hardship by nature.

13 SENATOR HANCOCK: Okay. And what do counties do
14 that don't apply for financial hardship? They get developer
15 fees? What -- how do they get money?

16 MS. FERRERA: I think that's probably a question
17 for the policy discussion.

18 SENATOR HANCOCK: But you know that there are
19 some.

20 MS. FERRERA: Yes.

21 MS. SILVERMAN: Yes.

22 SENATOR HANCOCK: Do you know how they get money?

23 MS. SILVERMAN: Well, no, we don't know. Kern
24 County Office of Education has never applied for hardship
25 and there's probably maybe just less than a handful of

1 County Offices that haven't applied for hardship dollars.
2 Very few.

3 MS. FERRERA: There's not many.

4 ASSEMBLY MEMBER BUCHANAN: Are they paying for it
5 out of their general fund or are they just not --

6 MS. SILVERMAN: Not real --

7 ASSEMBLY MEMBER BUCHANAN: Just because they
8 haven't applied doesn't mean they wouldn't be if they needed
9 to do construction.

10 MS. SILVERMAN: Right. Right. They would be
11 prequalified because they are a County Office of Education.

12 ASSEMBLY MEMBER BUCHANAN: Right.

13 MS. SILVERMAN: Right.

14 MS. FERRERA: Not to have the whole discussion
15 here, but I also know that Kern County is able to do some
16 really interesting and terrific joint projects with other
17 entities like courts and, you know -- that aren't allowed
18 under financial hardship and other areas may not have that.

19 They're also land rich. They have, you know, more
20 property available to them. So there may be a number of
21 reasons why County Offices are able to do -- some County
22 Offices are able to do it without financial hardship.
23 Others, you know, for the most part are financial hardship.
24 I just wanted to clear that.

25 CHAIRPERSON REYES: Okay. We -- Senator Hancock,

1 I share your concerns of precedent setting. Please call the
2 roll.

3 MS. GENERA: Senator Lowenthal.

4 SENATOR LOWENTHAL: Aye.

5 MS. GENERA: Senator Hancock.

6 SENATOR HANCOCK: No.

7 MS. GENERA: Senator Runner.

8 SENATOR RUNNER: Aye.

9 MS. GENERA: Assembly Member Brownley.

10 ASSEMBLY MEMBER BROWNLEY: Aye.

11 MS. GENERA: Assembly Member Buchanan.

12 Assembly Member Hagman.

13 ASSEMBLY MEMBER HAGMAN: Aye.

14 MS. GENERA: Scott Harvey.

15 MR. HARVEY: No.

16 MS. GENERA: Kathleen Moore.

17 MS. MOORE: Aye.

18 MS. GENERA: Pedro Reyes.

19 CHAIRPERSON REYES: No.

20 MS. GENERA: It carries.

21 CHAIRPERSON REYES: No, it doesn't. What are

22 the --

23 MS. GENERA: Oh -- all right. No, I'm sorry. It
24 doesn't.

25 CHAIRPERSON REYES: Thank you.

1 MS. GENERA: It was five-two-one.

2 CHAIRPERSON REYES: Okay. Mr. Harvey.

3 MR. HARVEY: One last word on the handout. I am
4 taken with Recommendation No. 2 and again when appropriate I
5 think this kind of item is worthy of some Board oversight or
6 discussion.

7 It says that the school district contribute to
8 their SFP financial hardship projects any lease funding in
9 excess of the COP payments, including reasonable maintenance
10 costs.

11 It sounds like, if I heard this \$18 million
12 figure, that they may or may not be doing so and I don't
13 know if there are other districts out there that have
14 obligations to contribute to their construction programs, if
15 they have other sources of money, but it might be
16 interesting to ensure that folk are following up on the
17 commitments they make.

18 ASSEMBLY MEMBER BUCHANAN: Well, they could use
19 this money to pay for those --

20 MR. HARVEY: That's the point.

21 ASSEMBLY MEMBER BUCHANAN: That was my point
22 earlier.

23 MR. HARVEY: So again --

24 CHAIRPERSON REYES: Yeah.

25 MR. HARVEY: -- in the future with the Chair's --

1 CHAIRPERSON REYES: It will be an item for
2 discussion. Thank you. Item 12, **Additional Grant for**
3 **General Site Development.**

4 MS. SILVERMAN: Held over. You held over on that.

5 CHAIRPERSON REYES: Oh, it's -- is this going to
6 be held over or are we --

7 ASSEMBLY MEMBER HAGMAN: It was agendized. We
8 just pulled off the Consent. So it has been agendized.

9 MS. SILVERMAN: Right. Right.

10 ASSEMBLY MEMBER HAGMAN: We could still take it
11 up, yeah.

12 MS. SILVERMAN: Yeah.

13 CHAIRPERSON REYES: We'll take it up now.

14 MR. MIRELES: The general site regulations will
15 expire January 1st, 2012. So this item is basically to
16 extend them for another year as has been the past practice
17 for the Board so that they will set to expire January 1st,
18 2013.

19 Just a little bit of background, general site:
20 This was part of an ad-hoc group discussion that was
21 performed back in 2006. There were some concerns that the
22 School Facility Program grants, when the transition was made
23 from the Lease Purchase Program grants that they didn't
24 include general site amounts.

25 So there was some discussions and because at that

1 time there wasn't a full conclusion whether they were
2 included or not, there were -- the Board adopted these
3 regulations to be adopted annually until staff did some more
4 work to evaluate the full grant adequacy discussion.

5 Also at that time, the -- Assembly Bill 127 had
6 just been chaptered, although the ballot hadn't been
7 approved yet in November. So there was also the bill that
8 had some changes in terms of evaluating the grant amounts.
9 So that was a part of the discussion that the Board had.
10 Let's approve this annually. Let's wait for that discussion
11 to happen and then we'll see if we do it on a permanent
12 basis.

13 There has been some reports that have been
14 submitted -- presented to the Board that the Board has not
15 adopted in regards to grant adequacy. So this discussion --
16 the full analysis on grant adequacy hasn't been adopted by
17 the Board. That's why it's been still on an ongoing annual
18 basis.

19 So this item is just to approve it for
20 January 12th. It's set to expire January 1st, 2013.

21 CHAIRPERSON REYES: Okay.

22 SENATOR HANCOCK: So move.

23 ASSEMBLY MEMBER HAGMAN: Second.

24 CHAIRPERSON REYES: It's been moved and seconded.

25 Questions? We had testimony earlier, so we're done with

1 that. Okay.

2 MS. MOORE: Can I ask a procedural question?

3 CHAIRPERSON REYES: Sure.

4 MS. MOORE: Can we at least seek reconsideration
5 of an issue once it's been voted on?

6 MR. DAVIS: Could you be more specific? You're
7 talking about an issue we voted --

8 MS. MOORE: Yes.

9 MR. DAVIS: -- on this evening.

10 MS. MOORE: Yes.

11 CHAIRPERSON REYES: I don't think we have a
12 process for that.

13 MR. DAVIS: We don't have anything -- a process,
14 but we are still in session --

15 SENATOR HANCOCK: It's in the operating --

16 ASSEMBLY MEMBER BROWNLEY: It's in the operating
17 rules.

18 MS. MOORE: What do they say; do you know?

19 ASSEMBLY MEMBER BROWNLEY: -- my question when I
20 first got on the Committee.

21 SENATOR HANCOCK: I don't remember. Look it up --
22 let's look it up.

23 MR. DAVIS: One moment. Let me take a look at
24 something.

25 CHAIRPERSON REYES: What are the rules?

1 ASSEMBLY MEMBER HAGMAN: Well, again we're back to
2 my suggestion on the last item, Mr. Chair. I had the
3 alternative, even though I supported the motion, that we
4 authorize staff to bring back the 1.5 million and you had
5 that 40,000 we're still talking about and bring a
6 item-by-item comparison that the district representative,
7 but the staff hasn't had a chance to respond to it, then we
8 could bring it up at the next meeting and actually see if
9 it's apples and apples or oranges and oranges.

10 CHAIRPERSON REYES: Well, at this point based on
11 the denial of the appeal, it's -- then the entire amount
12 just comes back up; right? So that the issue's been
13 resolved, so it comes back up.

14 MS. MOORE: I'm sorry, what's the answer?

15 ASSEMBLY MEMBER HAGMAN: Don't have appeal,
16 basically the staff recommendation stands which is to deny
17 their billing for the 44 --

18 CHAIRPERSON REYES: Correct. And then the million
19 and a half then comes back.

20 ASSEMBLY MEMBER HAGMAN: Okay. So we don't do --

21 CHAIRPERSON REYES: So that'll be -- that's --
22 right? No? Correct?

23 ASSEMBLY MEMBER BROWNLEY: So we're having a lot
24 of discussion on Item 12, what related to the previous --

25 CHAIRPERSON REYES: I know.

1 ASSEMBLY MEMBER HAGMAN: Oh, yeah, we had that
2 motion and second.

3 CHAIRPERSON REYES: Okay. Well --

4 MR. HARVEY: Yeah, we have a motion and a second
5 on 12. Can we call for the question.

6 MS. MOORE: I'm sorry. I thought we had --

7 MR. DAVIS: In our rules Section 10, we do have
8 reconsideration of regulations or interpretations will
9 not -- okay. On the day in which a vote has been recorded
10 on any item, a motion to reconsider the vote may be made by
11 any Board member and reconsideration may be granted only
12 once.

13 And this was on the rules that the Board
14 adopted --

15 SENATOR HANCOCK: Can you tell us the page?

16 ASSEMBLY MEMBER BROWNLEY: Ms. Hancock, I thought
17 you had this committed to memory.

18 ASSEMBLY MEMBER HAGMAN: Well, let's finish this
19 first one.

20 CHAIRPERSON REYES: All right. So here we go.
21 Let me take control of our meeting back. Let's dispense
22 with Item 12 and then come back to your question since we're
23 in the middle of Item 12 now.

24 MS. MOORE: And what has been moved on 12?

25 CHAIRPERSON REYES: It has been moved and -- the

1 staff recommendation of the one year.

2 ASSEMBLY MEMBER BROWNLEY: And I would just like
3 to go back to Senator Lowenthal's comments earlier to say
4 that, you know, I don't understand -- I mean we're pretty
5 much, you know, down to a zero balance as it is. Why can't
6 we just go ahead and extend this for the time period as
7 opposed to just continuing to come back on a year-by-year
8 basis.

9 CHAIRPERSON REYES: What is -- we can do it year
10 by year. We can do it for under five years. We can do it
11 in perpetuity. What is the downside of --

12 ASSEMBLY MEMBER BROWNLEY: I mean are we going to
13 really come back and revisit this issue? I don't think so,
14 not until we have a new -- you know, a new bond.

15 CHAIRPERSON REYES: Well, if you remember this was
16 in Consent. So there wasn't really a lot of discussion. It
17 was just going to go through until it got pulled out. So we
18 weren't really going to spend a lot of time on it.

19 ASSEMBLY MEMBER BROWNLEY: I see.

20 CHAIRPERSON REYES: Except that people decided to
21 spend time on it.

22 ASSEMBLY MEMBER BROWNLEY: That's okay.

23 CHAIRPERSON REYES: That's fine.

24 SENATOR LOWENTHAL: Well, we pulled it off
25 consent.

1 CHAIRPERSON REYES: Yeah. So I mean -- so to say
2 that we go on and on every year, it's -- really we wouldn't
3 have. We just would have done it automatically next year.
4 If approximate would have just extended it for another year.

5 ASSEMBLY MEMBER BROWNLEY: Oh, I see what you're
6 saying.

7 CHAIRPERSON REYES: So we had this conversation
8 because people chose to have the conversation, but we didn't
9 have to. So now we're in the middle of the conversation.

10 ASSEMBLY MEMBER BROWNLEY: I thought you were
11 trying to shut me up.

12 CHAIRPERSON REYES: Oh, no, no, madam. No, no,
13 no, no. No. I would never do that. No. No, no. I
14 apologize.

15 MS. SILVERMAN: We actually have about
16 \$250 million in new construction and dollars -- just to put
17 a number to our action. So just wanted to highlight that to
18 the Board and if we extend it for a year, then obviously
19 that may cover us through next year which we may not have
20 new construction bond authority at the end of next year. So
21 it maybe kind of self-resolves itself in the end.

22 MS. MOORE: I would just enter into the
23 argument -- I'm sorry -- not the argument but to the
24 discussion that having sat through five different times that
25 we have -- I think it's five now, that we have increased the

1 grant amount for general site which was believed to have
2 been an omission from the transition of this program from
3 lease purchase to the program that it is today and having
4 seen that and know that the general site amount is readily
5 used by school districts and it's been a very longstanding
6 and appropriate amount, I would support a permanent vote on
7 this and lacking that, obviously support the annual --

8 SENATOR HANCOCK: I would amend the motion and
9 make it permanent.

10 CHAIRPERSON REYES: Okay. So I have a
11 permanent --

12 ASSEMBLY MEMBER BUCHANAN: And I second. I just
13 have one question. Are we permanent forever or permanent
14 till these bond funds are expended?

15 SENATOR HANCOCK: It's -- till the bond funds are
16 expended.

17 MR. HARVEY: Bond funds expended.

18 ASSEMBLY MEMBER BUCHANAN: So can we amend it --

19 CHAIRPERSON REYES: Till the bonds are expended.

20 SENATOR LOWENTHAL: I would rather have till
21 forever and forever.

22 MS. MOORE: I think that on our -- let's -- I mean
23 I know it's -- aren't our regulations, however, not specific
24 to bond measures? Our regulations are in place and when we
25 run out of money, we run out of money, but our regulations

1 stand.

2 So if we approve this, it would not be tied to a
3 bond measure; correct?

4 ASSEMBLY MEMBER BUCHANAN: And I'm just asking if
5 it's not prudent when you have a new bond measure to have
6 some kind of trigger there where you're reviewing it which
7 is why I would --

8 CHAIRPERSON REYES: -- yeah.

9 ASSEMBLY MEMBER BUCHANAN: -- I would be more
10 comfortable supporting a measure for the existing bond.

11 SENATOR LOWENTHAL: Could we amend it?

12 CHAIRPERSON REYES: We have a motion and we can
13 amend anything we want. At this point, I think from my
14 perspective, it would be cleaner to have for a time
15 certain -- and we can come back and amend if we have to or
16 just -- if we have to. I think if we leave it perpetuity,
17 it will come back to haunt us when somebody else says I
18 thought those were the rules of the game and you chose to
19 change them.

20 So this way we -- everybody's under -- rules of
21 the game. If you want to do it for the next three years or
22 the next five years and then if the bonds aren't there, then
23 it is what it is. But at least we don't -- we're not
24 committing ourselves to in perpetuity. That's my
25 perspective.

1 SENATOR LOWENTHAL: Yeah.

2 CHAIRPERSON REYES: Senator Lowenthal.

3 SENATOR LOWENTHAL: Yeah, I remember the -- and I
4 don't think we have to do for perpetuity. I think we can
5 just say to request adoption of an amendment to the School
6 Facility Program to extend the expiration of the additional
7 grants for general site development or to permanently extend
8 the expiration for all existing bonds or something like
9 that, just to say --

10 ASSEMBLY MEMBER BUCHANAN: Right.

11 SENATOR LOWENTHAL: -- it just like that. So what
12 we're doing is we're permanently extending the expiration of
13 additional grants for general site development for all
14 existing bonds and that leaves it for only existing bonds.

15 CHAIRPERSON REYES: For all existing bonds now or
16 next year when we have other bonds issued?

17 SENATOR LOWENTHAL: That's not existing.

18 ASSEMBLY MEMBER BUCHANAN: Existing; right.

19 That's --

20 SENATOR LOWENTHAL: Existing is now.

21 CHAIRPERSON REYES: But --

22 ASSEMBLY MEMBER BUCHANAN: Those are future.

23 CHAIRPERSON REYES: Hold on though. But if we --

24 ASSEMBLY MEMBER BUCHANAN: Well, you can specify

25 47 -- you can specify if you need to.

1 CHAIRPERSON REYES: When you read the regulations,
2 they say for all existing bonds and ten years from now.

3 SENATOR LOWENTHAL: So let's identify the bonds.

4 ASSEMBLY MEMBER BROWNLEY: But staff has just said
5 that the regulations don't apply to new bonds.

6 CHAIRPERSON REYES: To new bonds; right.

7 ASSEMBLY MEMBER BUCHANAN: No, I thought they
8 said -- no, they said they do.

9 ASSEMBLY MEMBER BROWNLEY: Oh, they do.

10 MR. HARVEY: They do.

11 MR. MIRELES: They're not bond specific.

12 CHAIRPERSON REYES: Yeah, they will.

13 ASSEMBLY MEMBER BROWNLEY: Oh, they're not --

14 CHAIRPERSON REYES: So in the ten years, the
15 existing bonds will be the existing bonds.

16 SENATOR LOWENTHAL: So let's identify the bonds.
17 So let's just identify the bonds.

18 CHAIRPERSON REYES: For?

19 SENATOR LOWENTHAL: 1D, 47 -- Proposition 47,
20 Proposition -- whatever the bonds that we have money for.

21 ASSEMBLY MEMBER BROWNLEY: How about for two years
22 because we'll be out of money by then for sure.

23 SENATOR LOWENTHAL: That's fine.

24 MR. HARVEY: Second.

25 CHAIRPERSON REYES: Okay. We have a substitute

1 motion. So we are now on the substitute motion. It's been
2 moved and seconded and we've seen some -- please call the
3 roll -- on the substitute motion for two years.

4 MS. GENERA: Senator Lowenthal.

5 SENATOR LOWENTHAL: Aye.

6 MS. GENERA: Senator Hancock.

7 SENATOR HANCOCK: Aye.

8 MS. GENERA: Assembly Member Brownley.

9 ASSEMBLY MEMBER BROWNLEY: Aye.

10 MS. GENERA: Assembly Member Buchanan.

11 ASSEMBLY MEMBER BUCHANAN: Aye.

12 MS. GENERA: Assembly Member Hagman.

13 ASSEMBLY MEMBER HAGMAN: Aye.

14 MS. GENERA: Scott Harvey.

15 MR. HARVEY: Aye.

16 MS. GENERA: Kathleen Moore.

17 MS. MOORE: Aye.

18 MS. GENERA: Pedro Reyes.

19 CHAIRPERSON REYES: Aye.

20 MS. GENERA: It carries.

21 CHAIRPERSON REYES: Thank you. This was going to
22 be an easy one. Reports. Senator Hancock, how are we doing
23 on time? You have some conflicts and I lost Senator Runner.

24 SENATOR HANCOCK: At 5:00 o'clock.

25 CHAIRPERSON REYES: I'm trying to figure out if

1 this is the best time to do the closed session issue or go
2 through the informational issue.

3 ASSEMBLY MEMBER HAGMAN: Mr. Chair, I do have --

4 CHAIRPERSON REYES: Yes. Mr. Hagman.

5 ASSEMBLY MEMBER HAGMAN: I'm sorry to bring this
6 back up, but I'm going to go back to **Item No. 10** if we can
7 because we didn't have --

8 CHAIRPERSON REYES: Oh, I'm sorry. Yes. Yes.

9 ASSEMBLY MEMBER HAGMAN: We did have five members
10 as far as I'm aware.

11 SENATOR LOWENTHAL: Seek to reopen -- can we
12 reconsider that motion?

13 ASSEMBLY MEMBER HAGMAN: Yeah, just reconsider or
14 my substitute motion is let's take back the money so it's
15 not sitting around. Let them compare their -- two
16 different --

17 SENATOR LOWENTHAL: I think we have to reconsider
18 first to do that, before you can do a -- if we've already
19 passed that motion.

20 ASSEMBLY MEMBER HAGMAN: Well, the motion failed.
21 So there's no motion -- no action was taken at this point.

22 CHAIRPERSON REYES: So just to understand --

23 SENATOR LOWENTHAL: Okay. So we don't have to --

24 ASSEMBLY MEMBER HAGMAN: So there's no
25 reconsideration. It just didn't pass. The only motion

1 there was to adopt -- to give them the money. That was the
2 motion, but it failed because actually I think we need six
3 voting members, even though we only have -- even though the
4 majority voted aye for it, we don't have enough --

5 ASSEMBLY MEMBER BUCHANAN: Don't we need a motion
6 to reconsider this item?

7 SENATOR LOWENTHAL: But I think -- if I might. If
8 we did have reconsideration with an amendment to that --
9 about -- regarding the precedent, I think then it passes and
10 so they get their money and we just declare it not a
11 precedent. So I think that's really why we want a
12 reconsideration.

13 MS. MOORE: Can I make a motion then to include
14 the previous aforementioned Items 1 and 3 on the legal cost
15 with the stipulation that this is not a precedent.

16 ASSEMBLY MEMBER HAGMAN: Second.

17 CHAIRPERSON REYES: It's been moved and seconded.
18 Back to Item 10. Do you have the motion?

19 MS. GENERA: Senator Lowenthal.

20 SENATOR LOWENTHAL: Aye.

21 MS. GENERA: Senator Hancock.

22 SENATOR HANCOCK: Aye.

23 MS. GENERA: Assembly Member Brownley.

24 ASSEMBLY MEMBER BROWNLEY: Aye.

25 MS. GENERA: Assembly Member Buchanan.

1 ASSEMBLY MEMBER BUCHANAN: Aye.

2 MS. GENERA: Assembly Member Hagman.

3 ASSEMBLY MEMBER HAGMAN: Aye.

4 MS. GENERA: Scott Harvey.

5 MR. HARVEY: No.

6 MS. GENERA: Kathleen Moore.

7 MS. MOORE: Aye.

8 MS. GENERA: Pedro Reyes.

9 CHAIRPERSON REYES: No.

10 MS. GENERA: It carries.

11 CHAIRPERSON REYES: Thank you. Okay. And so that
12 would resolve the issue and bring in the money that they
13 have; right? Okay. Thank you. **Reports and discussions,**
14 **Item 13. Public Information Worksheet Data.**

15 We don't have Senator Runner, so let's give her a
16 few more minutes. It's only 4:00 o'clock and Senator
17 Hancock has to leave around 5:00. So we can move forward.
18 Okay?

19 MR. O'DELL: Good afternoon. Bryan O'Dell, OPSC,
20 and with me is Josh Damoth, OPSC, and we're here to present
21 the report **Program Statistics, Project Information Worksheet**
22 **Data**, which is found in Tab 13 of the agenda.

23 And the purpose of the report is to present some
24 of the unique information that's collected on the Project
25 Information Worksheet. In each agenda from here on out,

1 there will be some information presented in the form of a
2 graphic or a chart that shows information derived from the
3 Project Information Worksheet.

4 The information today is based on 567 new
5 construction projects that have been received since 2008 and
6 it presents 84 percent of all of the new construction
7 projects apportioned since 2008.

8 The worksheet is only for new construction
9 projects and it's submitted three times during the life of a
10 project. The first is when funds are released. The second
11 time is one year later along with the expenditure report and
12 finally when the district submits the final project
13 expenditure report. So at that point, it's actual numbers
14 and nothing is estimated.

15 It collects information that's unique. It's not
16 captured on other SAB forms such as project modifications
17 due to cost, local requirements that weren't funded through
18 the School Facility Program, and also local contribution to
19 the project that's beyond the required local match.

20 And in the future, we know that the -- well, the
21 PIW was recently modified to start collecting data regarding
22 the high performance incentive grant and so as information
23 from those projects start to come through, we'll be able to
24 provide information about those as well.

25 So as a result, the PIW provides the Board and

1 taxpayers the ability to see the result of the construction
2 bonds. For example, of the 567 projects today provided over
3 240,000 new seats for California students. And options are
4 being developed to make this data more accessible to the
5 public. For example, we would have the ability to post
6 these charts and graphics on the OPSC Website and also the
7 Governor's strategic growth and bond accountability Website
8 and looking at little bit down the road, we hope to be able
9 to provide interaction reports on the Website where someone
10 could go to the Website and put in some filters and create
11 their own data that's useful to them based on the Project
12 Information Worksheet.

13 On page 109, there's a graphic there that shows
14 the State of California and it's a breakdown of pupils
15 housed and the square feet constructed according to DSA
16 region. So it shows the total pupils housed in each region
17 as well as the total square footage from all of the 567
18 projects.

19 On the next page 110, there are three different
20 graphics and the map in the middle shows the total permanent
21 square footage in each region and also the percentage of
22 projects that were entirely permanent. So it's not a
23 mixture, you know, some were permanent, some were modular.
24 This is entirely permanent new construction projects.

25 And then in the box to the right, it shows -- it's

1 a little different. That's only based on the classrooms.
2 So it shows 69 percent of the projects, the classrooms were
3 entirely permanent.

4 Now, there could have been an admin facility or
5 something else, maybe part of the other resource rooms that
6 would be a portable, but the classrooms themselves were
7 permanent.

8 16 percent were modular. That's the prefab type
9 of construction. 11 percent were portable and then
10 4 percent were mixed construction types for the same
11 project.

12 CHAIRPERSON REYES: I have a question. How
13 detailed can you drill down on this? Can you drill down to
14 a county level? You have it by district, State Architect,
15 but can you go down to county?

16 MR. O'DELL: Yes, we can provide that. By county,
17 district level, anything that --

18 CHAIRPERSON REYES: Okay.

19 MR. O'DELL: -- people would be interested in
20 finding. That would be easy.

21 CHAIRPERSON REYES: Ms. Moore.

22 MS. MOORE: I have a question to you. What
23 instruments are you using to record and analyze the data?
24 So is it a -- what kind of database is it?

25 MR. O'DELL: Oh, the information is gathered now

1 online and so it's all electronic submitted by the districts
2 and then it's then exported into Excel. And this
3 information here isn't filtered. It's just the totals at
4 the bottom of each column.

5 MS. MOORE: So it goes from an online input to an
6 Excel spreadsheet that then produces these -- that then you
7 produce reports out of the Excel spreadsheet.

8 MR. O'DELL: That's correct.

9 MS. MOORE: As opposed to a database that seems to
10 be a more normed way of having -- coming from the Department
11 of Education where data is pretty crucial, we go through a
12 lot around our databases. And so -- and always whenever
13 there's a question, we're questioned on the database, its
14 methodology, how it calcs, you know, who's the inputter,
15 where's the checks and balances, has the work been reviewed,
16 all those kinds of things, and I'm just -- knowing that
17 there's some desire to put this out into the public arena
18 and actually have it be able to be manipulated as you
19 indicated -- in a good way, you know, utilized, I think it's
20 incumbent upon us that it's -- that we're very careful
21 around that and that it -- that we have approached it in the
22 manner that we approach all -- you know, most databases in
23 California so that we're consistent with how that reporting
24 goes out. Because it will be utilized all the time as is
25 the Department of Education's databases as are the

1 Department of Finance's databases.

2 MS. SILVERMAN: May I -- this is self-reported
3 information and all the staff was trying to do is grab that
4 information that's available. Although we don't have a
5 sophisticated database -- I wish we did -- we just provide
6 that information, upload it to -- and this is the end
7 result.

8 So I mean I don't think we're -- we're not making
9 revisions. We're just taking the raw data and calculating
10 to create some graphics.

11 MR. O'DELL: And also I was --

12 MS. MOORE: But the recommendation in here -- the
13 idea in here is that this information will be made publicly
14 available and be -- or be able to be manipulated. That to
15 me is a level of public accident that demands that the data
16 have checks and balances, just -- and that's why I asked
17 about what the database is and those kinds of things.

18 It is -- it's great to have data, but there's all
19 kinds of protocols around data that I'm wondering how we're
20 approaching that.

21 MR. O'DELL: The charts before us today -- I was
22 talking -- you know, we export it to Excel. That's how we
23 created the charts. But it does start off from a true
24 database. That was just how we chose for this particular
25 assignment.

1 For the interaction, that would have -- IT people
2 would be better, you know, to answer that question, but it
3 would be -- they wouldn't be doing it from Excel, I wouldn't
4 think so.

5 So I appreciate those concerns, but we would use
6 something very different for that piece.

7 MS. MOORE: So would this -- if we are -- this
8 isn't an action item; right?

9 CHAIRPERSON REYES: No. Just --

10 MS. MOORE: So it's information and I would ask
11 that if we are going to be placing the data out into the
12 public area that we have a discussion about that at the
13 Board and how -- so that we're comfortable with -- how that
14 operates.

15 Obviously this is a public arena. The data's
16 available. It's been placed into the worksheets, but as
17 everyone knows, this has been an issue that has been of
18 contention for a long time.

19 So I think it's really important that -- how we
20 approach the reporting out to the public and that we also
21 know that it's self-reported in, you know, are there ways --
22 if a district determines that they didn't self-report
23 correctly, which we also have at the Department of
24 Education, is there procedures where you can, you know,
25 resubmit or update your information? Is it static in time?

1 Those kinds of questions are what I would have if we move to
2 have a system that's readily available and manipulative in
3 the public arena.

4 CHAIRPERSON REYES: Mr. Harvey.

5 MR. HARVEY: Consistent with what I said during
6 the Executive Officer's report, I hope at some point too you
7 give us the pros and cons and the costs of adding to what
8 this information data is so that we learn and see
9 pictorially what modernization is looking like and how it's
10 expended and so forth.

11 And also I think you heard during that same
12 discussion, is there a way of breaking down either on the
13 form itself or the data you give us better idea of what the
14 Other category is. And I think over time, we'd like to hear
15 about that as well.

16 CHAIRPERSON REYES: Okay. Ms. Buchanan.

17 ASSEMBLY MEMBER BUCHANAN: And I would just -- you
18 know, I know that -- I'm sure there are some school
19 districts who don't like having to fill out these forms, but
20 I think when we're talking about asking the public to
21 approve significant amounts of money for school construction
22 that this just adds a layer of accountability and I think it
23 also provides us on the Board and hopefully staff valuable
24 information in terms of where we're spending our money and,
25 you know, the types of classrooms we're building, whether

1 they're permanent or modular or whatever.

2 So -- and I believe the more data we have the
3 better decisions we make. So I really appreciate what's
4 been done here and -- recognizing that there may be some
5 schools that don't categorize things perfectly, but that
6 happens pretty much in every report you get, you know.

7 Hopefully we can make that as easy as possible as
8 well. Thank you.

9 CHAIRPERSON REYES: Any comments from the public?
10 Oh, I'm sorry. Yes. Please. Have a seat.

11 MS. CORMAN: Hi, Tova Corman, Santa Ana Unified
12 School District. In the limited resource -- the type of
13 limited resources in our school district, budget cuts and
14 everything, I'm really concerned with the time allocation of
15 our staff.

16 So when we have additional work such as the PIW,
17 we have to allocate resources that we don't really have at
18 this point in time. So it's an additional workload element
19 that concerns me for my accountants as well as coordination
20 back and forth with the various architects and CMs and so on
21 and so forth, as well as additional review time for myself
22 and our assistant superintendent.

23 So given the times and financial crises, it's just
24 an additional burden that, you know, is not the best thing
25 for the district at this time.

1 Another concern that I will have as I go through
2 with the PIW is when I submit with the 50-06 is that there
3 are several different architect firms and CM firms that are
4 giving us information. So they may be extracting different
5 information on square footages, types of classrooms. So
6 even across the same district, you might be getting
7 different numbers, different accuracies on numbers, and they
8 might be counting the interior square footages and things of
9 that nature.

10 So that's a concern that we have. And also
11 creating confusion with the purpose of evaluating square
12 footages and whether or not that translates to the overall
13 intent of supporting a future bond. So --

14 CHAIRPERSON REYES: Thank you. Next person.

15 MS. DIXON: Good afternoon. My name is Janet
16 Dixon. I'm the Director of Planning and Development for the
17 Riverside Unified School District and the question has come
18 up a few times from Mr. Harvey as to why we don't have for
19 modernization.

20 I just want to remind the Board that the original
21 purpose of the PIW was to gather information to inform the
22 Board as to whether an additional 6 percent grant increase
23 should be allowed every January and since that grant
24 increase was only applicable to new construction, the PIW
25 was constructed to gather information on new construction

1 only.

2 When in fact the PIW has never been used for the
3 purpose that it was first intended. As was previously
4 stated, this is actually a very onerous report to fill out.
5 There is some information that is -- quite a bit of the
6 information is simply a restatement of information that has
7 already been submitted to either CDE, OPSC, or the Division
8 of the State Architect and a lot of it has already been --
9 gone to OPSC on the 50-04, the original application,
10 including number of classrooms, number of students being
11 served, even whether or not it's a reuse of plans.

12 And then we give extremely detailed information,
13 as Ms. Moore stated earlier, on square footages for
14 facilities. That goes to the Department of Education.

15 What's difficult to do is the disaggregation and
16 reaggregation of a lot of the financial data that is
17 requested on the PIW and that in fact is a portion that's
18 never been used.

19 The PIW is required to be submitted prior to a
20 district getting a fund release. So at the same time we've
21 gone out to bid, trying to get contracts signed, board items
22 approved, insurance certificates, bond certificates, all the
23 mobilization process, I need to set aside two or three days
24 to also fill out a PIW in addition to the relatively simple
25 50-05.

1 So it actually becomes an impediment to our
2 getting our fund releases, so the funds don't come as
3 quickly to the district because I need to find this time to
4 set aside.

5 I agree. These charts are amazing. They're
6 really pretty. I really like the ones that have the maps on
7 them, but that data we don't put anywhere on the PIW which
8 DSA office we're going through. So that data obviously came
9 from someplace else.

10 And then the other things that are on there,
11 square footages, number of classrooms, are already available
12 from other information that we've already turned into OPSC.

13 So my heart sinks that you want to make us do
14 something like this on modernizations as well because as
15 district staffs have been reduced, the time becomes more and
16 more precious to everybody.

17 So my request would be that you look at not using
18 the PIW, but maybe look at using some of the data that has
19 already been submitted to the various agencies if you want
20 to continue to look at this information in a pictorial
21 manner and I can see why you want to do that. It's
22 interesting and it's nice to see it graphically, but please
23 don't make districts fill out a PIW in order to get a --
24 thank you.

25 CHAIRPERSON REYES: Lyle.

1 MR. SMOOT: Thank you. Lyle Smoot, Los Angeles
2 Unified. I always hate to go last because I don't like to
3 be redundant, so now I have to restructure what I was going
4 to say to not say it again.

5 MR. HARVEY: Just say me too and --

6 MR. SMOOT: Yeah, can I just say ditto. No. I
7 want to add that, you know, like Ms. Moore has said, this
8 has been a contentious form right from the start for a
9 number of reasons. For LA, we couldn't see the value of it
10 because like the prior witnesses said, the information is --
11 most of this information is already there. It's already
12 available in the files. It's just a matter of -- and I'm
13 not inside, so I don't know, but I think it's just a matter
14 of a program that said pick out this, pick out that.

15 And plus the added problem of this is subjective
16 information on this form, whereas on other forms, it
17 wouldn't be nearly as subjective. It'd be more likely to be
18 accurate. Like for instance, an expenditure report is
19 pretty detailed and we go through a lot of energy to make an
20 expenditure report and then this comes along and says what
21 did the project cost.

22 Well, it isn't as simple as just saying it -- you
23 know, it's this or that.

24 In addition, when you -- when the Board adopted
25 this form, the stated purpose in the agenda -- there were

1 three purposes. One, it was going to provide information to
2 determine grant adequacy, the 6 percent issue of AB127.
3 Two, there was a term called that's going to be used for
4 bond accountability. No explanation of what that means;
5 still don't know. Then, three, it was going to be used to
6 report on bid climates.

7 None of those things have actually happened, at
8 least not successfully. So, you know, we've gone through a
9 utilization of this form for three and a half years now and
10 haven't seen anything in terms of those -- answering those
11 three questions.

12 Now, this is a very pretty report that's in here
13 today. I agree with Janet. It's pretty. It's got nice
14 charts and everything. It doesn't answer a single one of
15 those questions. Don't address any of those stated issues.

16 I want to tell you we were trying to figure out
17 what it cost us to prepare this form. We believe about \$500
18 per preparation and there's three of them. So it adds
19 \$1,500 to each project.

20 Just to put that in perspective, for the 567
21 projects that were used today, that cost districts
22 between -- depending on whether they used the first report
23 or all three, between 300,000 and a million dollars to
24 provide this data that's already available in your files.

25 So I would ask that you have a real serious

1 discussion -- excuse me, Mr. Harvey, but I don't think this
2 form is valuable to the Board. The information's already
3 there. If it isn't there, it would be a simple matter to
4 add it to the various forms that you already have in place
5 than to have the staff glean it. Thank you.

6 CHAIRPERSON REYES: Okay. So I guess you were not
7 last, Lyle.

8 SENATOR HANCOCK: Could I make a comment?

9 MR. SMOOT: Oh, good.

10 CHAIRPERSON REYES: Mr. Duffy.

11 MR. DUFFY: Mr. Chairman, members.

12 CHAIRPERSON REYES: Hold on, Tom. Senator
13 Hancock.

14 SENATOR HANCOCK: I'll make my comment after
15 Mr. Duffy.

16 CHAIRPERSON REYES: Okay.

17 MR. DUFFY: Thank you, Senator. Tom Duffy for
18 CASH. You've heard I think a good deal of good information.
19 One of the suggestions that was made was that you have this
20 information already available to you.

21 Something that was put in place last year,
22 Mr. Harvey, was the memorandum of understanding with General
23 Services, DSA, OPSC, and CDE. It seems to me that through
24 that memorandum and the information that the three agencies
25 have, you could glean the same information and I think you

1 heard that from Ms. Dixon -- the same information from the
2 information that is in-house at those three agencies and you
3 could look at new construction, you could look at
4 modernization, you could look at the Emergency Repair
5 Program and not have that burden simply on districts for the
6 one program, the new construction program.

7 As Mr. Smoot noted for you and I think it was
8 noted by Janet Dixon as well, when this was put in place, it
9 was put in place to do one thing and that was to inform the
10 grant increase to the grant that was established by AB127.

11 There was a lot of discussion before the Board at
12 that time and I won't go into the history of our
13 involvement, but there was deep involvement with the CASH
14 organization trying to support the idea.

15 It's never been used for that purpose. I agree
16 with Ms. Dixon that the information really looks nice and it
17 certainly provides some information, but having been at the
18 entrails of that document, it's not a highly accurate
19 document. So thank you. I appreciate your attention.

20 CHAIRPERSON REYES: Thank you. Senator Hancock.

21 SENATOR HANCOCK: Well, I was just going to
22 indicate that I found actually these charts quite useful and
23 I think it may be that information is available on some
24 Website in a more complicated form.

25 I've actually done some legislation on this in

1 connection with other departments, but is it user friendly.
2 Is it something a member of the public can access and get
3 information that they might need and I found these things
4 extremely helpful.

5 CHAIRPERSON REYES: Thank you. Okay. That's just
6 information -- Ms. Brownley.

7 ASSEMBLY MEMBER BROWNLEY: Well, and I guess --
8 you know, I just wanted to comment that this seems to happen
9 in government generally is that information is gathered in a
10 number of different places or required to be gathered in a
11 number of different places where we don't have sort of one
12 universal data gathering point.

13 It sounds like from some of the testimony, there
14 is information gathered on one form, transferred to another
15 form. You know, is there a mechanism by which we can
16 minimize -- collect the rich data that we need, but
17 minimize -- try to minimize the amount of time it's
18 requiring school districts to collect it.

19 And -- so I just ask that question and wonder if
20 we could -- you know, we look at sort of the efficiencies
21 around collecting the data.

22 CHAIRPERSON REYES: Thank you. Okay. That was
23 just an informational item. We'll go now to the next item.

24 **Joint Use Fund Release Status Report.** Thank you.

25 MS. SILVERMAN: Tab 14, please. On page 112,

1 again we're just highlighting to the Board. We actually did
2 provide some cash to some joint-use projects back in October
3 2010 and with that, the Board did apportion five projects
4 and four of those projects have been liquidated and there's
5 still one project outstanding. And we understand that
6 school district is actually working with its joint-use
7 partner and trying to work out some budget issues with
8 respect to the joint-use partner.

9 And so with that, the district did share they
10 anticipate submitting a fund release in September 2011. And
11 with that, I would open up to any questions.

12 CHAIRPERSON REYES: Senator Hancock.

13 SENATOR HANCOCK: Yes. Thank you very much. As
14 many of you know, I planned to request the Board to consider
15 funding all of the joint-use applications on record by
16 transferring available funds from the purchase account or
17 any other --

18 CHAIRPERSON REYES: Senator, that's the next item.

19 ASSEMBLY MEMBER BUCHANAN: It's the next item.

20 SENATOR HANCOCK: Well, why should it be?

21 CHAIRPERSON REYES: Okay. But you can talk to it.
22 It's -- because they're sort of --

23 SENATOR HANCOCK: I actually thought they all sort
24 of flowed into each other.

25 CHAIRPERSON REYES: They're sort of related. They

1 flow together. That's fine. They flow together. Go ahead.

2 SENATOR HANCOCK: Unless people want to ask
3 something about this --

4 ASSEMBLY MEMBER BUCHANAN: Let's move on to 15.

5 SENATOR HANCOCK: I mean they're both --

6 CHAIRPERSON REYES: Yeah. Yeah.

7 SENATOR HANCOCK: They flow into one another.

8 CHAIRPERSON REYES: Yes.

9 SENATOR HANCOCK: Right? It seemed to me that
10 because joint-use facilities are such an excellent use of
11 the taxpayers' dollar that it would be something that we
12 should consider and at the time, there was indications that
13 there was money in the lease purchase account.

14 But now it turns out there is not money in the
15 lease purchase account and to me it's a very difficult thing
16 to tell school districts you can have sort of your share of
17 \$600,000 and go away or go to the end of the line next time
18 or whatever or wait until there may be another bond
19 somewhere down the line.

20 So I am hoping -- and we talked with staff a good
21 bit -- that perhaps we could identify some additional funds
22 from some other account that could be used for these six
23 projects and we would never necessarily need to go out
24 again.

25 But it's a very solemn choice to ask districts to

1 agree to take a little bit money that won't finish the
2 project and --

3 ASSEMBLY MEMBER BUCHANAN: So are we going to have
4 staff bring us -- bring the recommendations back?

5 SENATOR HANCOCK: Yeah. They said they would
6 bring back recommendations -- they'd bring back information
7 in August. But I'd like to just add kind of with the
8 consent of the Board is that please look and come back and
9 tell us if there's additional monies that we can transfer so
10 that we could fund these six projects.

11 CHAIRPERSON REYES: I haven't seen the Board say
12 yes.

13 MR. HARVEY: Of course I think it's a very healthy
14 and appropriate discussion, but at what point do we get find
15 out if we're transferring money around and we have only a
16 limited amount -- what else could we transfer it to?
17 Because there are some pots that we can transfer as a
18 Board --

19 SENATOR HANCOCK: Right.

20 MR. HARVEY: -- but others we can only do it
21 legislatively and we have to make some tough --

22 CHAIRPERSON REYES: I think staff would bring that
23 information forward.

24 MR. HARVEY: So that information will be part of
25 it. It wouldn't just be specific.

1 SENATOR HANCOCK: Yeah. Yes.

2 MR. HARVEY: Thank you.

3 SENATOR HANCOCK: So we could look at the whole
4 picture.

5 CHAIRPERSON REYES: Okay. There's public comment.
6 Sir -- Ms. Moore, do you want to go ahead while he takes a
7 seat?

8 MS. MOORE: Sure. We certainly would support you
9 at the Department of Education. We feel that joint use is
10 an important program particularly for communities and it's a
11 leverage program. So I think we at the State get good value
12 for that leverage and would support your recommendations,
13 Senator Hancock.

14 CHAIRPERSON REYES: Thank you. Sir.

15 MR. PHILLIPS: I'm George Phillips. I'm the
16 Executive Director of the Alameda Boys and Girls Club, part
17 of this joint-use project. The Superintendent of the
18 Alameda School District is away, so I've been designated to
19 speak dually I guess tonight.

20 And I wanted to thank you for allowing me to do
21 this and I just wanted to frame a little bit of our project
22 specifically for you, but I think in light of what I've
23 heard, it sort of reinforces the value of joint-use
24 projects.

25 This is a partnership between the Boys and Girls

1 Club and the Alameda Unified School District. Our
2 mission -- our only mission is to serve school-age children
3 with enriching after-school programs, weekends, summer,
4 holidays, school breaks.

5 And our partner, the Alameda Unified School
6 District, really has the exact same mission during the
7 school day. The location this project sits on is on
8 school-owned property and we chose it because it was
9 immediately adjacent to a district-run alternative high
10 school, a charter middle high, another middle school, and a
11 charter elementary school. That's contiguous to the
12 property.

13 Within a few blocks' radius, there's another
14 district high school, a district elementary school, and a
15 charter middle school. And forgive me, I should quote the
16 enrollment, but it's several thousand children.

17 The district will schedule use of this facility
18 with any and all of these schools during the school day.
19 Then the Boys and Girls Club will be in a position to serve
20 these children after school, weekends, several holidays.

21 Because we planned this facility in partnership
22 with the school district and the Boys and Girls Club, we've
23 been able to ensure features that serve both entities well.

24 Our application covers our gymnasium and our
25 fitness center which certainly will allow the district to

1 run their physical education programs, performing arts,
2 assemblies, et cetera. There's a few other aspects of this
3 building that while they aren't in the application I think
4 are important to know what the scope of these projects can
5 bring to the schools and communities.

6 We've included a medical and dental screening
7 clinic. So not only will we be able to serve kids with
8 screening, but the alternative high school, we use that
9 facility for their school-based health center.

10 We have a commercial kitchen. The school district
11 will use it to serve the daily hot lunch program to the high
12 school and the surrounding schools with children who
13 qualify. We'll use it to serve the same program during the
14 summer and we'll also use it for the healthy after-school
15 snacks.

16 CHAIRPERSON REYES: Thank you.

17 MR. PHILLIPS: There's an 8,000 square foot garden
18 we're installing. The schools will share it for ecology and
19 nutritional programs with the Boys and Girls Club. There's
20 classrooms. There's a technology center, an art room, and
21 meeting rooms that will allow the district to expand
22 whatever educational goals they have with the surrounding
23 schools.

24 I echo the comment I heard early that this type of
25 public-private partnership involving -- especially this one

1 involving two entities that serve the same clients is
2 essential to help the schools leverage the somewhat meager
3 resources they're dealing with today.

4 This facility will be offered to children 15 hours
5 a day. So we think it's important. I want to thank OPSC
6 staff. They've worked with us and we've come down to this
7 final piece and they've been very helpful and supportive.
8 So thank you very much. I appreciate it.

9 And I guess I'll sum it up by saying I hope you
10 find a way to find the money to fund these projects. Thank
11 you.

12 CHAIRPERSON REYES: Thank you. Senator Hancock,
13 do you have --

14 SENATOR HANCOCK: No.

15 CHAIRPERSON REYES: No?

16 SENATOR HANCOCK: I think -- we're looking forward
17 to the August report. Thank you very much and I'd like to
18 thank OPSC too for --

19 CHAIRPERSON REYES: Okay. Thank you. Tab 16,
20 **tentative workload**. It's tentative. Big word: tentative.
21 Tab 16, **State Allocation meeting dates**, and then Tab 17
22 talking about **SFP unfunded list, SFP workload list, our**
23 **Emergency Repair Program unfunded list, Emergency Repair**
24 **Program workload list, facility hardship rehab, approvals**
25 **without funding**.

1 There's no action in any those. Is there any
2 public comment?

3 SENATOR HANCOCK: I have -- do have one little
4 comment --

5 CHAIRPERSON REYES: Yes.

6 SENATOR HANCOCK: -- as a matter -- just that I
7 think the high performance incentive grants are going to
8 be -- yes -- program status is going to be on our
9 August 24th meeting.

10 CHAIRPERSON REYES: We're looking at Tab 16.

11 SENATOR HANCOCK: Yeah.

12 CHAIRPERSON REYES: Okay.

13 SENATOR HANCOCK: And I think that that will be
14 very interesting, but I'd like to suggest on -- for our
15 October meeting that we might have an item regarding solar
16 energy and alternative energy programs specifically as a
17 standalone because high performance schools take many other
18 things into account and particularly what funds and programs
19 are available to districts from different State or utility
20 resources because there's a variety of programs that are
21 available and also how we inform districts about the whole
22 array of solar-related monies that they might be able to
23 leverage.

24 I just had an experience with a school in my
25 district. You guys -- well, I don't know, some of you are

1 aware of it, but they almost lost a big grant because of
2 delays in the office of the State Architect and some other
3 things and the approval process at different times. So I'm
4 curious as to how we were able to work it out in the end,
5 but sort of how we let districts know that they have a
6 variety of options and then get them through the system as
7 quickly as possible so they can use non-State resources when
8 it's appropriate.

9 Would it be okay just to ask that that be --

10 CHAIRPERSON REYES: Staff, is there enough time
11 between now and October you could come up with an
12 information report on that?

13 MS. SILVERMAN: Well, I -- if I'm hearing you
14 correctly, Senator, I think some of the issues that you may
15 have had may have been percolated through the process of
16 receiving approvals through the Division of State Architect.
17 So I would like to probably have those conversations with
18 Division of State Architect to see what we can do to
19 facilitate some of those processing issues.

20 I'm not really, you know, in tune with some of
21 those issues in itself.

22 SENATOR HANCOCK: Yeah.

23 MS. SILVERMAN: So it may be talking outside of my
24 realm of what -- my abilities to provide some --

25 MR. HARVEY: There are other State agencies you

1 need to coordinate with as well --

2 ASSEMBLY MEMBER BUCHANAN: Right.

3 MR. HARVEY: -- including the PU --

4 MS. MOORE: Also -- yeah. Also with the
5 Department of Education, we've had a lot of questions around
6 this issue as well and we have quantified some of the other
7 areas that there's funding available in and maybe we could
8 assist you as well as you present that. We'd be happy to --

9 CHAIRPERSON REYES: Let's put it on the tentative
10 for now and then let's see how it develops and what good
11 information we can get because it wouldn't make sense to
12 have an incomplete report just so that we can meet the
13 October, but I certainly would like to have that
14 information.

15 Ms. Buchanan.

16 ASSEMBLY MEMBER BUCHANAN: I say that or depending
17 on how long a discussion, maybe just have a short special
18 hearing on it because you could probably go for a long time
19 on how different districts have bonded or used power
20 purchase agreements or --

21 SENATOR HANCOCK: Utility money --

22 ASSEMBLY MEMBER BUCHANAN: -- I mean all the -- I
23 mean there's lots of different examples in the State. So we
24 might want to just have a short special hearing on it and
25 not --

1 CHAIRPERSON REYES: I kind of like that idea
2 because that would bring in folks who have actually done it
3 to educate us. I think that would be kind of interesting --
4 different hearing, but I think it would be educational for
5 several folks.

6 Well, let's see what we can do. I mean let's keep
7 the options open. Okay.

8 ASSEMBLY MEMBER BROWNLEY: Sounds like a tentative
9 possibility.

10 CHAIRPERSON REYES: Excellent. Okay. Is there
11 any public comment? Hearing none, the Board will now hold a
12 closed session pursuant to Government Code Section
13 11126(a)(1). Lance? Somebody. Mr. Hagman, I'm sorry.

14 ASSEMBLY MEMBER HAGMAN: I could probably throw
15 this offline. It's a DIR and school construction question,
16 which we're not here about, but I want --

17 CHAIRPERSON REYES: Okay. I apologize, sir, I
18 didn't see you. My bad.

19 ASSEMBLY MEMBER HAGMAN: That's all right.

20 (Whereupon at 4:33 p.m., the open meeting was recessed
21 for the closed session and resumed as follows at 5:04 p.m.)

22 CHAIRPERSON REYES: We're back in session and
23 there's nothing to report at this time. I do want to **open**
24 **up the roll for the Orange County** item. Is it Item 10 --
25 for item reconsideration.

1 Will you please call the absent members.

2 MS. GENERA: Senator Runner.

3 SENATOR RUNNER: Aye.

4 MS. GENERA: It carries. Yeah. Thank you.

5 CHAIRPERSON REYES: Is everything else -- all the
6 other members on all the other issues were here?

7 MS. GENERA: You know --

8 ASSEMBLY MEMBER BUCHANAN: Do you need to report
9 out the closed session?

10 CHAIRPERSON REYES: Yes, we did.

11 MS. GENERA: That was the only one that --

12 ASSEMBLY MEMBER BUCHANAN: That was it.

13 CHAIRPERSON REYES: And the record will show that
14 we are having Webcast difficulties so that's why we're
15 limited to our four track reporter right now. Thank you.

16 (Whereupon, at 5:05 p.m. the proceedings were recessed.)

17 ---oOo---

18

19

20

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 July 21, 2011.

Mary C. Clark
AAERT CERT*D-214
Certified Electronic Court
Reporter and Transcriber