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CALIFORNIA STATE ALLOCATION BOARD

PUBLIC MEETING

STATE CAPITOL
ROOM 4202
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, OCTOBER 24, 2012

TIME: 2:02 P.M.

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

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

CESAR DIAZ, Appointee of Edmund G. Brown, Jr., Governor of the State of California

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

SENATOR LONI HANCOCK

ASSEMBLYMEMBER JOAN BUCHANAN

ASSEMBLYMEMBER CURT HAGMAN

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Executive Officer
BILL SAVIDGE, Assistant Executive Officer

REPRESENTATIVES OF THE DEPARTMENT OF GENERAL SERVICES, OFFICE OF PUBLIC SCHOOL CONSTRUCTION (OPSC) PRESENT:

LISA SILVERMAN, Executive Officer
JUAN MIRELES, Deputy Executive Officer

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

JONETTE BANZON, Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON REYES: We will start without quorum. And for the record, out of Tab 5, we're pulling two items from Consent. Ms. Silverman.

MS. SILVERMAN: That's correct. We're actually pulling Scotia Union on page 118 through 120 and Sierra Plumas Joint Unified item on page 121 through 123.

CHAIRPERSON REYES: Okay. And we'll take those out of action items down on the agenda. Okay.

In the interest of all those professional players who've given up their life to get ready for this game, we -- go ahead, get us started, Ms. Silverman, on items that do not require a vote.

MS. SILVERMAN: Yeah. We can actually get started on **Executive Officer's Statement**. We want to give the Board an update on a few items that occurred during the month.

First, we actually are providing some facility hardship funds to projects and that actually represent seven projects in the Consent Agenda, which is great news for those folks who have those health and safety issues and those districts, once the Board does approve those items, they have 90 days to come in for their fund release.

And again they have to have contracts in place and all the other requirements that also -- for later compliance

1 and in addition to that, they have to submit the fund
2 release by January 22nd, 2013.

3 The item we want to give the Board an update is we
4 actually released a significant amount of cash in June and
5 that represents over 637 million for priorities in funding
6 and we did provide the Board an update that the deadline was
7 looming at the last Board meeting.

8 That deadline has passed as of September 25th. We
9 had numerous projects that did come in. Of that 637-, we
10 had \$615.5 million that actually submitted fund releases
11 that represent 192 projects. So that's actually a
12 98 percent success rate. And we actually had four projects
13 that didn't make it unfortunately and those projects were
14 put on the bottom of the unfunded list.

15 The next item we wanted to update with the Board
16 is the cash set aside for the Charter Program. We actually
17 had a discussion in June and the discussion really centered
18 on whether or not we want to keep cash for those
19 projects -- or for that program so that you could move
20 forward with advance site and design fund releases.

21 At that time, they had some challenged and we had
22 only 30 something million dollars -- over \$30 million that
23 was released, but we still had 57 million that was part --
24 that had not been released.

25 Since the Board did provide an extension through

1 December, we actually had projects come in and they actually
2 accessed the cash. So that has been a success. That's been
3 great for those folks.

4 We actually had nine projects that have been
5 released for funds, two projects in the Consent Agenda today
6 and three more next month.

7 CHAIRPERSON REYES: Ms. Moore.

8 MS. MOORE: Lisa, are there more projects that
9 want to access that cash than we have or is it -- have you
10 received more than the cash yet?

11 MS. SILVERMAN: I think currently this is all that
12 we've received, but we would definitely give the Board an
13 update if we have some more projects come in.

14 MS. MOORE: That'd be great. Okay. Thank you.

15 MS. SILVERMAN: And another item we wanted to
16 advise the Board, we did -- obviously the Board did adopt
17 regulations to change the method of how we accept funding
18 applications for the Modernization and New Construction
19 Program once those -- once we've exhausted the bond
20 authority.

21 With that, there's obviously some conditions
22 associated with those projects when they do move forward and
23 we don't have bond authority. The Board actually wanted to
24 give them an update some of the outreach events that we've
25 held and we will be holding.

1 We've actually provided some updates in our
2 communication on a monthly basis in our Building Blocks, our
3 newsletter. We had a presentation yesterday. Juan and I
4 actually had a presentation a few weeks ago at a venue for
5 school districts.

6 So we'll have some items posted on the webpage
7 which will be pretty comprehensive about FAQs and other
8 material that could be helpful for school districts and
9 we'll also repost some of our web presentations.

10 So if there are any additional questions about how
11 the process will work once we've exhausted those funds and
12 the regulations are in effect, we definitely will have
13 material available to assist school districts and feel free
14 to call anybody at the OPSC. We can definitely help you
15 through the process.

16 The last item we wanted to share is the Office of
17 Administrative Law Order to Show Cause. On April 16th, 2012
18 the Office of Administrative Law received a request from the
19 Senate Rules Committee to clarify the reality of the
20 60 percent commensurate regulations.

21 On October 17th, staff did receive a response from
22 the Office of Administrative Law Order to Show Cause and
23 they actually determined that the 60 percent commensurate
24 regulation has met the necessity standard and is legal.

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

1 CHAIRPERSON REYES: Thank you. Any questions?
2 No. I know there's some folks that want to talk on the
3 public comment section, but if we can wait until we
4 establish a quorum for that because you probably want to
5 have all the members present to make your statement, I'd
6 appreciate that.

7 Do we need to go to Tab 3?

8 MS. SILVERMAN: We just concluded Tab 3.

9 CHAIRPERSON REYES: Oh, Tab 3's done. Any public
10 comment on either Tab 2 or 3? Okay.

11 MS. SILVERMAN: We can move to Tab 6 which is --

12 CHAIRPERSON REYES: Tab 6.

13 MS. SILVERMAN: -- updates on releases of the
14 funds.

15 CHAIRPERSON REYES: Please.

16 MS. SILVERMAN: So we have actually -- if you go
17 to page 126, we have a summary of the funds that we have
18 disbursed in the month of September and again most of the
19 activity did center around the bond sale -- the last bond
20 sale.

21 We released \$207 million in the month of
22 September. Next month we actually will be introducing a new
23 chart because we actually did have a bond sale in October
24 2012 and that will represent those projects that will be
25 moving forward for the next priority in funding round.

1 And the new chart will actually reflect the
2 \$224 million that we did receive in Proposition 1D.

3 On page 129, as I shared with you earlier, we
4 actually do have a graphic illustration of those projects to
5 try to tie into those projects that didn't meet the 90-day
6 requirement. We disbursed quite a bit of funds in
7 September, but we also do show the projects that did expire.

8 Four projects expired. That represents
9 \$22 million.

10 And with that, I will open up to any questions.

11 CHAIRPERSON REYES: Any questions from Board
12 members? Comments from the public? Ms. Hancock, welcome.
13 Okay.

14 So why don't we go back to Tab 1. Ms. Jones,
15 would you establish a quorum, please.

16 MS. JONES: Certainly. Senator Lowenthal.
17 Senator Hancock.

18 SENATOR HANCOCK: Here.

19 MS. JONES: Senator Wyland.
20 Assemblymember Brownley.

21 Assemblymember Buchanan.

22 ASSEMBLYMEMBER BUCHANAN: Here.

23 MS. JONES: Assemblymember Hagman.
24 Esteban Almanza.

25 MR. ALMANZA: Here.

1 MS. JONES: Kathleen Moore.

2 MS. MOORE: Here.

3 MS. JONES: Cesar Diaz.

4 MR. DIAZ: Here.

5 MS. JONES: Pedro Reyes.

6 CHAIRPERSON REYES: Present.

7 MS. JONES: We have a quorum.

8 CHAIRPERSON REYES: Thank you.

9 MS. JONES: You're welcome.

10 CHAIRPERSON REYES: And I'll now invite folks who
11 wanted to make a public comment to the Board on items not on
12 the agenda. Seeing none, we move on.

13 And is there -- **Minutes**. You have the Minutes
14 before you. Is there a motion on the Minutes?

15 SENATOR HANCOCK: Move we pass the Minutes.

16 ASSEMBLYMEMBER BUCHANAN: Second.

17 CHAIRPERSON REYES: Been moved and seconded. All
18 in favor say aye.

19 (Ayes)

20 CHAIRPERSON REYES: Opposed? Abstentions? Ayes
21 have it. Thank you. We did Tab 3. We move on. We did --
22 **Resolution of Delegation of Authority**, Tab 4.

23 MS. SILVERMAN: We're actually presenting a
24 delegation of authority in my stead so Juan could actually
25 sign some documents when I'm not in the office. So it's not

1 an action item. It's just an acknowledgement from the
2 Board.

3 CHAIRPERSON REYES: Okay. And his recent
4 promotion, so he now has signature authority.
5 Congratulations, Mr. Mireles.

6 MR. MIRELES: Thank you.

7 CHAIRPERSON REYES: Tab 5.

8 MS. SILVERMAN: It's **Consent Agenda**.

9 CHAIRPERSON REYES: Minus the Scotia and the
10 Sierra Plumas Unified School District issues.

11 MS. MOORE: And then I'll be voting on the Consent
12 Agenda with the exception of the Elk Grove Unified School
13 District item.

14 CHAIRPERSON REYES: Okay. Yes, sir.

15 MR. GONZALES: Richard Gonzales, Richard Gonzales
16 and Associates, representing Sierra Plumas Unified School
17 District.

18 We understood that the special item, the
19 discussion item, was being held over not the consent item.

20 CHAIRPERSON REYES: Correct. Yes. That is
21 correct, but it's the item as a consent is moved to the
22 action and the item that we previously had as an action is
23 being held over. Yes. Okay.

24 Okay. With that, so we've moved those two items
25 and let's -- well, can we pull those two items and for now,

1 we'll pull the Elk Grove as well and we can have a vote on
2 that and then we go back and do the Elk Grove?

3 MS. MOORE: Yeah. And if there isn't -- I have
4 been advised that if there isn't the -- a quorum later, then
5 I will vote on the Elk Grove item, but if another member
6 comes and votes, that I -- it's --

7 CHAIRPERSON REYES: Correct.

8 MS. MOORE: -- preferable not to.

9 CHAIRPERSON REYES: Okay. So on the Consent item
10 minus those three items, is there a motion?

11 ASSEMBLYMEMBER BUCHANAN: So move.

12 CHAIRPERSON REYES: It's been moved.

13 MR. DIAZ: Second.

14 CHAIRPERSON REYES: And there's a second. All in
15 favor say aye.

16 (Ayes)

17 CHAIRPERSON REYES: Okay. And so we'll show that
18 we -- all those opposed? The nays? That carries.

19 Now on the Elk Grove Consent item, is there a
20 motion?

21 ASSEMBLYMEMBER BUCHANAN: So move.

22 CHAIRPERSON REYES: It's been moved.

23 MR. DIAZ: Seconded. And we will show a five-zero
24 vote and we keep it open. Thank you.

25 Item 8 has been postponed. Item 9 -- no. Go too

1 far. Got to go back. Action items; right?

2 MS. SILVERMAN: Right.

3 CHAIRPERSON REYES: Okay.

4 MR. MIRELES: The first one starts on page 188,
5 Tab 10. The Board had requested staff to draft regulatory
6 amendments in September to clarify the manner in which the
7 Board can release funds pursuant to the Labor Code. Did you
8 want to go through the other Consent items first?

9 CHAIRPERSON REYES: Well, I don't -- Consent has
10 been approved.

11 MR. MIRELES: I'm sorry. Scotia and Sierra
12 Plumas?

13 CHAIRPERSON REYES: Let's do Scotia.

14 MS. SILVERMAN: So the **Scotia** item is basically to
15 answer any questions related to the facility hardship
16 application.

17 CHAIRPERSON REYES: Tab -- well, the Scotia item
18 gets moved into the action tab by default.

19 MS. SILVERMAN: Right. Right. And what was being
20 presented in the Consent Agenda was actually the facility
21 hardship application. And so, Michael, if you want to walk
22 through that --

23 MR. WATANABE: Michael Watanabe, Office of Public
24 School Construction.

25 CHAIRPERSON REYES: Hold one, Michael. Let the

1 record show Mr. Hagman has joined us. Thank you, sir.

2 I apologize, Michael. Please proceed.

3 MS. MOORE: Just -- could you advise what page the
4 Scotia item is on.

5 MR. WATANABE: Sorry. We are in the Consent
6 Agenda, page 118. This is an amended conceptual approval
7 for Scotia Union High at their Stanwood Murphy School. The
8 Board previously approved a conceptual approval for this
9 district's project back in 2011.

10 At the Stanwood Murphy School, the heat was
11 provided by some lumber company who previously owned the
12 school site. It was later purchased by the school district
13 when the lumber company went out of business.

14 Since that time, the district has not had heat
15 provided by that lumber company. So the conceptual approval
16 previously approved was to provider boiler systems for the
17 classroom building and for this gymnasium building.

18 Now, the district was -- it was taking time to get
19 through the Division of State Architect with the plans to do
20 that for these two buildings.

21 The classroom building actually moved through DSA
22 faster. So what staff administratively did was split this
23 into two components. The first component, the Board
24 approved last month -- conceptual approval for the classroom
25 building. This is the second half of the conceptual

1 approval for the gym building.

2 This project will be for installation of the
3 boiler system for the gym to provide for the gym building
4 and in addition, it will also provide funding for seismic
5 upgrades to the building.

6 Currently they do have financial hardship approval
7 for this project. So the total estimated cost of the
8 project is \$4,052,500 of which a hundred percent would be
9 State funded once the district comes in with a funding
10 application.

11 With this financial hardship approval and this
12 amended conceptual approval, the Board would be approving a
13 separate design unfunded approval today. That amount is on
14 page 120. 364,000 would be the State's share for the design
15 funding for this project so they can continue the planning.
16 218,000 would be funded as financial hardship.

17 Now, with the Board's approval, this project would
18 be placed on the top of the unfunded list in date order.
19 The Board moved facility hardships up to there and they
20 would be able to participate in priority of funding come
21 January.

22 CHAIRPERSON REYES: Senator Hancock.

23 SENATOR HANCOCK: Thank you. Yeah. I had
24 originally pulled this. I understand the issues of facility
25 hardship, which are health problems related to mold and

1 other things and I understand that at a previous meeting we
2 approved financial hardship.

3 I would like to know, however, and would ask you
4 to please include in future agenda items like this under
5 what criteria there was financial hardship because I think
6 the Board needs to know about what the local participation
7 is and the local contribution as the bond is winding down
8 and as we're making these allocation decisions.

9 Now, in asking more questions about this, I
10 understand that it's a roof replacement, that it's a flat
11 roof building, that it's been replaced two other times.
12 This will be the third replacement and my concern quite
13 honestly is at what point does this Board have an interest
14 in saying if in fact you can't get a flat roof that's going
15 to keep mold out of the building because of the snow in the
16 winter, do we encourage/require/ask for either better
17 insulation in the roof -- I understand there are some
18 schools in that area that don't have the mold problem
19 because they have a heating element in the roof that melts
20 the snow or it would cost more money, I understand, to make
21 a roof that would be slanted, but if we're replacing the
22 roof over and over again at State expense, that doesn't seem
23 to make sense either unless the district wants to step up
24 and pay their 40 percent or 50 percent.

25 If they don't, how can they qualify for financial

1 hardship?

2 I just think there's a number of policy areas that
3 the Board needs to think about particularly as we move
4 forward from here. And as I said, I understand it's sort of
5 a moot point here, but in the future, I'd just like to know
6 in the agenda item and I do think there are policies that we
7 need to consider.

8 MS. SILVERMAN: May I --

9 CHAIRPERSON REYES: Ms. Silverman.

10 MS. SILVERMAN: We actually -- the item that we're
11 speaking to is Scotia which it doesn't have a roof issue.
12 Actually Sierra Plumas is the next item that we're prepared
13 to speak to.

14 SENATOR HANCOCK: No, no. I'm talking about
15 Scotia. No? I'm not?

16 MR. WATANABE: Scotia is just for the boiler and
17 seismic upgrades --

18 SENATOR HANCOCK: Oh, it's the boiler in the gym.
19 Gotcha'. So -- okay. So it's a different financial
20 hardship issue then and I have no idea what the issues are
21 around there and I just would like to have them included in
22 the agenda item.

23 CHAIRPERSON REYES: Okay.

24 MS. SILVERMAN: Yeah, and just to clarify, Scotia
25 Union, they actually met the merits of the regulations and

1 the criteria to qualify for the program. So one of the
2 criteria is whether or not they levied developer fees and in
3 fact they had a need assessment analysis and --

4 SENATOR HANCOCK: It -- I'm sorry?

5 MS. SILVERMAN: They had a need assessment
6 analysis and the other criteria in which they qualify for is
7 whether or not they had bonded indebtedness of less than
8 \$5 million and in fact they did meet the criteria. So it --

9 SENATOR HANCOCK: And what does that mean? They
10 did have bonded indebtedness or they did not?

11 ASSEMBLYMEMBER BUCHANAN: That's bonding capacity.

12 MS. SILVERMAN: Bonding capacity less than 5 --

13 SENATOR HANCOCK: Bonding capacity. Okay.

14 MS. SILVERMAN: -- capacity less than \$5 million.

15 So based on that criteria, staff within its administrative
16 authority could grant the status because they met the
17 criteria.

18 But we can definitely put additional information
19 as far as what's being presented here, but I'm not sure
20 whether or not -- what criteria you want to bring back for
21 evaluation.

22 SENATOR HANCOCK: Well, I'm not either because I'm
23 not familiar with the administrative regulations that you
24 use to make the administrative decision.

25 So I guess I would simply ask if you could just

1 send my office what the regulations are for an
2 administrative decision regarding financial hardship because
3 again that would be something that would be in the policy
4 purview of this Board to look at and then I am also
5 interested in how Scotia qualified for your administrative
6 decision to do financial hardship.

7 MS. SILVERMAN: We can certainly do that.

8 SENATOR HANCOCK: Because it's a hundred percent
9 State money.

10 CHAIRPERSON REYES: Okay.

11 MR. WATANABE: I should clarify that on this
12 design apportionment that this school would be receiving --
13 they are contributing about 25,000 of their own funds to
14 that.

15 SENATOR HANCOCK: Well, thank you. I just --

16 MR. WATANABE: That's all they had.

17 SENATOR HANCOCK: Just in the interest of
18 transparency, I think it would be good for the Board to know
19 that.

20 CHAIRPERSON REYES: Okay. So if you could circle
21 back with Senator staff and provide them the process or the
22 guidelines that you follow to determine the administrative
23 part of this review and why they end up in the consent
24 calendar as opposed to an appeal because when they don't
25 fall into this category is when we see it as an appeal

1 process.

2 And so you -- if we could have that conversation
3 with the Senator, that'd be great.

4 Ms. Buchanan.

5 ASSEMBLYMEMBER BUCHANAN: I would just -- I think
6 what the Senator's asking and I tend agree is that we just
7 routinely in the future if we have financial hardship note
8 what the qualifying criteria is, whether it's consent or
9 whether it's appeal, but we know why we are -- why we have
10 that recommendation.

11 And I would also say to the Senator, we had a
12 lengthy meeting this morning starting to -- talking about
13 just informational meeting moving forward and, you know, I
14 do think that these are areas where we need to take a look
15 at them, you know, over the next year or so as we move
16 forward to make sure that we're truly getting our money
17 where we have the greatest.

18 CHAIRPERSON REYES: Well, with that, I mean is
19 there an interest by the Board that all financial hardships
20 come to the Board instead of being on the consent calendar
21 or is there an interest on keeping it in the consent
22 calendar as long as additional information is provided?

23 ASSEMBLYMEMBER HAGMAN: Leave them in consent
24 calendar.

25 ASSEMBLYMEMBER BUCHANAN: Right.

1 SENATOR HANCOCK: Mr. Hagman likes to move the
2 meeting. I -- you know, I think it's fine for them to stay
3 on the consent calendar.

4 This is an example though where truly is -- when
5 we say things in simple language or when we whatever, I
6 think I will certainly be grateful to have the regulatory
7 framework by which these administrative decisions are made
8 and I do think they should be routinely cited in items that
9 are on the consent calendar where financial hardship has
10 been given.

11 CHAIRPERSON REYES: Okay. You know, just as a
12 side conversation, you had a great meeting this morning and
13 staff prepared a fabulous document that I wish I had read a
14 year and a half ago.

15 I really think you should provide a copy of that
16 document not only to all the Board members but also when the
17 next crop of members come in to replace the outgoing members
18 that that should be a document they get because you went
19 through a lot of good history, the process, and your
20 examples on how it's calculated so it's not a random number
21 or a Ouija board calculation, but there's actually some
22 thought and different programs and components of the
23 programs that are funded and I think that's a primer for
24 anybody sitting on this Board should have.

25 And so I compliment staff for the work on this and

1 thank you, Ms. Buchanan, for the presentation you had going
2 on this morning.

3 But anyway -- sidebar. Okay. So your comments on
4 Scotia and -- they apply also to Sierra. Is there a motion
5 to approve those two -- Ms. Buchanan.

6 ASSEMBLYMEMBER BUCHANAN: Hold old is the roof on
7 Sierra that we are replacing?

8 MR. WATANABE: The last roof they put on was in
9 1990.

10 ASSEMBLYMEMBER BUCHANAN: So we're --

11 MR. WATANABE: 22 years.

12 ASSEMBLYMEMBER BUCHANAN: 22 years ago, yeah.

13 Well --

14 ASSEMBLYMEMBER HAGMAN: Move it.

15 CHAIRPERSON REYES: It's been moved by Mr. Hagman.

16 ASSEMBLYMEMBER BUCHANAN: Second.

17 CHAIRPERSON REYES: Second by Ms. Buchanan. All
18 in favor say aye.

19 (Ayes)

20 CHAIRPERSON REYES: Opposed, none. Abstentions,
21 none. Ayes have it. Thank you. Okay. Did we lift the
22 roll call on Elk Grove?

23 MS. JONES: We need to.

24 CHAIRPERSON REYES: We need to. If we could,
25 please. Ms. Moore abstained because of Elk Grove and you

1 are the missing vote, sir. Call the absent member, please.

2 MS. JONES: Assemblymember Hagman.

3 ASSEMBLYMEMBER HAGMAN: Aye.

4 MS. JONES: Thank you. Motion carries.

5 CHAIRPERSON REYES: All right. Thank you. I'm
6 sorry, kind of jumping out. Is there any public comment on
7 the prior two items? No. Thank you. Okay. Moving on
8 then. Sierra Plumas, this is the issue that's been pulled.

9 Number 10, **School Facility Program Regulatory**
10 **Amendments**. Ms. Silverman. It's an action item.

11 MR. MIRELES: Apologize for getting a little head
12 of myself there, Mr. Chair. I think I got a little bit
13 excited about the delegation of authority item.

14 Tab 10, page 188. The Board asked us to come
15 back -- to draft regulatory amendments that would clarify
16 the manner in which funds could be released pursuant to
17 certain Labor Code requirements.

18 Currently any school district that awards
19 contracts prior to the beginning of this year and if they
20 receive funds from Proposition 47 or 55, they have to have
21 either a Department of Industrial Relations in-house labor
22 compliance program or they have to have contracted with a
23 DIR approved third-party provider -- third-party labor
24 compliance provider.

25 We've had situations where districts have

1 contracted with a third-party labor compliance provider
2 sometime after the construction contract was awarded. In
3 those situations, staff has determined that the district
4 didn't comply with the Labor Code requirements.

5 So what these regulations do is they clarify that
6 under certain situations districts that do enter into
7 contract with a third-party labor compliance provider after
8 the construction contract, they may still be in compliance
9 with the Labor Code and thus qualifying for a fund release.

10 So if I could direct you to page 190, the
11 mechanism that is created is districts that have the
12 situation can contract with a separate third-party labor
13 compliance provider to verify that the performance of the
14 applicable labor compliance program duties were performed
15 within one month after the construction started.

16 We've been hearing from school districts that just
17 because I contracted with a third-party provider after the
18 construction contract, it doesn't mean that we were not in
19 compliance with the Labor Code.

20 So what the regulations do is it gives districts
21 an opportunity to be able to demonstrate that even though
22 the third-party labor compliance provider came onboard
23 sometime after the construction contract that they can still
24 demonstrate that they met the provisions in the Labor Code.

25 So we have this 30-day period and again this is

1 specific to the applicable labor compliance performance --
2 labor compliance program duties that were performed one
3 month after.

4 There's also a written record that the labor
5 compliance program's confirmation of the monthly payroll
6 records for the project and there's a notification to the
7 employees of the project that the district is making the
8 certification and if they have any concerns regarding the
9 accuracy of the report, they can notify OPSC and DIR and the
10 report also goes to OPSC and DIR for review.

11 If we don't hear back from the Department of
12 Industrial Relations that the findings and the report are
13 incorrect, then the project qualifies for funding and we
14 will release the funds.

15 Again this is a mechanism for districts to once
16 again be able to demonstrate that they were in compliance
17 even though the third-party provider came onboard sometime
18 after the construction contract.

19 CHAIRPERSON REYES: Been moved by Mr. Hagman. Is
20 there a second.

21 MR. DIAZ: Second.

22 CHAIRPERSON REYES: There's a second. Any
23 comments? Questions from Board members? Comments from the
24 public?

25 MR. SMOOT: Good afternoon, Lyle Smoot. I have

1 some questions about this and the first one is it would be
2 nice if this could be sent back to the Implementation
3 Committee for discussion about these issues before they're
4 adopted just because I believe there is still ambiguity in
5 this language that is going to be misunderstood by school
6 districts and it will cause further problems.

7 At least if it went through the Implementation
8 Committee, all of those issues could be discussed and maybe
9 it could be at least better clarified exactly what the
10 intent is here.

11 Amongst other things, this 30-day time period, I'm
12 not sure exactly what -- when that time period starts and
13 when it ends and stuff like that just because of the
14 ambiguity of the language. And so it would be nice if it
15 could go through the Implementation Committee to figure out
16 exactly what's going on -- if this thing works.

17 I don't quite understand why there's a second
18 third-party provider that's going to be involved and I don't
19 know what that third-party provider's going to give you as
20 verification. That terms leaves me going what is
21 verification.

22 So just asking it go to the Imp. Committee. Yes,
23 it is a one-month delay, but I think it's worthy. Thank
24 you.

25 CHAIRPERSON REYES: Thank you. Next.

1 MS. HANNAH: Good afternoon. I'm Jenny Hannah
2 from Kern County. We operated a third-party labor
3 compliance program for quite some time and as most of you
4 may be aware, DIR no longer recognizes third-party
5 providers.

6 We maintain our own labor compliance
7 certification, but we're no longer a third-party and that's
8 true for the rest of the programs in the State. So some
9 clarification of what you intend here in terms of third
10 party if that's just, you know, an independent set of eyes,
11 maybe there's some different terminology you need to look
12 at.

13 I also have concerns about the one-month reference
14 in the documentation. I know that that follows Labor Code
15 in terms of timing and review of payroll records. However,
16 I think -- it seems to me the sense here is that you're
17 trying to help districts that fall in this weird gap and I'm
18 not sure that the 30 days is helpful in that regard. Does
19 that mean that you intend for the district to have an LCP in
20 place at that time or that just that they've been collecting
21 certified payroll?

22 We know that a big part of the discrepancy with
23 LCP is that in terms of not having it in place is there's
24 noticing requirements when you do your bidding and
25 notification to the workers on the project.

1 And I know that's intrinsic in the compliance
2 regulations. However, I'm not sure that that can't be
3 served at a later point in the project. No one is building
4 projects that I'm aware of without prevailing wage. This is
5 the compliance piece of it.

6 So I agree. I think there may be needs to be a
7 little more careful language here just to make sure that
8 you're getting what you intend to have with this
9 recommendation. Thank you.

10 CHAIRPERSON REYES: Thank you.

11 MR. HANCOCK: Mr. Chairman, members of the Board,
12 Bruce Hancock, Hancock, Park & DeLong. I also want to
13 comment on the 30 days. I would like to preface my comments
14 though by expressing my appreciation and thanks to the staff
15 and to the Department of Industrial Relations for working
16 hard on this problem and bringing forward a solution. It's
17 greatly appreciated and I would not want my comments to be
18 taken as any criticism of that effort but simply as an
19 effort to clarify.

20 I am a little bit concerned about the wording
21 regarding the 30-day compliance as others have already
22 spoken to. Essentially it boils down to simply the question
23 of could these regulations be read to say that the
24 third-party labor compliance provider must have been in
25 place within 30 days of the signing of the contract.

1 If they can be read that way, then I think they
2 should state that because if that's the case, then they will
3 not help many districts. If that's not the case, then it's
4 only to say that such things as certified payroll are
5 reviewed for the entire length of the project with the
6 exception possibly of the first 30 days, then I think that's
7 not a problem because the circumstances I'm aware of such
8 reviews were done for all payroll on the projects.

9 So it's not -- this is not an issue of avoiding
10 labor compliance. It's an issue of just trying to help
11 people who did not engage their third-party providers within
12 a 30-day period. Some of them may have been many months
13 after the signing of the contract, but we do believe that in
14 the cases I'm aware of we can show that the labor compliance
15 requirements and Labor Code requirements were implemented
16 and carried out on the project nonetheless.

17 So it's the 30-day time period that does cause a
18 little bit of concern regarding exactly what that means and
19 how it might be interpreted. Thank you very much.

20 CHAIRPERSON REYES: Questions from Board members?
21 Staff, do you want to comment or anybody wants -- go ahead.

22 MR. MIRELES: First of all, I do want to say that
23 we've been working very closely with Department of
24 Industrial Relations on these regulations.

25 To Mr. Hancock's point, the regulations do not say

1 that third-party labor compliance program provider has to be
2 in place 30 days after the commencement of the work. What
3 the regulations do say is that the applicable duties of a
4 labor compliance program were performed 30 days after the
5 commencement of work. So I wanted to clarify that.

6 CHAIRPERSON REYES: Okay. Mr. Diaz.

7 MR. DIAZ: I'd like to commend staff and the folks
8 over at the DIR for their good work on these regulations.
9 Obviously these provide an avenue for school districts that
10 are currently finding themselves in noncompliance to access
11 the State grant to actually look at some of their examples
12 and allow them to fit where they, you know, actually
13 intended to come into compliance with the State statute.

14 So I commend you for working on this. Thank you.

15 CHAIRPERSON REYES: Okay. It's been moved and
16 seconded.

17 SENATOR HANCOCK: Moved by Mr. Diaz?

18 CHAIRPERSON REYES: No, actually Mr. Hagman moved
19 it.

20 SENATOR HANCOCK: Oh, Mr. Hagman moved it. Okay.

21 CHAIRPERSON REYES: Yeah. Okay. All in favor say
22 aye.

23 (Ayes)

24 CHAIRPERSON REYES: Opposed? Abstentions? Ayes
25 have it. Thank you. Tab 11.

1 MS. SILVERMAN: Tab 11.

2 MS. KAMPMEINERT: Good afternoon. Barbara
3 Kampmeinert with the Office of Public School Construction.

4 Tab 11 is the **Nonparticipation in the Priority**
5 **Funding Process** item and this item is brought back at the
6 request of the Board at the August 2012 Board meeting. It
7 was requested that the topic come back as an action item to
8 consider addressing the issue of those projects on the list
9 of unfunded approvals that have had opportunities to
10 participate in the priority funding process but have chosen
11 not to.

12 Currently there are 165 projects totaling
13 413 million for which certifications have not been submitted
14 under at least two priority funding certification filing
15 periods.

16 And if I can direct your attention to page 201,
17 there's a chart at the top of the page there that shows the
18 breakdown of those projects by the type of bond authority.

19 One thing to note before we get into the options
20 that staff has put together for the Board is for the Charter
21 Schools, the Overcrowding Relief Grant, and the Career
22 Technical Education Programs, any of the bond authority that
23 would be returned to the programs by removal from the
24 unfunded list goes back to the respective programs and would
25 not be of assistance to any new construction or

1 modernization projects that may be waiting for the
2 authority.

3 In addition, the Charter School authority goes
4 back to the individual projects that have reservations of
5 funds. Also the Charter School and Career Tech Programs
6 have built-in funding mechanisms that allow for them to not
7 come to the Board with a construction-ready project and the
8 Charter School projects that are at the top of the unfunded
9 list represent the design and site apportionment amounts
10 that the Board took action previously to put them on the top
11 of this list because it was a fix to allow them to access
12 cash for these purposes.

13 So removing them from the list reverts it back to
14 the original problem of the design and site apportionments
15 not being accessible with the new mechanism of providing
16 cash to projects.

17 So those are some things that Board members may
18 wish to keep in mind as we go through the options.

19 CHAIRPERSON REYES: So your -- under your scenario
20 then if we do anything then it would only apply to new
21 construction and modernization basically. Mr. Savidge, is
22 that --

23 MR. SAVIDGE: I think that if we look at what
24 different types of projects are on the list and the
25 different program requirements for those projects, it's

1 important that we recognize that the CTE projects especially
2 with the reservation of funds, special nature of those
3 projects not be included in any kind of item like this; so I
4 would recommend, Mr. Chair, that if we consider we use the
5 new construction/modernization as the basis.

6 CHAIRPERSON REYES: Okay. Thank you. Mr. Hagman.

7 ASSEMBLYMEMBER HAGMAN: Thank you, Mr. Chair.
8 Just kind of administratively, as districts got on the
9 priority in funding list and they actually have written in
10 saying we don't want to be on it no more, is there some
11 written letters coming in and what do you do and how do you
12 move people up, how do you get the money back in the system,
13 that sort of thing?

14 MS. SILVERMAN: We have actually received just
15 email notifications or calls that no one actually has taken
16 the action to ask for their projects to be rescinded. You
17 technically have to request the product to be rescinded and
18 we haven't taken that formal action yet because we haven't
19 received a formal notification to rescind.

20 ASSEMBLYMEMBER HAGMAN: But they give you a phone
21 call or email and we have the stuff in limbo and it's -- for
22 them, they may think it's -- we're done with it because we
23 can't go forward. We're still thinking we haven't got the
24 formal letter yet.

25 Is there a way possibly to -- for us to initiate

1 this, say we received your phone call, we received your
2 email saying we want off the list to close that section out,
3 just to -- so we keep things as up to date as possible?
4 Even if they don't officially write it on letterhead or
5 whatever, I mean we should be able to close things out
6 somehow.

7 MR. MIRELES: Actually I believe that there
8 are -- at least one that we know of that have submitted a
9 letter to rescind the project because it's no longer a
10 viable project.

11 And what we've seen is this in a letter saying
12 that this project -- that we're no longer moving forward
13 with this project and then that -- what happens is we
14 rescind the project basically, put the authority back into
15 the respective program, and also the pupil grant -- the
16 eligibility for that project. It's very rare.

17 CHAIRPERSON REYES: Ms. Buchanan.

18 ASSEMBLYMEMBER BUCHANAN: So indulge me for a
19 minute. We -- projects go on the list and once we approve
20 them, we reserve bonding authority for those projects;
21 right?

22 MS. SILVERMAN: That's correct.

23 ASSEMBLYMEMBER BUCHANAN: Which means -- and we
24 are not going to have reserve bonding authority for projects
25 beyond what our bonding capacity is. So right?

1 So we match up our bonding authority with our
2 bonding capacity. And if a project is on the list and stays
3 on the list and we're reserving that authority but for
4 whatever reason they're not going to go forward. I mean
5 maybe enrollment's down and they don't need the new school
6 or maybe they don't have -- maybe they have bonding
7 authority, but they don't have bonding capacity for their
8 50 percent match. I mean there could be a whole variety of
9 reasons why they don't have it, but they stay on the list
10 and we keep them there.

11 And so -- and if I were on a school board or any
12 of your, there -- you know, there's really not much of an
13 incentive to take my project off the list because what if
14 something happens a couple years from now and all of a
15 sudden they start building, I don't want to go back to the
16 bottom of the list.

17 So it seems to me that, you know, we've had this
18 goal through the priorities in funding that we try and get
19 money out to projects as soon as we can. So we're building
20 classrooms, so we're modernizing, and, you know, which is
21 good for the children in those schools and good for the
22 economy and yet we have this problem where we've got
23 authority and capacity and we're kind of pretty close to
24 hitting that maximum.

25 I mean this is not where we've got another

1 \$5 billion and it really doesn't matter. So my question is,
2 is there something we can do in terms of whether we keep two
3 lists or whether we move the bond or whatever, but I can see
4 where we're in a collision course here that's going to
5 happen pretty darn soon if we, you know, continue just to
6 hold this money for projects that may or may not materialize
7 when other schools have need.

8 And I don't know exactly what the answer is.
9 We've talked about this. Everyone wants us to leave the
10 projects there so we show the need. We've talked about,
11 well, do we still have to demonstrate that you have current
12 DSA approval because you can only extend the authority for
13 your plans a certain number of times or do we -- do you have
14 to show that you've got bonding capacity or whatever.

15 But I think we're going to have to reconcile this
16 because if not, you know, we're going to have projects that
17 are -- that stay on and other projects that should be funded
18 that won't be funded.

19 CHAIRPERSON REYES: I think the first time I heard
20 about this was slightly over a year ago. We had this
21 conversation. At that time, people referred to it as dead
22 wood. The pipeline was not really moving but obstructing
23 the flow of cash.

24 And so staff has at our request come back and is
25 now providing us options of if we want to move forward with

1 different options and I think that's sort of where Barbara
2 was when I interrupted.

3 MS. KAMPMEINERT: I'd be happy to give a brief
4 overview of the options if you'd like. We have put together
5 some options. Now, these were discussed in part at the Cash
6 Management Subcommittee back in 2011. We've brought them
7 back because we did get some stakeholder input and heard
8 from Subcommittee members about the options at that time.

9 So some of these might seem a little bit familiar,
10 but under Option 1, the concept would be to continue the
11 priority funding process but allow districts a certain
12 number of times to choose not to participate and after that
13 number of times has gone past, then they would risk
14 rescission of their project.

15 So -- and the Board could choose to start that
16 immediately or at a date in the future. So you could say
17 the next priority certification filing round is going to be
18 business as usual, but after that, we're going to count
19 every priority funding opportunity as an opportunity and
20 once you've reached two, three, four, whatever number the
21 Board decides on, after than then your opportunities has
22 passed and your project is rescinded.

23 One thing to keep in mind on Option 1 is that
24 currently the regulations say that if you skip a priority
25 funding round -- or excuse me -- if you submit a fund

1 release request for a priority funding round and you do
2 not -- excuse me. One more time.

3 If you have some kind of certification for a
4 priority funding round and then you did not follow up with
5 the fund release request, there's no penalty other than that
6 you go back onto the unfunded approvals list with a lower
7 date. So you still remain within that group of projects for
8 which bond authority has been reserved.

9 So if the Board chooses to go down this path with
10 Option 1, you may wish to consider whether or not you want
11 folks to go back on the list at the end of the final number
12 of times you can pass up. Otherwise you might have folks
13 submitting, not perfecting on the fund release, and then
14 they just keep coming back on and off the list.

15 MS. MOORE: One comment on that. I would say it
16 was -- at the time when we considered it, it was a penalty
17 to have to go to the bottom because that meant that you were
18 not able -- I mean some other people ahead of you in the
19 next round that might not have been ahead of you in the
20 round that you didn't perfect on would be ahead you.

21 So we did view that as a penalty. I think you're
22 talking more about it's not a penalty within bond authority
23 necessarily.

24 MS. KAMPMEINERT: Correct.

25 MS. MOORE: They still remain in bond authority,

1 but they're at the bottom of the list which is not an
2 enviable place to be when we're competing for cash.

3 MS. KAMPMEINERT: Agreed. Thank you.

4 CHAIRPERSON REYES: But you still tie up the bond
5 authority; right?

6 ASSEMBLYMEMBER BUCHANAN: That's exactly right.

7 CHAIRPERSON REYES: Yeah. So that's kind of we're
8 coming to the bottom of the bond authority, to the bottom of
9 all resources. So that's sort of the next conversation.
10 Go ahead, Ms. Moore.

11 MS. MOORE: Well, contextually this was a very
12 successful program of partnering with school districts on a
13 piece of law that indicated they had 18 months to perfect
14 their program and we ran into trouble with -- I think with
15 those that were issuing bonds to say, look, we need to
16 have -- we need to know that that cash is going out into
17 communities.

18 And so it was in partnership that we said the 90
19 days would voluntarily replace the 18 months.

20 And we're still contextually in a cash poor
21 environment in which we had, what, 200 million, 250-, 240-,
22 this last bond measure that we had 600 million worth of
23 projects line up for.

24 So we can't cover cash-wise right now. We have
25 not ever been to a place where we've had more cash than

1 projects. So that is a contextual environment that I think
2 is in a voluntary program of this 90 days is important.

3 And the other piece of that is as we move forward,
4 to me an important piece of information would be on the ones
5 that have passed up five times, why. We don't have that
6 information yet. Is it valid? Is it not? Are they, you
7 know, as you said reluctant to get off the list even though
8 they should get off the list?

9 That kind of information would be of importance I
10 think as we consider this as well.

11 CHAIRPERSON REYES: Ms. Buchanan.

12 ASSEMBLYMEMBER BUCHANAN: I'm a big believer in
13 data-driven decision making, but whatever the reason we're
14 holding money for them, whether it's from a current bond or
15 the future bond, we're holding money for them for a project
16 where they're not moving forward.

17 And so I do think we're rapidly approaching that
18 time where we have to ask ourselves, you know, are we going
19 to just continue to hold -- because I mean, you know, or are
20 we going to make sure the money gets to projects that are
21 ready to go forward.

22 And, you know, that's -- you know, one of the
23 things with this option is that you're still potentially --
24 when we hit -- we're going to hit that point and once we do
25 that, we're just going to be holding money in the bank and

1 the question is are we holding it for projects that we think
2 are going to move forward soon or are we holding it for
3 projects that may never move forward when we could be doing
4 something good, you know, for other schools and for the
5 economy.

6 CHAIRPERSON REYES: Senator Hancock.

7 SENATOR HANCOCK: I would agree with
8 Assemblymember Buchanan. To me it's -- and I'm coming it
9 also from a perspective of the State economy and the State
10 taxpayers putting the money into this.

11 Part of it, we want good schools built for our
12 kids as quickly as possible and we want to put people to
13 work doing that.

14 So it's a fairness issue for me in regards to
15 those who are in line and ready to go.

16 So I would favor Option 1. There will still be a
17 need to decide how many times a project could be passed over
18 before it was dropped.

19 CHAIRPERSON REYES: We have it as four
20 opportunities to participate.

21 SENATOR HANCOCK: Is it as four?

22 CHAIRPERSON REYES: Of we could provide -- yeah,
23 it's a number. We need to decide on a number.

24 SENATOR HANCOCK: A number, exactly. Exactly,
25 but -- I think that would depend kind of how we would time

1 things to coincide with bond sales so we could make
2 decisions and then get on with it.

3 I -- I don't know -- two times, three times, or
4 four times; right?

5 CHAIRPERSON REYES: Well, I hear a motion in
6 there. I would be supportive of four in there.

7 ASSEMBLYMEMBER BUCHANAN: But I mean if we're
8 releasing funds a couple times a year --

9 CHAIRPERSON REYES: Yeah. That's true.

10 ASSEMBLYMEMBER BUCHANAN: -- would you go two
11 years before -- I mean at --

12 CHAIRPERSON REYES: Never mind with the four.
13 Yeah.

14 ASSEMBLYMEMBER BUCHANAN: At some point in
15 time -- I don't know what the right answer is, but I do
16 believe that we're hitting that point where projects either
17 need to be ready to move forward or -- you know, and I -- or
18 we need to, you know, move other projects onto the list
19 because some of these have already been on the list for a
20 lengthy period of time and, you know, I'm not -- maybe we
21 bring it back. I don't know.

22 But I do think that, you know, to have projects
23 stay there that may not be moving forward is just -- we
24 could still keep them on as a need, but we need to get
25 projects on that list that need to move forward.

1 So maybe there's an A list and a B list and if you
2 don't -- when you're offered the funds, if you don't take
3 them, you move to the B list. You know, or maybe -- or
4 once, but I certainly -- I wouldn't let it drag out for a
5 long period of time.

6 SENATOR HANCOCK: So if the motion was Option 1,
7 what would you put in as the number of times that you would
8 not be shovel ready?

9 ASSEMBLYMEMBER BUCHANAN: Well, I don't -- I
10 mean -- like I said, we've got some projects that have
11 already said no several times, you know, so --

12 SENATOR HANCOCK: Yeah. I was trying to add up
13 the things on the chart. Is it 168 total projects that have
14 passed a certain number of times or is it 361 projects that
15 have passed either from two to five times?

16 MS. KAMPMEINERT: 165 have passed two times or
17 more.

18 SENATOR HANCOCK: Two times or more.

19 MS. KAMPMEINERT: So a minimum of two times.

20 SENATOR HANCOCK: Okay.

21 CHAIRPERSON REYES: Mr. Hagman.

22 ASSEMBLYMEMBER HAGMAN: Mr. Chair, I'm just going
23 to, you know, kind of look at the reality here. We're
24 dealing with the last remnants of this bond. I mean we're
25 not going to have too many more issuance -- maybe one or two

1 more anyway. It makes no sense to go longer than this
2 program may have funding.

3 If we get a new bond issued in 2014 or when
4 hopefully -- I'll rephrase it when, we can readjust things,
5 but this is kind of like we're tweaking it for the tail end
6 of this money train.

7 CHAIRPERSON REYES: Um-hmm.

8 ASSEMBLYMEMBER HAGMAN: So what you want to do is
9 if you've gone through twice, I would say -- I move that
10 you're already off because you had your chance or you can
11 give them a 30- or 60-day period. If you have a date set
12 and certain, let's move on. Let's get this remnant money
13 back out to the people who are ready to go and then when we
14 come back in 2014, you can readjust them any way you want.

15 But once is enough for me at this point.

16 ASSEMBLYMEMBER BUCHANAN: So are you saying the
17 second time you're offered it, if you turn it down, you're
18 off the list. I think for those that have turned it down a
19 couple times probably should have one last chance to either
20 take the money or --

21 ASSEMBLYMEMBER HAGMAN: Yeah. That's what I'm
22 saying. Give them a notice --

23 CHAIRPERSON REYES: So you would sort of bifurcate
24 it. If you've passed more than twice already, you have one
25 more shot. But if you have not passed on it, you have two

1 shots. Is that what you're saying?

2 ASSEMBLYMEMBER HAGMAN: Yeah. Pass once, the
3 second shot you have to get it. Yeah. So I mean I think
4 you have --

5 SENATOR HANCOCK: But it's Option 1 with that
6 number.

7 ASSEMBLYMEMBER HAGMAN: Yeah, criteria. You have
8 a hundred and whatever folks that -- and I want to give them
9 a shot. I don't want to change rules today and all of
10 sudden we were putting it off to this year.

11 They'll come in with a plan. Give the staff
12 flexibility to look at those people on that list and say you
13 really do have a plan, we see, we're going to keep you when
14 you're at.

15 But if they don't respond to you, you'll send them
16 a little notice, say, hey, we want to move this money along
17 and you've been on this list. You've been passed over X
18 amount of times. We're going to move on, okay, per the
19 Board direction. Unless you come and give us a plan that's
20 feasible in the near future, we're going get started on this
21 thing.

22 Then, okay, take that section put it over here.
23 The other ones, from now on, you get passed over once -- you
24 get two bites of the apples, otherwise -- it's going to be
25 after this bond program runs out of money anyway.

1 So, you know -- and then when we get the new bond
2 out, we'll start over again.

3 MS. MOORE: I guess in order to support it, I
4 would like to see that we're giving all districts notice and
5 so not to necessarily bifurcate those off that haven't
6 participated yet, that they get less, because it's a new
7 wrinkle in the program. And in fairness to all, if we're
8 going to come up with a period of time, if it's two, if it's
9 four, that it's -- that all projects are subject to it and
10 if they pass, you know, the next two, then we're dealing
11 with that.

12 It still is an environment where we do not have
13 enough cash for the amount of projects that do want the cash
14 to be apportioned and another -- I am also wondering how
15 much more cash do we need to close out the program. Do we
16 now that?

17 MS. SILVERMAN: Our list is currently on the
18 financial statement. So we have definitely close to -- over
19 a billion dollars if not a billion and a half dollars.

20 But I mean put it in perspective, I think what we
21 shared a few months ago is -- as we started these priority
22 in funding rounds, we did have a significant amount of
23 participation once this program started back in 2010.

24 The last certification round, we only had
25 52 percent of the draw out of those eligible. So I mean

1 it's shrinking dramatically.

2 At that time, we had 500 million what -- was
3 willing to participate in the 90-day process. Was it close
4 to a billion dollars when we initially started? No.

5 And I think those folks who get in the room and
6 think about bond sales, they obviously want to see what the
7 needs of the program are, but the needs of the program are
8 really centered around those folks who submit that
9 certification for the 90-day round. Since 2010 --

10 MS. MOORE: So we have a billion and a half in
11 cash needs to close out this program. We --

12 MS. SILVERMAN: That's for the projects we have
13 provided unfunded approvals.

14 MS. MOORE: Right. But we're to the -- we're
15 almost -- don't we have -- we're at authority --

16 MR. MIRELES: It's basically -- yeah. It's --

17 MS. MOORE: -- right? With some small exceptions.
18 So we have a billion and a half left in the program plus a
19 little bit more probably of those; right?

20 MS. SILVERMAN: Right. 1.6 billion -- over
21 1.6 billion.

22 MS. MOORE: And we just as a State, this last year
23 we issued 200 million just -- that we're going to issue and
24 put out to projects in December and what -- how much was the
25 prior bond?

1 MS. SILVERMAN: 637-

2 MS. MOORE: So 800 million this year. So we could
3 be about a year and a half, maybe two years still in a cash
4 world if it remains at those levels of cash that's necessary
5 to finalize this program.

6 ASSEMBLYMEMBER BUCHANAN: But you have to break
7 that down into programs because when you do that, you have
8 programs within that that could be out of money much faster.

9 And don't you think it makes a difference to a
10 project that's on the list -- if I know I'm likely -- I'm
11 going to be able to participate, I may get ready to be able
12 to go out there with the next bond issuance versus having
13 all these ahead of me that may not be participating.

14 So I mean if you want to say okay, we're going to
15 give everybody two chances, one of the criteria I would like
16 to at least see is if you stay there that you have bonding
17 capacity and you have plans that are active and will remain
18 approved and, you know, we know that there's -- you know,
19 that there's certain aspects there that are at least viable
20 because I just -- I don't think it's fair to those districts
21 who -- you know, that want to move forward.

22 ASSEMBLYMEMBER HAGMAN: You know, back to my
23 original suggestion, that's kind of what I was trying to say
24 with that, if you have this list of ones who you've already
25 passed over, we should be able to write them a letter, make

1 a phone call, whatever, and say look, do you want to
2 voluntarily -- this is what we're going to do if you're not
3 the next time around.

4 So if you want to -- if you know you're not going
5 to be ready by the next time around, tell us now. At least
6 we can take those off the list and put them at the bottom of
7 the list or whatever, and then, you know, if you are -- if
8 you say you are going to be ready by the next cycle, give us
9 some kind of plan. Do you have the bonding authority. Do
10 you have your plans ready, you know, some basic requirements
11 so you have a sense that, you know, these schools are in the
12 hunt to actually use this money.

13 And that should weed out a lot of the dead wood we
14 talked about just administratively. I don't think it has to
15 be hard rules and codes on this necessarily because -- I
16 mean I want to give them the freedom. I guess we do need it
17 in case there's some -- but we should be -- a lot of that
18 out there and then as we go through it, we should be able to
19 get that out.

20 So if they voluntarily write a letter or they give
21 you indication they're not going to have it, let's close
22 them out somehow. At least that's the easy part; right?
23 They're telling --

24 ASSEMBLYMEMBER BUCHANAN: But why is anyone
25 voluntarily going to write a letter?

1 ASSEMBLYMEMBER HAGMAN: Yeah.

2 ASSEMBLYMEMBER BUCHANAN: There's no upside to
3 doing that, you know.

4 SENATOR HANCOCK: Well, we could simply do a
5 notification --

6 ASSEMBLYMEMBER BUCHANAN: Right.

7 SENATOR HANCOCK: -- that because we're coming to
8 the end of the bonding --

9 ASSEMBLYMEMBER BUCHANAN: Right.

10 SENATOR HANCOCK: -- authority and we have more
11 requests than we're going to be able to fill, if you are not
12 ready the next time a bond is issued, you'll be dropped and
13 it will move to the people who are shovel ready.

14 CHAIRPERSON REYES: Um-hmm. So you can do the
15 notification to everybody and then when the money is
16 available, then you have one shot at it or -- I'm looking to
17 see. There is --

18 SENATOR HANCOCK: If there are people that are all
19 ready, that they've got their local match, they're ready to
20 start building.

21 CHAIRPERSON REYES: So is that -- administratively
22 is that something that can be done? I mean I want to make
23 sure that staff is --

24 MS. SILVERMAN: We would definitely have to
25 clarify in regulations.

1 CHAIRPERSON REYES: Yeah. We need to go back to
2 regulations. Yeah, need to go back to regulations, so that
3 would eat up some of the time to begin with.

4 MS. SILVERMAN: Right. And our next certification
5 round begins in January for a spring sale. So we have a
6 dialogue about regulations, make those changes. It could
7 be -- timing could be that time. So in essence they still
8 have --

9 CHAIRPERSON REYES: Okay. So whatever we decide
10 would require regulatory changes. Ms. Moore.

11 MS. MOORE: Are you saying that anyone that has
12 refused funding or not availed themselves to funding at
13 least one time, they have to ask for the January round or
14 they're dropped? Is that what we're saying?

15 MS. SILVERMAN: No. No. I'm just saying that
16 buys us time. If even we start down the path of
17 regulations, it's going to take some time for staff to draft
18 that and I understand there will be a new round starting,
19 but by the time those regulations are being placed
20 potentially won't be until sometime second quarter maybe of
21 next year. So the new round will start come July.

22 CHAIRPERSON REYES: So at a minimum, they'll have
23 six to nine months' advanced notice of what's going on.

24 MS. SILVERMAN: Correct. The timing -- right.

25 ASSEMBLYMEMBER BUCHANAN: I don't want to

1 complicate things, but I think if we're going to change the
2 regulation, then right now we either have the priorities in
3 funding which is 90 days or you revert -- you owe 18 months.

4 Maybe what you need is something -- if we're going
5 to start offering and you either take the money or you're
6 dropped, you have to -- you know, begin your project within
7 a much shorter time period than the 18 months. I mean
8 it's -- because if not, if you're not requesting to
9 participate in a priorities in funding, aren't you then
10 staying on the list as well?

11 MS. SILVERMAN: We would -- in the structure of
12 what you're requesting, we would definitely create
13 regulations that would -- if you don't compete within the
14 time frame that the Board establishes, then the project will
15 be rescinded.

16 ASSEMBLYMEMBER BUCHANAN: Okay.

17 MS. BANZON: And let me add to that as well.

18 CHAIRPERSON REYES: Yes.

19 MS. BANZON: The regulation has been set for
20 priority funding and so the moment we start tinkering with
21 how we're going to do the process, there would be a need to
22 actually go through the process of changing -- amending the
23 regulation. So that's all I'm saying because we don't want
24 to be doing something underground.

25 CHAIRPERSON REYES: So I'm getting from the Board

1 there's an appetite for doing a number of -- as opposed to
2 dates, but to do a number of opportunities to turn down the
3 funding. The question then is one or two or four and fewer
4 is better.

5 The reality is it will require regulatory process,
6 so it will be several months before this is in place. In
7 that period of time, staff will then do proactive work to
8 follow up as Mr. Hagman suggested to see who voluntarily
9 wants to drop out of that and also let folks know that this
10 is coming and that the goal is to be ready because we are
11 running out of resources.

12 That's what I'm hearing from the Board. And the
13 question then is one or two and I'm waiting to hear a
14 motion.

15 ASSEMBLYMEMBER BUCHANAN: Well, let's hear public
16 comment and then we'll --

17 CHAIRPERSON REYES: Okay.

18 ASSEMBLYMEMBER BUCHANAN: -- finish our
19 discussion.

20 CHAIRPERSON REYES: Go ahead.

21 MR. SMOOT: Thank you. Lyle Smoot again. I have
22 an idea for you. You may or may not like it, but I think it
23 resolves one issue.

24 In the write-up, it says currently there is no
25 mechanism in statute to remove a project that's been on the

1 list of unfunded apportionments. That's always a concern
2 that -- you know, I've talk to you all the time about your
3 law.

4 But there is a way to legally do this that
5 resolves this issue of how many times can you do it. If you
6 simply said the first time you pass on the 90-day
7 apportionment, that starts your 18-month statutory clock.
8 At the end of the 18 months, if you haven't met the
9 requirements and come in for a 90-apportionment, legally you
10 can rescind the apportionment and that resolves all issues
11 about how many times.

12 Then if a bond measure only happens once in a year
13 or twice in a year, it doesn't matter. The 18-month clock
14 started. There you go.

15 CHAIRPERSON REYES: So let's see --

16 ASSEMBLYMEMBER BUCHANAN: But how does that solve
17 the problem of -- that means every project that's on there
18 will be on there for a minimum of 18 more months before you
19 can get out money which means we'll be holding bond
20 authority for those projects up until the time we pass the
21 new bond.

22 That doesn't really solve that problem of how do
23 we get out this money.

24 MR. SMOOT: As I told you once before that you can
25 resolve that issue very simply by making unfunded approvals

1 past your bonding authority and just say, you know, anytime
2 you miss it, you miss it because you don't really have the
3 authority in law to reserve funds for anybody.

4 ASSEMBLYMEMBER BUCHANAN: Well, we're not
5 really -- it's not really an unfunded approval. I mean then
6 you're locking yourself into what you're doing potentially
7 for the next bond.

8 I mean if you're approving a project to fund under
9 a bond, I mean I understand staff's needs and the others
10 that, you know, you got to match up what you're approving to
11 how much money you have in the bank or will have in the bank
12 and --

13 MR. SMOOT: You could do it just as well through
14 the potential process that you've discussed here of
15 accumulating applications if you just said anytime you don't
16 have enough applications on the unfunded list that have met
17 the 90-day certification request, just approve projects on
18 that Board date and give them apportionments the same day
19 you approve the project, just solves the problem just as
20 well.

21 You don't have to go through this thing of making
22 sure you kick somebody off of the unfunded list or the
23 application list, whatever you're calling it, before, you
24 know, you can go forward with the projects.

25 You just anytime you don't have enough money in

1 the 90-day certifications, approve more projects. There you
2 go.

3 ASSEMBLYMEMBER BUCHANAN: So help me also
4 understand if I'm going on the -- if I'm requesting funds,
5 shouldn't I be requesting funds for a project I intend to
6 move forward with?

7 I mean by the fact that -- if I'm a school
8 district and I've been working on a project and I've got my
9 approvals, if I'm going to the point where I'm requesting
10 funds, shouldn't it be for a project that's going to move
11 forward? If not, shouldn't I -- I mean is there --

12 MR. SMOOT: I don't think anyone files an
13 application thinking I'm not going to move this project
14 forward, I'm just trying to get in line so that sometime in
15 the future, the 2026 bond measure or whatever, you know,
16 that I'll be sitting there.

17 I think everyone that files an application thinks
18 they have a viable project that they're going forward with
19 and then things happen.

20 ASSEMBLYMEMBER BUCHANAN: I agree with it, but
21 that's my point. At the point you're filing for funds, I
22 mean that -- at that point, you should have a project that's
23 viable, that can move forward.

24 Now things happen and we know with this huge
25 recession that we're in and the collapse of the housing

1 market, we know that -- and drops of assessed valuations, we
2 know that that changes it, but the problem -- dilemma we
3 have is how do we make sense of all this so that we can get
4 money to the projects that are ready to go forward.

5 I don't want to necessarily penalize them, but
6 come back in the next program or get in the bottom of the
7 line, but for those that are waiting, we're taking up that
8 capacity.

9 MR. SMOOT: And I understand your position.

10 ASSEMBLYMEMBER BUCHANAN: Right.

11 MR. SMOOT: I don't have any problem with that
12 position, you know, quite frankly, but I think there are
13 ways to resolve the issue without this -- pardon my use of
14 the term -- penalty that you're trying to put on districts
15 that have issues that have come up that they can't make a
16 90-day when they could have made an 18-month. You know what
17 I mean?

18 And maybe something's going to change in the next
19 six months and they came make it. And so they would be a
20 shovel-ready project the next time.

21 ASSEMBLYMEMBER BUCHANAN: Give me an example -- is
22 there an in-between between 90 and 18 months. I can't --

23 MR. SMOOT: I'm sorry. I couldn't quite hear you.

24 ASSEMBLYMEMBER BUCHANAN: You know, they're not
25 ready to go forward in 90 days, but 18 months seems to me

1 like an awfully long period.

2 CHAIRPERSON REYES: Well, just remember that
3 whatever we do in regulatory process, it's going to take a
4 while. So that's going to take a long time and so --

5 ASSEMBLYMEMBER BUCHANAN: Yeah. Right.

6 CHAIRPERSON REYES: -- it's not going to be --
7 we're not doing this that, you know, next week -- if you're
8 not ready next week, you're history.

9 ASSEMBLYMEMBER BUCHANAN: Right.

10 CHAIRPERSON REYES: Okay? So by the time the
11 regulatory process takes effect and it affects that
12 disbursement, that's when the --

13 ASSEMBLYMEMBER BUCHANAN: Right.

14 CHAIRPERSON REYES: -- whatever we decide to do.
15 So we're in effect by virtue -- by, you know, the way the
16 process works, we're actually giving them time and number of
17 notifications --

18 ASSEMBLYMEMBER BUCHANAN: I -- I think I'm arguing
19 with you.

20 CHAIRPERSON REYES: -- if we chose to -- yeah.

21 So --

22 ASSEMBLYMEMBER BUCHANAN: And the question there
23 begins -- I'm not trying to penalize them, but it's come
24 back to us when you're ready to start, you know.

25 CHAIRPERSON REYES: Mr. Hagman.

1 ASSEMBLYMEMBER HAGMAN: No. I just want to put
2 that in a motion, Mr. Chair. By the time staff takes a look
3 at this, it's going to be well past the Christmas holidays.
4 The next -- basically let's implement the regs, so one pass
5 over, half of the next thing, that way everyone has three or
6 four months now notice. We have the next funding cycle.
7 They're not going to be kicked off if they miss that one
8 because we won't have the regs in place.

9 But the next time it comes up, which will probably
10 be six months after that even or whatever the case may be --

11 ASSEMBLYMEMBER BUCHANAN: Right.

12 ASSEMBLYMEMBER HAGMAN: -- now it's almost nine
13 months' notification, but we have the consistency for the
14 rest of the year and a half we have funding.

15 So I make a motion of one, but have it not go in
16 effect till after the next funding round.

17 MR. DIAZ: Second.

18 CHAIRPERSON REYES: It's moved and seconded.

19 MR. SMOOT: Thank you.

20 MS. MOORE: So that's one for all types of
21 projects.

22 CHAIRPERSON REYES: All treated equally. It's
23 moved and seconded. So can we clarify that. Including all
24 the projects, CTE, Charters, everything, or just New
25 Construction/Modernization?

1 CHAIRPERSON REYES: No. Just the Modernization
2 and New Construction.

3 ASSEMBLYMEMBER HAGMAN: New Construction; correct.

4 CHAIRPERSON REYES: I think you made a good point
5 in terms that the other programs should be exempted. You
6 and Barbara made a good point.

7 Any additional comments from the public? Okay.
8 All in favor say aye.

9 (Ayes)

10 CHAIRPERSON REYES: Opposed? Nay? Ayes have it.
11 Thank you. Tab 12.

12 MS. SILVERMAN: Tab 12, **Facility Hardship**
13 discussion.

14 MR. WATANABE: All right. We are on Tab 12,
15 page 212. The purpose of this item is provide
16 recommendations to the Board for the processing of facility
17 hardship applications.

18 Last month, the Board directed staff to formulate
19 a discussion item on this after we informed the Board that
20 there are several projects on the workload list that we have
21 received that are beyond the current available bond
22 authority.

23 Facility Hardship Program replaces projects -- or
24 provides replacement or rehab funding for projects that have
25 a health and safety issue. It also includes projects that

1 are under the Seismic Mitigation Program.

2 For the purpose of this item, we are not referring
3 to those projects -- the seismic projects because they have
4 their own carve-out bond authority which we currently have
5 available.

6 On page 259 in the Report section of our agenda,
7 we have a list of projects that are in the New Construction
8 category but are currently beyond the authority available to
9 us.

10 On page 260 and 261, we have a list of
11 modernization projects which also includes projects that are
12 beyond our current authority to process.

13 On that list of modernization projects, we
14 currently have seven projects for approximately \$8 million
15 and requests that are noted with project number 58 that are
16 facility hardship projects.

17 Currently the regulations require us to process
18 modernization applications in date order received. If we
19 continue that process, that means these seven projects will
20 never be funded.

21 After today's Consent Agenda, we have
22 approximately 44.6 million left in modernization authority
23 which we expect to use up at the December Board.

24 So what we are making is three recommendations to
25 the Board to address these facility hardships before that

1 happens.

2 The recommendations start on page 214. We're
3 recommending the Board approve the process -- expedition
4 processing of in-house facility hardship projects, that
5 8 million, for placement on the unfunded list so they can be
6 moved to the top and eventually receive cash.

7 The second recommendation we are moving is to
8 prioritize future projects that come in. Those seven
9 projects all have DSA approved plans, CDE plan approvals.
10 They are essentially shovel-ready projects to move forward,
11 but as it is right now, they won't ever receive bond
12 authority or funding.

13 We're also -- so recommendation two is actually as
14 we get new applications in that have full sets of plans, we
15 are recommending that we approve those ahead of other
16 modernization projects that are beyond authority and they
17 would get prioritized for future authority that gets
18 returned to the program through closeouts, rescissions, like
19 we just talked about in the prior item.

20 The third recommendation we're providing -- or
21 requesting is that the Board continue processing facility
22 hardship conceptual approval requests. What that allows
23 school districts to receive is approval that the project
24 meets the preliminary criteria under the program so they can
25 move forward with the planning of their project and

1 eventually submit design or construction plans.

2 With that, our recommendations are to approve all
3 three of those recommendations.

4 CHAIRPERSON REYES: Ms. Moore.

5 MS. MOORE: I'll move staff recommendations.

6 MR. ALMANZA: Second.

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

8 Any additional comments or questions from Board members?

9 Any comments from the public? Seeing none --

10 SENATOR HANCOCK: I actually do --

11 CHAIRPERSON REYES: I'm sorry. Senator.

12 SENATOR HANCOCK: I'm going to definitely vote for
13 the motion, but I do hope that we will look at again how to
14 deal with the responsibility of ongoing maintenance. It
15 gets back to the roof, that there's -- because I've been
16 told that -- I know that in my district there are some
17 districts that have built in.

18 When you get a bond to build a new school and you
19 know that in ten years you're going to have to replace the
20 roof, you write that into the bond and then it doesn't
21 become a recurring item.

22 So this is just to -- you know, something that I
23 think we're going to need to look at in the future, that
24 obviously we have a building that's a danger to the health
25 and safety of the children and the teachers and the people

1 who work in the building, all the staff. We need to deal
2 with that.

3 CHAIRPERSON REYES: Okay. Thank you. It's been
4 moved and seconded. All in favor say aye.

5 (Ayes)

6 CHAIRPERSON REYES: Opposed? Abstentions? Ayes
7 have it. Thank you. Next item.

8 MS. SILVERMAN: We're actually --

9 CHAIRPERSON REYES: Withdrawn.

10 MS. SILVERMAN: Right.

11 CHAIRPERSON REYES: We are on the **School**
12 **Facilities Program, Seismic Mitigation Program** status.

13 MS. SILVERMAN: Yeah. We're actually on Tab 12
14 which is --

15 CHAIRPERSON REYES: Tab 12.

16 MS. SILVERMAN: Yeah, the report section.

17 CHAIRPERSON REYES: Oh, yes. I'm sorry.

18 MS. SILVERMAN: Yeah. So we just wanted to
19 quickly give the Board an update about where we're at with
20 the Seismic Program.

21 Since Proposition 1D was passed in 2006, it was up
22 to 199.5 million was available for seismic upgrades. With
23 that, structure of the criteria that was established was
24 most vulnerable. Also associated with that was the spectral
25 acceleration which had to be 1.68 or higher.

1 We obviously know that there were some challenges
2 with some of the projects or districts moving forward with
3 that particular criteria. So during 2006 to 2011, we only
4 had three projects that came through for funding. That
5 represented only \$4.7 million.

6 So the Board obviously had an interest to increase
7 participation and back in June 2011, they did broaden the
8 program to increase the Type 2 buildings that qualified for
9 funding. We expanded the program from 8 Type 2 buildings to
10 14 Type 2 buildings.

11 They also deleted the criteria for
12 1.68 acceleration. That was dropped. They also created new
13 eligible criteria in which address the structural
14 deficiencies posing a seismic event that dealt with also
15 faulting, liquefaction, and landslides.

16 All these also had to come with engineering
17 reports and geo survey reports as well.

18 We also heard feedback from some of the
19 stakeholder community about challenges for startup
20 evaluations. So we did receive a quarter million dollar
21 grant from the Seismic Safety Commission. With that grant,
22 we created a template to establish eligibility.

23 So folks would get this template evaluation and
24 determine whether or not they were eligible for seismic
25 funding. Even though we've expended the funds for those

1 pre-evaluations, that template is still being used by the
2 Division of State Architect.

3 And at that time, 20 buildings did meet the
4 criteria as determined. And as a result of the new
5 regulations in place, an additional 149 facilities now
6 qualify.

7 So when districts come in for eligibility, there's
8 also a number of different steps they have to meet in order
9 to move forward with a final approval. And once they
10 receive a final approval from the Division of State
11 Architect, then they can submit their application for
12 funding.

13 So to put it in perspective, we actually have over
14 \$18.6 million in projects that we're processing for the
15 Seismic Program. The regulations that the Board adopted
16 back in June 2011 were put in effect early September of last
17 year. So there has been progress made with those
18 applications since the program has been broadened.

19 We understand currently though there's two
20 projects in the plan approval stage which is the final stage
21 at the Division of State Architect and those projects could
22 be submitting funding applications.

23 So I think the broadening of the criteria did
24 increase the participation. We did have only \$4.7 million
25 that went through the program during that prior five-year

1 period back in 2006-2011.

2 So the program is in effect working or at least
3 moving projects forward.

4 So with that, we also wanted to provide the Board
5 updates. As the projects are moving forward through the
6 Division of State Architect in the various approval stages,
7 the Division of State Architect is communicating with those
8 districts to let them know what the next steps are.

9 Likewise our office has been communicating with
10 those districts. So as we start proceeding, we do notify
11 them as far as how we can access the funds and if we can be
12 of any assistance.

13 So there's numerous contacts with the district and
14 how they can proceed for funding.

15 There have been additional contacts to try to
16 weigh out when those projects will be moved forward. So
17 we're looking to have some updates and perhaps some
18 projections of when those additional projects will be coming
19 through the pipeline for funding.

20 We did announce last month -- there was some
21 earthquakes that actually went down in Imperial County and
22 that impacted Brawley. We did send staff out October 3rd
23 with the Division of State Architect.

24 Not only we got an eligibility assessment, but we
25 also were down to assist with whether or not they can

1 qualify for funding. Even though we know that some of the
2 damage was isolated, some of the districts will qualify for
3 more funding because they do have the eligible Type 2
4 buildings.

5 So again that's a great opportunity for us to come
6 down and provide them assistance and they actually will
7 qualify for additional funding. So we're going to be
8 monitoring those projects as they move forward and with
9 that, I'll open up to any questions.

10 CHAIRPERSON REYES: Any questions? This is an
11 information item.

12 SENATOR HANCOCK: I just would be interested at
13 some point if maybe the Division of the State Architect can
14 tell us a little more about the 169 applications that are in
15 the pipeline in that office.

16 MS. SILVERMAN: Well, we'll probably -- let me
17 qualify that statement. The 169 buildings did qualify.
18 They met the eligibility criteria. So it's pretty much --
19 at that point, the districts have to come back to the local
20 community and establish whether or not they have to rehab or
21 replace those facilities.

22 So there's a lot of time and commitment at the
23 local level to make their decisions and turn around plans.

24 ASSEMBLYMEMBER BUCHANAN: Could you define
25 qualify? Have they been determined that, you know, by

1 engineers that they are not safe to have students in them or
2 are there the buildings where they said you have this type
3 of construction and you're in this zone and so you might
4 want to take a look at them?

5 MR. MIRELES: They have to be a Category 2
6 building as defined in the AB300 report. That's the first
7 criteria. Then they had to demonstrate one of the building
8 collapse hazards, whether it's ground shaking, faulting,
9 liquefaction, or landslides.

10 If they have those situations, then they have to
11 provide a report from an engineer justifying that there is
12 an unacceptable risk to the students.

13 Those I think are the preliminary tests --

14 ASSEMBLYMEMBER BUCHANAN: Right.

15 MR. MIRELES: -- to qualify for the eligibility.
16 Then you pursue whether you're going to be replacing,
17 rehabilitating --

18 ASSEMBLYMEMBER BUCHANAN: Right. So do we know
19 that those 169, are they the ones that fall into --

20 MR. MIRELES: Yes.

21 ASSEMBLYMEMBER BUCHANAN: But have they done the
22 engineering to say the schools aren't safe? Because when
23 we -- I remember when we had this committee we went through
24 it all and, you know, you could have the building type and
25 the other, but it doesn't mean -- the building structurally

1 may still be sound.

2 So what we were asking was, okay, rather than try
3 and lock it into a specific shaking factor or this or that,
4 that if a building is not safe and it falls into the, you
5 know, seismic zone or whatever, we want to replace it and we
6 were trying to simplify. So --

7 MR. SAVIDGE: You do need to have an engineering
8 report that indicates that there is a high probability of
9 collapse for -- and it could be localized collapse in the
10 building and the safety of students and staff is at risk.

11 ASSEMBLYMEMBER BUCHANAN: Right. They're not safe
12 to be occupied. So my question is are these 169 buildings,
13 do they have -- or do they have the engineering report
14 saying they're not safe or are they ones that we've -- that
15 are potentially not, but they still have to do the
16 engineering work to determine, you know, whether or not
17 they're safe or what needs to be done.

18 MR. MIRELES: They have determined that they have
19 a problem.

20 ASSEMBLYMEMBER BUCHANAN: They have or haven't?

21 MR. MIRELES: They have. So then once --

22 ASSEMBLYMEMBER BUCHANAN: They have engineer
23 reports --

24 MR. MIRELES: They have engineer reports that the
25 Division of State Architect --

1 ASSEMBLYMEMBER BUCHANAN: Okay.

2 MR. MIRELES: -- reviewed them and concur.

3 ASSEMBLYMEMBER BUCHANAN: All right.

4 SENATOR HANCOCK: Yeah, so then let me just ask
5 staff, do we have an estimate of the total of the amount of
6 money that it would take to actually fund these 169
7 projects -- will just give us a better idea of what the
8 drawdown might be on this account since there is
9 \$188 million left in it.

10 MR. SAVIDGE: The next step for a district once
11 you get eligibility established, you have to go through a
12 process at the local level to determine what the cost is to
13 rehabilitate, whether you can even rehabilitate or not, and
14 so you look at the cost of replacement and you compare that
15 to the cost of doing seismic mitigation on the existing
16 building and then you come back in to DSA in an intermediate
17 step and establish with DSA what the minimum work required
18 is.

19 And so unless the projects have come and done
20 that, then we won't have an idea yet what the total demand
21 may be for the funds.

22 SENATOR HANCOCK: So we don't know.

23 MR. SAVIDGE: Not yet. That's correct.

24 SENATOR HANCOCK: Okay.

25 ASSEMBLYMEMBER BUCHANAN: But, you know, basically

1 it's a 50-50 program, so chances are there are not going to
2 be enough funds because isn't it likely to cost more than
3 \$2 million per project?

4 MR. SAVIDGE: It really is going to depend on the
5 buildings, the number of buildings, the type of
6 construction, a whole lot of issues. So we're going to need
7 to let it play out a little bit.

8 ASSEMBLYMEMBER BUCHANAN: Okay.

9 CHAIRPERSON REYES: Thank you.

10 SENATOR HANCOCK: I would move we accept the
11 report or --

12 CHAIRPERSON REYES: Thank you.

13 ASSEMBLYMEMBER BUCHANAN: Second.

14 CHAIRPERSON REYES: It's been moved that we accept
15 the report. Thank you.

16 MS. SILVERMAN: The next item is a legislative
17 update.

18 MR. MIRELES: This is also another report. We
19 provide the Board an annual summaries of the bills that have
20 been chaptered that may have been related to school
21 facilities.

22 We have listed seven of them with preliminary
23 comments. At this point, we don't believe that we have any
24 significant or substantive regulatory amendments from these
25 bills, but this is just informational for the Board.

1 If we do need to provide regulatory changes, we
2 bring it to the Board for further discussion.

3 CHAIRPERSON REYES: Thank you. The **three-month**
4 **workload.**

5 MS. SILVERMAN: Yeah, we have the three-month
6 workload to present. It's on page 236. I'm not sure if
7 there's any questions.

8 CHAIRPERSON REYES: Okay. Then the last is Tab 17
9 with the days for the remaining -- we don't meet next month.

10 MS. SILVERMAN: Right. We meet December 12th.

11 CHAIRPERSON REYES: Thank you.

12 MS. SILVERMAN: And we'll be bringing projects
13 forward for cash.

14 CHAIRPERSON REYES: Okay. Great. Thank you. And
15 then we have the SFP unfunded list, the workload list, the
16 facility hardship.

17 Ms. Buchanan, under your Program Review
18 Subcommittee that you had a meeting today --

19 ASSEMBLYMEMBER BUCHANAN: Right.

20 CHAIRPERSON REYES: -- I'm wondering if the Board
21 would be interested in moving the PIW workload stuff that
22 we've talked about. It's currently in the Implementation
23 Committee and it's been there for a while.

24 If you recall, right now there's data being
25 gathered on modernization, new construction, and we thought

1 that it would be good to expand and I'm just wondering if
2 the Board wants to sort -- we want to use that information
3 so to sort of inform conversation and whether or not it
4 belongs in your committee to elevate it and to kind of flush
5 it through. Thoughts.

6 ASSEMBLYMEMBER BUCHANAN: Well, Ms. Moore today
7 was talking about having more data. We also were talking
8 about how do we know the grants are adequate and all of that
9 and what -- you know, adequate schools.

10 So I think it probably would be good for us to sit
11 down and talk about it. I don't know ultimately, you know,
12 we may make a recommendation to the Board to go back, but I
13 think we probably ought to look at all as part of our -- you
14 know, the in-depth analysis we're going to do and, you know,
15 the goal to streamline the program.

16 I don't know -- are there any other comments?

17 CHAIRPERSON REYES: Mr. Hagman and then Ms. Moore.

18 ASSEMBLYMEMBER HAGMAN: Thank you. First of all,
19 I'd like to comment that Ms. Buchanan did a wonderful job
20 with the Subcommittee and I think we had everyone agreeing
21 this was long overdue. So it's great. Unfortunately we're
22 at the tail end of the program and we may change, but it's a
23 good educational piece and there's a lot -- you know, I'm a
24 number guy and so I think it'd be great to add that to it.

25 But it's just -- it was a great meeting. I think

1 we're going to be very busy in our off season here trying to
2 keep up with all the different categories and different
3 needs we're going to attack. We're going to try to take one
4 at a time. So I think it's a great component to it, but she
5 did a great job.

6 CHAIRPERSON REYES: Ms. Moore.

7 MS. MOORE: Yes. And I definitely indicated that
8 the need for data. I think I want to see additional data
9 than just the Project Information Worksheet and we talked
10 about that in the meeting today.

11 I did have one question and perhaps, Mr. Savidge,
12 you can help with that.

13 Has the Implementation Committee completed their
14 work on this subject or is it something that is ready to be
15 handed over or what --

16 MR. SAVIDGE: Actually we're pretty close. I mean
17 we -- the last piece that we were doing after some
18 streamlining work was to look at modernization and at our
19 meeting last -- this month, we -- we're very, very close to
20 having something that's ready to come back to the Board
21 actually.

22 MS. MOORE: So would it be that you complete your
23 work and then it comes over to the Subcommittee? Is that
24 your suggestion?

25 CHAIRPERSON REYES: Well, traditionally the

1 Implementation Committee work would come directly to the
2 Board. I guess from my perspective it's been in the
3 Implementation Committee for a while -- quite a while.

4 So, you know, I think it would be good to sort of
5 elevate it and try to figure out what it is we want since it
6 is Board members who sit on the Subcommittee and who
7 ultimately have to vote instead of just staff and trying to
8 resolve it with interested parties.

9 I think -- the part I like about raising things to
10 the Subcommittees is the Board members get engaged and
11 people are much more public about where they stand and don't
12 stand on issues and that seems to move things along rather
13 than just sort of sit there in the Implementation Committee
14 for another 6, 7, 10, 12, 15 months -- 18 months seems to be
15 popular.

16 So that's sort of my thing is we have an
17 interest -- we're doing program review and the PIW to me
18 seems an integral part of program review, but it was a Board
19 action to send it to the Implementation Committee. I'd like
20 it to be a Board action to pull it back.

21 I mean it's not an action in the purest sense.
22 It's sort of -- you know, we create the Committee as a
23 whole.

24 MS. MOORE: I guess what I would support is that
25 if indeed the Implementation Committee is close to

1 completing their work on it, complete it and then provide it
2 to the Subcommittee. You know, if you need one more meeting
3 to do that, I think that would be appropriate. I'd hate to
4 cut it off in the middle of if it's close to completion of
5 them coming forward to the new Subcommittee.

6 ASSEMBLYMEMBER HAGMAN: How about we recommend it
7 gets moved, but we put it at the end of the list because we
8 got a lot of other ones to go through too because we're
9 meeting in, what, December and January already, so by
10 January hopefully they'll be done.

11 CHAIRPERSON REYES: Okay.

12 MS. MOORE: But if we put it at the end of the
13 list, are you saying that it's done in the Implementation
14 Committee level?

15 CHAIRPERSON REYES: No. What I think what I'm
16 hearing him say is okay, you do have another couple
17 meetings. What I'm hearing him say is that you do have a
18 couple meetings since you do have other issues on your plate
19 right now. So if the Implementation Committee can resolve
20 this issue in the next couple meetings that they have,
21 then -- if they can't resolve this issue, then it gets
22 bumped up to the Subcommittee.

23 ASSEMBLYMEMBER HAGMAN: Yep.

24 ASSEMBLYMEMBER BUCHANAN: And I would say I think
25 the Subcommittee, even letting the Implementation Committee

1 do its work, should be taking a look at it --

2 ASSEMBLYMEMBER HAGMAN: Still wants to see it.

3 ASSEMBLYMEMBER BUCHANAN: -- because, you know,
4 let's face it, it's pretty hard to go back now and change
5 the current program. We're near the end and I think
6 it's -- you know, I really do think any meaningful changes
7 that we make are going to be made with the new program.

8 And as we started to look at whatever data we have
9 when we ask the questions we have, that should shed light
10 on, you know, what do we need to make good decisions, what
11 don't we need, and I would hope that it would add to the
12 conversation that we're having.

13 MS. MOORE: And I think too that there is data
14 already from the PIW that should --

15 ASSEMBLYMEMBER BUCHANAN: Right.

16 MS. MOORE: -- come forward to that Subcommittee
17 already.

18 ASSEMBLYMEMBER HAGMAN: No. We already -- we
19 talked about having those numbers when we work on the
20 things -- needing the numbers regardless, but hopefully this
21 will help.

22 CHAIRPERSON REYES: Great. Okay. Thank you. So
23 with that, then we'll do that. Anything else?

24 Any public comment? Seeing none -- I know there's
25 some interest in high performance and seismic stuff, but I'd

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