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CALIFORNIA STATE ALLOCATION BOARD  
PUBLIC MEETING

STATE CAPITOL, ROOM 4202  
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, SEPTEMBER 28, 2011  
TIME: 2:12 P.M.

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

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

ESTEBAN ALMANZA, Chief Deputy Director, Department of General Services, designated representative for Fred Klass, Director, Department of General Services

NADYA DABBY, Appointee of Jerry Brown, Governor of the State of California

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

SENATOR ALAN LOWENTHAL

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

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2  
3 CHAIRPERSON REYES: We do have a quorum. Thank  
4 you. Good afternoon. We now have quorum. If I could have  
5 the roll call, please.

6 MS. JONES: Certainly. Senator Lowenthal.

7 SENATOR LOWENTHAL: Yes, I'm here.

8 MS. JONES: Senator Hancock.

9 Senator Runner.

10 Assembly Member Brownley.

11 ASSEMBLY MEMBER BROWNLEY: Here. Present.

12 MS. JONES: Assembly Member Buchanan.

13 Assembly Member Hagman.

14 Esteban Almanza.

15 MR. ALMANZA: Here.

16 MS. JONES: Kathleen Moore.

17 MS. MOORE: Here.

18 MS. JONES: Nadya Dabby.

19 MS. DABBY: Here.

20 MS. JONES: Pedro Reyes.

21 CHAIRPERSON REYES: Present. And I'd like to take  
22 just a couple seconds here to introduce our newest Board  
23 member, Nadya Dabby is the Governor's appointee. So she's -  
24 - her first meeting. She just got back from some long  
25 travel. So she's looking forward to this I understand. And

1 Mr. Hagman has just joined us as well.

2 MS. JONES: Okay. Very good.

3 CHAIRPERSON REYES: Dave, can I -- may I impose on  
4 you to close the door for us, please. Much appreciated.  
5 Thank you.

6 Okay. We have the **Minutes**. Is there a motion on  
7 the Minutes.

8 ASSEMBLY MEMBER HAGMAN: So moved.

9 CHAIRPERSON REYES: So moved. Second?

10 MS. MOORE: Second.

11 CHAIRPERSON REYES: It's been moved and seconded.  
12 Any comments, questions? Ms. Brownley has also joined us.  
13 Any comments from the public? Hearing none. It's been  
14 moved and -- yes.

15 MR. WALRATH: Chair Reyes and members, it's not on  
16 the Minutes, but because it's not on the agenda, I did want  
17 to raise an issue with you and make the request of the  
18 Board.

19 CHAIRPERSON REYES: There's public comment after  
20 the hearing too.

21 MR. WALRATH: Right.

22 CHAIRPERSON REYES: So you'd rather do it now?  
23 Totally relevant to the Minutes.

24 MR. WALRATH: Would rather do it now.

25 CHAIRPERSON REYES: Okay.

1           MR. WALRATH: Okay? And it's dealing with sale of  
2 State school bonds and the reason I'm making the request now  
3 is that everybody is never now and I'm not sure how many  
4 will be here at the end of the meeting.

5           My name's Dave Walrath. I'm representing Small  
6 School Districts Association. What I'm requesting is that  
7 the Board make a formal action to request the Director of  
8 the Department of Finance at the next State sale of general  
9 obligation bonds to include the sale of school bonds.

10           The reason for this is multiple. First, outsider  
11 jobs. The sale of State school bonds will have a  
12 stimulative effect. The very nature of putting money into  
13 the economy because you have to be 90 days under contract  
14 will get money into the economy quickly. That will generate  
15 sales tax revenue and income tax revenue.

16           CASH wrote a letter on this, a very broad letter.  
17 Looking at potentially up \$130 million of general fund  
18 revenue form each million dollars of sale.

19           Right now we're 400 million below the estimate of  
20 general fund revenues or 600 million if you use the Director  
21 of Department of Finance's numbers.

22           We have lost potentially another 200 million -- up  
23 to 200 million for Amazon sales tax doesn't come through.  
24 If that is the case, we're moving very quickly toward a  
25 trigger -- a midyear trigger on schools.

1           To the extent that we can do economic stimulus and  
2 when it's in our power and generate State general fund  
3 revenue, that reduces the probability of a trigger being  
4 pulled and a midyear cut to schools.

5           From Small School Districts' point of view, the  
6 first part of this cut is home to school transportation, a  
7 cut that will primarily affect rural schools with high  
8 percentages of kids from low income families.

9           We are urging you to look at this, to sell the  
10 bonds, to have the stimulative effect in order to have both  
11 jobs, build schools, and provide a basis upon which we might  
12 be better positioned to avoid a trigger in the November or  
13 December Department of Finance or legislative analysts'  
14 projections of State general fund revenue for 2011-'12.

15           So I urge you to pass that resolution urging the  
16 Director to do such a sale. Thank you.

17           CHAIRPERSON REYES: Thank you, Mr. Walrath.  
18 Anybody else that wants to burn a bridge by going out of  
19 turn? I'm kidding. I'm kidding. Go away. Go away. I'm  
20 kidding. I'm kidding.

21           MS. MOORE: I'd like to comment on the --  
22 Mr. Walrath's comments. I do think that a bond sale is  
23 important to this program. We haven't had one since fall of  
24 last year.

25           I understand that there was a sale on the 20th

1 that was simply refinancing of bonds in California and I  
2 know in the past we have both I think made such a letter. I  
3 don't know that it was a resolution, but I do believe there  
4 was a letter that came forward from this Board asking for  
5 what Mr. Walrath asked for and in addition we have had in  
6 the past the State Treasurer's representative come to the  
7 Board and talk about the bond sales which I think is  
8 important because our program relies on that. We have what,  
9 Ms. Silverman, is it 2.4 billion waiting, construction-ready  
10 projects, and it can -- we know that it will have a  
11 stimulative effect and that's -- I mean it's the bread and  
12 butter of this program.

13 So I would support such a resolution or letter and  
14 if we need to ask for action at the next Board meeting or  
15 sooner, I would support that as well.

16 CHAIRPERSON REYES: Yes.

17 ASSEMBLY MEMBER BROWNLEY: Well, I would just back  
18 up Ms. Moore's comments and hers would reflect mine and I  
19 would be very supportive of that.

20 CHAIRPERSON REYES: Ms. Brownley -- Buchanan.

21 ASSEMBLY MEMBER BROWNLEY: Buchanan and Brownley.

22 CHAIRPERSON REYES: I was just looking --

23 ASSEMBLY MEMBER BUCHANAN: Yeah. That's okay.

24 I -- maybe what we ought to do is have someone from the  
25 Treasurer's office come to our -- one of our next two

1 meetings so we could ask a little bit more in terms of when  
2 we're going to have the next plan sales and find out what  
3 they plan to include.

4 I also think it's critical -- I feel a little bit  
5 awkward talking about this because we really should be  
6 talking about this under new business.

7 CHAIRPERSON REYES: Right.

8 ASSEMBLY MEMBER BUCHANAN: But, you know, we also  
9 clearly I think have some planning to do on our part in  
10 terms of the remaining monies that we have between now and a  
11 potential bond and, you know, whether or not we're going to  
12 be able to extend out the new construction program because  
13 if you want to shut down construction in the State, all you  
14 need to do is hit Level 3, developer fees.

15 So I think there are a number of conversations  
16 that need to center around this, but I don't know that  
17 having a letter now -- I don't know when the next bond sales  
18 are. I think it might be just as productive to have a  
19 discussion with someone from the Treasurer's office.

20 CHAIRPERSON REYES: Mr. Hagman.

21 ASSEMBLY MEMBER HAGMAN: Since we're all kicking  
22 in here, I think we did speak about in our last meeting or  
23 so setting up a subcommittee to start to explore those  
24 different possibilities and I think that's probably the way  
25 to go to -- you know, think that we did a bond sale in the

1 next 60 days this goes -- do anything between the next --  
2 now and what the year's projections going to be, I think  
3 it's -- it's not reality, but we do need to think about the  
4 next year or five years from now and those type of things  
5 and we did -- you did mention to set up a subcommittee on  
6 that, start exploring those.

7 I think we could schedule that and start working  
8 on that right away.

9 MS. MOORE: Do we have knowledge that there will  
10 not be a bond sale this fall? I mean I think we need to  
11 have the information --

12 ASSEMBLY MEMBER BUCHANAN: I don't know that we  
13 know there's going to be and we don't know that we're --

14 MS. MOORE: Because that's substantial for this  
15 program. That's the longest we've been without cash, if I'm  
16 correct, if we don't have a bond sale this fall that comes  
17 to this program and we have shovel-ready projects ready to  
18 go that have been ready to go for months.

19 I just think it's really an important issue,  
20 probably the most important issue to all the school  
21 districts that follow the work of this Board.

22 CHAIRPERSON REYES: So -- Ms. Brownley.

23 ASSEMBLY MEMBER BROWNLEY: I again agree with  
24 Ms. Moore and I think at this particular point we shouldn't  
25 be discussing this but giving direction and I think at least

1 there are two members of the committee here that are asking  
2 to give direction. There's some discussion about a  
3 committee being formulated to discuss all of these issues  
4 and if indeed that is the plan, I would then suggest also  
5 that we bring that discussion forward if there's going to be  
6 some subcommittee established to talk about probably one of  
7 the most important things this committee would address over  
8 the next year or two.

9           So if that's the plan -- I don't know if the Chair  
10 is planning on putting together a subcommittee, but if that  
11 is, I think that should be up for discussion.

12           CHAIRPERSON REYES: We did talk -- there was a  
13 request for a subcommittee and I'd like to appoint  
14 Mr. Hagman, Ms. Buchanan, Esteban, and Senator Lowenthal to  
15 that committee.

16           SENATOR LOWENTHAL: Okay.

17           CHAIRPERSON REYES: So take a look at that.

18           ASSEMBLY MEMBER BROWNLEY: And the purpose of the  
19 committee is?

20           CHAIRPERSON REYES: We were looking at --  
21 Ms. Buchanan, you requested the committee last time.

22           ASSEMBLY MEMBER BUCHANAN: To take a look at where  
23 we stand with new construction dollars between now and  
24 hopefully the next bond.

25           ASSEMBLY MEMBER BROWNLEY: And it is -- in our

1 bylaws, it is the prerogative of the Chair to do that  
2 without any discussion from the Board?

3 CHAIRPERSON REYES: We've established this  
4 committee in the same format we've established all the other  
5 subcommittees. We established that for the seismic. We  
6 established that for the rules. We established that -- the  
7 only thing we have in the bylaws that requires a  
8 subcommittee which we don't really adhere to is the  
9 personnel committee and the vice here is supposed to chair  
10 that, but this time around, we had somebody else do it.

11 ASSEMBLY MEMBER BROWNLEY: It was my understanding  
12 the committees were established based on consensus of the  
13 Board, may indeed be informal consensus, but consensus  
14 nonetheless. But -- so I just think that, you know, this is  
15 a pretty important issue and if the idea is to relegate to a  
16 subcommittee and come back to the Board, you know, for an up  
17 and down vote, I'm saying I'm -- I would object.

18 CHAIRPERSON REYES: The -- what the subcommittee  
19 as it does actually flushed out a lot of stuff and when it  
20 comes to the Board, not all the recommendations by the  
21 subcommittee actually get taken.

22 And the minority report is also provided to the  
23 Board of what issues were brought up that the subcommittee  
24 did not move forward. So it is a format that we've used on  
25 the seismic and the cash management last time and where

1 issues were flushed out and then the Board had the  
2 opportunity to hear all the issues again, but a lot of going  
3 down to the weeds is taken care of.

4           If the Board wishes to bring this up as the full  
5 Board, it's going to be a very time consuming effort because  
6 the subcommittee can meet a couple times a month if they so  
7 desire and they don't have to meet at the same time that  
8 we're discussing all the other issues, all the other action  
9 items that we would as a Board, but it is the will of the  
10 Board clearly.

11           ASSEMBLY MEMBER BROWNLEY: Then I would like to  
12 just for the record be a member that objects to that, but if  
13 it's the prerogative of the Chair, it's the prerogative of  
14 the Chair.

15           MS. MOORE: I have a comment and maybe it's a  
16 'tweener. I actually think that the bond sale is a separate  
17 issue than perhaps the remaining funds -- the remaining fund  
18 allocation which it -- I think that's what we were talking  
19 about last time needed time to really analyze and air in a  
20 subcommittee.

21           But to me a bond sale is a pretty straightforward  
22 issue and our asking for the benefit of school districts to  
23 participate in that bond sale to me is a pretty -- we can do  
24 that as a Board and that's not something that necessarily  
25 needs a subcommittee and we can have a report come back from

1 the Treasurer's office to the full Board and to our  
2 constituents about that as well which I think it would be  
3 timely in October.

4           If there's going to be a fall bond sale, it's  
5 going to happen in October or November and I think that we  
6 should weigh in on that now if not this meeting, definitely  
7 the next meeting and then what we do with the remaining cash  
8 and allocations could go to subcommittee and I would  
9 support -- we have done subcommittees on both by appointment  
10 and a consensus, and if there's a member that might -- if  
11 you want to be on a subcommittee, I think we should support  
12 that.

13           CHAIRPERSON REYES: Absolutely. It's just that  
14 I -- we can -- there's four members. We can add more people  
15 to the subcommittee. So, Ms. Brownley, are you interested  
16 in being on the subcommittee?

17           ASSEMBLY MEMBER BROWNLEY: I just think it should  
18 be a discussion in full, but it's okay.

19           CHAIRPERSON REYES: But --

20           ASSEMBLY MEMBER BUCHANAN: So where are we on  
21 Ms. Moore's -- are we going to have the Treasurer's office  
22 come in October so they can give us a report and we can  
23 express our concerns or our needs then?

24           CHAIRPERSON REYES: I -- I'm getting the sense is  
25 that I was going to ask staff to proceed with that, if you

1 can have somebody from the Treasurer's office come talk to  
2 us. I was reacting to the reference that --

3 ASSEMBLY MEMBER BUCHANAN: Right.

4 CHAIRPERSON REYES: -- last time we met, there was  
5 a request for a subcommittee to look at the cash issue and I  
6 went back because I think you made the motion --

7 ASSEMBLY MEMBER BUCHANAN: Right.

8 CHAIRPERSON REYES: -- and so consistent with  
9 that, I was appointing the members to the subcommittee.  
10 However, it's not limited to that, but I think there are two  
11 separate issues.

12 SENATOR LOWENTHAL: Well, I just wanted to follow  
13 up on Assembly Member Buchanan. I thought we were going to  
14 invite the Treasurer to the next meeting or the Treasurer's  
15 staff to at least fill us in on where we stand and then we  
16 can still have the subcommittee. I'm not --

17 CHAIRPERSON REYES: Right. Two distinct issues.

18 SENATOR LOWENTHAL: Two distinct. But I do want  
19 to add the Treasurer and we can have a discussion here also  
20 with the Treasurer.

21 CHAIRPERSON REYES: I think there is consensus  
22 that we ask the Treasurer, so I'm asking staff to bring the  
23 Treasurer. So that's one item that's been addressed.

24 MS. SILVERMAN: Right. We'll certainly do that.

25 ASSEMBLY MEMBER BROWNLEY: So if we do that and

1 then we're going to listen to what the Treasurer says and  
2 then we're going to pack up our bags and go home or are we  
3 going then formulate and have a discussion about whether we  
4 want to collectively make a recommendation around the sale  
5 of bonds for schools or not. That's what I'd like  
6 clarification on.

7 CHAIRPERSON REYES: Mr. Hagman.

8 ASSEMBLY MEMBER HAGMAN: Thank you. I think we  
9 could talk around in circles. It's very simple just on an  
10 actionable item to do anything on it today besides direct  
11 staff to put it on next month's agenda.

12 ASSEMBLY MEMBER BROWNLEY: That's what we're  
13 trying to do is clarify the direction.

14 ASSEMBLY MEMBER HAGMAN: And I think the Chair's  
15 made it pretty clear that we would like to have a report on  
16 it next thing and put it agendized so we could sit there and  
17 come up with some kind of recommendations, either formal,  
18 informal. They may have the answers for us when they come  
19 back from the report on it, but at least it will be  
20 agendized next meeting we have and we can right on top of  
21 that when the Treasurer or representative shows up. We may  
22 get an email or phone call next couple of days and be able  
23 to get an update a lot quicker too if they had a date set.  
24 If not, we could definitely have it agendized and send a  
25 formal letter of resolution, whatever this body takes, to

1 try to urge that to happen.

2 CHAIRPERSON REYES: That's one of the two items  
3 that we're circling around. So that's one. Is that what  
4 the Board wishes to have done on one item?

5 MS. MOORE: I have a little add-to-it.

6 CHAIRPERSON REYES: Okay.

7 MS. MOORE: And that is that perhaps we also have  
8 a representative from the Department of Finance because as I  
9 understand it many of the bond decisions are made there as  
10 well in conjunction with the Treasurer's office.

11 So between the two, I think we would have a good  
12 picture for what may or may not be planned in the future.

13 CHAIRPERSON REYES: I think the representative of  
14 Finance chairs the committee, but I'll ask him.

15 ASSEMBLY MEMBER BROWNLEY: I just wanted to make  
16 sure that what Mr. Hagman said was following that  
17 presentation, then we would collectively --

18 MS. MOORE: Have actionable item.

19 CHAIRPERSON REYES: Collectively decide at that  
20 time to take action what it is as a body we want to do.

21 And then the second item was then create the  
22 committee because you referenced that we spoke about doing a  
23 subcommittee on the cash issue and the bonds moving forward  
24 and we want -- and that subcommittee can meet offline as  
25 often as -- or as many times as necessary as we have done

1 with the cash management, seismic, and so forth.

2 So that was the idea and at this point, I've asked  
3 four members to participate. If more members want to  
4 participate, it's open. Okay. Is that -- okay.

5 So did we vote on the Minutes?

6 MS. JONES: No. We need to.

7 CHAIRPERSON REYES: I think we got public comment  
8 sidetracked.

9 MS. SILVERMAN: No. No.

10 CHAIRPERSON REYES: Okay. So they're moved -- is  
11 there a motion?

12 ASSEMBLY MEMBER BROWNLEY: I think Mr. Hagman --

13 CHAIRPERSON REYES: Moved.

14 ASSEMBLY MEMBER BROWNLEY: -- moved it and --

15 MS. MOORE: I seconded it.

16 ASSEMBLY MEMBER BROWNLEY: -- Ms. Moore seconded  
17 it.

18 CHAIRPERSON REYES: And Kathleen Moore seconded  
19 it. I think you're correct. Thank you. Do we need to call  
20 the roll?

21 MS. JONES: Only if you want me to. Okay.  
22 Lowenthal.

23 SENATOR LOWENTHAL: Aye.

24 MS. JONES: Brownley.

25 ASSEMBLY MEMBER BROWNLEY: Aye.

1 MS. JONES: Buchanan.

2 ASSEMBLY MEMBER BUCHANAN: Aye.

3 MS. JONES: Hagman.

4 ASSEMBLY MEMBER HAGMAN: Aye.

5 MS. JONES: Almanza.

6 MR. ALMANZA: Aye.

7 MS. JONES: Moore.

8 MS. MOORE: Aye.

9 MS. JONES: Dabby.

10 MS. DABBY: Abstain.

11 MS. JONES: Reyes.

12 CHAIRPERSON REYES: Aye.

13 MS. JONES: Motion carries.

14 CHAIRPERSON REYES: Thank you.

15 MS. SILVERMAN: Tab 3 is the **Executive Officer's**  
16 **Statement.** There's four items I want to share with the  
17 Board tonight.

18 We are pleased to share with the Board that the  
19 Seismic Mitigation Program regulatory amendments were --  
20 that was moved by the Board in June of this year was  
21 actually placed in effect in September of this month,  
22 September 8th to be exact. And so those particular  
23 regulations are actually posted on our website. So again  
24 we're enthusiastic that these changes are made forward and  
25 obviously increase some participation in the Seismic

1 Program, which rolls into the Item 2 which we're presenting  
2 is we're actually having an outreach event with the Division  
3 of State Architect and the Office of Public School  
4 Construction tomorrow.

5 And that outreach event with overview Division of  
6 State Architect and OPSC's project approval process under  
7 the new amended regulations for the Seismic Mitigation  
8 Program.

9 That outreach event will actually be staged at the  
10 Department of General Services, 707 Third Street in West  
11 Sacramento in the auditorium from 10:00 a.m. to 12:30 p.m.  
12 and we encourage all to participate and if you're unable to  
13 participate, please tune in via webcast. We'll ask those  
14 folks that are unable to attend to go ahead and submit  
15 questions to OPSC News at [DGS.ca.gov](http://DGS.ca.gov) in advance of the  
16 meeting and again we would like to have a lot of folks  
17 participate and would like to see a good turnout and  
18 hopefully that would encourage more folks to come in for the  
19 program. So that's great.

20 The third item we wanted to share is we actually  
21 closed out a priority in funding round certification. In  
22 May 2011, the Board did approve regulations to create two  
23 certification filing periods that actually collect data in  
24 July and also collect data in January.

25 So the filing period ended August 25th of this

1 year and we actually had 187 school districts participate  
2 which related to 504 projects out of the 710 projects  
3 sitting on the unfunded list.

4           So we actually have a need for the program of  
5 \$1.3 billion; again shows that we have a need for the  
6 program. The certifications that came in are accepted, are  
7 valid through January 10th, 2012, and again stimulate that  
8 if we are funded with cash in the program and we actually do  
9 provide apportionments, it's important for those folks that  
10 provided those certifications to come in within 90 days.

11           And again we spoke about the success of the  
12 program. In the prior filing round, we actually had all  
13 projects with the exception of one activate all the cash.  
14 \$1.4 billion did go out for construction-ready projects.

15           And the last item I would like to share is staff  
16 will be presented at the Green Schools Summit -- presenting  
17 high performance incentive grant presentation. We will be  
18 presenting at -- down in Pasadena and again it's  
19 incentivized. It's to encourage those folks who -- not  
20 really knowledgeable about the high performance incentive  
21 grants. We did make some changes to the program to  
22 encourage participation, so we invite all to attend that  
23 event on October 17th from 10:45 to 12:00 p.m.

24           With that I'll open up to any questions.

25           CHAIRPERSON REYES: Anybody have any questions?

1           SENATOR LOWENTHAL: No. I was just wondering  
2 going back to the issue about the Seismic Mitigation Program  
3 whether we could have the -- invite as a request by the  
4 Board the DSA to come and really tell us about the  
5 implementation, how that is going and what some of the  
6 issues are so we can be apprised ourselves from it.

7           CHAIRPERSON REYES: Um-hmm.

8           SENATOR LOWENTHAL: So -- and I think it would  
9 really take a Board action to request that from the Division  
10 of the State Architect to come before our Board. It doesn't  
11 have to be the next, understand, but really at a meeting  
12 coming up real soon that we can really get our --

13          CHAIRPERSON REYES: Put it on the agenda?

14          SENATOR LOWENTHAL: Right. I would like to  
15 agendize that.

16          CHAIRPERSON REYES: Sure. Is there an interest by  
17 the Board -- Senator Lowenthal -- I'm looking for nods to  
18 concurrence.

19          ASSEMBLY MEMBER BUCHANAN: Right. I concur. I  
20 just -- kind of ask on the timing on that because --

21          SENATOR LOWENTHAL: I don't know. I think -- I'm  
22 not --

23          ASSEMBLY MEMBER BUCHANAN: You know, because you  
24 want to have enough time after they've presented the  
25 regulations, whatever, where you're going to have some kind

1 of meaningful data one way or another --

2 SENATOR LOWENTHAL: Right.

3 ASSEMBLY MEMBER BUCHANAN: -- as to whether or  
4 not --

5 SENATOR LOWENTHAL: And I understand that in our  
6 own timing, but I just want to make sure it'll be moved  
7 forward on --

8 ASSEMBLY MEMBER BUCHANAN: Yeah.

9 SENATOR LOWENTHAL: -- and we have that and then  
10 we really have a discussion with the State Architect.

11 ASSEMBLY MEMBER BUCHANAN: Yeah. I agree. So I  
12 would -- I mean --

13 CHAIRPERSON REYES: When would be a good time to  
14 have folks come and do that based on what's going on right  
15 now in the field with your --

16 MS. SILVERMAN: Well, I think -- right now I know  
17 there are applications that are flowing through Division of  
18 State Architect currently and obviously with that  
19 presentation or education piece tomorrow and tracking data  
20 as far as who's coming into the program at DSA, how many  
21 approvals are being sponsored through this recent activity,  
22 it may take them some time to extrapolate some of the  
23 successes --

24 SENATOR LOWENTHAL: Um-hmm.

25 MS. SILVERMAN: -- and who's really participating,

1 but I think we're more than happy to invite them and see  
2 what's their availability.

3 CHAIRPERSON REYES: Okay. We -- so we don't meet  
4 in November. We meet in December. That's an issue we need  
5 to discuss. So if we don't do it in December, we'll do in  
6 January?

7 SENATOR LOWENTHAL: Either December or January --  
8 December if we can do it in December --

9 CHAIRPERSON REYES: Okay.

10 ASSEMBLY MEMBER BUCHANAN: -- would be a good time  
11 to do it.

12 CHAIRPERSON REYES: We'll see. Okay. Either  
13 December or January, one of those. Thank you. So -- that's  
14 a good -- okay. Good. Thank you.

15 And then going back to the December 7th, we do  
16 have December 7th as a meeting. You folks could go back and  
17 look at your calendars to see what's your availability for  
18 that because we will not meet in November and October's a  
19 pretty packed meeting.

20 MS. SILVERMAN: Right. We have a full agenda.

21 CHAIRPERSON REYES: Full agenda. So if you could  
22 take a look at your December 7th --

23 SENATOR LOWENTHAL: December 7th.

24 ASSEMBLY MEMBER BROWNLEY: And why are we not  
25 meeting in November?

1 CHAIRPERSON REYES: We just don't meet --

2 ASSEMBLY MEMBER BROWNLEY: Oh, you just don't --  
3 we don't meet in November?

4 CHAIRPERSON REYES: -- yes. It's around  
5 Thanksgiving. We meet like, what, the third week.

6 MS. MOORE: And it falls -- I think it falls on  
7 the Wednesday before Thanksgiving.

8 CHAIRPERSON REYES: So anyway -- so if you can  
9 take a look at your calendar and let Sue know -- let folks  
10 know whether or not that's a date that works for you,  
11 December 7th, so that we can --

12 SENATOR LOWENTHAL: Um-hmm.

13 CHAIRPERSON REYES: -- start looking for  
14 alternative dates quickly. Thank you. Okay.

15 MS. SILVERMAN: Have any questions?

16 CHAIRPERSON REYES: Any other questions? Any  
17 other comments?

18 SENATOR LOWENTHAL: Nope.

19 CHAIRPERSON REYES: Okay. We'll move on. **Consent**  
20 **Agenda.** And if I may -- if we could include Tab 8 as part  
21 of the **Special Consent** and that's the two school districts'  
22 repayment over a five-year period. I think this is  
23 noncontentious. Everybody seems to be okay with that. We  
24 can move that to the Consent as well. Mr. Hagman.

25 ASSEMBLY MEMBER HAGMAN: So moved, Mr. Chair.

1           CHAIRPERSON REYES: It's been moved with the  
2 Consent plus the Special item.

3           ASSEMBLY MEMBER BUCHANAN: Second.

4           CHAIRPERSON REYES: It's been moved and seconded.  
5 All in favor say aye.

6           (Ayes)

7           MS. MOORE: I just have a comment.

8           CHAIRPERSON REYES: Yes.

9           MS. MOORE: I'm wondering if we can ask our Rules  
10 Subcommittee to revisit the Specials Consent because it  
11 seems that we each meeting are doing it de facto by putting  
12 items that are not -- that are in the regular items into  
13 Consent and we used to have Consent -- what were they  
14 called?

15           MS. SILVERMAN: Consent Specials.

16           MS. MOORE: -- Consent Specials that were agreed  
17 upon -- the district and the staff both agreed upon an item  
18 and so it went into one that could be adopted by consent and  
19 I'm wondering if we could have our committee relook at that  
20 or if we could relook at that as a Board because we seem to  
21 do it each meeting de facto.

22           CHAIRPERSON REYES: Yeah. It's -- and I've kind  
23 of brought it up because some of the stuff that is --  
24 everybody's in agreement, why argue about it, why waste  
25 people's time, and -- but I was told that they used to have

1 it and the Board asked that it be each item individual  
2 action be taken. So --

3 MS. MOORE: I'm just --

4 CHAIRPERSON REYES: -- okay. Going back -- no.  
5 It's fair.

6 MS. MOORE: I'm just asking maybe we could revisit  
7 that --

8 CHAIRPERSON REYES: Um-hmm.

9 MS. MOORE: -- if that's --

10 CHAIRPERSON REYES: Sounds good.

11 MS. MOORE: -- that's how that subcommittee  
12 recommends that and says that's how we --

13 CHAIRPERSON REYES: Sure.

14 MS. MOORE: -- then I'm good. I just thought it  
15 seems we're doing it anyway --

16 CHAIRPERSON REYES: Um-hmm.

17 MS. MOORE: -- why don't we revisit it.

18 CHAIRPERSON REYES: Absolutely. So we should  
19 bring it up to Senator Hancock and her committee. Tab 4.

20 MS. SILVERMAN: We did Tab 4. So moving onto the  
21 **Financials** and Tab 5.

22 CHAIRPERSON REYES: Yes.

23 MS. SILVERMAN: So just to share with the Board  
24 the **Status of Fund Releases**. I'll just jump to page 71.

25 Out of the -- all the five bonds that we actually

1 are tracking since April 2009, we did actually liquidate on  
2 page 71 \$71.7 million last month and a great deal of that  
3 activity actually relates to the March 2010 bond sale.

4           So that's great news. Most of that money was  
5 committed in the old 18-month time requirement in which  
6 we've been successfully tracking.

7           On page 72, we just wanted to share with the Board  
8 that we still have \$223 million in cash in our account as of  
9 the end of August and -- but if you just look at the chart,  
10 again phenomenal that we received -- we had a lot of money  
11 from the last bond sale in November. So we had over  
12 \$2 billion at one point in time in our account as of the end  
13 of last year and we've actually were successful in  
14 liquidating a huge amount of money there and speaks to the  
15 needs of the program. And so we still have \$223 million.

16           And then on page 73, we've been charting those  
17 projects that are on the time limit of fund releases, to  
18 what extent are those folks that have the two months'  
19 commitments and are they liquidating.

20           And what this chart on page 73 illustrates that we  
21 still have 22 projects in October with a value of  
22 \$110 million that has actually time to come in to activate  
23 that cash. And again we're encouraging those folks that are  
24 sitting out there and if they have 50 percent of the  
25 contracts in place for construction to move forward and

1 access the cash that's available.

2           And with that, speaking to the old requirements,  
3 there's about \$168 million that's sitting out there. So  
4 again it's extremely important for those folks that have  
5 timelines in October to come in and activate their cash.

6           So if there's any questions, I can move forward to  
7 Tab 6.

8           CHAIRPERSON REYES: Any comments from the public?  
9 Move forward.

10           MS. SILVERMAN: Tab 6, **Status of Funds**. I  
11 apologize it was late today. It was delivered. We were  
12 definitely trying to reconcile some of the preliminary  
13 apportionments or the activations of the charter projects.  
14 So apologize for any delays in advance.

15           What we want to share in Proposition 1D, we  
16 actually did process \$40.8 million this month and a great  
17 deal of those projects came from the modernization. 18  
18 projects were processed for 51.3 million, 4 projects in high  
19 performance, and converted 10.9 million in the charter  
20 program.

21           And then Proposition 55, we processed three  
22 applications in new construction for 10.6 million and again  
23 converted some charter projects. So in total \$6.8 million  
24 were provided on the unfunded list.

25           In Proposition 47, we processed two applications

1 in new construction for 6.1 million. In total for the  
2 month, 53.7 million processed for 31 applications, so we  
3 still have -- we actually have a need of \$2.3 billion on the  
4 unfunded list and that will accumulate as a result of  
5 additional approvals provided this month.

6 Activity on page 75, there's actually no activity  
7 on tab [sic] 75.

8 CHAIRPERSON REYES: Hold on a sec. We have a  
9 question.

10 MS. SILVERMAN: Sure.

11 MS. MOORE: I have a question on 74. And I'm  
12 just -- it's not a question. It's actually an ask and that  
13 is on the items that have the small "c" that says the  
14 authority is not available at this time, if we can further  
15 explain that because I do know that folks look at this list  
16 and they look at the bond authority remaining and they make  
17 decisions in their school districts accordingly.

18 And if in fact there really isn't the authority  
19 available and I know there's -- you've talked to us before  
20 about reasons that happens or, you know, it's not really  
21 available, if that can be quantified so that a district  
22 could look at this list or I could look at this list or any  
23 Board member and know exactly what authority is remaining  
24 that can be utilized and somehow distinguish that because  
25 this is a great chart and I know people rely on it a lot.

1 And I just ask that that be clarified.

2 MS. SILVERMAN: Yeah, and we can certainly do  
3 that. I think most of that "c" -- not the entire amount,  
4 but there is a small portion that may be we need to collect  
5 on the accounts receivable that would obviously credit back  
6 the authority once we've collect it. So again I can provide  
7 some further explanation next time.

8 MS. MOORE: Or even, Ms. Silverman, even if it's  
9 very little, then let's not put that footnote and I think it  
10 all will work out in the end, but if it's substantial, you  
11 know, we have 63 million and only 3 million of it is really  
12 available to be allocated, that's substantial. But if it's  
13 the opposite that maybe 1 million of it --

14 MS. SILVERMAN: I believe it's the opposite to be  
15 quite honest.

16 MS. MOORE: Then I don't know that we should  
17 caveat them as much or at least we quantify that caveat  
18 because again people rely on this information to make  
19 decisions in their districts and it's -- it would be helpful  
20 to know what truly is available to the Board for allocation.

21 MS. SILVERMAN: Yeah. We'll do that.

22 CHAIRPERSON REYES: Thank you.

23 MS. SILVERMAN: So if there's any questions, we  
24 can save ourselves from the pie charts if you'd like, but  
25 I'll open it up to any questions.

1 CHAIRPERSON REYES: Any questions or comments?

2 Okay.

3 Let me do an update. Senator Runner has requested  
4 that we put off on the PIW. She wants to participate on  
5 that and obviously she's not here today. So without  
6 objection, we'll go ahead and hold off on that one.

7 SENATOR LOWENTHAL: That's Item No. 12.

8 CHAIRPERSON REYES: 12. So Item No. 12. And then  
9 we do have a closed personnel matter that if it's okay with  
10 the Board we can do now because I know some members need to  
11 leave early --

12 SENATOR LOWENTHAL: Um-hmm.

13 CHAIRPERSON REYES: -- and if we can take care of  
14 that --

15 SENATOR LOWENTHAL: Yes.

16 CHAIRPERSON REYES: -- and then we can then come  
17 back and finish our agenda. Is that okay?

18 SENATOR LOWENTHAL: Absolutely. That's fine.

19 ASSEMBLY MEMBER BUCHANAN: Can I ask one quick  
20 question.

21 CHAIRPERSON REYES: Yes.

22 ASSEMBLY MEMBER BUCHANAN: Are we going to do that  
23 in October or December? I just would ask you to take a look  
24 at the agendas because October --

25 CHAIRPERSON REYES: October's pretty booked

1 already. So we may end up doing that in December, the PIW.  
2 So just give people a heads-up. Okay. Good point. Thank  
3 you. Because we had talked about how booked it is already.

4 Okay. So if we could clear the room for a quick  
5 closed session, a personnel matter.

6 (Whereupon at 2:46 p.m., the open meeting was recessed  
7 for the closed session and resumed as follows at 2:53 p.m.)

8 CHAIRPERSON REYES: Okay. I'm getting the thumbs  
9 up. Thank you. We're coming back from closed session. We  
10 are pleased to report that **Bill Savidge** has accepted a  
11 position of Assistant Executive Officer.

12 For those of you that do not know Bill, which is  
13 probably two people outside, but, Bill, would you please  
14 stand up so they know who you are.

15 (Applause)

16 CHAIRPERSON REYES: Thank you. And we now move on  
17 to action items. We dispensed with Item 8. Item 6, **Oak**  
18 **Grove Elementary material inaccuracy issue.**

19 MR. ASBELL: Good afternoon, Mr. Chair and Board  
20 members. My name is Rick Asbell. I'm the Fiscal Operations  
21 Manager with OPSC. If you would please go to stamped  
22 page 107.

23 The purpose of this report is to request the Board  
24 find that a material inaccuracy has occurred which resulted  
25 in a funding advantage for the Oak Grove Elementary School

1 District; additionally to request to levy the statutory  
2 interest penalty and loss of self-certification penalty.

3           During an expenditure review of five of the  
4 district's projects, it was discovered that the district  
5 falsely certified on the fund releases. By falsely  
6 certifying, the district received a funding advantage on  
7 those projects.

8           The five projects are listed on Attachment C,  
9 stamped page 114.

10           The cumulative days out of compliance for these  
11 projects is 2,436 days. This could be potentially the  
12 district's first potential finding of a material inaccuracy.

13           If the Board finds that the district has a  
14 material inaccuracy, the Board shall require the district to  
15 repay a statutory interest penalty in the amount of  
16 \$540,386.

17           The district agrees with the premature fund  
18 release for these projects and it agrees to repay the amount  
19 owed. However, the district requests that the Board act  
20 with leniency in determining the loss of self-certification  
21 penalty.

22           At the bottom of stamped page 109, we've laid out  
23 the recommendations which are consistent with material  
24 inaccuracy law, regulation, and past Board actions. They  
25 are as follows.

1 Find that a material inaccuracy occurred for each  
2 SOP application listed on Attachment C, stamped page 114;  
3 require the district to repay \$540,386 on Attachment C;  
4 prohibit the district from -- loss of self-certification for  
5 a period of five years until September 28, 2016.

6 I'm open to any questions.

7 CHAIRPERSON REYES: Is anybody from the district  
8 here that wants to speak? Please, sir, step forward.

9 MR. JEW: Thank you. I am Chris Jew. I am  
10 actually the CBO of the school district as well as the  
11 acting superintendent right now. I appreciate this  
12 opportunity to come talk to you about this particular item.

13 As the letter had stated in your Board packets,  
14 the district does agree that there was a premature fund  
15 release of some funds that the district had requested.

16 We do feel that we do have to pay back the  
17 interest, but we do strongly have concerns about the  
18 statutory interest rate, interest penalties, and we do have  
19 some concerns around the self-certification penalty.

20 I fully understand as the CBO of the district -- I  
21 wasn't here at the time -- the importance of making sure  
22 that the 50 percent of the contract under -- 50 percent of  
23 the projects under contract at the time of the fund release  
24 is imperative and that is what every other district agrees  
25 to.

1           So I make no excuses as to the reasons why the  
2 former administration did that. However, I can assure the  
3 Board at this point in time as we move forward we do have  
4 processes in place so that stuff like this does not ever  
5 happen again.

6           I do want to speak in regards to the conversation  
7 that the Board had earlier about shovel-ready projects. The  
8 fact of the matter is that the interest penalty amounts to  
9 over \$500,000. We've been holding this money aside for the  
10 last five years.

11           We've been working with OPSC and I do appreciate  
12 the time that the staff has been putting in towards putting  
13 together the final conclusion of the audit, but again it's  
14 taken five years and five years we could have done something  
15 with this fund. And so I do want to say that.

16           You know, if you're going to penalize us, that's  
17 fine. If you're not going to penalize us, then allow us to  
18 do what we need to do and put a few more people to work with  
19 this \$500,000. Thank you.

20           CHAIRPERSON REYES: So just so I understand. So  
21 you agree on the 540- and you are asking for leniency on the  
22 repayment of it or you already have the money set aside for  
23 this. So you're asking for leniency on the certification?

24           MR. JEW: We're only asking leniency on the  
25 self-certification.

1           CHAIRPERSON REYES:  When did this issue come up  
2 first?  How long have we had this going back and forth?

3           MR. JEW:  I can to the school district in 2006 and  
4 the audit was going on prior to my arrival and I've been  
5 involved with it ever since.

6           CHAIRPERSON REYES:  How long have we been prepared  
7 or ready to move forward on this issue or could have come to  
8 the Board?

9           MS. SILVERMAN:  Well, there was issues as far as  
10 whether or not the Board had the appetite to take up some of  
11 the material inaccuracy issues.  So there has been projects  
12 waiting in abeyance -- waiting to move forward as well.  So  
13 there has probably been almost a two and a half year hiatus  
14 on those issues, so --

15           CHAIRPERSON REYES:  So under current regulations,  
16 the five year starts when the Board makes the finding.

17           MS. SILVERMAN:  That's correct.

18           CHAIRPERSON REYES:  And so is there any  
19 flexibility to stop the clock when there was agreement that  
20 there was a material inaccuracy with the school district  
21 between OPSC and the -- that could have come to the Board  
22 had we had better scheduling system or whatever it is to put  
23 the issues before the Board?

24           MS. SILVERMAN:  That -- again it provides the  
25 Board the flexibility as far as whether you want to impose

1 the loss of self-cert. So that's strictly upon the Board's  
2 recommendation.

3 CHAIRPERSON REYES: Mr. Hagman.

4 ASSEMBLY MEMBER HAGMAN: I just want to make sure  
5 I understand this. So -- I mean this has been a very long  
6 period of time for this particular case.

7 The school district was found to not meet their  
8 criteria for a certain period of time. (A) How long did  
9 that take us to figure that out and once we did figure it  
10 out, had we slowed the process for it coming back to us for  
11 adjudication so to speak? Can someone kind of more explain  
12 that time? How did it go for seven years, you know,  
13 basically or whatever it's been to, you know, make this  
14 happen? Is that on school district's timeline because we  
15 were waiting for things from them or is it on our timeline?  
16 Just trying to figure out the difference maybe --

17 MR. ASBELL: Can I address that really quick. So  
18 when we see a potential material inaccuracy especially with  
19 a 50-05, there are numerous conversations that would happen  
20 with a district and their representatives.

21 We look under every -- look at every single avenue  
22 to try to perfect basically the 50-05 issue. So when we  
23 initially find it, it could be, you know, at some point, but  
24 as time goes on, while we're trying to find additional  
25 information and take care of this issue, that's where some

1 of the time lag comes into play.

2 ASSEMBLY MEMBER HAGMAN: Well, can you be a little  
3 more specific? I mean at what point did they get the grant,  
4 at what point we find out -- you know, roughly years, you  
5 know, that we find out, that we notify them. How long was  
6 that process versus how long after we figure all the stuff  
7 out did it take to bring it to the Board. Just rough  
8 approximations because I think there's -- you know, the big  
9 contention generally is we charge this amount, which I agree  
10 with. Okay. And I agree with the finding people at fault.

11 But if we're -- found all this out and we made the  
12 judgment internally staff-wise three years ago but -- or two  
13 years ago and it takes us two years to get to our point to  
14 actually make it official, then that is kind of maybe  
15 debatable whether or not we penalize the school district for  
16 that extra time because we didn't do our job faster.

17 So I'm just trying to look at that angle.

18 CHAIRPERSON REYES: Ms. Buchanan.

19 ASSEMBLY MEMBER BUCHANAN: Didn't we have a  
20 situation six months ago or whatever where we either  
21 shortened or waived the time of self-certification upon the  
22 district paying the penalty in full? Ms. Moore probably  
23 would remember that.

24 MS. MOORE: Oh, you would say that.

25 ASSEMBLY MEMBER BUCHANAN: You're the

1 institutional memory on this.

2 CHAIRPERSON REYES: The historian --

3 MS. MOORE: I know. I --

4 MR. ASBELL: It was true on San Francisco.

5 MS. MOORE: Yeah.

6 MS. SILVERMAN: They paid the loss of -- well,  
7 they paid the penalty and the Board was still making some  
8 recommendations or hold up the termination of loss of  
9 self-cert. So that was in abeyance for about a year and a  
10 half and when they came back to the Board, the Board decided  
11 to waive the loss of self-cert because they had been in  
12 abeyance for a couple years.

13 ASSEMBLY MEMBER BUCHANAN: So, you know, I -- I  
14 mean ultimately I -- losing self-certification for five  
15 years when they have to pay more money and we have to pay  
16 more money on our side, I mean I do have, you know, some  
17 sympathy there.

18 I think if I recall there was one where they  
19 offered to on futures to actually attach a copy of the  
20 contract so you could see that they had a contract --

21 CHAIRPERSON REYES: Yeah.

22 ASSEMBLY MEMBER BUCHANAN: -- and I don't know if  
23 that is the solution. So I'm, you know, willing to talk  
24 about that. We've had other discussions about how we speed  
25 up the audit process, but the penalty is just -- whether the

1 audit takes a year or five years, the penalty is just based  
2 on that period in which the --

3 ASSEMBLY MEMBER HAGMAN: The material inaccuracy,  
4 yeah.

5 ASSEMBLY MEMBER BUCHANAN: Yeah -- the material  
6 inaccuracy happened, so if you had the money in the bank,  
7 you actually would be earning interest on that.

8 So I don't think there's -- you really get  
9 penalized from our not closing out the audit fast enough.  
10 The real question --

11 ASSEMBLY MEMBER HAGMAN: Okay. I want to make  
12 sure --

13 ASSEMBLY MEMBER BUCHANAN: That's exactly right.  
14 The reason question is, you know, is there any latitude. I  
15 believe there is some latitude in terms of the  
16 self-certification. I don't know whether it's something we  
17 should look at because it affects more than one district,  
18 but, you know, at a minimum, I think we should have it until  
19 the fine is paid.

20 CHAIRPERSON REYES: Right. I think the -- yeah.  
21 I think the 540-'s not in question. I think the question is  
22 if the leniency in the self-certification. I think that a  
23 district this size, the 540- is a significant penalty. No  
24 question about it. So I'm kind of satisfied with that as  
25 terms of being a deterrent.

1 I think the self-certification -- I'd like to know  
2 when we would have been ready to hear this issue and we did  
3 not hear it and I would be okay with starting the clock then  
4 in terms of the five-year period.

5 So if it's a couple years ago that you could have  
6 come before the Board to hear this issue, then -- you know,  
7 I don't know what the exact date is. So if folks would be  
8 okay with something like that --

9 ASSEMBLY MEMBER BROWNLEY: I'd make a motion to  
10 that effect.

11 CHAIRPERSON REYES: Thank you, Ms. Brownley. Is  
12 there --

13 ASSEMBLY MEMBER HAGMAN: Second.

14 ASSEMBLY MEMBER BUCHANAN: Second.

15 CHAIRPERSON REYES: Mr. Hagman seconds. Can you  
16 come up with that particular date? It's probably a couple  
17 years from -- couple years ago or something?

18 MS. SILVERMAN: We'll go ahead back and research  
19 it. Would you like us to bring that item back next month  
20 just for the loss of self-cert?

21 CHAIRPERSON REYES: I think it's -- we're saying  
22 don't start the clock now. Start the clock from when this  
23 thing would have been ready and I think we'll be ready to  
24 move forward to the next issue. Ms. Brownley?

25 ASSEMBLY MEMBER BROWNLEY: Yeah. I just -- and

1 maybe Ms. Buchanan already asked this and I didn't listen  
2 well enough to hear the answer. But are there other  
3 districts that fall in the same category previously where we  
4 didn't give them, you know, the credit because we were late  
5 in terms of hearing it -- and whether we need to go back --

6 CHAIRPERSON REYES: Yeah. I think it's going to  
7 come up -- you know, because different districts are going  
8 to raise different issues. Some districts are going to  
9 challenge the interest. We've had that and we've had -- I  
10 don't want to name names, but somebody just south of here  
11 that really challenged the penalty and how we did the  
12 calculation.

13 To me that's different than somebody who's willing  
14 to say here is some -- I'm ready to write the check and we  
15 recognize that there was an error, but, you know, it took  
16 you guys a while to hear my case. So let's -- can we move  
17 forward.

18 ASSEMBLY MEMBER BROWNLEY: Well, I think the point  
19 is well taken and that's why I made --

20 CHAIRPERSON REYES: Um-hmm.

21 ASSEMBLY MEMBER BROWNLEY: -- the motion. I'm  
22 just concerned about other districts who were in exactly --

23 CHAIRPERSON REYES: Similar. Um-hmm.

24 ASSEMBLY MEMBER BROWNLEY: -- the same situation.  
25 I mean because really the intent here is kind of twofold.

1 One is the interest payment itself and one is the  
2 certification --

3 CHAIRPERSON REYES: Um-hmm.

4 ASSEMBLY MEMBER BROWNLEY: -- issue. So anyway --

5 ASSEMBLY MEMBER BUCHANAN: And I also don't know  
6 if the certification issue could be handled without loss,  
7 but requiring those districts, like I said, to attach a  
8 contract or something so you know that they're --

9 MS. MOORE: Well, I believe this issue is very  
10 old. If you look at when these projects were first probably  
11 apportioned, it's in the early 2000 range and the issue that  
12 we dealt with as a Board was that we would then subsequently  
13 years later find -- and what we -- what I believe staff did  
14 and I hope that this is going to eliminate -- that there'll  
15 be a point at which we put into effect that you had to  
16 actually write down the date of the contract.

17 And previously that wasn't on the form. And so  
18 it's a way of prompting districts that you're writing down  
19 the date of your contract. You're 50 percent under  
20 construction. It was hopefully to alleviate this problem  
21 going forward in the future.

22 And I bet we'll have a group that's still back  
23 from the 2000s that's going to run into this, but I would  
24 hope from the date we had that -- that the staff made that  
25 recommendation and change their form, from then forward,

1 that -- and because of all the information around it that  
2 districts would not be in this similar situation.

3 MS. SILVERMAN: Can I clarify one thing?

4 CHAIRPERSON REYES: Yes.

5 MS. SILVERMAN: I apologize. And perhaps I did  
6 misspeak on the length of time that this project was ready.  
7 This project was actually ready probably to move forward at  
8 the Board. It was just resolved in the end of December and  
9 perhaps I got my facts mixed up with other prior material  
10 inaccuracies.

11 So it was likely teed up and ready to go from  
12 December moving forward.

13 CHAIRPERSON REYES: So it was nine, ten months  
14 ago.

15 MS. SILVERMAN: Right.

16 CHAIRPERSON REYES: Okay.

17 MS. SILVERMAN: But, you know, technically you're  
18 right, Ms. Moore. We actually did institute a process I  
19 believe back in 2007. To some extent we made changes to the  
20 form. We actually tried to prevent these issues from  
21 happening in the future and catch them early, so when they  
22 do provide the fund release request, they have to provide  
23 the contracts in place so we would avoid these issues.

24 So I mean we're just probably dealing with  
25 probably the last few of those issues.

1           CHAIRPERSON REYES: Okay. So, Ms. Brownley, it  
2 shaves about nine, ten months off their -- I think that's  
3 the best we can do and Mr. Hagman second that. Is that --  
4 anybody ready for a vote on this? Okay. All in favor say  
5 ayes.

6           (Ayes)

7           CHAIRPERSON REYES: Opposed? Abstentions? Ayes  
8 have it.

9           MS. SILVERMAN: So we're just taking nine months  
10 off the five years.

11          CHAIRPERSON REYES: Yeah. Since whatever  
12 December. Thank you, sir. Okay. Thank you. Item 10.

13          MR. ASBELL: Okay. Item 10, stamped page 110.  
14 This is to request the Board find that a material inaccuracy  
15 has occurred which resulted in a funding advantage for the  
16 **Lake Elsinore Unified School District**, additionally to  
17 request to levy the statutory interest penalty and loss of  
18 self-certification penalty.

19                 During an expenditure review of the Community Day  
20 School application 507517600002, it was discovered that the  
21 district falsely certified on the fund release  
22 authorization.

23                 In these instances, statute requires the OPSC to  
24 notify the Board so that it can make a determination  
25 regarding material inaccuracy.

1           Staff's research found the district did not enter  
2 into the required amount of binding contracts until 11 days  
3 after the funds were released. By falsely certifying the  
4 fund release authorization, the district received a funding  
5 advantage on a project.

6           If the Board finds that the district has a  
7 material inaccuracy, the Board shall require the district to  
8 repay a statutory interest penalty of \$11,394.

9           Now there's been some previous Board actions. At  
10 the December 2005 Board -- and if you would go to stamped  
11 page 122 which is Attachment B -- the district was allowed a  
12 one-time exception to use fees associated with construction  
13 management contracts to be counted towards the fund release  
14 authorization submittal requirements.

15           The Board action required the district to repay  
16 approximately three-quarters of a million dollars in  
17 interest penalties due to the district receiving funds  
18 prematurely.

19           Additionally as a result of the Board's decision  
20 in 2007 regarding construction management, CM fees are now  
21 counted toward the fund release authorization submittal  
22 requirements if it was signed before December 31st, 2003.  
23 Because the fund release authorization was signed before  
24 December 31st, 2003, for this project, the OPSC has included  
25 the CM contract toward the submittal requirements.

1           Even with inclusion of the CM contract fees, the  
2 district still has a premature fund release.

3           The district's position is they don't dispute a  
4 premature fund release occurred, but contends the district  
5 submitted the fund release authorization under the  
6 assumption that entering into a binding contract with the  
7 construction manager was sufficient.

8           The district maintains special consideration  
9 should be given to the district because this project should  
10 have been included in the appeal presented to the Board on  
11 December 2005.

12           Additionally because the premature fund release  
13 was unintentional, the district does not believe it should  
14 lose its self-certification privileges.

15           Now our response to that is that they do  
16 acknowledge that there was a premature fund release. It did  
17 result in a funding advantage for the district.

18           In preparation for the December 2005 SAB item,  
19 staff worked extensively with the district. The district  
20 was asked to review all of their projects with premature  
21 fund release issues. The district did not identify this  
22 project as having an issue.

23           Our recommendations are on the bottom of stamped  
24 page 118: find that a material inaccuracy occurred which  
25 resulted in an early release of funds; require the district

1 to repay \$11,394; prohibit the district from  
2 self-certification on project information for a period of  
3 one year until September 28th, 2012.

4 I'm open to any questions you may have.

5 CHAIRPERSON REYES: May I hear from the district  
6 representatives, please.

7 MR. BOWERS: Good afternoon, Mr. Chair, members of  
8 the State Allocation Board. My name is Greg Bowers. I am  
9 the Assistant Superintendant of Facilities and Operations  
10 for Lake Elsinore Unified School District, Riverside County,  
11 and with me today is Mr. Bruce Hancock from the firm  
12 Hancock, Gonos & Park.

13 First and foremost, I am grateful for the  
14 opportunity to address you today. In an attempt to keep my  
15 remarks brief and to the point, I have prepared a written  
16 statement for your consideration. I do ask for your  
17 patience and understanding as this matter before you is of  
18 the utmost importance to Lake Elsinore Unified School  
19 District.

20 The purpose of my appearance today is to present a  
21 simple request asking only for the State Allocation Board to  
22 reject a material inaccuracy finding and support an audit  
23 exception allowing the district to return interest in the  
24 amount consistent with regulations and as calculated by the  
25 Office of Public School Construction.

1           This simple action would preserve, respect, and  
2 honor the decision made by the State Allocation Board in  
3 2005 for 13 other Lake Elsinore projects.

4           It is our humble opinion that there is no need to  
5 further complicate this matter by revisiting the  
6 construction management debate, nor would it benefit either  
7 party to debate a connection between our request and the  
8 2007 Santa Maria argument which attempted to clarify the  
9 role of construction management or the more important and  
10 relevant 2010 Temecula Valley argument taking the position  
11 that a construction management contract does in fact  
12 constitute a hundred percent of the project.

13           The State Allocation Board overwhelmingly  
14 supported Temecula's assertion and found that there were no  
15 false certifications, no material inaccuracies, and no  
16 penalties.

17           Our argument is based on a collaborative effort  
18 between two agencies, Lake Elsinore Unified School District  
19 and OPSC, to sort out unclear policy issues that began to  
20 emerge as the School Facilities Program evolved.

21           Based on those parameters and in the best interest  
22 of OPSC and the district, a mutually agreed upon compromise  
23 was developed. That principal compromise was supported  
24 through the action of the State Allocation Board in 2005.

25           For reasons unknown, the project in question

1 today, the Community Day School, was unintentionally left  
2 off the group of 13 projects that were approved between  
3 November of 2000 through February 2003. Clearly it was in  
4 the best interests of both the district and OPSC to bring  
5 forward all of the affected projects.

6 Both agencies cooperatively reviewed their  
7 respective files to make sure that no other project raised  
8 similar concerns. Unfortunately the Community Day School  
9 project was not identified at that time.

10 I would remind the Board that it was the district  
11 who brought the original 13 projects to the attention of  
12 OPSC following an audit workshop conducted by that agency.  
13 This led to action involving 13 district projects in 2005  
14 which in turn led to the Board's approval of a compromise in  
15 which 11 of those 13 projects were assessed as interest  
16 charged and all 13 were found not to have committed a  
17 material inaccuracy.

18 The full amount of the interest for the 11  
19 projects was repaid. The point I'm trying to make is that  
20 this 14th project was part of the projects affected by the  
21 circumstances addressed by the State Allocation Board.

22 As you can imagine, the district is perplexed at  
23 the recommendation of OPSC as this matter was clearly  
24 resolved by the Board in 2005.

25 We again reiterate our position that this project

1 was part of the compromise. It was one of a group of  
2 projects with identical circumstances and identical  
3 timelines which led to the compromise.

4 I'm assuming the State Allocation Board members  
5 have been briefed on the complex issues concerning this item  
6 as well as our earlier projects, the 2007 Santa Maria  
7 argument, and the 2010 Temecula decision. Therefore in the  
8 name of brevity, I will not burden you with a lengthy  
9 argument about why I believe there is no material inaccuracy  
10 on this project or on the 13 projects addressed by the State  
11 Allocation Board in 2005.

12 I want to emphasize that the Board did not create  
13 a window period or an amnesty period at that time. Instead,  
14 the Board agreed that unclear policies created a situation  
15 that warranted compromise to avoid a pointless material  
16 inaccuracy finding and the associated stigma for a false  
17 certification that did not happen.

18 The 14th project is part of that same group of  
19 projects and should be given the same consideration.

20 In 2005, the State Allocation Board made a  
21 compromise based on unclear policy. Not to follow the  
22 decision of 2005 Board would be inconsistent with the facts  
23 of the agreement.

24 To be clear, the compromise was an audit exception  
25 in lieu of a material inaccuracy with the district paying

1 interest which made the bond whole. Penalties are  
2 associated with a material inaccuracy not an audit  
3 exception. The district did pay interest in the spirit of  
4 cooperation and compromise and we are willing to pay  
5 interest on this project as well. We're ready to write the  
6 check tomorrow.

7 In conclusion, all we are asking for is the same  
8 consideration that was given in 2005. I believe this  
9 request is reasonable and just. However, if the Board is  
10 not in agreement and so desires, we are prepared to make the  
11 Temecula argument here and now.

12 Again I thank you for this opportunity. We are  
13 prepared to answer any questions at this time.

14 CHAIRPERSON REYES: Mr. Hagman.

15 ASSEMBLY MEMBER HAGMAN: Thank you, Mr. Chair.

16 And this is one I spent a lot of time looking at the  
17 different things going back and forth. I know my staff has  
18 been contacting -- and while I appreciate the staff's  
19 position to follow the rules and then to bring it to us to  
20 try to decipher what is the fair thing to do on this.

21 You know, I looked at the history. I believe Lake  
22 Elsinore did bring this intention on their own. This was  
23 not something that we would go out -- and fine them. So I'm  
24 prepared to make a motion. We could have as much discussion  
25 as you like, but I believe the difference between the

1 interest and the penalties -- 5,000 and 11,000 -- and the  
2 biggest thing that's on issue is the self-certification and  
3 I would move to basically charge 5,000 and not pull their  
4 self-certification.

5 MS. MOORE: I'll second.

6 CHAIRPERSON REYES: Okay. Moved and seconded.  
7 Just for clarification, is the 5,000 and change, whatever  
8 the --

9 ASSEMBLY MEMBER HAGMAN: Yeah, whatever the change  
10 is.

11 CHAIRPERSON REYES: -- interest amount that is  
12 still --

13 MR. ASBELL: It's \$5,098.

14 CHAIRPERSON REYES: Thank you. I knew it wasn't  
15 precisely 5-, so I wanted to make sure.

16 ASSEMBLY MEMBER HAGMAN: Charge them an extra \$2  
17 because you don't have the check today.

18 CHAIRPERSON REYES: Okay.

19 MS. MOORE: And to be clear, there's no material  
20 inaccuracy and no --

21 CHAIRPERSON REYES: You want to put your mic --

22 MS. MOORE: Oh, I'm sorry. To be clear, there's  
23 no material inaccuracy and no loss of self-certification;  
24 correct?

25 SENATOR LOWENTHAL: Right.

1 ASSEMBLY MEMBER HAGMAN: Correct.

2 CHAIRPERSON REYES: Okay. I agree with you. I  
3 think I view this as had it been discovered back then, it  
4 would have been part of the package, and so whatever reason,  
5 it fell through the cracks both on their side and on OPSC's  
6 side. So I think it's reasonable to just treat them as an  
7 audit finding as we did back then but just on that.

8 I just want to make sure that folks don't get the  
9 message that if we discover some material inaccuracy later,  
10 we're going to be treating it as an audit finding because we  
11 did this one. I think it's on a case-by-case basis and this  
12 should fall under the 13 -- the original 13. But they moved  
13 forward -- they brought it forward to us.

14 Ms. Buchanan.

15 ASSEMBLY MEMBER BUCHANAN: This one is unique  
16 because of the construction management situation; correct?

17 MR. BOWERS: Right.

18 CHAIRPERSON REYES: Right.

19 ASSEMBLY MEMBER BUCHANAN: So -- and I don't know  
20 if you want to add that into your motion that you're making  
21 the recommendation due to the --

22 ASSEMBLY MEMBER HAGMAN: Mr. Hagman, it's through  
23 your right.

24 ASSEMBLY MEMBER BUCHANAN: Yes.

25 ASSEMBLY MEMBER HAGMAN: I don't know. Whatever

1 the consensus is, I'm fine. It comes out the same result.  
2 I'm sure the Minutes will reflect that and -- so modify it  
3 whatever way we need to.

4 CHAIRPERSON REYES: Okay. Ms. Brownley.

5 ASSEMBLY MEMBER BROWNLEY: I will support the  
6 motion and -- but I just want to say that I think the school  
7 district really acted in good faith from the very, very  
8 beginning. They were the ones to bring these forward in the  
9 first place and having met with them today in my office,  
10 understanding too that when this 14th project surfaced that  
11 they looked at other projects and had OPSC look at them to  
12 make sure that they didn't fall into the same category.

13 So I just want to commend them for their good  
14 faith and management over these projects.

15 CHAIRPERSON REYES: Okay. All in favor say aye.

16 (Ayes)

17 CHAIRPERSON REYES: Opposed? Abstentions? Thank  
18 you.

19 MR. BOWERS: Thank you, Mr. Chair and honorable  
20 Board members.

21 CHAIRPERSON REYES: Item 11.

22 MR. MIRELES: Item 11 begins on page 127. The  
23 purpose of this item is to seek Board direction on **how to**  
24 **proceed with approximately 287 million in bond authority**  
25 **remaining in the Overcrowded Relief Grant Program.**

1           The 287 million represents the remaining ORG  
2 authority from the original amount of 1 billion approved by  
3 the California voters back in 2006 through the passage of  
4 Proposition 1D.

5           As you all know, the ORG program is basically a  
6 portable replacement program for school sites who  
7 demonstrate a high pupil density as calculated by the  
8 Department of Education.

9           At the December 2010 Board meeting, the Board had  
10 a lengthy discussion on whether to fund additional cycles in  
11 the ORG program. Ultimately the Board did open up two  
12 additional funding cycles, one ending on January 31st of  
13 this year and the second ending on July 29th of this year.

14           The Board also directed staff to come back in  
15 September in order to see what demand was for those two  
16 funding cycles and then make a determination on future  
17 funding cycles.

18           On page 129, we have two tables listing all the  
19 funding cycles, applications per cycle, portables replaced,  
20 and total funding approved.

21           The first table in the middle of the page  
22 represents all the funding cycles that have been approved by  
23 the Board. In total the Board has approved approximately  
24 585 million so far.

25           At the bottom of the page, we list the

1 applications that were submitted as part of the eighth  
2 funding cycle which again closed on July 29th of this year  
3 and our review process by staff.

4           We show a preliminary request amount of  
5 118 million. Given what's been approved and what we're  
6 processing now, we will have a remaining amount of  
7 \$207 million in authority.

8           So staff is seeking Board direction on two  
9 options. The first option is basically to continue the ORG  
10 funding by declaring additional funding rounds. If the  
11 Board wishes to pursue this option, staff is seeking Board  
12 direction on basically how to implement the rounds.

13           For example, the Board could approve each funding  
14 cycle before the beginning of the next cycle or the Board  
15 can approve multiple funding cycles not to exceed two per  
16 year as required by statute and the Board can approve future  
17 funding cycles on a continuous basis until all of the  
18 remaining bonding authority is exhausted.

19           The second option is basically to take no action  
20 and to not open any additional funding cycles under the ORG  
21 program. If there is an interest to transfer the remaining  
22 ORG authority into another program, that would require  
23 legislative changes.

24           With that, staff is seeking Board direction.

25           CHAIRPERSON REYES: Mr. Hagman.

1 ASSEMBLY MEMBER HAGMAN: Mr. Chair, I guess since  
2 you just nominated us to a committee to look at some of  
3 these funds that it may behoove us to add that to the agenda  
4 and maybe come back with some ideas to the full Board and  
5 hopefully whenever we set these things up, the sooner the  
6 better -- to look at both the remaining funds at all the  
7 current accounts as well as when we go on next year.

8 So it may be an idea to add "C" at this point or  
9 "B" modified or --

10 ASSEMBLY MEMBER BUCHANAN: Option 2.

11 ASSEMBLY MEMBER HAGMAN: Yeah. Option 2 modified  
12 to actually take -- you know, not take any action today, but  
13 put it on the agenda to figure out after this and many other  
14 things we work out.

15 CHAIRPERSON REYES: Ms. Moore.

16 MS. MOORE: I would respectfully have the other  
17 side of that and that is that these funds are available for  
18 Overcrowded Relief Grant Program. The only way that they  
19 couldn't be available for that is by legislation.

20 SENATOR LOWENTHAL: That's right.

21 MS. MOORE: And so I would like to see the program  
22 move forward. However, if there's legislative will to  
23 change it, that at the time that legislative will happens,  
24 then the program takes its knocks.

25 But until then, I think that we would want to

1 encourage projects to come in and I would want to support at  
2 least one if not two additional funding rounds until such  
3 time -- I don't think going to the committee will change  
4 that fact and that's why I'm thinking the committee could  
5 talk about it, but let's move forward and encourage projects  
6 to come in because these projects, you know, relieve  
7 overcrowded situations and portable situations on campuses  
8 where students may not have access to play field areas  
9 because they're strewn with portables and this program was  
10 intended to fix those situations.

11 CHAIRPERSON REYES: Ms. Brownley.

12 ASSEMBLY MEMBER BROWNLEY: I would support that if  
13 that was a motion and I -- with one change. I think you  
14 might have said it already, but to in essence, you know,  
15 continue to put forward the funding and also this third --  
16 the third bullet about the continuous -- to process the  
17 applications on a continuous basis as opposed to two times a  
18 calendar year.

19 MS. MOORE: So just continue on in a -- and so  
20 we --

21 ASSEMBLY MEMBER BROWNLEY: On a continuous basis.

22 MS. MOORE: So we move it out even more  
23 expeditiously.

24 ASSEMBLY MEMBER BROWNLEY: Yes.

25 MS. MOORE: I would support that.

1           CHAIRPERSON REYES: I just want to get -- clarify  
2 from staff. I heard you say we have steps for two, so why  
3 do we have two and then you have continuous as an option?

4           MR. MIRELES: Basically until the funds are  
5 exhausted -- until the remaining authority is exhausted, two  
6 a year.

7           CHAIRPERSON REYES: So two a year until the --

8           MR. MIRELES: Yes.

9           SENATOR LOWENTHAL: Not more than two -- it  
10 doesn't mean every six weeks, we're not talking --

11           CHAIRPERSON REYES: Right. Okay. Okay. Anybody  
12 else have other input?

13           ASSEMBLY MEMBER BUCHANAN: I'd like to hear -- I  
14 do have input, but I'd like to hear our stakers first.

15           CHAIRPERSON REYES: Okay. Please.

16           MS. DIXON: Good afternoon, Chairman Reyes,  
17 members of the Board. My name is Janet Dixon. I'm the  
18 Director of Planning and Development for the Riverside  
19 Unified School District and as has been alluded to, the ORG  
20 program is a very important program. This allows districts  
21 to remove portables from school sites that were never  
22 intended to be a permanent solution and free up space for  
23 physical education or other spaces that are needed on the  
24 site.

25           As you've probably surmised, Riverside Unified has

1 a project that they would like to submit for a future round.  
2 Liberty Elementary was built right after World War I and as  
3 you can probably imagine, it's gone through a number of  
4 construction and deconstruction cycles over the years as the  
5 Field Act's been implemented and it's eventually led to  
6 where it is today, a campus of over 900 preschool through  
7 sixth grade students on a six-acre campus and a large number  
8 of those are housed portables.

9 I know money hasn't gone out as quickly as was  
10 originally anticipated when this program was put together,  
11 but that shouldn't be mistaken for a lack of need. The need  
12 is still there. With the economy, districts have had  
13 trouble assembling the local funds that they need to provide  
14 a match and at Riverside, I've just recently been able to  
15 cobble together a number of sources to provide our match and  
16 allow this project to move forward.

17 I'd like to encourage you to schedule at least two  
18 funding rounds. If only a funding round in January was to  
19 be scheduled, in order for a project to be able to be ready  
20 in January, the project would already have to be in DSA and  
21 that wouldn't provide districts an opportunity to get their  
22 plans together and submit for the project unless they'd  
23 already made a huge commitment without already having some  
24 assurance of a future funding round.

25 So I'd like to thank you and just encourage you to

1 use the ORG funding for the purpose that it was originally  
2 intended and thank you for your time today.

3 CHAIRPERSON REYES: Thank you.

4 MS. BROWN: Good afternoon. Margaret Brown,  
5 Administrator of Glendale Unified School District. Glendale  
6 Unified has taken advantage of a number of fundings from the  
7 ORG program and we actually have two schools in for funding  
8 in this current round, round eight, and we'd like to  
9 continue to see the ORG funding continue to happen.

10 Glendale Unified is a school district that is very  
11 urban. Many of our schools have actually no green space, no  
12 grass for the children to play on at all, no parking for  
13 teachers or visitors. They actually park in the  
14 neighborhood. No pick up or drop off. They actually cone  
15 off the street lane in the morning and the afternoon for the  
16 kids to be picked up and the reason for that is because the  
17 portables have taken over all those spaces.

18 And the ORG program has allowed us to create the  
19 parking spaces, to get the portables left to go two story  
20 and it's amazing what happened. I invite you to come out  
21 and take a look at our Roosevelt Middle School that just  
22 completed at the end of this summer. I had nothing to do  
23 with it. I just came in at the end, but it's a wonderful  
24 program and there will be parking and there will be drop off  
25 and pick up and places for students to play. It's amazing

1 what the change has done, not just for the students and the  
2 teachers, but for the entire community. It's safer.

3 The other thing is that these projects -- it's  
4 hard for us to move forward with projects because we don't  
5 know if there's going to be another funding cycle.

6 Glendale Unified is lucky in that they passed a  
7 local bond in April of 2011. They just passed a bond, and  
8 so we are ready to move forward with two more ORG projects.  
9 We actually have the money. We can move forward and design  
10 the next two ORG projects, but only if this Board acts and  
11 says yes, we're going to give you two more funding cycles.

12 If you decide to do just January, we wouldn't make  
13 it in time. But if you do January and July, then we would  
14 have another opportunity to apply for those two more schools  
15 and we really appreciate the program.

16 CHAIRPERSON REYES: Thank you.

17 ASSEMBLY MEMBER BUCHANAN: Can I -- I have a  
18 question. So where are you in terms of modernization or new  
19 construction eligibility if you were going to replace those  
20 portables and not use the ORG?

21 MS. BROWN: So we have no new construction  
22 eligibility. We are a declining enrollment school district.  
23 The eligibility for ORG was established back in 2005, so  
24 that's -- sort of states there what your overcrowded  
25 capacity is.

1           And we do have money for modernization, but a lot  
2 of our classrooms are in pretty old shape and so we're going  
3 through that assessment now.

4           But again we don't have money for new  
5 construction. We have no new construction eligibility, so  
6 we wouldn't be able to do it. We could apply for mod money  
7 and do like for like replacement, but some of these  
8 portables are not necessarily over 20 years old.

9           So it's very, very complicated and we think ORG is  
10 the only way we get there in terms of improving the quality  
11 of life for these students on our campuses.

12           ASSEMBLY MEMBER BUCHANAN: What percentage of the  
13 portables are 20 years old or older?

14           MS. BROWN: I don't have that statistic for you.  
15 I'd be happy to provide it.

16           ASSEMBLY MEMBER BUCHANAN: Okay. Thanks.

17           MS. BROWN: Thank you.

18           CHAIRPERSON REYES: Thank you. Tom, how about you  
19 go first since you're prepared -- dressed for the part  
20 instead of Lyle. Lyle's too casual. Go ahead, Tom.

21           MR. DUFFY: He's bigger than I am.

22           CHAIRPERSON REYES: I don't care. Go ahead, Tom.

23           MR. SMOOT: Go ahead, Tom. Can I borrow Tom's  
24 coat then?

25           CHAIRPERSON REYES: Yeah.

1           MR. DUFFY: Thank you, Mr. Chairman and members of  
2 the Board. Tom Duffy for Coalition for Adequate School  
3 Housing. Just a couple of things. One is there's no  
4 downside for you to have this program continue by approving  
5 additional funding rounds.

6           The -- as -- I think that the sage advice from  
7 Ms. Moore, in order to use this funding, if that's part of  
8 the intent, there would be a requirement for legislation to  
9 occur. That was in the bond language.

10           So there's no downside for you to continue and to  
11 allow districts the sense of some normalcy in this really  
12 time of upheaval for K-12 public education -- some sense of  
13 normalcy that there is a program. There is bonding  
14 authority. Let's move forward and plan and then to have  
15 bond sales to allow those projects to be built.

16           And too -- I'm not sure the genesis of your  
17 question, but, Ms. Buchanan, this is the only program that  
18 exists that does not require new construction eligibility to  
19 have new construction to occur.

20           ASSEMBLY MEMBER BUCHANAN: I understand that.

21           MR. DUFFY: And that was done purposely. This  
22 program wasn't as a result of a negotiated settlement of the  
23 Williams lawsuit, but it is a result of what came out of  
24 that lawsuit where we were finding in California that the  
25 school sites were so overcrowded because of so many

1 portables that there was only one way to get rid of them and  
2 that was to say let's get rid of the portables and build up  
3 or build an additional school to be able to unload those  
4 schools.

5           So there's no downside to the Board. This was  
6 very good policy and it was a result of I think good  
7 thinking after substantial conflict and that was the  
8 Williams lawsuit which was eventually settled. But those  
9 are my comments and thank you very much. And I'm glad that  
10 I'm dressed for the occasion, Mr. Chairman.

11           CHAIRPERSON REYES: Thank you, sir. Anybody else?  
12 Okay. Lyle.

13           MR. SMOOT: Yes. Good morning -- or afternoon.

14           CHAIRPERSON REYES: Good afternoon.

15           MR. SMOOT: And now I don't have a coat, I won't  
16 know what time it is. Lyle Smoot, Los Angeles Unified.

17           I could just easily say ditto for us too, but let  
18 me just give you a --

19           CHAIRPERSON REYES: Well, thank you, sir.

20           MR. SMOOT: -- quick -- I know you'd like that.  
21 Just real quick. You know, we've done a lot of construction  
22 under this program. We have built a school district the  
23 size of the second largest district in the State, San Diego.  
24 We've built that many schools in the last eight years.

25           The goal -- our goal in that is a whole bunch of

1 things, but we've been able to come off year-round school  
2 programs as a result of that and now we still have -- even  
3 after all of that, we still have almost 200,000 pupils still  
4 in portable classrooms, some of them quite old.

5 This program's a great program to address that  
6 issue. We definitely support the concept, just opening them  
7 up and having continuous application cycles until the  
8 money's gone or until, you know, the Legislature decides to  
9 do something else with it. So thank you very much.

10 CHAIRPERSON REYES: Thank you, Lyle. Esteban.

11 MR. ALMANZA: I'd like to make a motion that we  
12 approve two more -- two new filing cycles.

13 SENATOR LOWENTHAL: How about the -- not the  
14 continuous?

15 CHAIRPERSON REYES: And not the continuous?

16 MR. ALMANZA: Um-hmm.

17 CHAIRPERSON REYES: So just two and then we visit  
18 the issue a year from now?

19 MR. ALMANZA: Yes.

20 CHAIRPERSON REYES: Okay.

21 MS. MOORE: Second.

22 CHAIRPERSON REYES: It's been moved and seconded.  
23 Just do January and July?

24 MR. MIRELES: Yes. That's correct.

25 CHAIRPERSON REYES: And then come back in a year

1 from now and look to see what we have left. Okay. That's a  
2 motion.

3 Senator Lowenthal.

4 SENATOR LOWENTHAL: Yeah, I just wanted to -- I  
5 would prefer to still do the third -- the Option 3 to  
6 process funding cycles on a continuous basis until all  
7 funding --

8 CHAIRPERSON REYES: Your mic.

9 SENATOR LOWENTHAL: -- to continue it on a  
10 continuous basis. Well, here. We have many microphones;  
11 only one works -- on a continuous basis until all available  
12 funding is completed.

13 If we want to change it to a legislative action,  
14 that will change it, but I think to keep the process going,  
15 there can only be two cycles a year. We're not doing more  
16 than two, but we're just going to say continuous. We're  
17 going to do two and if there's still funding left over, we  
18 can go the next year, unless there's legislative action to  
19 say, hey, let's change this. Let's do it another way.

20 So I would like to keep it the way it is now and  
21 that's the continuous with no more than two a year.

22 CHAIRPERSON REYES: No more than two a year; okay.

23 ASSEMBLY MEMBER BUCHANAN: I'd like to speak  
24 against that.

25 CHAIRPERSON REYES: Okay.

1           ASSEMBLY MEMBER BUCHANAN: Only because two more  
2 cycles will take us hopefully to a November 12 bond issue in  
3 which case we'll have a much better idea of where the State  
4 is with respect to school bond funding long term. And it  
5 may well be that, you know, depending on if we get one on  
6 the ballot and if it passes and what happens, you know, we  
7 may need at that point in time to take an additional look at  
8 where we are with all of our funds.

9           So I mean I --

10          SENATOR LOWENTHAL: But that would take  
11 legislative action not -- if you want to change that.  
12 That's not ours to change --

13          ASSEMBLY MEMBER BUCHANAN: I understand it would,  
14 but I just think we ought to leave some options open to us  
15 and the reason I say that if these districts want certainty,  
16 you know, if there is -- we -- knowing that you're  
17 definitely going to have two more rounds is going to  
18 encourage districts to get their applications in, but, you  
19 know, knowing that there's a lot of questions out there  
20 economically and everything else, and so, you know, I just  
21 would like to have, you know, some opportunity for the Board  
22 to revisit this a year from now in case there are some  
23 adjustments that we may want to make legislatively.

24          I mean I know it requires legislative changes, but  
25 there may -- I mean if you're out -- completely out of money

1 for example, in new construction and you can't pass a bond,  
2 there may be some serious questions that we have to answer.

3 MS. MOORE: I have a legal question then.

4 CHAIRPERSON REYES: Hold on. Ms. Brownley was  
5 going.

6 ASSEMBLY MEMBER BROWNLEY: Well, I just think that  
7 it's important to have a continuous cycle because I think it  
8 gives districts clarity. I think we've already established  
9 a subcommittee that's going to discuss some of these issues  
10 and make recommendations, but it would at the end of the day  
11 take a legislative change and the legislative will to do  
12 that.

13 And so I think this gives districts absolute  
14 clarity and I think if it's continuous and goes beyond two  
15 cycles, then that's motivation as well for people to  
16 continue to do it unless things change otherwise.

17 CHAIRPERSON REYES: Okay. Ms. Moore, you had a  
18 legal question.

19 MS. MOORE: Well, if we take the action to do it  
20 continuously and then doesn't legislation trump that  
21 action --

22 SENATOR LOWENTHAL: Yeah.

23 MS. MOORE: -- if it passes at any future date?

24 ASSEMBLY MEMBER BUCHANAN: Of course it does, but  
25 if the districts want certainty and we take action and they

1 think it's going to be continuous beyond 2012, I think  
2 you're taking away some of that certainty from the  
3 districts.

4 CHAIRPERSON REYES: I think that for me I think  
5 doing it for two years [sic] and revisit in a year also  
6 provides an incentive for those districts who need the  
7 resources to come in and not try to wait until 2013 for it.  
8 You know, there's two shots at it. They know it's going to  
9 be January. They know it's going to be July and they don't  
10 know what 2013 will bring, whether or not there will be a  
11 need or desire to transfer the money. So that gets the  
12 shovel-ready projects moving. But that's just my --

13 ASSEMBLY MEMBER BROWNLEY: Well, I think that that  
14 probably does provide some incentive, but I don't think by  
15 having it being done continuously hurts the incentive in any  
16 way.

17 I mean for me this in some sense boils down to  
18 sort of a civil rights issue. This is about overcrowded  
19 schools that are -- you know, kids are crammed into --

20 CHAIRPERSON REYES: Um-hmm.

21 ASSEMBLY MEMBER BROWNLEY: -- part of -- and I  
22 think that we should give districts every opportunity that  
23 they can to move forward with this. And if it's, you know,  
24 not right on the money and they would need a little bit more  
25 time after the fact, then so be it.

1           But I think again, you know, ultimately this will  
2 take a legislative action to do and also with regards to  
3 hopefully -- I hope that we will have a bond in 2012, but  
4 I -- as we approach that this legislative cycle, we'll have  
5 a better sense of that one way or the other and that will  
6 also signal I think to districts what's happening there.

7           CHAIRPERSON REYES: Okay. Senator Lowenthal.

8           SENATOR LOWENTHAL: Yeah. I just want to know  
9 whether the author will accept as an amendment -- really  
10 what we're saying is until -- let's send a message that  
11 we're not about to change anything right now with this, that  
12 we have -- this is the process that we have. It is  
13 continuous now. It is two a year until the ORG money is  
14 used.

15           What you're saying is you want to potentially  
16 revisit this. You have that option again whether we do this  
17 or not, when we see where we're going. But I don't think  
18 changing the rules right now by saying we're only going to  
19 do two really is -- really provides stability.

20           I think it provides stability saying this is a  
21 program. We want you to get your applications in. You've  
22 heard this discussion, folks out there. If you -- there are  
23 some members of this -- that really if we are going to look  
24 at what's going to take place in that bond action or not in  
25 a year from now and we're going to look at some of that

1 issue, but I think that right now to send that message sends  
2 the wrong message.

3 Right now I think the message is this is an  
4 important program. We've heard from districts. Let's  
5 continue this program. Potentially in a year from now, we  
6 may want to revisit this when we see, but that's not really  
7 where we are right now.

8 Right now we want to continue this program as it  
9 is and the funding which is continuous, no more than two a  
10 year. That's where we are and I think that's really the  
11 message that we should be sending.

12 ASSEMBLY MEMBER BUCHANAN: I think there's -- from  
13 my perspective, there's a fundamental difference in terms of  
14 having a motion to continuously appropriate because the  
15 motion that was brought up was beyond, you know -- not  
16 limiting it to the next two, but we will continue with two a  
17 year indefinitely until the money runs out.

18 I think that's a fundamentally different motion  
19 than having a motion to approve the next two --

20 SENATOR LOWENTHAL: Well, if we didn't have any  
21 motion --

22 ASSEMBLY MEMBER BUCHANAN: -- the next two funding  
23 rounds because clearly neither motion is to get rid of the  
24 program.

25 SENATOR LOWENTHAL: If we didn't have -- if we

1 don't have any motion now, where are we?

2 CHAIRPERSON REYES: We do. We have a motion and a  
3 second --

4 SENATOR LOWENTHAL: I mean -- no, if we don't --

5 CHAIRPERSON REYES: -- coming up with --

6 ASSEMBLY MEMBER BROWNLEY: Then the money's  
7 frozen.

8 ASSEMBLY MEMBER BUCHANAN: Then the money's  
9 frozen.

10 CHAIRPERSON REYES: The money's frozen. Do  
11 nothing, it's frozen and we don't go out and I don't think  
12 that's the right --

13 ASSEMBLY MEMBER BUCHANAN: And I also want to  
14 point out as Margaret Brown -- I mean you do have, you know,  
15 a lot of factors that enter into the portables. Most of the  
16 portables we all know were purchased back '97, '98, '99 when  
17 we were dealing with class size reduction.

18 You have a situation now where you -- we're  
19 between districts that are in declining enrollment, where  
20 you have schools that have additional classroom space  
21 because they're not able to maintain that 20 to 1 and  
22 others. We have some things that fundamentally are  
23 changing.

24 So I can support and vote for a motion to  
25 authorize the next two rounds even though my preference

1 would be to wait till we take a look where all of our  
2 funding and what our burn rates are, but I can't support a  
3 motion to just continuously -- a motion that would continue  
4 with rounds indefinitely until --

5 ASSEMBLY MEMBER BROWNLEY: The funds are  
6 exhausted.

7 ASSEMBLY MEMBER BUCHANAN: -- the funds are  
8 exhausted.

9 CHAIRPERSON REYES: Okay. So we have a motion for  
10 next two and revisit the issue. We -- it's been seconded.

11 Senator Lowenthal had a substitute motion --

12 SENATOR LOWENTHAL: To --

13 CHAIRPERSON REYES: -- to continuously two a year  
14 until the money runs out.

15 SENATOR LOWENTHAL: Right.

16 CHAIRPERSON REYES: It has not been seconded.

17 ASSEMBLY MEMBER BROWNLEY: Oh, I will second it. I  
18 thought Ms. Moore had a motion --

19 MS. MOORE: I didn't motion. I seconded. I  
20 seconded the motion that was made -- the original.

21 ASSEMBLY MEMBER BROWNLEY: Oh. I thought that you  
22 had made a motion and then when I talked about the  
23 continuous piece, you said that you would accept that as a  
24 motion -- as a friendly amendment.

25 MS. MOORE: I don't think, Julia, that I made an

1 official motion. I think --

2 ASSEMBLY MEMBER BROWNLEY: Okay.

3 MS. MOORE: -- the official motion --

4 ASSEMBLY MEMBER BROWNLEY: Then I will second  
5 Mr. Lowenthal's motion.

6 CHAIRPERSON REYES: Okay. So we have that. So  
7 let's take that one which is to do continuous or two a year  
8 until we're out of money.

9 SENATOR LOWENTHAL: Well, it just says the Board  
10 can direct staff to process funding cycles with Board  
11 approval on a continuous basis until all available funding  
12 is dispersed.

13 CHAIRPERSON REYES: Right.

14 ASSEMBLY MEMBER BUCHANAN: Do we need to vote on  
15 one motion before we take up the second?

16 CHAIRPERSON REYES: Right. We need to do --  
17 because his is a substitute motion, we need to dispense with  
18 his.

19 ASSEMBLY MEMBER BUCHANAN: But the author of the  
20 first motion has to accept that.

21 CHAIRPERSON REYES: No. It's a separate --  
22 different motion altogether.

23 ASSEMBLY MEMBER BUCHANAN: So we're voting on --  
24 well, which motion are we voting on first?

25 CHAIRPERSON REYES: All right. So Esteban's

1 motion is to do two and revisit the issue a year from now.  
2 Okay? Senator Lowenthal came up with a substitute motion  
3 that says two a year until we're out of money.

4 ASSEMBLY MEMBER BUCHANAN: It's not a substitute  
5 motion because he's not substituting his for the first one;  
6 right?

7 SENATOR LOWENTHAL: Well, he's making an  
8 alternative motion.

9 SENATOR LOWENTHAL: It's a substitute motion.

10 CHAIRPERSON REYES: That's a substitute motion.  
11 He's not amending, yes.

12 ASSEMBLY MEMBER BUCHANAN: Okay. All right.

13 CHAIRPERSON REYES: He's not amending Esteban's.  
14 He asked if he would take an amendment. He said no and so  
15 he said, well, okay, then I want to move this motion and --

16 SENATOR LOWENTHAL: And it was seconded by  
17 Assembly Member Brownley.

18 CHAIRPERSON REYES: It's been seconded. So we  
19 just dispense with that and then go from where we need to go  
20 from there. I personally like Esteban's visiting it a year  
21 from now to see where we are. Because then it doesn't  
22 commit us beyond the next year and if there's money and  
23 that's where we want to go, then we'll do it again. It  
24 doesn't preclude us from doing that.

25 And you're absolutely right. We can't transfer

1 without legislative approval. I think that by going for the  
2 next two rounds it incentivizes folks to take advantage,  
3 that we've been doing this since 2008. So I don't know that  
4 we're closing any windows from my perspective, but that's  
5 just me.

6 So Ms. Brownley.

7 ASSEMBLY MEMBER BROWNLEY: Just one more statement  
8 to the -- is this the motion that's on the floor right now?

9 SENATOR LOWENTHAL: No.

10 CHAIRPERSON REYES: His is on the floor.

11 ASSEMBLY MEMBER BROWNLEY: Okay. Well, to speak  
12 to this motion --

13 CHAIRPERSON REYES: Okay.

14 ASSEMBLY MEMBER BROWNLEY: -- it is -- and I guess  
15 to speak to our motion as well, is I think that if we end up  
16 doing -- which I hope we won't -- the second motion --

17 CHAIRPERSON REYES: The original motion.

18 ASSEMBLY MEMBER BROWNLEY: -- the original  
19 motion -- thank you -- then I think that we will need to  
20 give school districts warnings and to say that we've only  
21 done this for year and when -- because I think that that  
22 would be a fair thing for us to do and I think by virtue of  
23 doing that, that signals to the school districts that this  
24 money is good for a year. It's now or never and I just --

25 CHAIRPERSON REYES: Now or run a risk.

1 ASSEMBLY MEMBER BROWNLEY: Now or run a risk and I  
2 think we should err on the side of the districts who are  
3 doing their due diligence to move forward with this because  
4 I think achieving the results and solving overcrowded  
5 campuses is the right thing to do for children.

6 CHAIRPERSON REYES: Um-hmm.

7 ASSEMBLY MEMBER BROWNLEY: And so I think by  
8 virtue of saying it's going to be for one year that signals  
9 okay, in one year we're going to come back and revisit and  
10 we might very well take the money away. And so therefore  
11 there's not going to be some potential planning that could  
12 take place.

13 And I would characterize that as a disincentive.

14 CHAIRPERSON REYES: Oh, okay. Mr. Hagman.

15 ASSEMBLY MEMBER HAGMAN: I just -- you know, I  
16 guess my two cents' worth too. If we put out at least two  
17 funding rounds, we 13, 14 months off. Any school districts  
18 contemplating getting bond money, whatever, that's fine.

19 I would hope this Board would come up with some  
20 recommendations for 2012 before even the second round comes  
21 out much less wait until next November. I think whichever  
22 way we go probably is okay because we're going to be coming  
23 up with recommendations as a Board and hopefully we'll get  
24 our groups around it by next year, hopefully earlier than  
25 later, to come with some recommendations.

1           So if you put out two, we're still looking that by  
2 the time we come back with recommendations in April, May,  
3 June, we can still give direction if we want to extend it  
4 for another year or if we want to do this or that. Either  
5 way I think it will still give some continuous -- you know,  
6 we have a full 14 months' worth of funding here, guys. Go  
7 out and get it.

8           We can come back in six months and we'll hopefully  
9 have an assessment. We'll have some plans to put on the  
10 table as well. We could say we have no plans, there's no  
11 climate for anything else, let's continue this, let's do  
12 something else, but we would have to make changes by next  
13 summer to affect anything in November 2012 anyway and so  
14 there's going to be a lot more discussion about this and so  
15 I think we're talking a lot that either way we go, we may  
16 augment it and change it by then anyway. So either way.

17           CHAIRPERSON REYES: Ms. Moore.

18           MS. MOORE: My final comment would be it was the  
19 will of the voters that there was an Overcrowded Relief  
20 Grant Program and that we did not like the Critically  
21 Overcrowded School Program and put a caveat on that. And  
22 the caveat in the Critically Overcrowded School Program was  
23 if the funds weren't used, it would revert to the New  
24 Construction Program.

25           So when we put the program together originally, we

1 said we are committed to this program. Unlike we said for  
2 Critically Overcrowded Schools which we could pull their  
3 money and we have.

4 So I think that speaks to a continuous program  
5 unless there's a legislative will to change that and I don't  
6 know that the Board taking action on that will ever change  
7 that item until the Legislature does.

8 ASSEMBLY MEMBER BUCHANAN: Maybe I'm confused, but  
9 in the past, you've authorized this one year at a time;  
10 correct?

11 CHAIRPERSON REYES: Right.

12 ASSEMBLY MEMBER BUCHANAN: So what are we doing  
13 now in authorizing it for the next year that's any different  
14 than has been done in the past?

15 MS. MOORE: I'll tell you what was -- I don't  
16 think we ever had discussions that were authorizing it one  
17 year in advance because we are considering taking the  
18 funding after that. We never said that. So that's the  
19 difference. I think --

20 ASSEMBLY MEMBER BUCHANAN: I think the action is  
21 what's most important and the action is to authorize the  
22 next two rounds. If you take a look at the burn rate, we  
23 may have very little money at the end of the next two rounds  
24 if you're burning it at a hundred million dollars a round.

25 But in terms of the action which is really what

1 you're doing, you're authorizing the next two rounds just  
2 like you've been doing year to year and I have no idea -- I  
3 mean all I know is we're coming to the end of this program.

4           You can take a look at the amount that's been  
5 allocated in all the different funds we're coming near the  
6 end. We're in very difficult economic times. We -- you  
7 know, all of us are going to, you know, work as hard as can  
8 be to pass another school bond. There's no -- we don't know  
9 what the appetite for the voters is going to be, but what  
10 we're really doing in taking an action and authorizing the  
11 next two rounds is what we've done year to year.

12           So we'll -- you know, we look at it. I don't  
13 think there's any guarantee on this Board that any money  
14 gets transferred or whatever, but I just think it's prudent  
15 right now for us to leave our options open entirely.

16           ASSEMBLY MEMBER BROWNLEY: Our options are only  
17 open on -- for legislative rule can change it.

18           ASSEMBLY MEMBER BUCHANAN: That's exactly right.

19           CHAIRPERSON REYES: Yeah.

20           ASSEMBLY MEMBER BUCHANAN: And so no one's -- you  
21 know.

22           CHAIRPERSON REYES: Nothing can happen without  
23 legislation. Okay. So on Senator Lowenthal's motion of two  
24 a year until the money runs out. Call the roll, please.

25           MS. JONES: Lowenthal.

1 SENATOR LOWENTHAL: Aye.

2 MS. JONES: Brownley.

3 ASSEMBLY MEMBER BROWNLEY: Aye.

4 MS. JONES: Buchanan.

5 ASSEMBLY MEMBER BUCHANAN: No.

6 MS. JONES: Hagman.

7 ASSEMBLY MEMBER HAGMAN: Abstain.

8 MS. JONES: Almanza.

9 MR. ALMANZA: No.

10 MS. JONES: Moore.

11 MS. MOORE: Aye.

12 MS. JONES: Dabby.

13 MS. DABBY: Abstain.

14 MS. JONES: Reyes.

15 CHAIRPERSON REYES: No.

16 MS. JONES: It does not pass.

17 CHAIRPERSON REYES: Okay. So we go back to  
18 Almanza's motion and that is January and July of next year  
19 and then revisit the issue a year from now.

20 ASSEMBLY MEMBER BROWNLEY: May I --

21 CHAIRPERSON REYES: Yes, Ms. Brownley.

22 ASSEMBLY MEMBER BROWNLEY: I think -- if this is  
23 the motion that's going to move forward, then I think the  
24 July -- when we say January and July, July's 2012; right?

25 CHAIRPERSON REYES: Um-hmm.

1 ASSEMBLY MEMBER BROWNLEY: So I think that -- I  
2 think that it would be important to give districts written  
3 warning and -- just to let them know what this discussion  
4 has been. I think we need to be clear that it's, you know,  
5 against legislative will that can change this --

6 CHAIRPERSON REYES: Um-hmm.

7 ASSEMBLY MEMBER BROWNLEY: -- but the reason for  
8 this particular motion I believe is so that you can look at  
9 it and evaluate perhaps moving forward with legislation to  
10 shift this money from this account to something else.  
11 That's -- to me what I'm hearing is the intent for this  
12 purpose on this motion.

13 CHAIRPERSON REYES: Okay.

14 MS. MOORE: So are you saying, Ms. Brownley, that  
15 if we vote for this that we are also intending to  
16 potentially recommend that the Legislature move this  
17 funding.

18 ASSEMBLY MEMBER BROWNLEY: No. I don't know what  
19 the outcome is going to be, but I feel as though the -- part  
20 of the intention around this motion is the possibility that  
21 there's a desire on this Board to move money out of this  
22 account to someplace else, understanding that it would  
23 require legislative authority.

24 And so I just feel as though we should be honest  
25 with folks to let them -- to warn them -- not to say that

1 this would happen, but to warn them that it's potentially --  
2 potentially now or never.

3 CHAIRPERSON REYES: I for one don't -- I just want  
4 us to come back a year from now and take another look at  
5 this. I don't know that it will be the will frankly having  
6 worked upstairs for -- yeah, in the Legislature for 11  
7 years. I'm not sure there's the will to take this money  
8 from overcrowded schools frankly. I don't see it happening  
9 and I think that the bullet here is to let us know that if  
10 the Board wanted to, it would have to curve through  
11 legislation.

12 We came across this issue when we did the cash  
13 management committee and some folks wanted to transfer some  
14 monies that were being underutilized and we discovered why  
15 it was being underutilized. The seismic comes to mind and  
16 we tried to rectify that.

17 I think that by look at this, what I'm looking at  
18 is doing what we have done in the past and just  
19 reauthorizing that for another year. I don't view it as,  
20 gee, we ought to take it now. Now if the subcommittee  
21 looking at it thinks that based on the economics and based  
22 on the bonds and based on what the appetite is out there  
23 that that should be an option that the Board ought to  
24 consider, then at that point, we will have that  
25 conversation.

1           I don't want my vote on this particular motion now  
2 to be taken that I am for taking the money and putting it  
3 someplace else. I want a year to go by before I kind of  
4 arrive at that conclusion. That's just one Board member.

5           Mr. Hagman.

6           ASSEMBLY MEMBER HAGMAN: I would concur with  
7 everything. I mean I don't think anyone's talked about any  
8 kind of legislative will to do anything with it besides just  
9 continuing on appropriately just like the regular bond was,  
10 to put it out for another year cycle, two issuances. Just  
11 like it is.

12           We make this thing so complicated. It's very  
13 simple. Put it out for another two years, for another two  
14 issuances, next year and we'll come back to look at it  
15 before the end of the years. All these funds are out. They  
16 all take legislative action if we wanted to add more money  
17 or transfer it, all the stuff that has to be done. That's  
18 why we have the subcommittee. The subcommittee comes back  
19 with a report, the conclusions, any kind of change of  
20 demographics in the State, all the rest of it, the bond  
21 fund, then we can make some kind of conclusions or  
22 recommendations to the Legislature to go forward from there.

23           My vote's not to reallocate. I want it to stay in  
24 this pot too. Just -- we're going to have a lot more  
25 information coming out this next six months. I'm just

1 saying let's just do what we need to do, keep going, give  
2 some assurance to school districts the next year, we're not  
3 changing nothing. That's it.

4 ASSEMBLY MEMBER BUCHANAN: Yeah. And I'm not  
5 recommending changing. All I'm saying is we're running out  
6 to the end of the bond funds and I think it's prudent to  
7 take a look at it and operate year to year instead of making  
8 a decision now and I -- if I were a school district and I  
9 looked at how much was left over, I would probably be doing  
10 what Assembly Member Brownley is talking about regardless  
11 because we're talking about 287 million left in the bond and  
12 the last amount requested was 118 million.

13 So if you go through two more rounds, you're  
14 pretty much there.

15 CHAIRPERSON REYES: Okay. So call the roll on  
16 Esteban's motion.

17 MS. JONES: Okay. Lowenthal.

18 SENATOR LOWENTHAL: Aye.

19 MS. JONES: Brownley.

20 ASSEMBLY MEMBER BROWNLEY: Aye.

21 MS. JONES: Buchanan.

22 ASSEMBLY MEMBER BUCHANAN: Aye.

23 MS. JONES: Hagman.

24 ASSEMBLY MEMBER HAGMAN: Aye.

25 MS. JONES: Almanza.

1 MR. ALMANZA: Aye.

2 MS. JONES: Moore.

3 MS. MOORE: Aye.

4 MS. JONES: Dabby.

5 MS. DABBY: Aye.

6 MS. JONES: Reyes.

7 CHAIRPERSON REYES: Abstain -- no, I'm kidding.

8 Aye.

9 MS. JONES: Motion carries.

10 CHAIRPERSON REYES: Okay. We will skip the PIW  
11 for now since Senator Runner's asked that we do that. We'll  
12 go onto **Reports**. You know, I never did ask -- well, yeah,  
13 we did have public conversation on that. What am I  
14 thinking. Yes.

15 MS. SILVERMAN: Tab 13 is -- staff wanted to share  
16 with the State Allocation Board. We were actually presented  
17 the **audit report** from the Office of State Audits and  
18 Evaluations and it provides some report recommendations.

19 Basically that final report was published on  
20 June 14th, 2011, and it covers actually the fiscal year  
21 June 30th, 2009, and with that there are several  
22 recommendations that are stated on stamped page 147 and  
23 attached also staff actually provided a response on stamped  
24 page 159 through 163.

25 There are a couple areas of deficiencies that were

1 noted as far as evaluating the program and with that --

2 CHAIRPERSON REYES: Thank you. I want to first  
3 and foremost apologize to my colleagues on the Board for not  
4 getting this letter out to you. I did not realize I had it.  
5 It was one of those things that got lost when it came in  
6 through my email and I opened it in a Blackberry and when I  
7 went back to my computer, I never saw it again as an email.

8 So I would like to take full responsibility for  
9 not getting this to you. It's something that I should have  
10 shared with you a long time ago.

11 But anyway, so I just wanted to comment on that.  
12 And I understand there are some folks who want to comment  
13 on -- other than David, anybody else?

14 MS. ALLEN: Thank you. Good afternoon, Chairman  
15 Reyes, members of the Board. My name is Cathy Allen. I  
16 represent CASH. I happen to be its current Chair. Very  
17 proud of that honor.

18 We submitted a letter to the Office of State  
19 Audits and Evaluations in August in response to the report  
20 and also went to the Department of Finance with copies to  
21 the individual members of the State Allocation Board  
22 regarding the audit of the Prop. 1D funds.

23 While we agree with many of the findings of the  
24 report, we also highlighted some areas where we believe the  
25 findings seem to contradict elements of the program itself.

1           In addition to the comments in the letter, CASH  
2 has specific concerns over several areas of the report  
3 including (1) what constitutes a high-risk project. There  
4 seems to be quite a dialogue around the high-risk project  
5 and yet we do not have a definition of what that is.

6           Second, how is it identified that there are  
7 additional \$4 billion in remaining high-risk projects left  
8 to be audited if we don't know what a high-risk project is.

9           Third, how can the report identify 5.9 billion in  
10 savings out of \$7.3 billion bond in Prop. 1D. I think there  
11 might be -- maybe it's just an "m" instead of a "b," but  
12 that seems to be a little bit incongruous right there.

13           Fourth, why has the Department of General Services  
14 and the Department of Finance not implemented the audit  
15 policy adopted by the State Allocation Board. I believe  
16 that was within the last year, sometime in 2010.

17           The report seems to indicate that estimates  
18 derived from the plan verification team process are more  
19 accurate than actual bid amounts. We're hearing quite a bit  
20 about this from the field. I also see it referenced in the  
21 report.

22           As we know, PVT estimates are our estimates, hard  
23 bid is hard bid, and we know what the dollars are at that  
24 time, and yet what we're hearing is that hard bid amounts  
25 are being challenged when they are coming in higher than

1 what plan verification team amounts are.

2 Sixth, how are the assumptions used in the report  
3 established. I think clarifications over -- clarification  
4 over what was done and how things were assumed would be  
5 helpful in trying to interpret the results of the report.

6 And clearly there is just not a recognition of the  
7 established program that has been in place for 11 years.  
8 CASH once again offers help. We would like to sit down with  
9 OSAE and see what we can do to maybe fine tune the findings  
10 of the report and again offer our assistance where we can.

11 CHAIRPERSON REYES: Thank you. Mr. Walrath.

12 MR. WALRATH: Chair Reyes, members. Dave Walrath  
13 representing Small School Districts Association. To follow  
14 up on what Cathy commented as the Chair of CASH, within the  
15 executive summary of the audit, it references the savings  
16 amount and then it references that savings are to be used  
17 for other -- facility projects or returned to the State  
18 within three years.

19 It doesn't differentiate between the regular  
20 program which has none of those provisions and the hardship  
21 program. It is the confusion that is created by not  
22 differentiating or clearly differentiating or indicating an  
23 understanding of the School Facilities Programs and the  
24 nuances of the programs. We're concerned that the audit as  
25 it comes forward does not have the type of specification --

1 specificity that would have been helpful.

2           Quite frankly as SSDA, we had hoped the audit was  
3 going to really be looking at not so much some of the  
4 financial issues which we believe can be addressed totally  
5 by adopting the SAB's audit policy and actually implementing  
6 that by OPSC, DGS, and Department of Finance. We were  
7 concerned about some of the process issues.

8           OPSC changes policy, but those policies are not  
9 always explained to the Board when they're changed nor  
10 always fully communicated to school districts. Consequently  
11 the architects and the school districts go forward with  
12 their plans, go through and make their expenses, then come  
13 forward and they're explained, well, we changed the policy.

14           Those types of things are process issues and we  
15 were hoping process and procedural issues would have been  
16 part of the audit on how is the process and procedure for  
17 the allocation of 1D funds working, both on the structure of  
18 OPSC and how it's affecting the school districts.

19           So we recognize that there are a number of audit  
20 findings. We believe the audit did not have appropriate  
21 specificity and lastly we encourage the adoption and  
22 implementation of the State Allocation Board's adopted audit  
23 policies and procedures that you went through on the  
24 subcommittee basis. Thank you.

25           CHAIRPERSON REYES: Thank you, Mr. Walrath. On

1 that point, I think Senator Lowenthal wants to get the  
2 subcommittee get together again so we can get to this issue.

3 SENATOR LOWENTHAL: It's not just get together. I  
4 would like the newly appointed AEO, the Administrative [sic]  
5 Executive Officer, to work with OPSC and then either report  
6 back to the subcommittee -- Audit Subcommittee on where  
7 we're going on the implementation.

8 CHAIRPERSON REYES: Yeah.

9 SENATOR LOWENTHAL: We as a Board talked about  
10 these policies. We adopted what we want to see in audits,  
11 how we want the independence of audits. In November, it's  
12 over almost a year. Nothing has happened. We're now  
13 talking about another audit where they say -- where even in  
14 their executive summary, they talked about how the State  
15 Allocation Board and OPSC have to work collectively.

16 Well, we have that process and it's been almost a  
17 year and we haven't dealt with that. So I am very concerned  
18 that there are concerns about this audit, but we have not  
19 really implemented our own audit procedures or -- that we  
20 have passed as a Board. Actually we passed every single  
21 recommendation of the Audit Subcommittee except one -- was  
22 passed unanimously by this Board and none of them have been  
23 implemented.

24 Now I'm not blaming anybody because we lost an AEO  
25 and there are lots of things, but that is critical --

1           CHAIRPERSON REYES: Yeah.

2           SENATOR LOWENTHAL: -- to this discussion that  
3 we -- we have our own procedures that we hoped to have  
4 implemented. Nothing has happened and now we're talking  
5 about another audit that really is quite different from what  
6 we recommended and I just share my frustration anyway that  
7 actions of the Board have not been implemented.

8           CHAIRPERSON REYES: Lyle.

9           MR. SMOOT: Thank you. Again Lyle Smoot  
10 representing Los Angeles Unified. I just want to speak to  
11 one simple issue that's in the letter where the Department  
12 of Finance, OSAE has indicated that absence of timely  
13 regulation amendments may result in an inequitable  
14 distribution of bond funds. Based on the lack of progress,  
15 the current regulatory amendment process including the use  
16 of the Implementation Committee does not appear to be  
17 working as intended and is ineffective.

18           I just want to state an objection to saying that  
19 these problems are associated with the Implementation  
20 Committee. I think that committee has served this Board  
21 very well, has saved you a lot of time and effort, and  
22 created a process that everyone thinks is open and workable,  
23 et cetera. And I hope that you go back to using the  
24 Implementation Committee because I think it has been a good  
25 thing and I object to the concept the Implementation

1 Committee is somehow being blamed for the lack of a  
2 regulation being adopted. That committee has no authority  
3 to stop anything or for that matter to start anything. All  
4 it can do is provide information to the Board and I think  
5 it's done a very good job of it in the past and I hope  
6 you'll continue to use them in the future. Thank you.

7 CHAIRPERSON REYES: Thank you, Lyle. Anna.

8 MS. FERRERA: Anna Ferrera on behalf of the County  
9 School Facilities Consortium. Just want to be on the record  
10 as supportive of the subcommittee recommendations being  
11 addressed and adopted. We do believe that would prevent a  
12 lot of -- would take care of some things before they got to  
13 an appeal or a Board level and we think that that process  
14 was a good one and we hope that you would take those  
15 recommendations up.

16 Also on the point of the Implementation Committee,  
17 we also believe that the Implementation Committee has been a  
18 very useful model format for stakeholders to address issues  
19 that -- you know, that come up between Board meetings and  
20 also issues that may not be identified by the Board but that  
21 may be identified by stakeholders.

22 We believe it's a good process and it's a  
23 consistent one that also keeps issues from burbling up to  
24 the Board in ways that, you know, you may not like.

25 Anyway, if we can take care of those at that

1 level, it would be wonderful and it's a regular process that  
2 we appreciate.

3 The last comment I wanted to make was just about  
4 financial hardship. I don't know if there's anything you're  
5 going to take out of that letter that may proceed with a  
6 review of financial hardship, but the County Offices stand  
7 ready to assist on that level as well. Thank you.

8 CHAIRPERSON REYES: Thank you. Okay. Moving on  
9 to the **three-month projected workload**. Do you want to add  
10 to that a presentation by the Treasurer's --

11 SENATOR LOWENTHAL: Wait, wait, wait, wait.

12 CHAIRPERSON REYES: Yes.

13 SENATOR LOWENTHAL: I need to understand what is  
14 going to happen. We have passed -- I want some  
15 acknowledgment that the AEO is going to work with OPSC to  
16 find out where we are in the implementation of Board-passed  
17 implementation policy.

18 We pass policy and the only reason I said to have  
19 a subcommittee is to get that report back from them and find  
20 out where are we and do we need to do anything.

21 ASSEMBLY MEMBER BUCHANAN: That was going to be my  
22 question because I think, Senator, you're Chair of the Audit  
23 Committee --

24 SENATOR LOWENTHAL: Yes.

25 ASSEMBLY MEMBER BUCHANAN: -- and it would make

1 sense for me for you to have the Audit Committee take a look  
2 at your recommendations and this audit --

3 SENATOR LOWENTHAL: Absolutely.

4 ASSEMBLY MEMBER BUCHANAN: -- and, you know, tie  
5 them altogether so we know where we are going forward.

6 SENATOR LOWENTHAL: As long as we're -- they're  
7 also dealing with the implementation of the -- of our  
8 recommendations to --

9 ASSEMBLY MEMBER BUCHANAN: Well, that's what -- I  
10 mean you could certainly --

11 SENATOR LOWENTHAL: That's right.

12 ASSEMBLY MEMBER BUCHANAN: -- get a status of  
13 that --

14 SENATOR LOWENTHAL: That's right.

15 ASSEMBLY MEMBER BUCHANAN: -- but I mean it would  
16 be great to have someone who could actually --

17 SENATOR LOWENTHAL: And I would be -- welcome to  
18 have the committee --

19 CHAIRPERSON REYES: Get your committee together  
20 again. We have the -- Bill coming onboard on the 19th.

21 SENATOR LOWENTHAL: I'd like the Board to direct  
22 us to do that and the AEO to work with us to give a report  
23 back to the subcommittee and have the subcommittee work on  
24 that and this -- the audit report.

25 CHAIRPERSON REYES: I think we do want the

1 subcommittee to take this issue on again and kind of do the  
2 update of where --

3 SENATOR LOWENTHAL: Again not to take it on again,  
4 to talk about the implementation and this report.

5 CHAIRPERSON REYES: Right.

6 SENATOR LOWENTHAL: We're already taken it on  
7 after months of failures.

8 CHAIRPERSON REYES: But bring it to fruition.

9 SENATOR LOWENTHAL: Right.

10 CHAIRPERSON REYES: All right. And work with the  
11 AEO, but the AEO is not on till the 19th, so -- it'll be in  
12 the next -- as soon as --

13 SENATOR LOWENTHAL: Well, we'll do it after the  
14 19th. On the 20th, we'll have that meeting and -- where is  
15 Mr. Savidge.

16 CHAIRPERSON REYES: Senator Lowenthal, as the  
17 Chair of that committee, call your meeting as --

18 SENATOR LOWENTHAL: But I'm also saying we're also  
19 requesting that the -- by that the time, the AEO having met  
20 with the --

21 CHAIRPERSON REYES: Yes.

22 SENATOR LOWENTHAL: -- OPSC to be able to report  
23 to us where we stand.

24 CHAIRPERSON REYES: Where we are, yes. Perfect.  
25 Okay. All right. So that's the direction. Any questions

1 of staff on that?

2 MS. SILVERMAN: No.

3 CHAIRPERSON REYES: And there's nobody at the AEO  
4 spot right now -- no, I'm just kidding. All right, Bill.

5 **90-day work -- tentative workload.** We need to  
6 include the AG's -- I mean the Treasurer's office on this.

7 MS. SILVERMAN: For October and then DSA  
8 potentially in December.

9 CHAIRPERSON REYES: No, I don't think we could do  
10 October. I think we do December for the Treasurer -- no.

11 MS. SILVERMAN: October for the Treasurer.

12 CHAIRPERSON REYES: Yeah. Sorry.

13 MS. SILVERMAN: And DSA potentially December or  
14 January.

15 CHAIRPERSON REYES: DSA in December, yeah. That's  
16 right. The time -- yeah. Thank you for the clarification.

17 Anything else I'm missing? So when we come back  
18 and say oh, yeah, we meant to say this. We don't need to  
19 say that.

20 Okay. Then the other stuff in here is just the  
21 next meetings are October 26th and then December 7th. If  
22 you can let us know your availability for that one because  
23 then we get into the holidays. So that makes it tougher, so  
24 thank you.

25 And then the usual stuff on the tables on the back

1 and I think we -- Mr. Hagman.

2 ASSEMBLY MEMBER HAGMAN: Just a question. I was  
3 going through the different unfunded list, the work list.  
4 Then some of the ones at the very top of the list like for  
5 unfunded program, the first one's like a \$40,000 type of  
6 thing.

7 Is there absolutely no funds coming back in, going  
8 back out? As the funds come in, are you redistributing to  
9 the ones that have already been approved or is there  
10 absolutely no funds at this point? I mean some of those  
11 numbers seem pretty small than the bigger numbers we talk  
12 about.

13 MS. SILVERMAN: Well, I think last year what we  
14 did was we actually shook out our couch cushions and we're  
15 checking for every source of funds available and it was  
16 obviously more productive if we -- if there was coupled with  
17 the bond sale any cash at that point in time fold out that  
18 to other projects.

19 Since we did establish a priorities in funding  
20 round, that would actually clear the way once we have cash.  
21 There is a very small portion of cash and it's trying to  
22 figure out where to divide the lines. That becomes really  
23 complicated. So --

24 ASSEMBLY MEMBER HAGMAN: Well, we do have monies  
25 coming in though from projects that -- I'm just wondering if

1 there is -- do you have any kind of triggering amounts, if  
2 we get over a certain amount where you'll fund the next  
3 couple down without going through a formal round, without  
4 waiting for the bond sale since we don't know when that is  
5 yet, and we are trying to get these projects out.

6           Is there a comfort zone that you like to keep in  
7 the account for things or is there -- you know, as we looked  
8 at the previous charts were in October, November, we had a  
9 lot of projects that either needed to be started or we're  
10 going to get some money back.

11           MS. SILVERMAN: And some of the projects on that  
12 timeline have come in, so -- some of the projects didn't  
13 drop off like we anticipated. So there is a timeline put  
14 together for the October and that should -- if those  
15 projects don't move forward, that potentially could be about  
16 a hundred million dollars. So --

17           ASSEMBLY MEMBER HAGMAN: So if you had, you know,  
18 20- or 30- or \$40 million come in, would you just do that  
19 administratively, just start going down the list again or do  
20 you have to go through a formal round or are you going to  
21 wait for a bond? I'm just wondering what your thought would  
22 be.

23           MS. SILVERMAN: That would have to be the will of  
24 the Board of how they want to execute.

25           ASSEMBLY MEMBER HAGMAN: Again --

1 MS. SILVERMAN: Releasing some of those funds, but  
2 I -- I hear what you're saying should be if we  
3 (indiscernible) process.

4 ASSEMBLY MEMBER HAGMAN: Yeah. Just --

5 MS. MOORE: We're in a request for a funding round  
6 right now, aren't we?

7 MS. SILVERMAN: We just wrapped up the  
8 certification, so we have \$1.3 billion in requests that came  
9 in.

10 MS. MOORE: 1.3. Okay.

11 MS. SILVERMAN: Right. Right.

12 ASSEMBLY MEMBER HAGMAN: Yeah. Just I don't know  
13 what the direction would be, but if I knew I had a bunch of  
14 money in the account and I had some -- like the first  
15 one's -- I think it was 40,000. The next one's 279,000. I  
16 mean those aren't big numbers. So if we had 2- or 3-,  
17 4 million sitting in the bank, let's get them working. You  
18 know, I'd hate to have them wait another six months or five  
19 months, whenever we have, you know, a bond issuance or  
20 something like that to -- if we had the money sitting in an  
21 account to go ahead and get it out and just didn't know what  
22 administratively you had set up for we keep this much in the  
23 account so we don't close the account out or if something  
24 comes up, but we're going -- if we have these monies coming  
25 in because that's something we can give the authority just

1 kind of do administratively at certain levels or --  
2 something to think about anyway.

3 CHAIRPERSON REYES: Do you have that flexibility  
4 to -- or do we need to give you direction that in event --

5 MS. SILVERMAN: No. We do. We do.

6 CHAIRPERSON REYES: You do what?

7 MS. SILVERMAN: We do have the flexibility.

8 CHAIRPERSON REYES: Okay.

9 MS. SILVERMAN: Since we just wrapped up the  
10 certification round --

11 CHAIRPERSON REYES: Um-hmm.

12 MS. SILVERMAN: -- now we know clearly what the  
13 requests are going to be and if those folks that are on  
14 certification and we have the cash to liquidate, they  
15 obviously have to come in, you know, to perfect within 90  
16 days. But we can bring those projects in for apportionments  
17 say potentially by the next Board.

18 CHAIRPERSON REYES: Okay. Thank you. All right.  
19 Well, thank you. Any comments from the public? Hearing  
20 none, meeting adjourned. Thank you everybody.

21 (Whereupon, at 4:20 p.m. the proceedings were recessed.)

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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:

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That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on October 11, 2011.

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Mary C. Clark  
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