

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

STATE ALLOCATION BOARD
SUBCOMMITTEE ON PRIORITIES
IN SCHOOL CONSTRUCTION FUNDING
CASH MANAGEMENT, PART III

DEPARTMENT OF FINANCE
915 L STREET, REDWOOD ROOM
SACRAMENTO, CALIFORNIA 95814

DATE: APRIL 12, 2011
TIME: 3:40 P.M.

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

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

APPEARANCES

Committee Members:

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

SCOTT HARVEY, Acting Director, Department of General Services.

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

ASSEMBLY MEMBER JOAN BUCHANAN

Office of Public School Construction Staff:

LISA SILVERMAN, ACTING EXECUTIVE OFFICER

JUAN MIRELES

BARBARA KAMPMEINERT

P R O C E E D I N G S

1
2
3 CHAIRPERSON REYES: Would you please take the
4 roll -- do we need to take a roll in Subcommittee?

5 MS. JONES: No, we don't.

6 CHAIRPERSON REYES: Oh, thank you. Excellent. We
7 have -- Ms. Silverman, will you take us through the agenda.

8 MS. SILVERMAN: Yes, we're here before you today
9 just to again have another opportunity to address the public
10 as far as some of the priorities in funding school
11 construction and cash management discussions and so some of
12 these items we actually did present on March 1st and with
13 that, again we'd like to open up with another opportunity to
14 present those same items to you today.

15 And so with that, I would go ahead and turn the
16 mic over to Ms. Kampmeinert.

17 CHAIRPERSON REYES: Before you do that, just for
18 folks that weren't here last time, we did go through a lot
19 of these issues. We were getting ready to present to the
20 Board based on the conversations that the Subcommittee had
21 and it was at that time that we heard from a lot of folks
22 that had some concerns and felt that they were not duly
23 notified of the hearing of this Subcommittee even though it
24 was published.

25 And in fairness to folks, we thought we don't want

1 to take an action and then have a five or six hour hearing
2 on the Board itself. So we thought we'd bring it back to
3 the Subcommittee, bring it back to the weeds, and have the
4 conversation here rather than have it at the Board level.

5 And with that in mind, that's sort of what we
6 want. We want to hear your input. We may or may not agree
7 with you, but we want to have your input. I think that's
8 kind of the way we want to proceed. So I apologize.

9 Please. Mr. Mireles.

10 MR. MIRELES: Juan Mireles, Chief of Policy for
11 the Office of Public School Construction. We are going to
12 separate the discussion into three parts today. The first
13 part's going to be on cash management, talking about the
14 priorities in funding mechanism, potentially making some
15 changes.

16 The second section is going to be on remaining
17 bond authority and then the third section is talking about
18 some fiscal crisis regulations, whether you want to make
19 extensions.

20 So the first part, I'm going to go straight into
21 page 4, was an option to make some changes to the way we
22 make apportionments. Again we're not talking about -- we
23 have an unfunded list and when cash becomes available
24 through the sale of bonds, how do we apportion that cash.

25 And there was a suggestion at one of the previous

1 committees to make a permanent change to the regulations to
2 require districts to come in for a fund release within 120
3 days.

4 Now this is different than the current priorities
5 in funding mechanism that we use. They are rounds. We
6 announce the rounds. We allow districts to come in within
7 30 days and participate in the round by submitting a
8 certification and then we make apportionments to those
9 projects and then these districts have 90 days.

10 What this change will do is instead of having that
11 system will make permanent changes to the regulations to
12 start just making apportionments, just what we used to.
13 We'll go to the top of the list and make apportionments and
14 require all these projects to come in within 120 days.
15 That's the general way in which this works.

16 This would require some regulatory changes. There
17 was some concerns that maybe the 120 days would not be
18 sufficient time, if there were such things as bid protests.
19 So should the Committee, should the Board consider something
20 else instead of 120 days.

21 Other things that came up was whether -- you know,
22 stakeholders raised concerns that they have come in under
23 the old rules basically of a priorities in funding
24 mechanism. So should you do this prospectively and there
25 was also concerns of whether this process would basically

1 disadvantage financial hardship school districts.

2 On page 5, we have some statistics, just address
3 them. So far in the priorities in funding rounds, how many
4 financial hardship districts have participated, how many
5 have actually received an apportionment and they came in and
6 requested the fund release within the 90 days, to see if
7 there was some challenges to the financial hardship district
8 to come in within the required time frame.

9 The first two rounds, we had a hundred percent
10 success rate. Basically all of the ones -- all of the
11 financial hardship districts that received an apportionment
12 were able to come in within the 90 days.

13 The second priority round in January and February,
14 we still have some time for them to come in. There are some
15 projects that haven't submitted the fund release yet, but we
16 do have a hundred percent success rate on the first two
17 rounds.

18 And there are some questions basically, you know,
19 are these types of districts going to be disadvantaged. So
20 we wanted to provide you some information on what we've seen
21 so far.

22 So this is again the new concept of making a
23 permanent change. We would go through the unfunded list now
24 and just go down in order. This is something that was
25 discussed at the prior Committee and that we wanted to bring

1 it back for discussion to provide an opportunity for
2 stakeholders to give us more input.

3 There's another process -- and I don't know if you
4 want to pause for each section.

5 CHAIRPERSON REYES: Hold on. Does any Board
6 members have any questions?

7 MR. HARVEY: Just a port of order.

8 CHAIRPERSON REYES: Um-hmm.

9 MR. HARVEY: Mr. Chair, do you plan to go through
10 each subject area, take testimony and direction, or through
11 the entire set of tabs?

12 CHAIRPERSON REYES: I think I'd like to go through
13 the set of tabs because some folks would like to comment on
14 more than one tab and rather than have back and forth the
15 same folks.

16 MR. HARVEY: Thank you.

17 CHAIRPERSON REYES: Does that -- that would work?
18 Yeah. So go ahead. But as members of the Board, if you
19 have questions, please bring them forward.

20 MS. KAMPMIENERT: On page 6 -- excuse me. Barbara
21 Kampmeinert, Policy Manager with the Office of Public School
22 Construction.

23 On page 6, we have the topic of streamlining the
24 current priority funding process. This is also a topic that
25 the Subcommittee has discussed in past meetings. However,

1 based on feedback that Committee members provided, staff has
2 worked in an additional option here that you may consider.
3 In the attachments, we've included the prior Committee items
4 that have some other concepts involving multiple lists,
5 things that the Committee had originally determined may be a
6 bit too complex and confusing.

7 So if the Committee determines that streamlining
8 the current priority funding process is a direction that
9 you'd like to go, we've put an option here where the
10 certification period would be occurring two times a year at
11 set times so that it's easier for school districts to
12 anticipate when they're going to be submitting their
13 certification.

14 The certifications would be good for six months or
15 basically until the next certification filing period would
16 occur, so it's more of a continuous basis.

17 MS. MOORE: Can you please speak up. I'm hearing
18 that they can't hear in the audience.

19 MS. KAMPMIENERT: Sure. Sorry about that. So
20 it's basically two certification filing periods each year.
21 We've proposed the second Wednesday of January and the
22 second Wednesday of July as the starting points of each of
23 these 30-day certification periods and we've tried to base
24 that in anticipation of the timing of bond sales, trying to
25 get out ahead of that so that when the bond sales occur,

1 we'll have a more accurate list of folks that are actually
2 ready to go with the priority funding process and the bonds
3 can be structured accordingly.

4 And we've also tried to avoid the holiday break
5 for Christmas -- for the winter holidays for school
6 districts, so we have thrown those dates out there as
7 possible options.

8 Now, this would assume that bond sales take place.
9 However, if a bond sale does not occur, the Board would need
10 to provide direction on whether or not a priority funding
11 round would occur using those certifications and we would
12 recommend that the Board consider setting a threshold for
13 when funding would actually be made available.

14 So this option would help streamline the workload
15 for districts and staff, making sure that this process is
16 done more efficiently and quickly in anticipation of future
17 bond sales.

18 CHAIRPERSON REYES: Okay.

19 MR. MIRELES: Another topic that was discussed is
20 making changes to the unfunded list. Basically there was
21 concerns that projects on the current unfunded list can
22 remain on the unfunded list indefinitely. So there was an
23 option to start an 18-month clock on each of the projects
24 that are on the unfunded list and districts would have up to
25 15 months to elect to participate in the priorities in

1 funding, but once the 15 months were reached, then they
2 would have to participate in the priorities in funding and
3 if they couldn't, then those projects could be rescinded.

4 So basically this was an option to promote the
5 acceleration of these projects moving on the unfunded list
6 and whether -- again this is another issue that whether it
7 should be applied prospectively to the current unfunded
8 list, but basically have all projects have this timeline so
9 that they have to come in at a certain point.

10 There was also some concerns that were raised in
11 terms of, you know, the districts may not know they may only
12 have 90 days to start the bid process as they may not be
13 able to proceed without the guarantee of State funding being
14 available. Again there was also concerns that they were
15 currently on the unfunded list based on the old rules which
16 didn't have this 18-month and whether the Committee wants to
17 consider making these changes prospectively.

18 So this is just all the projects that are on the
19 unfunded list, should there be an 18-month clock on them.

20 CHAIRPERSON REYES: Okay. Board, if I may, what
21 I'd like to do is look at page 3 and those are six options.
22 We have heard by and large all those represented except for
23 those that are status quo in my recollection and if it's
24 okay with you, I'd like to start crossing out those that
25 just don't seem to have any chance and then that way if

1 anybody's out there that wants to talk about, for the sake
2 of the argument, issue number 9 and we discount number 9,
3 they don't have to get up and say yeah, me too.

4 So having said that, I think I heard strong
5 objections to Option 1 from folks outside, from interest
6 groups. Is everybody in agreement with that? So Option 1
7 should be crossed out.

8 Where is the Board on Option 2? Crossed out?
9 Okay. No? Yes? Agreement? Okay.

10 The issue on -- I'm going to skip 3 for now. Go
11 ahead.

12 ASSEMBLY MEMBER BUCHANAN: That's okay.

13 CHAIRPERSON REYES: That's okay?

14 ASSEMBLY MEMBER BUCHANAN: Yeah. Well --

15 CHAIRPERSON REYES: All right. Go ahead -- go
16 back to 2? You have --

17 ASSEMBLY MEMBER BUCHANAN: Let's -- 2 is -- okay.
18 All right. That's --

19 CHAIRPERSON REYES: So folks objected to 120 days.
20 That's what I heard. And, staff, correct me because you
21 guys have been --

22 MR. MIRELES: Yeah.

23 CHAIRPERSON REYES: -- been at the front of this
24 thing. Okay.

25 MR. HARVEY: As a point of clarification, I for

1 one do not want to return to an 18-month clock.

2 ASSEMBLY MEMBER BUCHANAN: Yeah.

3 CHAIRPERSON REYES: Okay.

4 MR. HARVEY: So if we're talking about 120 days,
5 I'd like to hear something about establishing a more
6 reasonable time frame, but I am for altering our regulations
7 knowing that the ground rules that we're operating under
8 have changed dramatically and probably will remain changed
9 going forward.

10 CHAIRPERSON REYES: Okay.

11 MR. HARVEY: So that we are taking care of those
12 that can commit to developing in some expedited time
13 frame --

14 CHAIRPERSON REYES: Okay.

15 MR. HARVEY: -- not changing at this point things
16 that we think are priorities --

17 CHAIRPERSON REYES: Okay.

18 MR. HARVEY: -- the facility hardship, the seismic
19 hardship being on the top, but the need to create jobs, the
20 need to make schools safer and better in a more timely
21 expedited way.

22 CHAIRPERSON REYES: Um-hmm.

23 MR. HARVEY: So I may be one that would argue for
24 a subset of two if 120 --

25 CHAIRPERSON REYES: Okay.

1 MR. HARVEY: -- days is not right.

2 CHAIRPERSON REYES: Okay.

3 MR. HARVEY: And I like it better than doing the
4 rollout of funding cycles --

5 CHAIRPERSON REYES: Right.

6 MR. HARVEY: -- just because of some of the
7 obstacles of juggling it and timing with bond sales and what
8 have you. So I would like to keep --

9 CHAIRPERSON REYES: Keep 2. That's fine. That's
10 fine.

11 MR. HARVEY: -- 2 in some fashion.

12 CHAIRPERSON REYES: Let's --

13 ASSEMBLY MEMBER BUCHANAN: Yes.

14 CHAIRPERSON REYES: So what I would like to do
15 then is keep some of these and then we'll take one at a time
16 and have testimony going.

17 MR. HARVEY: Okay.

18 CHAIRPERSON REYES: So -- I interrupted you,
19 Ms. Buchanan.

20 ASSEMBLY MEMBER BUCHANAN: No. I -- my concerns
21 still remain. One is that I think there's got to be some
22 integrity to the list. So we have to have some way of
23 knowing that the projects on the list are all viable
24 projects.

25 CHAIRPERSON REYES: Okay.

1 ASSEMBLY MEMBER BUCHANAN: You know, I mean if you
2 receive DSA approval and that approval period has expired,
3 have you applied and do you have an extension on that so we
4 know that if we fund it, you have approval to build. I mean
5 I'd like -- you know, do you still have the -- because I'd
6 like to know that -- I think it's critically important. I
7 know some can say it doesn't matter, just leave them all on
8 there forever, but I do think it's important to know that
9 all the projects on the list are viable projects. So --

10 CHAIRPERSON REYES: Would you make that for
11 prospective applicants or would you apply it to those who
12 are on the list now?

13 ASSEMBLY MEMBER BUCHANAN: Well, I'd like to leave
14 it open for discussion, but if you're -- you know, districts
15 are taking a look at it and saying, okay, if at the next
16 bond, we could sell a billion dollars, whatever it is, I
17 should be funded this month or that month. They don't know
18 if half a dozen of those projects aren't even viable. So --

19 CHAIRPERSON REYES: Um-hmm.

20 ASSEMBLY MEMBER BUCHANAN: -- I think there's got
21 to be a viability question that is answered.

22 CHAIRPERSON REYES: Okay.

23 ASSEMBLY MEMBER BUCHANAN: I mean -- so if you're
24 staying on it -- I don't know what the process should be,
25 but we should know that the projects on the list are viable

1 projects. You just shouldn't stay on there for five years
2 just because you can stay on there for five years.

3 I know most of them don't, but that's an important
4 issue --

5 CHAIRPERSON REYES: Okay.

6 ASSEMBLY MEMBER BUCHANAN: -- to me. You know,
7 then an issue that has been brought up by a number of
8 people, even with the current priority round funding issues
9 is that doesn't give them the time given the nature of their
10 projects to participate. So I don't want to -- so we
11 clearly have to have some kind of balance.

12 The reason I'd like to continue talking about the
13 120 days is we looked at the cash -- the funding that hadn't
14 been released the last -- it was over a billion dollars, you
15 know, and I don't think the money should be sitting in a
16 State account for up to 18 months waiting for people to
17 request it.

18 I do recognize that, you know, it takes time for
19 projects to go bid. I do recognize that there should be some
20 kind of process so if I put my project out to bid and I have
21 to go out and rebid or something happens, I don't just get
22 taken off the list.

23 But I do believe as Mr. Harvey that this bond money
24 is for projects to get built and I think --

25 CHAIRPERSON REYES: Um-hmm.

1 ASSEMBLY MEMBER BUCHANAN: -- 18 months is too long
2 of a time period.

3 CHAIRPERSON REYES: Okay. So you and Mr. Harvey
4 are advocating for keeping number 2 on the list.

5 ASSEMBLY MEMBER BUCHANAN: Well, I don't know if
6 120 -- and we've talked --

7 CHAIRPERSON REYES: Yeah, we can discuss with
8 the --

9 ASSEMBLY MEMBER BUCHANAN: -- about with this
10 hundred, but I do -- those are the criteria that are
11 important to me.

12 CHAIRPERSON REYES: Okay. Thoughts on number 3.

13 MS. MOORE: Well, I personally like number 3 and I
14 actually that it handles some of the issues that we're
15 concerned about in number 2 and we can talk more about that
16 as it goes along, but I would want to see number 3 in the
17 works as we discuss this.

18 CHAIRPERSON REYES: Okay. Number 4. Anybody want
19 to keep number 4 in place?

20 MR. HARVEY: This kind of goes to the viability
21 question --

22 CHAIRPERSON REYES: Um-hmm.

23 MR. HARVEY: -- but I would under that context.

24 CHAIRPERSON REYES: Okay.

25 MR. HARVEY: I've heard some angst about -- and

1 staff outlined some of the concerns, but I support what
2 Ms. Buchanan had to say about viability. So I don't --

3 ASSEMBLY MEMBER BUCHANAN: And if -- right. And if
4 you don't have eight -- if they're on longer there than 18
5 months, then we need to know they're still viable projects --

6 CHAIRPERSON REYES: Okay.

7 ASSEMBLY MEMBER BUCHANAN: -- that the schools are
8 going to --

9 CHAIRPERSON REYES: All right. So --

10 MS. MOORE: Well, I --

11 CHAIRPERSON REYES: Go ahead.

12 MS. MOORE: I mean the 18 months we have to
13 consider it contextually. I mean I was the one that was
14 advocating last time that we look at a shorter time period
15 and maybe a chance for a cultural change. However, I've
16 heard a lot from school districts about what that means to
17 them.

18 And so I do think that we have to look at that 18
19 months contextually in that when it was put into place,
20 funding was happening every month, so that a district had a
21 relative knowledge of when that 18 month would hit and when
22 funding was available.

23 Now we have a system that it appears probably we're
24 going to have major infusions hopefully twice a year when
25 bond sales occur without the PMIF anymore. And so those --

1 that guarantee of funding has been reduced to a potential of
2 twice a year and if that twice a year doesn't fall into the
3 needs of that community in terms of how they can work their
4 projects, it has an impact and it may be for reasons that are
5 perfectly legitimate that they forego a funding cycle, when
6 in the past they never had to even think about that issue.

7 So I do think we have to think of the 18 months
8 more contextually. I've heard of that and I do believe a
9 hybrid here potentially today may be able to take care of
10 that issue and ensure that bond funds are going out to those
11 projects.

12 We also have to remember that the Board took great
13 leadership on the priorities in funding and the districts
14 followed with a great degree of trust and because of that, we
15 have always -- our cash has gone out and it has gone out to
16 projects that were imminently going to construction.

17 So we haven't -- we don't have a problem with our
18 cash going out to projects. We don't have enough cash to go
19 out to projects. So in that context, these all kind of work
20 together a bit, but it seems to me there may be a hybrid
21 today that would satisfy our -- the Board's desire that
22 imminent projects are funded and still honors school
23 districts that came into a system thinking, okay, at some
24 point there's this 18 months and how does that work.

25 ASSEMBLY MEMBER BUCHANAN: Could I ask a question.

1 CHAIRPERSON REYES: Yes.

2 ASSEMBLY MEMBER BUCHANAN: How do you deal with the
3 viability? I mean is it important to you that the projects
4 that are on that list have current DSA approval or that -- I
5 mean you could have a district that was going to add
6 classrooms because of class size reduction and now they can't
7 and they may -- you know, I mean how do you deal with
8 viability. Do you just let a project stay on there forever I
9 mean regardless of whether it's an 18-month list or whatever
10 the --

11 MS. MOORE: Well, let me ask you what is the harm
12 of that. It's -- if it's a project on the list -- and I
13 looked at the list and I said okay, where are we with these.
14 We have some projects that are on the list that were in 2008
15 and 2009 up until a point and then it appears that it's
16 pretty much it's people fall into that's where the cash ran
17 out.

18 So there's probably -- I don't know -- maybe
19 90 million of people that have foregone cash at certain
20 points and your question of viability is that yes, at some
21 point it matters, but in the short term it doesn't because
22 somebody else is asking for their cash.

23 There -- we haven't had a time when we had cash and
24 no projects.

25 ASSEMBLY MEMBER BUCHANAN: So what you're saying is

1 -- is that you can hit that list in 2009, just stay at the
2 top for as long as you want?

3 MS. MOORE: Well, there are some constraints.
4 First of all, the DSA approval is -- correct me if I'm wrong.
5 It's good for one year and then you can re-up it four times.

6 ASSEMBLY MEMBER BUCHANAN: You can -- I think you
7 can re-up up to a maximum of four years.

8 MS. MOORE: Yeah, so that's five years on the DSA.

9 ASSEMBLY MEMBER BUCHANAN: But if you haven't
10 re-upped your project, should you stay on the list?

11 MS. MOORE: We've all -- I mean we've had other
12 times in our history in this program where you had -- there
13 were not -- there was not cash and so that whole re-upping of
14 a project, you had to do and you had -- it depended upon how
15 many years it may have been.

16 I've, you know, personally been involved in
17 projects that we had to re-up to that four-year mark and ask
18 DSA for that approval. The Department of Education -- Fred,
19 correct me if I'm wrong. Our plan approval is good for
20 five -- two years and is there re-up period of that for two
21 additional?

22 MR. YEAGER: (Indiscernible-away from microphone)

23 MS. MOORE: Okay. So there has been within the
24 system the consideration for that and it's about a five-year
25 period, it looks like in my mind, both DSA and the Department

1 of Education. I don't -- OPSC, do you -- you've never had
2 that problem -- that issue.

3 ASSEMBLY MEMBER BUCHANAN: So if I'm a school
4 district and I'm on the list and I'm saying I don't want
5 funding and I haven't asked DSA to extend the approval period
6 for my plans, you're saying I should just stay on that list
7 even though when funding comes up, I'm not ready to go to
8 bid?

9 MS. MOORE: I think that you should be asking for
10 your extensions as time goes on.

11 ASSEMBLY MEMBER BUCHANAN: Well, that goes back to
12 my viability question. Shouldn't the projects on the list --
13 at least we know are viable and they're ready. I mean
14 you're -- if it's important to me to get funding for a
15 project, it seems to me like I ought to be responsible enough
16 to make sure that my plans are current and --

17 MS. MOORE: I don't think that that's a problem to
18 ask that. It's a fairly standard request and you would then
19 know -- these 2009 projects for all intents and -- are highly
20 viable. I mean they're within a time period. I -- you know,
21 even if their DSA approval was a year earlier than that,
22 they're still in a very viable time frame for a project,
23 whether they've gone out and sought that letter that says
24 yes, I re-up your approval -- could be a request.

25 CHAIRPERSON REYES: Okay. So, Ms. Moore, you're

1 advocating for keeping number 3 on the list?

2 MS. MOORE: I am.

3 CHAIRPERSON REYES: Okay.

4 MS. MOORE: Sorry. That's a long --

5 CHAIRPERSON REYES: That's fine. Number 4. That's
6 going to be a variation of that. And same thing with 5 and
7 6, status quo. So the only one we crossed out really is
8 number 1.

9 MR. HARVEY: How about crossing out number 6?

10 MS. MOORE: And number 6.

11 CHAIRPERSON REYES: You want to cross out make no
12 changes? That's -- okay. Everybody okay with that? Okay.
13 So there will be some sort of change. Okay.

14 So we dropped number 1 and number 6. Number 2, the
15 120 day is questionable as far as folks are concerned and
16 number 3's up for consideration; 4's up for consideration and
17 5. It's a variation of that.

18 So why don't we have folks come up and tell us what
19 they view is the options and what should be combined with
20 what based on their experience with this and the Board can
21 then ask questions and challenging -- probing questions and
22 challenging questions so we can get a sense of what works for
23 most folks.

24 Tom, you want to come up.

25 MR. DUFFY: Is there anybody else?

1 CHAIRPERSON REYES: I don't care in what order you
2 guys come.

3 MR. HARVEY: Oh, yes.

4 CHAIRPERSON REYES: Let's just -- let's get to it.
5 I want to hear from folks.

6 MR. SMOOT: I'm a folk.

7 CHAIRPERSON REYES: All right.

8 MR. SMOOT: Lyle Smoot with Los Angeles Unified
9 School District and I'm speaking up because I've been sitting
10 back there trying to go like this for most of this hearing,
11 but that's because I'm hard of hearing anyway, so -- anyway.

12 CHAIRPERSON REYES: Can you speak up, please?

13 MR. SMOOT: I'm sorry?

14 CHAIRPERSON REYES: I'm kidding.

15 MR. SMOOT: What'd he say? I want to address all
16 three of those issues, 2, 3 --

17 CHAIRPERSON REYES: Okay.

18 MR. SMOOT: -- and maybe a combination of 4 and 5.
19 The 120-day timeline I don't think is an unreasonable thing
20 to have in place at least, you know, one release at a time
21 like you've been doing, but you can do it more, but you have
22 to have something built in to handle those situations where
23 the district's done everything they can to go forward with
24 the project. They just can't get it done, like a rebid,
25 et cetera.

1 So if you have a built-in system so that, you know,
2 you can tell -- either tell staff here, if these things
3 happen, you know, allow extra time --

4 MR. HARVEY: There's an offramp of some sort.

5 MR. SMOOT: Yeah. Whatever that is, but I think
6 you need to have something built in so, you know, if you miss
7 the 120 days by two days, you're not subjected to all the
8 problems that occur there in.

9 The viability issue: I don't think that's a
10 problem. You know, there are built-in issues like the
11 one-year DSA approval. If you sent in your -- just add it to
12 your regulations, say if you've sent in your request and
13 you've gotten a response from DSA, just give us a copy of it,
14 you know. So -- and the same thing with the CDE or if -- I
15 don't know if DTSC has any of those issues or anything.

16 But anyway, any of those area just as a matter of
17 putting it into the program and saying here, at one-year
18 intervals or two-year intervals, you have to submit these
19 documents to show that it's still in place.

20 One of the things that I think wasn't really
21 brought out adequately in this conversation is about why
22 districts didn't take the funding. There's a lot of reasons
23 why, you know, you're sitting on a list and somebody says --
24 or the Board says here, you can have this money if you can do
25 certain things in 90 days and you just look at it and go,

1 well, I can't get there in 90 days, at least not this
2 go-round maybe or the next go-round, but eventually I'm going
3 to get myself in a position so I can do that. I think you
4 need to build that into the system and says hey, just because
5 we bypassed you this time or you allowed us to bypass you
6 because you have some particular issue doesn't mean that you
7 should come off the list. Okay.

8 So I would hope that you wouldn't create a
9 situation where districts come off the list because they
10 allowed, you know, whatever the funding to go by them one or
11 two times. And it sounds to me like if you're going to
12 create a situation like that, it sounds to me like you need
13 to say, okay, at the end of five years, if you haven't been
14 funded, you haven't been able to take the money, that's when
15 you -- maybe you come off the list.

16 CHAIRPERSON REYES: Five years?

17 MR. SMOOT: Sure. I mean that's what Kathleen was
18 saying is that you have semi-automatic approvals for renewals
19 if you will for up to about a five-year period of time. So
20 why shouldn't you be allowed to stay there. I mean like she
21 said what's it hurt and it does create a situation where you
22 at least you know what's out there and what people are
23 thinking about because districts don't go through this
24 process to get on an unfunded list without a lot of
25 consideration for what that means and they sit there a lot of

1 times going okay, I just got to push a little harder or do a
2 little more and I'll get my money and I'll be able to get
3 funded.

4 ASSEMBLY MEMBER BUCHANAN: So you'd keep them at
5 the top of the list for five years.

6 MR. SMOOT: Well, they are at the top of the list
7 because -- I'll just say if you went to -- back to the
8 funding model that you had been doing for many years and said
9 okay, come in, get your money, you've got 18 months, they
10 would be able to go forward with the project within the
11 18-month timeline. For some reason, they can't make a three
12 months or 120 days timeline, so they have no choice but to
13 allow the money to past them.

14 ASSEMBLY MEMBER BUCHANAN: So could you just
15 clarify for me then under -- what are those situations where
16 you can't meet 120 days.

17 MR. SMOOT: Well, you know, thank you for putting
18 me right on the spot like that, yes.

19 ASSEMBLY MEMBER BUCHANAN: Yeah. I think that's
20 what we were told --

21 CHAIRPERSON REYES: You came up first, you know.

22 MR. SMOOT: Yeah. No -- I -- that's all right.
23 You know, if I can't think fast enough to answer that
24 question, I shouldn't have been here. So -- Bruce.

25 MR. HARVEY: He's next.

1 MR. SMOOT: Yeah. No. For instance, you got
2 enough money to do one of two projects today. Okay. If your
3 first project is sitting there higher on the list than the
4 second project but your local community priority is that
5 second project, so you say okay, I'll let the first one stay
6 for a while, while I try to figure out how to deal with that
7 money and I'm going to go ahead and do this one because a lot
8 of times, you know, true, over a period of time priorities
9 will change.

10 Even though you thought that one was number one at
11 the time, now this one's number one.

12 ASSEMBLY MEMBER BUCHANAN: And you're saying you'd
13 leave it there for five years.

14 MR. SMOOT: Sure.

15 ASSEMBLY MEMBER BUCHANAN: Well, then -- I mean you
16 sell a bond. I find it hard to believe within five -- I mean
17 unless it's -- and it's taken you time to do your master
18 planning, to work with your architects and your engineers and
19 get your approvals. So you're probably, what, minimum 12 but
20 probably closer to 18 or 24 months into a bond by the time
21 the project's even making this list.

22 And you're saying you'd wait another five years on
23 top of that, so you'd allow seven years? And for all those
24 projects --

25 MR. SMOOT: Well, you're not on the list for seven

1 years. You're only on the unfunded list --

2 ASSEMBLY MEMBER BUCHANAN: I'm just saying it's --
3 it's seven years --

4 CHAIRPERSON REYES: Yeah. But the workload that
5 got you to the list, 24 months --

6 ASSEMBLY MEMBER BUCHANAN: I find it hard to
7 believe your bonding authority. I mean you haven't spent
8 your bond money by then because the rules for selling the
9 bond are -- you know, I wish I had them in front of me. I
10 can go look them up, but you have to have so much money
11 committed within a certain time of issuing that bond. I mean
12 I know that some --

13 MR. SMOOT: Sure.

14 ASSEMBLY MEMBER BUCHANAN: -- are going to issue in
15 series and not all at one time, but --

16 MR. SMOOT: Well, the number of circumstances where
17 that are going to come up, that particular problem is going
18 to arise, are probably limited. I won't argue that point,
19 but it does happen.

20 But if your priority's changed or your costs have
21 gone up, et cetera, there's a whole bunch of reasons why the
22 bond didn't go as far as you thought it would --

23 ASSEMBLY MEMBER BUCHANAN: Right.

24 MR. SMOOT: -- and so you end up in a situation
25 where maybe you can only fund one out of the two schools out

1 of this bond measure. You want the second one, so you go
2 ahead and jump over the first one and go to the second one
3 while you're trying to get another bond measure -- local bond
4 measure passed to fund that first one.

5 ASSEMBLY MEMBER BUCHANAN: Well, I agree with all
6 that. I'm just saying five years for me seems to be like a
7 long time.

8 MR. SMOOT: I was jumping on the five years --

9 ASSEMBLY MEMBER BUCHANAN: Right.

10 MR. SMOOT: -- because of the beautiful argument
11 that Ms. Moore made about --

12 MS. MOORE: -- argument, but I was just saying how
13 long they're good for. You do understand that the
14 recommendation of the Board was not the hundred -- that the
15 90 days becomes 120 days. The recommendation of the
16 Subcommittee to a point was that everybody would get funded
17 down the list and they had 120 days to come in with
18 50 percent under construction.

19 It wasn't a choice in the manner that you are
20 presenting it. So as I understand your testimony, you're
21 saying we still want the choice and I think I'm hearing --
22 and that's why I'm asking the question -- we want the 90 days
23 to be 120 days.

24 MR. SMOOT: Well --

25 MS. MOORE: Or what are you saying?

1 MR. SMOOT: -- you see -- let me talk about the
2 90/120 because the current process is really about 150 to 180
3 days by the time you actually have an announcement of a bond
4 sale, schedule a Board to open an application period, allow
5 the districts time to file the application, and then allow
6 the staff time to get it onto the agenda.

7 By the time you go through all of that, the actual
8 time period from the time a district realizes there's money
9 available that they're going to get until they actually have
10 to have a release -- a fund release request in the office is
11 probably closer to 180 days.

12 So I guess my question is --

13 MS. MOORE: I understand what you're saying.

14 MR. SMOOT: -- as long as that stays within that
15 configuration, I mean if you're saying from the time a bond
16 sale is announced till the time you have to have a release
17 issued, that's a -- I realize that's a major statement I just
18 made, but if you did that, 120 days don't work.

19 MS. MOORE: So would you say then that the
20 recommendation -- the new recommendation of the staff which
21 is potentially I think number 3 where it says we'll have
22 these at least two times a year when we know -- we have bond
23 sales in the fall and in the spring and then the fall --
24 let's say, for instance, the one in the fall, if the known
25 date is July that you must submit that you want to

1 participate in that fall bond sale -- let's say the fall bond
2 sale falls in October and in October we're apportioning
3 saying, okay, go, you have 90 days. You have more than we're
4 giving you -- time we're giving you now and is that what
5 staff was conceiving when they thought -- when they proposed
6 that?

7 So you know that in July you can ask for the money.
8 The money probably will appear any time between September
9 and November when the bond sale happens and at that point,
10 you'd have to perfect a -- you'd have to have 50 percent
11 under construction within 90 days of that.

12 MR. HARVEY: Since the transcript doesn't recognize
13 head bobs, can you affirmatively answer the question.

14 MS. KAMPMIENERT: Yes. We were considering that it
15 would remain at the 90 days that it currently is once the
16 apportionment is made.

17 MR. SMOOT: As long as there's built into it on
18 a -- you know, on a bigger, broader basis. You've picked the
19 lower hanging fruit so far in getting, you know, projects
20 going because only those projects that are sitting there
21 ready, you know, where the district had an ability to go
22 forward have gone forward and the ones that didn't have that
23 ability -- I'm just saying in that regard, build in a
24 forgiveness factor, whatever you want to call it, where if
25 there is a problem that is beyond the control of the district

1 to get that 90 days on a permanent basis, you have some sort
2 of automatic thing in place.

3 CHAIRPERSON REYES: Okay.

4 MR. SMOOT: Okay.

5 CHAIRPERSON REYES: Anybody else? I'm sorry. Go
6 ahead.

7 ASSEMBLY MEMBER BUCHANAN: I have -- I want to ask
8 a question. I'm sorry. So would you -- if you had something
9 where you allowed a district to ask for one extension or
10 whatever, but after that they don't stay at the top, I mean
11 is there any middle ground or would you just leave them at
12 the top forever.

13 I'm still trying to get back to -- somehow to me it
14 just sort of -- you know, at some point in time, you need to
15 be able to go forward with the project. If I'm a project
16 that's below, it seems to me that, you know, I'm going to
17 want to move up and not know that -- you know, someone's -- I
18 don't want to say they're gaming the system, but it's just
19 taking up that space.

20 So is there some middle ground that --

21 MR. SMOOT: Yeah. That's a really interesting
22 question because I don't think I would, you know, sitting on
23 the other side of the fence, feel that I'm gaming the system
24 by trying to make sure --

25 ASSEMBLY MEMBER BUCHANAN: Well, I don't mean

1 gaming it, but I mean, you know -- yeah.

2 MR. SMOOT: No. I understand. I didn't mean to
3 pick on that term.

4 ASSEMBLY MEMBER BUCHANAN: Right. And I don't want
5 -- right. Right.

6 MR. SMOOT: You know, districts are managing their
7 abilities every day and they do everything they possibly can
8 or at least everyone I've ever been associated with, and
9 that's a lot, are doing everything they can to go forward in
10 a most timely manner they can provide the schools that their
11 district need, et cetera.

12 So if they're aren't going forward -- I won't say
13 every single case because then -- you know, then we'll find
14 the exception to the rule, but in those cases where they
15 aren't going forward, there's usually a very good reason for
16 it and that reason isn't just because -- you know, I mean
17 it's not a frivolous reason. It is a reason that for that
18 community is a very important reason and they're going to do
19 everything they can.

20 So they've gone through all of those horrendous --
21 I'm going to use that term -- process of getting on the list
22 in the first place. Coming off that list is a big deal in a
23 school district. Okay? It really is.

24 ASSEMBLY MEMBER BUCHANAN: So let me keep probing
25 that. So a district has five projects and it's not uncommon.

1 You go through your planning process and all of a sudden,
2 these projects are more expensive than you initially thought
3 they were going to be and you can't do all the projects you
4 want.

5 And as you said, Projects 1 and 2 maybe, you know,
6 they're on there. They were easy projects to do the plans or
7 whatever and get out right away, maybe -- architects, but 3,
8 4, and 5 are your real priorities. So you wait.

9 Now, if those projects -- how do we know -- I mean
10 those projects may be contingent on the sale of another bond.
11 I mean how do you -- how do we make sure that those projects
12 at the top are -- you know, I'm not saying they're not --
13 districts don't take them serious or anything else. I'm just
14 saying I've seen priorities even in my own time where they
15 shift.

16 How do we know that those are -- not that they're
17 not real projects, but real projects that they're going to
18 want to go ahead with or --

19 MR. SMOOT: Ask them. Just say, you know, send us
20 a letter explaining why, you know, this is still a viable
21 project. I mean I don't see any reason not to ask those
22 questions and if a district can't answer them -- it's kind of
23 like me. If I can't answer the question, you know, then
24 there you go.

25 MR. HARVEY: But it's the definition of viability.

1 Again you haven't really put it into a time context and I'm
2 very supportive of what Ms. Buchanan is saying, believing
3 that now because of -- and I'll use the term generous time
4 frames, you're not required at the get-go to do a lot of real
5 hard prioritization.

6 I'll admit that things change over time, but maybe
7 if we had tighter time frames at the very beginning of the
8 process, the district would do a better job of saying which
9 are my priorities, which ones do I want to have more
10 certainty of funding. I'll submit those now or we require
11 the district to actually voluntarily move something from the
12 top.

13 Now, I don't know, but I agree that --

14 ASSEMBLY MEMBER BUCHANAN: If your district has
15 projects it's ready to go on and my district is depending on
16 selling another bond or something else, should my projects
17 just continually stay ahead of yours even though you have
18 that need and you're ready to go?

19 MS. MOORE: But it naturally selects out in that if
20 they forego the funding and still sit at the top -- whatever,
21 they sit at the top of the list, but the people behind them
22 get funded because they're ready to go. So there's a natural
23 falling out of that list and -- but I do -- I hear the Board
24 in that there's some concern about being on that list ad
25 infinitum and is there a time frame in which we should no

1 longer have that district on that list.

2 But heretofore, we -- it hasn't been an issue
3 because we've had more projects that want cash than we have
4 cash to give projects.

5 MR. SMOOT: Right. Right.

6 MS. MOORE: And the other contextual piece of this
7 is that in the past a district didn't have the added strategy
8 or concern to go when will the cash happen so that I can plan
9 my project appropriately.

10 In the past, you simply could put your project on,
11 you knew that when the next fusion of -- you got it, you went
12 forward, but now we're in a system where, guess what, we
13 didn't have cash this last, you know, spring. We didn't do a
14 bond sale.

15 So if you were a district trying to figure out how
16 many projects should I put on the list or not on the list
17 and -- that I could get done within the period of time, your
18 strategy has a lot of unknowns, when before your strategy had
19 knowns.

20 And so as a district, you could make appropriate
21 decisions on the knowns, but now we have a lot of unknowns in
22 our system and that unknown is when do we get cash. And
23 that's what now I'm hearing -- I heard very loudly from
24 districts, control some of their problems in trying to move a
25 project forward as I understand it, but --

1 ASSEMBLY MEMBER BUCHANAN: I would just suggest
2 we're in a new normal, you know.

3 MS. MOORE: Yes.

4 ASSEMBLY MEMBER BUCHANAN: I think it's going to be
5 more difficult for districts to pass bonds. You know, I
6 would hope the State would pass one in 2012, but that's not
7 given and we don't know for how long -- I mean we know that
8 this rescission is deeper, the recovery's going to be longer.
9 You know, very few districts if they are participating in
10 class size reduction, they're up to 28 kids or more per class
11 which changes your needs.

12 So I think there are a number of factors that are
13 changing and we have, you know, unprecedented unemployment in
14 the construction industry and an economy that's dragging.

15 So I think it's critically important that we have
16 integrity in the list and that we have a way to make sure
17 that projects, when they're -- when we approve funding for
18 them that they get out there as quickly as they can,
19 recognizing that we don't want to take that project that's
20 the exception and not have any ability for that project to
21 get done for years.

22 But I -- it's just important to me that, you know,
23 we consider all of that as we move forward.

24 MR. SMOOT: While I've been sitting here, I thought
25 of another real life example of exactly the kind of situation

1 that I think deserves some consideration.

2 A million years ago when I worked for the Board and
3 the Board had a time limit -- and I don't remember all the
4 details now. You know, I can hardly remember yesterday
5 sometimes, so -- by anyway, there was a district that came to
6 the Board and said because we'd gone a substantial period of
7 time without money and then a big bond was passed and they
8 got 16 modernization projects funded all at once.

9 And they found it almost impossible to meet
10 whatever --

11 ASSEMBLY MEMBER BUCHANAN: Sure.

12 MR. SMOOT: -- the timeline was at that time. That
13 was just a function of how many projects they had going and -
14 -

15 ASSEMBLY MEMBER BUCHANAN: Right.

16 MR. SMOOT: And it's all relevant. You know, for a
17 little tiny district, if you've got two projects, you might
18 not be able to handle two at once, you know. Even Los
19 Angeles -- and as time goes on, we lose more staff and that
20 issue gets bigger and bigger, but -- you know --

21 ASSEMBLY MEMBER BUCHANAN: Well -- and I would
22 grant that I don't want to penalize those districts. You
23 know, maybe they are able to waive once or twice, but like I
24 said, my -- you can still see where I'm struggling.

25 MR. SMOOT: Right.

1 ASSEMBLY MEMBER BUCHANAN: To say you stay on there
2 for four or five years, I just -- I may be the only one, but
3 I have a problem.

4 CHAIRPERSON REYES: The demographics may have
5 changed. The need for the facility may have changed.

6 MR. SMOOT: That's why I say just ask the
7 question --

8 ASSEMBLY MEMBER BUCHANAN: Right.

9 MR. SMOOT: -- and then maybe --

10 ASSEMBLY MEMBER BUCHANAN: Right.

11 MR. SMOOT: I realize that creates a new set of
12 criteria for subjectivity, but --

13 ASSEMBLY MEMBER BUCHANAN: Um-hmm.

14 MR. SMOOT: -- you know --

15 CHAIRPERSON REYES: Okay. Thank you, Lyle.

16 MR. SMOOT: Thank you.

17 CHAIRPERSON REYES: Next person in the hot seat.

18 MR. DUFFY: Thank you, Mr. Chairman. Tom Duffy for
19 CASH. And maybe because it's late in the day, but I'm a
20 little confused.

21 What is the objective that you're trying to
22 achieve? You have been -- Mr. Harvey, you made a comment a
23 few minutes ago about trying to make money go out. You've
24 created a successful program. It has worked.

25 I'm not sure what it is that's broken that you're

1 addressing and may I've missed something, but if indeed it's
2 working with the 90 days and if there -- and I appreciate, by
3 the way, you're reconvening and talking about this. I
4 appreciate very much you listening to us and school districts
5 that ask for you to hear again.

6 But if indeed this program has worked and asking
7 should we change the 90 days -- and your clarification I
8 think is important, Ms. Moore, because I think districts did
9 not fully understand the change that you articulated.

10 But if the 90 days program is currently working,
11 then why not continue what you're doing because you've had a
12 phenomenal success rate.

13 There were people -- last May when this was first
14 proposed, there were people saying, oh, you know, there's
15 going to be money on the table. We were not surprised that
16 so many districts came to the first round and second round
17 and you've funded now four rounds of this.

18 So it works. What I've heard from districts,
19 including today, and I don't know if you receive the
20 communication from the current high school district, but they
21 had sent a communication to me that showed an elaborate time
22 frame saying we'd really like to make this work, but 120 days
23 could maybe work for us, but 180 days is better.

24 My response is, you know, the Board has had a
25 successful program, so let's hear what the Board wants to do

1 about changing its success.

2 So I guess the first point is I'm not sure that
3 there's something that you need to change. The second point
4 is on this question, Ms. Buchanan, of the 18 months and you
5 and I have talked about this -- or not the 18 months, the
6 question of should there be a limit of the unfunded list.

7 The unfunded list represents expenditure of dollars
8 and energy on the part of school districts to get there.
9 They have had to demonstrate their eligibility. They've had
10 to hire people to help them move the project along, do all
11 the things they do with site acquisition, preparation, and
12 all.

13 So there's a demonstration of need. If that
14 demonstration of need continues because they haven't
15 rescinded their project, what harm is there -- going to your
16 question, Ms. Moore -- what harm is there to allow them to
17 continue.

18 I -- and I appreciate your reference, Ms. Buchanan,
19 to the number of years because in my mind I keep thinking to
20 November 2012 and day of reckoning for that bond measure, and
21 hopefully it will be there, is probably going to be sometime
22 in July, maybe August at the latest, for the Legislature to
23 act.

24 So we will know during that time frame whether or
25 not there will be a need to have an unfunded list that goes

1 beyond November 2012. But if a district project is on that
2 list and if they would fail to have DSA approval because
3 they've gone beyond that period of time, they can't put that
4 project on the street and sign a contract because that's
5 illegal and we'll make sure as an organization, we're
6 reviewing these kinds of things with districts.

7 But what we would admonish you to do is to continue
8 to encourage districts to be added to that list, remain on
9 that list if indeed they have a viable project, using your
10 term, and that viability being we have eligibility, we've
11 been approved and -- processed and approved by the Board, and
12 something that I think is a mainstay for them, Ms. Buchanan,
13 is that if they've established their eligibility because of
14 the fact that it's an unfunded project, that eligibility
15 continues with them through this period of time and into the
16 future when they would be funded.

17 Now, there will be -- I used the term day of
18 reckoning. I think there is going to be a day of reckoning
19 sometime in the future as to will we have a 2012 bond.

20 If indeed the Legislature in its infinite wisdom
21 determines that we should not have and the administration
22 determines we should not have, maybe there's some discussion
23 we have then about how we fund projects and their viability
24 then is something that is really something very, very finite.

25 We know we have a finite number of bond dollars in

1 terms of bond authority. We don't know what we would have
2 with a future bond and I would say let's leave that question
3 open.

4 So we would say your success rate is a great
5 success rate. You don't need to change your program.
6 Your -- the period of time that a project is on the unfunded
7 list need not be changed at this point in time. We don't
8 think so.

9 We think -- and we suggested it in the letter we
10 sent to you -- that once you exhaust bond authority, you may
11 want to have an asterisk by it, but why not continue
12 approving projects to establish what that need is for a
13 future bond.

14 And I know that wasn't a question you brought up at
15 this point in time, but I'm not sure how much time I have,
16 Mr. Chairman, so --

17 ASSEMBLY MEMBER BUCHANAN: So I don't have a
18 problem with actually -- you know, if we exhaust authority
19 continuing. I think that's great. Okay.

20 My question as you -- would you define viability
21 solely as having eligibility at the time the project was
22 submitted?

23 MR. DUFFY: If --

24 ASSEMBLY MEMBER BUCHANAN: Or would you have any
25 other criteria for defining viability?

1 MR. DUFFY: If I am a school district
2 representative and I have a project that's on that list and I
3 have no reason to pull it off the list and I don't
4 exercise -- let's say the next funding round is there and for
5 whatever reason I don't exercise that ability to ask for the
6 funding, have I harmed anybody else remaining on the list
7 demonstrating need.

8 ASSEMBLY MEMBER BUCHANAN: So are you saying they
9 shouldn't even have to -- we shouldn't even know that they've
10 applied to DSA for an extension?

11 MR. DUFFY: I think it would be self --

12 ASSEMBLY MEMBER BUCHANAN: That their plans are
13 valid?

14 MR. DUFFY: It would be self- -- I don't know that
15 you need to ask that question. You certainly could and that
16 could be something your staff could do in collaboration with
17 DSA, but the districts can self-police I believe because a
18 district's not going to -- I would hope, a district's not
19 going to put a project on the street if it doesn't have DSA
20 approval, if that's exhausted, because it -- the statute says
21 that's illegal.

22 ASSEMBLY MEMBER BUCHANAN: So at what point in time
23 would you take a project off the list? Five years? Ten
24 years?

25 MR. DUFFY: Well, let me --

1 ASSEMBLY MEMBER BUCHANAN: If I take your argument
2 to -- I mean your argument, you could stay on there forever
3 and if you've got declining enrollment, hope enrollment comes
4 up and -- you know, at some future date.

5 MR. DUFFY: Well, if I had a project that was
6 approved when the Board first approved unfunded approvals --

7 ASSEMBLY MEMBER BUCHANAN: Um-hmm.

8 MR. DUFFY: -- it was I believe March of 2009. That
9 was two years ago. So if I had five years with DSA approval,
10 the fourth year plus an additional year, I would still have a
11 couple of years ahead of me. So I would say is it really
12 something we need to worry about at this time.

13 We can certainly continue to look at that, but I
14 don't know that it is something that is a critical question
15 at this point in time.

16 If a project -- if -- let's look ahead and say we
17 have funding after a sale in October or November. There's a
18 billion dollars that's there. You go through and exhaust as
19 much of the list as possible. Whatever's left on that list,
20 if you're concerned because you're out of bond funds, you
21 could ask the question at that time and say could you
22 reaffirm that you have DSA approval, that it still exists.

23 That could be certainly something that your staff
24 could look at at that time. I'm just suggesting that because
25 we're only two years really into these emergency regulations,

1 I don't know that that's --

2 ASSEMBLY MEMBER BUCHANAN: See, I have no problem
3 with --

4 MR. DUFFY: -- a big concern.

5 ASSEMBLY MEMBER BUCHANAN: -- having some
6 flexibility, whether 18 months. I have a problem with not
7 knowing that the projects on the list are viable projects and
8 I have a problem with a district potentially -- you come up
9 two or three times and you keep turning down funding, but you
10 just keep holding your spot.

11 And you can say well, no harm, no foul, but I
12 believe there should be some kind of integrity in that list.

13 And the other thing that you're saying is if you're
14 saying the 90-day priority is working now, then my logical
15 question would be well, why not make that the criteria, but
16 that clearly then for those districts who say it's a problem
17 for me is a problem.

18 So you're saying the 90 day is working. Are you
19 saying we should make that permanent?

20 MR. DUFFY: Well, the 90 days has worked. We have
21 heard from districts that they would like to have it longer.
22 One of the suggestions we made in our letter is that -- and I
23 think that you brought this up in our conversation in your
24 office.

25 ASSEMBLY MEMBER BUCHANAN: Right.

1 MR. DUFFY: Is that there could be some approval of
2 an appeal based upon having some challenge of a bid. One of
3 the things that was brought up -- this was the question of
4 Kern and I don't know if they got that letter to you, but --

5 ASSEMBLY MEMBER BUCHANAN: We did. It's right
6 here.

7 MR. DUFFY: -- but they've identified for me that
8 they use multi-prime contracts.

9 ASSEMBLY MEMBER BUCHANAN: Right.

10 MR. DUFFY: So what they've said is that if they
11 have 30 or 40 contracts getting to 50 percent of the project
12 approval for construction may be difficult to do in that time
13 frame, that there should be some consideration for that.

14 And my response is that's an important thing to
15 convey to the Board and I'm doing that. But I don't know
16 that that gets in the way of your objective if the district
17 is able to demonstrate that they are actively trying to put
18 those projects on the street. It's just that they're having
19 to do it in a particular sequence.

20 ASSEMBLY MEMBER BUCHANAN: So what I'm -- I want to
21 just rephrase this. So what I'm hearing from you is you'd be
22 okay with making the 90 days permanent provided that we're --
23 consideration for extenuating circumstances, for example,
24 when a district is doing a multiple prime bid instead of just
25 going with a general contractor.

1 MR. DUFFY: Or as I think I identified in the
2 letter, some bid challenge because what we're hearing from
3 districts is that because -- as you were mentioning, because
4 of the economy, there are many more bidders and therefore
5 more challenges.

6 So some safety valve -- I think that term was used
7 in the staff write-up. Some safety valve for districts would
8 I think be a consideration.

9 MS. MOORE: But that 90 days is still a choice 90
10 days not a mandatory 90 days. So aren't you saying that --

11 MR. DUFFY: Yes. Yes.

12 MS. MOORE: -- and so --

13 MR. DUFFY: Yes. And I appreciate you bringing
14 that back up again.

15 MS. MOORE: So it's the 90 days after you've chosen
16 to be in the system.

17 MR. DUFFY: Yes.

18 MS. MOORE: I don't know. I mean I do hear the
19 Board and the Subcommittee and the concern around being --
20 remaining on the list for a long period of time and perhaps
21 there is a time period that we all can arrive at concerning
22 that.

23 And maybe it's, you know, you've foregone four --

24 MR. DUFFY: Funding cycles?

25 MS. MOORE: -- four funding cycles which

1 potentially could be two years, could be a 24-month period.
2 So if we had four -- if we had a funding cycle every -- twice
3 a year, which was the kind of possibility that I think staff
4 was looking at in terms of setting up those funding cycles,
5 if you forewent funding four times, perhaps that a threshold
6 that other Board -- you know, that would assuage the concerns
7 that you're hearing of the Board.

8 So I think it's incumbent upon folks to think about
9 that and to look at how the funding cycles are working for
10 their districts right now and to advise us if that's
11 problematic and why.

12 If not, maybe there is a place that we could be in
13 a 'tweener of -- considering the concerns of Board members,
14 yet considering the concerns of districts that may have -- I
15 think you're talking oftentimes about multiple projects. I
16 know that was -- Mr. Elatar's letter was about I've got five
17 projects all on the same date, how do I meter them out.

18 In the past, I had 18 months to meter them out and
19 I took my money when I could over that 18-month period in
20 order to successfully do my projects.

21 Maybe when we say you will have four funding
22 cycles, which could conceivably be 24 months, two years,
23 maybe more, that if you haven't been able to do it within
24 that time frame, perhaps you need to think about whether
25 you're on the list.

1 So that's food for thought.

2 MR. HARVEY: If I may make a comment.

3 CHAIRPERSON REYES: Yes.

4 MR. HARVEY: Mr. Duffy, what I'm hoping to achieve
5 is to remove the term emergency from the regulations and not
6 make it an opt-in but to change the way in which we do
7 business. That's why I am drawn to 2 or 3.

8 And I'd like to know from staff how a round or
9 funding cycle benefits this process as opposed to what I read
10 number 2 as, which is it's the ability to continue to do it
11 whenever there is cash, if you're ready to go. You're not
12 stuck into two time frames.

13 Addressing this issue of approving schools and
14 creating jobs, I mean tell me how 2 functions as opposed to
15 3.

16 MS. MOORE: And speak up when you talk because
17 these aren't microphones and we've been advised that
18 people in the back --

19 MR. HARVEY: Next time we're going to make sure --

20 MS. MOORE: -- cannot hear and I --

21 MR. HARVEY: Turn to the side so everyone gets to
22 hear you.

23 MS. MOORE: The soft-spoken people do not get
24 heard.

25 ASSEMBLY MEMBER BUCHANAN: We probably should turn

1 the table to the side, yeah.

2 MS. KAMPMIENERT: So in Option -- or in Option
3 No. 2, it would be going back to business before the fiscal
4 crisis hit. So basically whenever the Board had cash, you
5 could go down the list. It's a seamless process. There
6 would be no prior certification. There's nothing additional
7 that needs to be done. The apportionments are made because
8 cash is available.

9 The concern with that is that folks are not
10 necessarily going to know when that happens because sometimes
11 we get cash back in from potential rescissions, projects that
12 come back in --

13 MR. HARVEY: Which we're facing this fall.

14 MS. KAMPMIENERT: Right. So we could have some of
15 that cash coming back in. So there's the ability to predict
16 a little bit that cash could be coming back in on a somewhat
17 regular basis, but you don't know how much.

18 MR. HARVEY: Okay.

19 MS. KAMPMIENERT: With the bond sales, you would
20 have a better idea that in spring and fall there's going to
21 be cash coming in. So even with the 120 days, you could know
22 that the Board is most likely going to be making
23 apportionments soon after a bond sale occurs.

24 With the rounds, the --

25 MR. DUFFY: Can I stop one second. So what you're

1 saying, Mr. Harvey, is that you would like a permanent change
2 to eliminate the 18-month approval and that --

3 MR. HARVEY: Um-hmm.

4 MR. DUFFY: -- districts would then be approved and
5 that with a funding cycle as Barbara describes, you would be
6 swept up in that funding cycle and you -- there's no choice
7 involved. You get funded.

8 MR. HARVEY: Except if you opt out. We're talking
9 about this opt-out thing and no harm, no foul kind of thing.
10 I'm not --

11 MR. DUFFY: You opt out for the next --

12 MR. HARVEY: I am -- again I am trying to create a
13 process where we're funding those that are viable, those that
14 have the greatest need in the shortest period of time so that
15 we improve school facilities and create construction jobs.

16 That is my motive and I'm trying to find a way of
17 doing that whether it is 2 amended, whether it is 3, but I am
18 attempting to move money and build facilities.

19 CHAIRPERSON REYES: There's something else here to
20 that I think that we're missing when we have folks on the
21 list for needs and they're not ready to go is that you're
22 creating -- and I think it goes to your list --

23 MR. HARVEY: Viability.

24 CHAIRPERSON REYES: -- to your issue. You're
25 creating this fictitious need for stuff that's not ready to

1 go. There might have been a need two years ago --

2 MR. HARVEY: Right.

3 CHAIRPERSON REYES: -- put the money, but if folks
4 are ready to move on the project, why should it add up to
5 this column of unfunded needs when in fact -- it becomes a
6 question. I think that's sort of on point as well.

7 MR. HARVEY: It is.

8 CHAIRPERSON REYES: So there's two issues for me,
9 is getting the money out when folks are ready and they go on
10 the list, they should be ready, but they should not be
11 creating this unfunded need if in fact the need does not
12 appear to be there. So that to me is --

13 MR. DUFFY: Mr. Reyes, we had a bond failure in
14 1994. We had bond in '92 and in '96. We went four years
15 without any State bonds.

16 The Allocation Board continued to make unfunded
17 approvals, demonstrating that need for that lengthy period of
18 time. When the bond happened in 1996, it was
19 Proposition 203, the Allocation Board met and all kinds of
20 projects were funded because of this pent-up need.

21 I think that the list basically is hopefully a
22 shorter time frame than that time frame, but the list
23 demonstrates a need that would be very much like that time
24 frame and in fact there were -- there wasn't a bond failure
25 prior to that, but the -- there was so much demand for bond

1 funds during that time that the Board frequently had an
2 unfunded list that when bond sales occurred they were to be
3 funded.

4 So the list was indeed something we referred to as
5 viable and we pointed to as the need for the future bond.

6 CHAIRPERSON REYES: Um-hmm.

7 MR. DUFFY: So I just want to make sure that
8 there's -- there's a good history to that.

9 ASSEMBLY MEMBER BUCHANAN: So if you had a
10 situation where, you know, the need was there -- I mean I --
11 my belief is when projects are on that list, when, you
12 know -- and we're going to give them money, they ought to be
13 able to start building.

14 So suppose you didn't have a timeline at all for
15 the list; okay? I want to get back to the viability question
16 and I want to get back to the question of how many times can
17 you say I'm not ready to take the money.

18 MR. DUFFY: Which is what Ms. Moore was bringing
19 up. One of the things that we may be able to do -- we did
20 this in working with the Department of Finance in -- it was
21 in 2010, was to basically survey our members and pose that
22 question and maybe what I can do is write those questions,
23 run them by you, and just have you say yeah, those are the
24 kinds of things we'd like to understand from districts.

25 I think I understand better the concern, but I

1 really would want to leave you with our sense that when
2 districts spend that local bond money that you know is so
3 difficult to get to put a project on a list going after their
4 eligibility that it is -- it's substantial.

5 That's a great deal of effort and expense and I
6 don't think it just is a project number and a dollar amount.
7 But -- you've been very patient with me. Thank you very
8 much.

9 CHAIRPERSON REYES: So just to be clear then, of
10 the options you're pushing for which one? You're -- what I
11 heard you say don't change anything, so you're a 6.

12 ASSEMBLY MEMBER BUCHANAN: None of the above, yeah.

13
14 MR. DUFFY: One that you eliminated earlier,
15 Mr. Chairman.

16 CHAIRPERSON REYES: That's what I thought. I just
17 want to be clear.

18 MR. DUFFY: But --

19 CHAIRPERSON REYES: Thank you.

20 MR. DUFFY: Thank you for asking.

21 CHAIRPERSON REYES: All right. I want to be clear.

22

23 MR. HARVEY: Barbara, did you finish rounding -- it
24 sounds like --

25 MS. KAMPMIENERT: No. I had the --

1 MR. DUFFY: She did, but thank you.

2 MR. HARVEY: Would staff -- would you prefer that
3 because of the predictability and the fact that districts
4 would have also the predictability?

5 MS. KAMPMIENERT: Well, I think we -- staff can
6 work with either one. The enhancement to the priority
7 funding system by making that on set realms and knowing the
8 lead time, that would help out with the immediate rush to get
9 the certifications in, then immediately turning it around to
10 the Board.

11 But, you know, we've been able to achieve that as
12 well. So I think we can work within either one, but trying
13 to smooth that process out a little bit would help at the
14 staff level.

15 I think, Mr. Harvey, one of the issues that you may
16 have had is getting the cash out on a more regular basis
17 rather than waiting for the bond cycles and that was one of
18 the options that we had discussed a couple of Committee
19 meetings ago that involved the creation of the two lists.

20 I know that the multiple list wasn't a generally
21 favorable option there, but that's potentially a hybrid that
22 if you are concerned with having the -- only the two time --

23 MR. HARVEY: Keep it simple was our --

24 MS. KAMPMIENERT: Yes.

25 MR. HARVEY: -- so no, I don't think we need two

1 lists. Thank you.

2 MS. KAMPMIENERT: Okay.

3 CHAIRPERSON REYES: Thank you. Yes, sir.

4 MR. VAN VLECK: Hi. My name's Fred Van Vleck. I'm
5 the Assistant Superintendent of Business Services for Ceres
6 Unified School District. So I thought maybe I could bring a
7 little bit of the district perspective to this.

8 Couple things I want to point out: We are class
9 size reduction school district still, 23 to 1. We're not up
10 at 28 or anything like that.

11 ASSEMBLY MEMBER BUCHANAN: Congratulations.

12 MR. VAN VLECK: We have taken an 8 and a half
13 percent salary concession across the board, so it's not that
14 we're not feeling the pain from that or any issues, but
15 building is -- and if you've seen the list, we have a lot of
16 projects on the list. We have 25 or so new construction
17 projects, somewhere in that range, plus another three to five
18 modernization projects and in the 90-day funding priority
19 list, we just pulled out about \$33 million of those projects.

20 You keep asking the question why are districts
21 leaving projects on the list and with the question of whether
22 they're viable or not. Well, let me provide you a real world
23 example.

24 We sold in 2008 a \$60 million GOB and we sold -- we
25 got the authority rather and we sold \$45 million of that \$60

1 million. That's brought our payment up to almost \$60 per
2 hundred thousand dollars of assessed value which is our cap,
3 which as we promised our -- is what we promised our
4 taxpayers.

5 So assessed value is a key component of why we'll
6 continue to have some projects on this list. The thing that
7 concerns me about what you're talking about doing here is if
8 you're saying you're going to kick these projects off the
9 list, our local taxpayers have already brought forth and
10 fronted the money for these projects to get them through DSA,
11 get them through CDE, get all the background study ready to
12 go, and if you kick them off the list and say they're no
13 longer a viable project and we're still qualified through
14 DSA, that will put us down the list that much further if
15 assessed value does start to turn around, that there's no way
16 that we'll ever be able to get them back up toward the top of
17 the funding list so that we can get these projects funded
18 before they expire from DSA.

19 Does that make sense what I'm saying?

20 ASSEMBLY MEMBER BUCHANAN: Yeah. I -- you know, I
21 guess my question is so you're saying we don't know when
22 assessed values are going to turn around. You know, I mean
23 there are economists who are saying it could be a decade or
24 longer.

25 So I mean part of your ability is making -- you

1 have DSA plans that are still valid. You know, you've got
2 your assessed values. You know, so I don't have a good
3 response for you, you know, on that.

4 My question again would be you're saying you should
5 leave it on indefinitely. Do you leave it on until the DSA
6 plans are no longer valid? What would you do there?

7 MR. VAN VLECK: Well, I think that's what's fair
8 because in order for us to be fair to our local taxpayers
9 that helped fund this to get it to where it's at right now on
10 the list because we all know it's not free to get there, I
11 think we need to continue to be able to make that a viable
12 project to be funded because it's not their fault that the
13 assessed values fall. It's not your fault. It's not my
14 fault. That's something that's beyond all of our control and
15 there's really nothing that we can do about it.

16 In fact we were very conservative when we sold our
17 bond in 2008. We were approved to go up to about 90 million
18 in bonding authority. We chose to stay at 60 because we were
19 concerned of assessed value falling. We wanted to protect
20 the district and protect the taxpayers and it fell much
21 further than anybody ever anticipated.

22 When you look at all those projects we have on the
23 list, we've gone through about half of those and we'll have
24 some more that we're going to -- we're a hardship school
25 district. We're going to have some more. We have some

1 hardship elementary projects that are sitting on this list
2 that we plan on next time there's a priority funding,
3 hopefully this fall, to complete some of those projects, get
4 them going.

5 If you go to a 120-day period, it's going to make a
6 real hardship on us as a school district because how do you
7 do the site acquisition on say a hardship project where we
8 have no money to pay for that project and then turn around
9 and get a signed contract to build that project in 180 days.

10 Right now with the 90-day funding priority, we can
11 work with that because we do -- the first one we do 90-day
12 funding priority by the site and then come back at the next
13 one and do the 90 days and turn to a contract and go ahead
14 and build the hardship project out.

15 But we don't have any money to do the site
16 acquisition before that time comes. So that may be something
17 that hasn't been thought about with 120-day window, but it's
18 definitely something to consider.

19 ASSEMBLY MEMBER BUCHANAN: So if you don't have the
20 money now to do site acquisition and you don't have the
21 bonding capacity, do you have a -- do you then have a
22 long-term option? Do you have like a five-year option to
23 acquire the site at that --

24 MR. VAN VLECK: Maybe I misspoke. Let me say that
25 one more time. Right now we're building three hardship

1 elementary schools.

2 ASSEMBLY MEMBER BUCHANAN: Right.

3 MR. VAN VLECK: And one of them is toward the end
4 of the list. I'm not even going to talk about that. Let me
5 talk about the one that's towards the top of the list. It
6 happens to be -- Hanline (ph) Elementary is the name of the
7 elementary school.

8 So what we did during the last priority funding,
9 since there was no way in a 90-day period --

10 ASSEMBLY MEMBER BUCHANAN: Right.

11 MR. VAN VLECK: -- that we could acquire the land
12 and enter into a contract to build the site, we acquired the
13 land and then did the site development.

14 ASSEMBLY MEMBER BUCHANAN: Right. And then the
15 next funding round took the money.

16 MR. VAN VLECK: Exactly.

17 ASSEMBLY MEMBER BUCHANAN: So what I'm just
18 questioning through for a project where you're saying that
19 you don't have bonding eligibility now because of your
20 assessed valuation rate, if that's a project that requires
21 site acquisition, do you then have a long-term option? I
22 mean what -- how do we know that option --

23 MR. VAN VLECK: We -- all of our --

24 ASSEMBLY MEMBER BUCHANAN: How do we know that
25 option's -- or the prize money is going to be there two or

1 three years down the road?

2 MR. VAN VLECK: In this building program that we're
3 doing right now, we had four projects that required some sort
4 of site acquisition. Three of those projects are hardship.
5 The one project that did not require hardship money, we
6 fronted the money out of our local bonds. It was a junior
7 high school -- to acquire the site. The site's almost built
8 right now.

9 ASSEMBLY MEMBER BUCHANAN: Acquired the land so you
10 could --

11 MR. VAN VLECK: Because we anticipated just that.
12 So that's not the issue. The issue is going to be we've got
13 existing projects, modernization projects and new
14 construction projects on existing sites that we do not have
15 the bonding authority for -- or excuse me -- we have the
16 authority, but we don't have the ability to --

17 ASSEMBLY MEMBER BUCHANAN: Capacity. Right.

18 MR. VAN VLECK: -- go out.

19 MS. MOORE: Mr. Van Vleck, you've heard what the,
20 you know, concerns of the Board are. What would be your
21 recommendation given knowledge of your own district's
22 position with their projects on the list if there was a time
23 frame established or if there was a number of funding rounds
24 that you could forego? Is there something that you can live
25 with as a school district?

1 MR. VAN VLECK: My recommendation would actually --
2 and I know it's not on this list, but it'd be a little bit
3 different than what you have on this list. I understand the
4 concern of dollars being left on the table. None of us want
5 to see that happen.

6 But what I would foresee happening is continuing
7 with the 90-day priority funding round, go ahead and continue
8 all the way down the list, and if at any point you make it to
9 the end of the list where there's no projects under the
10 current bonding authority that have applied for this 90-day
11 priority funding, then develop a system to come back to the
12 front of the list and pick up those projects that are at the
13 front of the list with the old 18-month window or something
14 of that nature to pick those up because I understand what
15 you're saying. A project cannot sit on the list forever.

16 I happen to agree with you that a project should
17 not be on the list if it's not approved through DSA or it
18 cannot be built, but I happen to disagree with you that a
19 project should come off of the list because of maybe a local
20 issue like assessed value

21 ASSEMBLY MEMBER BUCHANAN: So if you go through the
22 list and come back and you've got the 180 days but you still
23 have the bonding capacity, what do you do there?

24 MR. VAN VLECK: That's a tough spot that our
25 district's in at that point. But that's a much different

1 scenario because at that point, there's no -- at that point,
2 my assumption would be there's nobody left on the list that
3 can build a project and so I think that's the point where you
4 start making the tough choices on where you start knocking
5 those projects off the list.

6 ASSEMBLY MEMBER BUCHANAN: So -- in Ms. Moore's
7 example where you could be on it -- you know, you could be
8 offered up to four times in two years, that's not
9 accomplishing the same?

10 MR. VAN VLECK: Not in my opinion, no.

11 MS. MOORE: What about this, Mr. Van Vleck. If you
12 -- if the Board considered extending the unfunded list past
13 the authority line, which right now the Board has not made
14 that determination. The Board has said we will have an
15 unfunded list up until the point of the bond authority and we
16 haven't made it -- the Board hasn't made a decision past
17 that.

18 But what if the Subcommittee were to recommend to
19 the Board go beyond the authority and those projects can
20 compete in the 90-day system just like anybody else and so it
21 would be that your project that's up at the top of the list
22 could be essentially completing with a project that maybe
23 have come in the door, you know, just recently.

24 And you forego -- you have first crack at it
25 because you're top of the list, but if you forego it, we're

1 going to go down to an -- we're going below bond authority to
2 someone that's further down.

3 MR. VAN VLECK: As much as I would like to sit here
4 and say that I wouldn't want that to happen because we don't
5 want to go into the next bonding authority, I think that
6 that's a viable option. I think that's something realistic
7 to really consider.

8 MR. HARVEY: I'd like to hear from the attorneys on
9 whether that is something that we can do legally. It may be
10 a nice, sexy way of ensuring we're moving down the list, but
11 I don't want to break the law.

12 MR. VAN VLECK: No, I understand.

13 MR. HARVEY: So I would certainly like to hear more
14 about it but would like to be advised by counsel as to
15 whether or not that's viable. But I think what I hear you
16 saying is a subset of number 3 which is you're using the
17 current priority in funding, but you're enhancing it in the
18 format that staff has alleged which is the cycles are more
19 predictable.

20 MR. VAN VLECK: Um-hmm. Um-hmm. One last thing
21 that I just wanted to address which is a little bit different
22 and that was we had several projects. It was pushing ten
23 that came through the 90-day priorities, about \$33 million.

24 One of the things that was very difficult for us,
25 we're -- our projects are lease-leaseback projects and our --

1 I'm happy that we have great contractors in our district and
2 we entered into some fantastic lease-leasebacks. My concern
3 was though those contractors knew that they really -- and I
4 hate to use this analogy -- but had us over a barrel because
5 the problem is that they could pretty much shoot us any price
6 that they wanted to because we had to meet that 90-day.

7 If we didn't meet that 90-day, we would go to the
8 end of the list and they knew that.

9 MS. MOORE: Don't you think the natural competitive
10 environment corrects for that? I mean if they -- it's a
11 hungry world out there and if you have five bidders and all
12 five know that any one of the five could undercut the other
13 that they could case less what the 90 days are and are going
14 to bid that project competitively to eliminate their
15 competitors.

16 MR. VAN VLECK: That's fine with the subcontractors
17 underneath the general contractor that we're working -- that
18 we're doing the lease-leaseback with. That is very true, but
19 you have to remember the margin that's in there and the work
20 that the general contractor's doing and the dollar amount
21 that they're shooting back.

22 Thankfully it all worked. I agree with what you're
23 saying. We just never had the option when we were on the
24 11th hour trying to get this in front of our school board of
25 trustees to make this deadline to get it up to the State to

1 ever pull the plug and say hey, this price is too high. Our
2 option wasn't there.

3 ASSEMBLY MEMBER BUCHANAN: You didn't get a
4 competitive bid for the general? I'm trying to --

5 MS. MOORE: Lease-leaseback.

6 MR. VAN VLECK: No. We did a lease-leaseback.

7 ASSEMBLY MEMBER BUCHANAN: Right. But --

8 MR. VAN VLECK: Um-hmm. And then the
9 lease-leaseback within --

10 ASSEMBLY MEMBER BUCHANAN: Right.

11 MR. VAN VLECK: I don't want to get too far into
12 this. I can go as far or short into that as you want, but
13 it's competitively bid to the contractor that we're
14 lease-leasebacking with.

15 MS. MOORE: This is probably a tough question to
16 ask, but are you saying that you don't think we received the
17 best competitive price that we could have?

18 MR. VAN VLECK: I can't make that judgment. I can
19 say for my district, I can say that we're happy with the
20 prices we got, but I do have to say in that time between when
21 we said give us a price and when we met with them and got our
22 price, I was very nervous.

23 ASSEMBLY MEMBER BUCHANAN: Because -- you know, I
24 represent -- I could add them up, but probably at least 15
25 school districts and they're all getting bids roughly

1 30 percent or more below the original estimate. So yours is
2 the first I've heard that's actually --

3 MR. VAN VLECK: No. I didn't say that ours came in
4 over. I just said that there's a time frame there that
5 concerned me deeply that they could do something with. I did
6 not say --

7 MR. HARVEY: They could have. They did not.

8 ASSEMBLY MEMBER BUCHANAN: Okay.

9 MR. VAN VLECK: Yeah, they did not.

10 ASSEMBLY MEMBER BUCHANAN: Okay. Yeah. Because I
11 thought what you were saying --

12 MR. VAN VLECK: I'm not saying that we did not
13 receive competitive bids.

14 ASSEMBLY MEMBER BUCHANAN: -- was that because you
15 were using lease-leaseback that you were caught between a
16 rock and a hard spot and had to accept a higher rate. I
17 thought that was what you were --

18 MR. VAN VLECK: No.

19 CHAIRPERSON REYES: Okay.

20 MR. VAN VLECK: No.

21 CHAIRPERSON REYES: All right. Thank you.

22 MR. VAN VLECK: All right.

23 CHAIRPERSON REYES: Next person.

24 ASSEMBLY MEMBER BUCHANAN: Welcome back.

25 MR. ELATAR: Thank you. I actually do have just

1 basically examples of what I want to talk about here. For
2 the record, Wael Elatar from San Bernardino City Unified
3 School District.

4 And what I actually wanted to talk about is
5 specific examples of how in my school district we have --
6 that what you're talking about is not going to work for us.

7 We have a total of 15 projects --

8 CHAIRPERSON REYES: Let me interrupt you. So what
9 do you like -- which option do you like from the get-go?
10 What's your option?

11 MR. ELATAR: The option that we like is not to
12 change.

13 CHAIRPERSON REYES: So Option 6.

14 MR. ELATAR: Option 6.

15 CHAIRPERSON REYES: Okay.

16 MR. ELATAR: And maybe some modification of that
17 and I'll share with you.

18 CHAIRPERSON REYES: Okay. Okay.

19 MR. ELATAR: And if you look into the package and
20 you see my letter here, I wanted to actually give you two
21 examples of the projects that are now on the unfunded list.

22 CHAIRPERSON REYES: Um-hmm.

23 MR. ELATAR: And share with you why it doesn't work
24 for our situation. And the first project is actually called
25 Wilson Elementary and it's Attachment A and it's a hybrid

1 project to ORG and SFP.

2 And as you can see here, the project information,
3 it says about -- because they are two projects together in
4 one building, they are between \$270 million to 301 million on
5 the unfunded list. So they are not on the top of the
6 unfunded list.

7 They actually were approved for unfunded list in
8 August 24, 2010, just eight or nine months ago. They are a
9 12 classroom, two-story addition, one building, and it's
10 combination of SFP and ORG and there could be a possibility
11 where we can -- because the way that OPSC funds the project,
12 that unfunded based on the numbers. So 50 projects that are
13 50 comes first before project that are 56, which 50 would be
14 SFP and 56 would be the ORG.

15 We could have a situation where based -- depending
16 on the amount of dollars that are available that we can be
17 funding a partial or we receive apportionment of partial of
18 the project, not the entire amount.

19 The issue that we have, we're short on fund release
20 for this project here. First of all, it's a project in an
21 existing school. And the new building is in footprint of
22 existing portables.

23 If you go to the second attachment here, you see
24 Attachment No. B, you will found out this four-inch building,
25 this is the new building that we are building. All the gray

1 building that you have underneath it are portables that have
2 to be relocated or removed first because we start
3 construction.

4 This provide a major issue for us because this is
5 an existing school, a multi-track year-round school. We
6 cannot start construction for this project till the end of
7 the school year because we cannot dislocate our students in
8 the middle of the year.

9 As you can see from the footprint here, we cannot
10 actually put the students or this -- put these portables back
11 in that school site. We have to find other schools in order
12 to house the students who are actually in these portables.

13 So -- and because the interim housing -- the ORG
14 does not provide interim housing, you know -- and we talk
15 about that in the seismic. There is no interim housing grant
16 for the ORG. The district will have to up-front that cost
17 and find ways to minimize the overall cost. So we have to
18 find -- within a reasonable area, we have to find spaces for
19 students nearby and we obviously going to (ph) transport
20 these students and have the cost of transportation.

21 But the key element here is that I cannot start
22 this project before a certain date which would be July 1st of
23 any school year because that is the start of the multi-track
24 school.

25 So if you basically have the 90 days or 120 days or

1 even 180 days timeline, if you have it in a timeline that
2 does not come into fit this timeline here, I cannot move
3 forward with this project because I am going to put
4 students -- I'll have to remove students in the middle of the
5 school year.

6 The only time I can start construction for this
7 project, the ORG project, is at the end of the school year.

8 ASSEMBLY MEMBER BUCHANAN: So in the middle of the
9 school year, you can't move students and teachers together to
10 another location?

11 MR. ELATAR: It would be -- first of all, you know,
12 they have to -- it's a -- you know, the whole -- we have to
13 talk practical here.

14 ASSEMBLY MEMBER BUCHANAN: Right.

15 MR. ELATAR: You know, we have students. You have
16 to notify their parents. You have to identify the sites.
17 You have to -- you have issues with teacher union, moving
18 teachers in the middle of the year. You have all of these
19 kind of things that you have to worry about that we have
20 not -- you know, we've been talking right now --

21 CHAIRPERSON REYES: Um-hmm.

22 MR. ELATAR: -- for the last hour or two. I want
23 to talk specific and this is a very specific example of what
24 you are suggesting here does not fit this project.

25 MR. HARVEY: How does number 3 not fit it?

1 MR. ELATAR: This -- number 3 doesn't fit because
2 no matter what, I have to have the project under contract
3 within a period of time of that start of the school year.

4 ASSEMBLY MEMBER BUCHANAN: You're saying number 3
5 doesn't fit because you -- because being in two programs you
6 need them funded simultaneously?

7 MR. ELATAR: So -- let me give a good example.
8 Let's say you have a funding cycle in September. Okay. And
9 you give 90 days or 120 days. I have to commit with
10 contractors based on that by January of -- a fiscal year.
11 But I want to start construction in July of that year. I
12 cannot hold these contractors for five, six months doing
13 nothing.

14 Okay. So the ORG projects provide challenges
15 especially the ORG projects that requires relocation of
16 relocatables on an existing site and I have six of these --
17 actually a total of 12 out of the 15 because each one of
18 those projects is a combination of SFP and ORG.

19 So 12 out of the 15 projects that I have here are
20 this kind of projects.

21 MS. MOORE: Wael, I know this is not necessarily
22 what you're going to want to hear, but I'm going to ask a
23 hard question --

24 MR. ELATAR: Sure.

25 MS. MOORE: -- and that is many districts have to

1 forward fund projects in order to appropriately place them
2 into funding cycles. Why can't you also do that?

3 MR. ELATAR: Well, you know, for a few reasons.
4 Okay. One, we have just been -- we've been a hardship school
5 district; okay. I mean we are --

6 MS. MOORE: But you're no longer.

7 MR. ELATAR: -- out of hardship school -- hardship
8 right now, but we are a school district that have a very
9 challenging situation of moving forward with bonds. The last
10 bond we had was 2004 and the amount of dollars was only a
11 \$140 million.

12 Our assessment values for a school district our
13 size is probably one-third of one school district that's
14 one-third of our size. So you can have -- even if we move
15 forward with bond, there may be not -- we may not have the
16 ability to raise bonds in the same way that you are talking
17 about.

18 It's very hard right now to go and do another --

19 MS. MOORE: You still have to come up with your
20 50 percent of a project.

21 MR. ELATAR: Yes.

22 MS. MOORE: So why can't you spend your 50 percent
23 first in getting your project ready for a funding cycle?

24 MR. ELATAR: Well, I think -- this is a very risky
25 business for a school district. Because what you're asking

1 here is was only 50 percent of the money which we have
2 because we actually had a COP. Okay.

3 With 50 percent of the money, we commit the
4 district for a hundred percent because I do not know when I'm
5 going to get the money from the State. In fact when you look
6 at the unfunded sheet and you see the footprint on the
7 bottom, it says no guarantee --

8 MS. MOORE: Um-hmm.

9 MR. ELATAR: -- that the funding will be given to
10 the district. In fact a couple of years ago, statements were
11 made by OPSC managers and others, hey, it's in your own risk.
12 The school district -- when you move forward with a project,
13 it's on unfunded list, it's in your own risk, and I cannot
14 risk the district's general fund for this --

15 ASSEMBLY MEMBER BUCHANAN: But if you have ten
16 projects -- right? You can't -- I mean it's pretty standard
17 where you sell your -- I mean you're -- what you're telling
18 me is you must be waiting to sell your bonds because if you
19 have -- once you sell your bonds, you have to have them
20 committed to make -- within a certain period of time to
21 maintain the tax exempt status of those bonds; right?

22 So if you go out and you sell a bond, I think what
23 Ms. Moore is saying is -- and you've got these projects on
24 the unfunded list, you know, and you know there's capacity
25 there, you go -- you start one project and then you -- you

1 know, you get the State matching funds, so you -- if you're
2 down at the end of the bond, clearly it's a major problem,
3 but if you're up at the beginning part of the bond, that's --
4 I think that's probably what most districts do.

5 MR. ELATAR: We are not at the beginning of the
6 bond. I mean we have our 50 percent match, but we do not
7 have the luxury to cash flow all these projects as other
8 school districts that may have some money that is --

9 MS. MOORE: I would probably say that there are
10 very few districts that have the cash flow --

11 CHAIRPERSON REYES: That have that luxury.

12 MS. MOORE: -- to front -- we heard from
13 Mr. Van Vleck. I mean they don't have the cash flow to do
14 multiple projects. So in this environment, I'm not -- I mean
15 I'm very empathetic to school districts, but I also know that
16 many districts have to make hard choices about which projects
17 move forward and many -- and what I have heard in the 90-day
18 time frame is that districts had to choose and some of them
19 may have invested in that project before the 90-day thing
20 started.

21 MR. ELATAR: So let me put it this way. I think I
22 heard you, but most all of my projects are at -- are exactly
23 the same dates on the unfunded list. Okay. Two dates.
24 Which means even if I start with one project to cash flow and
25 up-front the money, at the end of the day, there will be a

1 day of reckoning where I am going to have to meet --

2 ASSEMBLY MEMBER BUCHANAN: Right.

3 MR. ELATAR: -- this 90 days and I'm going to have
4 projects like this and I'm not going to be able to act
5 accordingly or I'm going to compromise the students in my
6 school district and no board, no superintendent would allow
7 something like this to happen --

8 ASSEMBLY MEMBER BUCHANAN: Right.

9 MR. ELATAR: -- because facilities projects, you
10 have to take in consideration that what it's for.

11 MS. MOORE: So if you were king for a day, what
12 would you recommend to this Board?

13 MR. ELATAR: I'm going to mention my recommendation
14 after I go to second example, if you don't mind.

15 CHAIRPERSON REYES: No, I think cut to the chase.
16 What do you recommend?

17 MR. HARVEY: Yes.

18 ASSEMBLY MEMBER BUCHANAN: Right.

19 CHAIRPERSON REYES: What do you recommend?

20 MR. ELATAR: Okay. My recommendation as, you
21 know -- you know, basically continue the project as the way
22 it works right now because it's actually working. It -- you
23 basically do not have money that is not utilized.

24 ASSEMBLY MEMBER BUCHANAN: Continue with the 90
25 days?

1 MR. ELATAR: Continue with the 90 days priority,
2 but I'm going to suggest a catch here. You're going to have
3 projects like this that are -- and the second example is
4 actually even more unique than this one.

5 You're going to have projects like this from school
6 districts and they're going to come to you one day or another
7 and basically plead either mercy or basically talk about
8 going legal or something like that and say, well, hey, you
9 are taking away the ability for me to move forward with this
10 project.

11 This is viable project. These are not -- these are
12 projects that necessary to the school district. It's going
13 to eliminate many portables in our school district.

14 Right now, one out of four students in my school
15 district right now sit in a portable. That's not acceptable
16 and that's why we like the ORG program very much.

17 So you're going to get into situation where you're
18 going to have -- they're going to have to come to you and
19 plead mercy.

20 My suggestion is when you have a funding priority
21 and you have school district that will option to not submit
22 is ask them to submit and verify why they are not submitting
23 and if they are providing a good reason like this, you give
24 them 18 months because that's what they need.

25 Okay. So you're going to have everyone submitting

1 something, but someone will submit the 90 days quickly to
2 move forward and some projects like this and the project next
3 here, they will be asking -- they will have given you an
4 example why that doesn't work and they need more time in
5 order to accommodate that project.

6 You know, otherwise you're taking the opportunity
7 for the school district to build a project that they work
8 hard to get to that point.

9 Okay. So my suggestion is keep doing what you're
10 doing because you are putting money out there. And my second
11 example, by the way, it's actually in construction, but we're
12 not even -- we're not 50 percent. So to meet what Mr. Harvey
13 is asking and saying put shovel ready projects at work, it is
14 at work. It just I cannot pay 50 percent before I address
15 the DTSC and eminent domain requirements.

16 I'm demolishing buildings and things of that nature
17 and I'll be more than happy to give you exact -- the exact
18 situation on the second example.

19 That project needs 18 months timeline. It doesn't
20 need 90 days. It doesn't 120 days. It doesn't fit. Okay.
21 They need 18 months timeline.

22 So if I come to you in a funding round and I come
23 to say I have a very unique situation. I have an old project
24 that require interim housing and it need to be done by start
25 of the school year or I have a DTSC condition approval raw

1 and things of that nature I have to work with or I have an
2 eminent domain that I have to work with and I need more time,
3 give me 18 months.

4 So the clock starts from the first priority. The
5 close will start from the first priority, but I'll get my
6 18 months.

7 Otherwise you're putting these projects in jeopardy
8 and I hate to we're trying to solve one issue and create ten
9 other unintended circumstances for it.

10 MR. HARVEY: So you're asking for two lists really,
11 aren't you?

12 MR. ELATAR: I don't know how you -- what you call
13 it. What I'm saying here is that when these projects were
14 submitted to OPSC, that --

15 ASSEMBLY MEMBER BUCHANAN: He's asking for the
16 ability to have a waiver on certain projects --

17 CHAIRPERSON REYES: Yeah.

18 ASSEMBLY MEMBER BUCHANAN: -- to extend the 90-day
19 timeline.

20 CHAIRPERSON REYES: Right. Right.

21 MS. MOORE: I will tell you as one Board member I
22 think dealing with those exceptions could be very time
23 consuming and complex and as a Board member, you like to be
24 able to set out a policy framework that most people can work
25 within.

1 I would hate to have -- we have a policy framework
2 that most people can work within, but we spend, you know,
3 five hours of State Allocation Board meetings adjudicating
4 everybody that wants 18 months.

5 I would rather find some type of policy that
6 somehow works better for all -- for those --

7 MR. ELATAR: For all.

8 MS. MOORE: -- and I mean I don't know -- maybe my
9 fellow Board members feel a little differently about that.
10 But we spend already an inordinate amount of time having to
11 deal with appeals and with the gray area of this program.

12 This is -- your suggestion is creating more gray
13 area and who's to say that your 18 months that I should grant
14 you and this person over here is just as valid 18 months, but
15 then we hold everybody else to 90 days and they don't like
16 the 90 days. They like the 18 months too.

17 So there's a -- that's my concern around that and I
18 -- I don't know -- how we get to a place that we're not
19 having to on a continuous individual basis look at these this
20 request for 18 months.

21 MR. ELATAR: Well, I'm not the one who's asking for
22 coming up with individual cases. I'm reacting to the fact --

23 MS. MOORE: Right.

24 MR. ELATAR: -- that you are looking to change the
25 rules of the game almost at the end of the game for some of

1 our projects.

2 We -- the second project in the list here, we
3 started this project -- planning for this project since 2003.
4 This is an eight- to ten-year-old project and I may be put in
5 situation to risk that project --

6 MS. MOORE: I'm wondering --

7 MR. ELATAR: -- from moving forward.

8 MS. MOORE: -- Wael, and I'm just talking off the
9 top of my head --

10 CHAIRPERSON REYES: Yeah.

11 MS. MOORE: -- which could be very dangerous,
12 but -- okay. What if we have the funding priority the 90 day
13 and a certain amount of funding is reserved in that area and
14 then you have for those that can't meet that, perhaps a pot
15 that says --

16 ASSEMBLY MEMBER BUCHANAN: Right. 10 percent,
17 20 percent.

18 MS. MOORE: -- here's your priorities in funding
19 18-monthers. Compete with your fellow other districts and
20 look at it in some manner that way.

21 Now, it manages district problems perhaps in a more
22 organized way. It doesn't address the concerns of Board
23 members about shovel ready, but shovel ready doesn't always
24 consider the best needs of students in the educational system
25 either.

1 So we have a balance between your systemic needs,
2 needs of student, needs of teachers, being thoughtful about
3 how a project rolls out and also knowing that we're in a --
4 we're dealing with the Department of Finance who says, you
5 know, you have to prioritize in order to stay consistent
6 within this bonding cycle.

7 MR. ELATAR: Ms. Moore, we're done competing with
8 these projects. I mean these are projects that have gone
9 through the entire process, okay, and have DSA approval
10 from -- I have -- you know, you're talking about four year,
11 the DSA.

12 MS. MOORE: Everybody on the list is in the same
13 place that you are.

14 MR. ELATAR: I have only --

15 ASSEMBLY MEMBER BUCHANAN: But this is what
16 Ms. Moore's trying to point out I think and if you go --
17 everyone says, okay, the priority funding list is working.
18 What you're saying is it's not working for me.

19 So if we continue with the priority funding list,
20 it's never going to work for you even though you're on the
21 unfunded list. So what I think she's suggesting is maybe a
22 hundred percent of that money should not be put towards the
23 90 days but maybe you take 90 percent or 80 percent and you
24 allow some ability for districts like yours that are caught
25 between a rock and a hard spot to still remain on the

1 unfunded list and get funded but use the traditional 180
2 days.

3 MR. ELATAR: Well, all I want to have --

4 MS. MOORE: Well said.

5 MR. ELATAR: All I want to have is a reasonable
6 amount of time which I -- when we planned this project that
7 the 18-month timeline was there.

8 ASSEMBLY MEMBER BUCHANAN: Right.

9 MR. ELATAR: Okay. Okay. When we submitted to
10 OPSC, the 18 month was there.

11 ASSEMBLY MEMBER BUCHANAN: Right.

12 MR. ELATAR: When OPSC went through the process --

13 ASSEMBLY MEMBER BUCHANAN: Right.

14 MR. ELATAR: -- of approving this and DSA and all
15 of that and CDE and DTSC, that 18 months was there.

16 ASSEMBLY MEMBER BUCHANAN: Right.

17 MR. ELATAR: Okay. I want enough timeline to build
18 these projects.

19 ASSEMBLY MEMBER BUCHANAN: Right.

20 CHAIRPERSON REYES: Right.

21 ASSEMBLY MEMBER BUCHANAN: And that what she's
22 trying to accommodate by saying is if we continue with the
23 90-day priority funding, you'll never have the timeline, but
24 what Ms. Moore is trying to say is that if we can come up --
25 if we had a hybrid of that, you would still have the timeline

1 and be able to get your project done and off the list.

2 CHAIRPERSON REYES: But I think he's also saying
3 don't change the rules and I'm fine. Leave it alone and I'm
4 fine.

5 MR. ELATAR: Basically the rules --

6 ASSEMBLY MEMBER BUCHANAN: Right.

7 MR. ELATAR: -- at the end of the game --

8 CHAIRPERSON REYES: Right.

9 MR. ELATAR: -- changing is very difficult for a
10 school district.

11 CHAIRPERSON REYES: Right.

12 MR. ELATAR: But however, if you want to
13 accommodate and make some changes, what I'm saying here
14 you're going to -- at the end of the day, you're going to
15 have to hear from the school district --

16 CHAIRPERSON REYES: Right.

17 MR. ELATAR: -- that are not able --

18 ASSEMBLY MEMBER BUCHANAN: Right.

19 MR. ELATAR: -- to meet the timeline. So what's
20 wrong with --

21 MS. MOORE: And we're -- and I'm --

22 ASSEMBLY MEMBER BUCHANAN: See, we've already
23 changed the rules by going to a 90-day priority.

24 CHAIRPERSON REYES: Right.

25 MR. ELATAR: Yeah. Yeah. What's wrong with doing

1 that at the beginning of the first priority coming down for
2 these projects and say well, hey, if you are within the few
3 hundred million dollars that we are having fund here, if you
4 are in there, do not sit and do nothing and just wait for the
5 next round. Submit why you cannot meet the timeline.

6 ASSEMBLY MEMBER BUCHANAN: Well, I think -- what I
7 think what Ms. Moore said is then there'd be --

8 CHAIRPERSON REYES: Somebody else is going to want
9 another five days --

10 ASSEMBLY MEMBER BUCHANAN: I mean then all we'd be
11 dealing with appeals, so is there a way we can accommodate
12 districts like yours that can't function under the 90 day but
13 still need to be funded from the list.

14 MR. ELATAR: Okay. Well, anyway my second example
15 is actually related to another agency -- State agency, DTSC,
16 and the timeline that is required in order to be -- to do a
17 soil mitigation, to actually start construction. We did
18 demolish the buildings. Before the demolishing the building,
19 we had to abate the actual buildings from hazard materials.

20 So we already have hundreds of thousand of dollars
21 spent on that project. So -- and I have also an eminent
22 domain that we are having to deal with, so there is a
23 timeline in reference to that.

24 So I mean this is one of those real cases that
25 you're going to be facing with and I would rather actually

1 discuss it now rather than you end up facing it at the State
2 Allocation Board in an appeal because that's may --

3 CHAIRPERSON REYES: Well, you gave us a copy of the
4 letter, so that's fine. I don't really want to, you know,
5 try to circumvent. I mean if we have issues with it, we have
6 issues with it. We'll deal with it in the appeal process and
7 that's the way we need to deal with it. So I'd rather we --
8 we get what you said.

9 MR. ELATAR: Okay.

10 CHAIRPERSON REYES: So -- and you know, folks who
11 want to talk, I suggest that when the other person sits down,
12 you get closer to it because I'm getting three people saying
13 can I go next, can I go next, can I go next, and that should
14 go to the point of Lyle going first. He did his piece.

15 The other thing too is that I know people are
16 getting frustrated because we're going through the weeds on
17 this. That is the purpose of the Subcommittee, to get through
18 the weeds rather than at the Allocation Board. So we go
19 through the weeds now or we go through the weeds on the
20 Allocation Board because you guys aren't going to be keeping
21 this stuff to yourself on the Allocation Board.

22 So if I give you a 30-second, you know, sound bite
23 and say you have 30 seconds to speak and then you take half
24 an hour on the Allocation Board, it defeats the purpose. So
25 I understand you guys are frustrated. I understand some of

1 you folks want me to nix them, but people want to say their
2 piece and that is the purpose of this hearing.

3 So I apologize if you're missing a flight or have
4 to pay parking or whatever, but the purpose of the hearing is
5 to get your input not just our input because we could be done
6 if it's just our input. But you folks wanted to have a day
7 in court, so you have your day in court.

8 Thank you, sir. Appreciate your input.

9 MR. ELATAR: Thank you.

10 CHAIRPERSON REYES: Next person. That clear?

11 MR. HARVEY: Very clear.

12 CHAIRPERSON REYES: Because I'm hearing people go
13 like (indicating).

14 ASSEMBLY MEMBER BUCHANAN: Do we know how many more
15 people want to speak?

16 CHAIRPERSON REYES: Huh?

17 ASSEMBLY MEMBER BUCHANAN: Do we know how many more
18 people want to speak?

19 CHAIRPERSON REYES: I imagine most people out
20 there.

21 ASSEMBLY MEMBER BUCHANAN: Okay.

22 CHAIRPERSON REYES: And then we also have two other
23 issues.

24 MR. HARVEY: Yes, we do.

25 ASSEMBLY MEMBER BUCHANAN: Can you have this done

1 by 6:00?

2 MS. MOORE: I would just make a comment before --

3 CHAIRPERSON REYES: Yes.

4 MS. MOORE: -- we hear from Mr. Gonzalez in that we
5 do have time to deliberate on this in that we a bond
6 measure/sale imminent.

7 CHAIRPERSON REYES: Um-hmm.

8 MS. MOORE: So if we need to have round four --

9 CHAIRPERSON REYES: Um-hmm.

10 MS. MOORE: -- we could do so to consider the other
11 two issues because they don't imminently have to go before
12 the Board if we're not going to sell bonds till -- I don't
13 know --

14 CHAIRPERSON REYES: Right.

15 MS. MOORE: -- Department of Finance knows better
16 when we might sell bonds. But --

17 CHAIRPERSON REYES: It's a well-kept secret.

18 MS. MOORE: But you'll share at some point.

19 MR. HARVEY: When he knows.

20 CHAIRPERSON REYES: So is Ms. Moore suggesting that
21 we conclude just with Tab 1 and release folks who are
22 interested in Tab 2 and 3 for a later date? It is 5:20.

23 MS. MOORE: I would suggest that.

24 CHAIRPERSON REYES: Okay.

25 MS. MOORE: Unless -- I mean my fellow Board

1 members --

2 ASSEMBLY MEMBER BUCHANAN: I agree.

3 CHAIRPERSON REYES: I'm --

4 MS. MOORE: Okay.

5 CHAIRPERSON REYES: I'm fine with that. I just --
6 I think it's a point well taken. I just -- I know there are
7 folks out there who wanted to talk on Tabs 2 -- or what is
8 now Tab what -- the other two tabs.

9 MS. MOORE: And with one exception maybe, if
10 someone has a flight that they came up here specially to
11 address those two issues, I'd say get up here and talk to
12 them now so that, you know, you don't have to be back here,
13 but if not, if you're able to come to a next meeting, then
14 wait till then.

15 CHAIRPERSON REYES: All right. Does anybody need
16 to catch a flight on the other two issues? Going once, going
17 twice. Mr. Gonzalez.

18 MR. GONZALEZ: Thank you very much. Richard
19 Gonzalez of Richard Gonzalez & Associates. What we've been
20 talking about is going to require a regulatory change.

21 CHAIRPERSON REYES: Right.

22 MR. GONZALEZ: There's going to be time that we're
23 going to have between the time the Board approves the
24 regulations and the time AOL [sic], the Office of
25 Administrative Law actually approves it.

1 And to answer your first question because you're
2 going to ask me what option do you want, it's a hybrid
3 between 2 and 3 and it's a combination of things that I think
4 would work well.

5 One, I do agree that the 90-day window period we're
6 using today has been working extremely well and I think it
7 should continue until these regulations are changed. Okay
8 and if at the very least, that would be the list.

9 If for some reason the people that are on the list
10 as of this coming Board -- okay -- are still on that list
11 when the regulations come aboard, well, okay. So give them
12 another -- you know, they get the -- the change.

13 I'd recommend 180 days not 90. Again I have -- I
14 do know of some clients that are having trouble trying to get
15 through, getting a time frame. They only allow one board a
16 month. They have time frames in which they've got have it
17 available to staff within 30 days prior to that board, well,
18 that's 60 days already we've lost. There's a lot of time in
19 there.

20 ASSEMBLY MEMBER BUCHANAN: How would you feel about
21 Ms. Moore's hybrid suggestion?

22 MR. GONZALEZ: I have that also in my notes in that
23 I do agree that as the regulations are approved, then the
24 district would have the opportunity to waive up to no more
25 than four times. Okay.

1 I do have some caveats in a couple of these things.
2 One is that in order to waive and be considered to be a
3 waived cycle, you have to be, first of all, in the running
4 for the money.

5 I mean if you are waiving this cycle and it turns
6 out that you are below the threshold where money would have
7 been given anyways, I don't think --

8 MS. MOORE: That's fine.

9 MR. GONZALEZ: -- that should not be counted
10 against the district because they know -- they didn't waive
11 anything.

12 ASSEMBLY MEMBER BUCHANAN: You need an offer.
13 Right.

14 MR. GONZALEZ: There needs to be an offer to be
15 waived. Okay. So that I think is an important matter.

16 To your point, Ms. Buchanan, is that, you know,
17 viability check? I don't see anything wrong with that. I do
18 see that districts have to maintain it, but there is one
19 point is that districts -- as much as they try to work hard
20 to get their projects approved and maintained in a timely
21 manner, there's always going to be that little bit of window
22 between the time the project expired and the time the new
23 approval hit the door. Okay. And there may be that small
24 wiggle room.

25 So I think the districts should be -- at the very

1 least prove evidence during that period of time that they've
2 made an effort to get the approval, which I think one of my
3 colleagues have made mention of. Okay?

4 Now, to have a current approval on a project should
5 also be defined to be that the project's already under
6 construction and the approvals that are in place already were
7 valid at the time the construction contract was entered into,
8 that they don't have to get a new approval after they've
9 entered into contract.

10 So, for example, DSA gives their one-year approval
11 for the first project. The district goes out. They're able
12 to self-fund the project. They move it forward. Okay. But
13 they're on the window -- on the list.

14 Finally there comes a point in time where someone
15 says okay, it's time to check to see if you're still valid.
16 Well, they've got according to that calendar, that approval's
17 already expired, but they've been under contract, so it's
18 technically still valid. And I want to make sure --

19 MS. MOORE: I see your point. You're saying if
20 you'd gone to construction --

21 MR. GONZALEZ: You're locked in.

22 MS. MOORE: -- you're locked in.

23 CHAIRPERSON REYES: You're locked in. No need to
24 go back --

25 MS. MOORE: And I think that's very reasonable.

1 CHAIRPERSON REYES: Yeah. That makes sense. That
2 makes sense. You're right in the middle of the soup. Yeah.
3 You're there.

4 MS. MOORE: I want to go back --

5 ASSEMBLY MEMBER BUCHANAN: Yeah, you have a valid
6 approval --

7 MS. MOORE: I think that's -- you know, that's good
8 --

9 CHAIRPERSON REYES: Terrific.

10 MS. MOORE: -- and I think staff would --

11 ASSEMBLY MEMBER BUCHANAN: Yeah. You have been
12 valid for the last year.

13 CHAIRPERSON REYES: I don't think anybody takes
14 issue with that.

15 MS. MOORE: My -- I just -- a question, Richard,
16 and this 190 days that you said.

17 MR. GONZALEZ: 180.

18 MS. MOORE: You said 180?

19 MR. GONZALEZ: Yes.

20 MS. MOORE: Okay. 180 days that you said. Are you
21 saying that change the system. Everybody gets funded unless
22 you opt out. You can opt out four times maybe. I don't
23 know.

24 MR. GONZALEZ: Uh-huh.

25 MS. MOORE: So -- brainstorming here. But that

1 we'll just go down the list and fund and you have 180 days
2 versus these 90-day funding cycles. Is that what you're
3 saying --

4 MR. GONZALEZ: Correct.

5 MS. MOORE: -- that 180 days were?

6 MR. GONZALEZ: Yeah. Instead of the current 90-day
7 cycle that the district --

8 ASSEMBLY MEMBER BUCHANAN: You're saying get rid of
9 the priority funding.

10 MR. GONZALEZ: -- we just give them -- they would
11 go after the regulations are approved, we're talking how long
12 now. We're not talking anywhere near six months from now.
13 We're talking about eight, maybe a year depending on how long
14 the regs take to go through the system.

15 At that point, the 90 days becomes 180.

16 MS. MOORE: I'm just wondering what that gets in
17 the sense of the Board. The Board -- everyone I think has
18 really heard the Board concerns. The reason we went to
19 priorities in funding was that we wanted to show the
20 Department of Finance and to the Treasurer's Office and all
21 those people that are making decisions around the bonds that
22 we are putting this money into the ground immediately.

23 MR. GONZALEZ: Yes.

24 MS. MOORE: And I think that that was very
25 successful and we've had strong support from the Department

1 of Finance and from the Treasurer's Office when we went out
2 for bond sales. In fact schools have gotten the most.

3 MR. GONZALEZ: Agreed.

4 MS. MOORE: I for one would want to keep us in that
5 good stead because I want to see as much as possible. I
6 don't -- you know, I care about other infrastructure in
7 California, but we really want to keep as much as possible
8 for schools in that vein.

9 The longer we stretch out that time frame, I do
10 think the more concern we could have from other entities and
11 if we still have the 90 days and maybe some 18 day -- and
12 maybe other --

13 MR. HARVEY: Oh, 18 day, I love it.

14 MS. MOORE: Not 18 day. Another pot over here that
15 addresses things that Mr. Elatar brought up and others like
16 him that we somehow take care of that. I think that that's
17 important to keep us moving in that vein -- if we still have
18 that opt-in version.

19 Now, if we don't have an opt-in version, I'm -- I
20 mean if it's mandatory, I think maybe we should be open to a
21 longer time frame, but as long as it's voluntary, I think
22 that it's been a successful program that has, you know,
23 proven to the powers that be that we are serious about our
24 projects being under construction. So --

25 MR. GONZALEZ: I agree that we still need to

1 continue to show the 90-day process to Department of Finance,
2 to the voters, and to all the other entities that are
3 involved looking into our programs.

4 And I think with the fact that this regulational
5 process is going to take anywhere from nine months to a year
6 is going to mean that we're going to -- we're still talking
7 about this 90-day window all the way into March of next year.

8 MS. MOORE: Well, right now though if we did
9 nothing, we are in regulation right now.

10 CHAIRPERSON REYES: Right.

11 MS. MOORE: We're in regulation with 90-day
12 priorities in funding program. So if we do nothing, it's --

13 MR. GONZALEZ: I understand, but we're --

14 MS. MOORE: We don't have a regulatory change.

15 MR. GONZALEZ: But isn't our -- but my proposal
16 would be to change the regulations so that to permanently
17 180 days. Not 18 months, 180 days.

18 MS. MOORE: Okay. I see what you're saying. Thank
19 you.

20 MR. GONZALEZ: Okay. Which is --

21 MS. MOORE: Thank you for that clarification.

22 MR. GONZALEZ: -- one-third the time that current
23 law provides at the 18 months.

24 MS. MOORE: Gotcha.

25 MR. GONZALEZ: So that would allow, one, the

1 opportunity to get as many shovel ready projects through the
2 system prior to the regulations becoming effective, so to
3 speak, and then address the problems of those districts that
4 seem to think that the 90 days isn't quite enough for them
5 after the regulations because they'll have 180 days to clear
6 it. And they should be able to clear it through that
7 process.

8 CHAIRPERSON REYES: Mr. Gonzalez, just for
9 clarification. So your 180 days instead of the 18 months --
10 never mind. I got it. Okay.

11 MR. GONZALEZ: The other thing that I think needs
12 to be very clear about especially relating and surrounding
13 the viability piece is well, one, how soon should the
14 viability occur? All right.

15 Well, we have a list and if the list is still
16 active 18 months thereafter using kind of the criteria that's
17 already in law, 18 months, then maybe we should have a
18 viability check. Okay?

19 And then the question becomes what are we checking.
20 What are we going to be checking for? Are we checking for
21 the DSA and the CDE and that's the only thing we're going to
22 want to check? Or are we going to go and say look, did we
23 get the Coastal Commission approval of the plans. Did we get
24 the local planning commission on plans approvals. Did we get
25 the eligibility updated. Is the financial hardship all

1 updated.

2 Where does this line stop? And I think it needs to
3 be clearly defined on the front end and personally I think it
4 should just only be the DSA and CDE approvals. Because those
5 are mandated in law for this program.

6 The others, yeah, they're important and they have
7 to be done and they need to be maintained, but if the
8 district has come in the door and filed the applications,
9 they have their eligibility established. They shouldn't be
10 subject to a catch-22, being reevaluated later on.

11 Financial hardship districts, they went through the
12 system. If it hadn't have been for the current process, they
13 would have received the money a hundred percent if you had an
14 endless pot of dollars.

15 I don't think any of those things should be
16 checked. DTSC. Hopefully no one's changing the rules at
17 DTSC for the toxic substance materials.

18 So I think it just means again define what you want
19 to have as reevaluated. I want to thank you.

20 ASSEMBLY MEMBER BUCHANAN: Can you give us those in
21 writing?

22 CHAIRPERSON REYES: Yes. No. Two issues: One is
23 I assume that you want this prospectively on the regulations
24 and not apply to those on the list and --

25 MR. GONZALEZ: No. If they're on the list at the

1 time the regulations come into place --

2 CHAIRPERSON REYES: Uh-huh.

3 MR. GONZALEZ: -- because they haven't received
4 their money, whatever the regulational process come effective
5 that date, they will know for a year in advance --

6 CHAIRPERSON REYES: So if you're on the list,
7 you --

8 MR. GONZALEZ: -- that this is coming.

9 CHAIRPERSON REYES: Okay. Okay. So make sure you
10 have a body guard when you leave because people here are not
11 going to be happy with that.

12 The second issue, if you could have that writing
13 for us and just do -- used to be on the record since you made
14 the comment, but this is another tab, on the hardship fees.
15 I disagree with you that if you're in hardship when you come
16 in and seven years go by, I don't think -- you may never be
17 in hardship. The assessments may have gone up.

18 So I think that just because you're in -- you
19 qualify for hardship now and the project doesn't come viable
20 for seven years, is your hardship the foreclosures in your
21 neighborhood or -- you know, whatever the hardship was, I
22 don't know that that keeps in perpetuity, but that's a
23 different conversation.

24 MR. GONZALEZ: I do understand that and as response
25 to that is if financial hardship projects are still on the

1 list seven years --

2 CHAIRPERSON REYES: Um-hmm.

3 MR. GONZALEZ: -- I don't know. There's something
4 wrong with the system. Okay?

5 CHAIRPERSON REYES: Well, I mean, you know, I mean
6 we talked about the five-year extension, the two years to
7 begin.

8 MR. GONZALEZ: I understand, but perhaps maybe then
9 something in between might be of value. Okay? Again we've
10 talked about waiving four cycles.

11 CHAIRPERSON REYES: Um-hmm.

12 MR. GONZALEZ: All right. Well, maybe at the end
13 of waiving the four cycles you're going to have to come off
14 of the list. Okay?

15 CHAIRPERSON REYES: Okay.

16 MR. GONZALEZ: That's not going to be seven years.

17 CHAIRPERSON REYES: Right.

18 MR. GONZALEZ: And then they're going to have --

19 MR. HARVEY: It's 24 months.

20 MR. GONZALEZ: Yes. And then they're going to have
21 to come back through the system again if they're pulled off
22 the list.

23 CHAIRPERSON REYES: Right.

24 MR. GONZALEZ: Which means they'll have to go
25 through that whole analysis again and more local district

1 dollars.

2 CHAIRPERSON REYES: Okay. Now don't you wish you'd
3 taken Lyle's spot.

4 MR. PETTLER: I do. Or maybe I'll be the last.
5 Good evening, everybody. Matt Pettler --

6 CHAIRPERSON REYES: Oh, before you start. Who else
7 wants to come and testify and talk?

8 MR. BAKKE: Just one quick comment.

9 UNIDENTIFIED SPEAKER: I don't know if I can --

10 CHAIRPERSON REYES: Eric, you don't know quick
11 comments. So -- I know you. Okay. Go ahead.

12 MR. PETTLER: I'll try to be quick as well. Matt
13 Pettler, School Facility Consultants. Just real quick. Lisa
14 LeBlanc with the Fresno Unified School District was unable to
15 be here today. She sent the Committee a letter that I hope
16 you're in receipt of and ask me for purposes of the record to
17 make sure that you had the letter and just briefly articulate
18 their position.

19 They believe that the current priority in funding
20 rounds has been successful and would encourage the Board to
21 continue with those. She articulated in her letter some
22 concerns with the 180-day time process since that was what
23 was discussed at the last Subcommittee --

24 CHAIRPERSON REYES: Um-hmm.

25 MR. PETTLER: -- meeting. There's also some

1 concerns with transferring the ORG money, but I understand
2 that that is an item that's going to be discussed at a future
3 Subcommittee meeting.

4 So I just wanted to pass that along and again make
5 sure that it was in the record of this meeting.

6 CHAIRPERSON REYES: You don't happen to have copies
7 of the letter, do you?

8 MR. PETTLER: I know Juan does.

9 CHAIRPERSON REYES: Okay. That's fine.

10 MS. MOORE: I received it, yeah.

11 MR. HARVEY: I received it.

12 CHAIRPERSON REYES: You received it. Okay.

13 MR. PETTLER: Okay. If there's any questions that
14 I can answer, I'd be happy to.

15 CHAIRPERSON REYES: Okay. All right. Thank you.

16 ASSEMBLY MEMBER BUCHANAN: Thank you.

17 CHAIRPERSON REYES: Thank you. That was quick.
18 See, you should have gone first.

19 MR. PETTLER: Should have set the tone.

20 CHAIRPERSON REYES: Okay.

21 MR. BAKKE: I'm being heckled by the crowd back
22 there to make it real quick.

23 CHAIRPERSON REYES: Please don't do that. That's
24 my role.

25 MR. BAKKE: Heckle me now. Eric Bakke with

1 Los Angeles Unified. I waited till the end since we started
2 this process, so I figured I'll give everyone else their fair
3 shake.

4 Just actually a couple questions. I think the
5 conversation we had today was excellent. I think we kind of
6 went into a lot of different areas, but I guess I'm still
7 confused or a little troubled by why it is that we're going
8 through the process to figure out what it is that we need to
9 fix and I wanted to ask staff a couple quick questions just
10 to make sure I've got it straight.

11 How much money was issued in the last bond issuance
12 and how much of that went to the 90-day?

13 MS. SILVERMAN: All of it.

14 MR. BAKKE: Okay.

15 MS. SILVERMAN: All of it.

16 MR. BAKKE: So we got -- all the money that we got
17 went straight to jobs. A hundred percent of all the money,
18 so we addressed that issue.

19 So the 90-day program as it currently works today
20 takes care of the job issue, but we still have the viability
21 issue.

22 ASSEMBLY MEMBER BUCHANAN: Well, except that the
23 bigger question we were answering was, you know, going
24 forward do you keep the 90-day -- I mean basically we should
25 be at a longer time period; right?

1 So the question is going forward do you keep the
2 90-day because we like that and getting money out to jobs or
3 do we, you know, change the program going forward, so when we
4 fund projects we know that we're --

5 MR. BAKKE: Yeah. And I think we heard --

6 ASSEMBLY MEMBER BUCHANAN: I mean that's the issue
7 and we're hearing, you know, exceptions whatever, but --

8 MR. BAKKE: Yeah. And I think we heard some
9 anecdotes today to suggest --

10 ASSEMBLY MEMBER BUCHANAN: Because our concern was
11 never that the 90-day wasn't working. The concern was, you
12 know --

13 MR. BAKKE: Correct. And I think we heard some
14 anecdotes that said that we need to keep it, you know, some
15 sort of timeline beyond the 90 days for those districts that
16 can't move their projects forward.

17 I strongly support the -- I forget the gentleman's
18 name. LAUSD passed a bond in 2008 we can't even touch yet.
19 Our folks are telling us we won't be able to get to it for a
20 couple more years?

21 We're not in the situation because we have prior
22 bonds to pay for it, but just as an anecdote, you know, if we
23 are in a situation like the other districts, we couldn't be
24 able to move our bonds.

25 But to our local folks, it's important to them to

1 know that we actually have a project before the State to get
2 funded so we can get that project moving when the money
3 becomes available. So it has a two-prong effect both at our
4 local and at the State to demonstrate need.

5 The other question I wanted to ask is, is there a
6 difference between an unfunded approval with bonding capacity
7 versus an unfunded approval without bonding capacity? Like
8 what is the fundamental difference between those two? I
9 don't think we talked about that.

10 I think I've -- I've heard a lot of folks talk
11 about that the unfunded list is kind of treated as --

12 ASSEMBLY MEMBER BUCHANAN: My understanding is --

13 MR. BAKKE: I just want to make sure we're all on
14 the same page.

15 ASSEMBLY MEMBER BUCHANAN: -- and my colleagues can
16 correct me because I'm the new kid on the block here. But my
17 understanding is --

18 CHAIRPERSON REYES: Not as new as the Chair.

19 ASSEMBLY MEMBER BUCHANAN: -- once we've given
20 unfunded approval, we're basically reserving bonding capacity
21 because we're making a commitment to fund.

22 MR. BAKKE: Perfect.

23 ASSEMBLY MEMBER BUCHANAN: And so for projects to
24 stay on that list that aren't ready to be funded, we're
25 keeping money in an account --

1 MR. BAKKE: Correct.

2 ASSEMBLY MEMBER BUCHANAN: -- and we're not giving
3 it to other districts.

4 MR. BAKKE: Great.

5 ASSEMBLY MEMBER BUCHANAN: So I mean you could have
6 another hybrid that says --

7 MS. MOORE: Well, we're not keeping --

8 ASSEMBLY MEMBER BUCHANAN: -- you don't --

9 MS. MOORE: -- actual dollars in an account.

10 ASSEMBLY MEMBER BUCHANAN: That's exactly right.

11 We've got a billion dollars if you look at it in float or
12 whatever there. So our -- you know, we -- and so if you stay
13 on that list for two years, four years, whatever, we're
14 keeping that money in capacity for you even though there are
15 other projects that could get out.

16 So I mean you could be raising another question in
17 terms of when do you actually move onto that list, so we're
18 holding dollars for you that you're not -- that you may or
19 may not be requesting.

20 MS. MOORE: With one caveat, I would say, and that
21 is what staff said earlier. There are no guarantees.

22 MR. BAKKE: Correct.

23 MS. MOORE: So as I understand every item that we
24 approve on the unfunded list, that item has at the bottom of
25 the page this does not guarantee future funding. Am I

1 correct?

2 MS. SILVERMAN: That's correct. All depending on
3 the bond sale.

4 MS. MOORE: So while it is a -- it is the intent to
5 move through that list up to the bonding authority, if, you
6 know, California sailed off the end of the earth next week,
7 we wouldn't have the fiduciary --

8 MR. BAKKE: Correct.

9 MS. MOORE: -- responsibility to meet that. Is
10 that -- I don't know. Is that correct?

11 MS. SILVERMAN: That's correct.

12 MR. BAKKE: And that's where I'm kind of going
13 because if -- and I've heard some people reference, you know,
14 taking two or three -- you know, I guess notify them two or
15 three different times down through this process and I'm just
16 looking at it like LAUSD in the last bond issuance, we didn't
17 have any anticipation of getting some of our projects funded.
18 In fact most of them.

19 It's just because so many districts weren't able
20 to, you know, participate in the 90-day, we just slowly were
21 just moving up the list. And it just so happened we were
22 able to get more projects than we anticipated.

23 My point is, is that if we keep going through this
24 process, we're going to move through all the projects that
25 can move --

1 ASSEMBLY MEMBER BUCHANAN: Right.

2 MR. BAKKE: -- and we're going to be left with a
3 list that can't.

4 ASSEMBLY MEMBER BUCHANAN: But here's the question
5 is if you have projects at the top where you're holding
6 bonding authority for them, how long do you hold that
7 authority before moving more projects to the unfunded list.

8 MR. BAKKE: Well, I think what Kathleen Moore was
9 suggesting or saying was that as money becomes available we
10 still keep processing the 90 days. It's not a guarantee of
11 funding.

12 So you'll as a district will have the opportunity
13 to either participate in the 90 or not and if you don't, you
14 just keep moving out of the way while the funding projects
15 come through.

16 MS. MOORE: I do think --

17 MR. BAKKE: And then you get a true unfunded list.

18 MS. MOORE: I do think there is, however, a day
19 of -- I want to describe it accurately, but a day in which we
20 will draw the line.

21 MR. BAKKE: Right.

22 MS. MOORE: And the line -- because the Board has
23 not made a decision whether to have an unfunded list beyond
24 bonding authority. So we can come to a day and I think
25 that's -- you're hearing the concern of the Subcommittee and

1 you probably would hear the same concern I would trust of the
2 entire State Allocation Board that we could come to a day
3 where someone is sitting on authority, has chosen not to move
4 their project, and we have projects that don't have authority
5 or districts that are in positions that don't have authority
6 and saying wait, what's wrong with this picture.

7 And I do think that we will have to contend with
8 that day and I think that districts ought to be ready for the
9 contention of that day --

10 MR. BAKKE: Correct.

11 MS. MOORE: -- because they -- and that's where
12 we're getting to what's a fairness factor. Is it foregoing
13 four times. Is it foregoing one time. Is it --

14 MR. BAKKE: Um-hmm.

15 MS. MOORE: -- where is it reasonable to say maybe
16 you should step aside and allow a district and a project
17 that's ready to go to go.

18 MR. BAKKE: Right.

19 MS. MOORE: And we're trying to arrive at where's
20 the -- in I hope a very deliberative manner and in I hope in
21 enough advance so districts are well aware of that, but you
22 got to say there's something reasonable about if you can't
23 utilize it, allow somebody else that can to.

24 MR. BAKKE: Um-hmm.

25 MS. MOORE: We're not there yet and we're -- but

1 it's good we're having the discussion --

2 MR. BAKKE: Yeah.

3 MS. MOORE: -- before we're forced to do that.

4 MR. BAKKE: I just want to make sure that was part
5 of the conversations. We need to be able to draw the line
6 because we're -- I think through the natural process what we
7 have, we're going to get to that point where we have to say
8 okay, either, you know, jump on the ship or get off.

9 And I think we're going to have to have that
10 conversation and I think, you know, they have the condition
11 of not necessarily guarantee of funding, but I think -- I
12 want to make sure that part of the conversations have now
13 because that time's going to be pretty soon.

14 ASSEMBLY MEMBER BUCHANAN: Um-hmm.

15 MR. BAKKE: And I --

16 MS. MOORE: And that's I think what you're hearing
17 people --

18 MR. BAKKE: Yes.

19 MS. MOORE: -- trying to arrive at.

20 MR. BAKKE: So I just want to make that little
21 subtlety clear. That's all. Okay. Thank you.

22 CHAIRPERSON REYES: Okay.

23 MS. CUNNINGHAM: I have a quick comment.

24 CHAIRPERSON REYES: Okay. We're still in public
25 comment. Feel free.

1 MS. CUNNINGHAM: Okay. Elona Cunningham from Jack
2 Schreder's office. Just to kind of piggyback on Eric's
3 comments.

4 I think a reasonable time to tell a district to
5 either move forward with their project or get off the list is
6 when the priority funding process is no longer working which
7 would mean that there is more money available than districts
8 requesting the money, and at that point, you would just move
9 to the top -- go to the top of the list and say are you in or
10 out and at that point if they're not ready to proceed,
11 then --

12 ASSEMBLY MEMBER BUCHANAN: You mean less money
13 available than districts, not more money.

14 MS. CUNNINGHAM: No. There's --

15 MS. MOORE: There's more bonding money --

16 MS. CUNNINGHAM: -- districts --

17 MS. MOORE: There's more cash than there is
18 districts to avail themselves to it.

19 MS. CUNNINGHAM: Right. And then at that point,
20 you go to the top of the list and just start down the list
21 and those districts who aren't ready to move forward come off
22 the list and then the districts that wouldn't --

23 MS. MOORE: But you --

24 MS. CUNNINGHAM: -- have been in the bonding
25 authority would move up to be part of that list.

1 CHAIRPERSON REYES: But why would you do that if
2 you have cash?

3 ASSEMBLY MEMBER BUCHANAN: It's essentially what
4 was proposed.

5 MS. CUNNINGHAM: Because there's cash sitting there
6 and all --

7 CHAIRPERSON REYES: But if you have more cash --

8 MS. CUNNINGHAM: It's not being accessed.

9 CHAIRPERSON REYES: But you have more cash than
10 demand --

11 MS. CUNNINGHAM: Right.

12 CHAIRPERSON REYES: -- it doesn't matter.

13 MS. CUNNINGHAM: Well, the point is --

14 MS. MOORE: I think what they're saying --

15 MS. CUNNINGHAM: -- is --

16 MS. MOORE: -- the demand of the people on the
17 list.

18 MS. CUNNINGHAM: Right.

19 MS. MOORE: We may have more demand than that, but
20 we haven't allowed them onto the list --

21 CHAIRPERSON REYES: But they're not on the unfunded
22 list. Gotcha'. Okay.

23 MS. MOORE: -- because we've hit authority.

24 MS. CUNNINGHAM: Right.

25 CHAIRPERSON REYES: Okay.

1 MS. MOORE: Now, Ms. Cunningham, I think that what
2 you're saying is infinitely reasonable. However, having been
3 around the block in this program --

4 MS. CUNNINGHAM: Um-hmm.

5 MS. MOORE: -- I think that the more warning that
6 we can give that such an action might happen, the better --

7 MS. CUNNINGHAM: Um-hmm.

8 MS. MOORE: -- because if we wait until that, oop,
9 we have bonding authority and Mr. Van Vleck's project is at
10 the top of the list and we say, hey, you've got to move or
11 we're taking you off the list, he's -- where is my warning.

12 And I think that the more we can address that
13 potential issue ahead of time, the better in faith we are
14 with school districts.

15 MS. CUNNINGHAM: I agree. And I think that a
16 reasonable point, like I stated, is when the goal of getting
17 out the money on the street is no longer being met and
18 there's money sitting there.

19 CHAIRPERSON REYES: Set the policy and that's the
20 trigger.

21 ASSEMBLY MEMBER BUCHANAN: That -- but --

22 MS. CUNNINGHAM: Right.

23 ASSEMBLY MEMBER BUCHANAN: You know, that's -- to a
24 certain extent, it's -- we're -- the 90 days is working, but
25 to a certain extent, I mean that's what we've tried to

1 address going forward with talking about changes was that,
2 you know, how long do you allow a project to stay there
3 without moving other projects on when it's not ready to
4 build.

5 I mean that's -- that was -- that was the original
6 suggestion that, okay, you stay on this list, but when you
7 get up to that point where you're ready to be funded and you
8 can't be funded, you come off.

9 So that was -- that sort of -- is very much mirrors
10 I think what the original suggestion was.

11 MS. CUNNINGHAM: Well, they would come off when all
12 the money isn't being accessed. Then they wouldn't have an
13 option.

14 MS. MOORE: And maybe you can -- are you suggesting
15 maybe you can -- we consider that into the deliberations
16 that we're doing right now --

17 MS. CUNNINGHAM: Yes.

18 MS. MOORE: -- so that it's a fair warning that in
19 the future when we reach that point and you're not able to
20 say yes that we're potentially going further into anybody
21 else that may be below the line of authority.

22 ASSEMBLY MEMBER BUCHANAN: So what happens now
23 where we don't put more projects on the list than we have
24 bonding authority?

25 MS. MOORE: I think those two issues are going to

1 coincide; right?

2 ASSEMBLY MEMBER BUCHANAN: They are going to, but
3 even right now, you end up with more projects -- I mean we're
4 still holding money there we've got afloat.

5 MS. CUNNINGHAM: But I think as long as the money
6 is being accessed within the 90 days, the program is meeting
7 the goals of the Board and that's to get the money on the
8 street. So if there's a project sitting there, it's not
9 harming any -- you know, it's not moving toward the goal of
10 the State Allocation Board to get the money on the street.

11 So thank you.

12 CHAIRPERSON REYES: Okay. Thank you.

13 MS. CUNNINGHAM: Those are my comments.

14 MS. MOORE: Thank you.

15 CHAIRPERSON REYES: Okay. Staff, you've listened
16 patiently. Any observations, any comments that come to mind
17 based on what you've heard? And be nice to Eric.

18 MR. HARVEY: Why?

19 ASSEMBLY MEMBER BUCHANAN: If we're coming back, I
20 wonder if we should give them time to absorb all this.

21 CHAIRPERSON REYES: Okay. And so, well, the --

22 ASSEMBLY MEMBER BUCHANAN: Okay?

23 CHAIRPERSON REYES: Are the wishes of the Board
24 that we deliberate this at our second meeting? Is that -- or
25 what would be the fourth meeting. Would that be fresh in

1 everybody's mind. We can do that and give you guys time
2 to --

3 ASSEMBLY MEMBER BUCHANAN: Yeah. And I would just
4 suggest based on the conversation with the Board members and
5 the public input, you know --

6 MS. MOORE: To develop a --

7 ASSEMBLY MEMBER BUCHANAN: -- to see if there's --

8 CHAIRPERSON REYES: To develop a policy that you
9 think where we're heading with it.

10 ASSEMBLY MEMBER BUCHANAN: -- any -- yeah.

11 MR. MIRELES: Okay.

12 MR. HARVEY: Mr. Chair, do you want to give them
13 any global guidance on what you think might be those options
14 or are you going to leave it to staff to interpret entirely?

15 CHAIRPERSON REYES: I'll leave it up to staff.
16 They took copious notes, I noticed that.

17 MR. HARVEY: Except Juan was sleeping.

18 MR. MIRELES: Just a little bit.

19 CHAIRPERSON REYES: I trust that they took copious
20 notes and heard the comments raised by the Board members. I
21 don't want to bias them with my personal view on this, but I
22 know they were digesting as the folks spoke and I think
23 everybody on the Board participated in asking questions and
24 trying to get -- and probing questions to the folks who sat
25 on the hot seat.

1 MR. HARVEY: Fair.

2 MS. MOORE: And then I think at our next
3 Subcommittee meeting, what -- in a nice transparent process
4 that will be available to the public and the public will
5 have, you know, another shot at it and would be able to give
6 us input and plus we could get through the other two items.

7 CHAIRPERSON REYES: Um-hmm.

8 MR. HARVEY: And this should be the three task. So
9 we start with the other two.

10 MS. MOORE: Right. And then be ready for a
11 recommendation to the full Board.

12 ASSEMBLY MEMBER BUCHANAN: Yeah.

13 MS. SILVERMAN: But considering the timelines --

14 CHAIRPERSON REYES: Um-hmm.

15 MS. SILVERMAN: -- with the agenda and index on
16 Friday, obviously we won't be able --

17 CHAIRPERSON REYES: We won't be able to --

18 MR. HARVEY: No, we're not. And I think Ms. Moore
19 articulated that we don't have the same pressure on this
20 issue.

21 CHAIRPERSON REYES: And I think for sake of
22 Bagley-Keene, we're now going to remove this item and we'll
23 ask staff to remove the item from the Committee and if you
24 would please notify Senator Lowenthal that in light of the
25 conversation and the time that the Committee felt that it was

1 not appropriate for us to elevate it as a discussion item and
2 that we'll give a verbal to this issue and just say we
3 were -- we listened folks. We're still in deliberations and
4 the Committee is not ready to present at this time.

5 MS. SILVERMAN: Okay. The next thing I'll be
6 checking your schedules to see your availability --

7 CHAIRPERSON REYES: Yes, please.

8 MS. SILVERMAN: -- for a second meeting. Thanks.

9 CHAIRPERSON REYES: Okay. Thank you, everybody,
10 for participating. Your input is much appreciated.

11 (Whereupon, at 5:47 p.m. the proceedings were recessed.)

12

13

---oOo---

14

15

16

17

18

19

20

21

22

23

24

25

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

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

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

That the proceedings herein of the **STATE ALLOCATION BOARD SUBCOMMITTEE ON PRIORITIES IN SCHOOL CONSTRUCTION FUNDING, CASH MANAGEMENT, PART III**, hearing were duly reported and transcribed by me;

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

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on April 21, 2011.

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