

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

CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, JANUARY 25, 2012
TIME: 4:04 P.M.

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

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

APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

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

JEANNIE OROPEZA, Deputy Superintendent, Services for Administration, Finance, Technology & Infrastructure Branch, California Department of Education, designated representative for Tom Torlakson, Superintendent of Public Instruction.

SENATOR ALAN LOWENTHAL

SENATOR LONI HANCOCK

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER JOAN BUCHANAN

ASSEMBLY MEMBER CURT HAGMAN

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Acting Executive Officer

BILL SAVIDGE, Assistant Executive Officer

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

LANCE DAVIS, Staff Counsel

P R O C E E D I N G S

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

CHAIRPERSON REYES: Ms. Jones, please call the roll.

MS. JONES: Okay. Senator Lowenthal.

SENATOR LOWENTHAL: Here.

MS. JONES: Senator Hancock.

Senator Runner.

Assembly Member Brownley.

Assembly Member Buchanan.

ASSEMBLY MEMBER BUCHANAN: Here.

MS. JONES: Assembly Member Hagman.

ASSEMBLY MEMBER HAGMAN: Here.

ASSEMBLY MEMBER BUCHANAN: Esteban Almanza.

MR. ALMANZA: Here.

MS. JONES: Jeannie Oropeza.

MS. OROPEZA: Here.

MS. JONES: Pedro Reyes.

CHAIRPERSON REYES: Present.

MS. JONES: We do have a quorum.

CHAIRPERSON REYES: Thank you. So let's go ahead and get started. Is there any public comments? Or we wait for the issues when they come up? Thank you.

You know, we've had this **Project Information Worksheet** item that we've held over several times because

1 Senator Runner had an interest on that and I was wondering
2 what the wish of the Board is.

3 I think there are two options. One is to -- as we
4 all know, Senator Runner unfortunately is not doing well and
5 I don't know when she'll come back, but I think this is an
6 item that we should address. And with all due respect to
7 Senator Runner, I think we do need to decide as a Board
8 whether we want to take it up for conversation or the
9 alternative is to send it to the Implementation Committee
10 for them to work out some of the issues, ways to streamline,
11 maybe applying it to other programs.

12 I think some of the information we're getting has
13 been very helpful and there's some void in some of the
14 programs, but I think there's got to be ways to streamline
15 it. Some of the reports are probably not necessary, like
16 the second report nor the three report and so forth.

17 So with the Board's permission, would that be okay
18 to just send it to the Implementation Committee?

19 SENATOR LOWENTHAL: That's fine.

20 CHAIRPERSON REYES: Do I need a motion for that or
21 is that direction enough?

22 MR. SAVIDGE: Direction's --

23 CHAIRPERSON REYES: Okay. Excellent. Thank you.

24 The other item that I do want to bring up is that
25 we had originally scheduled a closed session for today and

1 we do not need that. I think the issue's been resolved and
2 I think we're in pretty good shape on that. Thank you,
3 Mr. Allen.

4 So with that, we'll go to Tab 2.

5 MS. SILVERMAN: The **Minutes** are ready for your
6 approval.

7 ASSEMBLY MEMBER HAGMAN: So move.

8 CHAIRPERSON REYES: It's been moved.

9 ASSEMBLY MEMBER BUCHANAN: Second.

10 CHAIRPERSON REYES: Moved and second. Any public
11 comment on the Minutes? Any questions/comments? Okay. Do
12 we need to take a roll call?

13 MS. OROPEZA: I'm going to abstain because I
14 wasn't here before.

15 CHAIRPERSON REYES: Okay. That still gives us
16 enough votes to approve them. Thank you.

17 Item 3, **Executive Officer's Statement.**

18 MS. SILVERMAN: Yeah. We have actually about six
19 items to share with you tonight. We were actually quite
20 busy over the last month.

21 I want to give the Board an update on the fund
22 releases that were approved -- excuse me -- the
23 apportionments that were approved in December of 2011.

24 This Board did provide \$923.8 million for priority
25 in funding apportionments for 377 school districts. And so

1 as of January 20th, the Office of Public School Construction
2 did receive over 194 fund release requests for \$442 million.
3 So we've been pretty busy over the last few weeks and nearly
4 370 million has been released to projects. So those are big
5 progress movements that we're making as far as moving the
6 cash to those projects.

7 Again the districts that come in with priorities
8 in funding have until March 13th to come in for the 50-05.
9 So with that in mind, again the reminder to all school
10 districts that their item physically received by March 13th
11 by 5:00 p.m.

12 And again if those projects don't succeed in
13 moving forward with the fund release, then we're actually
14 going to move those projects to the unfunded list and
15 they'll be redated for March 13.

16 Another issue I'd like to share is the new
17 priorities in funding certification period currently opened.
18 There is a new 30-day funding round. We did make that
19 announcement at the last Board.

20 So the certification period began January 11th and
21 ends February 9th and as of February -- excuse me -- as of
22 January 20th, we actually did receive 83 requests so far for
23 \$273 million.

24 And again we encourage all those folks that are
25 currently on the unfunded list to submit their certification

1 if they qualify.

2 And another thing that we want to reiterate is
3 those projects that are approved tonight also will have the
4 opportunity to submit for the priorities in funding
5 certification. And again reiterate the point that they need
6 to come in by February 9th.

7 And the third item I'd like to share is the New
8 Construction Subcommittee had a hearing on January 11th.
9 Assembly Member Buchanan will be presenting the overview of
10 that item, basically all the discussions that we've had
11 recently.

12 And we do have a follow-up Subcommittee hearing
13 scheduled for February 6th on Monday and that's from 3:30 to
14 5:30. So look forward to the agenda and the webcast posted
15 on our website.

16 An update on the prevailing wage monitoring
17 requirements: we actually did have an informational session
18 this morning for our stakeholders. That included the
19 Department of Industrial Relations that we actually
20 partnered with today.

21 So actually had some good discussions there and
22 there was actually some earlier forums during the month. So
23 we're hoping to give some outreach, some opportunities for
24 folks that are maybe unclear about the process. We actually
25 had two lead agencies speaking on those particular topics.

1 So again give us a few days and we can actually
2 post that information on our website.

3 Some information we wanted to share is the new use
4 of modernization funds as a result of SB128, Senator
5 Lowenthal, his bill. We actually are allowing districts at
6 this point in time to submit modernization applications on
7 or after January 1st.

8 Those particular projects with modernization funds
9 that actually have some green attributes, high performance,
10 they can come in for funding and so -- but again it's not
11 limited to new energy systems or solar panels.

12 Again we did send an email blast to school
13 districts allowing them that they can come in for the
14 program. We have some projects (indiscernible) that came in
15 maybe prematurely before this bill was enacted; so those
16 projects have been -- those folks have been contacted and
17 they have been encouraged to apply.

18 And our last item, we actually wanted to give the
19 Board a follow-up. There was much discussion last month
20 about the money that was drawn and how much cash that we had
21 to apportion to projects and we did share with the Board
22 there were some shortfalls in some of the cash that we were
23 seeking in the Charter School Program and we're happy to
24 announce that we did actually find \$7 million for those
25 folks.

1 So we did notify the Charter School Association
2 and we're actually going to work on an email blast notifying
3 those school districts that there are additional funds
4 available. They could come in for those advance site and
5 design funding and again reiterate that the importance of
6 submitting those fund release requests by May 2nd, 2012.
7 And that's what I have for now.

8 CHAIRPERSON REYES: Thank you. Any comments.
9 Senator Lowenthal.

10 SENATOR LOWENTHAL: First on the new use of
11 modernization funds, I want to thank you for moving forward
12 with that and expanding what is allowable under
13 modernization to not just replacement but to really be able
14 to access high performance also.

15 The other -- the question though I have is that
16 that bill had two parts to it besides the change in
17 modernization grants to allow them to look at high
18 performance. The other part of it was CTE which was as we
19 know career technical education -- for those grants also to
20 look at -- to be able to access high performance grants.
21 That was the second part also signed by the Governor and
22 passed by the Legislature.

23 Actually it was under the -- it was my Republican
24 colleague in the Senate that really asked me to add that
25 part to the bill -- one of those colleagues.

1 And so I just want to follow up on that to make
2 sure that we're really -- the Implementation Committee is
3 working on that -- on the career technical education part.

4 Okay? And I don't know if it's set in stone about
5 the new construction, something that I'm really looking
6 forward to. Turns out that I'm not going to be here on
7 February 6th. So either they can go forward or we can
8 reschedule, but it just turns out I'm not --

9 ASSEMBLY MEMBER BUCHANAN: We'll talk after the
10 meeting.

11 SENATOR LOWENTHAL: Okay.

12 ASSEMBLY MEMBER BUCHANAN: Is that okay?

13 SENATOR LOWENTHAL: Okay. I really want to talk
14 because I really want to be here. I know I was not ready
15 the last time --

16 ASSEMBLY MEMBER BUCHANAN: I think it's important
17 that you're here, but let's not take this time --

18 SENATOR LOWENTHAL: I do, as you're trying to
19 influence me.

20 (Laughter)

21 SENATOR LOWENTHAL: And I think that's wonderful.
22 That's why we have the Committee.

23 ASSEMBLY MEMBER BUCHANAN: Persuade.

24 SENATOR LOWENTHAL: Persuade. Thank you.

25 CHAIRPERSON REYES: Ms. Oropeza.

1 SENATOR LOWENTHAL: And you're doing a good job,
2 but I need to be there.

3 ASSEMBLY MEMBER BUCHANAN: Good.

4 CHAIRPERSON REYES: Thank you, Senator.
5 Ms. Oropeza.

6 MS. OROPEZA: I just want to acknowledge the hard
7 work of OPSC in getting the money out quickly and all the
8 projects and not let that go unnoticed. So thank you for
9 your hard work.

10 MS. SILVERMAN: Thanks.

11 CHAIRPERSON REYES: Bruce.

12 MR. HANCOCK: Thank you, Chairman Reyes, members
13 of the Board. I'm here today just to reiterate an issue
14 that has been placed in a letter by the Oceanside Unified
15 School District regarding the priority funding round and the
16 question related to how available funds are distributed.

17 I won't take much of your time today except to
18 express the Oceanside School District's concern that money
19 that was -- that did become available prior -- during the
20 previous priority funding round may be being apportioned to
21 projects that are only now getting on a new funding round.

22 It's our belief that when money becomes available
23 determines which list of priority funding projects receive
24 that money. I think maybe I've scrambled it a little bit.

25 I'm simply trying to say that during a six-month

1 period when there is a priority funding list, any funds that
2 become available should be apportioned in my opinion under
3 the Board's guidelines to projects that are on the list at
4 that time.

5 And it may be that for administrative reasons the
6 Office of Public School Construction has to do some things
7 with the funds before the apportionments can be made and
8 therefore the apportionments are not actually made until a
9 second funding list has been created, but in my opinion, the
10 Board's guidelines on this require that money to be given to
11 the list that was in effect at the time the money became
12 available not to the list that exists at the time the
13 apportionments are made.

14 And we realize that that's not on your agenda to
15 discuss today --

16 CHAIRPERSON REYES: Yeah. Yeah.

17 MR. HANCOCK: -- but we would -- because it was
18 brought up --

19 CHAIRPERSON REYES: Okay.

20 MR. HANCOCK: -- by Ms. Silverman as another
21 funding round being underway, we appreciate your
22 consideration of that issue. Thank you.

23 CHAIRPERSON REYES: Thank you. With -- can you
24 wait a sec? With the Board's indulgence, I would like to
25 take care of Item No. 10 for Ms. Fuller who's here for that.

1 It's the **Needles** appeal. Is there an objection to that to
2 jump in out of order? Hearing none --

3 SENATOR FULLER: Thank you.

4 CHAIRPERSON REYES: My apologies, Ms. Fuller. I
5 was not made aware --

6 SENATOR FULLER: Thank you. I'm very glad to --

7 CHAIRPERSON REYES: -- all of a sudden, I look
8 back and go ooh.

9 SENATOR FULLER: Well, it's actually exciting for
10 me to get to come see you from the opposite side of the
11 table.

12 I am pleased to be back with you this afternoon.
13 As a former member of this Board, I really appreciate the
14 hard decisions you have to make and I know that there are
15 many tough decisions coming.

16 But I'm here today to talk to you on behalf of the
17 **Needles Unified School District**, and I think you'll find
18 some of the facts compelling.

19 They're a very, very small district out in the
20 middle of -- well, they're next to three rivers -- or a big
21 river I guess it is and I've never been there. It's in my
22 district. The territory that their school district has is
23 the size of Connecticut. They only have 900 students. They
24 have declining enrollment and they started to build this
25 school and it has taken them 11 years because of all the

1 problems that they were required to do on BLM land and
2 whatever, including building a waste water treatment plant
3 for the school, not being able to get power and so on.

4 So what started out 11 years ago is now about to
5 come to conclusion, but the school is about to be inhabited
6 that you all actually funded at 13 million, but the problem
7 is that they were required to demolish the old school and
8 the kids had to stay in the old school for 10 of those 11
9 years because they couldn't move to the new school because
10 it couldn't open.

11 Then they had to bus the kids, some of them as
12 long as 45 minutes across the state lines to an Arizona
13 school and pay a half million dollars every year to house
14 them there.

15 So my ask today is to consider their very unique
16 situation. They are asking to be given a place in line --
17 not a priority place, just a place in line for a relatively
18 minor amount of funding the next time the eligible funding
19 becomes available.

20 There are many challenges to the school, but at
21 this point if the kids can just move in that nice new
22 facility, if they can take care of demolition -- and I think
23 they're down to -- the total price now will be under
24 300,000, so you might have more on there. So half would be
25 about 150,000.

1 It would mean a great deal to this school and I
2 think it's a better use of our resources or I wouldn't be
3 here. Sending a half million dollars over the line --
4 they're very small. I don't know how this would work.

5 There is some indication that 11 years ago the
6 school district should have put that on the application. In
7 my review, I'm not exactly sure that they did or they
8 didn't, but it doesn't matter. The school district doesn't
9 wish to contest that. They're just here to sort of throw
10 theirself on your mercy. Thank you.

11 CHAIRPERSON REYES: Thank you. Staff wants to add
12 anything to that?

13 MS. SHARP: Well, if I may and thank you for
14 giving the background, Senator Fuller.

15 The reason -- I'd like to go over just a little
16 bit about the reasons why staff feels that we're unable to
17 support the district's request.

18 The district asked us to consider the additional
19 funding under two avenues, the first as an error or omission
20 on the original project -- it was an oversight and not
21 submitted.

22 And the funding for a facility hardship project,
23 the new construction project would fall under site
24 development and demolition is an allowable expense in some
25 cases.

1 And the case is eligible under site development
2 regulations, .76, is when the new buildings are in line with
3 footprint of the old buildings.

4 In this particular case, since the district is
5 abandoning the old site and going to a completely new site,
6 it didn't quite meet that criteria. So it doesn't meet
7 those regulations. The second --

8 SENATOR FULLER: And before you go to that next
9 one, can I --

10 MS. SHARP: Um-hmm.

11 SENATOR FULLER: And the reason was, is because
12 they had leased land from the Bureau of Reclamation. This
13 is kind of out in the nowhere with federal land and the
14 bureau kicked them off.

15 So they had to select a new site on BLM land. Am
16 I correct in that? That's -- it's also leased. And they
17 would have -- and so the main reason that they left the old
18 site to go to a new site was not because of the district's
19 need to. It was because they were kicked out by the
20 government basically.

21 MS. SHARP: There was another aspect as well to
22 that facility hardship in that it was on a two-lane road,
23 very far out from other areas and it was a dangerous
24 two-lane road and that was part of its original facility
25 hardship.

1 So moving onto the second avenue the district
2 asked us to explore, there is an allowance for an exception
3 to the full and final requirement in the Education Code and
4 that allowance is when there are relocation costs incurred
5 by the -- in the process of the project.

6 Relocation costs are defined in regulation by
7 direction to Title 25, California Code of Regulations. And
8 Title 25 basically defines relocation expenses for a
9 displaced entity in the course of eminent domain
10 proceedings, but we didn't feel that that fit in this case.

11 It was not part of an eminent domain. Yes, there
12 was a leased issue, but it was not part of the eminent
13 domain issue.

14 So those were the two areas and of course we
15 looked fully at the regulations and since it didn't meet
16 those two criteria and fit in there, staff had previously
17 administratively denied their request and does not support
18 it today.

19 SENATOR FULLER: And so I guess my final closing
20 would just be that eminent domain requires you to move and
21 you don't have the ability to not move and that was the
22 situation that they found themselves in. The difference was
23 that it was a lease from the Bureau. And this was 11 years
24 ago, seven school boards ago, several superintendents ago.

25 I'm not sure everybody could argue all the facts

1 accurately. If I'm not getting them right, please feel free
2 to chime in, but basically that was the problem. It was not
3 the school district's fault that they had to change
4 location. They really had no choice.

5 Thank you very, very much for your consideration.

6 CHAIRPERSON REYES: Thank you.

7 SENATOR FULLER: And thank you, staff. I
8 understand that this is a tough question. It's just that
9 this little school really needs the help. Thank you.

10 CHAIRPERSON REYES: Mr. Hagman.

11 ASSEMBLY MEMBER HAGMAN: Thank you, Mr. Chair.
12 It's interesting because every time we have a different new
13 appeal, there's always new issues, and I think that's kind
14 of what we see in a great state like California with so many
15 diversified, different settings that you can't make a law
16 perfect to fit every situation thought of or not brought up
17 in the future.

18 I'm wondering what the difference would be when
19 you pay for a site acquisition and then two years down the
20 line when the school starts figuring out -- because I see a
21 lot of these too -- toxic cleanup that goes into the
22 millions or things like that for site cleanup after -- they
23 find out after the fact so to speak.

24 I'm sympathetic to the Needles cause in this case
25 because it wasn't a choice by the district. It's kind of

1 like a forced-to type of thing and the project was approved
2 to build a new school and this is kind of leftover, but I'm
3 wondering (a) under those same type of circumstances, we
4 approve X amount of the dollars to buy a new site and we
5 find out a whole bunch of problems at that site later or the
6 utilities aren't brought up there -- meaning the other
7 number of things we've seen here on these appeals so far in
8 the last year for me -- to take care of old obligation if
9 it's required by law because the Federal Government's saying
10 this.

11 (A) Do we need an amending of our regulations or
12 (B) is there something prohibiting us from us taking care of
13 this in this example.

14 CHAIRPERSON REYES: Ms. Buchanan.

15 ASSEMBLY MEMBER BUCHANAN: I view it a little
16 differently, but we might be on the -- overall on the same
17 page and -- because it's -- you know me. I'm kind of
18 outspoken on exceptions and people following the rules and
19 all of that, but I don't know how many schools we have on
20 federal lands in this state, but my guess is we probably
21 have -- we have a thousand school districts.

22 If we had 10,000 plus schools, we probably have a
23 handful at most probably on reservations or in this case
24 this situation.

25 And if the school -- if the district could have

1 built on the -- or placed on the same site, we would have
2 paid for the demolition, but there's no way the district
3 could have built on this site out of no fault of their own.

4 And so I agree that if we want to follow
5 technically the letter they don't qualify. I'm not sure I
6 want to change the rules because maybe these exceptions are
7 so rare they should come us because we are the ones that
8 should be deciding these, but to penalize the district
9 because the feds kicked them off the land and wanted them to
10 do work that would have been covered in any other situation,
11 if they would have rebuilt on that land which they would
12 have or if they were at another site would have done it, it
13 seems -- you know, we're -- it seems that it's not
14 reasonable.

15 And so while I'm always the stickler of the
16 rules --

17 ASSEMBLY MEMBER HAGMAN: So you're moving it?

18 ASSEMBLY MEMBER BUCHANAN: -- I think this is a
19 situation where it would make sense to make an exception not
20 because it's an oversight because everything could be an
21 oversight but because we have a very unique situation and
22 that this was part of the lands and requirements for Bureau
23 of Reclamation.

24 ASSEMBLY MEMBER HAGMAN: So are you moving it?

25 ASSEMBLY MEMBER BUCHANAN: I'll move it.

1 ASSEMBLY MEMBER HAGMAN: I'll second.

2 CHAIRPERSON REYES: Okay. It's been moved and
3 second. Any other questions or comments?

4 Let me ask a question. If this were a property
5 leased from a private individual, then you would have a
6 different view. But because it's a government entity and
7 they were not given the option to -- or would you have the
8 same position if it was a -- I don't know -- Hagman
9 Enterprises that owns the property?

10 ASSEMBLY MEMBER HAGMAN: Well, I think for the
11 most part, I like the district to own their own property
12 when they're building -- we're using 30-year bond money to
13 build a school. It would be nice if they owned the property
14 so you're not moving around next time your lease comes up.

15 So I think it's very rarely that you ever should
16 lease out a site in the first place with the exception of
17 being a government entity or a tribal nation or something
18 like that. I think that's the only exception I would
19 consider it for.

20 If a district has a 20-year lease and we're going
21 to put 30 years of bond money into a 50-year school site,
22 it's probably not a very good business move to begin with.

23 So I do draw the exception with that because in
24 some areas in the state the Federal Government owns, you
25 know, quite a bit of land and you can't really find too many

1 spots around some of those big swatches there. So I think
2 that is a unique situation when it comes to a government
3 entity like that.

4 CHAIRPERSON REYES: Okay. Ms. Hancock.

5 SENATOR HANCOCK: It's my understanding that this
6 was a financial hardship school that got a hundred percent
7 funding from the state, no match?

8 ASSEMBLY MEMBER BUCHANAN: It's a facilities
9 hardship.

10 MS. SHARP: It was under the Facility Hardship
11 Program and part of it was financial hardship. I don't have
12 a copy of the actual funding item with me right now, but a
13 portion of it was financial hardship. The district may be
14 able to speak closer to that.

15 ASSEMBLY MEMBER BUCHANAN: But this portion is
16 facilities hardship; correct? Is that what they're --

17 MS. SHARP: The whole project qualified, yes,
18 under the Facility Hardship Program.

19 ASSEMBLY MEMBER BUCHANAN: So they're asking for
20 50 percent funding under this; right? Under the facilities
21 hardship. I just want to clarify. That's --

22 SENATOR HANCOCK: But the school itself is a
23 financial hardship?

24 CHAIRPERSON REYES: I see a couple district folk.
25 Do you want to clarify this issue or -- who's going to draw

1 the short straw on this one.

2 MR. DAVITT: I'm Mike Davitt, Superintendent of
3 Needles Unified School District, and I'm going to be as
4 responsive to your question as I can be and it disappoints
5 me to tell you that I simply don't have the technical
6 knowledge to know exactly what we qualified under.

7 This project's been going on as you've heard for
8 over a decade. I've been Superintendent of the district
9 since July of 2009. My charge has been to try to bring this
10 program to fruition. I don't understand its roots enough to
11 be able to answer your questions effectively.

12 CHAIRPERSON REYES: Okay. It looks like somebody
13 may be --

14 SENATOR FULLER: We're going to bring someone who
15 has answers.

16 MS. PARK: Luisa Park, Hancock, Gonos & Park. And
17 this particular project for this demolition, it's a 50-50.
18 It is not a financial hardship.

19 CHAIRPERSON REYES: Okay. All right. It's a
20 50-50. Okay.

21 MS. SHARP: Could I also add one other thing?

22 CHAIRPERSON REYES: Yes.

23 MS. SHARP: When we talking about leased land
24 earlier, according to SFP regulation, a district can only
25 lease from a governmental entity.

1 CHAIRPERSON REYES: Right. Right. There will
2 always be a government issue whenever a lease occurs, so our
3 ability to lease is going to be subject to their --

4 ASSEMBLY MEMBER BROWNLEY: I'm not sure I
5 understand the point.

6 CHAIRPERSON REYES: Well, the point is that we're
7 saying that they had to move out because they were asked to
8 move out.

9 ASSEMBLY MEMBER BROWNLEY: Right.

10 CHAIRPERSON REYES: And so that will always be the
11 case because -- so the scenario that we have before us or
12 the -- you know, the issue's always what kind of precedent
13 setting do you have and is this where you want to go and
14 then Mr. Hagman points out so this is a very unique
15 situation.

16 And my point is, is that a lease will always be a
17 unique situation because you'll always -- the lease --

18 ASSEMBLY MEMBER BROWNLEY: A lease with the
19 Federal Government.

20 CHAIRPERSON REYES: -- will always be with
21 government.

22 ASSEMBLY MEMBER BROWNLEY: Right.

23 CHAIRPERSON REYES: So they will always be at the
24 mercy of that Federal Government. So there's no uniqueness
25 to it. When it comes to leases, all leases will be the same

1 footing.

2 ASSEMBLY MEMBER HAGMAN: Can I ask a question?

3 CHAIRPERSON REYES: That's all. Yes.

4 ASSEMBLY MEMBER HAGMAN: I'm just wondering when
5 you're looking at these sites when you do your initial site
6 verification, is there some kind of requirements you look --
7 I mean I can't believe there's a lot of leased school --
8 land and schools out there, but if there is, do you look at
9 the term of the lease? You got -- how long -- what's the
10 limit we set for them?

11 And this was built in 1953, so --

12 MS. SHARP: Regulation requires that it's a
13 minimum of 30 -- or excuse me -- a minimum of 25 years,
14 40 years, or 30 years depending on the entity --
15 governmental entity that they're leasing from.

16 ASSEMBLY MEMBER HAGMAN: Okay. I would hope at
17 least 30 years.

18 SENATOR FULLER: If I may add, the new lease is
19 after five years, the government gives it to them for a
20 dollar or something. So they will get -- that was part of
21 the deal when they --

22 CHAIRPERSON REYES: The end of the lease is --

23 SENATOR FULLER: Yeah, so --

24 ASSEMBLY MEMBER BUCHANAN: Does the new lease
25 require demolition when it's abandoned or is that a unique

1 situation?

2 SENATOR FULLER: They will own it themselves after
3 five years with -- they're giving it to them basically.

4 ASSEMBLY MEMBER BUCHANAN: Okay. All right.

5 CHAIRPERSON REYES: Ms. Brownley, you had a
6 question.

7 ASSEMBLY MEMBER BROWNLEY: Yeah. So just relative
8 to the contract that was established many years ago with a
9 lot of different leadership changes, et cetera, was any of
10 this specified within the contract that -- and in the event
11 that the Federal Government wants to take back the land,
12 they want to take it back as it was originally? In other
13 words, did the school -- if the school district at that
14 particular point in time knew that -- at that point in time
15 knew that that was the requirement but obviously through
16 several generations of leadership and boards and so forth,
17 they might have known.

18 SENATOR FULLER: I'm not clear that there's
19 anybody left there that was there in the first place, so
20 the --

21 ASSEMBLY MEMBER BROWNLEY: Is there a copy of the
22 original contract?

23 SENATOR FULLER: -- records that they have are
24 the -- are what everybody went by. I think part of the
25 issue was that they thought they were going to -- the first

1 group thought they were going to build a school in three to
2 five years, but they ended up not getting to finish it for
3 11, so the kids had to stay in the building they were being
4 kicked out of and then bureau had to keep figuring out ways
5 to let them stay one more year, one more year, one more
6 year.

7 ASSEMBLY MEMBER BROWNLEY: Yeah, but this is about
8 the cost of the demolition; right?

9 SENATOR FULLER: This is half the cost of the
10 demolition.

11 ASSEMBLY MEMBER BROWNLEY: Right. So I mean one
12 way or the other, you were going to get to that point of
13 whether you had to demolish or not; right?

14 SENATOR FULLER: Yes.

15 MS. SHARP: I'd like to add that it was part of
16 the original lease signed in 1981.

17 ASSEMBLY MEMBER BROWNLEY: It was part -- the
18 demolition piece --

19 SENATOR LOWENTHAL: What was part?

20 ASSEMBLY MEMBER BROWNLEY: -- was part of the
21 lease signed in 1981.

22 SENATOR LOWENTHAL: What does that mean?

23 MS. SHARP: It was a requirement in the lease that
24 the district entered into with the Bureau of Land
25 Reclamation in 1981 and we have some specific language on

1 stamped page 126 on the district's position -- what was
2 stated in the lease.

3 CHAIRPERSON REYES: Sir.

4 SENATOR LOWENTHAL: You cannot -- what I don't --
5 what -- and I tend to think of this as a unique situation
6 followed along with my colleagues so far in the Assembly --
7 that we have very specific regulations.

8 We have regulations about demolition, paying for
9 demolition costs when the site is going to be the same site.

10 This -- because of these unique circumstances, we
11 don't have any regulations about this also when we're doing.
12 So we don't have anything.

13 We're saying that the eminent domain doesn't fit
14 in this case, but that's assuming that eminent domain is the
15 correct -- you know, what we should be applying to this and
16 which I don't think it should be.

17 But I also think that we don't have regulations
18 also about this knowing that on federal lands this -- these
19 could happen. So I think it just confuses for me the issue
20 and makes it such a unique situation that I'm willing to go
21 along with the appeal.

22 CHAIRPERSON REYES: Ms. Buchanan.

23 ASSEMBLY MEMBER BUCHANAN: It seems to me that
24 when we've had other situations where a site's abandoned and
25 the district owns it, the district is able to recoup its

1 costs because it does whatever mitigation it has and then it
2 sells the land and it gets the net proceeds.

3 But in this situation it has no way of recouping
4 its cost. It had the advantage of having the federal lease
5 for all those years, but they can't house students there
6 because they've got a waste water problem and they have to
7 move and they can't build on the site because of those
8 issues.

9 So it's just -- like I said, there's a part of me
10 that wants to be the stickler, but I don't think the
11 district was in a position to do anything other than what it
12 did and if it had owned the land, it would be able to
13 recover the cost. If it could build on the land in the same
14 footprint, it would be able to recover the lost. It's just
15 a very unique situation.

16 ASSEMBLY MEMBER BROWNLEY: But there was a
17 contract in 1981 that said that that's what they had to do
18 when they left the property is demolish --

19 ASSEMBLY MEMBER BUCHANAN: Right. Yeah.

20 ASSEMBLY MEMBER BROWNLEY: -- the facility.

21 ASSEMBLY MEMBER BUCHANAN: So -- right. So the
22 question is who bears the cost of it and they're in a unique
23 situation because they don't own it. They can't cover it
24 through -- because they own the land, they can't cover the
25 cost. They can't get a fair share -- or the other half out

1 of it from us because they're not building on the same site
2 and I can't think of many schools in the --

3 ASSEMBLY MEMBER BROWNLEY: Right.

4 ASSEMBLY MEMBER BUCHANAN: -- State of California
5 that are in that situation.

6 ASSEMBLY MEMBER BROWNLEY: Except the request
7 didn't come at the point in time, you know, when they were
8 asking for the money and so forth and so on. They didn't
9 ask for the demolition fee.

10 CHAIRPERSON REYES: Okay. I think there's been a
11 motion and a second. Are we ready to vote? Please call the
12 roll.

13 MS. JONES: Lowenthal.

14 SENATOR LOWENTHAL: And we're voting on the appeal
15 now of the --

16 CHAIRPERSON REYES: Yes, on the appeal.

17 SENATOR LOWENTHAL: I support the appeal. Aye.

18 MS. JONES: Hancock.

19 Okay. Brownley.

20 ASSEMBLY MEMBER BROWNLEY: Not voting.

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: Oropeza.

3 MS. OROPEZA: Aye.

4 MS. JONES: Reyes.

5 CHAIRPERSON REYES: Not voting.

6 MS. JONES: It does not pass.

7 CHAIRPERSON REYES: Thank you.

8 SENATOR FULLER: Thank you very much, all of you.

9 ASSEMBLY MEMBER BROWNLEY: Mr. Chair, can we just
10 raise an issue that's not really related to this item, but
11 it's more of a procedural issue that -- I've had a couple of
12 people point out to me that on these items that we're voting
13 on and this one -- what was it, Item 8 -- that --

14 CHAIRPERSON REYES: It's Item 10.

15 ASSEMBLY MEMBER BROWNLEY: -- it was -- Item 10.

16 SENATOR FULLER: Can I place that on call?

17 CHAIRPERSON REYES: Sure.

18 SENATOR FULLER: If you have any -- thank you.

19 ASSEMBLY MEMBER BROWNLEY: The staff
20 recommendation, what -- the first one is to take no action.

21 CHAIRPERSON REYES: Um-hmm.

22 ASSEMBLY MEMBER BROWNLEY: And, you know, I've had
23 some people raise the question whether that's an appropriate
24 action relative to the Mason's Legislative Manual.

25 CHAIRPERSON REYES: Um-hmm.

1 ASSEMBLY MEMBER BROWNLEY: Have you had anyone
2 discuss this with you at all? And argues that the rules
3 really don't allow staff to recommend to take no action,
4 that we have to take an action.

5 CHAIRPERSON REYES: Right.

6 ASSEMBLY MEMBER BROWNLEY: And so I know we've
7 been -- you know, for the last year or so --

8 CHAIRPERSON REYES: Um-hmm.

9 ASSEMBLY MEMBER BROWNLEY: -- we've been -- this
10 has been a staff recommendation on various items and we have
11 followed it, but I guess I was just wondering whether this
12 was something that the Rules Committee should really take up
13 to make sure that we're acting appropriately.

14 CHAIRPERSON REYES: Well, the way I look at it is
15 they're basically laying out different options for us to
16 take. So one, it was to accept the district's appeal. The
17 other one was to not take action. Therefore staff's
18 recommendation stands.

19 And the way I look at the process is that the --
20 if the issue were clean-cut, that the staff could take an
21 action on it and clearly the district's request comes
22 through. It's when staff can't take an action because of
23 the nuances or that it doesn't fit into the nice box where
24 they're authorized or just inconsistent with something else,
25 it really has to come to the Board.

1 The action of the staff at that point is to deny
2 the district's request and then the action of the Board is
3 to essentially overrule the staff at that point.

4 ASSEMBLY MEMBER BROWNLEY: Well, I know. Just in
5 this case, if we were -- in terms of rather than saying
6 taking no action that we would say we would move to deny the
7 appeal, which ends up in the same place; right?

8 CHAIRPERSON REYES: I think the move was to --

9 ASSEMBLY MEMBER BROWNLEY: I'm not talking
10 about --

11 CHAIRPERSON REYES: Okay.

12 ASSEMBLY MEMBER BROWNLEY: I'm not talking about
13 the specific action we're taking.

14 CHAIRPERSON REYES: Okay.

15 ASSEMBLY MEMBER BROWNLEY: I'm just talking about
16 in general --

17 CHAIRPERSON REYES: Okay.

18 ASSEMBLY MEMBER BROWNLEY: -- when if in another
19 item we would have --

20 CHAIRPERSON REYES: Um-hmm.

21 ASSEMBLY MEMBER BROWNLEY: -- agreed with the
22 recommendation to take no action or our agreement would have
23 been to deny the appeal, either way gets us to the same
24 place. I'm just saying that the -- whether we should be
25 taking action specifically on denying the appeal rather than

1 saying we're not going to take any action which isn't a vote
2 which means we haven't made a deliberative choice one way or
3 the other.

4 CHAIRPERSON REYES: Okay.

5 ASSEMBLY MEMBER BROWNLEY: If that makes sense.

6 CHAIRPERSON REYES: Yes. I get your point.

7 ASSEMBLY MEMBER BROWNLEY: Yeah.

8 CHAIRPERSON REYES: Mr. Hagman, then Ms. Oropeza.

9 ASSEMBLY MEMBER HAGMAN: I understand what you're,
10 Ms. Brownley, but what I'm thinking is there is --
11 99 percent of what happens on this is done by the staff
12 administratively. We have the Consent Agenda, they follow
13 the rules. If someone doesn't like the rules, it's like
14 back in city council days. They take it to the council.
15 They overturn the planning commission and the council takes
16 some affirmative action to change the status of what staff
17 has done.

18 Otherwise no action means that what staff has done
19 following those rules and guidelines that they have takes
20 place. So in absence that we don't have enough votes that
21 whatever staff does is there.

22 I think we have to take affirmative action to
23 change what has been done administratively and that's how I
24 see it.

25 ASSEMBLY MEMBER BROWNLEY: I don't want to make a

1 big deal out of this. I'm just recommending that maybe the
2 Rules Committee look at it, but I know in the Mason's
3 Legislative Manual it says in order for a deliberative body
4 to make a decision or take an action, a vote must be taken.

5 So if we're saying to take no action and we don't
6 vote on it, whether that is a deliberative action on our
7 part and I have no motivation here other than to make sure
8 that we're doing the right thing.

9 CHAIRPERSON REYES: Okay.

10 ASSEMBLY MEMBER BROWNLEY: I'm not trying to
11 overrule a decision or anything.

12 MS. OROPEZA: Yeah. I kind of view it as more
13 semantics and maybe just giving direction to staff to make
14 it clear that a denial will sustain their -- the staff
15 action as Assembly Member Hagman said, but I don't view
16 it -- in all the years I've sat on this, view it as an
17 intent to not have the Board take an action ever and I've
18 seen hundreds of these.

19 So I don't know that it has to go to Rules as
20 opposed to just suggest to staff that they write these
21 differently to make it clear that they expect some action.

22 ASSEMBLY MEMBER BROWNLEY: That would work I think
23 as well.

24 CHAIRPERSON REYES: Okay. Okay. Thank you.
25 Okay. Let's go back to order. Thank you. And Assembly

1 Member Fuller asked that we put the item on call and so
2 we'll do that.

3 Ms. Jones, would you remind me of that.

4 MS. JONES: Will do.

5 CHAIRPERSON REYES: Thank you.

6 MS. JONES: You're welcome.

7 MS. SILVERMAN: Tab 4 is **Consent**.

8 CHAIRPERSON REYES: Mr. Hagman, you had a comment
9 on -- I'm sorry and we sort of jumped, but you had a comment
10 before we did Item 10 and I apologize for interrupting your
11 train of thought. We can come back to it if you'd like
12 or --

13 ASSEMBLY MEMBER HAGMAN: Oh, I'm trying to
14 remember what the subject was.

15 CHAIRPERSON REYES: The Executive Report.

16 Okay. Thank you.

17 ASSEMBLY MEMBER HAGMAN: If I think about it
18 again, we'll bring it back up.

19 CHAIRPERSON REYES: All right. Thank you.

20 MS. SILVERMAN: Consent. Tab 4.

21 CHAIRPERSON REYES: Yes, please.

22 MS. SILVERMAN: Is there a motion to move?

23 MS. OROPEZA: I'll move the Consent Calendar.

24 ASSEMBLY MEMBER BUCHANAN: Second.

25 CHAIRPERSON REYES: And with that Consent, is it

1 okay if we approve some of other items? There was the
2 Centinela issue. Senator Hancock, are you okay with that?

3 SENATOR HANCOCK: With the sort of compromise that
4 was --

5 CHAIRPERSON REYES: Yes.

6 SENATOR HANCOCK: -- that as worked out? Yes.

7 CHAIRPERSON REYES: Okay. What was the other
8 items that --

9 MS. SILVERMAN: Tab 11, the Regulations.

10 CHAIRPERSON REYES: Tab 11. Okay. And anything
11 else that we can address?

12 SENATOR HANCOCK: Well, the San Jose appeal, we
13 are granting that if we pass the Consent Calendar?

14 CHAIRPERSON REYES: The -- no. That's an action
15 item. So it's not a Consent.

16 SENATOR HANCOCK: That's an action item. Okay.

17 CHAIRPERSON REYES: That's not a Consent.

18 MS. OROPEZA: So I'll amend my motion to add
19 those -- the two --

20 CHAIRPERSON REYES: Those two items. Okay. It's
21 been moved.

22 ASSEMBLY MEMBER BUCHANAN: 7 and 11.

23 CHAIRPERSON REYES: Second.

24 ASSEMBLY MEMBER BUCHANAN: I gave this item a
25 second.

1 CHAIRPERSON REYES: Oh, you second. Okay. Call
2 the roll, please.

3 MS. JONES: Hancock.

4 SENATOR HANCOCK: Aye.

5 MS. JONES: Brownley -- I'm sorry. Buchanan.

6 ASSEMBLY MEMBER BUCHANAN: Aye.

7 MS. JONES: Hagman.

8 ASSEMBLY MEMBER HAGMAN: Aye.

9 MS. JONES: Almanza.

10 MR. ALMANZA: Aye.

11 MS. JONES: Oropeza.

12 MS. OROPEZA: Aye.

13 MS. JONES: Reyes.

14 CHAIRPERSON REYES: Aye.

15 MS. JONES: Motion carries.

16 CHAIRPERSON REYES: Okay. But we'll leave it open
17 to add some members who are absent.

18 MS. JONES: Correct. Thank you.

19 CHAIRPERSON REYES: So when they come back, remind
20 me to go back to that issue.

21 MS. JONES: Will do.

22 ASSEMBLY MEMBER HAGMAN: Mr. Chair.

23 CHAIRPERSON REYES: Mr. Hagman.

24 ASSEMBLY MEMBER HAGMAN: I was reminded what the
25 question was -- or the comment. I was just wondering if --

1 curiosity. When we set a funding round or a list asking
2 for -- doesn't -- because we never have enough money to fund
3 them all. Don't we just add the new ones onto the old list
4 and when it -- as money come back just start peeling off or
5 do you throw out the whole list and start over again?

6 MS. SILVERMAN: Well, the regulation's very
7 specific to that the certification's good through a certain
8 date. So with that in mind, you know, post that December
9 activity, you know, we would have our opportunity to come
10 back to the Board so those certifications were not valid
11 during that tweener time.

12 ASSEMBLY MEMBER HAGMAN: So just so I understand
13 it in my layman's terms.

14 You got a list. All these people want money.

15 MS. SILVERMAN: Right.

16 ASSEMBLY MEMBER HAGMAN: Under a certain filing.
17 We only get through half of it because that's all the money
18 we have authority to bond out for.

19 MS. SILVERMAN: That's correct.

20 ASSEMBLY MEMBER HAGMAN: The other half's still
21 sitting there. As money comes in, from that pile -- for
22 people who don't take it, don't qualify, decide I don't want
23 to build, are they taken off that list or do we throw it
24 into the general fund pile. It's more bonds to start off a
25 new list. It just seems like that those people have been

1 waiting in line longer than maybe the new list people have
2 and how do you reconcile those two lists?

3 MS. SILVERMAN: Well, for those time limit on fund
4 releases that were actually expired in the end of October,
5 obviously staff had to take consideration if those projects
6 come in, give them an opportunity to submit the 50-05, which
7 is a fund release request.

8 ASSEMBLY MEMBER HAGMAN: Um-hmm.

9 MS. SILVERMAN: There has to be some kind of
10 administrative line.

11 ASSEMBLY MEMBER HAGMAN: Sure.

12 MS. SILVERMAN: But those projects actually have
13 to come back for the Board to approve the rescission of
14 those projects. So that action has to take place before you
15 assign the cash.

16 ASSEMBLY MEMBER HAGMAN: Correct. That -- each --
17 you know, last year's folks that didn't get their money, do
18 they have some kind of point system wherever if they reapply
19 to get some kind of credit for them standing in line longer
20 or no? They start all over again.

21 MS. SILVERMAN: No. They just reestablish again
22 with the priority system and, you know, I know Oceanside,
23 there was a lot of -- I know some concern about that, but
24 where they're at on the -- they're pretty high on the list
25 and I imagine with the certification round again, you're

1 actually competing with projects that are newer -- much
2 newer.

3 So they obviously have much higher opportunity
4 because of their date of approval to receive funding.

5 ASSEMBLY MEMBER BUCHANAN: I'm just wondering
6 since this isn't on the agenda if maybe we could add it to
7 the agenda --

8 CHAIRPERSON REYES: Yeah. That was sort of what
9 we were -- yeah.

10 ASSEMBLY MEMBER BUCHANAN: -- for the next meeting
11 where we can maybe get a report and then have better
12 information.

13 CHAIRPERSON REYES: We can then dissect it. But
14 for now, that's sort of a global statement.

15 ASSEMBLY MEMBER BUCHANAN: Thank you.

16 CHAIRPERSON REYES: So we'll take it as a global
17 statement. Thank you. Okay.

18 MS. SILVERMAN: So should you choose -- I mean I
19 know we have the financials, but I'm not sure if you want to
20 move to some other order of business.

21 ASSEMBLY MEMBER BUCHANAN: Well, we could probably
22 go over the financials pretty quickly.

23 CHAIRPERSON REYES: Should we go ahead and -- I
24 mean --

25 ASSEMBLY MEMBER BUCHANAN: The financials are

1 quick.

2 CHAIRPERSON REYES: **Financials** are quick, so just
3 give a Reader's Digest on that.

4 MS. SILVERMAN: Okay. Reader's Digest --

5 CHAIRPERSON REYES: We have read it.

6 MS. SILVERMAN: Tab 5, page 72, just wanted to
7 share with the Board that during a small window of
8 opportunity we had to report to you, we had a December
9 meeting in the middle of the month and we -- well, we
10 actually released \$54 million and 30 million came from the
11 new apportionment round. So that's actually good, for the
12 limited role we had during the month.

13 And Tab 73, we actually show the chart of how much
14 cash we have since the infusion of the new bonds. So we
15 have over a billion dollars.

16 The Assembly Member asked -- Assembly Member
17 Hagman asked as far as trying to reconcile those projects
18 that came in for the time limit of fund release, what was
19 that pot originally and who made it through the line and who
20 didn't.

21 CHAIRPERSON REYES: Um-hmm.

22 MS. SILVERMAN: So on page 75, we've created an
23 illustration of trying to keep of those projects and so the
24 illustration we have is in October, we actually did have a
25 good portion of projects that were set to expire and the red

1 obviously were the projects that did expire. So that
2 represents \$62 million.

3 The blue shaded area is 29 million that did come
4 in. And again the action had to go forward to the Board in
5 order to rescind those projects.

6 But that's the universe and they're in different
7 pots. So it's not exclusively new construction. It
8 represents mod. It represents critically overcrowded
9 schools. So we're trying to track the time. It was
10 actually more visual, more trackable, and more transparent
11 about who came in and who perfected.

12 So that was an added benefit we threw out there.

13 And if we don't have any questions, I'll move onto
14 Tab 6.

15 CHAIRPERSON REYES: Thank you.

16 MS. SILVERMAN: Tab 6 is our **Status of Funds**.

17 Again quickly, just want to highlight to the Board that we
18 did process \$76 million this month in various categories. A
19 good portion went out -- I apologize, need my glasses right
20 now. But 17 million and 27 -- 17 projects for \$27 million
21 in modernization. We did approve two high performance
22 projects.

23 A good portion of the activity related to new
24 construction in Proposition 55, so we processed six
25 applications for \$48 million and with that, I'll open up to

1 any questions.

2 CHAIRPERSON REYES: Okay. Hearing none, any
3 public comment? Next item.

4 MS. SILVERMAN: Tab 8.

5 CHAIRPERSON REYES: Tab 8, please.

6 MR. MIRELES: Tab 8 is beginning on page 106.

7 This item deals with an appeal submitted by the **San Jose**
8 **Unified School District** requesting approval for
9 modernization application for the Horace Mann Elementary.

10 The key issue of this appeal is the method by
11 which modernization eligibility is determined under the
12 Leroy Greene Act.

13 Through the passage of SB50 in 1998, the law
14 created a two-step process to access modernization funds.
15 The first step is to determine that a school district has
16 eligibility and the second step is to basically submit a
17 funding application.

18 School districts do have the option of submitting
19 concurrent eligibility and funding applications at the same
20 time, but they cannot access state funds for modernization
21 unless the eligibility is established.

22 Now normally to determine the eligibility, the
23 regulations require school districts to prepare a gross
24 inventory of all the classrooms owned or leased at the
25 school site. The law also sets some criteria to qualify

1 which is to have buildings at least 20 or 25 years or
2 older -- 20 if they're portables and 25 if they're
3 permanent.

4 The regulations also require districts to submit a
5 form and a drawing of the site in order to establish
6 eligibility.

7 Staff have used the forms, have used the drawings
8 submitted, and actually goes out to school districts to
9 verify that the drawings reflect the current inventory on
10 the site as required by the regulations. Any discrepancies
11 between the drawings and the actual buildings verified at
12 the school site will be adjusted and updated in order to
13 have the actual inventory at the school site before the
14 eligibility is established.

15 This is has been the basic process that's been in
16 place since 1998 in order to determine eligibility.

17 Now the San Jose Unified School District also
18 followed this process and by the year 2000, they established
19 eligibility for about 45 out of 57 of their school sites.

20 Unfortunately, the Horace Mann Elementary School
21 site which is the site that is part of this appeal was not
22 one of those school sites. Instead the district elected to
23 move forward with local funds and demolish a total of 17
24 classrooms on the site and to build back 33.

25 That project was completed in 2003. Now in 2008,

1 the district's consultant contacted OPSC to ask if they can
2 establish eligibility for the site using older diagrams that
3 reflected the ages of the buildings before the replacement
4 project.

5 At that time, staff did inform the district that
6 they could move forward with this request. The district did
7 submit the documentation and they established eligibility at
8 the December 2008 meeting.

9 A year later, April 2009, the district came in and
10 submitted a funding application. At that point, staff
11 reevaluated the determination of eligibility using the old
12 diagrams in order to determine the eligibility and concluded
13 that it was in violation of the regulations.

14 Upon hearing staff's position, the district
15 withdrew their funding application, but they later
16 resubmitted asking for reconsideration. Staff maintained
17 the position and subsequently the district filed the appeal.

18 Now it is staff's position that the advice that
19 was given to the district back in 2008 was incorrect. That
20 being said, we do not believe that we have the authority to
21 honor that recommendation as we believe that it goes against
22 the requirements in the regulations and past practice.

23 We do believe that the eligibility determination
24 that the Board approved in December 2008 was based on
25 inaccurate information and we would recommend that the

1 eligibility be reduced to zero.

2 Now the district is claiming that the replacement
3 area of like kind is an eligible use of modernization funds
4 and that school districts are eligible to receive
5 reimbursement funding for modernization projects. We agree.

6 We clearly agree with the district. We don't have
7 any concerns or disputes over those points. Our concern is
8 specifically the documentation that's required to establish
9 eligibility.

10 The district is also claiming that the regulations
11 are not clear on this topic and that many items should be
12 amended. We do believe that one section of the forms
13 regardless of the outcome of this appeal should be amended.

14 This section doesn't support either the district's
15 position or staff's position and should be amended.

16 Aside from that section, we believe that the
17 regulations are clear and that's where we would administrate
18 a program accordingly for over 12 years. Therefore in order
19 to keep consistency in the administration of the program, we
20 recommend that the Board take no action and allow staff's
21 administration action to reject the funding application to
22 stand.

23 CHAIRPERSON REYES: Mr. Hagman, maybe you had a
24 question?

25 ASSEMBLY MEMBER HAGMAN: No.

1 CHAIRPERSON REYES: No. Okay. There are folks
2 from the district, please -- or anybody else who wants to
3 make a comment on this?

4 ASSEMBLY MEMBER HAGMAN: Mr. Chair.

5 CHAIRPERSON REYES: Yes. Mr. Hagman.

6 ASSEMBLY MEMBER HAGMAN: Before you make a
7 presentation, I want to be able to respond to this too. We
8 talked in my office as well.

9 I was going to get Counsel's opinion on what's
10 liable/what's not and kind of specifically what code and
11 that way hear both sides of that.

12 MR. DAVIS: I believe staff has correctly
13 identified the code section of the regulations and also
14 this -- even the 50-03 which is the form required to
15 establish eligibility for a modernization project, but their
16 interpretation is correct that it is -- the term that's
17 used, it's like a snapshot in time and when you're coming in
18 for that -- for your application for funding that at that
19 time the buildings on the site are the appropriate age to
20 establish eligibility for modernization.

21 So in this case, staff's hands were tied when the
22 application came in and they have a site map that does not
23 reflect what the site looks like when they're coming in for
24 funding or they're looking at it, the eligibility was lost.
25 There was no eligibility. The eligibility was

1 established -- there was (indiscernible) on the site in 2000
2 and then likely 2002 might have been the date that the
3 buildings were replaced.

4 And that -- the application didn't come in until
5 about five years later.

6 ASSEMBLY MEMBER HAGMAN: Thank you.

7 CHAIRPERSON REYES: Okay.

8 MS. JONES: Okay. My name is Ann Jones, Chief
9 Business Officer for San Jose Unified School District.
10 Chairman Reyes, members of the Board, I'm grateful for the
11 opportunity to address you this afternoon regarding our
12 appeal for modernization funds for Horace Mann.

13 I believe the issue before you today is very
14 straightforward and it is nothing more than whether or not
15 the district qualifies for modernization eligibility and
16 funding at our school.

17 I hope you will agree with me that the answer is
18 yes.

19 The project and application meet the requirements
20 of the law. The buildings were eligible. Replacement in
21 kind is permitted. Reimbursement is permitted and allowed.

22 Regulations do not require eligibility to be
23 established before work is started.

24 In September of 2008, the district contacted OPSC
25 which was already shared both verbally and in writing. We

1 established eligibility for this site. After OPSC staff
2 reviewed the case with management, their response to us was
3 yes.

4 Now four years later, OPSC staff rationale for
5 denying our funding application rests on the concept that
6 the district was required to submit the eligibility
7 application before beginning the project.

8 However, that requirement does not exist in
9 regulation or in law, nor to my knowledge has it ever been
10 enforced in the entire 12-year history of the program.

11 Why did the district not file for eligibility
12 application before it began the project, I can only guess at
13 the answer. I suspect that the district was unaware that
14 completely replacing a school was a program that would
15 qualify for modernization under the state program.

16 San Jose Unified was sued in 1979 and in '85 found
17 guilty of racial isolation in the Horace Mann neighborhood.
18 San Jose signed a consent decree in '94 and among other
19 things promised that community that they would replace the
20 dilapidated portables with new permanent buildings.

21 In '99, San Jose issued COPs and began planning
22 the replacement.

23 In '01, San Jose began construction and in the
24 fall of '02, the new buildings were occupied.

25 Please keep in mind that if the district had spent

1 money to modernize the 31-year-old portables that were at
2 that site and done everything else exactly as we have done
3 to date, we would have already received approval and funding
4 for that project from OPSC and the Board.

5 Under that scenario, today Horace Mann would
6 consist of 41-year-old portables with newish paint, air
7 conditioning, and roofs. Instead the district made a
8 commitment to the Horace Mann community, built a
9 \$30 million, award-winning, permanent steel and block
10 construction building that will last for decades.

11 The district is requesting no more than the
12 state's portion of modernization funds, \$2.8 million. To
13 deny funding for no legitimate legal or public policy reason
14 based on an unprecedented reading of the words and the
15 directions on a form is a disservice to the San Jose
16 community and students.

17 Thank you again for the opportunity to address you
18 on this address. Steve Adamo, our Director of Facilities,
19 and Bruce Hancock from Hancock, Gonos & Park are here to
20 answer any other questions that might come up from the
21 Board.

22 CHAIRPERSON REYES: I do have a question. We met
23 earlier today and you gave me some historical on the lawsuit
24 and I think that if I understand this correctly was in '79,
25 then '85, and then the court decree came in '94.

1 MS. JONES: Yes.

2 CHAIRPERSON REYES: And my understanding you start
3 spending some money in '97 and then went and put a COPS in
4 '99.

5 MS. JONES: Yes.

6 CHAIRPERSON REYES: But then the Modernization
7 Program didn't kick in until '98.

8 MS. JONES: Right.

9 CHAIRPERSON REYES: So there was no program for
10 you qualify in '97 or '94.

11 MS. JONES: No. It was when we began the project
12 in '99 and in fact when we look back at our records, we had
13 actually worked with OPSC to get eligibility for new
14 construction.

15 So I believe that at the time staff didn't realize
16 in '99 that they were eligible for modernization and that's
17 the only reason we wouldn't have filed at that time.

18 CHAIRPERSON REYES: Ms. Buchanan.

19 ASSEMBLY MEMBER BUCHANAN: Yeah, this is sort of a
20 sticky wicket so to speak. I think the first time districts
21 were able to use modernization money for replacement was,
22 when, '98 or '99. So when they were originally doing the
23 planning, I can see how they couldn't have contemplated it
24 because you -- at that point in time, you couldn't use
25 modernization.

1 CHAIRPERSON REYES: It didn't exist.

2 ASSEMBLY MEMBER BUCHANAN: It didn't exist; right.
3 So you're sort of caught in that time period.

4 And then the other issue is that because you
5 applied retroactively, ordinarily if you were just
6 modernizing, you would have been eligible because you could
7 have gone and visited the site; correct?

8 MS. JONES: Um-hmm.

9 ASSEMBLY MEMBER BUCHANAN: But because you decided
10 to tear down portables or get rid of them, which I think was
11 the right decision --

12 CHAIRPERSON REYES: There was also a court decree
13 to get rid --

14 ASSEMBLY MEMBER BUCHANAN: Right. That's exactly
15 right, but I think --

16 MS. JONES: Oh, may I correct that?

17 ASSEMBLY MEMBER BUCHANAN: But I think was that --
18 but irrespective was the right decision; okay?

19 All you had were blueprints and so now the issue
20 is well, you couldn't visit, but you did visit the school to
21 verify that that school existed when they originally thought
22 they could apply -- were hoping to apply for new
23 construction funding for the school.

24 So it's not where the school wasn't visited at
25 all.

1 MR. MIRELES: That's correct. There was a site
2 visit --

3 ASSEMBLY MEMBER BUCHANAN: Right.

4 MR. MIRELES: -- done for new construction --

5 ASSEMBLY MEMBER BUCHANAN: Right.

6 MR. MIRELES: -- purposes. So there was a site
7 visit.

8 ASSEMBLY MEMBER BUCHANAN: So -- and did you
9 verify the age of the buildings at the time of this site
10 visit for new construction?

11 MR. MIRELES: That is correct. We did for
12 purposes, again, for new construction.

13 ASSEMBLY MEMBER BUCHANAN: Because it seems to me
14 that we shouldn't be wasting state's time or district's time
15 with multiple visits. I mean if you visit and you can
16 verify that the buildings were of a certain age.

17 So, you know, I'm inclined to support the appeal,
18 but I have this that I'd like to bring up to Board members.

19 I am bothered that we have applications that come
20 in ten years or longer after a school is completed and I
21 would like to see us take a look at developing regulations
22 that have a time limit because how do you ever know what
23 your liability is if -- and I'm not saying you did this, but
24 you get a consultant that comes in and says, geez, you
25 should have done this and gotten this money 20 years ago.

1 Well, you know, that's not helping us today get
2 money out to improve schools. So I'd be inclined to suggest
3 that approve the appeal, but also ask the Implementation
4 Committee to come up with some guidelines that we limit the
5 period -- I don't know what it should be -- that you can --
6 in which you can file for retroactive funding, particularly
7 with projects that were never submitted to begin with.

8 SENATOR HANCOCK: Is that a motion?

9 ASSEMBLY MEMBER BUCHANAN: Sure, that's a motion.

10 SENATOR HANCOCK: I second it.

11 CHAIRPERSON REYES: So let me -- can I bifurcate
12 that just so --

13 ASSEMBLY MEMBER BUCHANAN: Yes.

14 CHAIRPERSON REYES: -- we can take the appropriate
15 action. And so the Board is in agreement that we ask the
16 Implementation Committee to look at the timelines; okay.

17 So that's not a vote. It's just direction,
18 Bill --

19 ASSEMBLY MEMBER BUCHANAN: Right.

20 ASSEMBLY MEMBER BROWNLEY: Direction.

21 CHAIRPERSON REYES: -- to go for it. Okay. Thank
22 you.

23 SENATOR LOWENTHAL: But the other part was to
24 approve the --

25 CHAIRPERSON REYES: To approve. That was -- so I

1 just want to make sure we're on record for the right.

2 ASSEMBLY MEMBER BUCHANAN: Right. Yeah, I just
3 don't want to have this be a precedent that we -- you know,
4 you can submit an application for the first time ten years
5 after a project's done. I just don't think that's a good
6 practice.

7 CHAIRPERSON REYES: Mr. Hagman and then Senator
8 Lowenthal.

9 ASSEMBLY MEMBER HAGMAN: Thank you. I'm just --
10 it's an interesting story and I understand that the people
11 up here are not the ones that were making decisions back in
12 1998-'99. That's one thing I learned being on this Board
13 for a year is you want to get a quick turnover, then become
14 a superintendent of schools. No one's been there more than
15 two years it seems like, anywhere.

16 But in this particular case -- okay. So we're in
17 '98-'99, the new Modernization Program just came online. I
18 can understand why no one understands it, but you apply for
19 new construction at that time. OPSC came out at that time
20 and then denied new construction or there wasn't new
21 construction or --

22 ASSEMBLY MEMBER BUCHANAN: There's no eligibility.

23 ASSEMBLY MEMBER HAGMAN: It was eligible --

24 MR. MIRELES: The district did establish
25 eligibility for new construction in 2000.

1 ASSEMBLY MEMBER HAGMAN: Okay.

2 MR. MIRELES: They also established eligibility
3 for modernization by 2000 for 45 of 57 school sites.

4 ASSEMBLY MEMBER HAGMAN: So they didn't know
5 obviously because they applied for other sites, the
6 modernization, that same year, but they didn't put this in.

7 So I'm trying to figure out what the logic here --
8 why didn't it happen back then? What was the problem on
9 either side of why wasn't this funded from one source to the
10 other. If the school district's applying for multiple sites
11 under both different bond funds and it was approved on
12 multiple different bond funds, why wasn't this one brought
13 in. What was the thought process back then? I just -- I
14 guess I'm missing that part.

15 MR. ADAMO: Of course I can only speculate, but
16 all the other sites I do know that we did not do any
17 modernization like this where we replaced in kind. So I
18 would only speculate that we applied for all the other sites
19 because we didn't do this type of project. We did actual
20 modernization. We did paint, roofs, infrastructure --

21 ASSEMBLY MEMBER HAGMAN: So --

22 MR. ADAMO: And we left this out thinking it
23 didn't apply because it wasn't new construction.

24 ASSEMBLY MEMBER HAGMAN: Okay. And if I remember
25 correctly, the Court order was talking about something

1 different. We use terminologies very generically and Courts
2 see it differently than what we do. A new construction, we
3 would think building new. Modernization here means you
4 could tear down and rebuild new and it's still
5 modernization.

6 MR. ADAMO: Right.

7 ASSEMBLY MEMBER HAGMAN: Okay. So all these other
8 schools got modernization. This school did qualify for new
9 construction, but why wasn't it funded at some point?

10 MR. MIRELES: The determination for new
11 construction, we take a district-wide inventory, all the
12 school sites, all the classrooms to determine if they have
13 enough seats to house the projected enrollment. That's new
14 construction.

15 Modernization, it's a site specific --

16 ASSEMBLY MEMBER HAGMAN: Take the old stuff and --

17 MR. MIRELES: -- determination. So for purposes
18 of new construction eligibility, we captured the inventory
19 of all school sites within a high school attendance area
20 which is what the district used at that time and they did
21 establish eligibility, but they didn't submit a separate
22 application for modernization on this particular site.

23 ASSEMBLY MEMBER HAGMAN: But they did apply for
24 new construction under that site and they were eligible?

25 MR. MIRELES: Yeah. Again it's district wide, all

1 the --

2 ASSEMBLY MEMBER HAGMAN: Okay. So it's not
3 particular to this building project.

4 MR. MIRELES: No. No.

5 ASSEMBLY MEMBER HAGMAN: It just says we're
6 eligible because you need more rooms in this whole district.

7 MR. MIRELES: Right.

8 ASSEMBLY MEMBER HAGMAN: See, by the time I get
9 out of here three years from now, I'll actually understand
10 this, but --

11 (Laughter)

12 ASSEMBLY MEMBER HAGMAN: Okay. So you have the
13 new -- you have the district who's eligible for new
14 construction because it needs classrooms. New construction
15 ways this particular school qualification, needs to be torn
16 down and refixed, rehabbed, whatever.

17 So the district goes that way and then -- okay.
18 So now we got up to you built it. You didn't think you were
19 eligible to build with these funds. You built of your own.
20 You had to because you got the Court put the gun to your
21 head.

22 What happened those five years in between? At
23 what point do you decide, hey, wait a minute, I'll go get
24 some money from the state?

25 MR. ADAMO: It was when we began to go through the

1 SFP program again for other projects that we had done and
2 the consultant at the time said to us, oh, I see here that
3 you didn't apply for modernization for this Horace Mann
4 project and it looks like it was something you could have
5 applied for.

6 ASSEMBLY MEMBER HAGMAN: Okay. And then I guess
7 the last question to our esteemed Counsel here, I understand
8 your interpretation says we don't have authority to do this.
9 Is there an interpretation of the code that says we can't do
10 this I guess and sometimes you have permission to do it.
11 Sometimes you have permission not to do it, so --

12 MR. DAVIS: My review as I look at it is do I have
13 authority to be able to give state bond money towards this
14 project and my concern here is that it is established by the
15 buildings that are existing at the site and the buildings
16 weren't existing at the site at the time of application.

17 And that's where I'm heading to. I don't see that
18 that's kind of authority to be able to provide the funds.

19 CHAIRPERSON REYES: Okay. Ms. Brownley.

20 ASSEMBLY MEMBER BROWNLEY: Yes. I'm going to
21 support the motion to support the district appeal. I think
22 that the thing that bothers me the most was the district was
23 told that they could do this at a time and now they're
24 saying the decision -- that decision's been reversed and I
25 think that current practice today allows for reimbursement

1 of these projects.

2 So for me, I think that that's the most compelling
3 piece and I will be supporting the motion to support the
4 district's appeal.

5 CHAIRPERSON REYES: Ms. Oropeza.

6 MS. OROPEZA: Just to follow up Assembly Member
7 Hagman's questions and I didn't hear why the district didn't
8 apply for new construction for this site at the time that
9 they generated their eligibility.

10 SENATOR LOWENTHAL: They did apply.

11 MS. OROPEZA: Not for this site apparently. So I
12 just wanted to understand that piece.

13 SENATOR LOWENTHAL: I thought they were denied.

14 MS. JONES: I believe new construction is not site
15 specific. It's district-wide. It's --

16 MS. OROPEZA: But you had the eligibility, but you
17 didn't use it --

18 MS. JONES: Attendance areas.

19 MS. OROPEZA: -- for that, so I just wanted to
20 know why.

21 MS. JONES: It was used other places in the
22 district.

23 CHAIRPERSON REYES: Mr. Almanza.

24 ASSEMBLY MEMBER BUCHANAN: I thought when you were
25 in my office I was told you had no eligibility for new

1 construction.

2 MR. HANCOCK: I'm sorry, Ms. Buchanan. I think I
3 was the one that told you that and I apologize for confusing
4 it.

5 The point I was trying to make at the time not
6 about whether or not there was eligibility but that there
7 had been documentation and site visit at the site because
8 there was concern that there wasn't a way to record what was
9 at the site after the fact.

10 And I misspoke on the issue of not having the
11 eligibility and I apologize for that.

12 ASSEMBLY MEMBER BUCHANAN: So I just a follow-up
13 question.

14 MS. JONES: Could I --

15 ASSEMBLY MEMBER BUCHANAN: Why on earth -- if
16 you're under a Court order, why on earth wouldn't you use
17 your eligibility at that school?

18 MR. ADAMO: I actually can't answer that, but I
19 believe Ann is right that we probably used it at other
20 areas -- other schools in the same high school attendance
21 area because new construction is for growth and additional
22 classrooms were needed. So I'm not sure.

23 ASSEMBLY MEMBER BUCHANAN: But you were under a
24 Court order to replace this school.

25 MS. JONES: Can we clarify on that Court order.

1 The consent decree or Court order was -- really addressed
2 the instructional program and changes that needed to be made
3 available to eliminate the racial isolation.

4 The conditions of the facility at Horace Mann and
5 at several other schools were all a part of the discussion
6 and part of the community meetings that led to the consent
7 decree.

8 The consent decree did not speak specifically to
9 mandating any change in facilities simply because then the
10 Federal Court would have been required -- my understanding
11 is the Federal Government would have been required to fund
12 that.

13 But it was in that process of coming to agreement
14 that the district made a commitment to do whatever it could
15 to replace with permanent buildings not portables. And so
16 that's why we did not consider trying to modernize any of
17 the portables that were at the site.

18 We went for the new construction and I believe
19 based on looking at the documents that the staff didn't know
20 that new construction -- that they could also file for
21 modernization and I suspect that because it was a new
22 program that OPSC staff may not have -- you know, maybe all
23 of that hadn't all come -- I'll let Bruce. He was around.

24 CHAIRPERSON REYES: Mr. Almanza, you had a
25 question?

1 MR. ALMANZA: Yes. You know, that is -- my
2 concern is that there's a Court order to remedy
3 discrimination within the school district at this school.
4 Why wouldn't it have been the highest priority to find
5 funding to fix this at the time?

6 MS. JONES: I think it was the highest priority.
7 I mean the fact that we went out and -- the district went
8 out and issued \$30 million in COPS was a huge risk and --

9 MR. ALMANZA: Was there any fine or penalty from
10 the Court for the discrimination against this community?

11 MR. HANCOCK: I'm sorry. May I interrupt.
12 Just -- I believe I have an answer. I'm sorry I'm not
13 thinking very clearly here.

14 You cannot use new construction to replace
15 existing classrooms. You must create new capacity. The new
16 construction funds could not have been used on this school
17 to replace these buildings. You -- that would have been
18 just -- just replacing classrooms that already existed and
19 under the new construction rules, you would not have created
20 capacity.

21 CHAIRPERSON REYES: Senator Lowenthal.

22 SENATOR LOWENTHAL: Yeah, I want to follow up on
23 that. And my understanding -- and maybe -- and I apologize
24 for missing some part and this gets very complicated -- that
25 you originally had requested and applied for the eligibility

1 for new construction, but then you were told -- but it was
2 just replacement of portables, remember -- that you were
3 told by OPSC at some point there when you applied for new
4 construction for this that this would not receive new
5 construction -- that replacement of portables do not receive
6 new construction and there'd be no state funding; is that
7 not true? And that no one told you at that time when they
8 would not be no state funding and no new -- this is not
9 eligible for new construction, that no one then said but you
10 are eligible for modernization; is that not true?

11 That never was written. There's no documentation
12 of that.

13 MR. MIRELES: No, Senator, and we don't have any
14 record to state that the district was intending to use new
15 construction funding on this particular school site. Again
16 what they did --

17 SENATOR LOWENTHAL: You don't have any -- just --
18 I just thought he said that they originally had applied for
19 new construction for this school site. They thought that
20 that's the only thing that they had -- that they could do.
21 They were told that they couldn't do new construction, but
22 no one told them but they could do modernization.

23 MR. MIRELES: In 2000, the district established
24 eligibility for new construction. Part of that
25 determination requires us to look at all the classrooms --

1 SENATOR LOWENTHAL: Right.

2 MR. MIRELES: -- in the school district. In this
3 particular case, it was done on a high school attendance
4 area basis. We looked at this school site as well as all
5 the other school sites on the high school attendance area --

6 SENATOR LOWENTHAL: And did you tell them they're
7 not eligible for new construction for this --

8 MR. MIRELES: New construction -- again for this
9 school, we didn't know. When a district establishes
10 eligibility, we're just looking at the inventory --

11 SENATOR LOWENTHAL: Right.

12 MR. MIRELES: -- looking at the projected
13 enrollment. At that point, we typically don't know what
14 they're planning to use with the eligibility. It's just a
15 matter of determining whether they have it or not.

16 SENATOR LOWENTHAL: Did you ever communicate with
17 them that this site was not eligible for new construction?

18 MR. MIRELES: No, I don't know that that question
19 was posed to staff. I don't know that, Senator.

20 SENATOR LOWENTHAL: I -- can I ask the district,
21 did you ever receive any notification from OPSC that new
22 construction -- you were not eligible for new construction
23 for this site?

24 MS. JONES: Not that I know of and what I want to
25 clarify is it's my understanding -- and these guys are the

1 experts not me on this -- that new construction funding
2 cannot be used to replace classrooms.

3 SENATOR LOWENTHAL: Right. We agree on that. But
4 did you ever receive anything from them that this was not
5 eligible for new construction?

6 MS. JONES: I don't think they would have told us
7 that because that was already a known fact that you can't
8 use new construction money for replacement of classrooms.

9 The point that we were hoping to make here today
10 is that there was a concern that we weren't eligible because
11 OPSC had not been able to physically inventory what was at
12 the site. And what we wanted to say today is they
13 physically inventoried what was at the site as a part of our
14 application for new construction to cover growth that was
15 happening in the attendance areas.

16 So they did have the opportunity to inventory the
17 site and they did come out and they've -- so that was where
18 this came.

19 CHAIRPERSON REYES: Okay. I have Ms. Buchanan,
20 then Mr. Hagman.

21 ASSEMBLY MEMBER BUCHANAN: I was just going to
22 clarify, the issue is if they had modernized existing
23 buildings --

24 SENATOR LOWENTHAL: Right.

25 ASSEMBLY MEMBER BUCHANAN: -- they would get the

1 money --

2 SENATOR LOWENTHAL: They would have gotten it.

3 ASSEMBLY MEMBER BUCHANAN: Right. Because they
4 could go visit the buildings and say yes, they're there.

5 SENATOR LOWENTHAL: Put air conditioning in, the
6 whole thing.

7 ASSEMBLY MEMBER BUCHANAN: Because it's a
8 blueprint and they replaced them, they can't.

9 SENATOR LOWENTHAL: Right.

10 ASSEMBLY MEMBER BUCHANAN: And -- but they did
11 visit -- I mean we can verify that they were there and the
12 age of them because they did visit during the new
13 construction eligibility process.

14 So it's another one of these that's -- you know,
15 the problem for me is the retroactivity of the whole thing.
16 So, you know, I don't want to penalize the district per se,
17 but I do want to make sure that going forward that we don't
18 make this a practice where a consultant comes in, says oh,
19 you should have gotten money, and we're doing -- and we're
20 writing checks ten years after the fact.

21 CHAIRPERSON REYES: Mr. Hagman.

22 ASSEMBLY MEMBER HAGMAN: This has been kind of
23 cool because I get to figure out how all this stuff really
24 works. My future job is superintendent -- last a year.

25 Okay. So the OPSC established eligibility. So in

1 the site visit, you basically visit all the schools within
2 that area, not particularly for this particular
3 qualification of this school site or new construction or old
4 construction. It's just the district qualifies. So that
5 part I got new construction.

6 But the thing that's in a little bit of conflict
7 is you're telling me during the same time period the
8 district received funds under modernization multiple
9 projects.

10 So you have the same people who understand the
11 rules enough to apply for modernization and apparently --
12 and understand that they're repairing buildings versus
13 building new buildings, who understand new construction. So
14 it's not a small district. You have experts back to that
15 time that understand the systems as they come online.

16 So you have the new construction eligibility. You
17 already got that established. They came out and did the
18 site visits. So that you're qualified for.

19 You decide to use that eligibility at different
20 sites.

21 Then you have the modernization which I can
22 understand they don't get it, but at this time, the actual
23 district got multiple grants for multiple school sites to
24 build modernization.

25 So it's kind of lost on me that they didn't

1 understand it anymore. They actually probably got it, but
2 they didn't apply for it until several years later because
3 they actually utilized both programs through the same time
4 period. Am I misstating that at all?

5 CHAIRPERSON REYES: So my understanding is that
6 they came in for modernization because a consultant told
7 them you should have gotten modernization.

8 The way I understand the timelines is when this
9 project was coming through, modernization did not exist. So
10 I look at it akin to the -- and I mentioned this -- to the
11 money for clunkers.

12 If two years ago I submitted my SUV and the
13 clunkers came after that, should I be able to go get my
14 money for clunkers because I bought a Prius with that in
15 replacement and that's sort of what I -- the way I
16 understand it.

17 MR. MIRELES: Mr. Chair, if I could clarify that.
18 The Modernization Program did exist when the district
19 replaced the school site at that point. The program was
20 established in 1998 and in 1999, the regulations were
21 amended to include replacement area of like kind.

22 So at that point, it was available when they
23 demolished the school site.

24 CHAIRPERSON REYES: But I thought they started
25 spending money on this in '94. No. That's the decree. '97

1 was the first money that was spent on this and then the COPS
2 went in '99.

3 MS. JONES: In '97, we spent a half a million
4 dollars looking for a site acquisition and preplanning. The
5 site -- we had hoped to actually find a larger footprint,
6 but we were unable to do that and in '99, the decision was
7 made to stay in that same footprint and to demolish and
8 replace.

9 CHAIRPERSON REYES: Okay. Senator Lowenthal.

10 SENATOR LOWENTHAL: Yeah. I just want to explain
11 my vote. I came prepared to support the appeal, but I met
12 with the appellants in my office and they told me at that
13 time that they had received formal statement from and they
14 had in their records that this site was not eligible for new
15 construction, that there'd be no funding for this site. It
16 was not eligible and that there was no record of OPSC then
17 saying but you are. They had denied this and that there was
18 a record of that.

19 And now I heard just the opposite, that there is
20 no record of that, that that was not there. And so it's --
21 I'm just totally confused at this moment about what really
22 transpired.

23 MS. JONES: The record that I shared with you
24 earlier today is in the district files that staff had
25 documented new construction not eligible for modernization.

1 So it was a belief. That's why we say here today
2 we can only believe that the staff did not think that new --
3 because they were replacing and not modernizing that they
4 didn't qualify for the modernization program -- or just said
5 not eligible for state funding.

6 And in fact Horace Mann was not eligible for new
7 construction because it wasn't --

8 SENATOR LOWENTHAL: I understand that. I
9 understand that.

10 MS. JONES: Those are records not a record from
11 OPSC.

12 MR. MIRELES: If I could just complicate things a
13 little bit further. No -- the district had 16 -- 17
14 existing classrooms. They build back 33.

15 Now the district qualified to replace the 17 under
16 modernization. They could also request new construction
17 funding for the additional 16. I just want to make that
18 distinction. To replace existing buildings, modernization.
19 The new classrooms, it's new construction.

20 CHAIRPERSON REYES: But they didn't do it.

21 SENATOR LOWENTHAL: But they didn't do it.

22 CHAIRPERSON REYES: Right. Okay. So we have this
23 appeal before us. Ms. Buchanan has moved. I believe
24 Senator Hancock second the item. Go ahead call the roll,
25 please.

1 MS. JONES: Lowenthal.
2 Hancock.
3 MS. HANCOCK: Aye.
4 MS. JONES: Brownley.
5 ASSEMBLY MEMBER BROWNLEY: Aye.
6 MS. JONES: Buchanan.
7 ASSEMBLY MEMBER BUCHANAN: Aye.
8 MS. JONES: Hagman.
9 Almanza.
10 MR. ALMANZA: No.
11 MS. JONES: Oropeza.
12 MS. OROPEZA: Aye.
13 MS. JONES: Okay. And Reyes.
14 CHAIRPERSON REYES: No.
15 MS. JONES: Motion does not carry.
16 SENATOR LOWENTHAL: Wait. I just want to know how
17 many votes does it have?
18 MS. JONES: It has four.
19 SENATOR LOWENTHAL: It needs how many?
20 MS. JONES: Six.
21 SENATOR LOWENTHAL: So if I vote, would that
22 change the --
23 MS. JONES: To aye?
24 SENATOR LOWENTHAL: But it wouldn't change the --
25 MS. JONES: That's correct.

1 SENATOR LOWENTHAL: -- outcome. It still would
2 fail.

3 MS. JONES: It would only be five.

4 SENATOR LOWENTHAL: I'll stay off then.

5 CHAIRPERSON REYES: Okay. Thank you.

6 MS. JONES: Thank you.

7 MR. ADAMO: Thank you.

8 CHAIRPERSON REYES: Tab 9, withdrawn.

9 ASSEMBLY MEMBER BUCHANAN: Can I clarify that we
10 still are directing staff to take a look at how we handle
11 retroactive --

12 CHAIRPERSON REYES: Yes. Yes. That was sent to
13 the Implementation Committee and timelines and see what
14 would work.

15 ASSEMBLY MEMBER BUCHANAN: Thank you.

16 CHAIRPERSON REYES: Thank you. That was an
17 excellent suggestion. Okay. And we did 10 and 11.

18 MS. SILVERMAN: 12.

19 CHAIRPERSON REYES: So we're on 12 now. Thank
20 you. 12 -- can we do 13 first. I think 13 frames the issue
21 better, if it's okay with the Board. Thank you.

22 MR. MIRELES: Tab 13 is an item to **adjust the**
23 **per-pupil grant amounts** for the School Facility Program.
24 The statute requires that the Board annually adjust the
25 per-pupil grant amounts to reflect the construction costs

1 for Class B construction on a statewide basis.

2 We have presented to the Board in the past
3 Marshall & Swift Eight California Cities, Ten Western
4 States, and Lee Saylor.

5 We are recommending that the Board adopt
6 Marshall & Swift Eight California Cities because we believe
7 that it most closely reflects the construction cost in
8 California.

9 Therefore if the Board adopts this recommendation,
10 it would be a 3.76 percent increase to the per-pupil grant
11 amounts for 2012.

12 With that, we're requesting that the Board adopt
13 the Marshall & Swift Eight California Cities.

14 CHAIRPERSON REYES: Any questions?

15 ASSEMBLY MEMBER BROWNLEY: I move to support the
16 staff recommendation.

17 CHAIRPERSON REYES: Ms. Buchanan.

18 SENATOR HANCOCK: Second.

19 ASSEMBLY MEMBER BUCHANAN: I second and I also
20 would like -- when I read what -- the Ed Code sections that
21 we're quoting, it's clear to me that whatever adjustments we
22 make now or in the future need to be based on construction
23 costs in California.

24 So I would also like to recommend that we make as
25 our standard the Eight California Cities.

1 CHAIRPERSON REYES: The permanent; right.

2 ASSEMBLY MEMBER BUCHANAN: I do not think we
3 should even be considering the Western States.

4 CHAIRPERSON REYES: So at this point, we have the
5 policy of doing this annually and so the staff action is for
6 it to be for the next 12 months.

7 Counsel, can we adjust that decision even -- well,
8 is there any comments from the public on this?

9 Okay. Ms. Oropeza.

10 MS. OROPEZA: So historically, at some point in
11 time, there was a single standard and I don't recall at the
12 time which one it was, but we had it placed in statute and
13 subsequently that was removed to do this annual adjustment.

14 But I think it's easier as you point out just to
15 have that --

16 ASSEMBLY MEMBER BUCHANAN: Yeah. I think it
17 should be annual adjustment --

18 ASSEMBLY MEMBER BROWNLEY: Was it the Western
19 States that was the single one?

20 MS. OROPEZA: You know, I can't recall at the time
21 which one it was, but I just it's easier just to have --
22 know what it's going to be.

23 ASSEMBLY MEMBER BUCHANAN: Right. And it should
24 reflect the cost of construction in California.

25 CHAIRPERSON REYES: In California, yeah.

1 MS. OROPEZA: California, yeah.

2 CHAIRPERSON REYES: I think -- I guess I want to
3 do it. In my --

4 ASSEMBLY MEMBER BUCHANAN: No. I'm not making it
5 part of the motion. I just suggested that we --

6 CHAIRPERSON REYES: But I think you -- and I want
7 to discuss this a little because I'd rather go -- if we can
8 frame this so we can do it on a permanent basis -- and we
9 can always come back and adjust.

10 So rather than taking this up every year,
11 everybody knows what we're doing in the future and it's --
12 you know, it is what it is and then if we -- somebody has
13 better information and can make a case that we ought to
14 change it, we can change it.

15 But I think at this time, are we precluded from
16 doing it permanently, Counsel, or do we need to just do
17 it --

18 MR. DAVIS: Well, what I'm looking at, it does --
19 17074.10(b) does say the Board shall annually make the
20 adjustment.

21 CHAIRPERSON REYES: Okay. All right.

22 MR. DAVIS: However, as a suggestion, this could
23 be an item that unless otherwise could be put in the Consent
24 for January of 2013 --

25 CHAIRPERSON REYES: Okay.

1 MR. DAVIS: -- the Consent for January '14.

2 ASSEMBLY MEMBER BUCHANAN: And my suggestion is
3 not that we don't vote on it because I think it's important
4 that we vote on it.

5 CHAIRPERSON REYES: Yeah.

6 ASSEMBLY MEMBER BUCHANAN: My suggestion is, is
7 that we not compare the Western States, that it be based on
8 what the cost of construction is in California.

9 CHAIRPERSON REYES: Okay. Mr. Hagman.

10 ASSEMBLY MEMBER HAGMAN: Yeah. I'm in agreement
11 with everything Ms. Buchanan said, but I would like, as a
12 member of the Board, to be able to see it compare to really
13 kind of pick out, you know -- you know, for me --

14 CHAIRPERSON REYES: Where --

15 ASSEMBLY MEMBER HAGMAN: -- my family's in the
16 construction business. Our cost is going down. I can't
17 believe we're going up --

18 ASSEMBLY MEMBER BUCHANAN: Bids are going down.

19 ASSEMBLY MEMBER HAGMAN: -- going up. So all the
20 bids is -- so, you know, I'd like to actually get the report
21 and figure out why we're wrong, but it could be just kind of
22 like automatic, just for information only type of thing, but
23 also just the fact that we just overlook it --

24 CHAIRPERSON REYES: Um-hmm.

25 ASSEMBLY MEMBER HAGMAN: -- and then all of a

1 sudden, we lose that authority and some survey does it.

2 CHAIRPERSON REYES: Fair enough. Fair enough. So
3 it's been moved and I believe I heard a second. Is there --

4 ASSEMBLY MEMBER BUCHANAN: Yeah, I second. Yeah.

5 CHAIRPERSON REYES: Okay. It's been moved and
6 second. Public comment? No additional questions. Call the
7 roll.

8 MS. JONES: Lowenthal.

9 SENATOR LOWENTHAL: Aye.

10 MS. JONES: Hancock.

11 MS. HANCOCK: Aye.

12 MS. JONES: Brownley.

13 ASSEMBLY MEMBER BROWNLEY: Aye.

14 MS. JONES: Buchanan.

15 ASSEMBLY MEMBER BUCHANAN: Aye.

16 MS. JONES: Hagman.

17 ASSEMBLY MEMBER HAGMAN: Aye.

18 MS. JONES: Almanza.

19 MR. ALMANZA: Aye.

20 MS. JONES: Oropeza.

21 MS. OROPEZA: Aye.

22 MS. JONES: Reyes.

23 CHAIRPERSON REYES: Aye.

24 MS. JONES: Motion carries. Thank you.

25 CHAIRPERSON REYES: Okay. And then if we can go

1 back to Item 12.

2 MR. WATANABE: **[Index Adjustment on the Assessment**
3 **for Development]** Michael Watanabe, OPSC. We're on Tab 12,
4 stamped page 139.

5 This item is -- the law requires the maximum
6 assessment for the development be adjusted every two years.
7 This item is to request the Board make that adjustment that
8 it feels appropriate.

9 There are three levels that may be levied for
10 developer fees. The fees are levied on a per-square-foot
11 basis. The lowest level which we're requesting the Board
12 set tonight is the Level I fee.

13 This says if a district conducts a justification
14 study that establishes a connection between development
15 coming into the district and the assessment of fees to pay
16 the costs of the facilities needed to house the future
17 students.

18 On page 140, you'll see the various indices that
19 we've used as to what Board action in the past and the
20 previous item. Recommending the Board adopt the Eight
21 California Cities Index which would raise the 2012 level to
22 \$3.20 for residential and 51 cents for
23 commercial/industrial.

24 This is 8.21 percent over the 2010 level.

25 I just want to put out that in 2010 the staff

1 presented two rates, one with an increase and one with a
2 decrease. There was a motion to approve to be consistent
3 with Eight California Cities the decrease of 1 cent down to
4 2.96, but that was not approved.

5 A substitute motion was made to keep the rate at
6 the 2008 level.

7 So with that, again staff's recommendation is to
8 accept the Marshall & Swift Eight California Cities
9 effective immediately.

10 ASSEMBLY MEMBER BUCHANAN: I move the
11 recommendation.

12 CHAIRPERSON REYES: So moved.

13 ASSEMBLY MEMBER BROWNLEY: Second.

14 CHAIRPERSON REYES: It's moved and second.

15 MS. JONES: Lowenthal.

16 SENATOR LOWENTHAL: Aye.

17 MS. JONES: Hancock.

18 MS. HANCOCK: 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: Oropeza.

3 MS. OROPEZA: Aye.

4 MS. JONES: Reyes.

5 CHAIRPERSON REYES: Aye.

6 MS. JONES: Motion carries. Thank you.

7 CHAIRPERSON REYES: Thank you. Okay. That takes
8 us to Item 14.

9 MR. WATANABE: **[Options for the Execution of the**
10 **2012 Grant Amounts]** We're on Tab 14, page 146.

11 Now that the Board has adopted the per-pupil grant
12 for 2012, this item is to present options for the execution
13 of those grant adjustments.

14 This item is requesting the Board take no action
15 and provide no adjustment to the SFP grants for any project
16 on the unfunded list prior to 2012.

17 At the January 2010, the Board adopted the Eight
18 California Cities Index which resulted in a decrease to the
19 per unhoused pupil grant of 6.74 percent.

20 The Board elected at that time to only apply the
21 adjusted grant amount to projects awarded an unfunded
22 approval on or after March 2010.

23 The 2010 decrease in the CCI was the first
24 decrease in the history of the SFP. Because of this, the
25 Board expressed desire to maintain flexibility to

1 specifically adjust those projects should the grant amounts
2 increase once again in 2011.

3 At the January 2011 Board meeting, the Board
4 adopted again the Eight California Cities Index which
5 resulted in an increase to the per unhooded pupil grant of
6 4.28 percent with corresponding increases to the 2011
7 project allocations.

8 The Board also elected to apply the 2011 CCI
9 adjustment to projects on the unfunded list beginning March
10 2010 and that were to include all projects awarded using
11 2010 grant amounts.

12 This action did not include an increase for
13 unfunded approvals prior to March 2010.

14 The Board approval dates for the projects on the
15 unfunded list range from 2009 through December 2011 and will
16 also include today's new unfunded approval as well.

17 Until 2010, the current year CCI was always
18 applied to projects approved or apportioned in that calendar
19 year. Since unfunded approvals are not yet apportionments,
20 they are not subject to statutory full and final provisions
21 and can be adjusted for the CCI at the discretion of the
22 Board.

23 On page 148, we have a table that kind of
24 summarizes the projects on the unfunded approvals list.

25 For projects that were approved prior to February

1 2010, there are 13 projects on the unfunded list with the
2 current value of 33.5 million. If the Board were to apply
3 the 2012 increase of 3.76 percent, these projects would need
4 300,000 additional bond authority.

5 For projects approved in 2010 that are currently
6 using the 2011 grant amounts, there's 114 projects at a
7 value of 211 million. If the Board were to apply increase
8 to those projects, we'd need an additional 8 million in bond
9 authority.

10 For projects residing on the unfunded list with
11 approvals in 2011, there are 323 projects currently on the
12 list at a value of 953 million that would need 35.8 million
13 in bond authority.

14 There are additional considerations for the Board
15 in deciding how to apply the current CCI adjustment,
16 including the remaining bond authority. Any augmentation of
17 the existing unfunded approvals would reduce the remaining
18 bonding authority the Board has available to provide future
19 awards.

20 After the December 2011 Board meeting, there's
21 approximately 197.1 million in new construction bond
22 authority and 362.3 million in modernization bond authority.

23 Providing increases to all projects on the
24 unfunded list would reduce the remaining new construction
25 and modernization authority by 11.2 million and 20.1 million

1 respectively.

2 On the top of page 149, we kind of illustrate how
3 new construction bond authority may be affected should the
4 index be applied to all the projects on the unfunded list.

5 Another consideration for the Board is the bond
6 sale proceeds have not been sufficient to cover all projects
7 on the unfunded list. Because of this, districts may wait
8 for apportionment for an extended period of time.

9 Districts with sufficient local funds may proceed
10 with a project and receive a reimbursement when an
11 apportionment is granted. Other districts are unable to
12 proceed until actual apportionment is received, especially
13 financial hardship districts.

14 In either case, the grant amounts awarded for
15 projects approved in previous years may not align with the
16 construction costs at the time a contract is awarded.

17 Finally unfunded approvals list includes projects
18 for Charter School Facilities Program and Critically
19 Overcrowded School Program projects, such as advanced fund
20 releases for design, site, and environmental hardship.
21 These items are not truly unfunded approvals and they'll
22 receive a current year CCI when they are converted.

23 Staff has presented four options for the Board.
24 Option 1 would be to take no action and provide no
25 adjustments to SFP grants for any project added to the

1 unfunded list prior to January 2012.

2 Option 2 would be apply increases for all projects
3 that received an unfunded approval in 2011. That would
4 require the use of 35 million in bond authority though.

5 Option 3 would provide an increase for all
6 projects with 2010 and 2011 unfunded approvals. That would
7 require additional use of authority of up to 43.8 million.

8 And then the last option is to provide increases
9 for all projects on the unfunded list which would require up
10 to 44 million in remaining bond authority.

11 One last thing I'd like to point out is that for
12 those projects, the 13 in 2009 and 114 in 2010, none of
13 those projects have participated in any of the three
14 priority in funding rounds we've had to date.

15 So with that again, staff's recommendation is to
16 approve Option 1.

17 CHAIRPERSON REYES: Mr. Hagman.

18 ASSEMBLY MEMBER HAGMAN: Generally speaking, you
19 know, when the school goes out and I guess bids for their
20 contracts and stuff and then we have the money to give to
21 them, that's a pretty fluid process.

22 When we put them on a list and they're having to
23 bond and bring school -- you know, matching funds and stuff
24 in some cases, they're going off what the initial costs were
25 at that time.

1 If we put them off for a couple years, then
2 obviously those costs may go up or may go down.

3 But to make this adjustment each time we have a
4 CCI seems kind of cumbersome. So I was thinking is there a
5 way to go like -- you know, what's the standard. If I go
6 out and bid for a job, what's the -- what's about the most
7 normal time? Is it three months, six months, nine months
8 that that bid's generally good for? Of course the costs of
9 materials go up and down by the time you put the shovels in
10 the ground.

11 But I'm thinking that it should be -- you know,
12 from when you applied or at least within 180 days of when
13 you apply, what that current rate is just so it's
14 administratively -- and we have to adjust up or down based
15 on the index because we're not giving the money immediately.

16 You know, that's my initial thoughts on it. So
17 there's a way to do this more smoothly versus, you know,
18 each time we do this, the change -- well, not the 2009s but
19 the 2010s are okay, but the 2011s, you're out of luck. You
20 know, it should be like what is the current rate within, you
21 know, 180 days when you applied for it or something like
22 that.

23 CHAIRPERSON REYES: Ms. Buchanan.

24 ASSEMBLY MEMBER BUCHANAN: I support Option 1 and
25 I just want to speak briefly as to why I do.

1 My understanding is Option 1 has been historically
2 the past practice of the Board and when I substituted at my
3 very first meeting, we had, you know, the question of what
4 was going to happen with the -- if it was 2010 -- early in
5 2010, what was going to happen. You know, how should we be
6 adjusting that and we made an exception then and did it
7 retroactively but only because we hadn't had a December
8 meeting.

9 And we felt at the time that if we had had a
10 December meeting and would have approved those projects,
11 they would have been funded at the higher rate because we
12 were dealing with the rate dropping.

13 But now we're dealing with the situation where the
14 grants are going up. The economy has flattened out a little
15 bit and we had our November/December. We went through our
16 normal funding cycles, and while we are increasing the grant
17 amounts, if you talk to anyone out there in schools or
18 construction, they probably would support what Assembly
19 Member Hagman was saying in that the grant -- you know, the
20 raw materials may be going up, but the bids are still down.

21 So I don't think we should complicate the
22 practice. I think we should go back to past practice. If
23 we want to change it in a future bond, fine, but -- so I'd
24 like to move that we approve Option 1.

25 CHAIRPERSON REYES: Thank. Any comments? Senator

1 Lowenthal.

2 SENATOR LOWENTHAL: Yeah. I want to follow up on
3 what the Assembly Member Buchanan talked about whereas the
4 costs of certain materials may be going up, but the actual
5 bids are coming in lower. Do we have some data on that, you
6 know?

7 I know in transportation projects that's exactly
8 what is happening, that cost of steel is going up and our
9 bids are still coming in lower. I just wondered if that --
10 do we have any data to support --

11 ASSEMBLY MEMBER BUCHANAN: And I only know that
12 anecdotally from my classroom cabinet meetings I have.

13 SENATOR LOWENTHAL: I know. That's why I'm
14 asking -- and I -- and you make a strong argument based upon
15 that. I just want to know from the OPSC what are we -- what
16 are those bids coming? Are they coming in with significant
17 savings or any savings or are they going up. Are there
18 competition and bids are coming in? Is it still a market
19 that you can shop around and get a real good bid at this
20 moment.

21 CHAIRPERSON REYES: I saw Mr. Mireles trying to
22 get my attention. Was that for a prior comment or --

23 MR. MIRELES: Yes. I'm good.

24 CHAIRPERSON REYES: Okay. Okay. Good. Please.

25 MR. DIXON: Thank you, Chairman Reyes, Board

1 members. I'm Joe Dixon, Assistant Superintendent Facilities
2 for Santa Ana Unified and bid prices have been coming up.

3 We were quite surprised a couple years ago how
4 contractors could actually stay in business because they
5 were quite low. So bids have come up. Prices are coming up
6 and we would like to see the unfunded list going forward get
7 this increase because if we have a \$15 million project and
8 we have some more on the unfunded list and the cost -- the
9 data is correct, what do we pull out? What do we pull out
10 of that \$15 million out of our DSA-approved plans.

11 So we would like to see unfunded projects get that
12 increase going forward. Thank you.

13 ASSEMBLY MEMBER BUCHANAN: Excuse me. Where are
14 your bids now compared to where they were three years ago or
15 four years ago? My understanding with districts, even if
16 they are coming -- I mean we were getting bids that were
17 down as much as 30 percent or so.

18 So are you saying that -- and we certainly haven't
19 lowered the grant amount. So are you saying they're still
20 that far down or how far down -- how far are they in terms
21 of being competitive right now?

22 MR. DIXON: They're coming back. We actually --

23 ASSEMBLY MEMBER BUCHANAN: Coming back where?

24 SENATOR LOWENTHAL: What is that -- coming meaning
25 what?

1 MR. DIXON: The costs are coming back up. The
2 prices are coming back up and we've had many, many similar
3 projects. And let me give you an example.

4 In January 2010 for a ORG project, a 16-classroom
5 project, it came in at 50 percent of the architect's
6 estimate.

7 ASSEMBLY MEMBER BUCHANAN: Right.

8 MR. DIXON: The following year -- it started
9 creeping up then and alls I can say -- and materials haven't
10 been rising and prevailing wage hasn't gone up that much,
11 but I really believe the contractors were just keeping their
12 A teams busy. I think now they're making money again.

13 ASSEMBLY MEMBER BUCHANAN: I agree, but if you
14 were at 50 percent before, are you over now or are you maybe
15 80 percent or 75 percent?

16 MR. DIXON: We're coming pretty close to the
17 estimate now. It's -- that was unusual at 50 percent --

18 ASSEMBLY MEMBER BUCHANAN: Right.

19 MR. DIXON: -- below the architect's estimate, but
20 it has come up and we have -- and than you to the Board, we
21 had 24 projects apportioned in December and we're out to bid
22 on all of them right now and we're seeing that again.

23 So we're -- you know, we're doing our value
24 engineering. We're doing those kind of things, but the
25 price has gone up and we have a \$15 million ORG project

1 which would be about \$750,000 if the data is correct and I
2 believe it might be low.

3 But what do you -- you know, what do we do -- what
4 do we pull out of our DSA-approved plans at that value.
5 That's kind of a dilemma.

6 CHAIRPERSON REYES: Senator Lowenthal and then
7 Mr. Almanza.

8 SENATOR LOWENTHAL: Well, I've asked my question.
9 I'm still not clear. I've heard this -- the price is going
10 up, but I think Assembly Member Buchanan asked a very clear
11 question.

12 If a year or two years ago you were -- you had
13 bids that were coming in at 50 percent of the architect's
14 estimated cost of the overall project and now they're coming
15 up, does that mean that now they're at 75 percent,
16 60 percent?

17 CHAIRPERSON REYES: Or is the architect better
18 estimating now --

19 SENATOR LOWENTHAL: You were saying that numbers
20 are now such -- or has the architect -- have they come down
21 in their estimates.

22 I'm still -- I understand we're moving in that
23 direction, just as unemployment is moving in the right
24 direction -- the reduction, but at a very slow rate. I just
25 need to understand just the scope of the issue -- of the

1 problem itself.

2 And I hear that we need to change because the
3 estimates and the bids are coming up, but I don't have a
4 feel yet what that really means.

5 MR. DUFFY: Mr. Chairman, if I could try to maybe
6 answer to a degree the Senator's question and comments.

7 One of the things, Senator, that we've watched
8 over the last two or three years is the cost of labor and
9 the cost of materials.

10 SENATOR LOWENTHAL: Okay.

11 MR. DUFFY: And we have seen -- and this is under
12 prevailing wage. We have seen slight increases with the
13 cost of labor and continued increases with the cost of
14 materials.

15 That delta -- the differential in the bids that
16 Mr. Dixon is talking about has to do with the markup the
17 contractors are applying when they bid projects.

18 SENATOR LOWENTHAL: Right.

19 MR. DUFFY: And so what has happened in this
20 market is that the markups have not been applied. So the
21 standard 15 percent markup that was when I was building
22 schools about 12 years ago and before was being applied,
23 that hasn't happened during the last decade.

24 When we had that huge acceleration after 2004,
25 markups were way beyond that. So what we see is the

1 practice of contractors, in order to keep the doors open,
2 not taking a markup, basically saying we're willing at some
3 times to take losses and we've had contractors tell us that.

4 So it's deceptive -- this -- what's happening in
5 the market is deceptive when it comes to comparing it to the
6 CCI.

7 CHAIRPERSON REYES: Okay. I have Mr. Almanza and
8 then Mr. Hagman.

9 MR. ALMANZA: Well, that was basically my question
10 is that years ago bids were coming in at 50 percent of
11 architects' estimates and today they're coming in at about
12 100 percent of the estimates, but I would expect the
13 architects' estimates are 50 percent lower.

14 MR. DIXON: They have adjusted certainly. That
15 was an unusual case and that was one case --

16 MR. ALMANZA: Okay.

17 MR. DIXON: -- out of 37 projects. But it was
18 just an indicator of what was happening.

19 And when they came in lower and I believe we
20 lowered the CCI amount, we also returned money to the state
21 program. So we shared savings.

22 CHAIRPERSON REYES: Mr. Hagman.

23 ASSEMBLY MEMBER HAGMAN: And I think that's good
24 to hear because a lot of times we hear when the school
25 districts come in under bid is either they basically keep

1 their part of the money and use the state portion or they'll
2 come back to us and say well, I could apply for a solar site
3 now or now I want to put a pool in or something like that.
4 So we don't see the benefits when the prices are down.

5 ASSEMBLY MEMBER BUCHANAN: They (indiscernible)
6 give us money from new construction.

7 ASSEMBLY MEMBER HAGMAN: Yeah. Yeah. And but at
8 the same time, I think there is a procedure -- and correct
9 me if I'm wrong -- if we -- if they go out and they get a
10 set of approved plans -- OPSC, this is it. They go out and
11 bid it and for some reason the price comes a little bit
12 higher, I thought we were mentioning there was some other
13 way to close that out as well, if they prove that came in --
14 wasn't there some part of that?

15 MR. MIRELES: You know, there's --

16 ASSEMBLY MEMBER HAGMAN: Maybe that goes in the
17 new system planning sometime in the future here.

18 MR. MIRELES: There's a few exceptions to the full
19 and final to adjust upward. One is for site costs --
20 cleanup costs, relocation costs, but that's -- those are the
21 only two exemptions.

22 ASSEMBLY MEMBER HAGMAN: Okay.

23 CHAIRPERSON REYES: Okay. We have more coming
24 from the public. We have folks standing up.

25 MR. DUFFY: And, Mr. Chairman and members, I

1 didn't introduce myself before. Tom Duffy for CASH.

2 And just a couple of points that I think were
3 important and what we'd -- with all due respect,
4 Ms. Buchanan, what we would ask for is Option 4.

5 The -- what hasn't been discussed today is that in
6 AB127, the bond bill of 2006, there was a provision to allow
7 for a review of construction costs and to have the Board
8 make an adjustment beginning in 2008.

9 But not to belabor the full history, one
10 adjustment was made in 2008. No adjustment has been made
11 since that time.

12 When you made the reduction as Mr. Watanabe
13 mentioned that first time ever, that 6.74 reduction, you had
14 before you at the very same meeting a study that was done by
15 OPSC staff. There was an error in that. We suggested a
16 correction. If that error were done and you looked at the
17 data, you would have seen about a 12 percent increase over
18 the period looking backwards which was what that study was
19 to do.

20 What we suggested at the time was, since you
21 could, by under the law, make an increase of 6 percent,
22 since the CCI went down by 6.7 percent, we said take the
23 6 percent away and just make an adjustment downward of .74
24 at that time, so that we can stay as constant as we can with
25 what we believe was really happening the marketplace based

1 upon the data that was collected by OPSC.

2 That wasn't done. We have continued to fall
3 behind and I think that the reality of what's going on in
4 the marketplace, as in Senator Lowenthal's question and my
5 response to it, is not fully grasped by the data that's
6 here.

7 And so I realize that the intent of the
8 recommendation from OPSC is to preserve capital because
9 we're running out of capital. What we'd ask for is to
10 maintain the integrity of the program which really has been
11 lost I think since that freeze of 2008.

12 ASSEMBLY MEMBER BUCHANAN: If I could briefly
13 respond.

14 MR. DUFFY: Yes.

15 ASSEMBLY MEMBER BUCHANAN: My understanding is the
16 program has never made retroactive increases except when we
17 made the exception for going back to 2010 because we hadn't
18 had a meeting.

19 So this recommendation is consistent with how the
20 grant amounts have been handled from year to year.

21 If I were representing CASH, I'd be arguing the
22 same way you're arguing. But I have a hard time diverting
23 from past history when this is how -- these have been the
24 rules ongoing. The only reason we made exception was that
25 one year is because we didn't have a meeting and we didn't

1 want penalize those districts.

2 Further, it would be more compelling to me if
3 estimates you made a couple years ago initially doing this
4 were, you know, that we had skyrocketing inflation, but --
5 and by the way, we didn't do that evidently when we had
6 inflation skyrocketing. We didn't go back and make the
7 retroactive increases.

8 And now when we have a period where bids are still
9 competitive -- you know, and I -- everybody I talk to,
10 whether they're in, you know, the commercial, the schools,
11 or just -- you know, they're adding onto their house are
12 getting very competitive, good bids.

13 So I don't see a compelling reason to go back and
14 deviate from past practice when while -- like I said,
15 underlying costs, some of them, if you're buying wood or
16 cement or whatever are starting to go up.

17 When it comes to the bid environment and the
18 actual costs the districts have to pay, they are still
19 getting very competitive rates, rates that were better than
20 they were getting before the recession began.

21 So that's -- you know, you and I just have a
22 fundamental disagreement there, but I think we ought to
23 stick with the past practice. The rules have been in place
24 that we've all been playing by for some time.

25 Now, you and I have had talks. There's some point

1 in time maybe we should look at the grant amounts in more
2 depth, but in terms of the adjustment, I think it makes
3 sense to be consistent.

4 CHAIRPERSON REYES: Okay. Ms. Oropeza and then
5 Lyle.

6 MS. OROPEZA: Also I want to point out that the
7 adjustment that was just pointed out, there was a different
8 interpretation in the bond whether really it was supposed to
9 be beyond the two years and, if I was sitting in his chair,
10 I'd say the agreement was for just 2006 and 2008 and it was
11 not contemplated to be every two years, but --

12 CHAIRPERSON REYES: Lyle.

13 MR. SMOOT: Good afternoon. Lyle Smoot, Los
14 Angeles Unified School District. And Assembly Member
15 Buchanan, I'm not sure that's an accurate reflection of the
16 Board's prior actions and I'll admit I don't know for sure
17 that -- but I don't think that this Board has historically
18 denied the adjustment to projects that were sitting on an
19 unfunded list except for one year when -- you know, in '09
20 or '10, whatever it was, that there was some other reasons
21 for not applying them to.

22 But I'd like to just point out that, you know,
23 what you're talking about here is really you're going to
24 deny this money to districts and cause the district to have
25 to pay it or cut projects like Joe Dixon said because the

1 cost doesn't go away because you do or don't apply the
2 adjustment to projects that are sitting in line and the
3 argument that, you know, there are projects that are already
4 bid, already constructed, and those projects don't need the
5 money -- the increase, I don't know that that -- I mean
6 there's no data that supports that that I know of that says,
7 you know, because you bid it last year you saved -- you
8 would save money equal to this year.

9 For LA, at the height of the problem and I'll call
10 that the inflationary years, we were getting a 70-30
11 program. We were getting 30 percent of the money from the
12 state.

13 Now it's much better. We're not -- we're still
14 not experiencing 50-50. And so what you're talking about is
15 to continue to deny the district like LA and others a real
16 shot at a 50-50 match.

17 The concept that -- also the concept that you're
18 going to save on a project that was filed six months versus
19 a project that is filed today even though they're going to
20 bid at exactly the same time, the one that filed later gets
21 more money than the one that filed earlier, that doesn't
22 make a heck of a lot of sense to me.

23 You know, districts are still experiencing less
24 than a 50-50 match in many, many, many cases, and to deny
25 those districts simply because they're on a list, you know,

1 even a year ago, just -- I mean there's no factual basis for
2 making that kind of a decision that says the cost isn't
3 going to be there.

4 I think the cost is there. The fact that the CCI
5 is going up is indicative that projects that are going to be
6 bid after today or after January 1st, whatever, are going to
7 have cost increases and that's going to be reflected and
8 somebody's going to have to pay it or else the project's
9 going to have to be, you know, made lesser.

10 And I really think I'd like to see you make a
11 decision to give that -- apply that to all projects because,
12 like I said, it doesn't make sense that you file tomorrow,
13 you get it, you filed yesterday, you don't get it, even
14 though you're going to both bid the same project, same
15 period of time.

16 You know that just -- and I really would like the
17 staff to respond to the history.

18 CHAIRPERSON REYES: Well, no. These are public
19 comment, not a dialogue time, so --

20 MR. SMOOT: I'm sorry?

21 CHAIRPERSON REYES: This is public comment. This
22 is your ability -- your time to present your issue and not
23 a -- you know, we're not going to go and dialogue back and
24 forth --

25 MR. SMOOT: I'm just asking a question do the

1 statistics back up that the Board has not provided this CCI
2 in the past.

3 CHAIRPERSON REYES: Oh, okay. I thought you were
4 going to ask Mr. --

5 MR. SMOOT: That's all. I wasn't asking them to
6 respond to any of my statements other than that one and that
7 was not my statement.

8 ASSEMBLY MEMBER BROWNLEY: Well, that's a question
9 I would like answered.

10 CHAIRPERSON REYES: Yeah. That's definitely a
11 good -- I mean that's a valid question. That's a valid
12 question. Do we have anything on that, staff? Probably not
13 right now?

14 MS. SILVERMAN: Probably not right now.

15 CHAIRPERSON REYES: Okay. Richard.

16 MR. LYON: Good afternoon, Mr. Chairman, members.
17 Richard Lyon, California Building Industry Association.

18 We would recommend the Board adopt Option 1 and
19 apply the increased block grant amount on a going-forward
20 basis to projects that come in as of January of this year
21 and are put on the unfunded list.

22 If you apply backwards, you're going to have to do
23 it across the board, not just to '11 but to '10 and to '09,
24 and as the staff has indicated, that is going to reduce
25 overall bonding capacity and more specifically it's going to

1 reduce new construction authority that is at a precipitously
2 low level today.

3 So we recommend the Board be consistent with its
4 past practice and apply this on a going-forward basis.
5 Thank you.

6 CHAIRPERSON REYES: Okay. Thank you. There was a
7 motion and a second. Is there any additional comments from
8 folks on this?

9 But, Ms. Brownley -- and I think it's accurate in
10 requesting that we have this information, so we should have
11 this available to us when we have this, so if you could get
12 that to us before the next hearing so we have a sense,
13 appreciate that.

14 MS. OROPEZA: So we (indiscernible)?

15 CHAIRPERSON REYES: No. It's been moved and
16 second at this point and then it's up to the Board.

17 MS. OROPEZA: Yeah. So we're going to vote. Okay.

18 CHAIRPERSON REYES: Yeah. So any additional
19 comments? Questions? Call the roll.

20 MS. JONES: Lowenthal.

21 Hancock.

22 MS. HANCOCK: Aye.

23 MS. JONES: Brownley.

24 ASSEMBLY MEMBER BROWNLEY: Not voting.

25 MS. JONES: Buchanan.

1 ASSEMBLY MEMBER BUCHANAN: Aye.

2 MS. JONES: Hagman.

3 ASSEMBLY MEMBER HAGMAN: Aye.

4 MS. JONES: Almanza.

5 MR. ALMANZA: Aye.

6 MS. JONES: Oropeza.

7 Reyes.

8 CHAIRPERSON REYES: Aye.

9 MS. JONES: It does not pass.

10 CHAIRPERSON REYES: So is there a substitute
11 motion? Do we -- can we not take action on this pending the
12 answer to Ms. Brownley's question?

13 MS. SILVERMAN: Yes, we can hold it over.

14 CHAIRPERSON REYES: Would that be acceptable?

15 Okay.

16 SENATOR LOWENTHAL: We'd like some data.

17 CHAIRPERSON REYES: Yeah. So we'd like some data
18 on that. Okay. So there's no action on this item.

19 MS. SILVERMAN: Tab 15.

20 CHAIRPERSON REYES: Okay. Before we go to the
21 reports, are there items that are still open, Ms. Jones?

22 MS. JONES: Yes.

23 CHAIRPERSON REYES: Please.

24 MS. JONES: Yes. Senator Lowenthal, you wanted to
25 have your vote counted for Consent Agenda, Centinela Valley

1 Union High, which is Tab No. 7, and 11 which is the SFP
2 regulatory amendments.

3 CHAIRPERSON REYES: Senator Lowenthal.

4 SENATOR LOWENTHAL: Yes. Aye.

5 ASSEMBLY MEMBER BROWNLEY: And I would like to add
6 on too.

7 MS. JONES: And I'm sorry. And you too, Assembly
8 Member Brownley.

9 ASSEMBLY MEMBER BROWNLEY: Yes. Thank you.

10 SENATOR LOWENTHAL: Aye.

11 CHAIRPERSON REYES: Okay. And then we also had
12 **Needles** still open. You want to call the -- finish the roll
13 again, please.

14 MS. JONES: Needles was not open.

15 CHAIRPERSON REYES: It was. We were requested
16 that it be kept open.

17 MS. JONES: Well, I show everybody having a vote
18 because it did not pass.

19 CHAIRPERSON REYES: But Ms. Fuller asked that we
20 do a reconsideration, so I said we'd keep it open.

21 MS. JONES: Okay. Very good.

22 Senator Lowenthal.

23 ASSEMBLY MEMBER HAGMAN: This is Needles again.

24 MS. JONES: Needles.

25 SENATOR LOWENTHAL: How about Needles. I voted

1 aye before on Needles, I believe. I'm going to continue to
2 vote aye on Needles.

3 MS. JONES: Okay. Hancock.
4 Brownley.

5 ASSEMBLY MEMBER BROWNLEY: Not voting.

6 MS. JONES: Buchanan.

7 ASSEMBLY MEMBER BUCHANAN: Aye.

8 MS. JONES: Hagman.

9 ASSEMBLY MEMBER HAGMAN: Aye again.

10 MS. JONES: Almanza.

11 MR. ALMANZA: Aye.

12 MS. JONES: Moore. I'm sorry. Oropeza.

13 MS. OROPEZA: Aye.

14 MS. JONES: Reyes.

15 CHAIRPERSON REYES: No.

16 MS. JONES: And it still does not pass.

17 CHAIRPERSON REYES: Okay. Thank you.

18 MS. JONES: You're welcome.

19 CHAIRPERSON REYES: Okay. Now the informational
20 items.

21 MS. SILVERMAN: 15. Tab 15.

22 CHAIRPERSON REYES: Thank you.

23 MS. SILVERMAN: Assembly Member Buchanan on **new**
24 **construction.**

25 ASSEMBLY MEMBER BUCHANAN: We've met twice. In

1 between our first meeting and taking a look at considerable
2 information in terms of where we are with respect to
3 funding, what our burn rate is, when we expect to run out of
4 money, what potentially will happen if we take the -- if the
5 COS money converts, heard testimony in terms of where we are
6 in construction industry, new housing starts and all of
7 that.

8 In between our first meeting and our second
9 meeting, we received the Governor's budget which actually I
10 think shows his clear intent to find a way to hopefully
11 extend the New Construction Program and avoid Level III
12 developer fees.

13 But we're still in discussion phases trying to
14 find consensus among all four of us. I think we all are in
15 agreement that we want to avoid the Level III fees. Where
16 we're trying to find consensus is what we believe is the
17 best way to do that that will both provide the best program
18 we can and put us in the best position possible to pass the
19 bond at the time we are able to put it on the ballot.

20 CHAIRPERSON REYES: Okay.

21 ASSEMBLY MEMBER BUCHANAN: So we had another
22 meeting scheduled for next -- February 6th, but we're going
23 to now reschedule that but hopefully be able to have
24 something to bring back to you because I think it would
25 be -- obviously the Governor will provide trailer bill

1 language, but I think it'd be nice to have this Committee in
2 our capacity be able to have some kind of consensus on the
3 direction we go.

4 CHAIRPERSON REYES: Thank you for the update.
5 Ms. Brownley.

6 ASSEMBLY MEMBER BROWNLEY: Yeah. Well, thank you
7 for your comments and the work on the Subcommittee. I think
8 I just -- I'm not sure exactly, you know, what the goal of
9 the Subcommittee is, is what you're going to be making a
10 recommendation of some sort or --

11 ASSEMBLY MEMBER HAGMAN: Yep.

12 ASSEMBLY MEMBER BUCHANAN: Yep.

13 ASSEMBLY MEMBER BROWNLEY: And a recommendation
14 to --

15 ASSEMBLY MEMBER BUCHANAN: Well, we're going to --

16 ASSEMBLY MEMBER BROWNLEY: -- the Legislature
17 or --

18 ASSEMBLY MEMBER BUCHANAN: To this body, to the
19 State Allocation Board.

20 ASSEMBLY MEMBER BROWNLEY: Because I think that
21 this is obviously, you know, the Governor's budget proposal
22 is a starting point and these issues are going to be
23 discussed in budget subcommittees as well as I understand
24 policy committees as well.

25 So I'm not sure if it's -- this venue where -- I

1 mean obviously we don't get to decide. But I presume if
2 there's a recommendation, it's a recommendation to the
3 Legislature.

4 ASSEMBLY MEMBER BUCHANAN: That's exactly what it
5 would be --

6 CHAIRPERSON REYES: It would require legislative
7 action.

8 ASSEMBLY MEMBER BUCHANAN: I mean there are some
9 actions we can take I think administratively. There are
10 other actions that would require legislative action, but my
11 own feeling is this Board should be -- you know, has most of
12 the knowledge in terms of the program and where we are and
13 we listen to constituents and I think it would be -- if we
14 could come up with a consensus, bipartisan recommendation, I
15 think that would be helpful and --

16 ASSEMBLY MEMBER BROWNLEY: Well, it would be a
17 recommendation from the Subcommittee to come to this Board
18 for further discussion.

19 CHAIRPERSON REYES: And then the Board would then
20 take a full action and see where we.

21 ASSEMBLY MEMBER BUCHANAN: Right.

22 ASSEMBLY MEMBER BROWNLEY: Okay. Well, you know,
23 I just want to make I think, you know, one comment here and
24 that is that I think we can find a win-win solution in here
25 and I think, you know, in terms of the developers, I mean

1 there are other avenues other than what the -- you know, the
2 Governor is suggesting or, you know, trying to stretch this
3 out for as long as we possibly can and it's a concern for me
4 to -- I'm not saying that I don't want to look after the
5 developers, but to look after the developers and to hurt
6 schools and that doesn't seem like it's a win-win to me.

7 And so I guess, you know, I want to still, with
8 the assumption that the Governor's budget proposal is a
9 starting point, it's clear that there were two bills moving
10 through the Legislature relative to bonds that aren't
11 vehicles anymore.

12 But I think it's really important to continue to
13 advocate for more bond funding in the state and I don't want
14 to take what the Governor's initial suggestions are and sort
15 of let that go because I think at the end of the day, you
16 know, that's a win-win solution and we can look at bond
17 funding relative to bridge funding, a commitment in some
18 sense for maybe not 2012 but for 2014.

19 I don't know, but I just think that there's a lot
20 more that -- you know, I want to continue to try to kind of
21 keep our eyes on the larger picture here and try to do the
22 right thing.

23 So I'm not part of the Committee and -- but I --
24 you know, I just hope that the Committee will kind of keep
25 their options open and not just sort of assume that it's

1 over relative to the possibility of a bond. I think that,
2 you know, everybody hasn't weighed in yet on that.

3 CHAIRPERSON REYES: Mr. Hagman.

4 ASSEMBLY MEMBER HAGMAN: I would just comment
5 that -- just kind of putting the cart before the horse here,
6 that it is a subcommittee process taking public input. If
7 we come up with consensus, it'll be brought back to this
8 Board where each and every one of us can comment at that
9 time on that recommendation and decide whether or not we
10 recommend anything to the Legislature or not, which the
11 Legislature can ignore that and accept it as well in this
12 public hearing.

13 So I think -- we have one more meeting and
14 hopefully by the next Board meeting we will have some kind
15 of conclusions about that -- after several hours we sat in
16 that thing so far, we'll come up with some kind of
17 consensus.

18 ASSEMBLY MEMBER BUCHANAN: And I would just add,
19 Assembly Member Brownley, I voted for your bond and if you
20 recall, spoke in favor of it because I do think it's
21 critically important that we keep it in front of the people
22 and they understand the need and so I think, you know, I'm
23 looking forward to the continued discussions in the
24 Subcommittee and I'm looking forward to the full discussion
25 we're going to have here as a Board because my long-term

1 goal is that we keep this program going.

2 I think it's the best program we've had for school
3 construction, you know, and it's allowed us to build many
4 new classrooms, rehabilitate many old schools, and it would
5 be great if we could have a bond this year. If we can't
6 though, I think we have to be prepared to put ourselves in
7 the best position we can to make sure that we're in the best
8 position to pass a bond at the time we are able to put it on
9 the ballot.

10 CHAIRPERSON REYES: Tom.

11 MR. DUFFY: Thank you, Mr. Chairman, members. Not
12 to prolong the meeting, but just wanted to comment, I
13 appreciate the opportunity to have this Subcommittee so we
14 can have the discussions, but I very much appreciated your
15 comments, Ms. Brownley.

16 We had a CASH membership meeting today and there
17 was a very strong feeling that we need to continue to press
18 forward for a bond and that a bond for schools creates jobs
19 which is an engine for this economy and that schools, as
20 we've said over and over again in written form and verbal
21 form, that school construction projects, as all of you know,
22 have -- give the opportunity for jobs now and not something
23 future such as high speed rail or something else.

24 And so I appreciate your leadership and we
25 appreciate your leadership, Ms. Brownley, on this and I

1 don't know what that vehicle will be, but our intent is to
2 continue to press forward for this and to make sure that the
3 Governor and others in this building know of our intent and
4 our need. And so we'll look forward to further discussion
5 with the Subcommittee when that occurs.

6 Thank you very much.

7 CHAIRPERSON REYES: Thank you. Okay. Senator
8 Hancock.

9 SENATOR HANCOCK: This may be an appropriate place
10 to do it. I believe this is the last item we actually have
11 to do anything else on the agenda, the information, but it
12 is connected with spending money on schools.

13 I'm wondering if we can have an agenda item at our
14 next meeting regarding something I brought up a number of
15 months ago which is moving funds from the Lease Purchase
16 Program which has about \$12 million in it to the joint use
17 account.

18 The Lease Purchase Program no longer exists. We
19 have a number of ready-to-go projects in joint use and we
20 might be able to put people to work -- do good things for
21 schools and communities.

22 We have asked for Leg. Counsel opinion. That
23 should be available soon and we'd share it with staff.

24 MS. SILVERMAN: Staff is currently working on
25 something in that area and it's pursuing legal clarification

1 on whether or not we have the parameters to access the
2 funds. So it's an Attorney General office issue. So
3 hopefully we should have that rectified within the next --

4 CHAIRPERSON REYES: And I think in the past that
5 money has been swept into the general fund.

6 MS. SILVERMAN: It's been swept into joint use for
7 joint use purposes.

8 CHAIRPERSON REYES: Okay.

9 MS. SILVERMAN: So it would be up to the Board for
10 full dialogue when that money becomes available where they
11 want to allocate to what programs.

12 CHAIRPERSON REYES: Okay. Okay. So, yeah, we
13 can -- if we can get the legal opinion. So as soon as we
14 have legal opinion, if we can put it in an agenda item.

15 MS. SILVERMAN: I definitely share with you --

16 CHAIRPERSON REYES: Okay. Thank you.

17 SENATOR HANCOCK: Thank you.

18 MS. SILVERMAN: Tab 16.

19 CHAIRPERSON REYES: Yes.

20 MS. SILVERMAN: Yeah, in the interest of time,
21 just want to share with the Board the highlights of
22 **accomplishments** that we've embarked on this year in 2011.

23 For the most part, there is a diagram on page 153.
24 Most of our accomplishments, as you can see, relate to
25 providing the consent agenda in action for providing

1 apportionments.

2 So conclusively we do provide over 132 projects
3 this year -- or last year in 2011 the cash and/or unfunded
4 approvals and put that into retrospect about some of the
5 appeals that we handle. It's less than -- excuse me --
6 99.95 percent of the items that we handle -- this Board
7 handles is via consent, and so a very small fraction,
8 .05 percent, is handled in the manner of appeals.

9 So we wanted to highlight that and then in general
10 there are 26 appeals that did come forward in this Board and
11 13 of those appeals did get resolved administratively. So
12 those the things that behind the scenes the Board doesn't
13 have that knowledge, but we wanted to highlight that for
14 you.

15 Charts A, B, and C for future purposes give you
16 the drawdowns of unfunded approval via the state and cash
17 that's been awarded for 2011. And we have a breakdown of
18 that and I think we've also gave the courtesy of the
19 breakdown for your legislative districts as well.

20 Tab 17, if we're moving on, is the **90-day**
21 **workload**. And so if there are any questions related to the
22 workload and what's on the appeals docket, we'd be more than
23 happy to answer those questions.

24 CHAIRPERSON REYES: Okay.

25 MS. SILVERMAN: Seeing none, 18 is our **meeting**

1 next --

2 CHAIRPERSON REYES: Okay. Thank you. Any public
3 comment on any of the items, the public can have your chance
4 to speak up.

5 With that, we're adjourned. Thank you everybody.

6 (Whereupon, at 6:12 p.m. the proceedings were recessed.)

7 ---oOo---

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, Mary C. Clark, a Certified Electronic Court Reporter and Transcriber, Certified by the American Association of Electronic Reporters and Transcribers, Inc. (AAERT, Inc.), do hereby certify:

That the proceedings herein of the California State Allocation Board, Public Meeting, were duly reported and transcribed by me;

That the foregoing transcript is a true record of the proceedings as recorded;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on February 7, 2012.

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