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CALIFORNIA STATE ALLOCATION BOARD
NEW CONSTRUCTION SUBCOMMITTEE
PUBLIC MEETING

STATE CAPITOL
ROOM 4202
SACRAMENTO, CALIFORNIA 95814

DATE: MONDAY, NOVEMBER 7, 2011
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APPEARANCES

MEMBERS OF THE SUBCOMMITTEE PRESENT:

ASSEMBLY MEMBER JOAN BUCHANAN, CHAIR

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

SENATOR ALAN LOWENTHAL

MEMBERS OF THE SUBCOMMITTEE NOT PRESENT:

ASSEMBLY MEMBER CURT HAGMAN

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Acting Executive Officer

P R O C E E D I N G S

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3 CHAIRPERSON BUCHANAN: We have a quorum for the
4 Subcommittee now, so let me just give a few really very
5 brief opening remarks.

6 We formed this Subcommittee as a result of a
7 concern some of us have about when we will have the ability
8 or the capacity to pass another facilities bond and where we
9 are exactly with our funding particularly for new
10 construction and what the burn rates are for the different
11 funds.

12 So what I asked staff to do for our first meeting
13 was to prepare this binder primarily to give us all an
14 overview and information and then what I'd like to do is
15 schedule the next meeting so that we can potentially explore
16 options or answer any questions that maybe will arise out of
17 today's conversation.

18 So with that I'm going to go ahead and, Lisa, let
19 you begin with your presentation.

20 MS. SILVERMAN: Thank you. Again our whole goal
21 is to go over most of the topics today and if we actually
22 run out of time depending how lengthy the discussion
23 becomes, then we'll actually try to hold those conversations
24 over for the next meeting.

25 So with that, as the Chair has mentioned that the

1 basic premise of the Committee and why it was formed was
2 back in September of this year, the Board wanted to have
3 again a discussion about new construction dollars and where
4 do we go from here with the exception, and to some extent,
5 you know, how do we extend the life of the existing bond
6 programs that we have.

7 So Tab 1 is just an overview or a snapshot of the
8 voter approved initiatives for this program which the voters
9 had politely extended a good chunk of \$35 billion to this
10 program that represents four propositions.

11 And as we've seen these charts over the last few
12 years with the extent of how much remained in authority,
13 we've all have been seriously tracking about how much is
14 there, what pot is available, and what can we do to
15 highlight those goals and what do we have remaining.

16 So that's on page 2. If I could draw your
17 attention to page 3, each bond allocation is specifically --
18 sets aside money for new construction and modernization. As
19 you can tell, each of the propositions that is broken down
20 in that chart, from 1998 through 2006, again a bulk of the
21 funds have been allocated to new construction and
22 modernization programs.

23 But there's also subsets of the various programs
24 that exist that include Career Tech, Charter Schools, and
25 programs to relieve overcrowding. And again as we get to

1 this wave of the fiscal crisis and scarce remaining bond
2 authority, again this goal for the Board and challenges for
3 this Committee is how do we extend the life of the program.

4 And again in the past, the Board actually has
5 taken action over the past few years when we've actually
6 completed our cycles for critically overcrowded schools,
7 there has been -- precedence of the Board has actually
8 plugged in those amounts that weren't used for those
9 programs and actually transferred over to new construction.

10 So that actually has happened in the past. And I
11 know we do have some authority still left in the Critically
12 Overcrowded School Program and Proposition 55 and those
13 projects were plugged in by the Board last spring.

14 And so the goal is -- obviously is to watch
15 whether or not those projects come forward.

16 And so what we tried to do is actually add a
17 column to this chart to just to give the snapshot of what
18 funds could be transferred and what funds could be required
19 by SAB action and those that require a two-thirds vote. So
20 again that is just a snapshot of what we have forward that
21 highlights that various needs in which we can transfer those
22 funds.

23 And again even though I know this whole topic came
24 up before, again the goal is to highlight again where do we
25 go from here.

1 So on Tab 3, these are charts that we are all
2 familiar with. Those are the bond authority that we have.
3 Again out of the three propositions, we have over -- or
4 close to \$1.5 billion left in authority and that's the
5 yellow shaded area.

6 So this is the active program that remains and new
7 construction is 184.7 million and also part of new
8 construction, there's seismic authority of 194 million and
9 we have 432 million in modernization funds and COS,
10 critically overcrowded schools, and it goes accordingly.

11 So again the goal is to identify how much
12 authority we have in these various pots and we've been
13 tracking this every month with our financial reports.

14 On page 5, we also have this as part of our
15 financial reports is how much of new construction is still
16 available. And again even though the voters have been
17 generous to provide nearly \$15 billion in the program, we
18 technically only have 379.5 million left in new construction
19 and again a good portion of those funds are related to
20 seismic repair. And that's again part of the new
21 construction funding.

22 So as the chart starts to evolve and starts
23 turning blue, there obviously will be some concerns about
24 what do we do with the future of this program.

25 We still have over \$687 million in unfunded

1 approvals. Again those projects are waiting cash and I
2 think we've had discussions about what do we do with
3 unfunded approvals.

4 But again we're just tracking this so it can be an
5 information item so the Board could have these discussions.

6 With that, I'll turn it over to Juan who can take
7 about the burn rates.

8 MR. MIRELES: So now that we know how much money
9 we have in remaining authority, what we did is we took a
10 look at when we project to run out.

11 Tab 3 beginning on page 6, we take a look at
12 projected burn rates. What staff did is we took a look at
13 the total amount of unfunded approvals within the last year
14 for both new construction and modernization and then we
15 calculated the average amounts.

16 For modernization, the average monthly amount was
17 51.79 million. For new construction, it was 33.57 million.

18 Now, if we use these burn rates along with what we
19 have on our workload now that we expect to present at the
20 December and January Boards, we expect to deplete the new
21 construction bond authority in May of 2012 and for
22 modernization, in August of 2012.

23 As Ms. Silverman mentioned earlier, we do have
24 some money in the Critically Overcrowded Schools Program
25 where districts have received preliminary apportionments.

1 If for some reason these projects do not convert
2 in April as they are required to, then there may be
3 additional funding that may become available for the New
4 Construction Program.

5 We went ahead and included on this chart just for
6 discussion purposes if we get the -- to transfer that full
7 201- available, then that would delay the depletion of new
8 construction authority until January 2013. Again this is if
9 the districts do not convert. These funds have been awarded
10 to the districts and they can come in and submit funding
11 requests before their due date of April next year.

12 On page 7, we did the same thing for the
13 Overcrowded Relief Grant Program. This program's a little
14 different.

15 We took a look at the average amount per cycle
16 over the last seven cycles. The average amount has been
17 78.25 million and using this burn rate, we expect to run out
18 of authority in December of 2013.

19 Moving onto page 8, we also took a look at the
20 high performance incentive grant. This is an additional
21 grant that's available for projects and we took a look again
22 at the average amounts over the last ten months.

23 The average amount per project has been 540,000
24 and if we use this burn rate, we project to exhaust the high
25 performance incentive bond authority well beyond October

1 2012.

2 And again these are estimated amounts, just for
3 discussion purposes, so these numbers could change, but
4 based on averages that we've had, that's when we project to
5 run out of authority.

6 MR. WATANABE: Okay. As well as authority going
7 out, we also have authority coming back into our projects as
8 (indiscernible) various milestones. Referring to page 9
9 under Tab 4, the first way that we receive funding back into
10 the program is when a project hits its time limit on fund
11 release.

12 Under current statutes, school districts have up
13 to 18 months to submit -- meet requirements to submit a fund
14 release. Otherwise that cash is reallocated and so is the
15 authority.

16 In the new construction category, we receive
17 approximately 594,000 back each month and under the
18 modernization category, we receive about 859,000 back each
19 month.

20 Another category we receive back into the program
21 and bond authority is for rescissions and projects that
22 reduced the costs incurred. These are projects that funds
23 are released to the districts and for whatever reason
24 they're not allowed to move -- able to move forward with
25 their projects.

1 In the new construction category, we get about
2 2.3 million back per month and in modernization, about
3 412,000 per month.

4 And then lastly as a result of close-out
5 adjustments, at close-out projects can receive increases or
6 decreases to some of their project grants such as site
7 acquisition, toxic, relocation, those kind of things.

8 The net result of increases and decreases, we get
9 about 1.1 million per month back in new construction and for
10 modernization, about 181,000 per month. So what we show in
11 the chart on the bottom on page 10 is just the cumulative
12 effect of that over the course of the next year.

13 In the new construction category, the sum of those
14 three different categories, we recover about 4 million per
15 month to our program and in modernization, about 1.4
16 million.

17 Cumulatively over the next year, that would mean
18 in new construction we expect to get back about 48.5 million
19 in new construction and 17.4 million in modernization.

20 CHAIRPERSON BUCHANAN: So maybe we'll just take
21 one second here. I didn't know if anyone -- because
22 we're -- the next we're going into is developer fees, but
23 does anyone here have any questions about any of the data or
24 the information that's been presented so far? Just
25 double-checking. Okay.

1 SENATOR LOWENTHAL: I had one.

2 CHAIRPERSON BUCHANAN: Okay.

3 SENATOR LOWENTHAL: And that was on page 6. On
4 page 6, I just gather the jump in the new construction bond
5 authority, the red, was when there was the infusion of other
6 resources into that. They were a one-time infusion; was
7 that it?

8 MR. MIRELES: Yes, Senator. Those projects have
9 until April next year to come in and submit funding
10 applications. If they do not, then that money could become
11 available to be transferred to the New Construction Program.
12 So school districts do have until April to submit a funding
13 request, but if they don't, then this is the total amount
14 that would become available and that we project out, you
15 know, when we'll run out of authority.

16 CHAIRPERSON BUCHANAN: And that's the Critically
17 Overcrowded Schools --

18 MR. MIRELES: That's the Critically Overcrowded
19 Schools Program.

20 CHAIRPERSON BUCHANAN: -- funding that would come
21 back in. Okay.

22 MR. HERNANDEZ: Okay. The next section is on the
23 developer fees. The OPSC is not a regulatory agency that
24 oversees the charge of the developer fees, but these fees
25 are determined and levied at a local level and this is just

1 an overview of the three types of fees that a district may
2 charge.

3 The Level I fee is assessed when a district
4 conducts the justification study and they establish the
5 connection or the nexus between the development in the
6 district and the need to house additional students.

7 The fees are established in regulation. Currently
8 the regs are \$2.97 for the residential and approximately
9 48 cents for the commercial.

10 If the district is coming in for a Level II fee,
11 then they'll need to have a school facility needs analysis
12 report. That is required. In addition, they'll also have
13 to have a new construction project that's been presented to
14 the State Allocation Board and also meet at least two of the
15 requirements listed in Ed Code -- Government Code
16 Section 65995.5.

17 And you'll see there in the table on page 11 that
18 those two are at least 30 percent of the pupils must be in a
19 multi year-round track school. In the previous four years,
20 they must have had a local bond that has received at least
21 51 percent of the votes. District has bonded indebtedness
22 current at least 15 percent of their total bonded
23 indebtedness or at least 20 percent of their teaching
24 stations are -- currently within the district are
25 relocatable.

1 The last fee would be a Level III fee and this fee
2 would only go into effect after the State Allocation Board
3 has made a declaration that our lack of funds to provide
4 apportionments for school facility projects.

5 In February of '02, the Attorney General at the
6 request of the Board opined that the Board couldn't make a
7 declaration of lack of funds until all voter authorized bond
8 authority had been exhausted. And the Level III fees would
9 be the equivalent the district being able to fund a hundred
10 percent of their school projects if there was no State
11 funding available for construction projects.

12 MR. MIRELES: Okay. If there are no questions, we
13 can move onto Tab 6. Tab 6, members, is just a refresher of
14 the new construction funding process. On page 12, we have a
15 flow chart which just goes through a very high level
16 overview of the process.

17 The first step for school districts is to submit
18 an application to determine eligibility. The OPSC will
19 review this application. Then it goes to the Board.

20 After that school districts come in and submit a
21 funding application which means that they have to have plans
22 approved by the Division of the State Architect and the
23 Department of Education.

24 Once the OPSC conducts its review, then again it's
25 presented to Board. Then we have our 30-day priority in

1 funding process where districts can submit the certification
2 that they will be able to submit a fund release request if
3 they receive an apportionment.

4 Then once cash becomes available through a bond
5 sale, then we get into our priority funding apportionments.
6 Those districts that do submit -- do actually receive an
7 apportionment will then have the 90 days to submit a fund
8 release request.

9 Once they get the funds, the project goes through
10 the construction phase. Then after that the district
11 submits their expenditure reports to the OPSC and the OPSC
12 performs their audit.

13 That is a very -- again a very high level overview
14 of the process.

15 Then just to get into a little bit more of the
16 details of each phase, the first step again is to determine
17 eligibility and for new construction, very simply the
18 program takes a look at the district's five or ten year
19 enrollment projection and then it compares that to the
20 existing seating capacity.

21 If districts don't have enough seats for the
22 projected enrollment, then that difference is what we call
23 eligibility and that is basically how we take a look at the
24 enrollment -- projected enrollment versus seating capacity
25 to determine new construction eligibility.

1 Now the enrollment projections, again that could
2 be a five year or ten year projection. We used historical
3 data from the California Basic Educational Data System. We
4 also use a Cohort Survival Method to do our projections.

5 The capacity is just a very straightforward
6 inventory of the school district's classroom spaces. We do
7 take a look at the classroom at certain grade levels and
8 they're also adjusted for spaces that are not considered
9 available as teaching spaces.

10 So once we take a look at the enrollment
11 projections, then we take a look at the seating capacity.
12 Then we come up with the difference which is the
13 eligibility.

14 The eligibility and the funding process in the
15 past was different. Districts would come in and apply for
16 eligibility. Sometimes they could do it concurrently when
17 they submit a funding application and then they come in and
18 submit a funding request.

19 We used to have up to 18 months for the district
20 to submit a funding release request, so there wasn't a lot
21 of time between establishing eligibility and fund release.

22 With the new system of priority in funding, we now
23 have prolonged periods of time before the districts
24 establishing eligibility, submitting a funding application,
25 and then actually receiving an apportionment.

1 For example, right now we have some applications o
2 our unfunded list that received their initial approval back
3 in August of 2009. There has been -- under the program,
4 there is no requirement to have school districts'
5 eligibility rechecked when they convert the unfunded
6 approval to apportionment.

7 So even though a district submits an unfunded --
8 get unfunded approval say in August 2009, they come in to
9 get an apportionment today, there is no recheck under the
10 current program.

11 For districts that are financial hardship
12 districts, there is a re-review to take a look at the
13 district's financial hardship status once they receive an
14 apportionment and for actual funding request submittal,
15 again the districts submit a funding application. They have
16 to demonstrate that they have all plans approved by CDE and
17 DSA and they are usually driven by pupil grants and the
18 pupil grants are all based on the number of classrooms in
19 the plans.

20 So depending on the number of classrooms in the
21 plans, the school district can request a certain amount of
22 pupil grants. For example, the State loading standard for
23 an elementary classroom is 25 pupils. If a district wants
24 to build a four-classroom project, they can request a
25 hundred pupil grants for that specific project.

1 That's just the basics of how it works. Number of
2 projects -- number of classrooms and then based on the
3 loading standard, they can request a certain amount of pupil
4 grants.

5 As far as a fund release request, again before the
6 priority in funding system, districts had up to 18 months.
7 Now districts have to -- to be able to participate in the
8 priority in funding, they have to demonstrate or certify
9 that they can submit a fund release within 90 days after
10 they receive an apportionment.

11 And we currently have two certification filing
12 periods, one the second Wednesday in January and then
13 another one, second Wednesday July of each year. The
14 certifications are valid until the next filing period begins
15 and as cash becomes available, the Board can make
16 apportionments based on the districts that did submit a
17 certification and are on this list.

18 Now there is no requirement for school districts
19 to submit a certification and participate in the priorities
20 in funding mechanism.

21 And again that's just a very general overview of
22 the program and the funding process for new construction. I
23 can answer any questions if you have any.

24 CHAIRPERSON BUCHANAN: I have some questions on
25 eligibility.

1 So if you take the project that was on the list in
2 August 2009 which you said is the oldest one on the list,
3 that can stay on the list for how long?

4 MR. MIRELES: Indefinitely.

5 CHAIRPERSON BUCHANAN: Indefinitely. And so if
6 you have a situation where you had an enrollment projection
7 and things change, now you've got declining enrollment or,
8 you know, you had an enrollment projection based on an
9 economy that said, you know, we going to keep building
10 forever if this housing bubble and now you have developments
11 that clearly aren't going to go in, does the district then
12 still maintain that eligibility based on those projections?

13 MR. MIRELES: That's correct, Madam Chair. Right
14 now --

15 CHAIRPERSON BUCHANAN: And under what situation
16 would you ever require the district to revise its enrollment
17 projections?

18 MR. MIRELES: They -- for the project, when they
19 come in and request funding, when they originally get the
20 unfunded approval, there's an eligibility determination at
21 that point. We take a look at current enrollment when they
22 submit a funding application, but once that project receives
23 an unfunded approval, there is no recheck later between that
24 point and when they actually get an apportionment.

25 So for districts that -- there's only an update to

1 the enrollment when they submit a funding application, but
2 if they have a funding application that was approved in
3 August of 2009, there is no recheck after that between that
4 point and when they come in for an apportionment.

5 CHAIRPERSON BUCHANAN: So we had a potential
6 appeal that's going to come before us with a school district
7 that was a financial hardship where we were funding a
8 hundred percent and their enrollment that they showed me
9 estimated that in the future they would have 50 percent more
10 students, 17,000 students versus the 12,000 they have now
11 even though they readily admitted that the developments that
12 they assumed were going to go in aren't going to go in.

13 I know we check -- we have the check follow-up
14 with financial hardship districts to make -- to find out if
15 they have any resources to fund their project if it pass a
16 certain period of time. Is there any kind of follow-up to
17 determine if the need is still there in terms of unhoused
18 students?

19 MR. MIRELES: Not currently under the program.
20 There is no recheck under the current rules and the
21 regulations of the program.

22 But to go further on your point, right now school
23 districts -- part of the enrollment projection is that they
24 can't augment those projections for plan development and
25 districts can submit tentative track maps or final maps that

1 have been approved by the city or county planning commission
2 and those number of dwelling units can be used to augment
3 the enrollment project.

4 CHAIRPERSON BUCHANAN: Because it seems to me
5 that, you know, we're in such a unique economic climate now
6 that a lot of these projects that were done, you know, in
7 the last five years were done based on a housing market that
8 may not happen again in our lifetimes and then you combine
9 that with the fiscal crisis we're in where so many districts
10 can't afford to maintain class size reduction at 20 to 1 in
11 grades K-3 and they're at 25, 26, or some have given it up
12 altogether, that you have capacity for unhoused students in
13 districts that you didn't have before.

14 And if new construction money is supposed to go to
15 help house unhoused students, I don't know if -- I mean --
16 and everyone gets upset. I'm not recommending you change
17 rules in the middle of the game, but it seems to me that
18 there should be some way of knowing that we're spending
19 money on schools that truly have that need.

20 SENATOR LOWENTHAL: Right. If I might -- I agree
21 with you. I think those are -- the problem though is that
22 this -- in the old days when schools were applying, I think
23 they -- because they've already invested, they've done
24 planning, they've spent money.

25 Usually that -- their rates -- their eligibility

1 was locked in. The apportionments came fairly soon after.

2 ASSEMBLY MEMBER BUCHANAN: Right.

3 SENATOR LOWENTHAL: The problem is -- because we
4 can give them the apportionment and it stretches out further
5 and further. You're right. Their eligibility changes, but
6 then they may never get -- they may be all out that money
7 now. They've now lost that money if they now lose that
8 eligibility.

9 CHAIRPERSON BUCHANAN: Lose what money?

10 SENATOR LOWENTHAL: Well, whatever money they've
11 already spent.

12 CHAIRPERSON BUCHANAN: But you're establishing
13 your eligibility though before you ever design a school.
14 You're -- you establish your eligibility now --

15 SENATOR LOWENTHAL: Right. And that eligibility
16 may be what you've done and now you've designed; that's
17 right. And now later on -- and you would have built that
18 school if the State had provided you the resources that it
19 said it was going to do in a timely way.

20 But now it's -- it may stretch out for years later
21 is what you're saying.

22 CHAIRPERSON BUCHANAN: I think what I'm saying is
23 I do a facilities -- I do a -- hire one of these companies
24 to do --

25 SENATOR LOWENTHAL: Right.

1 CHAIRPERSON BUCHANAN: -- growth study in my
2 district and it says we're going to grow by 50 percent --

3 SENATOR LOWENTHAL: Right.

4 ASSEMBLY MEMBER BUCHANAN: -- over the next ten
5 years and the program's designed to say, okay, if we wait
6 till the kids are there, we have an overcrowding situation
7 which is not healthy from an academic point of view for
8 kids. Because -- you know, and it's not healthy because
9 parents like to send their kids to the neighborhood schools
10 and not have them diverted to schools --

11 SENATOR LOWENTHAL: Right.

12 CHAIRPERSON BUCHANAN: -- halfway across the
13 district. So for planning purposes, this is my enrollment
14 now and I say we're going to have this enrollment in the
15 future --

16 SENATOR LOWENTHAL: Right.

17 CHAIRPERSON BUCHANAN: -- and that gives me some
18 certainty to go forward and plan.

19 The question becomes should you ever revisit
20 whether or not --

21 SENATOR LOWENTHAL: Right.

22 CHAIRPERSON BUCHANAN: -- those enrollment numbers
23 come in because I'm not -- as a school board member, I'm not
24 necessarily designing the next school that I'm going to
25 build five years from now. I mean you have a plan that

1 says, you know, it looks like we're going to need one more
2 elementary school in, you know, 2013, one more whatever, but
3 depending on whether those students show up, I may actually
4 hire the architect and begin designing or not.

5 So a school district hasn't necessarily invested a
6 penny. There are some they will have in the near future --

7 SENATOR LOWENTHAL: Right.

8 CHAIRPERSON BUCHANAN: -- but down the road, they
9 won't. So my question is should there be any kind of -- in
10 terms of eligibility, should there be any kind of rechecking
11 or whatever at some point in time, particularly in -- I mean
12 if you have a financial hardship school approved and the
13 development's not going in and the kids aren't going to be
14 there, does the State still pay a hundred percent to relieve
15 overcrowding when the kids aren't there.

16 I don't know what the answer is, but --

17 SENATOR LOWENTHAL: I hear that. I know. Okay.

18 CHAIRPERSON BUCHANAN: You know --

19 SENATOR LOWENTHAL: Right.

20 CHAIRPERSON BUCHANAN: I do think there should be
21 some way at some point in time of having to go back and
22 revisit that and I don't know what the -- if ten years makes
23 sense or it should be five years, but I do think we're in a
24 very unique economic situation today.

25 Most of the districts in the State of California

1 are declining enrollment and you have a situation where
2 districts say, well, give me the money and just take more
3 grants because they know they aren't going to need those
4 grants for 10 or 20 years, you know, and there are other
5 districts who -- you know, where you may actually need it.
6 So I just --

7 MR. ALMANZA: Okay. But we recheck for hardship.

8 CHAIRPERSON BUCHANAN: Not eligibility.

9 MS. SILVERMAN: Yeah. We recheck the financials
10 for hardship, but we don't --

11 MR. ALMANZA: Okay. But not eligibility.

12 MS. SILVERMAN: Not eligibility.

13 CHAIRPERSON BUCHANAN: So, you know, I don't know
14 how easy or hard it would be to get information, but is
15 there a way of providing us a list so we'd have some kind of
16 idea in terms of what the current enrollment is in a
17 district, what they thought the projected enrollment would
18 be today, and maybe what the projected enrollment is say
19 five years from now or ten years? I mean get -- have some
20 numbers so we have an idea in terms of, you know, how close
21 we're hitting those numbers?

22 MR. MIRELES: We can, Madam Chair. We've done
23 similar studies in the past where we take a look at
24 districts that submitted a five-year enrollment projection
25 five years ago and then compared those numbers to current

1 enrollment numbers to see how accurate the projections were.
2 That's something we could definitely take a look at.

3 CHAIRPERSON BUCHANAN: I will also add, our
4 district, when I was elected to the board, had been in a
5 pilot project that had unrealistic enrollment projections
6 and they got early funding and then what happened to us is
7 when we actually needed the money to build a school
8 somewhere else, we didn't have eligibility. So it
9 actually -- it didn't necessarily help us out.

10 You know, another question in terms of eligibility
11 and I don't know what the answers are here, but -- and
12 this -- is that counties are kind of -- county offices of
13 education are sort of caught between a rock and a hard spot
14 because they have to provide for the most part specialized
15 services to students. They don't receive developer fees.

16 They don't -- I don't think statutorily they
17 necessarily -- most districts I would think would have sort
18 of cooperative agreements so if they have classrooms
19 available they allow them to use them, but I don't know if
20 there's any -- you know, and it's probably not -- maybe not
21 part of this specific new construction problem, but I -- or
22 issue that we're talking about, but they sort of find
23 themselves in a very unique situation when it comes to new
24 construction.

25 I don't know if there's any possible suggestions

1 you have there.

2 We thought this was going to take a couple hours.
3 So I do want -- would like to have more eligibility
4 information, but I think the questions going forward and I
5 don't know what info the two of you want, but one is what --
6 you know, we're looking at potentially having a burn rate
7 that will take us into 2013.

8 Critically overcrowded schools don't come in and
9 request funding and that reverts back. I don't know if
10 there -- what other options there are in terms of -- I mean
11 I'd like staff to know -- I'd like to know what do we do --
12 what are our different options to get us to November 2012
13 assuming we can get a bond on the ballot in 2012 and it
14 passes. What are our options if we have to wait until 2014,
15 if there's any way at all that we can extend out the funding
16 and the burn rate until that time.

17 Like I said, I would like to look at eligibility
18 and I would appreciate any thoughts you have in terms of
19 ensuring that we can meet the needs of county offices of
20 education as well.

21 MS. SILVERMAN: Definitely. And I think
22 there's -- one other point is that new construction chart we
23 put together last year because we were in unique times and
24 understanding that there was an AG opinion that was issued
25 in 2002 --

1 CHAIRPERSON BUCHANAN: Right.

2 MS. SILVERMAN: -- and even though we have
3 projects on the unfunded list, if you go back to that
4 opinion, it says apportioned --

5 CHAIRPERSON BUCHANAN: Right.

6 MS. SILVERMAN: -- you know, when the Board
7 apportions all those projects. So technically we still have
8 projects on the unfunded list and we'll continue to have
9 projects on the unfunded list.

10 Even though we may have processed to some extent
11 and elevate those projects to a list, there's still -- we
12 still need cash.

13 CHAIRPERSON BUCHANAN: Right.

14 MS. SILVERMAN: So they technically aren't
15 apportioned at this point in time and then there's also that
16 subset of seismic, although --

17 CHAIRPERSON BUCHANAN: Right.

18 MS. SILVERMAN: -- seismic isn't going to be a
19 program that we transfer. There still is those funds that
20 still have to --

21 CHAIRPERSON BUCHANAN: Right.

22 MS. SILVERMAN: -- come through and mature. So
23 again that's not money that's going to be moved over at any
24 point in time, but it's still a subset of new construction.

25 CHAIRPERSON BUCHANAN: Right. I think what you're

1 saying is that based on the Attorney General's -- or the
2 Treasurer's --

3 MS. SILVERMAN: Attorney General's opinion.

4 ASSEMBLY MEMBER BUCHANAN: -- Attorney General's
5 opinion we don't trigger Level III fees until, one, we take
6 action, but, two, if there is money left, even if the demand
7 is greater, we still haven't triggered those fees and one of
8 the areas where we'd have money is seismic.

9 Another question I think that I'd like to ask is
10 is there any kind of prudent reserve that we should be
11 looking at in the new construction fund? I mean as you move
12 closer to the end of the projects, if you have a project
13 that all of a sudden comes in with a big change order or
14 something else, I mean in terms of what do we need to do
15 with respect to that as we begin to wind down the program.

16 MS. SILVERMAN: And that could be a policy issue
17 or discussion for the Board to take up. I mean because you
18 could have facility hardship projects that are your health
19 and safety projects that could require some new construction
20 dollars.

21 So -- and those would be on an emergency basis.
22 So you're right, there could be a reserve set aside if
23 that's what the full Board would like to do.

24 CHAIRPERSON BUCHANAN: Okay.

25 SENATOR LOWENTHAL: I would be interested in just

1 getting -- I know we have the -- and maybe it's just my lack
2 of truly understanding of how we make those projections
3 about growth and housing.

4 I would love to know what the -- what are the
5 projections on both -- both by regions and throughout the
6 State of housing starts in the State, the most realistic.
7 Where are we and where is new home building occurring in the
8 State or where is it projected? I mean to have much more
9 accurate data, not necessarily by district by district, but
10 to --

11 CHAIRPERSON BUCHANAN: Right.

12 SENATOR LOWENTHAL: -- really get a picture of
13 what is going on because it goes back to what Joan said.
14 You know there is a significant number of districts who are
15 in decline in terms of enrollment and we need to understand
16 not so much each individual project or -- but really where
17 are we going and it would be good to have really accurate
18 data and for us to be educated on the State Allocation
19 Board.

20 CHAIRPERSON BUCHANAN: Maybe Richard could --
21 I'm -- we're going to have public comment also, but maybe
22 CBIA could help us provide information on housing starts and
23 we actually --

24 SENATOR LOWENTHAL: Both single and
25 multi-families.

1 CHAIRPERSON BUCHANAN: That's right.

2 MR. LYON: Richard Lyon on behalf of the
3 California Building Industry Association.

4 I have a couple charts that I would like to pass
5 out and I think they're directly to your question, Senator.
6 Now I'll hold my comments until the handouts are -- until
7 you receive them.

8 You have two charts -- and the staff would get
9 some as well. Thank you very much.

10 You have two charts in front of you. The first
11 chart is the red chart that shows housing production in
12 California 2004 to 2011 and let's focus on that one
13 initially.

14 And to put this into perspective, the chart shows
15 the total number of housing units that permits were pulled
16 for between 2004 and 2011 and it breaks it down into
17 single-family and multi-family and again to put this into
18 perspective, as a rule of thumb, by HCD and economists,
19 we've been told that for California to maintain a healthy
20 housing market to keep pace with population growth, with
21 household formation, and with job growth, we should be
22 producing -- at least the rule of thumb was about 200,000
23 units a year, a combination of single-family and
24 multi-family.

25 So you can see from the chart here then this data

1 was provided by the Construction Industry Research Board and
2 it is measured in terms of permit activity. It's broken
3 down into single-family and multi-family.

4 And the CIRB keeps it very simple. A
5 single-family is just that. It is a single, detached unit.
6 Multi-family according to CIRB is two units or more. So
7 townhomes would be multi-family. Condos would be
8 multi-family; of course apartments.

9 And this again is measured in terms of permit
10 activity and this measurement stick is actually conservative
11 because not all permits actually convert into actual units
12 being built.

13 So the numbers that you see here are -- when I say
14 conservative, I would say they're high numbers.

15 SENATOR LOWENTHAL: Um-hmm.

16 MR. LYON: You can see from 2004 until 2005, that
17 was the top of the market and to the present, the production
18 numbers have dropped about 167,000 units. In 2004, we did
19 about -- we did 212-, a little less than 213,000 total
20 units. In 2005, it was a little less than 209,000.

21 The 2011 projection is 46,000 units. That's a
22 drop-off of 167,000 units from 2004 until 2011 and that drop
23 represents about an 80 percent drop in housing production
24 over those seven years.

25 Now, that's 80 percent and that's really a

1 stunning number.

2 I was at a policy forum last week and I had the
3 pleasure of introducing our State Director of Finance, Ana
4 Matosantos, and she noted during the time that the revenue
5 drop to the State at its deepest was about 20 to 25 percent.

6 What we are looking at in terms of housing
7 production for new construction drop is over 80 percent. If
8 you take the numbers from 2004 to the lowest which was 2009,
9 that's a larger than 80 percent drop. We've come back up a
10 bit and we're expecting to do 46,000 units in 2011.

11 We'd begun the year hopeful that we'd be doing 70-
12 to 80,000 and month to month, it was projected downwards.
13 So you can see that we are producing at anemic numbers.

14 To put that into perspective, housing that is
15 taken out of the stock just because it's old and dilapidated
16 in an 38- or 39 million resident California economy is about
17 30,000 units a year. So we are producing 46,000. So we're
18 basically at -- we're pushed. We're at push with the number
19 of units that are being taken out.

20 Just a couple other points, the great recession
21 officially began in December of 2007. It officially ended
22 in June of 2009. You can see that housing production
23 numbers actually began to fall in 2006.

24 SENATOR LOWENTHAL: What happened?

25 MR. LYON: Well, Senator, housing is both the

1 leading indicator of an economic downturn and the lagging
2 indicator of an anemic recovery. So we saw it first before
3 other industries.

4 SENATOR LOWENTHAL: When did the first serious
5 uptake in foreclosures hit?

6 MR. LYON: The financial markets melted down in
7 the fall of 2008 and we really began to see the foreclosure
8 hit in 2009. Last year --

9 SENATOR LOWENTHAL: Well, what about California
10 which was so heavily caught up in it. Did we hit at just
11 about the -- at the --

12 MR. LYON: Yes.

13 SENATOR LOWENTHAL: Yes.

14 MR. LYON: Yes. So 2009, 2010, and we continue to
15 see a shadow inventory out there in '11 and we expect to see
16 it in '12 as well. We're beginning to work our way through
17 the shadow inventory, but new construction will not pick up
18 until a number of factors happen.

19 One is that the prices for existing product have
20 to stabilize. Second is that we need to move the shadow
21 inventory of distressed properties both foreclosures and
22 short sales through the process and then the existing
23 inventory -- existing housing stock has to begin to move.
24 And once that happens, only then will we have a need for new
25 construction.

1 If you turn to the second chart, it says
2 California Housing Production and Population. To the point
3 I just made, our population is growing. This chart shows
4 what -- this is basically -- this chart here, this blue
5 chart, is the red chart with the line and the line
6 represents California's population growth from 2004 until
7 2011. Based upon our --

8 SENATOR LOWENTHAL: Do we still anticipate that
9 growth from -- at that trajectory? I'm not quite sure that
10 population is going to grow at what they said just even a
11 few years ago.

12 CHAIRPERSON BUCHANAN: Right. It's --

13 MR. LYON: Well, the numbers that are here are
14 based -- the current numbers from Department of Finance
15 based upon the census numbers. So -- and those numbers show
16 that California currently has a population of 49 million --
17 let me find it here.

18 We currently have a population of 39,609,709
19 Californians and so that's what this line shows. It's to
20 date. So you can see that the population has continued to
21 grow, but you can see that the gap between housing
22 production and population growth has just been -- has been
23 widening and again we're not going to reach a point where
24 we're going to begin to build anew until the markets settle
25 out, the shadow inventory moves through, and existing

1 product begins to be absorbed.

2 CHAIRPERSON BUCHANAN: So we know that the market
3 is severely depressed right now and we know that because of
4 California's convoluted way that we tax and collect revenues
5 at the State and local level, what's happened over the last
6 three decades is we've made up for it with fees.

7 I mean and the school fee is one fee that we have
8 and there's a multitude of other fees as well. So do you
9 have -- or could maybe in our follow-up meeting -- any
10 charts that show what's happened to the prices of new homes
11 and those prices relative to the fees because, you know, I
12 know that the builders in my area -- you know, if you can go
13 out into the outlying areas and sell a house for 750,000
14 paying 120- or 140,000 in fees is -- you may not like it,
15 but you still have a nice profit margin.

16 When that price of that house drops down to 350-
17 or 400- and you're still paying that level of fees, all of a
18 sudden it becomes unaffordable to build it. And so I don't
19 know what the impact would be of school fees doubling under
20 Level III, but it seems to me that you could have a real --
21 potentially have a real negative impact on these housing
22 numbers going forward and instead of starting to have them
23 level off or have an incremental increase, we could actually
24 see that, you know, we're taking out whatever little extra
25 profit is there.

1 You know, in which case also our goal of speeding
2 up the program and, you know, getting jobs -- getting
3 projects out to bid so we create jobs ends up having -- we
4 end up -- if we end up having to -- if we would have to go
5 to Level III, we'd end up actually costing jobs as well.

6 MR. LYON: I would -- yes. I mean the answer to
7 your question is yes, we have done studies and we'll provide
8 the Committee with those and we'll update them.

9 I would say that builders believe that we have an
10 obligation to mitigate our impact. There's no question
11 about that and we pay fees for a wide variety of impacts
12 from sewer, water, transportation to schools.

13 Generally the band width of Level II fees out
14 there -- that is the districts who play in the State program
15 who do a school facility needs analysis and who are eligible
16 to go beyond the Level I fee, which is a little under \$3.00,
17 generally the band width will be anywhere from \$3.00 to
18 \$7.50 a square foot.

19 So to put that into perspective, let's just kind
20 of pick a midpoint. If you have a \$5.00 square foot school
21 fee, just a school fee component, on a 2,100 square --
22 typical 2,100 square foot, single-family, detached home,
23 that is \$10,500 and that's modest. That fee is modest.

24 CHAIRPERSON BUCHANAN: Very modest.

25 MR. LYON: If you double that, it's \$21,000 and in

1 your higher cost areas, it's going to be dramatically more.
2 It would be two and three times there.

3 CHAIRPERSON BUCHANAN: If you have a 3,000 square
4 foot house, you're -- you move from 21- up to \$30,000;
5 right.

6 MR. LYON: Very easily you would. So -- yes, I
7 mean it would have -- Senator, to your question where is the
8 growth, we'll be happy to provide you the best of our
9 knowledge and ability.

10 California is fundamentally a series of
11 micro-markets and in the Central Valley and the Sacramento
12 Valley and in other portions of the State, you have severely
13 depressed economies. In some portions of California, the
14 Silicon Valley and portions of San Diego and portions of
15 Southern California like Orange County, we have begun to see
16 construction pick up.

17 And in those areas, the construction that's
18 picking up is basically multi-family. If you go back to the
19 first chart that we showed you, the red lines, the breakout
20 there, you can see that from 2004 to 2011, multi-family
21 began to be a greater and greater percentage of the overall
22 housing production numbers and it makes sense in today's
23 economy because people are losing their jobs and their
24 losing their homes and they need a place to live.

25 So their credit has been shattered. They're not

1 able to go out and buy a home. They have to have a place to
2 live. So renting becomes more and more of a viable option
3 for Californians and you have young people coming into the
4 market in a difficult jobs economy and they're not able to
5 be able to amass the equity and the capital to be able to
6 buy a home or the FICA scores to be able --

7 SENATOR LOWENTHAL: Do you think this is across
8 all economic? It seems to me what's happened is that what
9 you're projecting is where the middle class before used to
10 aspire and always to purchase homes, you're saying there's a
11 dramatic turn in the middle class and maybe in working class
12 families who always -- many who have rental homes, but it's
13 now going up. I don't think it's -- I think probably -- you
14 know, there's always some wealthier folks who retired own
15 condominiums -- upscale condominiums, but it never was a
16 huge part of that market that was -- but it's another attack
17 on the middle class.

18 I mean I'm just really saying that, you know, the
19 middle class is getting it from all sides now.

20 CHAIRPERSON BUCHANAN: Oh, yeah, I could --

21 SENATOR LOWENTHAL: It's just under attack.

22 CHAIRPERSON BUCHANAN: I think we all give that
23 speech. I think -- well, and you have -- I mean everything
24 I read says as the population ages, you know, as the baby
25 boomers retire, they're looking to downsize and new

1 people --

2 SENATOR LOWENTHAL: Um-hmm.

3 CHAIRPERSON BUCHANAN: -- coming in oftentimes go
4 into multi-family as the entry.

5 SENATOR LOWENTHAL: Right.

6 CHAIRPERSON BUCHANAN: So, you know, it's the
7 people in the middle who are supporting more and more, but
8 what's interesting today, the fact that I don't know how
9 anyone also figures into this. I have to have one of my
10 kids who was out looking at homes this weekend where he
11 said, you know, why on earth would I want to buy when, you
12 know, I can rent, you know, and houses aren't -- prices
13 aren't going up, and I said, well, because when you retire,
14 you know, your house will be paid for and you won't have --
15 all of a sudden have a \$500 increase and find yourself out.

16 But the question becomes when you're -- when today
17 you can finance a home at 4 to 4 and a half percent,
18 historically low interest rates for everybody, and our
19 housing market is this depressed and it -- you know, the Fed
20 and the economists are projecting we'll stay low probably
21 through 2013 and then it starts to increase, so I don't know
22 what kind of a collision course you have there where I mean
23 if your interest rate goes from 4 to 6 percent, you know,
24 your payments are going to go up by almost 50 percent.

25 So I don't' know what kind of a collision course

1 you end up there and the impact that has on home sales a few
2 years out. But all of it in terms of the industry says
3 we're in a very difficult time and my own personal belief is
4 that if we -- we need to do all we can to move forward with
5 that next bond, hoping that there's the appetite in 2012 but
6 if not 2014, but we need to figure out how we're going to
7 allocate the rest of the new construction money in a way
8 that we don't negatively -- you know, we take care of our
9 greatest needs in terms of the creating classrooms to avoid
10 overcrowding and -- but at the same time, you know, not --
11 do all we can to avoid triggering the Level III phase.

12 So is there any other information that -- first of
13 all, Richard --

14 SENATOR LOWENTHAL: The thing is even if you did,
15 nobody's building any housing and Richard is saying right
16 now is that -- I mean I'm not saying we should be
17 triggering. I'm not. But -- and that may just -- what
18 you're saying is that could be the camel -- you know, the
19 straw that breaks the camel's back.

20 CHAIRPERSON BUCHANAN: That's exactly right.

21 SENATOR LOWENTHAL: That's exactly what you're
22 saying.

23 CHAIRPERSON BUCHANAN: If someone's considering it
24 right now and all of a sudden they find that I've got to pay
25 an extra \$20,000 a home or whatever, it's --

1 SENATOR LOWENTHAL: Somehow there's a squeeze.

2 You know --

3 CHAIRPERSON BUCHANAN: Yeah.

4 SENATOR LOWENTHAL: -- this is something that
5 we've never -- you know, there was always X -- there was
6 always a place where it could be found and now what we're
7 saying is there are no more --

8 CHAIRPERSON BUCHANAN: We've had \$35 billion --

9 SENATOR LOWENTHAL: There are no more places
10 and -- unless we -- again unless we have an honest debate on
11 what revenues we're generating and where they're coming from
12 and really look at what's the most equitable and the best
13 system for California. But we're far from having that
14 debate.

15 CHAIRPERSON BUCHANAN: And that we get the money
16 truly where the need is.

17 SENATOR LOWENTHAL: That's right. And --

18 CHAIRPERSON BUCHANAN: You know, I mean I think we
19 have to be --

20 SENATOR LOWENTHAL: -- that we have systems that
21 work, that are sustainable and efficient.

22 CHAIRPERSON BUCHANAN: That's exactly right. And
23 I think we -- I think this conversation might -- I believe
24 is a good one for now in terms of how do we get through the
25 current crisis and hopefully it will stimulate thought for

1 all of us as we have more information moving forward with
2 the next bond.

3 So, Richard, is there anything else that you want
4 to add?

5 MR. LYON: Well, I could add a lot, but I don't
6 want to occupy too much time.

7 SENATOR LOWENTHAL: I think you made your point.

8 MR. LYON: I would just say this that as we look
9 at trying to begin to build where there are markets -- a
10 couple things. One, the profit margins are razor thin and
11 adding more and more costs just means that you back away
12 from actually moving forward with the project. And every
13 thousand dollars that's added to the price of a home -- and
14 these are national studies that have been done -- in order
15 to qualify, you basically kick out about 10,000 individuals
16 who otherwise would have qualified but now as the prices go
17 up and those prices are attempted to be passed onto the
18 buyer, it just makes the borrowing costs and -- much higher
19 and -- so it's a very difficult problem. We are a partner
20 in this program. We want to see this program work.

21 We think this has been a tremendous partnership
22 over the last 12 or 13 years. I was at the table
23 representing the home builders when SB50 was put together.
24 We fundamentally believe in this program and we need to do
25 everything we can to keep it whole. So thank you very much.

1

2 CHAIRPERSON BUCHANAN: Thank you. And maybe when
3 you prepare the next packet of information for us and we
4 talk about the impact on the building industry, you could
5 also include that thousand dollars, 10,000. I mean any kind
6 of information like that would be very helpful.

7 MR. LYON: I will do that.

8 CHAIRPERSON BUCHANAN: Thank you. Okay. Are
9 there -- is there anyone else who would like to speak?

10 MR. WALRATH: Thank you, Chair Buchanan, members.
11 Dave Walrath representing Small School Districts
12 Association.

13 Being on the other side of the table when SB50 was
14 developed with BIA -- and it is a joint venture and it is a
15 cooperative venture between us, BIA, and others. What I
16 want to talk about is a couple of things where there might
17 be a misperception.

18 My understanding is the district does have to show
19 eligibility at the time of application. And so that
20 application under a 50-50 program, you will already have had
21 to buy the land, done the drawings, made sure it was clean
22 under DTSC, have gone through all of those costs, so you do
23 have a significant amount of local commitment.

24 And under SB50 as drafted, if you have eligibility
25 and you've submitted a full packet, the School Facility

1 Program is an entitlement program. So it is as submitted at
2 that time with that eligibility.

3 I recognize the concerns. Prior to the School
4 Facility Program, the State program was a three step. First
5 there was funding for eligibility and site selection.
6 Secondly, there was a -- next set of funding was for site
7 acquisition and construction drawings. And then the third
8 was for actual construction cost.

9 At each step, it was a separate determination of
10 eligibility.

11 So if you're looking at eligibility instead of the
12 compressed school facility, just once all three steps
13 combined, you might want to think about some of those other
14 ways of doing it if you're looking at an ongoing, never to
15 return Assembly Bill 55 loan program of having cash flow
16 available to make the apportionments.

17 The other piece I would make is while the Attorney
18 General is an excellent lawyer and I believe the Attorney
19 General makes very fine opinions, the statements of the
20 Attorney General's opinion on Level III have never been
21 adjudicated and different lawyers have different points of
22 view as to what is meant.

23 And so let me give one example. I believe under
24 your current regulations, once you're out of bond
25 authorization in a particular area, applications are

1 returned to the school district.

2 If that is the case and you hold on the policy
3 that you cannot accept applications once you've gone beyond
4 bond authorization and you have certain limitations of being
5 able to transfer severely overcrowded relief grant, charter
6 school, CTE, some of the other funding, the simple fact that
7 an application is returned because bond authorization is
8 gone may be sufficient to trigger.

9 You may want to think about how you deal with that
10 and you may want to look at continuing your unfunded list
11 because of the uncertainties of subsequent legislative
12 action for transfers. Even if no transfer has occurred and
13 you have run out of bond authorization, you might want to
14 set up a continuation of the unfunded list at that time to
15 avoid any possible misconstruction of what would happen if
16 an application were returned.

17 Thank you very much.

18 CHAIRPERSON BUCHANAN: Thank you. Those are I
19 think good comments. Any other people who wish to speak?

20 So let me try and recap for us. At our next
21 meeting, you're going to provide us more information on
22 eligibility. You're going to provide additional information
23 on what options there would be at the current burn rate or
24 whatever burn rates we would need to make sure the program
25 extended out to November 2012 or November 2014.

1 And, Richard, you're going to provide us with more
2 information on the impact and then I think Dave brought up
3 some excellent points that maybe you could also address in
4 your analysis in terms of, you know, the current program
5 versus the prior three-step program, tying that in with
6 eligibility, and also I believe this Board -- you can
7 correct me if I'm wrong, Senator -- made the decision that
8 we would continue the unfunded list, but I -- you know, and
9 I don't know if there's any way of getting an additional
10 opinion on that in terms of whether if this Board were to
11 change that practice --

12 SENATOR LOWENTHAL: Um-hmm.

13 CHAIRPERSON BUCHANAN: -- and returning, if that
14 would also consider triggering Level III phase.

15 Anything else?

16 SENATOR LOWENTHAL: No. That's -- I look forward
17 to our next meeting.

18 CHAIRPERSON BUCHANAN: Okay.

19 MS. SILVERMAN: We're shooting for January 11th.

20 CHAIRPERSON BUCHANAN: Okay. Well, happy
21 holidays, huh. Thank you.

22 (Whereupon, at 3:18 p.m. the proceedings were recessed.)

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REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

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