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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, FEBRUARY 22, 2012
TIME: 4:03 P.M.

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

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

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

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

SENATOR ALAN LOWENTHAL

SENATOR LONI HANCOCK

SENATOR MARK WYLAND

ASSEMBLY MEMBER RICARDO LARA

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:

HENRY NANJO, Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON REYES: I see the newest member of the group, Senator Wyland. Welcome back, sir. You've been with us before and how you're back and your presence --

SENATOR WYLAND: In sort of a sort.

CHAIRPERSON REYES: You give us our quorum I believe. Ms. Jones, if you'd take the roll call, please.

MS. JONES: Sure will. Senator Lowenthal.
Senator Hancock.

Senator Wyland.

SENATOR WYLAND: Here.

MS. JONES: Assembly Member Lara.
Assembly Member Buchanan.

ASSEMBLY MEMBER BUCHANAN: Here.

MS. JONES: Assembly Member Hagman.

ASSEMBLY MEMBER HAGMAN: Here.

MS. JONES: Esteban Almanza.

MR. ALMANZA: Here.

MS. JONES: Kathleen Moore.

MS. MOORE: Here.

MS. JONES: Pedro Reyes.

CHAIRPERSON REYES: Present.

MS. JONES: We have a quorum.

CHAIRPERSON REYES: Thank you. And as you

1 announced, Assembly Member Lara will be joining us for the
2 day. Assembly Member Brownley could not join us, so we
3 expect Mr. Lara to be showing up shortly.

4 We have a quorum. **Minutes.**

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

7 CHAIRPERSON REYES: Is there a motion?

8 MR. ALMANZA: So move.

9 ASSEMBLY MEMBER HAGMAN: Second.

10 CHAIRPERSON REYES: It's been moved and second.
11 Any comments on the Minutes? Hearing none, take the roll.
12 All in favor say aye.

13 (Ayes)

14 CHAIRPERSON REYES: Opposed? Abstentions? Ayes
15 have it. Thank you.

16 MS. SILVERMAN: The **Executive Officer's Statement**
17 on Tab 3, we have a few items we want to share with you
18 tonight -- four items in particular.

19 We wanted to give the Board an update on the
20 priority certification round that we just wrapped up and as
21 a result, we actually have 250 projects that submitted for
22 the certification for 117 school districts, and that
23 represents \$768 million in request of unfunded approvals.
24 And that's just shy of over 50 percent of the projects on
25 the unfunded list. We still have about \$1.4 billion in

1 request.

2 And so the certification rounds -- the
3 certification actually is valid until July 10th and so if
4 any cash comes into the program, we can actually provide
5 apportionments.

6 And with that, we also wanted to give the Board an
7 update that we had money from the last priority in funding
8 round, 11 and a half million dollars, that we still needed
9 to allocate, but we had money in different pots, so we
10 couldn't really reach a lot of different projects and we
11 actually had money from the time limit on fund releases,
12 those projects that suspended in December -- in October and
13 they were taken action December. We have \$60 million in
14 play. So again the goal is to bring in March those projects
15 for apportionment based on the certifications we have.

16 We actually held a solar hearing a few months ago
17 and we wanted to give the Board an update that we're still
18 working with the entities involved, the California Energy
19 Commission and the Division of State Architect and some of
20 the outside vendors, to try to create a comprehensive
21 webpage in which we can lead and direct folks to the various
22 sources of program funding for those various solar
23 initiatives.

24 So again we're still working on those -- that
25 particular project and we'll provide some more outreach

1 events in the future. So we'll be reporting back with some
2 more progress reports.

3 And as far as the Joint-Use Program, in
4 regulations it actually does specify that the program has
5 funding rounds -- excuse me -- application rounds and they
6 come in in March and at this time, we're not recommending
7 accepting any projects since we don't have any authority in
8 the program or very limited authority. We only have
9 \$600,000. And we still have projects in abeyance that we
10 still need to talk about.

11 So again we don't recommend at this point in time
12 to bring projects forward.

13 And our last item we wanted to share is the
14 administration costs. There is an item posted on status of
15 funds last month that reflected a posting of the admin costs
16 and actually was a posting for four years, what we call the
17 contra-adjustment.

18 So originally the program charges was posted to
19 the Modernization Program and it was reverted back to the
20 Overcrowded Relief Program.

21 So with that, that results in \$73.2 million being
22 posted commensurately with -- between the two funds. So you
23 actually showed an increase in the Modernization Program and
24 a decrease in the Overcrowded Relief Program.

25 And so beginning -- historically -- from

1 historical standpoint, back in 2002 to 2005 -- excuse me --
2 2005-'06, we actually did post the admin costs to new
3 construction, but prospectively beginning in 2006-'07 budget
4 year, those charges have been posted to the modernization
5 account.

6 So staff was reviewing the program funds over the
7 summer and was trying to determine which program was the
8 least active and how much funds that we did have available,
9 so we actually posted those adjustments accordingly.

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

11 MS. MOORE: I just have a --

12 CHAIRPERSON REYES: Sure.

13 MS. MOORE: I just have a comment in the review of
14 how we do post the administrative costs, if it's ever
15 considered to apportion those costs commensurate the amount
16 of funds in each of the programs so across the program at
17 the level that their proportionate share of the running of
18 the program is. Have we ever looked at that?

19 MS. SILVERMAN: We have never approached it in
20 that fact. If you do a pro-ration prospectively, I mean
21 there would be different allocations and again it's
22 something that we haven't approached, but I think there is
23 flexibility in the language in the Budget Act that applies
24 to the program. It gives you the authorization to charge
25 the account but not really specify to what program. So

1 there is flexibility there, but the Board's never approached
2 that.

3 MS. MOORE: Thank you.

4 CHAIRPERSON REYES: Okay. Thank you. Before we
5 get any further into the agenda, it's my understanding the
6 **Santee** appeal has been pulled and what are the potential
7 ramifications of that pull? It has been pulled. It's been
8 approved. But I just want to go on record that does put the
9 program or the appeal in jeopardy. Please explain.

10 MS. SILVERMAN: Yeah. Well, I guess there's a
11 little delicate issue there. We do have a project that had
12 a 90-day certification and they must submit that
13 certification by March 14th and the concern is there is
14 somewhat of a gamble because the regulation's very
15 prescriptive and should the certification expire, then the
16 project basically goes on the bottom of the unfunded list.

17 CHAIRPERSON REYES: Okay.

18 MS. SILVERMAN: So that's specified in
19 regulations.

20 CHAIRPERSON REYES: Okay. The request came in
21 today, so I just wanted people to be aware of that. Okay.
22 Thank you.

23 And then the other item that was pulled was the --

24 MS. SILVERMAN: Transfer item.

25 CHAIRPERSON REYES: -- transfer item, action item,

1 **options for transferring the Lease Purchase --**

2 MS. SILVERMAN: Tab 11.

3 CHAIRPERSON REYES: -- Tab 11. Just want to go on
4 record that that has also been pulled in case you're here
5 for those items. Thank you.

6 Okay. Any comment? Yes.

7 MR. PHILLIPS: Thank you. I'm George Phillips. I
8 work for the Alameda Boys and Girls Club and this is Robbie
9 Lyng who is the facilities manager for the Alameda Unified
10 School District.

11 I know you pulled the item and I appreciate that,
12 but as long as I was here, we wanted to take the opportunity
13 to reinforce how important we think the commitment to
14 Joint-Use Program funding is.

15 CHAIRPERSON REYES: Okay. Let me interrupt you
16 for a second.

17 MR. PHILLIPS: Certainly.

18 CHAIRPERSON REYES: Because the item has been
19 pulled, there's no item to speak to, but there is an open
20 public comment, so we're taking your testimony right now
21 under the public comment.

22 MR. PHILLIPS: Thank you. I appreciate that.

23 CHAIRPERSON REYES: Just to be clear. Because the
24 item doesn't exist right now.

25 MR. PHILLIPS: That's fine. As I said, we feel --

1 CHAIRPERSON REYES: And one more interruption, we
2 welcome Assembly Member Lara to his first meeting with the
3 State Allocation Board. So go ahead, sir.

4 MR. PHILLIPS: Joint-Use we feel is an incredibly
5 important way for limited public dollars to be stretched. I
6 think Robbie will attest to the fact that our project in
7 Alameda which is on the approved but unfunded list is a
8 model for that and while I didn't come here to get into
9 detail about that project, I will tell you that the school
10 district is already using the facility for a number of
11 things.

12 And what makes it unique and I think it's the
13 future of what we'll all be facing in this State is the fact
14 that this project is 80 percent funded by private means as
15 opposed to what I understand is usually 50-50 or even the
16 other way around.

17 That's how important the school district and the
18 citizens of Alameda felt about providing this facility. The
19 facility's built in an end of town that had no
20 infrastructure previously and it's looming to be a great,
21 great success.

22 I know you'll be dealing with the difficult
23 problem of finding money. That's always a challenge in this
24 economy and we would appreciate it as you look that you
25 think about joint-use funding as a priority.

1 Robbie, do you have anything?

2 MR. LYNNG: Yeah. I just want to represent Alameda
3 Unified School District, that it is a big asset for Alameda
4 Unified School District to do a joint-use with the Boys and
5 Girls Club and the board, the superintendent is behind it.
6 We have sent some letters to some people and they -- we are
7 a hundred percent behind it and for the community and the
8 area where it is, it's good for the community and the school
9 district.

10 CHAIRPERSON REYES: Okay. Well, be assured that
11 you have a very strong advocate in Senator Hancock and she's
12 been pushing for this issue. At this point, we've asked
13 staff to continue to work with the Treasurer's office and
14 the Attorney General's office to look for ways of doing this
15 and any other remedies that can be found. But she has been
16 pursuing this issue on your behalf. Thank you.

17 MR. PHILLIPS: Thank you. I appreciate your
18 diligence and I certainly appreciate OPSC's diligence in
19 getting us through this project. It's been -- I've been
20 here before --

21 CHAIRPERSON REYES: Okay.

22 MR. PHILLIPS: -- and I'll probably be here again
23 and so will Robbie, but thank you for your diligence.

24 CHAIRPERSON REYES: Thank you.

25 MR. PHILLIPS: I appreciate it.

1 MR. LYNG: Thank you.

2 CHAIRPERSON REYES: Okay. With that, Tab 4, the
3 **Consent.**

4 MS. SILVERMAN: Consent.

5 CHAIRPERSON REYES: Is there a motion on Consent?

6

7 ASSEMBLY MEMBER HAGMAN: So moved.

8 ASSEMBLY MEMBER BUCHANAN: Second.

9 CHAIRPERSON REYES: Moved and second. Any
10 objections? Any comments? Public comments? Hearing none,
11 all in favor say aye.

12 (Ayes)

13 CHAIRPERSON REYES: Opposed? Abstentions? None.
14 Thank you.

15 We now move to Appeals.

16 MS. SILVERMAN: You want us to go to financial --

17 CHAIRPERSON REYES: **Status of Fund Releases.** I'm
18 sorry. Tab 5.

19 MS. SILVERMAN: Okay. Yeah. Tab 5. Really
20 quickly. If I can draw your attention to Tab 5, page 72.

21 This is a summary of the funds we have disbursed
22 during the calendar month of January. And so we actually
23 did have a big run on the money, the cash that was made
24 available in December. That's \$431 million that was
25 released.

1 \$426 million relates to the priority in funding
2 round. So again we've been having a high draw on the
3 disbursements and we actually posted about another hundred
4 million in the last few weeks. So it's been very productive
5 over the last few weeks.

6 And we also have highlighted also some of the
7 other financial information. There is a report that we
8 generally share with you as far as the timelines.
9 Tab [sic] 74, I think we've been watching and looking
10 forward with targets that are set to expire.

11 There's a summary of that on page 74. So in
12 February, even though it does denote that we had one project
13 that's set to expire for 21 million, they actually did come
14 in about last week to access their funds. So again moving
15 forward, there won't be money in that particular pot from
16 rescissions.

17 And then the large spike you see in March
18 represents the priority in funding. That's still
19 outstanding. So there's 146 projects for \$390 million.

20 And again we've had about \$100 million drawdown
21 since the last few weeks, but again encourage those folks
22 that have outstanding priority in funding apportionments to
23 come in by March -- to come in for their cash.

24 CHAIRPERSON REYES: Thank you.

25 MS. SILVERMAN: And Tab 6 --

1 CHAIRPERSON REYES: Before we go there, any public
2 comment on Tab 5? Seeing none, please proceed.

3 MS. SILVERMAN: Tab 6 is our summary of the
4 projects that you actually did approve in the **Consent**
5 **Agenda**.

6 In summary we actually posted in the new
7 construction category. That's Tab 6, page 75, and it was a
8 long sheet there. In that peach color area, we actually did
9 process one new construction project for 700,000. We have
10 18 modernization applications that we processed for
11 \$2.6 million and there was a small project -- or three
12 projects that really technically haven't posted just yet.

13 CHAIRPERSON REYES: Are you on page 75?

14 MS. SILVERMAN: 75 on Status of Funds.
15 Page 6. [sic]. So it's about \$30,000 that really -- it's
16 small enough it didn't post, but we'll post it next month
17 once we accumulate additional projects for high performance.
18 So three projects for \$30,000 posted in Proposition 1D.

19 In the middle category is Proposition 55.
20 \$10 billion was the original initiative. So this month, we
21 processed 14 applications for 11.3 million. In total out of
22 the three propositions, 1D, 55, and 47, we have 36 projects
23 that were brought forward for \$2.6 million.

24 And that's financials.

25 CHAIRPERSON REYES: Thank you. Any comments,

1 questions coming from public? Seeing none, move on.

2 MS. SILVERMAN: Tab 7.

3 CHAIRPERSON REYES: Tab 7. Tab 7 is the first
4 appeal item with the **Sequoia Elementary School** and this is a
5 unique one in that it is a K-8 and this is neither fish nor
6 fowl. It could go under one way and it costs us money or
7 this way and it's denied or it doesn't meet the category and
8 I would suggest that we support the appeal but ask staff to
9 go and amend the regulations to address cases like this, the
10 K-8 or the unique case that is before us.

11 The current regulations don't seem to address what
12 to do with cases like this, but I think it's a legitimate
13 issue, but I don't want to use it as precedent setting. I'd
14 rather have the regulations be clear on this.

15 So with that, I just open it up for discussion.
16 Ms. Moore, you have a question?

17 MS. MOORE: I just wanted to indicate that we
18 would like to be involved in the development of that
19 regulation because it has an educational impact and I don't
20 know if we would want to ask the Implementation Committee --

21 CHAIRPERSON REYES: Yeah. This -- I wanted to
22 send this to the Implementation Committee --

23 MS. MOORE: Okay. And we have amended those, so
24 that's --

25 CHAIRPERSON REYES: -- specifically. So -- yes.

1 MS. MOORE: So that's fine and I'm prepared to
2 move the alternative option of classifying the gym and
3 multipurpose as independent entities and fund the project.

4 CHAIRPERSON REYES: So the alternative motion is
5 to class it for purposes of this or moving forward?

6 MS. MOORE: For purposes of this --

7 CHAIRPERSON REYES: For this only; okay.

8 MS. MOORE: -- this project only.

9 CHAIRPERSON REYES: Perfect.

10 ASSEMBLY MEMBER HAGMAN: So we're supporting this
11 appeal.

12 CHAIRPERSON REYES: Yes. Essentially supporting
13 the appeal. All right.

14 ASSEMBLY MEMBER BUCHANAN: So -- but we're funding
15 it at how many grants? I don't know why I'm having a hard
16 time finding this here.

17 MR. MIRELES: It'll be a total of 174 pupil grants
18 for State share of \$4.2 million.

19 ASSEMBLY MEMBER BUCHANAN: Okay. So I'm just
20 curious we're funding that then as a gym?

21 MS. MOORE: We're funding it as a hybrid. It's a
22 multipurpose and a gym and --

23 ASSEMBLY MEMBER BUCHANAN: Because if you fund it
24 as a hybrid, their multi-use room --

25 MS. MOORE: Well, just tell me --

1 ASSEMBLY MEMBER BUCHANAN: -- qualify --

2 MS. MOORE: Just tell me this. The option to how
3 the Board could approve it indicates to classify the
4 gymnasium and multipurpose room as an independent entity and
5 that's what I did based upon what staff is asking -- is
6 saying what can be done. If it needs to be done
7 differently, let me know.

8 ASSEMBLY MEMBER BUCHANAN: I'm just trying to
9 clarify because when I read the documentation, it was clear
10 that they have a multi-use room, whether it's elementary or
11 middle school, that meets the minimum essential facilities
12 requirement; right? It was -- I believe if I recall is
13 115 percent of the square footage for elementary,
14 85 percent, so it was within that range.

15 So what we're really doing is approving this as a
16 separate gymnasium for the school; is that correct?

17 MR. MIRELES: That's --

18 ASSEMBLY MEMBER BUCHANAN: I just want to clarify
19 that.

20 MR. MIRELES: That's correct, Assembly Member.

21 ASSEMBLY MEMBER BUCHANAN: Because my
22 understanding is that the Department of Education said it
23 was a multi-use room/gym, but they already have the
24 multi-use. So we're not funding that. We're approving a
25 gymnasium.

1 Now, if -- you're attaching a gymnasium to another
2 building, but I want that to be clear because we don't want
3 to come back and expand it and fund this as a multi-use
4 expansion and then have them come back for the gym later on.
5 This is a gym that we're funding.

6 CHAIRPERSON REYES: Correct.

7 ASSEMBLY MEMBER BUCHANAN: Correct.

8 CHAIRPERSON REYES: And also we're recognizing the
9 uniqueness of this and we're asking staff to go and look --

10 ASSEMBLY MEMBER BUCHANAN: Right.

11 CHAIRPERSON REYES: -- so that we don't find
12 ourselves in the situation --

13 ASSEMBLY MEMBER BUCHANAN: Well, it's really not
14 unique if you're funding it as a gym; right? It would be
15 unique if we were funding the expansion of a multi-use room.

16 Am I --

17 CHAIRPERSON REYES: Juan.

18 MR. MIRELES: They don't have an existing gym.

19 ASSEMBLY MEMBER BUCHANAN: Right.

20 MR. MIRELES: So under the criteria, they qualify,
21 but because it's not a separate facility --

22 ASSEMBLY MEMBER BUCHANAN: Right.

23 MR. MIRELES: -- the regulations don't address the
24 expansion or --

25 ASSEMBLY MEMBER BUCHANAN: The fact that you can

1 attach a gym to an existing --

2 MR. MIRELES: Correct.

3 ASSEMBLY MEMBER BUCHANAN: -- facility. Okay. So
4 that's what we're clarifying. That's all --

5 CHAIRPERSON REYES: Okay.

6 ASSEMBLY MEMBER BUCHANAN: I'm satisfied with
7 that. I just wanted to be sure we were clarifying how we
8 were doing it.

9 CHAIRPERSON REYES: Thank you. So it's been moved
10 by Ms. Moore. Is there a second?

11 ASSEMBLY MEMBER HAGMAN: Second.

12 CHAIRPERSON REYES: It's been moved and second.
13 All in favor say aye.

14 (Ayes)

15 CHAIRPERSON REYES: Opposed? Abstentions? Ayes
16 have it. Thank you. Item 8 has been pulled. On to action
17 items. Tab 9. And Ms. -- go ahead.

18 MS. SILVERMAN: The **New Construction Subcommittee**
19 report.

20 ASSEMBLY MEMBER BUCHANAN: Yeah. I was hoping --
21 I don't know if we want to wait till Senator Hancock gets
22 here so we can all discuss it or if you want me to go
23 forward, so --

24 CHAIRPERSON REYES: Go ahead and move forward
25 because I'm going to lose Senator Wyland.

1 ASSEMBLY MEMBER BUCHANAN: Okay.

2 CHAIRPERSON REYES: So we can move forward.

3 SENATOR LOWENTHAL: Which one is this?

4 CHAIRPERSON REYES: Tab 8.

5 ASSEMBLY MEMBER BUCHANAN: Tab 9.

6 MS. SILVERMAN: 9.

7 ASSEMBLY MEMBER HAGMAN: 9.

8 CHAIRPERSON REYES: Tab 9, the New Construction
9 Subcommittee report.

10 ASSEMBLY MEMBER BUCHANAN: So the New Construction
11 Subcommittee met on three different occasions, had rather
12 lengthy meetings and discussions. Ms. Moore attended the
13 last one and in those meetings, we asked for, you know,
14 different information to be brought forward.

15 And the questions that we took a look at was,
16 one -- well, let me walk you through the charts first before
17 I go through our recommendations.

18 If you go to page 127, the reality is, is that
19 we're at the end of this bond program and we are running out
20 of new construction dollars. And the way our developer
21 pays -- when you are no longer able to allocate any more new
22 construction funds, then that triggers Level III developer
23 fees.

24 And given the reality that the Governor does not
25 want a facilities bond on the ballot this year, we were

1 dealing with issues of, one, you know, what do we do in
2 terms of developer fees. Do we suspend Level III developer
3 fees. Two, the Governor had in his budget proposal to add
4 the ORG money into new construction, so we dealt with that
5 issue. Three, do we just run out of new construction -- do
6 we spend all of our new construction money now and then not
7 allocation any over the next two years or do we stretch out
8 the program. And, four, what do we do in terms of keeping a
9 list of those schools that want to apply for money beyond
10 the current bonding capacity in the bond.

11 So if you go to page 127, you know, and you take a
12 look at where we are with our remaining bonding authority
13 and where we are given our current burn rate of money, if
14 you look at the blue chart there, if we take the -- and
15 actually I'm not sure this is originally based on the
16 143 million or if that's been adjusted downward.

17 But if you start out with 150 million in January
18 we're down -- we will have spent the remaining bonding
19 authority that we have right now by April and the New
20 Construction Program will be out of money.

21 We have more money left in the Modernization
22 Program, but at that current burn rate, we're expected to be
23 out of modernization money by October of this year.

24 Now it's been past practice for this Board when we
25 have critically overcrowded schools money that is not --

1 that comes back into the program, it's been past practice to
2 transfer that money into new construction.

3 So based on estimates that we have, if we have
4 approximately 200 million in critically overcrowded schools
5 money that comes back in at the end of April, then at the
6 current burn rate, we will extend the current new
7 construction funding out until sometime between August and
8 September.

9 So you have that option and the reality that we're
10 dealing with and the other options are to take the money and
11 stretch it out, limit our -- how much money we draw down
12 over the next two years and keep the program in place
13 through 2014 and those charts, as you see when you go onto
14 page 128, show how you would do that with just the -- one,
15 if we're to add in the overcrowded relief grant and the
16 capital -- excuse me -- critically overcrowded schools money
17 and if we were to do it with the drawdown based on I
18 believe -- do we have -- oh.

19 And if you go to the next page, that is based on
20 the transferring only the critically overcrowded schools
21 money.

22 So after, you know, lengthy discussion, we have a
23 series of recommendations. The first is that we suspend
24 Level III fees until through December 31st, 2014, and the
25 believe was that if we do that, that, one, it doesn't

1 penalize the building developers construction industry at a
2 time when new housing starts are about 20 percent of what
3 they were four or five years ago and due to the fact that we
4 can't get a bond on the ballot this year, but also by having
5 a date certain there, we felt that that would be -- give --
6 be reason to have the development community work with us to
7 get a bond on the ballot in November 2014 and also work with
8 us to pass that bond so that we avoid Level III fees
9 altogether and we keep the program going.

10 The second recommendation we had dealt with
11 program preservation and so in taking a look at the funds
12 that are available, we have the current new construction
13 dollars, the critically overcrowded school dollars, and the
14 ORG, Overcrowded Relief Grant, money.

15 We are not recommending that we transfer the ORG
16 money into new construction at this time. After having
17 conversations with a couple school districts, it was clear
18 to us that some of them have projects where they haven't
19 submitted requests for funding yet and we don't believe we
20 should potentially penalize any district that's out there
21 committing funds based on a promise that the money will be
22 there.

23 We are recommending that the Board act as it has
24 in the past and transfer the critically overcrowded schools
25 money that comes back into the program into new construction

1 and we're recommending that we stretch out the approvals
2 through 2014 but that we give the State Allocation Board,
3 rather than having a specific amount each month that we
4 would allocate, we give the State Allocation Board latitude
5 to decide how best to do that because we're going to have
6 projects that come in that request different dollar amounts.

7 We could have a facilities hardship or another
8 critical project that comes in and we don't -- we want to
9 give the Board flexibility to make those decisions.

10 And also the other issue we got into was
11 stretching out the program was the question of how do we
12 keep the program going long term. And as all of you know,
13 we're in a very different economic reality right now and
14 we're in a very different political reality right now.

15 And I talked to two consultants, one from Northern
16 California -- political consultants -- and one from Southern
17 California to talk about what they believe puts us in the
18 best position to pass a school bond in 2014 and both of them
19 independently without given any opinion or anything said
20 they believe that it's important to keep the program going,
21 that they believe that if we don't have a program for two
22 years where we're actually allocating funds, it would be too
23 easy for people to argue that you haven't had a program and
24 why start a new program now and there of course is belief on
25 some people's part that there should be a -- schools should

1 be funded locally.

2 You know, one of them said, you know, said, Joan,
3 I think that the message needs to be that the State's
4 running out of facility dollars and we're doing the best we
5 can to allocate it out. We're stretching out our money, but
6 we're having to make difficult decisions and that kind of --
7 that message is what families are doing every day in their
8 normal lives but that that actually puts us in a better
9 position to pass the bond.

10 So that weighed heavily I know into my decision
11 and I think some of the other decisions.

12 So I can summarize our recommendations. I'd, you
13 know, be happy to entertain questions or I'm sure Senator
14 Lowenthal or Assembly Hagman could as well.

15 We're recommending that we suspend Level III
16 developer fees through December 31st, 2014; that we transfer
17 any remaining critically overcrowded schools money that
18 reverts back into the program into new construction; and
19 that we stretch out our funding approvals through 2014.

20 Along with that though we do recommend that we
21 create a list. We don't -- you know, we want to have a list
22 of projects that come in and probably date stamp them so
23 that we know the need and I think the best -- it's in our
24 recommendation that the best way to determine how to do that
25 I think is through the Implementation Committee -- and that

1 we do not transfer the Overcrowded Relief Grant money into
2 the new construction account.

3 And my understanding is we have some -- when we do
4 get time hopefully to vote after -- I'm sure we'll have
5 considerable discussion, but I think we want to take the two
6 votes separately I believe.

7 CHAIRPERSON REYES: Okay. Yeah. If it's okay
8 with you just so we can focus the conversation, we can take
9 one -- each of the recommendations separately and that way
10 folks can raise questions and comments could be taken from
11 folks. If that's the will of the Board, then I appreciate
12 that just for the ease of administering the conversation.

13 So the first one on the developer fees, recommend
14 the Legislature to suspend Level III developer fees through
15 December 31st, 2014. Are there any comments?

16 ASSEMBLY MEMBER HAGMAN: I'll move it.

17 CHAIRPERSON REYES: It's been moved. Mr. Wyland.
18 Senator Wyland.

19 SENATOR WYLAND: Just clarification. I understand
20 that would take legislation --

21 CHAIRPERSON REYES: Yes.

22 ASSEMBLY MEMBER HAGMAN: Correct. So it's
23 recommendation to --

24 ASSEMBLY MEMBER BUCHANAN: So it's going to be --
25 I think it'll be a recommendation to the Legislature. So we

1 can't vote to do it. It does take two-thirds -- a
2 two-thirds vote in the Legislature.

3 SENATOR WYLAND: And we don't know exactly how
4 that will turn out, but I'd just like to say that I
5 wholeheartedly concur with that and it's -- the problem
6 we've got and I think you see it recognized nationally now
7 with our economy is the incredibly important role
8 construction plays.

9 It's one of those -- it's not only the demand for
10 housing which is still there, but it's one of those types of
11 economic activity that has incredible -- there's a technical
12 word -- incredible expansion of the jobs that are involved
13 and, you know, we've got this problem particularly in
14 California and some other states.

15 So my concern is that I actually see -- because I
16 used to be in a tangential business -- I see property now
17 that literally has no value because the cost -- even though
18 there's demand for housing -- because the cost of doing all
19 the preliminary work and building the house creates a cost
20 that's too high to sell the house.

21 So anything we do -- you know, sometime in the
22 past we used to say in terms of planning, yeah, you know,
23 they're building houses like crazy, we need to make sure
24 that we have enough money and fees for infrastructure, I'm
25 afraid that day is past.

1 And so I appreciate the recommendation of the
2 Subcommittee and I just want to say I think that's crucial
3 for trying to rebuild our economic future.

4 CHAIRPERSON REYES: Okay. Senator Hancock.

5 SENATOR HANCOCK: Thank you. I am assuming that
6 the Subcommittee recommendation would not preclude a local
7 community from imposing developer fees and the reason I say
8 that is that obviously developer fees were originally
9 instituted by local communities so that somebody other than
10 the existing taxpayers would pick up the cost of the roads
11 and constructing the schools and other things.

12 So in this case, the local communities would need
13 to pick up that cost and some of them may not feel that they
14 would have the ability to do that.

15 So how do you --

16 ASSEMBLY MEMBER BUCHANAN: Well, I mean the --

17 SENATOR HANCOCK: -- think about those trade-offs?

18 ASSEMBLY MEMBER BUCHANAN: For all those districts
19 that aren't growing, I mean they can still levy Level I fees
20 which are those statutory fees. They would still be able to
21 assess Level II fees. They would still be able to negotiate
22 mitigation agreements with contractors, but they would not
23 be able to levy the Level III fees until after
24 December 31st, 2014.

25 And to piggyback on what Senator Wyland said, at

1 our first committee hearing, we had testimony from the BIA
2 where they presented charts and showed us that, you know,
3 prior to the recession hitting, I believe it was they had
4 somewhere over 220,000 housing starts. Two-thirds were
5 single-family; one-third multi-family. Last year they had
6 43,000 with two-thirds multi-family; one-third
7 single-family, exactly the opposite.

8 Before the recession you had houses that were
9 selling for 700,000. Today they're selling for 300-,
10 350,000.

11 Out in East County, Contra Costa, which I
12 represent -- I know you're familiar with the area -- they
13 had a \$4,500 fee to help pay for the Highway 4 bypass. They
14 just cut that fee in half. They just cut the sewer fees in
15 half because when you have on average \$120,000 in fees on a
16 house that's selling for \$700,000, it's pretty easy to
17 absorb that cost.

18 When the price of the home goes down to 350,000,
19 it's much more difficult. So what we're doing is delaying
20 the implementation of Level III fees until the developers --
21 until we're able to have a bond on the ballot because, you
22 know, again I don't think we should penalize builders
23 because we're not able to put a bond on the ballot this
24 November.

25 SENATOR HANCOCK: Okay. Thank you.

1 CHAIRPERSON REYES: Anybody else? Senator.

2 SENATOR WYLAND: Just one just very quick comment.
3 I think in the past when things are going high, wide, and
4 handsome, we thought in terms of builders and their economic
5 interests and as Senator Hancock pointed out, the
6 infrastructure needs and all those, I think what they were
7 trying to say is it's so dire that this is -- the penalty
8 would be on all of us because we're so interconnected at the
9 hip throughout the entire economy.

10 And so I think that was a wise decision and
11 hopefully we get to a point where we're no longer in that
12 position.

13 ASSEMBLY MEMBER HAGMAN: Are you seconding my
14 motion then?

15 SENATOR WYLAND: That is a second. It's a
16 senatorial second.

17 ASSEMBLY MEMBER HAGMAN: Okay. Very good.

18 CHAIRPERSON REYES: Okay. So it's moved and
19 second. Senator Hancock, do you still --

20 SENATOR HANCOCK: Okay. I do. Yeah. And other
21 people may have too. I wonder if the exchange in ratio had
22 something to do with developer fees. I mean the idea was
23 really a concern on the part of many people in the State
24 about greenfield development and encouraging again more
25 local community costs and it is true I'm sure, but the fees

1 are smaller because the infrastructure costs are less,
2 although there are infrastructure costs and infill
3 development.

4 So are we inadvertently encouraging something that
5 we had a fee to pick up the costs for and we are, it seems
6 to me, putting the cost back on the existing taxpayers then.

7 So I don't know. I --

8 ASSEMBLY MEMBER BUCHANAN: Well, this -- I mean
9 this doesn't affect other fees that local governments can
10 charge This deals with the --

11 SENATOR HANCOCK: But don't they have to have two
12 two-thirds vote for all of them?

13 ASSEMBLY MEMBER BUCHANAN: This has nothing to do
14 with any of the other fees. This is only school fees.

15 SENATOR HANCOCK: So -- no. But local government
16 is very restricted in what it can do.

17 ASSEMBLY MEMBER BUCHANAN: This only deals with
18 the --

19 SENATOR HANCOCK: So you take away the State
20 money, but if you don't -- if you require a two-thirds vote
21 that's impossible to get at the local level, you're in
22 effect saying that it's not going to pencil out.

23 I mean I feel like -- I will vote for this today
24 but maybe not for the legislation. I'd really like to see
25 the legislation as it develops.

1 ASSEMBLY MEMBER BUCHANAN: Okay. We are only
2 dealing with the developer fees, the fees that developers
3 pay the school district. We are not dealing with any of the
4 fees that the developers pay for any of the other
5 mitigation.

6 SENATOR HANCOCK: Yes. But it's --

7 ASSEMBLY MEMBER BUCHANAN: I know you want to see
8 the language, but --

9 SENATOR HANCOCK: -- comes out of the same
10 pockets. That's right. That's right.

11 ASSEMBLY MEMBER BUCHANAN: Well --

12 SENATOR HANCOCK: And think through the downstream
13 effect.

14 ASSEMBLY MEMBER BUCHANAN: All right.

15 CHAIRPERSON REYES: I have Mr. Lara and then I
16 have Senator Lowenthal.

17 ASSEMBLY MEMBER LARA: Thank you, Chairman. I
18 also just -- Assembly Member Brownley and I had enough
19 conversations on this issue. She definitely supports the
20 suspension of the Level III fees, but still I'm trying to
21 determine what the appropriate ending should be and so I'm
22 going to abstain on this issue given that she's on the
23 Subcommittee that's going to continue to review this issue.

24 CHAIRPERSON REYES: Okay.

25 ASSEMBLY MEMBER LARA: Just wanted to put that for

1 the record.

2 CHAIRPERSON REYES: Thank you. Senator Lowenthal.

3 SENATOR LOWENTHAL: I just want -- there have been
4 some changes. I just notice also in letters that have come
5 in to us -- are we going to have input before --

6 CHAIRPERSON REYES: Oh, absolutely. I just out of
7 courtesy, I allowed the Board members to have the first
8 questions and clarification and then we'll ask for folks for
9 public testimony.

10 SENATOR LOWENTHAL: Even on the Subcommittee I was
11 torn by this. I really just hear the part and that's why I
12 want to hear the input. I really listened very carefully
13 and do have concerns about imposing Level III fees at this
14 moment.

15 I understand that, but I also want to hear more.
16 I -- and I'm not totally committed like Senator Hancock. No
17 matter what I vote today, that's a commitment to how I'm
18 going to be voting on the floor in the Legislature. But
19 I -- I'm really -- I wanted to move this forward. I have
20 real concerns about imposing Level III fees, but I really
21 need to hear from people also.

22 CHAIRPERSON REYES: Okay. So -- Mr. Hagman.

23 ASSEMBLY MEMBER HAGMAN: And I guess since we're
24 all weighing in at this point, you know, I look at this
25 program and before this program came into effect, there was

1 a lot of imbalance in local jurisdictions of what people pay
2 and what didn't pay, you know, what the needs were and that
3 really kind of wasn't in line at all.

4 This program has been very successful. Not that I
5 think there's not room for improvement on it, but if you --
6 I truly believe if you don't implement some of these steps
7 that we recommend from the Subcommittee, then by the time we
8 get to 2014, this program as it exists right now will not be
9 functioning and you're going to be starting over from
10 scratch.

11 And all the work that all partners put into this
12 to establish this way back when to get it going, keep it
13 functioning, was important, needed, it's worked out for the
14 most part as planned where you had all the parties kind of
15 put into this.

16 This is -- this recommendation basically extends
17 to this temporary economic time, this program as it exists
18 to 2014 when hopefully the time is right to put out a new
19 bond to keep this program going.

20 But I think once you start taking away those
21 threats, either by legislation -- let's face it, the only
22 thing we could do on this Board is basically -- out of the
23 three recommendations is either slow down the money or not
24 slow down the money. The rest of it's on the legislative
25 act.

1 But without those checks and balances in place,
2 the whole program, then the parties that came together to
3 develop it in the first place will have to go off and start
4 fighting each other in the Legislature and the whole thing
5 then unravel.

6 When you come to you run out of money, you
7 wouldn't have the support for the partnership and in the
8 2014, you'd have nothing left.

9 So I would recommend to our colleagues here that
10 this has been a lot of deliberation over this with all the
11 parties involved. No one's happy with it because we just
12 don't have the money to go where we want to, but at the same
13 time, it's the most -- the smartest thing we could do at
14 this point. Thank you.

15 CHAIRPERSON REYES: Thank you, Mr. Hagman. So why
16 don't we have public testimony come up, folks.

17 MR. LYON: Good afternoon. Richard Lyon on behalf
18 of the California Building Industry Association. Thank you
19 all very much for the discussion.

20 I'd like to -- well, I'd like to say a lot of
21 things, but in -- kind of tagging onto what Mr. Hagman said,
22 I was at the table when we put the SB50 program together and
23 it was a years-long effort to do it. It created a historic
24 partnership between the State, between local school
25 districts, and home builders as it relates to new

1 construction that has over the last 12 to 13 years, in our
2 opinion, produced the best infrastructure program the State
3 has ever seen.

4 And it is a partnership. Our deep concern is that
5 if the funds are exhausted and if the trigger is pulled on
6 Level III, which would mean even in modest jurisdictions 25,
7 35, \$45,000 per unit just on school fees alone that that
8 would be the kill shot to housing at least new construction.

9 We are at historic lows. It's going to be very
10 difficult to recover and the partnership would be at that
11 point dissolved.

12 Prior to SB50, the school facility issue was
13 strife with litigation and the reason we put the SB50
14 program together and the partnership is because we wanted to
15 avoid that contention and that litigation that had gone on
16 for so many years prior to the program.

17 There has been virtually none save a couple here
18 and there over the last 12 or 13 years. It's been a smooth
19 running program and we encourage you to keep that
20 partnership together.

21 The suspension of Level III, while it may be
22 distasteful for some of you, is a necessary option in order
23 to maintain that partnership. If we're gone -- if we're out
24 of the funding picture, then we're back in the situation
25 where we're fighting the school districts. They're levying

1 fees at whatever amount they want to levy them and we're
2 back into the same kind of regime that we were before we put
3 the program together.

4 We believe wholeheartedly in this program. Our
5 heart and soul is in this program. I have worked on every
6 bond measure since 1988 in this State. There is every
7 desire on the part of the home building industry to see this
8 be a successful program.

9 The recommendations in front of you today are our
10 best not only substantive but political take on what it
11 takes to hold this program together and we urge you to adopt
12 the three recommendations.

13 And, Senator Hancock, to your question about fees,
14 we will continue to pay our full complement of school
15 mitigation fees. The issue is should we be forced to pick
16 up the State's share as well.

17 We have a 50-50 funding program where it's a State
18 obligation and local obligation and we have agreed not only
19 to pay fees but to backstop the school district if they're
20 not able to raise 50 cents to match the State's 50 cents.

21 And in today's economic time, because there is no
22 possibility of getting a bond -- at least that's what we
23 understand -- then through no fault of our own, we would be
24 forced to have to come up with the State's share as well as
25 the local share.

1 In today's economy at the levels we're building
2 and in today's economic environment -- I said it before --
3 that would be the kill shot for housing in California. It's
4 going to be difficult enough to come back. It would be
5 virtually impossible if we had to absorb these types of fees
6 along with the other fees that were -- that we are paying.

7 So I could go on. I think you get the gist. We
8 encourage you to support the recommendation.

9 CHAIRPERSON REYES: Thank you.

10 MR. DUFFY: Mr. Chairman, members, Tom Duffy for
11 CASH. And you're going to take, Mr. Chairman, each of these
12 items --

13 CHAIRPERSON REYES: Separately; correct.

14 SENATOR LOWENTHAL: Separately. We're just
15 talking about the suspension.

16 MR. DUFFY: Right. But they keep entangling
17 themselves in my mind. But let me speak first, if I may, to
18 the issue of running out of fees because it's relative to
19 what you had said, Ms. Buchanan, and that is we talked to
20 our pollster and our pollster said the way to get voters is
21 to be out of money and that's the way to encourage them, so
22 it was a different response.

23 SENATOR LOWENTHAL: But that's item number 3.

24 MR. DUFFY: It is, but I --

25 SENATOR LOWENTHAL: That's not -- you'll get a

1 chance to come back.

2 MR. DUFFY: No. And I'm not trying to double-dip
3 here. What I was trying to do is just to answer the
4 Assembly Member's question.

5 We have never asked to pull the trigger on
6 Level III and we have been very respectful of the fact that
7 there is a balance and there's difficulty -- tremendous
8 difficulty here and we've appreciated the time and energy
9 that the Subcommittee has spent on this.

10 The question I really ask because it seems to me
11 that there's a tremendous amount of support for the
12 suspension and I realize it's a symbolic act because the
13 Legislature will actually deal with this and there's six of
14 you that will deal with it.

15 But you are a body that looks at schools and you
16 are a body that works to try to effectively marshal
17 resources to assist schools. And I don't know that there's
18 a balance to the opposite side of this question of the
19 suspension.

20 Again -- and it's not doublespeak to say -- we're
21 not -- we haven't ever lobbied any of you to pull the
22 trigger on Level III, but at the same time, we're saying we
23 need a solution because if indeed -- as we've communicated
24 to you, if indeed all these actions are to assist the
25 development community, that may be very positive for the

1 economy, but how is it positive for schools?

2 What do schools gain from this? And I know
3 several of you have been board members and council members
4 and worked at the local level.

5 Where do schools benefit from this? And in fact
6 if you look at all of the issues that are before you
7 addressed by the Subcommittee, where are the benefits? And
8 I can't find a benefit.

9 So that's the question. We have -- and we said
10 this at the Subcommittee. We have opposed the suspension,
11 but we haven't asked to pull the trigger.

12 What we believe is with all of the minds and the
13 hearts and the desire to make this program continue to work
14 that there'd be something potentially in between.

15 And I know at the one Subcommittee hearing -- the
16 one prior, we said, you know, if there's a discussion of a
17 suspension, then we would like to be at the table for that
18 discussion. Apparently this is that discussion, but we've
19 moved rather quickly to what appears to be a conclusion.

20 So thank you.

21 CHAIRPERSON REYES: Thank you. I have -- Senator
22 Lowenthal wanted to -- and then I have an observation and
23 then Assembly Member Buchanan.

24 SENATOR LOWENTHAL: Well, there are a couple
25 things. You're saying -- and I think that's -- you're

1 raising very important issues because I too am struggling
2 where is this balance and really what we do.

3 And what -- really what do school districts get
4 for this and maybe this is the issue, you know, we're making
5 recommendations and I hear you also saying that and although
6 you're only up here talking about the suspension, but you
7 also do not support regulating how the funds go out.

8 And so somewhere in that if we did not support
9 everything that's on -- if we supported suspension of the
10 Level III fees but ultimately said, well, but we're not
11 going to go along -- we're going to listen to the school
12 districts or CASH in terms of how we regulate or not
13 regulate, you know, the funding, is that what you would like
14 because you're saying that you're not really opposed or what
15 to implement the Level III fees, but yet there has to be
16 some meaningful dialogue that really responds to the needs
17 of the school districts.

18 So given the package that's before us, I guess
19 what I'm asking is could you support some parts of the
20 package but not the other. That's all I'm saying.

21 MR. DUFFY: And, Senator, I like the way that you
22 phrase that because it kind of helped me in dealing with --

23 SENATOR LOWENTHAL: Right.

24 MR. DUFFY: -- more than just the one item.

25 The -- we all want this economy to gain strength and move

1 and we believe that the housing industry certainly has been
2 damaged and --

3 SENATOR LOWENTHAL: Devastated.

4 MR. DUFFY: -- and needs to come back. Schools
5 have been tremendously damaged and the --

6 SENATOR LOWENTHAL: Absolutely.

7 MR. DUFFY: -- both on the operational side as
8 I've testified before as well as on the capital side.

9 We have said to you and to the development
10 community we want this program to continue. We believe that
11 this program is an effective program and we differ on the
12 idea of stretching out the dollars.

13 We believe that if the Board were to effectively
14 direct that a policy regulation be put in place that would
15 encourage and continue the accepting of applications just as
16 they currently do while you having bonding authority -- and
17 this is something, by the way, we communicated to you in a
18 letter last April --

19 SENATOR LOWENTHAL: Right.

20 MR. DUFFY: -- that very item -- continue the
21 approvals beyond bonding authority, you do several things.

22 One is you give districts the ability to recognize
23 that the program is intact. The second thing you do is in
24 that recognition they will spend money at the local level
25 because that's part of this plan and whatever funds they

1 have to move their projects forward.

2 And in doing that, we then create the third item
3 which is the pipeline to our view for that bond for -- and
4 I'm wearing a 2012 button because we're arguing for a bond
5 for this year. I recognize that's not the political will
6 necessarily, but it certainly will of schools -- but to
7 continue to demonstrate the need for a bond.

8 And I think that there is something that we could
9 negotiate, Senator, that's in there where again we're not
10 wanting to damage anybody, but at the same time, are we
11 wanting to damage schools alone?

12 There's a three-legged school that's been talked
13 about about this program and that program was considered to
14 be the State and the development community and schools and
15 we realize that one of those legs on that school is now
16 basically almost gone and the other, the development
17 community school, has been gone and we have schools and
18 schools are going to have to rely only on their own
19 resources.

20 Won't even discuss the have and have-not issue
21 here, but simply the three things I was talking about. Have
22 districts continue to believe that the programs in existence
23 have them spend money to move their projects into a pipeline
24 and use that pipeline as the argument for the next bond.

25 ASSEMBLY MEMBER BUCHANAN: Are we talking about

1 developer fees or --

2 CHAIRPERSON REYES: Ms. Buchanan.

3 ASSEMBLY MEMBER BUCHANAN: I don't know if we're
4 talking about developer fees or the other and --

5 SENATOR LOWENTHAL: Well, what he's saying I think
6 and just --

7 ASSEMBLY MEMBER BUCHANAN: He's saying he wants to
8 make a deal.

9 SENATOR LOWENTHAL: Well, but he -- no -- well,
10 what he's saying is the reason why these are separate issues
11 that each one has some pros and cons in those issues and
12 that necessarily some of us may be more committed to hearing
13 that we do not want to put the development community -- the
14 homeowners in a bind.

15 That does not mean necessarily if we did that that
16 we're in agreement with some of the other recommendations.

17 ASSEMBLY MEMBER BUCHANAN: Right.

18 SENATOR LOWENTHAL: That's really what he is
19 saying and maybe there could be some mechanism and some
20 process that people -- either before we vote today -- that
21 could reconcile some of these conflicting because it's not
22 simply to vote for all -- if you vote for one, you vote for
23 all --

24 ASSEMBLY MEMBER BUCHANAN: And that's why my -- my
25 understanding is --

1 CHAIRPERSON REYES: And I think we've -- that's
2 why I wanted to bifurcate this.

3 ASSEMBLY MEMBER BUCHANAN: -- that's why we're
4 taking each separately and --

5 CHAIRPERSON REYES: Yeah, it was a split.

6 SENATOR LOWENTHAL: And what he's saying is it's
7 difficult to support something like this if we're not also
8 dealing with the acceptance -- you know, dealing with the
9 whole application and continuing the approval process.

10 You know, it's hard for them to support this if
11 they don't think that we're also going to address that.
12 That's all he's --

13 CHAIRPERSON REYES: At least we know where they
14 stand.

15 ASSEMBLY MEMBER BUCHANAN: So I just have a
16 question and I was a little surprised because we've had
17 meetings and numerous conversations. You've had lengthy
18 discussions at the three Subcommittee meetings we had, so I
19 just wanted -- the implication that you haven't been
20 involved is a little bit surprising to me.

21 But beyond that, I just want to probe further.
22 You said you are sympathetic and you don't want to impose
23 Level III developer fees, but yet you don't want to suspend
24 them.

25 So we know that housing starts are way down and if

1 I'm a developer, just like you want assurance, I want
2 assurance that a program is going to be there and if I
3 split, you know, 50 million or however many million I'm
4 going to put into taking a look at a project that I'm not
5 going to be -- I'm going to have some certainty there.

6 So if you're not going to suspend them, but you
7 don't want to impose them, where do you -- how do you give
8 some sort of assurances to these developers because cash is
9 very hard to get.

10 Whether you're a developer or whatever kind of
11 business you're in, access to capital is a major problem.

12 How do they move forward without any kind of
13 certainty and where do they get their certainty out of those
14 two options?

15 MR. DUFFY: There may be a number of options that
16 would be available at the local level and I think you had
17 commented earlier about agreements and the like.

18 Within the provisions of the code established in
19 1998 is a reimbursement provision to allow a developer to be
20 reimbursed. That's certainly -- and if they don't have cash
21 and they're struggling, maybe they go to the district and
22 they ask for an agreement.

23 You know the role that I played in the past. I
24 negotiated those kinds of agreements.

25 ASSEMBLY MEMBER BUCHANAN: There is nothing

1 without a suspension that keeps a district from assessing
2 Level III fees. So how do you have the assurance that
3 Level III fees will not be assessed if you just say well,
4 we'll just figure it out or let the districts figure it out.
5 How do you get that assurance?

6 MR. DUFFY: I think we're talking about the switch
7 being on or off and what I'm saying is it'd be nice to have
8 a dimmer switch and possibly that dimmer switch could be
9 part of the overall whatever you said -- he's looking to
10 make a deal, whatever that negotiation may be to make sure
11 that that program continues to be in place and maybe there
12 is some means that if a district allows a developer to go
13 forward and build and there is no Level III fee that there's
14 some means to be able to go back in the past and to have
15 some assistance.

16 I don't know what that would be, Assembly Member,
17 but the -- we are concerned and I didn't want to give the
18 impression that we didn't have access to comment. What I
19 was talking about was let's come to an agreement that is --
20 that everybody -- the developers, schools, and all of you
21 are going to be satisfied with.

22 We're moving beyond that. I think if there is
23 indeed, as I was saying before the meeting began, a program
24 where we have the ability to recognize that the State is out
25 of money but that the access to the programs, the processing

1 to the certainty that you know that you qualify for that
2 time in the future when the State has --

3 ASSEMBLY MEMBER BUCHANAN: That's -- right.

4 MR. DUFFY: And I know you've suggested that go to
5 the Imp. Committee and I like that idea because you'll get
6 to hear more details, more of the grit.

7 But it's not an easy answer and again what I'm
8 saying to you is what do schools -- where do schools benefit
9 by all this. You're a body that doesn't look after
10 developers. You look after schools.

11 ASSEMBLY MEMBER BUCHANAN: I could tell you where
12 I think schools benefit from this. One is if you do
13 everything you can to keep this program in place so that
14 when we have the opportunity for the next bond, whether
15 we're fortunate and we have a special election in 2013 or we
16 have to wait to 2014, we do all we can to put ourselves in
17 the best position to pass that bond.

18 Schools benefit because long term we haven't had
19 the kind of construction program in schools that we've had
20 in the last decade and multiple decades. And I know that
21 firsthand as a school board member because my district, it
22 took us three times to pass our first bond requiring a
23 two-thirds election.

24 If I recall correctly, it took Fresno five times
25 to pass the bond before the program and I -- we used to go

1 in in half our elementary schools put sheets of plastic on
2 the computers because they were in such poor shape.

3 So this is a great program that we have to
4 preserve and of course you and I, I think, disagree to -- on
5 how we do that, but I think the issue here is not just
6 facilities.

7 If you're sitting on a school board, you're
8 concerned with your facilities, but you're also concerned
9 with your day-to-day operations of your schools. You're
10 concerned in terms of your -- as far as your class size,
11 whether you have counselors, whether you have libraries
12 open.

13 And basically what the Governor is telling us and
14 I support what he's telling us is that I need a clean ballot
15 because that will give me the best opportunity to pass his
16 temporary revenues.

17 And when you take a look at schools that right now
18 the deficit factor is over 20 percent, I have -- I don't
19 know -- 14, 15, 16 school districts and what I'm hearing
20 from our superintendents is, you know, I don't know if we
21 have to take another \$360 cut, if we're going to still be
22 solid, you know.

23 So what we're doing is we're saying right now the
24 most important priority for us as a State is to get those
25 temporary revenues passed so we can stop the bleeding at our

1 schools and it does mean we're going to be waiting a little
2 bit on the bond.

3 And I don't want to do that. I'd like to see the
4 program continue going, but I believe that is the right
5 strategy and if we're going to do that, to penalize
6 developers because we don't have a bond on this ballot and
7 to potentially shut down construction anymore doesn't make
8 any sense to me.

9 You know, and I think you -- you just get to look
10 at the construction side and I appreciate that because
11 that's what your job is. But I take a look at the whole
12 picture and schools and what's at stake here.

13 You know, I support the Governor wanting the clean
14 ballot and wanting to get those temporary revenues passed
15 because I think it's really important. Just like if you're
16 a school, passing that first bond sometimes is the hardest,
17 but once people start to see the quality schools you're
18 producing, then they're more receptive to passing the second
19 or the third bond.

20 And I think you've got to give some kind of
21 certainty to the development community that they can
22 continue to go forward. It doesn't mean that they can't
23 even -- at Level II fees front -- have agreements to front
24 end the cost to a school knowing that they will then get
25 reimbursed when the State passes the next bond just like a

1 school district would on a modernization project.

2 But that's I think where our -- you know, our
3 fundamental agreement is. I don't think we could say, well,
4 it'll just work itself out because I think there needs to be
5 more certainty than that.

6 CHAIRPERSON REYES: Let me go to Mr. Hagman and
7 then Senator Wyland.

8 ASSEMBLY MEMBER HAGMAN: This may be a side point,
9 but I was just curious. You said that we have record levels
10 of operation and infrastructure building for school
11 districts and I could see the operational side. Can you
12 point to a time period in the recent decades that there's
13 been a better successful program, more widespread for the
14 State, of building and rebuilding schools because my
15 recollection is this is probably best that the schools has
16 had the last nine, ten years of being forward and building
17 these things.

18 But you made that comment that it wasn't. So I'm
19 just trying to figure out what was better.

20 MR. DUFFY: I'm not sure that I made -- or
21 certainly didn't intend to say the program wasn't a good
22 program.

23 We believe the program is a good program and the
24 program has been funded mightily since 1998 with the bonds
25 from '98, 2002, '04, and '06.

1 The program existed before and it was a program
2 that was an effective program. We didn't have all of the
3 same level of bonds because the Legislature was more -- they
4 were more careful in bringing that before the voters.

5 But this program has been a very, very good
6 program. So we're not troubling with the program. We want
7 to keep it intact.

8 Part of what I was trying to communicate was that
9 if indeed you -- if the Board does what we would like, you
10 would establish the ability to have a district be approved
11 for a project even though you don't have any bonding
12 authority for that.

13 Again that's what we communicated last April --
14 and that there would be a list for gaining support for the
15 future bond.

16 But no, we like the program, Mr. Hagman.

17 CHAIRPERSON REYES: Senator Wyland.

18 SENATOR WYLAND: I'd just like to go back and
19 clarify something that I think it's important for all us to
20 bear in mind.

21 When you say where do schools gain and you say,
22 well, this particular industry's been damaged and Senator
23 Lowenthal said no, devastated. This is no longer years and
24 years ago when I started in the Legislature in 2001 and you
25 could say developers and a lot of people conjure up -- or,

1 you know, just building like crazy and making tons of money
2 and et cetera, et cetera.

3 This is different. I'll tell you what schools
4 gain. Schools are nowhere without a strong economy. And
5 somehow schools have to understand that they're part of this
6 whole thing. That's why nationally they report statistics
7 on housing starts because it is one of those key industries.
8 It would take an hour to actually describe the economic
9 effects of that building.

10 So this is not somehow helping developers versus
11 not helping developers. This is really about trying to help
12 the economy and help schools gain that little bit they have.

13 If developers -- I can't tell you how many I know
14 who are gone, busted, bankrupt. It's done. And schools are
15 paying that price.

16 When I had school boards come and talk to me and
17 we struggle with our bonds in the same way, had to do some
18 very low cost construction in order to be able to build
19 anything, I tell them the single biggest thing they can do
20 because our pie is so shrunk is help us come up with ways of
21 getting this economy going.

22 We all know it. We know it's happening
23 nationally. It's -- that's -- so this isn't really about I
24 don't think developers per se. This is about the context of
25 how there will be money for schools at all.

1 That's the way I think we have to look at it.
2 Now, I'm agnostic on whether we keep the program going or
3 not. I've supported -- just so you know, I've supported
4 every single bond that's come before the Legislature.
5 There's not a school bond in my life that I haven't voted
6 for, even though I know sometimes there's some waste,
7 et cetera, et cetera, and I know when you've had to go back
8 and then you appoint a committee to demonstrate that you've
9 spent the money correctly, et cetera, et cetera.

10 But if -- this is going to be dependent upon our
11 overall economy and when we talk about trying to clear the
12 ballot, et cetera, it's because people are so disinclined in
13 this environment. Schools as well as all the other things
14 we want to fund that we funded so generously when I first
15 got here, we can't until we restore this economy.

16 So I think the discussion is less in terms of are
17 we going to somehow help developers and somehow, you know,
18 not get much for schools as it is a way to keep something
19 going -- something going.

20 I'll support a school bond whenever we come up
21 with it, whenever we can get it out there, but I think this
22 is -- and Assembly Member Buchanan has essentially stated
23 this in various ways and Assembly Member Hagman and I know
24 we've heard also from the Senators on this issue.

25 When you build -- I guess I'm emotional about it

1 because I know people individually who have lost
2 everything -- everything, lost everything personally because
3 what happens in the actual world even from pretty big ones
4 is you sign a personal guarantee and what did they do when
5 they were making a lot of money? They bought more land.

6 Guess what, the land's worthless and I know plenty
7 of them who are now living in multi-unit housing because
8 they are done.

9 So this is more I think -- and I think this is
10 what I hear the Committee Chair saying of the Subcommittee
11 is preserving something for a period of time. That's what
12 this is about. And that's what not only schools but social
13 services but every aspect of our government needs.

14 So I'll stop there, but I think we -- we have to
15 see this not as some isolated group. We're joined at the
16 hip in every way. So --

17 CHAIRPERSON REYES: Thank you, Senator.

18 SENATOR WYLAND: -- and with that I would like a
19 vote sooner rather later so I can get out --

20 CHAIRPERSON REYES: One more public person and
21 then -- I think -- again open up for public comments. Go
22 ahead, sir.

23 MR. BAKKE: Try not to take up too much anyway.
24 We have three more subjects to discuss. At this rate, it
25 might be a little while, but Eric Bakke with Los Angeles

1 Unified.

2 Our position on this is first of all, we strongly
3 support the suspension of Level III developer fees.

4 We look at this from a perspective of what's in
5 the best interest for schools and all of our partners.
6 Right now the developers have taken a hit in this economic
7 climate. They can't afford another hit if we were to go to
8 Level III developer fees and that doesn't serve us all,
9 school districts included, in trying to pass a 2012 or a
10 2014 bond. It just does not put us in a very good position
11 when one of our major partners is no longer our partner.

12 So we look at it from the perspective that we need
13 to protect everyone and look at it as a whole. And we look
14 at the other three issues -- and I don't want to impose upon
15 double dipping or triple dipping here, but they are fairly
16 much entwined.

17 But we look at all of the issues that are going to
18 be discussed later as one issue and that is how do we better
19 position ourselves for 2014 and this is just one piece of
20 that puzzle. So we're supportive of a suspension. Thank
21 you.

22 CHAIRPERSON REYES: Okay. Anybody -- yes.

23 MR. SPEAKER: Mr. Chair, members, Cesar Diaz on
24 behalf of the State Building and Construction Trades
25 Council. Based on the testimony you already heard, I'm not

1 going to repeat, but we're strongly supportive of Assembly
2 Member Buchanan's proposal here and just wanted to express
3 that to the Board. Thank you.

4 CHAIRPERSON REYES: Thank you. Okay. It has been
5 moved and seconded. Call the roll, please.

6 MS. JONES: Lowenthal.

7 Hancock.

8 SENATOR HANCOCK: Aye.

9 MS. JONES: Wyland.

10 SENATOR WYLAND: Aye.

11 MS. JONES: Buchanan.

12 ASSEMBLY MEMBER BUCHANAN: Aye.

13 MS. JONES: Hagman.

14 ASSEMBLY MEMBER HAGMAN: Aye.

15 MS. JONES: Almanza.

16 MR. ALMANZA: Abstain.

17 MS. JONES: Moore.

18 MS. MOORE: Aye.

19 MS. JONES: Reyes.

20 CHAIRPERSON REYES: I'm going to abstain. What's
21 the vote now?

22 MS. JONES: Five.

23 CHAIRPERSON REYES: Ayes?

24 MS. JONES: Ayes. Three abstain.

25 CHAIRPERSON REYES: Okay. So we need Senator

1 Lowenthal.

2 MS. JONES: We can hold it open for Senator
3 Lowenthal.

4 CHAIRPERSON REYES: Okay. Let's hold it open for
5 Senator Lowenthal. And right now, can we just go ahead
6 and -- Senator Lowenthal just stepped out. I was going to
7 say let's go and get the absent members, but he's out, but
8 we have -- okay. Senator Wyland.

9 SENATOR WYLAND: I apologize. I actually have to
10 go to meet with some educators.

11 CHAIRPERSON REYES: Okay.

12 SENATOR WYLAND: That I promised to meet with,
13 so --

14 CHAIRPERSON REYES: Thank you, Senator.

15 SENATOR WYLAND: I appreciate the Chair's work and
16 want to be helpful on the Board. I appreciate the
17 Subcommittee's obviously done a lot of work on this and
18 we'll see you next time.

19 CHAIRPERSON REYES: Thank you, Senator.

20 SENATOR LOWENTHAL: Have we voted for this yet?

21 CHAIRPERSON REYES: Yes.

22 ASSEMBLY MEMBER BUCHANAN: Yes.

23 SENATOR LOWENTHAL: I'm an aye.

24 CHAIRPERSON REYES: An aye.

25 MS. JONES: And it passes.

1 CHAIRPERSON REYES: Thank you. The next is the --
2 SENATOR LOWENTHAL: That was the suspension;
3 right?
4 CHAIRPERSON REYES: Yes.
5 SENATOR LOWENTHAL: Okay.
6 CHAIRPERSON REYES: The -- we don't have anything
7 on ORG bond authority transfer. The next issue is the
8 **regulation of the remaining bond authority.** And we heard
9 the issue. Is there any comments or questions for the Board
10 members?
11 MS. MOORE: Yes.
12 SENATOR LOWENTHAL: I move the Board
13 recommendation.
14 CHAIRPERSON REYES: Senator Lowenthal moves the
15 Board recommendation?
16 MS. MOORE: We're not doing ORG.
17 SENATOR LOWENTHAL: Oh, we're not doing ORG?
18 CHAIRPERSON REYES: No. This was --
19 MS. MOORE: I have a comment.
20 CHAIRPERSON REYES: Okay.
21 SENATOR LOWENTHAL: It's just gone.
22 CHAIRPERSON REYES: It's gone. We're not going to
23 deal with it.
24 ASSEMBLY MEMBER BUCHANAN: We're not taking any
25 action because we're going to leave it the way it is. So

1 there's no --

2 SENATOR LOWENTHAL: All right. So that's what I
3 was about to vote on that. It just saves me one vote.
4 Thank you.

5 CHAIRPERSON REYES: All right. So we're moving
6 onto regulation of remaining bond authority. Is there a
7 motion? Ms. Buchanan moves.

8 ASSEMBLY MEMBER HAGMAN: I'll second.

9 CHAIRPERSON REYES: It's been seconded and we have
10 comments. Go ahead, have a seat, and we'll go to comments.
11 Ms. Moore.

12 MS. MOORE: We will not be supporting the slowing
13 down of bond authority process as it negatively affects
14 students, school districts, and job creation.

15 Once districts receive authority, they have a
16 better option to locally forward fund projects with an
17 official unfunded approval. Risks are reduced and interim
18 financing is more readily available.

19 It reduces the amount of projects also that are
20 ready for cash when the State sells bonds and therefore also
21 potentially slows down needed construction and modernization
22 of schools and job creation.

23 It artificially reduces demand. It slows the
24 development of an unfunded list which we also support. We
25 cannot begin an unfunded list until we are out of funding.

1 There is no evidence that a bond that still has
2 funding left will garner better voter support of a bond.

3 Actually both the existing polls and prior history
4 would support otherwise, that there is demonstrated need and
5 the State is out of funding is a more compelling argument to
6 me as a voter.

7 Also our Superintendent of Public Instruction
8 believes that the Board has managed and will continue to
9 manage the program both efficiently providing authority for
10 projects also sends a strong message to voters.

11 We have taken care of developers' concerns
12 regarding Level III with our previous vote and we believe
13 district and community concerns should also be addressed to
14 move projects forward and continue the program with unfunded
15 approvals and for these reasons, we will not be supporting
16 this recommendation.

17 CHAIRPERSON REYES: Thank you. Comments,
18 questions? Yes. Public testimony.

19 MS. STUART: Susan Stuart, Stuart & Associates,
20 representing several school districts around the State. Of
21 the four recommendations, this one is of most concern to
22 school districts I have talked to.

23 There are districts who have been on this list for
24 a very long time and adding two years or two and a half more
25 years to their waiting period would be devastating.

1 There are many reasons why it creates chaos. One
2 is agency approval.

3 DSA approvals are good for one year with one year
4 extension. CDE approvals are good for two years. If we
5 start adding a year, two more years to these projects, it
6 would create chaos.

7 Costs are going to increase. The economy is
8 improving albeit slowly and we anticipate housing costs are
9 going to increase.

10 But as important school districts are often the
11 largest employer of people in the community including union
12 jobs, and if you delay these projects, you're going to delay
13 jobs. You're going to delay impact on the community.

14 Just -- and as an example of one small school
15 district, Pittsburg Unified School District, since 2006, has
16 had \$150 million in school facilities projects. Delaying
17 that by a year or two is not going to help the economy.
18 It's not going to create any better conditions for passing a
19 new job.

20 The prior system of exhausting bond authority and
21 using an unfunded list has worked. It's created need and it
22 has not been an impediment to passing a new bond.

23 We believe metering out the money would create
24 more problems than it would solve. When bonds are sold, we
25 encourage you to fund complete projects on the unfunded list

1 until bond funds are exhausted. Thank you.

2 CHAIRPERSON REYES: Thank you.

3 MR. BAKKE: Eric Bakke again with Los Angeles
4 Unified. We agree with many of the points that Susan
5 stated.

6 I think we just want to highlight that it's a hard
7 debate. I think we all want to do what's right and we all
8 believe -- we think we are doing what's right and I don't
9 know if we necessarily how things are going to turn out in
10 the future bond.

11 What we do know is that when you look at what
12 happened when we passed Prop. 47, the item actually -- the
13 Board agenda actually provides all the background on this.

14 When we were looking at new construction and
15 modernization under Prop. 98, we ran out of modernization
16 funds in September of 2000. We ran out of new construction
17 money in January of 2001. We ran about 18 months without
18 either new construction or modernization which is about what
19 we're talking about going into when we're talking about a
20 2014 bond, the same basic time period when you look at some
21 of the projections that we're talking about.

22 47 was passed with a very strong support. I think
23 it's been proven that not having bond or exhausted our bond
24 authority isn't a detriment, but actually it's proved that
25 it was a actually quite helpful in supporting a future bond

1 initiative.

2 So I just think that there's other ways of looking
3 at this. I think this is a conversation that we should
4 still continue to have and I think -- in that respect I
5 think there's still some time to continue that conversation,
6 but if it means another subcommittee, I think we would
7 support that, but I -- our position is is that we would like
8 to see that the money go out.

9 The consistency with the school districts to keep
10 projects moving, keep jobs created is probably at this point
11 in time the most important thing that we can do in
12 California.

13 CHAIRPERSON REYES: Thank you.

14 MR. DUFFY: Mr. Chairman, members, Tom Duffy again
15 for CASH. We've communicated before and certainly in my
16 prior testimony a few minutes ago said the same thing, that
17 we believe exhausting the funds really is a way to
18 communicate to the voting community that we need a bond.

19 Eric talked to you about those recent times in the
20 past decade when we ran short of funding and what occurred.
21 We had the experience -- and I think I said this to the
22 Subcommittee -- in 1992 we had a bond. In '94 we had a bond
23 failure, didn't have another bond till '96.

24 It was an overwhelming success and we had been dry
25 for a period of four years. So we believe exhausting the

1 authority and the funds is not a negative but a positive for
2 pushing forward with a future bond.

3 Also the -- we're concerned about the technical
4 nature of what the term that has been used is metering.
5 We've used the term rationing of funds would do and we
6 believe that there are unintended consequences that may be
7 very negative.

8 So we would ask that you not do that. Just run
9 through the funds and the authority until they're exhausted.

10 As I think was aptly said by Ms. Moore, the issue
11 of the emergence of Level III is taken care of with your
12 action if that action's supported by the Legislature and
13 from what we're understanding that that probably occur.

14 So there is no need to meter or ration these funds
15 for purposes of protecting against Level III. We think that
16 it would be negative on the program and I'll wait until the
17 next item if we want to talk more, but thank you very much
18 and we just urge you not to move forward with this
19 rationing.

20 MS. FERRERA: Anna Ferrera with the County School
21 Facilities Consortium. I won't go in to repeat what's
22 already been said. We very much agree with the statement of
23 Ms. Moore and would very much be opposed to this
24 recommendation and, you know, ask you to recall -- you know,
25 we're talking about metering out projects, but no one's

1 metering the kids as they come into the schools this
2 coming -- in the coming year or two.

3 So we're really believing that at this point
4 metering out projects is going to mean delays that will cost
5 more later and it's the students that will suffer for that.

6 So we are opposed. Thank you.

7 MR. LYON: Richard Lyon, California Building
8 Industry Association. We are here in support of the
9 proposal.

10 There's arguments on both sides and it's really a
11 judgment call and the question is what puts us in the
12 position to best demonstrate to the public that the program
13 has been implemented in the most cost efficient way possible
14 and we're in very difficult times and there's no question
15 that the public sees what goes on under this dome in a
16 fairly skeptical light.

17 We do have the ability under very difficult times
18 with when dollars are very short to demonstrate that even
19 under those difficult circumstances, you can make this
20 program operational and keep it active and keep it
21 functioning.

22 The Governor has indicated that he would like to
23 do this. We all want to see this administration succeed and
24 we really want to be able to see the next bond succeed.

25 So again this is a judgment call in terms of how

1 you best position the program to be able to demonstrate to
2 the public that it's done everything it humanly can to be
3 able to use dollars and spend dollars efficiently.

4 So we support the proposal for those reasons.

5 CHAIRPERSON REYES: Thank you. Mr. Hagman.

6 SENATOR HANCOCK: Thank you. And I remind us on
7 the SAB Board that these recommendations -- the only thing
8 we have authority to do right now is this particular thing
9 we're voting on today. That's the only authority.
10 Everything else takes legislative authority.

11 And being around, like we all have, on the
12 Legislature know that this thing is not going to come around
13 real quick.

14 So as we suggest Level III funding be suspended
15 and make that recommendation to the Legislature, but if we
16 don't do this metering or spreading out, being good stewards
17 of this program, and then the Legislature takes nine months
18 till the rest of the year to figure out whether or not it
19 wants to do Level III suspension or not, it can take that
20 long, we can de facto, basically go against what we're
21 trying to accomplish here by just letting those funds run
22 out.

23 Because they -- at the current rate, they'll be
24 out by June in many cases.

25 ASSEMBLY MEMBER BUCHANAN: April.

1 ASSEMBLY MEMBER HAGMAN: April? Okay. Do we
2 really think this Legislature's going to pass the other
3 things between now and April to give some kind of guarantee
4 that that's the direction we're going?

5 I can't agree that our colleagues on the other
6 committees are going to necessarily see things in the same
7 light that we may or may not see it here.

8 This is something that we have had the biggest
9 growth and the most construction in schools over the last
10 eight years than probably 40 years.

11 Okay. To slow down this program -- that's what
12 we're talking about -- slowing it down and being good
13 stewards of this bond money to last it, to make sure the
14 program is continued to go I think is very -- very
15 responsible for us to do as a Board, the one that sees most
16 of this information to go forward.

17 All the previous examples of the bond issuance has
18 been during much, much better economic times when we've had
19 something to point at and say these guys are making a lot of
20 money. We could sit there and pull them in. We can do this
21 and that and it was much better economic times than what we
22 have right now.

23 We cannot say the same thing under any
24 circumstance.

25 I read all the same polls. I'm election chair for

1 our side of the world. This is going to be a hard time to
2 get anything passed this November. So what do you want to
3 do? You want to let this run out in April and then come
4 back in 2014 and say we need this or do you want to sit
5 there and be conservative and draw this program as other
6 testimony before with smaller amounts of bond over the
7 previous years.

8 This has been a huge boom for school construction
9 over the last, you know, eight, nine years and it be shown
10 to the public that we can be fiscally good stewards with
11 their bond money, with their tax dollars, and slow this down
12 a little bit I think is the smartest way for us to go.

13 SENATOR WYLAND: Thank you. Senator Lowenthal.

14 SENATOR LOWENTHAL: Yeah. I voted for this with
15 the understanding that I needed to find out more -- I wanted
16 to see the whole package and to understand the political
17 issue.

18 And I think it's a valid argument that is that it
19 will -- by doing this will help us pass a future bond. So
20 that's one issue.

21 The second issue was the -- to avoid Level III
22 developer fees to do that.

23 I was very pleased to say -- and then the third
24 one was to preserve the program and to keep the staff on.
25 Those were the three.

1 I was struck with the bipartisan support to
2 suspend developer fees. I think that's a very good sign
3 that Democrats and Republicans voted to suspend -- to
4 recommend to the Legislature to suspend the developer fees.

5 And I think that's a strong bipartisan -- we don't
6 do a lot of bipartisan issues like that around. So I think
7 that's a strong thing, especially for Democrats to be voting
8 to suspend fees, that we'll -- agreed upon.

9 But I agree with the arguments that were put forth
10 to do that. So having already done that, I was now checking
11 with people and I keep getting different opinions.

12 Assembly Member Buchanan mentioned Gale Kaufman. I
13 also talked Darie Shrego (ph) and to John Fairbanks and to
14 people in the district and I get different opinions, whether
15 in fact it's best to have it run out or not.

16 Darie Shrego agrees with Gale Kaufman. Others do
17 not agree with that, who have run campaigns.

18 So I listened to the districts and because we've
19 taken such a strong stand on suspending Level III, which I
20 think was the critical issue for me was to suspend developer
21 fees in this economic climate and the others were more --
22 was a political decision what's the best way, I can not now
23 support this proposal.

24 I do not mind running out, letting districts move
25 forward, having -- and I'd go further than even

1 recommendation number 4, but we'll get to that -- you know,
2 what we really need to do.

3 So I will not be supporting this recommendation.

4 CHAIRPERSON REYES: As the Chair, usually we just
5 listen in and not weigh in until the final vote comes in and
6 folks know where I'm at on an issue.

7 On this one, I think the importance of it I think
8 as Assembly Member Hagman points out is by the time the
9 legislation moves in its chapter, we will be out of money if
10 we don't slow down the output. That simple.

11 You know, I worked in the building for almost 11
12 years and I -- there have been rare pieces of legislation of
13 political importance that can move in a few days. This is
14 not going to rise to that level, particularly since it would
15 require two-thirds vote and notwithstanding the bipartisan
16 support of the -- in this chamber right now. I think it's
17 hard to tell what will happen to that piece of legislation
18 to which I abstained from voting on and that's the only
19 concern that I do have is that even if you were able to get
20 legislation through, I don't think it comes in in a timely
21 manner, but that's just my take.

22 Assembly Member Buchanan.

23 ASSEMBLY MEMBER BUCHANAN: Yeah. I told someone I
24 said if the consultants would have said it doesn't make a
25 difference, then I would say let it run out.

1 I guess what strikes me is I think we're are in
2 very different economic times today. You know, Eric cited
3 other times when we suspended, but if you take a look at
4 what the unemployment rate was those two times, it was 4.9,
5 5.4, and 4.9 percent.

6 In 2006, we were riding at the height of the
7 housing bubble. And so when you take a look at the other
8 times, never were we in the kind of economic times that we
9 are today where we're still at double digit unemployment and
10 we don't know exactly where that's going to be.

11 When you take a look at a chart -- this is from --
12 I think it's from the LAO -- and what's going to happen with
13 debt service, debt service is going to take up a bigger part
14 of our budget two years from now than it is today.

15 So I think it really gets down to do you believe
16 that you'll be in a better position to pass a bond if you
17 still have a program or not and I do which is why I'm voting
18 that way.

19 I also have a couple questions for Pedro because
20 the other reason I'm voting that way is, you know, we fund
21 staff through the bond proceeds and when we run out of money
22 in September, you know, April in terms of new construction
23 and September if we have 200 million that goes into
24 critically -- comes from critically overcrowded schools or
25 earlier, where -- do you think the Governor's going to give

1 us general fund money to continue processing applications?

2 I don't know where we're going to get that. I
3 know we're going to have to spend some money on audits and
4 that kind of follow-through, but I don't know where we have
5 the money to -- when we're making the kind of cuts we are in
6 the budget, when you take a look at the cuts to health and
7 human services and all that, I don't know if we're going to
8 get general fund money to fund processing of applications
9 for a bond that doesn't exist, for a program that doesn't
10 exist.

11 And I think the way to keep this program going is
12 to stretch it out with the flexibility that if you need to
13 spend more one year in a one six-month period or a quarter,
14 whatever, we have that flexibility to do that, but where we
15 stretch it out over the two years, we continue to accept
16 applications, we continue to accept a list, and the program
17 is still in place.

18 Now, you know, good people can disagree. But if I
19 honestly believed that we would be in better position
20 politically to pass it, then I would say spend it.

21 But what I do want to say is there's a reality
22 here that I don't think anyone truly is facing or
23 understands and that is the program is out of money.

24 You know, I don't know exactly -- we cobble
25 together the votes or not, but from September -- chances are

1 from September 2012 at a minimum -- could be longer than
2 that -- to November 2014 or January 2015 when you can sell
3 bonds, there will be no funds.

4 If something comes up in the interim, if all of a
5 sudden you have a problem with a facility, you won't have
6 any flexibility, any kind of emergency to take care of that
7 because the money will be gone.

8 CHAIRPERSON REYES: Thank you. Call the roll.
9 Oh, I'm sorry. Ms. Moore, you had a question. I'm sorry.

10 SENATOR LOWENTHAL: I have a question also.

11 MS. MOORE: I just have two final points on our
12 part. One is that the overcrowded -- the critically
13 overcrowded school funds, as I understand there's no
14 opposition that those most likely would be placed to the
15 program which means that the estimation for when we would be
16 out of funds would be October of 2012; is that correct?

17 ASSEMBLY MEMBER BUCHANAN: I think the chart shows
18 September.

19 MS. MOORE: Well, out in October. I think we're
20 still funding in September; is that correct?

21 MS. SILVERMAN: That's if the 200 plus million
22 dollars moves over.

23 MS. MOORE: Okay. And then the second point that
24 I would make is that we are simply not slowing down the
25 authority. We actually are slowing down and have been

1 slowing down for some time the cash and that will continue
2 to happen as we only have two periods per year now that we
3 have cash infusion and that is if the administration and
4 Treasurer and all those folks that are looking at our debt
5 service, how we will issue -- if we will issue bonds.

6 Last year we issued once. This year we've issued
7 once so far.

8 And so the program will continue to need to have
9 those cash pieces to actually continue to fund projects and
10 that will probably be occurring over the next two years
11 because I don't see where we're going to issue bonds all of
12 a sudden and take care of all of the authority needs in this
13 program. And so those are other --

14 ASSEMBLY MEMBER BUCHANAN: But we're down to
15 \$143 million in new construction, potentially a maximum of
16 243- if 200 million was back. There is not much money left.

17 CHAIRPERSON REYES: Senator Lowenthal.

18 SENATOR LOWENTHAL: Yeah. One of the things I
19 need to understand -- what I'd like to understand is why the
20 microphone is not working -- no. Besides that -- is that
21 there -- we have decided not to transfer any of the
22 overcrowding -- ORG money relief.

23 So given that, when do we anticipate that money
24 running out? It's not the new construction, but when do we
25 anticipate the overcrowding relief grant money running out.

1

2 MS. SILVERMAN: I believe our projection that we
3 presented to the New Construction Sub may have been past
4 2014, 2015.

5 SENATOR LOWENTHAL: So there will be money in
6 that --

7 ASSEMBLY MEMBER BUCHANAN: No, no --

8 MS. SILVERMAN: For the overcrowded relief.

9 SENATOR LOWENTHAL: Just the overcrowded relief.

10 ASSEMBLY MEMBER BUCHANAN: I think it's -- I think
11 there's a little over a year left as I recall.

12 SENATOR LOWENTHAL: No. There's 200 -- I think --

13 MS. SILVERMAN: It was -- it's actually about
14 \$225 million that's still in play.

15 SENATOR LOWENTHAL: The reason I'm saying that is
16 you're saying, well, where are we going to get the money to
17 administer the program.

18 We took an action, which I did not really agree
19 with, the last session when we passed the funding to take
20 all the administrative costs for the last four years and
21 take it out of the overcrowded relief. We took \$73 million
22 to pay for all administrative funding. It was a footnote
23 that said transfer the appropriation for the Budget Act for
24 administrative costs for fiscal years '08-'09, '09-'10,
25 '10-'11, and '11-'12 from modernization to overcrowded

1 relief.

2 So we took all that money out of overcrowded that
3 we needed to spend because there was money in that.

4 And I personally think that should have been
5 discussed by the Board, but the Board decided that was not
6 to be discussed to do that.

7 Having said that --

8 CHAIRPERSON REYES: Actually, Senator, it was
9 brought up in executive committee today, so --

10 SENATOR LOWENTHAL: Yeah. But having said that,
11 the issue that you've raised is where are we going to get
12 the money to administer this. We've already had precedent
13 that we've taken the money out of the ORG to administer it.
14 So we could do that again. So we will have enough money to
15 administer the program if it runs out.

16 MR. FERGUSON: Chris Ferguson, Department of
17 Finance. We actually estimate ORG to be out by December of
18 this year. Our initial conversations with Los Angeles
19 Unified School District is that they are preparing a number
20 of applications to come in the year and as such, that
21 program itself will be out of funding as well.

22 CHAIRPERSON REYES: Okay.

23 SENATOR LOWENTHAL: You're now anticipating by
24 December of 2014 -- '12?

25 ASSEMBLY MEMBER BUCHANAN: No. 2012.

1 CHAIRPERSON REYES: '12.

2 MR. FERGUSON: 2012.

3 CHAIRPERSON REYES: Mr. Hagman.

4 ASSEMBLY MEMBER HAGMAN: And just -- not to
5 belabor the point, but I think we did have consensus on this
6 Board that we didn't want to see Level III triggers be in
7 place.

8 SENATOR LOWENTHAL: Right.

9 ASSEMBLY MEMBER HAGMAN: By definition, if this
10 Board runs out of authority to fund things, that by law
11 right now kicks in. That's agreeable; right?

12 CHAIRPERSON REYES: We would have -- the Board
13 would have to do a resolution acknowledging that there is
14 not sufficient funds.

15 ASSEMBLY MEMBER HAGMAN: Okay. But basically
16 restating the obvious, we run out of funds, we have to do
17 that.

18 At the bare minimum, I don't see the issue of
19 right now giving the recommendation to the staff to slow
20 things down until the Legislature passes Level III
21 suspension and --

22 SENATOR LOWENTHAL: Senator Lowenthal, are you
23 hearing what --

24 ASSEMBLY MEMBER HAGMAN: Are you listening to
25 this, please?

1 CHAIRPERSON REYES: What Mr. Hagman's suggesting.

2 SENATOR LOWENTHAL: Excuse me. What did you say?

3 ASSEMBLY MEMBER HAGMAN: What I'm saying is this
4 is an on-the-go move. Whatever we do today as this Board,
5 we could sit there and change next month, three months from
6 now, six months from now and say we don't want to ration no
7 more. We have a different call.

8 I am very concerned about getting two-thirds vote
9 to suspend Level III and we all agree we don't want to see
10 Level III kick in.

11 Okay. We cannot guarantee legislative actions.
12 What I'm saying right now is if we take these
13 recommendations and now the Legislature three months from
14 now, six months, at the end of the year passes Level III
15 suspension and it becomes law, then we come back just as
16 easy three months from now, six months from now, come back
17 as a Board and say hey, that protection now is there. Okay?

18 And we have projects ready to go. We want to
19 empty all this money out and get it out as fast as we can
20 and get a new list going.

21 That's something we still have -- retain authority
22 on anytime. Any Board meeting we could sit there, put it on
23 the agenda, speak about it, talk about it.

24 But we can't guarantee the action of our
25 colleagues and that's what we're assuming that this

1 recommendation from this Board is going to spend Level III
2 to make these next two recommendations. I don't have the
3 same confidence. Not with this kind of high threshold and
4 how long things take.

5 So if we put that off and all of a sudden we're
6 out of bonds, then de facto Level III kicks in, we have to
7 sit there and make the resolution and everything that we
8 agreed upon right here is not in play.

9 The only way we guarantee that happening is to
10 give staff some indication to slow things down and if we do
11 our job in the Legislature and get a separate bill out, pass
12 it out as quickly as we can, great.

13 I think everybody in the audience agrees both --
14 everyone's, you know, for and against slowing this down and
15 everything else said that Level III, we don't want to see
16 that triggered in this cycle. Okay.

17 So how about we sit there and right now for this
18 month or this Board meeting say, look, we're not going to
19 spend this money this month anyway. Let's do our job in the
20 Legislature, get this thing going, but slow things down
21 enough so we have a guarantee that Level III will not
22 trigger in and that the pressure to put something on the
23 ballot for this November is not going to be there by the
24 Legislature or anybody else, and we could sit there and if
25 we get that passed, the sooner the better, we come back in

1 this body and say okay, release whatever we have left.

2 Okay.

3 By then we have a clearer picture. There's not so
4 many undefined unknowns at that point.

5 So we can say slow it down for the next couple
6 months, you know, like you were going to put it out to 2014
7 if you had to, okay. That slows things down. We just put a
8 billion dollars on the street last month. Okay. That's a
9 lot of bond money. We could sit there and drag this out for
10 a few months till we get the indication from the Legislature
11 where to go.

12 SENATOR LOWENTHAL: I think that's a great
13 argument and I don't want to engage in a colloquy with you,
14 but I think that if we slow down and regulate, there's no
15 reason for the Legislature to get in to suspending because
16 they don't have to get into that issue because we're doing
17 it through the regulatory process by never having -- by
18 continuing to slow down.

19 I think by doing it this way we put a pressure on
20 the Legislature now to have to deal with this issue. I
21 think we do best when we have pressure on us.

22 I think that by saying that the only way we're
23 going to protect Level III developer fees is by the
24 Legislature acting, then it's our responsibility to deal
25 with it. I don't think we're going to deal with anything if

1 there's not pressure on us.

2 CHAIRPERSON REYES: Ms. Moore -- I have Ms. Moore
3 and then Ms. Buchanan. Oh, and Senator Hancock too.

4 MS. MOORE: What I -- I understand what you're
5 proposing. We could also propose that we have estimations
6 when we move critically overcrowded schools that the program
7 runs through October and perhaps we revisit this issue in
8 October.

9 But I still, having given -- having voted for the
10 suspension recommendation, we still cannot support also
11 slowing down the program.

12 CHAIRPERSON REYES: Ms. Buchanan and then Senator
13 Hancock.

14 ASSEMBLY MEMBER BUCHANAN: I just -- can I just
15 ask a question. If you run out of money in October, how do
16 you revisit spreading out money? It's gone.

17 MS. MOORE: Or near October.

18 ASSEMBLY MEMBER BUCHANAN: Well, I mean it's --
19 the chart shows August and September, but if you've run out
20 of money, how do you revisit distributing it?

21 MS. MOORE: I'm just saying when you -- when the
22 money -- when you're looking at when you run out of the
23 money.

24 First of all, we don't really -- it's all
25 estimations and frankly I've been hearing estimations about

1 when we were going to run out of funding for some time and
2 it has not occurred at those times that we thought we were
3 going to run out of funding.

4 I still think you -- if it looks like the
5 Legislature isn't going to pass it or whatever at the time
6 that we no longer have funds or approaching the time that we
7 no longer have funds, which is estimated to be October right
8 now, you can -- anybody on this Board can ask for something
9 to be revisited.

10 CHAIRPERSON REYES: Senator Hancock.

11 SENATOR HANCOCK: Okay. Because I've been
12 struggling with this too and I've talked with Assembly
13 Member Buchanan and others. I really have two concerns.

14 One is building schools and jump starting the
15 economy. That's one of the reasons I voted for, you know,
16 the Level III fee item that just came up.

17 But building schools, jump starting the economy,
18 helping the students. The other is the platform for a new
19 bond and I guess I don't -- when we say preserving the
20 program, if we're not giving out the money we have to build
21 schools, it seems like we're preserving the staff and we
22 will preserve a great deal of the staff anyway if we're
23 processing things, if we're getting rescissions, if we're
24 winding down.

25 But frankly I would -- if I were running a

1 campaign against a school bond, I'd use that as an argument
2 against it.

3 It does seem to me that the people who suggested
4 that the pressure comes from saying we had a great a
5 program, we built beautiful schools, and we have no more
6 money, that that's when you actually build the support for
7 the bond.

8 So I feel like right now I have to come down on
9 that -- with that position in support of --

10 CHAIRPERSON REYES: Ms. Buchanan.

11 ASSEMBLY MEMBER BUCHANAN: I -- you know, the only
12 thing I will tell you is I think for local districts it's
13 easier to pass their bonds if there's a State program in
14 place than if you're talking about passing a local bond, but
15 there's -- you don't know if you're going to have any kind
16 of matching funds.

17 But I still would like to ask the question if we
18 run out of money, this chart shows between September --
19 August and September, October, whenever, and if we're out of
20 overcrowded relief funds by the first of next year, I would
21 just -- I just want to know where are we going to get the
22 money to continue to process applications and keep a list.

23 And I think with both of you being in the
24 Department of Finance maybe you can --

25 CHAIRPERSON REYES: I don't believe the general

1 fund would step in. Given the demands on the general fund,
2 it's not a viable option.

3 ASSEMBLY MEMBER HAGMAN: Thank you, Mr. Chair.
4 And I'm just going to make this -- preface it. I wish I had
5 the confidence that my Senator colleagues have in the
6 Legislature doing the right thing in a quick and timely
7 basis. I just -- my experience hasn't been that way so far
8 and what this -- if not these recommendations, then I will
9 probably preface by saying that these nice consent calendars
10 spending these dollars and authorizing new things, I'll
11 probably be voting no on most of those in the future until
12 we get that passed.

13 And this is a two-thirds vote that needs to happen
14 at the Legislature. We could put a rush on that. We could
15 make it very quickly through the legislative process if the
16 will is there.

17 But what I'm hearing from you is you much rather
18 take that chance than see, you know, that the Level III be
19 protected and which I think has much harmful -- much more
20 harmful effect on school funding both from an operational
21 side, all the rest of it, and we need to have some sense of
22 that security I believe going in the future.

23 Otherwise the developers aren't going to be
24 sitting there buying the property, development starts, all
25 the rest of it which, especially after realignment and

1 redevelopment monies go to the schools. A lot of that stuff
2 goes directly to schools' operation.

3 So we're cutting our nose off to spite ourself
4 based on this argument that we can basically put on hold for
5 a couple months. With the big bond issuance we just had, we
6 do not have to make this decision today granted, but we can
7 give recommendations to urge the Legislature to pass this
8 immediately with two-thirds and get this in and out and take
9 that issue off the table.

10 Then it's much easier to say hey, let's make this
11 list and spend the money. But until then, if we don't have
12 something in place, we think the regular course of business
13 in the Legislature is going to go on to do this, I think it
14 puts this whole balance of what the Subcommittee did in
15 jeopardy.

16 CHAIRPERSON REYES: Senator Lowenthal.

17 SENATOR LOWENTHAL: Yeah. I just wanted to ask
18 Assembly Member Buchanan, we've heard from a number of
19 school districts, whether it was CASH, whether it was
20 Ms. Stuart, and others, my own districts that I -- who do
21 not support regulating it.

22 Why haven't we heard -- if what you're saying is
23 the school districts -- it's much easier if the program's in
24 place, why haven't any school districts come forward and
25 said that.

1 ASSEMBLY MEMBER BUCHANAN: I don't think most
2 school districts are aware of it to be honest with you. You
3 know, I know that I've talked to some that were planning on
4 bonds near -- around me and I said, you know, you need to
5 know that we probably will not have a State bond on the
6 ballot until 2014.

7 So if you're planning out your programs, you
8 should plan them out in a way that you may not get matching
9 funds till 2015 and it was a complete surprise to them.

10 So, you know, yes, we have some organizations here
11 and they do have their client districts, but I think if you
12 took a look at the thousand districts in the State, most of
13 them -- I mean there hasn't been a dialogue that's gone on
14 with all of them and I -- like I said, I -- if --

15 SENATOR LOWENTHAL: Haven't heard from any of them
16 that want this. None.

17 ASSEMBLY MEMBER BUCHANAN: Well, I -- the ones --
18 I've had regular classroom cabinet meetings and none of them
19 are aware of it. You know, I -- you know, there are some.

20 Until Margie Brown was our director, we didn't
21 follow the State Allocation Board as closely. We knew when
22 we had an item coming up, but that was all we did.

23 So I can't speak for all the districts, but I will
24 tell you that when we've had school bonds and I've, you
25 know, been very involved with ballots that one of the big

1 selling arguments is you've got State matching funds there
2 and there's a State program and there will be no State
3 program there. And --

4 SENATOR LOWENTHAL: And I agree with that argument
5 and it's a very powerful --

6 ASSEMBLY MEMBER BUCHANAN: And -- right. I know.

7 SENATOR LOWENTHAL: I just would have liked to
8 have heard from any school district.

9 ASSEMBLY MEMBER BUCHANAN: Well, like I said, but
10 I haven't -- I mean I -- and we're hearing from Finance that
11 if there's not bond money, if we're out of bond money at the
12 first of the year and there's no money to process
13 applications, it's not going to come from the general fund.

14 So, you know, I'm not sure there's a right or
15 wrong answer.

16 SENATOR LOWENTHAL: Right.

17 ASSEMBLY MEMBER BUCHANAN: You know. You know,
18 I'm just going on based on, you know, what I believe is
19 right and I think -- you know, your -- I have tremendous
20 respect for you and now you're -- you know, you're going to
21 vote based on what you believe is right.

22 But like I said, between my conversations with the
23 consultants, between my conversations in terms of how do we
24 pay to continue to process these claims, you know, my belief
25 is that you stretch it out and it's -- you know, we can

1 certainly disagree.

2 CHAIRPERSON REYES: Mr. Hagman. Then I'd like to
3 call the roll.

4 ASSEMBLY MEMBER HAGMAN: I'm sorry. Yeah. I
5 don't want to belabor the point, but I think back to the
6 Senator's argument that the Legislature will not have the
7 pressure to pass this quickly if we don't run out of money,
8 I think one of the things we could do to assure that is we
9 could get all these partners who want this money out on the
10 streets tomorrow to join with us to put that pressure on the
11 Legislature -- Senator.

12 I'm sorry. I'm directing to one of your
13 questions -- one of your points, sir.

14 SENATOR LOWENTHAL: Yes.

15 ASSEMBLY MEMBER HAGMAN: You stated that if we
16 take the pressure off, the Legislature may not act as
17 quickly if the pressure's on if we run out of funds for
18 that.

19 SENATOR LOWENTHAL: Right. I will tell you if in
20 fact we have done it by regulating and there's -- and that
21 means that we will not run out until we don't have to vote
22 on this issue, that takes the pressure off the Legislature.

23 ASSEMBLY MEMBER HAGMAN: Well, I think there's a
24 great coalition in this room and elsewhere that wants to see
25 this money go on the streets as quickly as possible.

1 And I think one of the ways we could assure that
2 and still assure that Level III funding is protected is to
3 slow it down until that's packaged and have them come lobby
4 the Legislature to say get this thing passed tomorrow.

5 And that would be the quickest way to do it, to
6 get them out and use their pressure out there.

7 SENATOR LOWENTHAL: I hear you. I mean I just
8 don't know. I'm just saying.

9 CHAIRPERSON REYES: Okay. Call the roll.

10 MS. JONES: Lowenthal.

11 Hancock.

12 Lara.

13 Buchanan.

14 ASSEMBLY MEMBER BUCHANAN: Aye.

15 MS. JONES: Hagman.

16 ASSEMBLY MEMBER HAGMAN: Aye.

17 ASSEMBLY MEMBER BUCHANAN: Almanza.

18 MR. ALMANZA: Aye.

19 MS. JONES: Moore.

20 MS. MOORE: No.

21 MS. JONES: Reyes.

22 CHAIRPERSON REYES: Aye.

23 MS. JONES: It does not pass.

24 CHAIRPERSON REYES: Thank you. The next
25 recommendation is **future acceptance and processing funding**

1 **applications.** Any questions from Board members before we
2 bring up public testimony? Okay. Public testimony, please.

3 MR. DUFFY: Mr. Chairman, members, Tom Duffy again
4 for CASH and I'll be repeating myself in that I've noted
5 this before you I think twice today that we believe that a
6 continuation of processing of applications as you currently
7 are processing them as they're brought to the Board for
8 unfunded approvals is the appropriate way to act into the
9 future even after you run out of authority.

10 And again we communicated that last April because
11 we anticipated we'd get to this time.

12 We think that that's wise for a number of reasons.
13 One that we have noted for you is already that it continues
14 and to encourage districts to come in for the program and
15 spend money and move on with the repair of our economy and
16 creating a pipeline for the future to support the bond.

17 One that I did not note for you is that you have
18 taken great pains and have carefully implemented a program
19 to oversee labor compliance with new legislation.

20 That came through statute. That statute had in it
21 a provision that one-quarter of 1 percent of State bonds
22 would be the benchmark for identifying what would be paid to
23 the Department of Industrial Relations.

24 We believe that if a school district is to
25 continue to move forward with a project in the absence of

1 State funds, having knowledge of what that project would be
2 in terms of the amount gives them the ability to then
3 estimate what their cost is or determine actually what their
4 cost is, that quarter of 1 percent, pay DIR, and move on
5 with their project and thereafter, according to your
6 regulations, to be able to come in and seek a reimbursement
7 having complied with that law.

8 So we think that that's something new that is
9 added into this that we didn't consider last April because
10 we weren't really focused on that. But we would encourage
11 you to have -- and I really like Ms. Buchanan's suggestion
12 that the Implementation Committee look at this means if I'm
13 understanding that suggestion accurately from our
14 conversation.

15 Thank you very much.
16 CHAIRPERSON REYES: Anybody else? Any comments or
17 questions? Oh, yes. Sorry.

18 MS. FERRERA: Anna Ferrera with the County School
19 Facilities Consortium. We met actually earlier today and
20 this was the one recommendation that we really felt was a
21 good one to make the case for a bond in the future. So we
22 would be supportive of that recommendation.

23 CHAIRPERSON REYES: Okay.

24 MS. MOORE: I just had a --

25 CHAIRPERSON REYES: Ms. Moore.

1 MS. MOORE: I see that the recommendation is to
2 have the Implementation Committee develop -- and staff
3 develop the details of this list and what I would ask and I
4 guess want to hear in discussion is can we have the option
5 considered within that discussion of a true unfunded list.

6 I actually think the value of true unfunded list
7 having lived with them in the past, having done interim
8 financing on them in the past, there's always the risk that
9 there's never another bond ever and districts have that
10 risk, but knowing that they have had the approvals of the
11 Office of Public School Construction, the Department -- the
12 Division of the State Architect, and the Department of
13 Education and were it not for money -- or for funding, they
14 would be an approvable project goes a long way at the local
15 level to be able to maybe forward fund a project with the
16 thought of reimbursement in the future, knowing all the
17 risks that are associated with that.

18 So I would ask that we in the consideration of
19 this at the Implementation Committee level not rule that
20 potential out immediately.

21 So in supporting the unfunded list, I would ask
22 that we have the Implementation Committee and staff look at
23 all options concerning that and bring them back to the
24 Board.

25 CHAIRPERSON REYES: Esteban.

1 MR. ALMANZA: So we have talked about accepting
2 applications and keeping track of the amount of funding
3 that's being requested without actually approving them for
4 funding, not having an unfunded list, but still reporting on
5 the backlog of funding for applications. Is that what we're
6 talking about here in this recommendation?

7 ASSEMBLY MEMBER BUCHANAN: That was what the
8 recommendation was.

9 MR. ALMANZA: Then not bring it forward for
10 approval of additional funding.

11 CHAIRPERSON REYES: So let's do this methodically
12 then. I'll take it as a motion by the Subcommittee --

13 ASSEMBLY MEMBER BUCHANAN: Well, I want to make --

14 CHAIRPERSON REYES: Okay.

15 ASSEMBLY MEMBER BUCHANAN: -- some comments. My
16 concern with having a true unfunded list assumes that -- I
17 mean if you're a district and you have an unfunded approval,
18 you're expecting a certain amount of money and we don't know
19 necessarily what the next bond is going to look like.

20 And so that's why I had talked about having -- I
21 mean when we talked -- and our Subcommittee talked about
22 having a list of accepted applications and I think we needed
23 to date stamp them, but I don't know how you create a true,
24 you know, approved unfunded list if you don't know what the
25 program's going to look like. And that's two years away.

1 I also want to get back to where -- how we are
2 going to fund the processing of these applications. You
3 know, are we going to do this subject to general fund money
4 being available for our staff to process and how are we
5 going to handle that.

6 MS. MOORE: I'll have two comments on that. One
7 is we have done it in the past and we were out of funds for
8 a couple of years --

9 ASSEMBLY MEMBER BUCHANAN: Right.

10 MS. MOORE: -- and we produced an unfunded list
11 and that unfunded list in my estimation was instrumental in
12 passing a bond measure.

13 So we have a history of having done that and I
14 can't answer that today that we know how to do that today,
15 but I would ask that we look at that as staff and that we've
16 had a history for that.

17 ASSEMBLY MEMBER BUCHANAN: I know we do, but the
18 history was when we were in very different financial times.
19 I can tell you --

20 MS. MOORE: It did, but --

21 ASSEMBLY MEMBER BUCHANAN: -- which times it was
22 and we were not -- it wasn't anything near --

23 MS. MOORE: It could be different financial times,
24 but it still was bond funding. We didn't go into general
25 fund to fund it. It was bond funding. It was times that we

1 were out. So it has happened.

2 ASSEMBLY MEMBER BUCHANAN: But we weren't --
3 right.

4 MS. MOORE: And what I'm -- and I don't have the
5 answer today, but I think that we should investigate that
6 knowing the history is that it has happened.

7 And then secondly just on the unfunded list, we
8 also have had a time in our history, not saying it's the
9 perfect way to go forward, but you're asking the question
10 and this was it.

11 In 1998 when we all negotiated a reform -- a new
12 program, the program that our partners, the building
13 industry, talked about, we have a list at that time as well.
14 It was an unfunded time and we had a list for the program
15 that existed.

16 And what we did -- again I think it created the
17 momentum and the amount of districts interested in passing a
18 bond at the State level because they would receive matching
19 share. I think it completely drove that. I know it did as
20 a school district person at the time.

21 And what we did at that time is we reserved out
22 the amount -- or part of the bond measure was that amount,
23 what was on the list, and that it could go to that.

24 But actually what the legislation that reformed
25 the program provided for, it provided for a choice. And so

1 districts had the choice either to move forward with what
2 they had on the unfunded list in an old program stage. So
3 we had this transition program with -- this transition
4 time -- not a transition program, but a transition time.

5 They had the choice whether to continue in that
6 old program because the bond measure had carved that out or
7 to move forward in a new program. So there has also been
8 history on how you might handle that.

9 Not saying that's how the Legislature when they
10 put together the next bond measure wants to handle it, but
11 it is a method that has been done in the past.

12 ASSEMBLY MEMBER BUCHANAN: I don't know how you
13 give them a choice if you've got a new program and the old
14 program doesn't exist anymore.

15 MS. MOORE: We did. We did. It was part of the
16 implementing legislation and I'll tell you as a school
17 district employee at the time, it was my job to analyze what
18 was better for the district. And in some cases the new
19 program was better for the district and in some cases the
20 old program was.

21 And I -- it was just -- it was very district -- it
22 was very locally oriented and districts could make their
23 choices.

24 So that history also exists for this program and
25 it was part of the implementing legislation and it was the

1 will of the Legislature at the time.

2 ASSEMBLY MEMBER BUCHANAN: So let me ask another
3 question and I don't want to belabor the point, but the
4 other three times we've kept lists, twice was for
5 modernization and once for new construction, but we never
6 had modernization, new construction, overcrowded relief --
7 we never had all the programs run out of money at the same
8 time.

9 Are you suggesting that we reserve money from the
10 program to be able to process? I mean somehow there's got
11 to be some funding there to be able to process these claims
12 and then do we -- you know, we take that money for two years
13 to process and then maybe not fund a couple of projects
14 instead.

15 I mean I'm just trying to figure out.

16 MS. MOORE: Certainly I would suggest that. I'm
17 also very open to other ideas around how we manage this
18 time. I just know historically we've managed it before and
19 both -- to my knowledge, both programs -- both major
20 programs, modernization and new construction, were out of
21 funds at the same time and that we did manage the program
22 during that interim -- during that time period and we never
23 went to the general fund to fund the program.

24 So the history is there for that and perhaps, you
25 know, it would be best for the Board to discuss it -- you

1 know, to discuss it in depth and get that information and
2 have all that before us, but the history has been there to
3 operate in that manner.

4 CHAIRPERSON REYES: Mr. Hagman.

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

6 And I just want to make sure I understand the motion
7 correctly.

8 CHAIRPERSON REYES: There has not been one.

9 ASSEMBLY MEMBER HAGMAN: Oh, okay. Well, I think
10 if it's the recommendation to go back to the Subcommittee to
11 come up with some information and some recommendations back
12 to the Board --

13 SENATOR LOWENTHAL: Implementation Committee.

14 ASSEMBLY MEMBER HAGMAN: Implementation
15 Committee -- I don't necessarily have a problem with that if
16 we're going to review this. I think the devil's in the
17 details for me.

18 If you're making an obligation list with some
19 legal binding type of thing, whatever the bonds are, this is
20 the order they're going to go in and this and that, I think
21 it's hard to say because we're a couple years off -- away
22 from that bond, what it may look like, what it may be
23 funding, new construction, old construction, you know,
24 modernization, those type of things.

25 If it's a needs type of test where we date stamp

1 and say this shows the need, it's my impression from the
2 Subcommittee what we're going for is what is the need out
3 there to go advocate for and a future bond issuance, I'm
4 definitely in favor of that.

5 I'm -- and that's -- I'm just curious how that
6 language would be if we start taking applications under one
7 program that may look totally different just like a
8 different bond issuance before we have, you know, planned
9 labor agreements that came out. We have all this new stuff
10 that Legislature keeps passing that will change one way or
11 the other the way this thing looks.

12 Two years from now, we'll probably have a lot more
13 and I just want to make sure that this Board has the
14 flexibility, whatever that Board is at that time, to use
15 that as informational purposes.

16 We qualify projects under the new system and go
17 out, but not necessarily locking them into a system that may
18 not exist because we run out of funds here.

19 CHAIRPERSON REYES: Ms. Moore.

20 MS. MOORE: I understand the recommendation is for
21 the Implementation Committee and the staff to do the devil's
22 in the detail and what I am simply asking is that we do not
23 preclude any possible option to come back before the Board
24 and then the Board has the opportunity for the full
25 discussion, that we haven't predisposed the discussion at

1 the Implementation nor at the staff level, but that we leave
2 it open so that we can have the opportunity to have a robust
3 discussion on how we might want that list to be.

4 ASSEMBLY MEMBER BUCHANAN: Are you suggesting then
5 that we not take action today but we get -- allow the
6 Implementation to come back to us with details and hopefully
7 included in those details is where we're going to reserve
8 funding to continue to do this for two years?

9 MS. MOORE: Well, that's what this recommendation
10 says. It says the Subcommittee recommends creation of a
11 simplified list and --

12 ASSEMBLY MEMBER BUCHANAN: Right.

13 MS. MOORE: -- this is what I'm speaking to, with
14 details to be developed by staff and/or the Implementation
15 Committee and I'm saying I support that. I strongly support
16 that, but I'd --

17 ASSEMBLY MEMBER BUCHANAN: Our simplified list in
18 my mind was not a true, what I would say, unfunded where
19 you're approving --

20 MS. MOORE: And that's where I was asking --

21 SENATOR LOWENTHAL: That's what she's adding on.

22 MS. MOORE: That's where I was asking for,
23 Assembly Member Buchanan, if we could not preclude that
24 discussion -- if we cannot predispose that discussion and
25 ask for them -- for a robust discussion about any -- about

1 what the recommendation would be back to the Board.

2 ASSEMBLY MEMBER BUCHANAN: Then my suggestion
3 would be that we direct the Implementation Committee to come
4 back to us and we take action at that point in time because
5 my biggest concern is I don't want to make promises that we
6 can't deliver.

7 I think it's important to keep a list. I think if
8 you're going to have a two-plus-year period where there's
9 absolutely no program in place that there -- you know, there
10 are many different policies that have to be considered, but
11 I believe, one, we've got to have a way to pay -- to process
12 those applications and in my mind, if I'm going to vote for
13 it, I want to be sure that I'm not promising a district
14 something where they're going out and making financial
15 decisions and we end up not being able to deliver on it.

16 CHAIRPERSON REYES: Okay.

17 MS. MOORE: I would -- I think we're talking the
18 same thing. Ask the Implementation Committee to do their
19 best at a recommendation with staff and come back before the
20 Board and have a robust discussion. I think --

21 SENATOR LOWENTHAL: But not to preclude -- what
22 you're saying is not to --

23 MS. MOORE: Is not --

24 SENATOR LOWENTHAL: -- preclude what she said --

25 ASSEMBLY MEMBER BUCHANAN: I'm not precluding it.

1 I'm just saying because we want to expand what the intent
2 was, I'd like to delay a vote on it from my perspective till
3 I know exactly what it is we're voting on.

4 SENATOR LOWENTHAL: So just send -- right now to
5 recommend that --

6 ASSEMBLY MEMBER BUCHANAN: The Implementation
7 Committee --

8 SENATOR LOWENTHAL: Do we need a vote on that?

9 CHAIRPERSON REYES: Well, we need to get consensus
10 from the Board. There's a couple of issues going on here.

11 One of the questions is continue to accept
12 applications beyond the current available authority.

13 MS. MOORE: Oh, okay. Gotcha'.

14 CHAIRPERSON REYES: So I need to understand from
15 staff, does this -- to continue -- in the absence of this
16 authority or this direction from the Board, you will not
17 accept beyond the bond authority and so you have nothing and
18 if you -- if we're telling you to go to the Implementation
19 Committee, then you do nothing with those things until the
20 Implementation comes with the recommendation to the Board
21 and then we have the vote and the conversation and send it
22 back if we don't agree?

23 MS. SILVERMAN: That's correct. And there's still
24 projects that come in on a daily basis and those projects
25 will increase our workload --

1 CHAIRPERSON REYES: Um-hmm.

2 MS. SILVERMAN: -- which and subject to whatever
3 we have in our bank account for bond authority. So we're
4 kind of teetering on that issue right now where we're going
5 to tip our hand and not have that extra authority to cover
6 those projects that come through the door.

7 So, you know, I guess the sooner, the better for
8 us to have that dialogue because we're going to be -- we're
9 at that pinch point. We're going to be beyond our authority
10 with projects that walk through the door.

11 CHAIRPERSON REYES: So the Board action would be
12 to allow you to continue to accept the applications beyond
13 the bond authority, is going to be the threshold that you
14 will need to meet; right?

15 MS. SILVERMAN: Right. Right.

16 CHAIRPERSON REYES: And then the second issue then
17 is beyond that how does it look. Is it a plain list as
18 proposed by the committee and you take a look at it or is it
19 more robust and includes perhaps an unfunded list as
20 proposed by Ms. Moore? Am I understanding the issue?

21 ASSEMBLY MEMBER BUCHANAN: I don't think so
22 because --

23 CHAIRPERSON REYES: Okay.

24 ASSEMBLY MEMBER BUCHANAN: -- the list beyond
25 authority is the same list.

1 CHAIRPERSON REYES: Thank you. Well, that's --

2 ASSEMBLY MEMBER BUCHANAN: And --

3 CHAIRPERSON REYES: That was my --

4 ASSEMBLY MEMBER BUCHANAN: And I think there is
5 consensus that we want to continue to demonstrate need --

6 CHAIRPERSON REYES: Um-hmm.

7 ASSEMBLY MEMBER BUCHANAN: -- when that was part
8 of the recommendation, it was tied in my mind to the
9 recommendation that we were going to stretch out the
10 program.

11 We're not going to stretch out the program. So I
12 want to know, one, you know, where are we going to reserve
13 money to continue processing applications and, two,
14 Ms. Moore has brought up she wants to also take a look at
15 whether we just accept applications or whether we provide
16 some sort of unfunded approval I guess.

17 SENATOR LOWENTHAL: Right.

18 ASSEMBLY MEMBER BUCHANAN: And I think that's
19 expanding what we intended to do. And so what I'm saying
20 from my perspective, I -- rather than voting on it today,
21 which, you know, I'm not sure I can, I would like to see
22 what it's going to look like, where the money's going to
23 come from, and what exactly it is we're recommending that we
24 do because I don't want to have -- I'm very concerned about
25 having an approval and a district thinking that it's going

1 to get money and if the program changes and it's not going
2 to get that, it's making those financial decisions.

3 CHAIRPERSON REYES: Senator Lowenthal.

4 SENATOR LOWENTHAL: What I don't -- I don't think
5 we're asking -- Ms. Moore is asking us to approve anything.

6 CHAIRPERSON REYES: The other way.

7 SENATOR LOWENTHAL: It's just to send to the -- to
8 discuss -- when they come back, to discuss points that you
9 brought up, where we're going to fund it, and points that
10 she's brought up. That's all we're asking to do.

11 ASSEMBLY MEMBER BUCHANAN: And I think we're in
12 agreement, but I think we're talking about a motion. I
13 don't think we necessarily need a motion to do that.

14 SENATOR LOWENTHAL: Oh, really? Okay.

15 ASSEMBLY MEMBER BUCHANAN: Because I think we're
16 giving direction to staff and the Implementation Committee
17 to bring that back to us so we can vote in terms of how
18 we're going to keep this list going into the future.

19 SENATOR LOWENTHAL: That's fine with me. I just
20 want to be real clear.

21 CHAIRPERSON REYES: You have that, but the staff
22 does need direction on what to do.

23 MS. SILVERMAN: Projects that walk through the
24 door.

25 CHAIRPERSON REYES: For projects that walk through

1 the door. That can't -- so you do need a motion --

2 SENATOR LOWENTHAL: I don't mind doing it. I'm
3 just not clear.

4 CHAIRPERSON REYES: -- to give them --

5 SENATOR LOWENTHAL: I think we're in agreement.

6 CHAIRPERSON REYES: I just want to --

7 SENATOR LOWENTHAL: We just -- before we finally
8 vote ultimately we know what we need the information. It's
9 just how do we ask the Implementation Committee to do that
10 is really what we're saying.

11 CHAIRPERSON REYES: It's sort of two pieces to the
12 motion. Staff.

13 MR. MIRELES: Mr. Chair, in the meantime, if we
14 exhaust the authority between now and whenever the
15 Implementation Committee has a discussion that it goes back
16 to the Board for full action, we can continue to accept
17 applications but not process them. That's one -- we do need
18 that direction from the Board.

19 CHAIRPERSON REYES: So you end up on date stamping
20 which is what the original recommendation was. So --

21 ASSEMBLY MEMBER BUCHANAN: Right.

22 CHAIRPERSON REYES: -- we end up defaulting to
23 what the Subcommittee recommended in the first place.

24 MR. MIRELES: At minimum, we can accept the
25 applications and not process them until we get further

1 direction from the Board on a true unfunded list.

2 SENATOR LOWENTHAL: But you also will discuss and
3 come back to the Board -- the Implementation Committee will
4 come back to the Board about a true unfunded list.

5 MR. MIRELES: That's correct, Senator. This is
6 just if we exhaust the authority before we have that robust
7 discussion and before we come back to the Board.

8 ASSEMBLY MEMBER BUCHANAN: So do you need a motion
9 that will say we'll accept and date stamp applications --

10 SENATOR LOWENTHAL: Right.

11 MS. SILVERMAN: Yes.

12 ASSEMBLY MEMBER BUCHANAN: -- pending the
13 recommendation from the Implementation Committee and further
14 action by the Board.

15 SENATOR LOWENTHAL: Right.

16 ASSEMBLY MEMBER BUCHANAN: So can I make that
17 motion?

18 CHAIRPERSON REYES: Was that sufficient?

19 MS. MOORE: Could you say it again, Ms. Buchanan?

20 ASSEMBLY MEMBER BUCHANAN: That we will accept and
21 date stamp applications pending the Implementation
22 Committee's work and further action by the Board.

23 CHAIRPERSON REYES: Is that sufficient direction?
24 So at this point, we -- I just want to understand that we
25 basically end up with this committee's recommendations and

1 nothing more and then the Implementation Committee will come
2 back and then at that point, you will propose what you will
3 propose and then we will take action accordingly.

4 MR. SAVIDGE: And not precluding all options
5 including a --

6 CHAIRPERSON REYES: All options, so a robust
7 discussion and --

8 SENATOR LOWENTHAL: Right. Including those
9 options and you will come with some recommendation.

10 CHAIRPERSON REYES: And then the Board will vote
11 up or down on the -- what I will refer to as enhancements of
12 the list because we got to give you direction on a list now.
13 What is the minimum it has.

14 MS. SILVERMAN: That's correct.

15 CHAIRPERSON REYES: And then you will come in with
16 the Implementation Committee on how that could be enhanced,
17 so it will be robust, and then we will then take action on
18 that particular list.

19 MS. SILVERMAN: That's correct.

20 MS. MOORE: I'm good. I'm good.

21 CHAIRPERSON REYES: Okay?

22 SENATOR LOWENTHAL: Yeah, I think we're good.

23 CHAIRPERSON REYES: All right. So if somebody
24 wants to make that motion.

25 MS. MOORE: So move.

1 SENATOR LOWENTHAL: No one knows what the
2 motion --

3 CHAIRPERSON REYES: Okay. Second.

4 MR. ALMANZA: Second.

5 CHAIRPERSON REYES: Second. There's a second.

6 All in favor, say aye.

7 (Ayes)

8 CHAIRPERSON REYES: Opposed? Abstentions? Ayes I
9 have it. Thank you. And I think that's the end of the
10 minor subject.

11 All right. **Options for execution of the 2012**
12 **grant amounts.** We're in Tab 10. 132. This is a held-over
13 from last time.

14 MR. WATANABE: Yes. Michael Watanabe with OPSC.
15 This item is -- we're bringing back from last month.

16 At the January Board, the Board approved the
17 Marshall & Swift Eight California Cities to increase the per
18 pupil grant for the School Facility Program grants.

19 That resulted in an increase of 3.76 percent.

20 CHAIRPERSON REYES: Okay. Cut to the chase here.
21 There are four options. Option 1 is to provide no
22 adjustment. We already dissected this thing last time
23 around.

24 MR. WATANABE: The Board wanted a history. We've
25 put that on stamped page 134 of how the Board's applied the

1 grant in the past.

2 Given where we are with bond authority and the
3 unique circumstance where we're out of cash and bond
4 authority with no expectation of more bond authority in the
5 future, staff's recommending Option 1, the Board take no
6 action and don't provide adjusts to the school facility
7 grants for any project added to the unfunded list prior to
8 January 2012.

9 As a reminder, at the top of page 135, if the
10 Board approved the CCI increase, the unfunded projects would
11 need approximately 44 million in bond authority -- 11
12 million for new construction.

13 CHAIRPERSON REYES: Okay. And the last time we
14 took this issue up, Option 1 was moved. It did not garner
15 enough votes and nobody else had a substitute motion and in
16 the absence of any motion, the default really is Option 1;
17 right? Am I -- do I understand this? Yes. Okay.
18 Ms. Moore.

19 MR. WATANABE: That's correct. Yes.

20 CHAIRPERSON REYES: Yes.

21 MS. MOORE: As I read the statute, it says that
22 the Board shall annually adjust the per unhoused pupil
23 apportionment and so Option 1 doesn't actually deal with
24 that issue and if we are to adjust the apportionment, that
25 means at the time that cash apportionment is provided to the

1 school district that it is adjusted.

2 And if that's the case, I think we need an
3 Option 5 that says we will adjust the apportionment to 2012
4 if there is in 2012 -- if there's -- the indice is at 2012
5 now. If we apportion a project in 2012, it should be
6 applied to that project. Am I reading this correctly.

7 MR. WATANABE: That is correct. The risk where we
8 are right now is we're pretty much out of bond authority, so
9 the apportionments are -- after that we won't have authority
10 to give them.

11 MS. MOORE: It's not authority. An apportionment
12 is not authority. An apportionment already had authority.

13 MR. WATANABE: Right. But to give them increase,
14 you're going to need more bond authority.

15 CHAIRPERSON REYES: We have the cash to meet that
16 adjustment; is that what you're saying?

17 MS. MOORE: Say it again. And -- I'm not
18 following you.

19 MR. WATANABE: Right now what we're projecting
20 state of the new construction authority, so we're going to
21 run out in April 2012. If the Board does not provide
22 apportionments for those projects prior to April 2012, we
23 won't have authority to give them an increase for the CCI.

24 CHAIRPERSON REYES: When you say authority, say
25 cash. Bond money.

1 MR. WATANABE: No. Authority. We need bond
2 authority to give them the increase.

3 CHAIRPERSON REYES: Authority. Okay. Bond
4 authority. Okay.

5 MS. MOORE: So we should both provide it for the
6 authority, but we have to by law provide it for the
7 apportionment, so we'd need both.

8 MR. WATANABE: You will need the cash eventually,
9 yes, when you plug them in also. But the authority is the
10 first part you need.

11 MS. MOORE: So I think -- I guess -- and correct
12 me if I'm wrong because I've been thinking about this a lot
13 and it seems fairly complex. However, the Board -- and I
14 wasn't here last Board meeting, so I apologize on that part,
15 but I think I'm up to speed.

16 CHAIRPERSON REYES: That's okay.

17 MS. MOORE: The Board voted to -- for everything
18 after 2012, that it be -- that it will on the authority
19 action apply a 2012 indice.

20 MR. WATANABE: Correct.

21 MS. MOORE: And what I'm saying is in addition to
22 that I think that the code -- is it code or regulation?

23 MR. WATANABE: Statute.

24 MS. MOORE: -- statute reads that it has to be
25 applied on the apportionment. So we apply it 2012 which

1 actually doesn't do anything unless somebody comes in for
2 cash. That's their budget, but when they come in for cash,
3 as I read this, we have to give them the indice that exists.

4 MR. MIRELES: One way -- Option 4 adjusts the
5 unfunded list that we have now to increase for the CCI 2012.
6 So you can take the authority that's needed to update the
7 complete unfunded list and if they come in and get an
8 apportionment in 2012, the authority would have already been
9 available for those projects.

10 MS. MOORE: How about this? Why not when they --
11 if they come in for an apportionment -- because it could be
12 a 2010. It could be a 2009. It could have been an '11.

13 When they come in in 2012 -- if they come in in
14 2012, for an apportionment, at the same time you adjust
15 their authority.

16 MR. MIRELES: Yeah. The Board --

17 CHAIRPERSON REYES: That's an option.

18 MR. MIRELES: That's an option.

19 CHAIRPERSON REYES: That's an option and one of
20 the issues with that is that some of that money has already
21 been spent. The construction has already occurred.

22 MR. MIRELES: Right. I think that Option 4 would
23 already give you an updated unfunded list to give them the
24 2012 amounts.

25 ASSEMBLY MEMBER BUCHANAN: This is the problem and

1 it's -- and I -- you know, when I made the recommendation
2 before, it was under the -- you know, I've since learned
3 that sometimes we've applied it retroactively and sometimes
4 we haven't, but this is the issue.

5 You're going to give authority that goes up to
6 your bonding capacity and if you wait to adjust the rates
7 until you're ready to fund the project, you are in -- you
8 aren't -- you don't have a true list of what you've approved
9 because I could have approved a project that's \$10 million,
10 but if the rate goes up, it's really -- I'm just using an
11 \$11 million project.

12 So I have to -- we have to have a consistent
13 policy that either says yes, we go back or no, we don't go
14 back. We've done both ways and when I argued last week, it
15 was because with construction bids and stuff, we're still
16 below most of the estimates.

17 But you can't -- you have to make a decision now
18 because if now, they're going to give approvals -- right --
19 and approve projects and then if I raise the other ones
20 above them, these districts are going to think they're in
21 line for money and they're not because we will have run out.

22 MS. MOORE: I understand what you're saying. So
23 you're saying that the authority has to increase now even
24 though we might not use it --

25 ASSEMBLY MEMBER BUCHANAN: To match the bonding

1 capacity.

2 MS. MOORE: -- to match it. And I guess I'm kind
3 of -- I'm willing to support that because I actually think
4 we're out of compliance with law if we are not providing
5 those projects in their apportionments with the 2012 indice
6 which it indicates here.

7 And I'll you, you know, in the old world when I
8 know we're not in for the last two years, but that indice
9 happened at the time that you went out to bid and it made
10 sense because that's when you needed the cash. That's when
11 the bid climate was like what it was --

12 ASSEMBLY MEMBER BUCHANAN: And that's what I
13 think --

14 MS. MOORE: -- and all of that and so by doing it
15 at the apportionment stage, it matches that and we did
16 all -- you know, full disclosure. We did also when the year
17 that it dipped, we didn't give them the dip, you know, and I
18 realize that that's wanting your cake and eat it too, but
19 then I realize that it's the apportionment.

20 ASSEMBLY MEMBER BUCHANAN: Well, my suggestion
21 is -- I mean this is the sword I'm going to fall on one way
22 or the other -- is that we -- if we -- I actually agree with
23 you by the way. They should be getting it at the time they
24 bid and some of them come in retroactively and get it at the
25 higher amount.

1 But I think that right now given our system would
2 probably be an accounting nightmare for staff.

3 But if -- whatever we decide to do, I would
4 suggest that we make sure we clarify that so we don't end up
5 where we are now where we've done one thing one time and
6 another, another and we have that clarity and then it's
7 undone consistently in the future.

8 So if it should be that they all get whatever the
9 grant amount is at the time that they request funds or we
10 give the authority, then let's do that and then we have to
11 clarify it so that we don't continue to be where we've been
12 in the past where we haven't been quite so consistent.

13 MS. MOORE: So in order to do that, what option is
14 that?

15 MS. SILVERMAN: 4.

16 CHAIRPERSON REYES: And that's the most expensive
17 option; right?

18 ASSEMBLY MEMBER BUCHANAN: Well, it just means
19 that fewer projects will get apportioned. We only have so
20 much money, so -- you know.

21 CHAIRPERSON REYES: So is there a motion? Is
22 there any comments from the public? Thank you. We
23 discussed this last time.

24 MS. MOORE: I'll move Option 4.

25 CHAIRPERSON REYES: So it's been moved. Second?

1 Okay. Any other options?

2 MS. MOORE: Can I try one other thing? And maybe
3 you've already --

4 CHAIRPERSON REYES: Hold on. Mr. Hagman --

5 ASSEMBLY MEMBER HAGMAN: I'm just back to the
6 Chair. You said that default's Option 1 if nothing else
7 passes; correct?

8 CHAIRPERSON REYES: Um-hmm. Okay. Do you want to
9 move Option 1?

10 ASSEMBLY MEMBER HAGMAN: Well, I don't think we
11 need to if it defaults there, but I'll move Option 1.

12 CHAIRPERSON REYES: Moved Option 1. Ms. Moore,
13 you had a comment?

14 MS. MOORE: I just want to ask clarity one last
15 time. If -- well, you -- I guess I'm not speaking to the
16 Option 1 piece. So I have a question on a different --

17 CHAIRPERSON REYES: Okay. So it's been moved. Is
18 there a second, then we can have the conversation. Is there
19 a second?

20 MR. ALMANZA: I'll second.

21 CHAIRPERSON REYES: Mr. Almanza second. Okay.
22 Ms. Moore.

23 MS. MOORE: My question is still on my Option 5
24 where we only apply it to the apportionments that are done
25 in 2012 as the law states. Is that possible to do?

1 MR. MIRELES: It depends if we have authority.
2 Option 4, what it does is it reserves the authority at the
3 2012 levels and if they -- if those projects -- the projects
4 on the unfunded list right now, they have what they were
5 approved by the Board.

6 So if you adjust them to give them the 2012
7 levels, when they get an apportionment, if they get cash,
8 then they're going to get the apportionment based on the
9 2012 amounts because you've already increased the amount.

10 So you have to -- to reserve enough authority, it
11 would be Option 4 to adjust everybody to the 2012 amounts
12 and if any of those projects that are on the unfunded list
13 get an apportionment in 2012, they would have enough
14 authority.

15 MS. MOORE: Right. And so what we did not agree
16 to do because it was a failed motion, that we would increase
17 them all as kind of planning in case somebody comes in. And
18 what I was saying is when somebody comes in, it's we adjust
19 then authority then and Assembly Member Buchanan rightly
20 points out, well, that might not turn out really well in the
21 end.

22 And I understand that, but I also know that we are
23 out of compliance with law. So the law states that it's
24 adjusted at apportionment. So how do we get around that
25 issue?

1 MR. MIRELES: The Board has done this in the past.
2 Prior years, they have --

3 MS. MOORE: Well, but does that make it legal?
4 Henry?

5 MR. NANJO: As long as at the time of
6 apportionment you give the amount that you are authorizing
7 as a CCI, you're fine. What this action does is it creates
8 a reservation of those amounts for all projects instead of
9 the ones that just really come in and --

10 MS. MOORE: I hear you.

11 MR. NANJO: -- and the only problem with that --
12 that gets to the goal that you're talking about, Ms. Moore,
13 but the problem with that is it uses up the bond authority
14 so you are not -- you don't have that flexibility to use
15 that money for other projects that may come in later.

16 MS. MOORE: I hear that and I hear the problem
17 with over -- potentially overinflating and I see the will of
18 the Board on not wanting to put that kind of authority in,
19 but I also believe that we're out of legal compliance.

20 MR. NANJO: Technically you're not out of legal
21 compliance unless you make an apportionment and you don't do
22 the adjustment.

23 MS. MOORE: Okay.

24 MR. NANJO: As long as at that time you catch up
25 and you do give the apportionment at that time, you're fine.

1 MS. MOORE: So we do have to do the 2012
2 adjustment on any cash apportioned in 2012.

3 MS. SILVERMAN: That's correct, but even back in
4 2010 when there was a decrease, we didn't honor that same
5 commitment to the Ed Code by decreasing the projects as
6 well. So I think we've gone back and forth on that fence.

7 MS. MOORE: Gotcha'.

8 MR. NANJO: This Board has handled it both ways,
9 correctly and potentially incorrectly depending on how you
10 interpret it.

11 CHAIRPERSON REYES: Senator Hancock.

12 SENATOR HANCOCK: So I was just going to suggest
13 that we would move Option 1 with the amendment that if a
14 project was final we would in fact only reimburse for the
15 actual cost. Now does that solve the problem or not?

16 MS. MOORE: No.

17 CHAIRPERSON REYES: No.

18 SENATOR HANCOCK: No. Okay. Never mind.

19 CHAIRPERSON REYES: Okay.

20 SENATOR HANCOCK: It seems logical.

21 SENATOR HANCOCK: Option 1's been moved and
22 seconded. Want to call the roll. Yes. I invited public
23 testimony earlier. Nobody came up. In fact it was a joke
24 because I said thank you. But go ahead, if you want to come
25 in, I certainly don't want to censor anybody.

1 AUDIENCE: I just thought I heard Ms. Moore
2 author --

3 MS. JONES: There was no second.

4 CHAIRPERSON REYES: There was no second to it.

5 AUDIENCE: Sorry --

6 CHAIRPERSON REYES: Okay. So but Option 1 was
7 moved and seconded. So that still is before us in case
8 anybody's striking back there. All right. Call the roll.

9 MS. JONES: Lowenthal.
10 Hancock.

11 Lara.

12 Buchanan.

13 ASSEMBLY MEMBER BUCHANAN: Aye.

14 MS. JONES: Hagman.

15 ASSEMBLY MEMBER HAGMAN: Aye.

16 MS. JONES: Almanza.

17 MR. ALMANZA: Aye.

18 MS. JONES: Moore.

19 MS. MOORE: No.

20 MS. JONES: Reyes.

21 CHAIRPERSON REYES: Aye.

22 MS. JONES: Motion does not pass.

23 CHAIRPERSON REYES: Okay. We were here last
24 month.

25 MS. MOORE: Okay. I'll make a motion. My prior

1 motion for Option 4 died for lack of a second; correct?

2 CHAIRPERSON REYES: Correct.

3 MS. MOORE: Okay. So I'll move Option 5 and that
4 is that projects that are apportioned in 2012 will receive
5 the 2012 indice and the authority at the same time.

6 CHAIRPERSON REYES: Is that something that can be
7 done?

8 MS. SILVERMAN: You have to keep a reservation of
9 funds -- of authority on the side just in case we --

10 CHAIRPERSON REYES: Of how much?

11 MS. SILVERMAN: -- to cover those projects. It
12 all depends because we have the cert period. We have 760
13 projects -- or \$760 million in projects that came in waiting
14 for a bond sale to execute to move those apportionments
15 over. So you could technically reserve for that pot of
16 funds, but then that's all conditional because there could
17 be also a spring and fall bond sale.

18 So it's probably best to keep a reservation of the
19 entire list as a backup and then credit the account once
20 those projects have come in.

21 ASSEMBLY MEMBER BUCHANAN: Could you walk me
22 through -- I mean we have unfunded approvals. We have
23 apportionments. We have funding. So what you're talking
24 about is they would get an unfunded approval at a certain
25 amount. Now, the apportionment would be at the 2012 rate if

1 it's approved in 2012.

2 MS. MOORE: If it's cashed in 2012. I'm using
3 cash and apportionment synonymously because that's where it
4 is now.

5 ASSEMBLY MEMBER BUCHANAN: You're talking about --
6 okay. What you're funding at. So --

7 SENATOR LOWENTHAL: If they're apportioned, it has
8 to be at the new level. That's all.

9 ASSEMBLY MEMBER BUCHANAN: Okay. Right.

10 CHAIRPERSON REYES: So you need to --

11 MS. MOORE: I would second that.

12 CHAIRPERSON REYES: So you need to -- okay. It's
13 been moved and second. So you need to set aside some
14 unknown amount --

15 MS. SILVERMAN: Right. In order to cover
16 potentially projects that come in through the door and since
17 the universe is unknown about how much cash we're going to
18 get, we would have to potentially reserve for the entire
19 list just to be safe.

20 MR. NANJO: Which is Option 4.

21 MS. SILVERMAN: Which is Option 4.

22 ASSEMBLY MEMBER BUCHANAN: Option 4. So --

23 MS. SILVERMAN: By credit back --

24 CHAIRPERSON REYES: So you have to -- what
25 Option 5 is you would set aside essentially \$44 million and

1 then the actual expense would depend on what actually comes
2 in.

3 MS. SILVERMAN: That's correct.

4 MS. MOORE: I have another idea that -- because I
5 think that might -- I see that that -- that did not have the
6 support of the Board.

7 So we know now the universe of those projects that
8 will, once we receive cash, say they have -- they can in 90
9 days perfect a project, what we just -- you reported on that
10 today.

11 MS. SILVERMAN: That's correct.

12 MS. MOORE: What if we held the authority and
13 provided the apportionment with the 2012 indice for that
14 universe.

15 MS. SILVERMAN: But you still have another
16 certification round that actually opens up in July and
17 August, so you would still -- there could be additional
18 pressure by not having a reserve.

19 MS. MOORE: I'm not saying to -- I'm not -- we
20 would have to take that action on those projects later.

21 SENATOR LOWENTHAL: Right. At that time.

22 MS. MOORE: I'm saying the universe that we know
23 right now and what its amount is --

24 MS. SILVERMAN: Right.

25 MS. MOORE: That we would apportion and authority

1 for those projects.

2 MS. SILVERMAN: Reserve it.

3 SENATOR LOWENTHAL: Yes.

4 ASSEMBLY MEMBER BUCHANAN: So are we not back to
5 Option 4?

6 CHAIRPERSON REYES: Yes.

7 MS. MOORE: No.

8 SENATOR LOWENTHAL: No.

9 CHAIRPERSON REYES: Yes.

10 MR. NANJO: That is Option 4.

11 CHAIRPERSON REYES: That is Option 4.

12 ASSEMBLY MEMBER BUCHANAN: Could you explain --
13 yeah.

14 MS. MOORE: It's not because Option 4 is the
15 entire unfunded list and --

16 ASSEMBLY MEMBER BUCHANAN: But you can't -- if you
17 don't do the -- the entire list is going to be 2012 or
18 later; right? So the entire list is -- you can't -- if
19 something's on the list now, it's not going to get a 2011
20 approval. That's passed. So it's either going to get a
21 2012 approval or later.

22 So you've got to increase the amount for all the
23 projects on the list to 2012.

24 The real question that's going to come up is, one,
25 if you don't do it now, you may not be able -- you know,

1 we -- if you're going to do that, you'd better do it now
2 because you don't want to have other projects that submit
3 applications and we can't approve them because we've taken
4 that authority because we are basically reserving authority
5 for those projects.

6 The other issue that will come up if for some
7 reason, you know, money -- we still have money in 2013, then
8 you're going to potentially have a situation where you can't
9 increase them all because you will have had a greater -- you
10 will have apportioned more money than you have in bonding
11 authority.

12 MS. MOORE: I guess I am not seeing that my motion
13 is saying to approve authority as Option 4. I am saying
14 approve authority and apportionment for the universe that we
15 know is coming in for cash with this last round of -- what
16 do we call it? Priority --

17 MS. SILVERMAN: Certification.

18 MS. MOORE: Certification. That's all my motion
19 covers.

20 ASSEMBLY MEMBER BUCHANAN: And so anyone that
21 comes in later would get the 2011 [sic] apportionment?

22 MS. MOORE: We don't -- I say we have to determine
23 that later.

24 ASSEMBLY MEMBER BUCHANAN: Well, I think you've
25 got to be consistent with people.

1 MR. NANJO: The problem is you're legally
2 obligated to give that same adjustment to those other ones
3 that come in in 2012. What Option 1 does is it allows the
4 Board to potentially calculate for the -- okay. Let me take
5 a step back.

6 The reason the Board hasn't done Option 4 in the
7 past is because historically the staff and the Board knows
8 that there is some number, however large or small, of those
9 approved projects that for whatever reason will drop out and
10 not come in.

11 So to prevent that project that ultimately is
12 going to drop out from reserving money that could be used
13 for a project that is going to come through, that's why
14 Option 4 was not used by the Board in the past.

15 If you're going to give the adjustment -- or
16 you're prepared to give the adjustment for the projects that
17 come in, you have to reserve the funds so that you have the
18 funds available for every project on the list even though
19 you know some of the ones may not come in because you don't
20 know which ones those are going to be.

21 I don't know if that helps or not, but that's --

22 MS. MOORE: Right now I do know the ones that it's
23 going to be because we have a certified list. I don't see
24 where --

25 MR. NANJO: That's what --

1 MS. MOORE: I don't see where taking this action
2 and this vote now sets the course for projects that aren't
3 on that certified list.

4 MR. NANJO: We're not talking about projects that
5 weren't on the list. We're talking about projects that are
6 on the list but for whatever reason may not come through.
7 You're reserving the funds -- the adjustment and all we're
8 talking about is the CCI adjustment for those projects.

9 You're giving them those adjustments even though
10 those projects may not come in.

11 MS. MOORE: All right.

12 CHAIRPERSON REYES: Okay. So you had a motion and
13 it had been seconded. Do you want to withdraw the motion or
14 do you want to proceed?

15 MS. MOORE: I would like to proceed.

16 CHAIRPERSON REYES: Okay. Call the roll, please.

17 MS. JONES: Lowenthal.

18 SENATOR LOWENTHAL: Aye.

19 MS. JONES: Hancock.

20 SENATOR HANCOCK: Aye.

21 MS. JONES: Lara.

22 ASSEMBLY MEMBER LARA: Aye.

23 MS. JONES: Buchanan.

24 Hagman.

25 Almanza.

1 Moore.

2 MS. MOORE: Aye.

3 MS. JONES: Reyes. Motion does not carry.

4 CHAIRPERSON REYES: Okay. All right. So moving
5 on then. Item 13. **Priority funding process.**

6 MS. SILVERMAN: You know, in the spirit of trying
7 to keep it short. So we actually have a policy question in
8 play as far as the Board actually established the priority
9 in funding process in regulations and obviously the process
10 has evolved over the last year and a half.

11 And with that regulation change, the process has
12 been established in two periods leaving the 30 days open and
13 effective near the bond sale. So with that respect, the
14 regulations were adopted by the Board back in May and the
15 regulations were put in effect in July.

16 The opened up the certification period for the
17 period in question.

18 So those certifications are actually valid until
19 January 10th. So if I can draw attention to page 155a,
20 there's a timeline that we have produced that kind of
21 outlines the question.

22 We did have projects that came in with rescissions
23 and the cash did become available. Well, the Board actually
24 did take a pro forma action and declaring those projects
25 credited back to the bond authority back in December,

1 although the cash technically was available at the end of
2 October.

3 Since the certifications are valid between August
4 through January 10, our understanding of how the regulation
5 is very prescriptive that the certifications must be valid
6 before we can give apportionments and again the whole
7 purpose of the certification and the Board adopted this
8 whole process is again provide clarity on how we fund
9 projects.

10 So the real question is outside of that December
11 action making those projects now deemed available, can the
12 Board actually fund projects with invalid certification
13 bringing that forward to the January Board because the
14 certifications are no longer valid.

15 So that's really the policy question for the
16 Board.

17 CHAIRPERSON REYES: Okay. This is an
18 informational item. I know that we have some folks that
19 want to testify on this, but it is informational.

20 Ms. Moore, you have your mic up. Please --

21 MS. MOORE: I'll wait for testimony.

22 CHAIRPERSON REYES: Before you do that, we have
23 some -- Mr. Lara, do you want to be recorded as an eye on
24 the consent -- well, you were here for the --

25 MR. LARA: Yeah.

1 CHAIRPERSON REYES: You were here for the consent,
2 for the Minutes. He was here. Senator Lowenthal.

3 SENATOR LOWENTHAL: I want to be aye.

4 CHAIRPERSON REYES: Aye. And then will you
5 please -- what's missing on the -- I just want to make sure
6 I have everybody.

7 MS. MOORE: Wasn't I on consent as well?

8 MS. JONES: You actually had approval votes on all
9 those and then we started doing the new construction which
10 is roll call.

11 CHAIRPERSON REYES: Okay. So we're good on all
12 the votes.

13 MS. JONES: Everybody's caught up.

14 CHAIRPERSON REYES: Okay. It's caught up. And
15 then Mr. Lara wants to be recorded as a --

16 MR. LARA: A no.

17 CHAIRPERSON REYES: -- on the recommendation --
18 which one?

19 MR. LARA: I'll tell you.

20 CHAIRPERSON REYES: Hold on a sec. The item that
21 failed. But just to be clear.

22 MS. JONES: Okay. Be clear, please. What item --
23 no, I'm kidding.

24 MR. LARA: Item 3.

25 MS. JONES: Item 3, okay. Thank you.

1 CHAIRPERSON REYES: The metering out item. Okay.
2 Thank you. That piece --

3 MS. JONES: Thank you.

4 CHAIRPERSON REYES: Thank you. All right. Yes.
5 He abstained and then realized that he really wanted to go
6 as a no vote on it. So -- okay. Thank you. I apologize.
7 Please proceed.

8 MS. GASTON: Cheryl Gaston, Oceanside Unified
9 School District. The district is requesting that the State
10 Allocation Board allocate the funds that are available from
11 the rescissions based on the priority list that was in place
12 when those funds became available.

13 We believe that the regulations allow it and that
14 it meets the goal of putting out as much cash as possible
15 and would certainly allow some projects to go forward as
16 soon as possible.

17 We are really not sure when the next bond sale
18 will be to fund those that have the unfunded approvals and
19 the priority funding that occurred in January was projects
20 that were approved in January of '11. So that's basically a
21 whole year.

22 We're beginning to see the construction prices
23 increasing for us. So it's important for us to get going as
24 soon as we possibly can.

25 When we looked at the item in the SAB agenda, it

1 appeared to be an argument against funding these as soon as
2 possible as opposed to making them available as soon as
3 possible.

4 CHAIRPERSON REYES: Thank you. Bruce.

5 MR. HANCOCK: Thank you, Chairman Reyes, members
6 of the Board. I'm Bruce Hancock, Hancock, Park, and DeLong.

7 We've been working with Oceanside on this and
8 other issues and when it came up, I thought it raised a very
9 important policy question that frankly I had misunderstood I
10 guess.

11 I did participate or at least attend all the
12 Subcommittee discussions on the priority fund round and I
13 thought that I understood that essentially a basic rule of
14 the priority funding was that when money became available,
15 it would be given to projects on the list at that time.

16 And I don't -- I certainly wouldn't maintain that
17 we discussed that in, you know, the various -- the
18 Subcommittee or at this Board. It was just simply my
19 understanding of what the policy was.

20 When Oceanside raised this issue, it brought to
21 light the idea -- the circumstance that in fact maybe we're
22 not all agreeing on what the policy is and so for that
23 reason, we'd like to ask the Board to weigh on it because it
24 seems that policy under the definition that OPSC has
25 provided to the Board in this very good write-up today

1 really is that funding is provided to districts who are on
2 the list when the apportionments are made as opposed to
3 those on the list when the funding becomes available.

4 I think that there's an important -- this very
5 important distinction there and it just so happens that
6 because we have crossed the border from one priority list to
7 another, we see the outcome or we see why the distinction is
8 important.

9 The funding became available while Oceanside
10 Unified and other school districts I'm sure were valid
11 priority list projects who had submitted valid
12 certifications, but because of necessary administrative
13 actions -- and we definitely do not argue that there may be
14 times when apportionments cannot be made virtually
15 overnight.

16 OPSC has produced miracle after miracle in
17 bringing huge amounts of apportionments forward. They're
18 not always going to be able to do that and not every
19 situation will be -- allow that accomplishment.

20 But we think that if you use the apportionment as
21 the determination of which projects should get the funding,
22 you introduce an ambiguity into the program.

23 The date that funding becomes available is a date
24 certain and if it isn't a date certain, then maybe the Board
25 needs to talk about that.

1 But when you introduce that it's when the
2 appportionment happens, you introduce, as I said, an
3 ambiguity. When will that be? The next month? Three
4 months further? And in this particular case, it's caused us
5 to cross a threshold so that the funding will go -- or could
6 possibly go to districts that were not on the list when the
7 funding became available.

8 That seems to Oceanside and to me as not in
9 conformance with the way I understood the Board's priority
10 point process and we really very much appreciate your time
11 and consideration and we do second the idea that we need to
12 have clarify. Thank you.

13 CHAIRPERSON REYES: Ms. Moore.

14 ASSEMBLY MEMBER BUCHANAN: Go ahead. I just --
15 how many priority funding rounds have we had?

16 MS. SILVERMAN: We've actually had -- the first
17 one we created an informal certification period and that was
18 in 2010 then we actually -- early 2010 for 400 million.
19 December 2010, we actually had another certification round
20 because we had a bond sale and then we constituted this new
21 one because we had established regulations. So we've had
22 three.

23 ASSEMBLY MEMBER BUCHANAN: And districts who
24 haven't received funding or appportionment, have they
25 reapplied in the next round?

1 MS. SILVERMAN: That's correct.

2 ASSEMBLY MEMBER BUCHANAN: And that's been the
3 standard practice?

4 MS. SILVERMAN: That's correct. If they didn't
5 receive the cash, they could recertify.

6 ASSEMBLY MEMBER BUCHANAN: And when you talk about
7 ambiguity --

8 MR. HANCOCK: Yes.

9 ASSEMBLY MEMBER BUCHANAN: -- and wanting clarity,
10 I think for a district to not receive an apportionment but
11 not to reapply in a subsequent round --

12 MR. HANCOCK: Oh.

13 ASSEMBLY MEMBER BUCHANAN: -- you know, I mean to
14 keep that list creates more uncertainty because you don't
15 know if all the projects are going to perfect or if some of
16 them aren't.

17 So what is -- so having -- you know, treating it
18 the way we've been where if you don't receive it, you
19 reapply in the next round, it seems to me that that is a
20 better way to do it.

21 MR. HANCOCK: Thank you for the opportunity to
22 address that.

23 First of all, Oceanside did apply for the next
24 round, but there's an important consideration here. Each
25 round of the priority funding is a fresh start. Projects

1 that did not request it previously can request it this time
2 and in that case, some of those projects may move to the top
3 of the list and so it is -- even though a district may
4 reapply, when they were let's say number one on the unfunded
5 list if you'll call it that -- priority list that didn't get
6 money, when the next list is constituted, even when that
7 district refiles -- which in this case they did -- they may
8 no longer be within the funding range because other
9 districts have moved to the top of the list.

10 I don't want it to sound like this is a war
11 between districts. It is an issue about clarity of what is
12 the determining factor of what list gets the funding.

13 ASSEMBLY MEMBER BUCHANAN: Well --

14 MS. GASTON: Could I add something to that. The
15 amount of funds available from the rescissions when I looked
16 at the list last time was about a 40-something million
17 dollars and there was -- there's approximately \$700 million
18 worth of certified projects for the next funding round.

19 You know, part of the request is we have
20 \$60 million, can we allocate that to eligible projects
21 instead of waiting for another bond sale.

22 CHAIRPERSON REYES: Ms. -- oh, go ahead. I'm
23 sorry.

24 ASSEMBLY MEMBER BUCHANAN: Well, I think the
25 question you're asking is which projects do you allocate it

1 to. That's where you want clarity.

2 MS. SILVERMAN: We would have to follow the
3 validated cert list which is --

4 ASSEMBLY MEMBER BUCHANAN: Right.

5 MS. SILVERMAN: -- now the one in play right now.

6 ASSEMBLY MEMBER BUCHANAN: Right.

7 CHAIRPERSON REYES: Ms. Moore and then Mr. Hagman.

8 MS. MOORE: To put it in -- if I may and
9 correct -- please correct me if I'm wrong in simplified
10 terms.

11 We heard at the beginning of the meeting that
12 there was 60 million that wasn't apportioned during the
13 previous bond -- from the previous bond sale.

14 MS. SILVERMAN: No. We have 11 million from the
15 prior bond sale -- 11 and a half million which we reported
16 out in December apportionment that we couldn't get to all
17 the projects. Plus we had the 47 plus million. So that
18 makes up the 60 million.

19 MS. MOORE: The 47- that was rescinded during that
20 project time.

21 MS. SILVERMAN: Right. Plus the 11 and a half.

22 MS. MOORE: So in simple terms then, the
23 60 million became available during the first -- the
24 certification period that we were previously in and what the
25 policy question is, is -- in my mind, is does the cash go to

1 those that are on that certification list during the time
2 when the cash arrives or are there circumstances that we
3 hold that cash to a future certification list and you're
4 indicating that it's been the circumstance that that
5 happens --

6 MS. SILVERMAN: Right.

7 MS. MOORE: -- previously, but it's a big policy
8 issue and I guess the reason that I'm empathetic to the
9 policy issue -- and maybe we can't do anything about it
10 because it's an information item -- but if the Board is
11 inclined, we could have the policy discussion with an action
12 item is this.

13 Those are known. You know, it's known when -- who
14 certified and how they certified and it's also known when
15 the cash came in. And it seems that it's not subject to --
16 and I'm not saying intentional nor unintentional
17 manipulation.

18 But when you have it such that there -- the cash
19 comes in and for whatever reason -- could be great
20 reasons -- for whatever reason, it isn't apportioned during
21 that time period, it moves to the next slot, it seems that
22 that is -- it could be subject to manipulation and/or --
23 intended or not and those are a whole different circumstance
24 of projects as is indicated.

25 And so I think it merits more discussion

1 policy-wise. I don't know. Do any of my other Board
2 members support that?

3 CHAIRPERSON REYES: Mr. Hagman has a comment.

4 ASSEMBLY MEMBER HAGMAN: I just -- this is a good
5 example of why taking these date stamps of projects when we
6 run out of funds and wait two to three years for bonds.
7 That's going to create lots of issues coming up if you
8 prioritize them.

9 It's one thing to get an indication what you need
10 for bonding authority in the future. It's another thing to
11 state date stamping who got in first and when you do that
12 policy because as time goes -- you know, six months is one
13 thing, but, you know, a year, two years more in between
14 these rounds to say that needs assessment, that priority
15 list that was done two years ago is the same for the
16 districts much less the State, you know, a certain period of
17 time later, it's that timeline.

18 If you just leave a blank policy one way or the
19 other, then you'll have a definition of how long that's good
20 for and if it does take another year or possibly three years
21 now before we have another bond sale, then that list may not
22 be valid anymore.

23 And I think that's why you go for these different
24 rounds and just like you're applying for grants or anything
25 else, there's going to be winners and losers all the time.

1 And if the certification period is the timeline
2 that you've been using in the past, it's only open for that
3 period of time, that means these projects are certified,
4 ready to go, and they meet the qualifications, then the
5 policy discussion may be that is there priority to those
6 projects, then they get to recertify and be put at the top
7 of the list, but you don't have that timeline.

8 So I think instead of saying just automatically go
9 back to the first funding or automatically do this that you
10 may want to have discussion, okay, what is that timeline,
11 what is the procedure for those who didn't make that list
12 and they come for the next list with priority because
13 they've been waiting longer.

14 I think that's the fairness question you're trying
15 address, but for me --

16 MS. MOORE: Sort of.

17 ASSEMBLY MEMBER HAGMAN: -- there's a difference
18 in the timeline and that's why you have that certification
19 period right now.

20 CHAIRPERSON REYES: Ms. Buchanan.

21 ASSEMBLY MEMBER BUCHANAN: Yeah. I think the
22 question -- I mean one is it would change the practice of
23 what we're doing, but I think the question is when money
24 comes back into a program, does that come back to the New
25 Construction Program or Modernization Program or does it go

1 back to a specific round of apportionment.

2 Is the intent to apportion a certain amount of
3 money in a round or is the intent to keep that money, even
4 if it comes back or whatever, only with that round. It
5 seems to me -- and I could be wrong and I -- we obviously --
6 we probably don't want to be here forever tonight -- that's
7 the essential question.

8 When money comes back, does it stay with the New
9 Construction Program, for example, so that that would go
10 into the next round of apportionment or is money there to
11 stay strictly with the round?

12 It seems to me the practice has been when money
13 comes back, it comes back to the program and it gets
14 apportioned out according to how you're going to do it --
15 the priority -- how you decide you're going to do that in
16 the future and that seems to me to have been what the past
17 practice has been with the programs, what you're -- if
18 you're -- if we change to what you're suggesting, we're
19 going to say basically that money stays with that round of
20 apportionment and if you don't -- if someone doesn't
21 perfect, then you stick with that round.

22 I think -- to me that's the essential policy of
23 which --

24 ASSEMBLY MEMBER HAGMAN: What --

25 ASSEMBLY MEMBER BUCHANAN: I think the cleaner

1 thing is to if money comes back for whatever reason, I think
2 it stays with the program, but it's -- you're going to, you
3 know, allocate that in the future. That would be -- but I'm
4 open to having a much deeper discussion.

5 ASSEMBLY MEMBER HAGMAN: Yeah. We should put it
6 as a policy question. But let's say that you are number one
7 and number two, just your example, and then you reapply for
8 the new funding round and let's say you're at the top versus
9 the bottom and got funded.

10 Now you still have this list, that list, you know,
11 partial funding coming in here, how do you start to
12 prioritize them and blend those together.

13 And I think getting back to the policy question
14 would be the people left on that list, do they go to the top
15 of the list in the next round, but then there's a great
16 period of time, are they still qualified? Do they still
17 have the same need when that time goes through.

18 So bring it up another day, Mr. Chair, and we'll
19 look it.

20 CHAIRPERSON REYES: Yeah. I think it also raises
21 the issue of what happens when you audit money. You know,
22 does that money belong to that apportionment back then or
23 does it belong to the fund. But anyway --

24 MS. SILVERMAN: Yeah, and --

25 CHAIRPERSON REYES: -- so --

1 MS. SILVERMAN: Absent of any action, just to FYI,
2 we said that we would move \$60 million forward, but I guess
3 that's still in play and just realize we can suspend that
4 action until we have the bigger dialogue. I just want to
5 let you know that's somewhat of a commitment --

6 CHAIRPERSON REYES: Well, we don't have -- this is
7 not an action item. This is informational, so status quo
8 until the Board comes up with something different.

9 Ms. Moore.

10 MS. MOORE: Can we ask for the policy discussion
11 to happen then I guess or -- because we're not having it
12 right now --

13 CHAIRPERSON REYES: Right.

14 MS. MOORE: -- because it's information.

15 CHAIRPERSON REYES: Can we send it to
16 Implementation Committee to come back with the options so
17 they can do all the discussion among the peers and come back
18 with something? Is that okay?

19 MS. MOORE: I'm good with that.

20 CHAIRPERSON REYES: Okay. I'm saying okay. Bill,
21 congratulations.

22 MR. SAVIDGE: Thank you, sir.

23 CHAIRPERSON REYES: Okay.

24 MR. SAVIDGE: -- two meetings --

25 CHAIRPERSON REYES: We do have one other

1 informational item, **Joint Use Fund Release Status Report.**

2 MS. SILVERMAN: Yes. And the status of that is
3 that project did come in for their cash.

4 CHAIRPERSON REYES: Okay.

5 MS. SILVERMAN: So we're -- and then we have the
6 **workload list.** That's attached on Tab 14.

7 CHAIRPERSON REYES: Um-hmm.

8 ASSEMBLY MEMBER HAGMAN: No questions.

9 MS. SILVERMAN: And we're done.

10 CHAIRPERSON REYES: All right. Thank you.

11 (Whereupon, at 6:58 p.m. the proceedings were recessed.)

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