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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

CALIFORNIA DEPARTMENT OF EDUCATION
1430 N STREET, ROOM 1101
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, OCTOBER 26, 2011
TIME: 2:07 P.M.

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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.

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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CHAIRPERSON REYES: Why don't we go ahead and get started. We do have a quorum. Go ahead and take the roll, please.

MS. GENERA: Senator Lowenthal.

Senator Hancock.

Senator Runner.

Assembly Member Brownley.

Assembly Member Buchanan.

ASSEMBLY MEMBER BUCHANAN: Here.

MS. GENERA: Assembly Member Hagman.

ASSEMBLY MEMBER HAGMAN: Here.

MS. GENERA: Esteban Almanza.

MR. ALMANZA: Here.

MS. GENERA: Kathleen Moore.

MS. MOORE: Here.

MS. GENERA: Nadya Dabby.

MS. DABBY: Here.

MS. GENERA: Pedro Reyes.

CHAIRPERSON REYES: Present.

MS. GENERA: We have a quorum.

CHAIRPERSON REYES: Thank you. We have a quorum.

Are there any public comments at this point? Okay.

Minutes. Is there a motion on the Minutes.

1 ASSEMBLY MEMBER HAGMAN: So move.

2 ASSEMBLY MEMBER BUCHANAN: Second.

3 CHAIRPERSON REYES: Been moved and seconded. Do
4 we take roll call or can we be unanimous? Be unanimous.
5 Without objection, it's unanimous. Thank you.

6 Any public comment at this point? I know that
7 Mark Ryan -- Dr. Mark Ryan wanted to make a comment or is it
8 later? This is the time for public comment and then we have
9 other opportunities as well, so it's up to you, sir.

10 DR. RYAN: Thank I'm Dr. Mark Ryan. I'm the
11 Superintendent at the Oakland Military Institute and I just
12 wanted to take this opportunity to publicly thank the staff
13 of both the California School Finance Authority and the
14 Office of Public School Construction who have been really
15 incredible in the process of our school trying to go through
16 the very cumbersome process of trying to get these funds.

17 And in particular Barbara Kampmeinert and Jason
18 Casillas at OPSC as well as the folks at the California
19 School Finance Authority have just been amazing. So I just
20 wanted to publicly thank them. Thank you.

21 CHAIRPERSON REYES: Thank you.

22 MS. SILVERMAN: Are we ready?

23 CHAIRPERSON REYES: Executive Officer.

24 MS. SILVERMAN: Okay. Let's go. Tab 3. The
25 **Executive Officer's Statement**, we actually have six things

1 to share with you tonight. Definitely excited that we
2 actually have some great news to report to you.

3 There was a lot of discussion at the last Board
4 about whether or not we're going to have a bond sale. The
5 Treasurer's office did execute a bond sale on October 19th,
6 which approximately \$1 billion will be allocated to this
7 program.

8 And so to highlight, the goal is -- and actually
9 staff will be bringing back apportionments in December. And
10 so it's really critical that we have a full presence, if we
11 can -- establish a full presence in December so we can
12 activate those projects that came in for priorities of
13 funding.

14 And again just reminding the Board, we actually
15 did receive over \$1.3 billion in certifications from 187
16 school districts which represents over 504 projects and they
17 are broken down accordingly: 306 modernization, 136 in new
18 construction, and 62 projects in additional programs. And
19 again those are the projects that will be appropriated the
20 money depending on bond source. So staff will be diligently
21 working on that.

22 The second item is facility hardship and
23 rehabilitation apportionments. At the last meeting, a nice
24 dialogue of whether or not we had extra cash to provide
25 apportionments to projects on the unfunded list and we did

1 actually have some cash to make available to at least five
2 projects that were facility hardship, which are your health
3 and safety, and they are part of your Consent Agenda that --
4 and those apportionments will equal over \$1.7 million.

5 The next item is the annual deferred maintenance
6 program apportionments. Also in your Consent Agenda,
7 there's \$255.1 million that represents deferred maintenance
8 program apportionments for fiscal year 2010-'11 and again
9 the purpose of those funds was to do major repairs on
10 existing school facilities that also may include electrical
11 system, air conditioning, heating, roofing, and plumbing.
12 But with the enactment of SBX34, those funds could be used
13 for any educational purposes through 2015 and 16.

14 The next item is the third career tech funding
15 cycle. We actually had some projects that unfortunately
16 didn't move forward, so we had excess bond authority in the
17 Career Tech Educational Program. So with that staff is
18 presenting some unfunded approvals in the Consent Agenda.
19 There are 23 projects totaling \$33 million that are part of
20 the Consent Agenda.

21 The fifth item is the solar hearing update. We
22 are still working on coordinating a meeting. There was an
23 interest by Senator Hancock to have a hearing and so we are
24 coming together and it looks like we -- we're trying to
25 finalize the meeting for December 5th, so we will have an

1 opportunity to present something and again we'll be sending
2 invites and publicly noticing that meeting.

3 The last item is we have been doing some updates
4 to our website. We do have an events calendar and you can
5 actually sync that events calendar to your PDA. So that
6 will be a nice feature if you want to keep track with OPSC
7 and its current events.

8 CHAIRPERSON REYES: Thank you. And probably one
9 of the most current events happening at OPSC is the addition
10 of Bill Savidge to your right.

11 MS. SILVERMAN: Yes.

12 CHAIRPERSON REYES: As member of the Board staff.
13 So thank you. Thank you for joining us, your first meeting.
14 I think everybody will get a chance to work with Bill
15 particularly those folks working on the Implementation
16 Committee. He's one of those people. So thank you.

17 Ms. Moore, you want to make a comment?

18 MS. MOORE: Well, first I really want to thank the
19 Treasurer and the administration on the bond sale. I think
20 that's incredible for our projects and for the State of
21 California. So I just want to make sure it's registered
22 that we're very thankful for that.

23 And I just had a question, Lisa, on the facility
24 hardship. Are those projects required to do 90 days or do
25 they have 18 months to get their projects moving?

1 MS. SILVERMAN: They actually have 90 days.

2 MS. MOORE: So they'll all be -- those five
3 projects will also be moving forward immediately.

4 MS. SILVERMAN: Correct.

5 MS. MOORE: Thank you.

6 CHAIRPERSON REYES: Great. Well, thank you. So
7 for the December date, December 14th, we're going to be
8 dealing with a lot of money, so really encourage folks to be
9 here for that. And I believe that also on the December 14th
10 date is when we're going to have the training from the
11 Bagley-Keene from Department of Justice folks that Ms. Moore
12 was very kind to point out to us on that presentation. So
13 just encourage folks to see if they can make it. Thank you.

14 Okay. Any comments? All right. Tab 4, **Consent**
15 **Agenda**. There are several items -- so just so we know,
16 we're all on the same page, the Centinela appeal was
17 postponed as was the San Jose issue was also postponed.

18 MS. SILVERMAN: East Side Union.

19 CHAIRPERSON REYES: And East Side Union was also
20 postponed. So a very hectic agenda was reduced to that. So
21 we have -- we granted those postponements. Okay?

22 And then on the **Consent**, there are several action
23 items in the back. Tab 7, 14, and 15, are noncontroversial
24 items and unless there's any objection, I'd like to have
25 those included when we move the Consent item.

1 ASSEMBLY MEMBER HAGMAN: Which ones? 7?

2 CHAIRPERSON REYES: 7, 14, and 15.

3 ASSEMBLY MEMBER BROWNLEY: I move the Consent
4 Agenda with those items, Items 7, 14, and 15.

5 ASSEMBLY MEMBER HAGMAN: Second.

6 CHAIRPERSON REYES: Thank you. And Nadya.

7 MS. DABBY: And I just need to abstain from three
8 items on Item 14, the --

9 CHAIRPERSON REYES: Okay.

10 MS. DABBY: -- LAUSD Camino Nuevo which is on
11 page 302, LAUSD College Ready Academy which is on page 303,
12 and LAUSD College Ready Academy No. 8 which is on page 303.

13 CHAIRPERSON REYES: Okay. So Let's hold off then
14 on consent on 14 so that we can report unanimous consent
15 on -- okay. It's been moved by Ms. Brownley.

16 ASSEMBLY MEMBER BROWNLEY: I would change my
17 motion to move the Consent Agenda including Items 7 and 14.

18 CHAIRPERSON REYES: And 15.

19 ASSEMBLY MEMBER BROWNLEY: And 15. Excuse me.

20 CHAIRPERSON REYES: And 15. Thank you.

21 MR. ALMANZA: Yeah. Um-hmm.

22 CHAIRPERSON REYES: Is there a second?

23 ASSEMBLY MEMBER HAGMAN: I'll second the change.

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

1 MS. MOORE: And I just have -- I will abstain from
2 the Elk Grove items on the Consent Agenda.

3 CHAIRPERSON REYES: Okay. Thank you. Otherwise
4 we'll report that unanimous.

5 And then now to 14, we'll bifurcate that and we
6 will --

7 ASSEMBLY MEMBER BUCHANAN: So let's -- are we
8 going to take a vote on that and then a separate vote?

9 CHAIRPERSON REYES: Yes. Without objection, could
10 it be unanimous? Okay. All right.

11 And then on Item 14, we'll bifurcate that and pull
12 the Camino Nuevo, page 302, the College Ready Academy High
13 No. 19, page 303, Attachment B, and the College Ready
14 Academy High, No. 8, on page 303, Attachment B.

15 We will take the rest of Tab 14.

16 ASSEMBLY MEMBER BROWNLEY: So moved.

17 ASSEMBLY MEMBER BUCHANAN: Second.

18 CHAIRPERSON REYES: Okay. It's been moved and
19 seconded. Without objection, it will be unanimous.

20 And then if we can take a motion on the remaining
21 three items.

22 ASSEMBLY MEMBER HAGMAN: Move it.

23 ASSEMBLY MEMBER BUCHANAN: Second.

24 CHAIRPERSON REYES: So moved and seconded. And
25 Nadya will abstain and everybody else voting aye?

1 ASSEMBLY MEMBER BUCHANAN: Aye.

2 CHAIRPERSON REYES: Excellent. We would figure
3 this one out. I knew that. Thank you.

4 Is there any public comment at this point? I have
5 a tendency to forget that. Okay.

6 Tab 5.

7 MS. SILVERMAN: Tab 5 is basically our **report to**
8 **the Board of how we are liquidating our funds.** We actually
9 had minimal activity this month.

10 If I can direct your attention to page 172. Out
11 of all the bond apportionments or the bond funds we had via
12 the bond sale since 2009, we only liquidated \$7.7 million in
13 funds this month. So with that again very little activity.

14 What has been released are really those projects
15 that are -- that have timelines and so we're encouraging
16 those projects to come in and we're happy to see that there
17 are some movement of funds, so that's great.

18 We still have -- on page 173, we actually still
19 have about \$216 million that's in our accounts currently and
20 a lot of that -- those funds are related to a graph we have
21 illustrated on page 173 which we're keeping -- 174 -- I
22 apologize. We keeping track of the projects that had an
23 18-month timeline and those are the last of -- most of the
24 projects that received apportionments back in April 2010 but
25 actually had again the old requirements of coming in in 18

1 months.

2 And we have 91 million that represents 20 projects
3 and again those projects have until Friday to come in for
4 those apportionments. If they don't come in, those projects
5 will result in time limit on fund release being activated
6 and bond authority would go back to the program.

7 CHAIRPERSON REYES: Okay.

8 MS. SILVERMAN: So with that I'll open to any
9 questions.

10 CHAIRPERSON REYES: Are there any questions? Any
11 public comment? Okay. Moving onto the next tab, 6.

12 MS. SILVERMAN: Tab 6 is the **Status of Fund**
13 **Releases**. We actually had a pretty heavy month this month.

14 In Proposition 1D, we actually activated over 63
15 projects. A good portion of the activity represented
16 modernization. We actually provided 141.8 million which
17 represents 56 projects that we processed this month.

18 And we actually have a high performance project
19 that was processed, five of those, and a charter school
20 apportionment. That's actually reflected in the account.

21 And so 140.3 million net activity this month that
22 represents 63 projects in Proposition 1D.

23 And in Proposition 55, 30.5 million in new
24 construction and that represents 14 projects we processed.
25 We had no activity in Proposition 47 to report, but in total

1 for the School Facilities Program, we had over 77 projects
2 that we processed this month for over \$170.8 million. So
3 pretty large activity this month.

4 CHAIRPERSON REYES: Great. Thank you. Any
5 questions?

6 MS. SILVERMAN: Any questions?

7 CHAIRPERSON REYES: Any comments from the public?
8 Okay. Hearing none --

9 ASSEMBLY MEMBER HAGMAN: Going way too smooth
10 today.

11 CHAIRPERSON REYES: Okay. Tab 7 was in Consent.
12 Tab 8 has been withdrawn.

13 MS. SILVERMAN: Tab 9.

14 CHAIRPERSON REYES: Tab 9 -- are we on Tab 9?

15 MS. SILVERMAN: Yes.

16 CHAIRPERSON REYES: Okay.

17 MS. SHARP: Thank you. Good afternoon. I'm Tracy
18 Sharp with the Office of Public School Construction and I'm
19 presenting the district's **request from Los Angeles Unified**
20 **School District.**

21 In this appeal, the district is requesting an
22 overcrowded relief grant unfunded approval which includes
23 additional site development costs for methane mitigation.

24 District submitted a funding application on
25 October 29th, 2010, as part of the seventh round of the

1 overcrowded relief grant funding round. During the review,
2 staff determined that it was not eligible to receive site
3 development allowance for methane mitigation costs.

4 Costs were disallowed because remediation is not
5 specifically allowed in School Facility Program regulation.
6 Therefore administrative resolution wasn't possible on this
7 item.

8 Staff supports the district's request. While the
9 methane mitigation is not specifically allowed in a category
10 of site development, it is within the Board's authority to
11 approve these costs as reasonable and appropriate site
12 development work.

13 The section of SFP Regulation 1859.76 specifically
14 states that the Board will approve reasonable and
15 appropriate site development work which meets common
16 engineering practices and industry standards that are
17 consistent --

18 MR. ALMANZA: I move to approve.

19 ASSEMBLY MEMBER HAGMAN: Second.

20 MS. SHARP: Okay.

21 CHAIRPERSON REYES: Been moved and second.

22 MS. SHARP: We do have one second piece of it and
23 considering -- Attachment C then I am assuming is approved.
24 That's the district's -- the funding for this item.

25 The second piece is moving forward, request that

1 the Board give direction to staff as to whether or not
2 clarifying regulations for these instances should be created
3 or if these should be returned on a case-by-case basis to
4 the Board for consideration.

5 CHAIRPERSON REYES: Okay. We'll bifurcate the
6 issue. Let's deal with the financing first. Ms. Moore, you
7 had a question or comment?

8 MS. MOORE: No.

9 CHAIRPERSON REYES: Okay. So let's go with the
10 financing first.

11 MS. SHARP: Okay.

12 CHAIRPERSON REYES: It's been moved and seconded.
13 All in favor -- unanimous. Without objection.

14 The second issue then is the regulation moving
15 forward. Ms. Buchanan.

16 ASSEMBLY MEMBER BUCHANAN: Yeah. I would prefer
17 we continue to handle it on a case-by-case basis because
18 it's such an unusual circumstance, I don't -- I'd fear we'd
19 get into the same kind of seismic.

20 We try and come up with a one size fits all and it
21 really is an issue that comes up that's very unique to each
22 situation.

23 CHAIRPERSON REYES: I'm hearing and seeing a lot
24 of nods. Okay. Without -- Mr. --

25 ASSEMBLY MEMBER HAGMAN: I'll second that as a

1 motion.

2 CHAIRPERSON REYES: Mr. Hagman. So right now we
3 do nothing. We just go -- continue on a case-by-case. So
4 let's just do nothing and continue on a case-by-case and
5 that would be the direction of the Board to staff.

6 MS. SHARP: Thank you.

7 CHAIRPERSON REYES: Thank you. Okay. Item 10 was
8 pulled. Item 11 was pulled. Item 12 was pulled. Item 13,
9 **North Monterey.**

10 **MS. SILVERMAN:** So I direct your attention to
11 Tab 13, stamped page 263. Staff is presenting the
12 district's request to allow basically a fund switch from
13 Proposition 47 to Proposition 1D because Proposition 1D
14 doesn't have a Labor Compliance Program.

15 The project received a new construction
16 apportionment in April 2010 from Proposition 47. The
17 project was awarded cash based on the 18-month statutory
18 timeline that the Board was following at that point in time
19 and that statutory timeline ends this Friday, which is
20 October 28, 2011.

21 The project was completed and occupied on
22 October 10, 2009. The new construction application cannot
23 be resubmitted or -- after occupancy.

24 Historically, OPSC attempts to assign bond funds
25 to projects based on whether or not they have implemented

1 and enforced a Labor Compliance Program. A Labor Compliance
2 Program is required for projects receiving funding out of
3 Proposition 47 and 55.

4 The Labor Compliance Program must be approved by
5 the Department of Industrial Relations. Specifically Labor
6 Code states that in part LCP means a Labor Compliance
7 Program that is approved again by the Department of
8 Industrial Relations.

9 So I'll just break it down for you. The crux of
10 the issue is that the district unfortunately didn't have a
11 Labor Compliance Program in place for the project and
12 they're asking for Board approval to switch fund sources at
13 this point in time.

14 So there's three options that we have laid out for
15 you on stamped page 267, 268, and 269. 267, the first
16 option would be the project would receive reduced funding
17 which represents -- at the time we had only -- had found
18 only Proposition 1A and Proposition 1D available for the
19 project and that option or the mechanics of the calculation
20 would be as follows, which is on page 269.

21 We would find existing bond authority in
22 Proposition 1A over \$900,000 to be available;
23 Proposition 1D, nearly \$70,000 be available. That in total
24 will be over a million dollars that would be allocated
25 potentially to the project if the Board decided to switch

1 bond authorities.

2 And so with that, North Monterey's project is over
3 \$1.47 million and they would technically receive a reduction
4 in the project.

5 The second option or Option 1B that we actually
6 laid out late last night is we actually did find some
7 projects on the unfunded list who actually have a
8 Proposition 1D allocation and those two districts are
9 Alpaugh and Monterey County Office of Education in which
10 they say they have a Labor Compliance Program in place and
11 they're willing to switch bond source from Proposition 1D to
12 Prop. 47.

13 And likewise that -- those particular funds would
14 be available for this project, so we would be transferring
15 in effect \$667,000 and 735,000 collectively. So in total we
16 would have over \$2.4 million in bond authority to switch for
17 the North Monterey project.

18 And so that's the other option for the Board. And
19 then the last option for the Board is whether or not to deny
20 the district's appeal.

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

22 CHAIRPERSON REYES: Mr. Hagman.

23 ASSEMBLY MEMBER HAGMAN: Just want to make sure I
24 understand it. So if you go with 1D, you're not going to be
25 using the full 2.4 million on this, just the amount that had

1 already approved for it; right?

2 MS. SILVERMAN: Right. That's --

3 ASSEMBLY MEMBER HAGMAN: So the other projects
4 will still be fully funded. This will be fully funded.
5 Just basically moving the cans around to figure out who gets
6 paid with what.

7 MS. SILVERMAN: That's correct.

8 ASSEMBLY MEMBER HAGMAN: And we went through this
9 a few meetings back with a couple other issues. Are we
10 fairly confident that this is one of the last ones who are
11 going to come up with this? Have we done any more
12 inspections or anything that we go out and visit these sites
13 because there's not that much more flexibility this Board
14 has to change bond funds.

15 MS. SILVERMAN: It's up to a school district to
16 communicate with us as far as whether or not they have a
17 Labor Compliance Program. One of the checks that we do
18 institute right now as far as trying to prevent material
19 inaccuracies is they have to provide us validation at the
20 time of fund release that they have a Labor Compliance
21 Program.

22 So we were doing preventative measures to prevent
23 material inaccuracies so we wouldn't release the funds, but
24 at this point in time, this is all that we know.

25 ASSEMBLY MEMBER HAGMAN: And for this particular

1 school district, we have authority or we had to sign off
2 when it got funded that they had this, but they didn't use
3 it?

4 MS. SILVERMAN: That's correct. That's correct.
5 They --

6 ASSEMBLY MEMBER HAGMAN: Is the school district
7 here to testify at all today?

8 CHAIRPERSON REYES: Yeah. No -- yeah. That's
9 fine.

10 MR. BRINKMAN: I'm Steve Brinkman, Assistant
11 Superintendent of Monterey County Unified. John Dominguez,
12 Total School Solutions -- School Site Solutions. I'm sorry.

13 The -- little bit about our district. First of
14 all, the district is nestled between Salinas on the south
15 and Gilroy on the north on the west side of Highway 101.
16 It's a low wealth district set at 80 percent free and
17 reduced lunches and has six schools -- elementary schools,
18 one middle school and a high school, and a continuation
19 school.

20 The central issue here as Ms. Silverman indicated
21 is labor compliance. I've been with the district a little
22 less than three months, but I feel like I've spent a good
23 bit of that time working on this issue frantically.

24 I've spoken with the personnel that were involved
25 at the time and they really thought that they were doing

1 labor compliance

2 My predecessor I spoke with and she indicated we
3 did labor compliance. We did all of the things and I said,
4 well, you need a State-recognized plan and you didn't have
5 that.

6 This district was not -- clearly not trying to
7 skirt the labor compliance issue. It had done labor
8 compliance with a third-party provider on other projects in
9 the past and it even started this project with that
10 particular provider, but that provider's plan was under
11 review and there was uncertainty and they didn't -- they
12 couldn't get a plan approved by the State for the district,
13 so they went on without it.

14 That was ill-advised. It was the wrong thing to
15 do and that's not in dispute at all.

16 But there was no evidence whatsoever that the
17 district tried to skirt labor compliance and in fact we've
18 got letters from trade unions in the area that are
19 supportive of the position on the appeal.

20 So I think that's very important as you consider
21 this process.

22 ASSEMBLY MEMBER HAGMAN: Yeah. Follow-up,
23 Mr. Chair. Just a question. And the reason I'm probing
24 here is we do have districts come up and have this issue and
25 I'm wondering sometimes it's a -- so complicated type of

1 event that maybe the training's not well or you think it's
2 just someone lower in the staff didn't watch it. Because
3 this is, you know, critical points of where we could
4 actually by law bring funds out. And like we're saying,
5 there's not much more -- you know, hide the football here,
6 move the cans around, and I'm wondering -- proactively that
7 you think our Board can direct as far as training,
8 education, re-auditing, something at that point.

9 Is there something wrong with the process or it's
10 just kind of like normally -- and I guess that's a broader
11 question maybe to everyone who services because we can't
12 keep fixing problems because we just don't have the tools to
13 fix it with.

14 At the same time, none of these cases I've seen so
15 far are really, you know, trying to do something that's
16 illegal or do something that's wrong. They're just not
17 fully following the rules and we see this a lot with a
18 change in rules that the Legislature puts down all the time
19 and different sources. And is it so complicated we can't
20 get it right? Is there something we can put out a little
21 better and -- for our Board a proactive versus reactive type
22 of thing for the future.

23 MR. BRINKMAN: I can probably only speak to this
24 district. I don't know about other districts, but I've had
25 experience with this in the past and as near as I could tell

1 it was just naïveté on the part of the district. They
2 signed -- two of their personnel signed affidavits that were
3 involved indicating that they did all of the activities of
4 labor compliance and again I pointed out that you still have
5 to have a State-approved plan and they didn't.

6 And we brought this fact forward during the
7 process of applying for funds release, so we were straight
8 up about it. Unfortunate mistake. Intent to in any way
9 skirt laws, I haven't found any evidence of that whatsoever.

10 That wasn't the case and in fact they like they
11 did labor compliance. Of course that's in the plan.

12 CHAIRPERSON REYES: Ms. Buchanan.

13 ASSEMBLY MEMBER BUCHANAN: I don't think any
14 district we've dealt with has ever intended to skirt laws in
15 terms of labor compliance. At the same time, I think all of
16 us agree that, you know, one of the reasons we have the
17 compliance laws is because we're all trying to deal with
18 underground economy and make sure that all of our
19 contractors, you know, play by the same rules.

20 And if you don't have labor compliance, then it's
21 very easy for someone to come in and, you know, pay a bunch
22 of guys \$5 an hour to do some work or whatever and, you
23 know, if they get injured, they go to our hospital. You
24 know, they're not paying for health insurance or anything
25 else.

1 And so it creates a very unequal playing field and
2 that's why we have the labor compliance laws.

3 And, you know, I'm not sure that -- you know, on
4 the one hand we opened a can of worms a long time ago and
5 every time we approve these, we say, you know, districts
6 have to understand that we're running out of bond authority
7 and we're not going to be able to keep switching and we're
8 at that point today.

9 I mean if you get any money, you're probably the
10 very last district to do that. But one of the things that
11 strikes me in your scenario is when you go through the
12 dates -- and we talked a little bit yesterday, is that you
13 weren't such a small district that this is the first program
14 you had and you had no experience with labor compliance.

15 In fact, labor compliance really the way it's set
16 up is not a complicated thing to do. You go out and you
17 hire a firm that's responsible for your Labor Compliance
18 Programs and that firm has to be certified by DIR that it
19 is -- can actually do that program.

20 And you had worked with Harris & Associates,
21 whatever this firm, in the past and when you look at the
22 timeline and the backup that was given here, you were
23 notified that they weren't eligible by both DIR and by
24 Harris before you ever signed the letter that said you had a
25 Labor Compliance Program.

1 And so having had the experience and being
2 notified that they were no longer certified and then sending
3 us a letter saying yes, you know, we want the funds that are
4 now available through this program because you were in line
5 for funding. You know, this money became available. You
6 were notified that, okay, if you have a Labor Compliance
7 Program, we can go ahead and put you into this program and
8 give you, you know, money sooner.

9 All of that happened and you had experience and
10 yet you didn't put a Labor Compliance Program in place. So
11 it's hard for me to believe that you didn't know what you
12 were supposed to do or what a Labor Compliance -- I don't
13 know about you personally -- is supposed to do -- or that
14 you could just have the district do it and there's no
15 evidence to me even in terms of, you know, what the district
16 did in its program, whether it actually went out and did the
17 financial audits, whether it did -- you know, how much it
18 was on the site talking to people, whether they did surveys.
19 I mean there's a whole scope of activities that can be done.

20 So, you know, where I am on this is I think since
21 we have a past precedent and there's money available, I
22 could support Option 1A. I can't support Option 1B because
23 I don't want to start -- I don't want to say cooking the
24 books, but if we start changing projects from fund to fund
25 to fund every time an exception comes up, I think you're

1 opening -- we're going beyond the slippery slope we knew we
2 were on and we're going to a position where when something
3 comes up and it's not labor compliance but something else,
4 but you want to switch funds because, you know, there's a
5 type of project that's covered under one bond that's not
6 covered for another, then do I go to your school district
7 and say well, we used -- switched funding sources.

8 I don't -- I applaud the staff for all that they
9 went through to get us to where we are today and for even
10 bringing up 1D, but I just don't think that's where we want
11 to go and the kind of precedent we want to set for future
12 programs.

13 So, you know, I can support 1A because of the
14 precedent that we've done before, but that puts us out of
15 funds which means the next person that comes -- district --
16 and there will be another district, it means we're done,
17 so --

18 CHAIRPERSON REYES: Ms. Brownley.

19 ASSEMBLY MEMBER BROWNLEY: I would concur with
20 those comments and if that was a motion, I'd second it.

21 ASSEMBLY MEMBER BUCHANAN: I move we support
22 Option 1A.

23 ASSEMBLY MEMBER BROWNLEY: Yeah. So I would
24 second that. I concur with all of your points.

25 I also am a little bit worried in terms of the

1 remaining \$400,000 that we have found in the last 24 hours
2 or whatever because, yes, they say they're LCP compliant,
3 but so did this district.

4 CHAIRPERSON REYES: They'll be here later.

5 ASSEMBLY MEMBER BROWNLEY: You know. So, you
6 know, that's not a -- you know, a firm verification I think
7 in some sense and I guess I would like to even add onto the
8 motion if the maker of the motion is acceptable that we make
9 loud and clear a strong statement that this is it.

10 You know, we are now out of 1D money. We -- that
11 means that labor compliant is absolutely mandatory and we
12 expect labor compliance. That's what the voters voted on.
13 They're expecting labor compliance and that we make it
14 absolutely 100 percent clear from this point forward. So --
15 and all the districts are aware of that -- that this is it.

16 If you don't have labor compliance as you are
17 required to do in order to get these funds, then no funds.

18 CHAIRPERSON REYES: Okay.

19 ASSEMBLY MEMBER BUCHANAN: I would say I don't
20 think we ought to add it onto the motion, but I do think we
21 could certainly direct staff to send a letter to school
22 districts that have remaining projects under, what, 47 and
23 55 and let them know that there is no -- you know, no option
24 left.

25 CHAIRPERSON REYES: I think if you look at the

1 transcripts where this issue has come up, we've always said
2 that. Our ability to do this is diminished every time we
3 approve something.

4 So any additional comments?

5 I just want to commend the staff for looking for
6 resources, trying to find alternatives. Oftentimes OPSC
7 staff doesn't get credit for looking at alternatives to
8 solve issues and this is one time where they went and looked
9 under the drawers, looked under the table, looked under the
10 bed, and tried to find some money.

11 But I understand Ms. Buchanan's point. I think
12 that's a fair approach in looking at the resources. My
13 concern was also that those folks would give up those funds.
14 Now we'll be here later and I was assured by staff that
15 would be the case, but we do have a motion. It's been
16 seconded.

17 Any additional comments from the public?

18 Okay.

19 ASSEMBLY MEMBER HAGMAN: Just a quick question.
20 Is -- if we approve this motion as is, Option 1A, and all of
21 a sudden we have a backfill of 1A or 1D coming or projecting
22 of that, does that close this door permanently for that or
23 is it something that if someone fails to use all the money
24 or fails to do the project because we do have those few in
25 the 18-month deals. I don't know what's -- is that possible

1 for the school district to come back and try to finish this
2 or --

3 MS. SILVERMAN: No one at this point in time has
4 communicated to us. Like North Monterey did communicate
5 with us perhaps about 90 days ago that there was an issue.

6 So at this point in time, we haven't been alerted
7 of any issues of those potential projects that are going --
8 set to expire on Friday. So no one at this point in time
9 has shared that with us.

10 ASSEMBLY MEMBER HAGMAN: It is Friday, is that
11 the --

12 MS. SILVERMAN: Friday is the deadline.

13 ASSEMBLY MEMBER HAGMAN: So there's probably not a
14 lot of hope at this point. Okay. Thank you.

15 CHAIRPERSON REYES: So then it's been moved and
16 seconded that we do 1A. Call the roll on that one.

17 MS. GENERA: Brownley.

18 ASSEMBLY MEMBER BROWNLEY: Aye.

19 MS. GENERA: Buchanan.

20 ASSEMBLY MEMBER BUCHANAN: Aye.

21 MS. GENERA: Hagman.

22 ASSEMBLY MEMBER HAGMAN: Aye.

23 MS. GENERA: Almanza.

24 MR. ALMANZA: Yes.

25 MS. GENERA: Moore.

1 MS. MOORE: Aye.

2 MS. GENERA: Dabby.

3 MS. DABBY: Aye.

4 MS. GENERA: Reyes.

5 CHAIRPERSON REYES: Aye. Thank you.

6 MS. GENERA: It carries.

7 CHAIRPERSON REYES: Thank you.

8 MR. BRINKMAN: Thank you. Again we really want to
9 express our appreciation to the staff at OPSC. They just
10 went above and beyond. They were completely supportive and
11 professional and cooperative during the whole process and we
12 do appreciate that.

13 CHAIRPERSON REYES: Great. Thank you. Okay.
14 Tab 14 was done. Tab 15 was done. Tab 16. And before
15 Barbara starts, I think this is going to be the last hearing
16 for you; is that what you were telling me? Were you teasing
17 me? No. She is. She's going to go out for maternity leave
18 for a few days. No, I'm kidding.

19 MS. KAMPMIENERT: Thank you. So Tab 16, we have
20 an item to address a component of the **Oakland Military**
21 **Institute's consent shell** that went forward earlier.

22 ASSEMBLY MEMBER HAGMAN: I move approval.

23 ASSEMBLY MEMBER BUCHANAN: Second.

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

25 Any questions?

1 ASSEMBLY MEMBER HAGMAN: Do you know how much
2 slower this is going to go when you go on maternity leave?

3 (Laughter)

4 CHAIRPERSON REYES: Any comments from the public?
5 Hearing none, without objection, could we go with unanimous?
6 Thank you.

7 **Reports.**

8 MS. SILVERMAN: Tab 17.

9 CHAIRPERSON REYES: Tab 17.

10 MS. SILVERMAN: Actually 18. Apologize.

11 CHAIRPERSON REYES: Do you want to -- oh, Tab 18.

12 **Legislative.**

13 MR. MIRELES: This is just our annual legislative
14 updates, information only, for the Board and all the bills
15 that have been recently chaptered that may impact programs
16 administered by the Board.

17 We have some very preliminary comments on the
18 potential implementation plan. This is just for
19 informational purposes.

20 CHAIRPERSON REYES: Okay. There is a piece of
21 legislation that was implemented, AB436, and I would like
22 without -- with the Board's approval to direct Mr. Savidge
23 to take on that as one of the first things that he does with
24 the Implementation Committee.

25 I know that Senator Lowenthal last time we spoke,

1 he wanted to the E (indiscernible) to be involved in the
2 accounting issues and you'll be having meetings with him,
3 but, you know, you're going to get the Implementation
4 Committee geared up and one of the things that Senator
5 Lowenthal and I discussed was that it'd be good if we as a
6 Board direct him on issues for the Implementation Committee
7 and any Board member can pull on him for data or research
8 issues or whatnot.

9 But in terms of the direction of the
10 Implementation Committee that the direction be provided by
11 the Board.

12 And so with that in mind, without objection, I'd
13 like to ask Bill to move forward with that.

14 MR. SAVIDGE: Will do.

15 CHAIRPERSON REYES: And there will be other
16 assignments forthcoming in the hearings to come, so -- thank
17 you.

18 MS. MOORE: Pedro, I just have a comment.

19 CHAIRPERSON REYES: Ms. Moore.

20 MS. MOORE: There are two other bills on this list
21 that indicate that OPSC is developing a plan for
22 implementation, AB677 and SB128. Do you -- can we also have
23 those follow for discussion at the Implementation Committee
24 to come forward with a plan to the Board. I would their
25 January 1st Implementation --

1 CHAIRPERSON REYES: We have the high performance
2 stuff. We've done a lot of work on that already. Are we --
3 isn't it in one of the reports?

4 MR. MIRELES: Yes.

5 CHAIRPERSON REYES: So that's already here.

6 MS. MOORE: No. They -- we have to take action to
7 implement this legislation; correct?

8 MR. MIRELES: We're reviewing what potential
9 action is required for AB436. It's one of the things that
10 we're currently reviewing. At this point, we don't have a
11 full plan.

12 CHAIRPERSON REYES: But no. But Ms. Moore is
13 referring to the Bills SB70 and SB128.

14 Is this the appropriate time to give additional
15 tasks to the Implementation Committee? That's really what
16 the question is. Ms. Moore --

17 MS. MOORE: And I -- it sounds like the priority
18 is the first legislation that you indicated --

19 CHAIRPERSON REYES: Um-hmm.

20 MS. MOORE: -- but it's been historical that the
21 Implementation Committee provides the recommendations for
22 implementing of legislation and it seems there's two other
23 bills on here that require that.

24 I'm assuming they have a January 1st
25 implementation date with normal -- like normal legislation,

1 so we would want to move those into the queue as soon as
2 possible too.

3 I'm particularly interested in SB128 because it
4 will I think enhance the Modernization Program and I think
5 it's important that we implement it as soon as we can.

6 MR. MIRELES: Yeah. And it's one of the -- again
7 it's one of the ones that we're looking at as well to see
8 what kind of a plan we need to do and whether it does
9 require --

10 CHAIRPERSON REYES: So we could include that. So
11 let's do that as a Board, include that into the
12 Implementation Committee.

13 Thank you, Ms. Moore. That makes sense.

14 MS. MOORE: Thank you.

15 CHAIRPERSON REYES: Thank you. Without objection
16 from the Board, that -- okay. Thank you.

17 Next item.

18 MS. SILVERMAN: Tab 19 is basically giving the
19 Board an update on the **joint use projects** that were funded
20 back in October 2010.

21 There were five projects that actually did receive
22 cash awards and they had 18 months to come in. Most of the
23 projects at that point in time said they would come in as
24 soon as they could -- possibly can. And then to date, we
25 have four projects that did come in. We still have one

1 outstanding. That's Merced Union High and our understanding
2 is they're working out some renegotiation process which
3 continues at the local level and they assure us that they
4 will be in before the April deadline.

5 CHAIRPERSON REYES: Okay. Thank you. Next tab.

6 MS. SILVERMAN: Tab 20 is our **workload report**.
7 Our workload report does reflect a December 7th date and
8 that will stand as December 14th.

9 CHAIRPERSON REYES: And we correct that,
10 December 14th.

11 MS. SILVERMAN: Right. And we will have the
12 Attorney General present to speak to Bagley-Keene and we
13 will also have apportionments to provide at that Board date
14 as well.

15 CHAIRPERSON REYES: Ms. Moore, I'm sorry. You --

16 MS. MOORE: So I -- we've had some discussions on
17 when that meeting is. So it's set for the 14th?

18 MS. SILVERMAN: We're going to move forward with
19 the 14th.

20 MS. MOORE: And is that a 2:00 o'clock meeting?

21 MS. SILVERMAN: I assume it would be at
22 2:00 o'clock, yes.

23 MS. MOORE: Okay. Thank you.

24 CHAIRPERSON REYES: Thank you. And there was no
25 date that we could get everybody. Just so people know that

1 we're not picking on you if that's a date that didn't work
2 for you. There is some days when we can have six people.
3 So just remember, that's the day we're going to approve a
4 lot of money, so be nice -- okay.

5 And then the **three-month workload** will then
6 reflect the items that were put off and --

7 MS. SILVERMAN: That's correct.

8 CHAIRPERSON REYES: And just for public disclosure
9 here, the Centinela may come up with an alternative that was
10 not on the list and that's part of the reason why it got
11 pulled. So --

12 MS. SILVERMAN: And that will be in January.

13 CHAIRPERSON REYES: Okay. Thank you. Next tab.

14 MS. SILVERMAN: Other than the date, I think we're
15 done.

16 CHAIRPERSON REYES: Information -- okay.
17 Ms. Brownley.

18 ASSEMBLY MEMBER BROWNLEY: Yeah. Before we
19 adjourn because it sounds like we're heading that way, I
20 just wanted to follow up back to the item -- the Monterey
21 item that we were discussing and the conversation about
22 informing school districts from this point forward --

23 CHAIRPERSON REYES: Um-hmm.

24 ASSEMBLY MEMBER BROWNLEY: -- if that's
25 something -- a direction that we were going to follow

1 through on.

2 CHAIRPERSON REYES: Yes. I think the decision or
3 the recommendation was that the --

4 MS. SILVERMAN: Direct staff to prepare a letter
5 to all districts notifying them that --

6 CHAIRPERSON REYES: Yeah.

7 ASSEMBLY MEMBER BROWNLEY: Thank you.

8 CHAIRPERSON REYES: And if there's like a form
9 like on a webpage or something -- I don't know what's
10 appropriate. I mean there are a lot of folks here who
11 follow this issue and can hear it now and they've heard it
12 before. I mean I don't know how to -- most -- you know, be
13 more vocal, be -- amplify the information that we're there.
14 Okay. Thank you.

15 Any public comment on any issues? I guess we're
16 adjourned. If this is not the quickest we have been in a
17 while. Thank you, everybody.

18 (Whereupon, at 2:50 p.m. the proceedings were recessed.)

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REPORTER'S CERTIFICATE

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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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