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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL
ROOM 127
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, MARCH 11, 2009
TIME: 4:12 P.M.

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

THOMAS L. SHEEHY, Chief Deputy Director, Policy, Department of Finance, designated representative for Michael Genest, Director Department of Finance.

SCOTT HARVEY, Chief Deputy Director, Department of General Services, designated representative for Will Bush, Director, Department of General Services.

KATHLEEN MOORE, Director, School Facilities Planning Division, California Department of Education, designated representative for Jack O'Connell, Superintendent of Public Instruction.

SENATOR LONI HANCOCK

SENATOR ALAN LOWENTHAL

ASSEMBLY MEMBER JEAN FULLER

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER TOM TORLAKSON

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

ROB COOK, Executive Officer

LORI L. MORGAN, Deputy Executive Officer

KATRINA VALENTINE, Assistant Executive Officer

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

HENRY NANJO, Senior Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON SHEEHY: Okay. Why don't we move to Tab 10 for the **Seismic Mitigation Report**.

MS. VALENTINE: Okay. The first report is on Tab 10. It's stamped page 35 and this is the Seismic Mitigation Program update.

As you know AB127 provides \$199.5 million for seismic mitigation funding. The Office of Public School Construction has received two applications for this program and there's been several meetings that have occurred by the Office of Public School Construction. I have attended, the Secretary of State and the Consumer Services Agency and the Seismic Safety Commission, trying to figure out a way that we can get this program proceeding.

As you know there are four criteria to determine multiple numeral category 2 buildings which are required for seismic funding. One is being the building has to be occupied by pupils. The next is a 1.70 G or greater ground shaking intensity and the building has to be a certain building type.

The fourth criteria -- those three, districts can relatively determine with ease whether they meet those criteria for their facilities. The fourth, however, is the district has to provide a structural engineer's report which

1 basically says that the building has a high probability of
2 collapse in a seismic event.

3 Districts would have to pay for that structural
4 engineer's report up front and then if they ultimately
5 qualify for the AB127 seismic funding, then those would be
6 an eligible expenditure.

7 Now, if they go forward and obtain a structural
8 engineer's report without qualifying for the funding, then
9 there's no reimbursement for that structural report.

10 On February 11th, 2009, Rob Cook and myself
11 attended a Seismic Safety Commission meeting where we
12 presented a proposal to try to get a \$200,000 grant that can
13 be utilized for giving districts the funding up front.
14 Hopefully up to a hundred percent funding so that they can
15 proceed to see if they qualify by obtaining a structural
16 engineer's report.

17 The Division of the State Architect has identified
18 36 buildings and the Office of Public School Construction is
19 going to be in the process in the next couple weeks of
20 surveying those districts that represent those 36 facilities
21 to determine if they're interested in obtaining this grant
22 funding to obtain a structural engineer's report.

23 Part of that criteria of obtaining the grant with
24 the Seismic Safety Commission is that they want to be able
25 to use that as research for a study for the Seismic Safety

1 Commission and so the Office of Public School Construction
2 has committed to providing a report to them on the findings
3 within the next year.

4 And then one final note, at the December State
5 Allocation Board meeting, the Board did direct staff to come
6 back at a future Board meeting to look at some of the issues
7 that are with the structural -- with the seismic criteria,
8 but basically the four criteria, to relook at those and
9 specifically some of the criteria that was to be looked at
10 was an unfunded list, interim housing, and the ground
11 shaking intensity and the type of building that would
12 qualify. And so staff --

13 CHAIRPERSON SHEEHY: Ms. Valentine --

14 MS. VALENTINE: Yes.

15 CHAIRPERSON SHEEHY: -- I think also one of the
16 things was the ability to use some of the money for site
17 evaluation as well.

18 MS. VALENTINE: Yes.

19 MR. HARVEY: We just did this.

20 CHAIRPERSON SHEEHY: Oh, okay. Sorry.

21 MS. VALENTINE: And so staff is preparing to bring
22 a report back to the State Allocation Board the March 25th
23 meeting, I believe, the meeting that we'll be having in two
24 weeks for discussion at that time.

25 MR. COOK: Mr. Cook, did you -- I'm sorry. Just a

1 minute. Mr. Cook, did you want to add anything more?

2 MR. COOK: No. Katrina's covered it.

3 CHAIRPERSON SHEEHY: Okay. Mr. Harvey.

4 MR. HARVEY: I really wanted to thank you for this
5 report because it is responsive to what we asked in December
6 in part and we're going to hear the rest of the story on the
7 25th and I recall that we said at the get-go, we've go
8 seismic safety bond money. No one has accessed it, one of
9 the obstacles and we heard that paying for the seismic
10 engineering report up front was an obstacle. Well, we've
11 taken care of that one with this grant and I think that's a
12 good first step. Now we're going to look at the other
13 policy issues on the 25th and I'm hoping we can begin to
14 whittle away the reasons why people don't access this money
15 because it is such an important thing that we do is to make
16 sure kids are in safe buildings. So thank you.

17 CHAIRPERSON SHEEHY: Thank you, Mr. Harvey. I
18 want to just clarify my comment for the record, when I asked
19 about using it for site evaluation. I realize that that's
20 what this \$200,000 grant's for, but we have the \$2 million
21 and it may ultimately turn out that there'll be needs
22 greater than 200,000 and I'd like to have some sort of
23 evaluation of the ability to use some of that money if
24 necessary for additional site evaluation. I think that
25 might be helpful. So I just want to make sure that people

1 understood that. Ms. Moore.

2 MS. MOORE: I just wanted to ask, have we called
3 also stakeholders if there's any other issues out there that
4 we might not have addressed in the four that have been
5 spoken about today that could be investigated as well and
6 brought forward to the Board?

7 MS. VALENTINE: Do you mean outside of the
8 36 facilities that we've identified?

9 MS. MOORE: Outside of the four issues, like
10 interim housing, you know, some of the impediments that have
11 been raised, have there been any others that districts have
12 raised and if so, could we hear about them as well.

13 MS. VALENTINE: That's something that we could
14 definitely include in our report. We have heard a lot of,
15 you know, feed back from districts regarding primarily what
16 I have noted is the building type and the 1.70 G are some of
17 the concerns that districts are having.

18 Outside of those four, none come to mind, but that
19 does not mean that there aren't any and --

20 MS. MOORE: So and what will come forward to the
21 Board at the end of the month, will it be an action item or
22 is it a further report? What's your anticipation of that
23 information?

24 MR. COOK: It can come forward as an action item.
25 It would be a full layout of all the issues that -- you

1 know, and the development --

2 MS. MOORE: And recommendations?

3 MR. COOK: -- of criteria and -- yeah, option --
4 I'd pose options for it.

5 MS. MOORE: Which may include regulation change?

6 MR. COOK: It could, yes.

7 MS. MOORE: So and the Board will be considering
8 that at the end of the month.

9 MS. VALENTINE: Yes.

10 MS. MOORE: Okay.

11 ASSEMBLY MEMBER TORLAKSON: Do you need a motion
12 to accept?

13 CHAIRPERSON SHEEHY: Senator Torlakson, can we
14 wait one moment? I see that there's some public comment.
15 May we --

16 ASSEMBLY MEMBER TORLAKSON: Yes.

17 CHAIRPERSON SHEEHY: -- take that first? Lyle, I
18 think you were first.

19 MR. SMOOT: Thank you. Lyle Smoot, representing
20 Los Angeles Unified School District. I don't think we see a
21 need to spend \$200,000 to figure out what the problems with
22 this program are. I think we already know what they are.
23 One of them is some of the things that Ms. Moore just said,
24 the problems inherent with how the program works and the
25 problems associated with going into the program, but the

1 bigger thing is the 1.7 G's, whatever that 1.7 G is, is a
2 level that is just simply so high that most districts can't
3 attain it. There's lots of problems out there. I think we
4 believe that if you just send this back to the Imp.
5 Committee, we can send you all of the problems for free.
6 Thank you.

7 MR. HARVEY: For the record, if I might. I wanted
8 to make sure we -- 200,000 is not for another study. The
9 200,000 is to be used by districts to do that structural
10 engineering requirement that to this point we've asked
11 districts to pay for. It's an action precedent to even
12 getting in the application line. So the thought was if
13 districts are finding the payment of 5,000 or 7,000 for that
14 structural engineering report is an impediment to seeking
15 the bonds, let's find a way of paying for that. This grant
16 money does that. So it's not another study.

17 CHAIRPERSON SHEEHY: Thank you, Mr. Harvey.
18 Mr. Duffy, I think you wanted to make some comments.

19 MR. DUFFY: I did and thank you. Mr. Sheehy,
20 members of the Board, Tom Duffy for C.A.S.H. I appreciate
21 Mr. Cook and the staff moving forward. What we had
22 requested in December was if the regulations could be
23 brought back to the Board for a discussion, recognizing it
24 would be no rush to judgment on them, but that if we could
25 have a very plain speaking discussion of those regulations

1 and what we think would be workable in terms of changes,
2 we'd like to request that for this meeting at the end.

3 And, Mr. Harvey, I was questioning earlier what
4 needs to be done with this \$200,000. If indeed it can be
5 used as you've identified and I think as Mr. Cook has told
6 me it could be used, I think that would be beneficial. What
7 I would caution would be -- and we do work with the Seismic
8 Safety Commission and always pleased to work with them, but
9 I would caution another blanket review such as the AB300
10 review because that really has been a consternation for all
11 of us.

12 CHAIRPERSON SHEEHY: Mr. Cook, would you
13 respond --

14 MR. COOK: Yeah. I can assure you that that is
15 not the intent. This is meant to be site specific funding
16 so that we can get the engineering reports that are
17 fundamentally required to get into the program and to
18 provide also certainly something the Seismic Safety
19 Commission is looking for is that we advance the science of
20 seismic evaluation in that process. That is one of the
21 conditions that they have. But this is meant to be direct,
22 actionable information.

23 CHAIRPERSON SHEEHY: I think we have Ms. Brownley
24 and then Mr. Torlakson.

25 ASSEMBLY MEMBER BROWNLEY: So if we move forward

1 with the engineering reports and we decide to change
2 whatever different thresholds or regulations vis-à-vis the
3 earthquake safety for schools, the reports will still apply,
4 right?

5 MS. VALENTINE: Right. That's correct.

6 ASSEMBLY MEMBER BROWNLEY: So -- okay.

7 CHAIRPERSON SHEEHY: Senator Torlakson.

8 ASSEMBLY MEMBER TORLAKSON: I would move to accept
9 the report and note the clarifying comments by chief of
10 staff that this is site specific funding and that we're also
11 seeking additional feedback from our advisory committees and
12 the field regarding how to make this all work more
13 efficiently and timely.

14 CHAIRPERSON SHEEHY: Excellent. Senator
15 Torlakson, since we have not yet established quorum, I think
16 we need to establish the quorum and then your motion will be
17 in order. So your motion's been made, but I think --
18 Ms. Jones, could you help us establish our quorum.

19 MS. JONES: Yes, I can. Senator Lowenthal.

20 SENATOR LOWENTHAL: Here.

21 MS. JONES: Senator Hancock.

22 SENATOR HANCOCK: Here.

23 MS. JONES: Assembly Member Brownley.

24 ASSEMBLY MEMBER BROWNLEY: Here.

25 MS. JONES: Assembly Member Torlakson.

1 ASSEMBLY MEMBER TORLAKSON: Here.

2 MS. JONES: Scott Harvey.

3 MR. HARVEY: Present.

4 MS. JONES: Kathleen Moore.

5 MS. MOORE: Here.

6 MS. JONES: Tom Sheehy.

7 CHAIRPERSON SHEEHY: Here.

8 ASSEMBLY MEMBER TORLAKSON: We have a quorum.

9 CHAIRPERSON SHEEHY: Great. And we have a motion
10 on the floor. Is there a second?

11 ASSEMBLY MEMBER BROWNLEY: I'll second it.

12 CHAIRPERSON SHEEHY: We have a second. All in
13 favor.

14 (Ayes)

15 CHAIRPERSON SHEEHY: Okay. Well, we took up Item
16 No. 10, Senators Hancock and Lowenthal, because it was an
17 informational item and you weren't here, so we can go back
18 to the beginning of the agenda.

19 I would like to make a request before we take up
20 any more items -- request to OPSC staff. One of the Board
21 members has asked if we can agendize for our next hearing
22 the -- further discussion on the OSAE report which I believe
23 was Item 14 last time. So if we can have that on the agenda
24 for the next hearing, I would appreciate that.

25 Okay. Which item is next, Mr. Cook?

1 MS. JONES: Chair?

2 CHAIRPERSON SHEEHY: Yes.

3 MS. JONES: Can I also ask that any people in the
4 public come up to the nearest microphone so that the court
5 reporter can get it on the transcript.

6 CHAIRPERSON SHEEHY: Of course. Mr. Cook, what's
7 next?

8 MR. COOK: There's --

9 CHAIRPERSON SHEEHY: Item No. 1?

10 MR. COOK: Well, actually Item No. 1, but I think
11 there was some interest in taking up the **deferred**
12 **maintenance** item early if that is --

13 CHAIRPERSON SHEEHY: Is there -- there's a lot of
14 folks here. It's a small room. There was some thought that
15 we might be able to get some folks released if we took up
16 the deferred maintenance item. Is there any objection of
17 any of the Board members of going to that?

18 SENATOR LOWENTHAL: Nope.

19 CHAIRPERSON SHEEHY: Seeing no objection, we'll go
20 to the deferred maintenance item which is Item No. 3.

21 MR. COOK: As I'm sure you're aware, deferred
22 maintenance is for major repair and replacement of aspects
23 of facilities out there. Those funds come from the annual
24 Budget Act, excess repayments from the state school building
25 aid program, the state's school site utilization fund, and

1 unexpended deferred maintenance funds from the prior fiscal
2 year.

3 Recently enacted legislation changed some aspects
4 of this program. As you are probably aware, deferred
5 maintenance is known as a categorical program and there was
6 recent categorical relief as a part of the -- of the Budget
7 Act. And there are some changes as a result of that.

8 One, it establishes funding that is allocated at
9 this point in time for deferred maintenance. So it's a
10 baseline for the next five years. So the decision before
11 the Board takes on a different flavor.

12 Also as a part of that categorical relief,
13 districts are not required to use these funds specifically
14 for deferred maintenance. Also there's a subset of this
15 program known as extreme hardship which is focused on health
16 and safety projects that need to be completed within a
17 timely fashion. That program isn't really comprehended in
18 the statutory scheme as recently enacted.

19 And then districts are not required to report on
20 this program and so on. There are a number of reliefs that
21 were provided.

22 And we took action at our last Board meeting to
23 allocate 90 percent of these funds consistent with the way
24 in which we've done it for years and then realized as we
25 were going through that there were big changes and there's a

1 big difference in the way these funds need to be dealt with
2 at this point in time.

3 And what we have before you are a series of policy
4 options to discuss for the Board to see -- get the sense of
5 the Board and see where we want to go and so the staff can
6 prepare the appropriate funding item for our next Board, if
7 we can come to a conclusion here today.

8 So I would turn your attention towards stamp
9 page 21 in your agenda. It's labeled as Attachment A. What
10 we have are basically four options.

11 CHAIRPERSON SHEEHY: I'd like to just say if
12 there's some other option that's not on this -- one of these
13 four, it'd be perfectly appropriate to discuss options. I
14 think staff made four recommendations, but I think any
15 combination thereof would be appropriate if there's some
16 other option that's more appealing.

17 MR. COOK: Um-hmm.

18 CHAIRPERSON SHEEHY: Sorry, Rob.

19 MR. COOK: Absolutely. We've been working through
20 this.

21 One option that's relatively simple is to take --
22 instead of setting aside 10 percent of these funds for
23 extreme hardship, since these funds would set the baseline
24 for future funding, is simply to distribute all -- a hundred
25 percent of the funds to all the participating districts on a

1 proportional basis. It's simple. It sets a baseline for
2 the next five years. Districts have categorical relief.
3 They can expend these funds as they see fit. That are some
4 of the benefits.

5 Some of the cons to that are that specific health
6 and safety projects are not addressed in that approach --
7 not specifically addressed in that approach and there are --
8 you know, there are some facilities that could potentially
9 become unusable in the time subsequent to that.

10 The actions that this Board would need to take --
11 well, I'll stay away from the actions. We'll just discuss
12 the -- that's the technical side.

13 Option 2 is to distribute 90 percent of these
14 deferred maintenance funds proportionately to all
15 participating school districts and then provide 10 percent
16 for extreme hardship projects distributed proportionately
17 among all 128 extreme hardship projects that we have before
18 us that have been submitted to our office.

19 Now that means that the basic grants would
20 actually increase slightly to all school districts to 68 and
21 a half percent and extreme hardship projects would be funded
22 at 34 percent. That would set the new baseline for the next
23 five years.

24 Amongst the outcomes to that, the vast majority of
25 school districts get a slight increase. Districts that have

1 one of these extreme hardship projects would ultimately wind
2 up with about 168 percent of the actual project cost and
3 given the categorical relief would also have no obligation
4 to actually pursue that project.

5 Then our third option that we came up with is to
6 distribute 94 percent of these funds around to school
7 districts and then reserve 6 percent for extreme hardship.
8 The difference here is districts would wind up with
9 72 percent. They would wind up with about 3 percent
10 increase in the funding they would receive overall. And the
11 extreme hardship districts would receive 20 percent of the
12 project cost that's pending before us. Over five years,
13 they would be basically funded at a hundred percent for
14 those projects.

15 Again there's no requirement that those projects
16 actually be executed in the current statute. And then
17 finally our -- the final option that we came up with was to
18 distribute 90 percent of the deferred maintenance funds
19 proportionately to districts and then set aside the
20 10 percent funding for extreme hardship projects and fund
21 approximately 40 projects at a hundred percent.

22 One of the outcomes of that is, is that that would
23 set a new baseline that would provide 500 percent funding
24 for those 40 districts for the projects that are on the
25 list. Any other -- well, I'm sure there are going to be

1 permutations of these options. There's also as -- a
2 potential legislative remedy would be to be take this up and
3 carve out extreme hardship funding to leave it for the --
4 you know, to set aside funds specifically for health and
5 safety and to leave the requirements that those projects be
6 completed.

7 CHAIRPERSON SHEEHY: Okay. Excellent, Rob, thank
8 you. I'm sure there's going to be some input from the Board
9 members. Senator Hancock.

10 SENATOR HANCOCK: Thank you, Mr. Sheehy. I'll be
11 interested to hear if there are comments from the public on
12 this, but let me say if extreme hardship is immediate
13 problems with health and safety, I have a problem with
14 giving some of these options over a hundred percent of the
15 amount of fixing the extreme hardship and then having no
16 obligation to fix the extreme hardship. Because what does
17 that mean? That means in a few years, we're going to have
18 districts coming back to us and saying, oh, the roof is
19 still falling in. Now we need more money or whatever it --
20 you know, it might be.

21 So my inclination would be to see if we could
22 maybe have a committee bill of some sort of all the
23 legislators on this Board to see if we could have a
24 two-thirds vote fix, in which case I would tend to favor
25 option 2A here which would give the extreme hardship

1 projects a hundred percent of the money they would need to
2 rectify the conditions but would also give other school
3 districts money for deferred maintenance, which would mean
4 maybe they wouldn't end up being extreme hardship districts.

5 I don't know how other members feel, but I do have
6 difficulty with taking one time money that is supposed to be
7 used for emergency repair and then having it not used for
8 that.

9 CHAIRPERSON SHEEHY: Mr. Harvey.

10 MR. HARVEY: I share that concern. I wish I had
11 the advantage of perhaps hearing what the public policy
12 discussion was when this categorical program was lumped into
13 the one that said we won't worry about making sure the
14 monies set aside for these categories are. We're going to
15 create ultimate flexibility for school districts and in
16 their intimate wisdom and with local community input,
17 they'll decide how the money should be spent, whether it's
18 on teacher salaries, whether it is on hardship, whether it's
19 on the lab, whatever, because I tend to believe that this
20 one of the categorical programs that should have been
21 preserved because it is going to one-time fixes that are
22 public safety issues.

23 So for me if we don't have a legislative fix --
24 and I don't know if that's an action precedent that I would
25 need. If we don't have a legislative fix to preserving the

1 hardship, I might be gravitating to option number 1 and
2 would like to hear more from the audience on that one
3 because that takes the money, recognizes what the
4 Legislature has done, which is said we're not have this
5 categorical anymore so we might as well give it to
6 everybody, and everybody gets to decide how they want to
7 spend it. And hopefully there'll be enough public pressure
8 in those local school boards for people to say yeah, we set
9 some aside for these hardships.

10 But to me without a legislative remedy, option 1
11 is the only one that works because all the other ones are
12 specious. We set it aside, they can spend it any way they
13 want anyway.

14 CHAIRPERSON SHEEHY: Thanks, Scott. Yes, Senator
15 Lowenthal.

16 SENATOR LOWENTHAL: Yeah. I just have a question.
17 What's the total amount of the deferred maintenance
18 project/extreme hardship projects?

19 MR. COOK: The amount that could be set aside
20 under statute is about 10 percent of the funds and it's
21 approximately \$24 million.

22 SENATOR LOWENTHAL: So it's \$24 million?

23 MR. COOK: Um-hmm.

24 SENATOR LOWENTHAL: The universe. We're not
25 talking about what could be set aside.

1 MR. COOK: Oh, oh, oh.

2 SENATOR LOWENTHAL: What is that?

3 MR. COOK: Yes. It's just under \$73 million.

4 SENATOR LOWENTHAL: \$73 million?

5 MR. COOK: Total price tag for the extreme
6 hardship projects.

7 CHAIRPERSON SHEEHY: Ms. Moore.

8 MS. MOORE: Is there any way -- I agree with you
9 on the issues. I think you're right on on that. Our
10 concern is that there are 126 projects that are supposed to
11 be critical.

12 Is there any other funding source for those
13 projects? For instance, would any of those -- could they
14 cross over into emergency repair projects? Could they cross
15 over into facility hardship projects or are they so distinct
16 that they have to sit over in deferred maintenance/critical
17 hardship; meaning could we, you know, X some of them off the
18 list by moving them into a different funding source?

19 MR. COOK: Emergency repair is pretty much spoken
20 for at this point in time, so an application going into
21 that -- for that funding stream is probably out of the
22 money.

23 MS. MOORE: Okay.

24 MR. COOK: We already have enough workload to
25 speak for the 800 million that's on the list. Some of the

1 other programs -- Katrina's an expert on one of those --
2 come with a match requirement typically and sometimes this
3 is the most attractive funding. This deferred
4 maintenance/extreme hardship is a very attractive approach
5 for those districts, but I certainly can't speak to that.

6 MS. VALENTINE: They could possibly qualify under
7 financial hardship. If they qualify for replacement of the
8 facility, it's 50 percent state share, 50 percent district
9 share. To rehabilitate it, it's 60 percent state share,
10 40 percent district share. So they would have to provide a
11 match to qualify under rehabilitation, but they ultimately
12 could.

13 MS. MOORE: And critical hardship, there is no
14 match?

15 MS. MORGAN: Oh, I'm sorry.

16 MS. MOORE: There is a match in critical hardship
17 as well.

18 MS. MORGAN: They have to match their basic, but
19 then the rest of it is provided at a hundred percent for the
20 first project and I think if there's additional critical
21 hardship projects, then it goes to a 50-50 split.

22 MS. MOORE: So, for instance, this year they don't
23 have to provide a basic grant. That's part of the
24 flexibility. So the critical hardship funding would be a
25 hundred percent for the project?

1 MS. MORGAN: It is my understanding that the ones
2 that were being presented were at a hundred percent. So
3 they would have been their first project and what would be
4 absent is whether or not the district chose to go forward
5 with providing would have otherwise been their match. The
6 trailer bill eliminated the requirement for the districts to
7 make the match, but they would still, if they were going to
8 pursue critical hardship project, would have to come up with
9 their share so that they can make the project whole.

10 MS. MOORE: Okay. I'm a little confused. So
11 critical hardship does have a match?

12 MS. MORGAN: A portion of it comes from their
13 basic and that portion is 50-50 and the extreme hardship is
14 at a hundred, so that it combines them in order to go
15 forward with the project.

16 MS. MOORE: Okay. But this year, there is not a
17 district contribution. It's simply the state funds. So can
18 I assume that it's a hundred percent funding for the
19 critical hardship and that's why you're saying,
20 Ms. Valentine, that most districts wouldn't go into the
21 other programs because they're match programs.

22 MS. VALENTINE: That's correct. And I just want
23 to clarify. The facility hardship and the rehabilitation,
24 they can qualify for financial hardship status, so if they
25 qualify for that, they ultimately could get a hundred state

1 funding.

2 MS. MOORE: If they were financial hardship.

3 MS. VALENTINE: If they were financial hardship.
4 If they met that criteria.

5 CHAIRPERSON SHEEHY: Senator -- we're going to
6 hear from Senator Torlakson.

7 ASSEMBLY MEMBER TORLAKSON: Thank you,
8 Mr. Chairman. I have two requests on information. One, I
9 imagine there's a spectrum in the extreme hardship projects
10 from those that are less extreme and those are more extreme.
11 Perhaps we can get some examples and also hear from the
12 public -- those examples are, and I think one of the intents
13 of the statute was to provide flexibility, so if it wasn't
14 an extreme hardship in the ultimate sense of a safety issue
15 right now that they could -- districts could find match
16 money, find other sources, or figure out how to program that
17 over the next several years. So that was the one
18 informational question.

19 The second is, is it your interpretation of the
20 statute that after this period of time where the
21 flexibility's granted that a district could come back and
22 apply for the same project over again if they decided to
23 spend the money elsewhere because it would seem that the
24 statute's intent was not that. It was flexibility within
25 that time frame and that a caveat could be put on that if

1 the money was not spent and this extreme hardship was not
2 addressed that it would be a hundred percent local
3 obligation after the period of time. What's your
4 interpretation and what did you mean in the recommendation?

5 MR. COOK: Yeah. That's an issue we've discussed
6 quite a bit and the statutory language is very broad on
7 that. They're relieved of the requirements.

8 Now, from the standpoint of the Board -- and one
9 of the things we put here as far as actions of the Board, we
10 believe that the Board in providing one of these funding
11 options could declare that the district -- this particular
12 project, the project that was identified here is -- has been
13 taken care of from our perspective and the district would
14 not be eligible for funding under any of our programs for
15 this particular project.

16 ASSEMBLY MEMBER TORLAKSON: Okay.

17 MR. COOK: And make that declaration. And one
18 thing I want to make very clear to folks because we're
19 dealing in really unusual times, these are actual real
20 dollars. Unlike our bond authority, which right now is set
21 on the sidelines, this is actual -- these are actual real
22 dollars that we can distribute to districts and from a
23 health and safety standpoint, this is real money that we can
24 get in their hands right away versus we don't know when on
25 the other funds.

1 ASSEMBLY MEMBER TORLAKSON: And on the question,
2 the spectrum of the most extreme, are there health and
3 safety, building ready to collapse kind of projects or real
4 immediate health threat that -- compared to lesser extremes?

5 MR. COOK: Well, yeah. It is a mixture. I expect
6 that we have some folks in the audience that can speak to
7 their specific projects and the nature of those and provide
8 you examples.

9 ASSEMBLY MEMBER TORLAKSON: Thanks.

10 CHAIRPERSON SHEEHY: Yes. Ms. Moore.

11 MS. MOORE: But don't you prioritize the projects?
12 I mean you're ready -- you would have been ready last month
13 with a recommendation of who got funded out of the
14 10 percent dollars that were remaining. So there is a
15 priority process, isn't there?

16 MR. COOK: That process, I'd had to refer to our
17 supervisor over that, but it's first come, first served
18 assessment on those projects and we have -- we had the first
19 40 projects that came in the door that qualified are those
20 that were prepared to be funded last month. We have overall
21 126 projects in queue.

22 MS. MOORE: Oh, so it's first come, first served
23 and there's no judgment on relative problem.

24 MR. COOK: That's correct.

25 CHAIRPERSON SHEEHY: Is there any public comments

1 on this item? Could we have Mr. Walrath, Mr. Duffy, a
2 gentleman sitting in the back. Mr. Walrath.

3 MR. WALRATH: Chair Sheehy, members, Dave Walrath
4 representing Small School Districts Association. This
5 program was initiated in 1983. It was done by Senator Jim
6 Nielsen and then Senator Pat Johnston and the purpose was to
7 address a series of issues, mainly in smaller school
8 districts, 200 kids, 500 children, where they were unable to
9 accumulate enough deferred maintenance money to replace the
10 roof, take care of the septic that failed, address the weld
11 that no longer works, that they were unable to accumulate
12 enough money there and this was a way of addressing the
13 issue.

14 And as it's evolved, you don't have to have
15 25 years under the modernization program to be eligible,
16 which is primarily some of your facility/financial hardship
17 issues, those types of things.

18 I understand the construct of the budget, AB4
19 Third Extraordinary Session, and the language that's in
20 there. This particular program, however, is a separable
21 series of Ed Code sections on the 10 percent set-aside and
22 some other actions.

23 What as SSSA we would suggest is we don't believe
24 anybody should get 500 percent funding. We do believe that
25 there will be funding over time over the next five years,

1 that in the interim until you start having some legislative
2 clarification, although we believe you have this authority
3 right now, is that you do apportion the funds to the
4 districts and the 40 because they have been anticipating
5 that funding since they became eligible. This is '07-'08
6 money and we're now March 2009. Allocate it to those 40
7 contingent upon the school district board resolution
8 certifying that first they'll make their full deferred
9 maintenance match. Second, they'll only use these funds for
10 the project for which they received it and that they will
11 complete that project for which they received the funds.

12 I believe you have the authority to make a
13 contingent apportionment based upon certification and it not
14 be part of the baseline as you clarify that your baseline is
15 not so much necessarily to these individual districts, but
16 the baseline will be to the program -- 10 percent set-aside
17 to the program.

18 But that is the interpretation of baseline because
19 normally if you have a very, very general statute,
20 notwithstanding any other provision of law. The other
21 argument is unless you specifically address a specific
22 statute, then that specific statute can be considered for
23 your action.

24 I concur that the language was done quickly, that
25 the language in AB4 Third Extraordinary Session may not be

1 the most elegant, that there does have to be a need to look
2 back at some of that language and there are members on this
3 Board who are members of budget subcommittees and to look at
4 that, to address it for the budget year through
5 clarification of that language and use the current '07-'08
6 funding.

7 Because remember this language isn't 4X dealing
8 with the '08-'09 appropriation, but they can say an '08-'09
9 appropriation retroactive back to '07-'08. This is '07-'08
10 money for the purposes of -- I know it's '08-'09
11 appropriation but for the purposes of '07-'08.

12 Does that provide you the window and the opening
13 to address this in a manner that we have expressed which is
14 more like three with contingent certifications and those
15 types of actions. I ask for your support.

16 CHAIRPERSON SHEEHY: Listening to Mr. Walrath, one
17 would think he used to work at the Department of Finance.
18 Speaking of which, you know, that's a very interesting
19 point. Is there a -- I know we have Ms. Brownley and
20 Mr. Duffy and another person, but is there a Department of
21 Finance staff person here that can address the point that
22 Mr. Walrath just made that this money is in fact '07-'08
23 money and as such might have a little bit of a different
24 color.

25 Chris, can you come up here and shed any light on

1 that, and if you can't, I'm giving you an extra furlough day
2 this month.

3 MR. FERGUSON: This is '08-'09 money that is being
4 paid for for '07-'08 projects that were apportioned -- or
5 for previous year, so yes. It's current year funding based
6 on '07-'08 projects.

7 CHAIRPERSON SHEEHY: So it's current year funding
8 that would be subject --

9 MR. FERGUSON: Correct.

10 CHAIRPERSON SHEEHY: -- to the SB4 Triple X.

11 MR. FERGUSON: Correct. I would also like to
12 note --

13 CHAIRPERSON SHEEHY: I'm sorry, Chris. I
14 apologize to the audience here. Could you please identify
15 yourself for the public record.

16 MR. FERGUSON: Oh, sorry. Chris Ferguson,
17 Department of Finance. I'd also like to clarify that within
18 the flexibility provision, the locals could choose to -- at
19 their school district level, choose to use other funds
20 within the categorical flexibility programs to fund deferred
21 maintenance.

22 So they could take funding from any of those
23 programs and use it for deferred maintenance if they so
24 chose.

25 CHAIRPERSON SHEEHY: Chris, I'm going to ask you

1 to stay handy here. Assemblywoman Brownley.

2 ASSEMBLY MEMBER BROWNLEY: Yeah. I was just
3 wondering since you're here if you could comment on Senator
4 Hancock's suggestion with regards to changing the statute
5 with -- obviously it would have to be a two-thirds vote in
6 order to accomplish the -- you know, the first 40 schools
7 that need this money.

8 MR. FERGUSON: In terms of changing the statute, I
9 would -- at this point, I would recommend that --

10 CHAIRPERSON SHEEHY: Chris, could you comment on
11 the technical aspect of Ms. Brownley's questions and not --

12 MR. FERGUSON: Sure.

13 CHAIRPERSON SHEEHY: -- you don't have to feel
14 like she's putting you on the spot --

15 MR. FERGUSON: Sure.

16 CHAIRPERSON SHEEHY: -- whether that's something
17 Finance would support or not --

18 MR. FERGUSON: Correct.

19 CHAIRPERSON SHEEHY: -- but just comment on the
20 technical aspects of it.

21 MR. FERGUSON: On the technical aspects, as we see
22 the Extraordinary Session Bill, we do believe that that is
23 current statute, so you would need the two-thirds vote to
24 change that statute and to remove the extreme hardship.

25 So from a technical standpoint, statutes don't

1 necessarily allow us without change --

2 ASSEMBLY MEMBER BROWNLEY: Right.

3 MR. FERGUSON: -- to make that adjustment.

4 ASSEMBLY MEMBER BROWNLEY: And Mr. Walrath's
5 suggestion, you're saying that there -- it wouldn't -- his
6 suggestion wouldn't technically meet the muster; is that
7 what you're saying?

8 MR. FERGUSON: What I'm saying is under the
9 current statute, it wouldn't.

10 ASSEMBLY MEMBER BROWNLEY: It would not.

11 MR. FERGUSON: Correct.

12 ASSEMBLY MEMBER BROWNLEY: Thank you.

13 CHAIRPERSON SHEEHY: Mr. Duffy.

14 MR. DUFFY: May I just use this, Henry?

15 MR. NANJO: Sure. Not a problem.

16 MR. DUFFY: Mr. Chairman, I could use a furlough
17 day if you'd like to give me one. Things have been busy.

18 MR. HARVEY: Without pay?

19 MR. DUFFY: Yes, sir. I'll take it without pay.

20 The -- Rob -- if I may, Mr. Chairman, members -- you and I
21 had a conversation the other day that really isn't one of
22 the options that's identified here and I realize reading the
23 write-up why that isn't. That's this technical issue. But
24 our discussion was could we get to the -- and I think
25 Mr. Walrath framed it very nicely. Could we get to a place

1 where we leave what we've been doing in the past for what we
2 do over the next five years, so that there is a 10 percent
3 set-aside for the critical hardship/deferred maintenance
4 programs because as Ms. Hancock has identified, these are
5 critical issues. They're health and safety issues.

6 We would commit to working with you to that end
7 because these are, as you've said, unusual times, but can we
8 not leave something in place. That has been one of the best
9 programs around. Deferred maintenance certainly has been
10 and the critical hardship part of it.

11 So your interpretation as I see in this write-up
12 is that you can't do what you and I talked about the other
13 day. Let's leave the 10 percent there. It'll be a static
14 amount over the next five years, take care of those projects
15 that are in the queue, including the ones that are the most
16 recent projects, and you're believing you cannot do that
17 based upon the technical writing of the statute, but if we
18 can get to that and Ms. Brownley's comment about the
19 two-thirds vote, if we can get to that, I think that that
20 would help to stabilize our program.

21 That's what we would like and I'm disappointed we
22 can't get there. I thought we could based upon our
23 conversation the other day.

24 MR. COOK: Well -- and we've done a lot of
25 clarifying in the meantime on that statute as you've heard

1 Chris indicate. It's pretty broad language that provides
2 complete -- pretty much complete regulatory relief to use of
3 those funds.

4 MR. DUFFY: So the only means for getting close
5 would be using option 2a? That's the only means of getting
6 anywhere close to that.

7 MR. COOK: Within our thinking, that option 2a at
8 least provides funding. The districts -- they are not
9 obligated as the statute reads to actually execute those
10 projects, but this Board could declare that we've done our
11 part and the district would be -- wouldn't be eligible for
12 future funding. I think that would be a fairly strong
13 indication that you should -- the will of this Board would
14 be that that project should be taken care of and through
15 your baseline and over those five years, you would receive
16 sufficient funds to take care of the project.

17 MR. DUFFY: Now, the suggestion from Mr. Walrath
18 about the contingent funding relative to -- and
19 Mr. Chairman, I'm not sure if this the root of the monies
20 for this year, if that continued funding as David suggested
21 with an action of the Board, would that work even for the
22 first year in your mind?

23 MR. COOK: I would defer to Chris on that one.

24 MR. FERGUSON: Looking at the Extraordinary
25 Session Bill in Section 15, Paragraph D, it does state that

1 the program would be deemed to be in compliance. So I don't
2 know that from a technical standpoint that you could
3 contingent -- put the funding contingent. The Board could
4 choose to do that but I don't know from a technical
5 standpoint that that would be within the statutes because
6 the statutes would deem them to be in compliance.

7 CHAIRPERSON SHEEHY: Question of Finance. Could
8 there be some trailer bill language? I'm sure -- I'll bet
9 my next furlough day we're going to have a trailer bill to
10 the budget that the Legislature adopted last month. Could
11 there be some language put in a trailer bill that could deal
12 with this and that would allow the Board to act and, you
13 know, take action now rather than later and have some
14 trailer language that clarifies how that would work?

15 MR. FERGUSON: That could be one option that the
16 Board members could pursue in terms of legislative relief to
17 seek a trailer bill that would make such adjustments.

18 CHAIRPERSON SHEEHY: I have Ms. Brownley then
19 Senator Torlakson.

20 ASSEMBLY MEMBER BROWNLEY: This might be a wild
21 question, but I'm just wondering if the money can be
22 transferred into another account and then distributed out in
23 a way that we would like to see; so it wouldn't be in an
24 account that would fall into this categorical flexibility
25 issue.

1 CHAIRPERSON SHEEHY: Chris, can you -- Chris or
2 Rob, could you respond?

3 MR. COOK: I'll let you have that one.

4 MR. FERGUSON: I'd actually prefer to defer to
5 Rob. I do not have the answer to that question on a
6 technical basis, whether they would be able to transfer that
7 another fund and then be required to use it in said fashion.

8 CHAIRPERSON SHEEHY: Okay. Then I think it's
9 appropriate -- I'm going to ask both OPSC and Finance to
10 work together to get an answer to that question and would
11 you give it your best thinking and then could you send a
12 response back to all the Board members on the question of
13 whether the funds could be transferred to another account
14 and thereby give this body some more flexibility.

15 Senator Torlakson.

16 ASSEMBLY MEMBER TORLAKSON: This is just an
17 informational question. Perhaps our attorney could also
18 comment on the recommendations in front of us, whether it be
19 2a or the others, whether they'll pass the legal muster.
20 I'm sure they would or they wouldn't have been recommended.

21 But if we were to do a statutory change, isn't
22 that like a four- to five-month process? Even if it's
23 emergency, we get it signed after a month through
24 committees. When would the statute go into effect? And so
25 if this extreme hardship and health/safety, you know, it

1 sort of leans towards doing something now that would relieve
2 some of the districts so they can move ahead and work on a
3 legislative fix and a longer-term fix if we see it, but I'm
4 thinking we're in a four- to five-month process to get a
5 bill, you know, actually in law and asking our attorney to
6 comment.

7 MR. NANJO: Yeah. I would concur with that. The
8 process even accelerated is going to take some time. I'm
9 not sure if you're going to have better luck doing it
10 through a trailer bill. And then just as a footnote, I
11 concur with what Chris has been saying about the
12 vulnerability with contingent approval.

13 The problem is the way the trailer bill language
14 has been written, it really does kind of give the school
15 districts a get out of jail free card. So any kind of
16 condition that we would put on the funds is subject to
17 challenge and I'm not sure it would hold up very well.

18 CHAIRPERSON SHEEHY: Okay. Okay. Now we had
19 another public comment, sir. Could you please identify
20 yourself for the record.

21 MR. COLLINS: I'm J.R. Collins and I'm the
22 Superintendent from Anderson Valley Unified School District
23 in Mendocino County. And we're probably the poster child
24 for the district that David was talking about that this
25 program was started for.

1 We're a small district of under 600 students and
2 we have a critical emergency project that has health and
3 safety issues that needs to be approved.

4 I would agree with David's proposal with one
5 amendment. There were 45 or 46 districts that were on the
6 agenda to be funded at last month's meeting and I think 5
7 were dropped out and I would like to see all of those 46
8 programs put back into the mix and, you know, if they have
9 to be funded at 95 percent or 90 percent, those programs
10 could probably go.

11 But to broaden the mix and spread the money over
12 many years is not going to help these critical hardship
13 projects that need to get done quickly. They're emergency
14 projects that have health and safety issues for our
15 students.

16 So I would ask that those, you know, 46 programs
17 be funded expeditiously. Yes.

18 CHAIRPERSON SHEEHY: Mr. Harvey.

19 MR. HARVEY: If I may, there's a public policy
20 question I've been wrestling with. Why the 46 in your mind
21 and not all 126?

22 MR. COLLINS: Well, because those were the ones
23 that were listed to be funded on the February agenda that
24 were in the queue that were lined up according to when they
25 filed and got their projects approved and that's normally

1 the way they're approved, you know, step by step and those
2 were the group that were on the agenda to be funded in
3 February -- were actually to be funded in December and that
4 was canceled; then it was again reviewed in February.

5 CHAIRPERSON SHEEHY: And again that's when we
6 thought that the rules were as we understood them in days
7 gone by. I don't think I knew until that meeting you're
8 alluding to that we were locking in funding for a five-year
9 period into a folded, new flexible spending package and not
10 a categorical. So to me that changes somewhat perhaps who
11 should be funded. But I appreciate your answer because I'm
12 wrestling with should it be 40 if we do it or should it be
13 all 126.

14 MR. COLLINS: Yeah, I worry if we went to 126 that
15 they would be funded at such a level that the districts
16 wouldn't be able to do anything with it.

17 MR. HARVEY: Well, we've just heard that you have
18 got all this new flexibility. That was the idea when they
19 put 40 categoricals that you could use other money.

20 MR. COLLINS: You know what? We're using our
21 flexibility to try to save our teachers.

22 CHAIRPERSON SHEEHY: Yeah. I want to just say for
23 the record -- I mean yes, it's true that we gave districts a
24 lot more flexibility, but I think I'd be remiss if I didn't
25 point out that we also cut their funding. So -- you know --

1 you know, Scott, I think to be a fairer balance, you have to
2 put that on the record too.

3 I'm sorry. Senator Torlakson, did you have
4 something else?

5 ASSEMBLY MEMBER TORLAKSON: No.

6 CHAIRPERSON SHEEHY: Mr. Duffy.

7 MR. DUFFY: Just finally, Mr. Sheehy and members.
8 If you could try to preserve the program the way that it has
9 existed and if you on a contingent basis could divide it
10 90/10 and we would work with you to seek the legislative
11 release with the members that are here, I think that that
12 would be the most positive thing for districts. This is
13 such an unusual time. Everything has changed. It would be
14 great to keep gravity specific in this particular program.
15 Thank you very much.

16 CHAIRPERSON SHEEHY: What's the pleasure of the
17 Board this afternoon on how to handle this item? We've had
18 a number of suggestions. I don't think there's any
19 philosophical disagreement with this Board, but it's hard to
20 know. Mr. Harvey?

21 MR. HARVEY: Well, again for me, if we can shift
22 money into another category and take it out of this you can
23 spend it any way you want and lock it into extreme hardship
24 categories, I would prefer that because we have the
25 certainty that that's what will happen.

1 For me to take action without a legislative fix
2 that sets it aside, it's kind of hard to do because we won't
3 have an answer for four or five months. So I would like to
4 hear that answer first because it makes a big difference how
5 I vote.

6 CHAIRPERSON SHEEHY: Okay. Chris, is this
7 Prop. 98 money or is this non-98?

8 MR. FERGUSON: This is Proposition 98 money.

9 CHAIRPERSON SHEEHY: Okay. See, one of the
10 concerns I have is that if we delay acting and our budget
11 situation deteriorates, the money that's left on the table
12 here may not be there. You know, it could end up being
13 there could be some agreement by folks that don't sit on
14 this Board to use it for some other purpose. I think that's
15 a real concern.

16 We have a -- certainly don't have a static
17 financial situation at the state level and we don't know
18 what's going to happen, so I mean I would just put that on
19 the -- full disclosure. I don't want to get anybody nervous
20 or upset here. I don't know of any plans to do that. I'm
21 just saying that, you know, we are going to have a May
22 revise and I think the analyst is going to come out next
23 week with some reports and I'm not so sure it's going to be
24 great news. Assemblywoman Brownley.

25 ASSEMBLY MEMBER BROWNLEY: Well, I -- I mean I

1 think that that is good caution and should be thought about
2 in this discussion, but I'm sure thinking that we -- our
3 next meeting's like next week, right?

4 MR. HARVEY: 25th. Two weeks.

5 ASSEMBLY MEMBER BROWNLEY: In two weeks. So, you
6 know, we're not going to have budget discussions and
7 \$24 million is not going to get scooped up in the next two
8 weeks. So we know we at least have two weeks and maybe we
9 can -- I think -- it sounds like based on the discussion
10 that there's -- people want to try to hold this program
11 together if we can. What we don't have is mechanism to do
12 it and that's -- and we just -- you know, have we
13 exhausted -- now if we know that, I'm not sure that that's
14 how everybody feels because everybody hasn't spoken to the
15 issue, but if we assume that that is the case, can we kind
16 of go back to the drawing board and see if there is a way in
17 which we can, you know, accomplish it. So I have a feeling
18 that -- and the big five -- all those big five meetings and
19 staying up all night long, I doubt that we were -- you know,
20 they were really focused on hardship and those \$24 million,
21 you know, and I don't want to, you know, undermine how
22 difficult those discussions were, but I -- you know, I think
23 that we're all -- we want to get to this place, but we don't
24 have a mechanism to do it. And maybe in two more weeks, we
25 would.

1 CHAIRPERSON SHEEHY: Mr. Walrath. Sure.

2 MR. WALRATH: Under the option, I propose on
3 making it a contingent apportionment. No school district
4 has a right to this money under law. It is a program. It
5 provides money under certain circumstances and no district
6 has an absolute legal right to that money.

7 Consequently, if you do a contingent where they
8 make those certifications, it's their choice as to whether
9 they want to accept the money under those certifications or
10 not. I do not see how that does damage to the provisions of
11 AB4 Triple X.

12 CHAIRPERSON SHEEHY: Mr. Walrath, would you be
13 willing to meet with our finance staff to discuss whether
14 this -- because it sounds like your option, if it's
15 workable, would -- I'm guessing it would be able agreeable
16 to this body and so that would be a great way to resolve it.

17 MR. WALRATH: Always a pleasure to work with --

18 CHAIRPERSON SHEEHY: And I'm sure our staff would
19 be happy to meet with you and so can you see if you can meet
20 with them and then, Rob, can you have one of your folks
21 attend that and then they could come back in two weeks and
22 we could hear this along with any other items. Is that --
23 would that be -- yes, Senator Lowenthal.

24 SENATOR LOWENTHAL: No, I just had a -- just a
25 quick question. I don't know -- for our attorney. If we

1 went, let's say, with option 2a or one of the -- let's say
2 2a and we funded without the legislative fix at this moment.
3 We funded extreme hardship, money went back, districts
4 decided not to use it for that, who's liable if there's an
5 accident?

6 MR. NANJO: I guess I'm -- okay. Can I hear that
7 again.

8 SENATOR LOWENTHAL: We're now sending money out --

9 MR. NANJO: You didn't end up going where I
10 thought you --

11 SENATOR LOWENTHAL: -- to fix an extreme hardship
12 of health and safety project -- a health and safety
13 standard. They're getting additional funds because there is
14 a health and safety risk out there.

15 MR. NANJO: Right.

16 SENATOR LOWENTHAL: We now funded for that giving
17 them that additional money, but they use it not for that.
18 Who's liable if there's an --

19 MR. NANJO: The liability would most primarily be
20 on the school district at that point because we have done
21 our part to provide the funds necessary to do that work.
22 They have taken the choice to do something other than repair
23 their extreme hardship with that.

24 SENATOR LOWENTHAL: Okay. I just wanted to know
25 who -- because we're here -- we're doing -- if providing

1 this fund, I would like to know with the understanding that
2 it's going to be used for that and yet they now have this
3 flexibility not to use it for that and there's an accident,
4 who's liable.

5 MR. NANJO: Yeah. Very clearly the intent of this
6 Board in the discussions I've heard so far is to make sure
7 that's those funds go to extreme hardship -- the extreme
8 hardship repair.

9 SENATOR LOWENTHAL: And they're used for that.

10 MR. NANJO: And they're used for that. The
11 difficulty is they don't have to do that because of the
12 trailer bill language and that's what the Board's wrestling
13 with.

14 CHAIRPERSON SHEEHY: Are any of the members of the
15 Board this afternoon interested in or prepared to make a
16 motion at this point because I certainly don't want to
17 preclude their ability to do that. Okay. Senator
18 Torlakson.

19 ASSEMBLY MEMBER TORLAKSON: No. I think the
20 suggestion of putting it over to next meeting is a good one
21 perhaps our attorney and staff could also look at whether a
22 statute can retroactively protect whatever we decide to do
23 on an interim basis with this cloudiness and confusion
24 because I think in good faith, we'd be moving ahead to try
25 to solve extreme hardship or health and safety issue and I

1 think there may be a way to inoculate us from future
2 lawsuits and in good faith, I would hope most districts
3 could comply with whatever guidelines we put forward to get
4 the money out the door.

5 CHAIRPERSON SHEEHY: So, Senator Torlakson, if I
6 may just repeat that for the staff's benefit. I think what
7 I heard you say was in addition to having the staff come
8 back in two weeks to look at the recommendation Mr. Walrath
9 made, we'd also like them to come back and report on is
10 there an ability if this body were to take an action this
11 month and legislation were to be chaptered subsequently,
12 would it be able to work in a way to make sure the will of
13 this body was effectuated, right?

14 Chris, could you also put that on your to-do list
15 with the -- you know, and get the appropriate -- if you need
16 any additional staff from another unit or something and
17 could you also invite OPSC to participate in that so that we
18 could hear back from Finance and OPSC.

19 MR. FERGUSON: Yes, I'll be sure to do that.

20 CHAIRPERSON SHEEHY: Do members have any other
21 requests of further options they'd like staff to look out
22 and come back. If not, I'm sensing we should move on. So
23 we're going to not take any action on this item today, but
24 we will -- Rob, we need to have it on the agenda for later
25 this month.

1 MR. COOK: Absolutely.

2 CHAIRPERSON SHEEHY: Yes. We have a request to
3 move to Tab No. 7. If there's no objection, we'll move to
4 Tab 7. This is **School Facility Program Unfunded Approvals**.

5 MS. VALENTINE: The next item is Tab 7, stamped
6 page 28 and this is to discuss unfunded project approvals.

7 CHAIRPERSON SHEEHY: I'm sorry. Katrina, can you
8 try to just pull that microphone a little bit closer. I
9 think it's still not that loud.

10 MS. VALENTINE: Stamped page 28. This item is to
11 discuss unfunded project approvals. At the February 19th,
12 2009, Implementation Committee meeting, we had a discussion
13 on whether a recommendation should come forward to the State
14 Allocation Board to continue with unfunded approvals.

15 As you know, the Board doesn't have the authority
16 to apportion funds. OPSC is still accepting those
17 applications. However, they're not processing those to the
18 State Allocation Board for unfunded approvals.

19 CHAIRPERSON SHEEHY: Hold on. I'm sorry.
20 Ms. Valentine, did you say that the Board doesn't have the
21 authority to apportion funds? I don't think we've lost any
22 authority. You didn't really mean that, did you? I'm not
23 trying to give you a hard time. I just -- we got a record
24 here -- I think -- isn't the issue more that if we apportion
25 funds now, we could put districts in jeopardy because the

1 clock starts running and there may not in fact be bond funds
2 available. So it's not that we can't apportion now. It's
3 that we don't want to put districts in jeopardy. Isn't
4 that --

5 MS. VALENTINE: Yes.

6 CHAIRPERSON SHEEHY: Okay. I'm sorry.

7 MS. VALENTINE: Thank you.

8 CHAIRPERSON SHEEHY: Okay. No problem.

9 MS. VALENTINE: We did have a discussion at the
10 Implementation Committee meeting at the February 19th
11 committee meeting. I believe that it was the majority of
12 the Implementation Committee meeting wanted to recommended
13 to the State Allocation Board that they continue with
14 unfunded approvals.

15 In the past when the Board was out of funding, we
16 have recommended going forward with unfunded approvals and
17 the Board has approved those in the past and so today's
18 recommendation, the OPSC is recommending to the Board that
19 they continue with unfunded approvals for projects up to the
20 bonding authority and then there is another recommendation
21 that once we get closer to running out of the bonding
22 authority that an item be brought back to the State
23 Allocation Board to discuss continuing unfunded approvals
24 beyond that point.

25 CHAIRPERSON SHEEHY: Excellent. Are there any

1 questions of Board members of Ms. Valentine or staff? I'm
2 sure there must be public comment here. Mr. Duffy.

3 MR. DUFFY: I appreciate this item coming before
4 you. We had asked for it some time ago, so I very much
5 appreciated being here for your action today.

6 I would ask that once that authority has been run
7 through, once you've exceeded the amount of bond funds that
8 would be available that we have agendized another
9 discussion. I ask that because in the past going back to
10 the 1980s, it was a practice for this body to create a
11 pipeline of projects that were approved as unfunded in order
12 to establish need and we used those as we neared an even
13 numbered year and used that a demonstration for the
14 Legislature and the administration for future bonds.

15 And so we agreed that this is a positive thing to
16 do, to do unfunded approvals, but to make sure that we don't
17 just stop at that point in time. I think -- and we don't
18 know what's going to happen with 2009-2010, and I think a
19 continued discussion would be worthy.

20 CHAIRPERSON SHEEHY: Well, I think that's -- Tom,
21 that's fine. I think that's consistent with what
22 Ms. Valentine just said and I'm sure there's plenty of
23 support on the Board to do just that, that as we get closer
24 to approving all of the existing authority that's on the
25 books, this body will need to have the discussion about

1 doing just what you said. I'm in full agreement with you.

2 MR. DUFFY: Okay.

3 CHAIRPERSON SHEEHY: So -- and I'm sure you'll
4 keep us posted on the status of when we need to agendize
5 that, right?

6 MR. DUFFY: I will do that. Thank you.

7 CHAIRPERSON SHEEHY: Okay. Thank you, Tom. Is
8 there any other public comment on this item?

9 MS. MOORE: I'll move the item.

10 ASSEMBLY MEMBER BROWNLEY: I'll second it.

11 CHAIRPERSON SHEEHY: All right. We have a motion
12 and a second. All in favor.

13 (Ayes)

14 CHAIRPERSON SHEEHY: Okay. Item No. 7 is
15 approved. Okay. So we've -- I think we're at Tab 1.

16 MS. MOORE: Can I just clarify on that, then will
17 we see projects at the March 25th State Allocation Board
18 meeting?

19 MR. COOK: You can't and for one reason. Action
20 taken at this Board at our last meeting put a certain
21 district -- they're in front of the line and we have --
22 Lammersville and we do not have a complete application
23 before us and we cannot fund a project out of order. So we
24 are going to have to process that -- get a full application,
25 process that application, and then we can bring it forward

1 to the Board.

2 CHAIRPERSON SHEEHY: Assuming that Lammersville's
3 cooperating with us at this point, so --

4 MR. COOK: Yes. No. We've got --

5 MS. MOORE: Could we put their estimated amount
6 and then bring everybody else forward -- or it's full and --
7 no, it's not. It's a list.

8 MR. COOK: Well, it's an unfunded approval. It's
9 not full and final.

10 MS. MOORE: Yeah. Couldn't we give an estimate to
11 them? I mean people have been waiting since December to be
12 into this category and I would hope that we could bring
13 those projects that are ready forward, give Lammersville,
14 you know, an estimate or whatever possible we can to hold
15 their place and --

16 MR. COOK: We'll explore that option.

17 CHAIRPERSON SHEEHY: Well, I appreciate your
18 willingness to explore it. I'd like you to find any
19 possible way you can to do it. I know that Ms. Moore and
20 other Board members have expressed this concern to me going
21 back a couple of months now and I know there's been a lot of
22 uncertainty as to how things were going to play out with the
23 budget and with the, you know, Pooled Money Investment Board
24 and all this. So I'd really appreciate it and I'm sure the
25 other -- and I know Ms. Moore would and I'm sure the other

1 Board members would appreciate it if we could find a way to
2 in fact make that happen. So please I would implore you to
3 do that.

4 MS. MOORE: Thank you.

5 CHAIRPERSON SHEEHY: Okay. So we're on Tab No. 1.
6 This is the **transfer of critically overcrowded school**
7 **program funds.**

8 MR. COOK: What you have before you is an item
9 today describing a transfer of funds from the critically
10 overcrowded schools program under Proposition 47 and under
11 the provisions of that bond, any excess funds in the
12 critically overcrowded schools category can be transferred
13 to new construction.

14 There are a little over \$840 million that's left
15 in that pool. It's unspoken for at this point in time. The
16 staff recommendation before you today is to leave what we
17 consider a prudent reserve of a little over \$40 million in
18 that pool to take care of any unanticipated expenses that
19 may arise on the projects that are currently being perfected
20 there and then \$800 million be available for new
21 construction.

22 That \$800 million, the staff recommendation is to
23 move to authorize the transfer of that full amount and that
24 we would on an as-needed basis transfer to those funds to
25 match them up with districts that have active labor

1 compliance programs in place.

2 Proposition 47 and 55 come with a feature known as
3 labor -- mandatory labor compliance programs. Some
4 districts may or may not have proceeded with their projects
5 with labor compliance programs and they are barred from
6 receiving funds from 47 and 55.

7 So staff has managed that issue as we were
8 using -- exhausting Prop. 55 funds. We will look at doing
9 the same procedure as we manage these funds.

10 CHAIRPERSON SHEEHY: Ms. Moore.

11 MS. MOORE: In the item, it indicates that there's
12 the potential for impacted school districts to have to
13 withdraw their application if they received -- if they have
14 proceeded and not had a labor compliance program in place
15 and I know that you also added recommendation number 3 to
16 really warn districts.

17 However, I'd like -- and maybe it takes having
18 this item come back before us again. I'd like to craft a
19 solution that doesn't have districts having to withdraw a
20 project. I think getting a project to the point of being
21 apportionable -- if that's a word -- being able to be
22 apportioned is a lengthy process and then to -- because the
23 funding source changes, to have to withdraw that, I think
24 it's very onerous on school districts and it's going to be
25 onerous on staff as well because they're going to have to

1 reprocess that application.

2 So is there a way knowing that, you know, we have
3 this \$2.4 billion list that isn't apportioned yet, of
4 apportioning the 55 money to those districts that we know
5 have a labor compliance program in place, like LAUSD, and
6 not have to subject other districts to this issue?

7 MR. COOK: The 2.4 billion list you refer to is
8 already apportioned. They already have their calls on the
9 various funds, so that's not an issue.

10 MS. MOORE: Is there any way to change the source
11 of funds on that apportionment before it actually happens?

12 CHAIRPERSON SHEEHY: You mean before the funds are
13 released?

14 MS. MOORE: Right.

15 MR. COOK: Yes. We -- well, and we've worked
16 through these issues, like I said, with Proposition 47 and
17 55 and as we've moved through with 1D, worked with the
18 Department of Industrial Relations to help districts get
19 certified in some cases. There's been a fair amount of
20 effort that goes on behind the scenes to keep districts out
21 of harm's way with these funds and requirements on these
22 funds.

23 What you have before you is just a simple
24 reflection of what we do. I mean we've taken -- our folks
25 are well aware of what they have to do with their districts

1 in order to help them.

2 MS. MOORE: But is there a way that we can do this
3 without anyone having to withdraw their project from the
4 system? I think that's very problematic for school
5 districts and for everybody else.

6 MR. COOK: We're just raising the possibility that
7 it could occur. We don't have any specific examples that it
8 might, but this -- the statutory language is pretty strong
9 in this regard. We're just raising the issue we want folks
10 to be on notice about it and we will do everything that we
11 can to help them through out.

12 CHAIRPERSON SHEEHY: I'm sorry, Kathleen, can I
13 ask a clarifying question?

14 MS. MOORE: Sure.

15 CHAIRPERSON SHEEHY: Is what you're asking is --
16 okay, so the apportionment's been made and it's from a
17 certain fund source and without having to undue the
18 apportionment, could we --

19 MS. MOORE: Switch the fund source.

20 CHAIRPERSON SHEEHY: -- rejigger the fund source
21 so as to make this potential labor compliance program issue
22 less of a constraint. Is that what you're asking?

23 MS. MOORE: Yes.

24 MR. COOK: We've done that.

25 MS. MORGAN: No, we have not.

1 CHAIRPERSON SHEEHY: You've done that already?

2 MR. COOK: We've matched folks up with the money
3 appropriated.

4 CHAIRPERSON SHEEHY: Hold on. I think -- you
5 know, this sounds like a technical issue, but this is a
6 really, really important issue and I started to -- I think I
7 heard you say something like the statute's really specific,
8 so we can't do it. I mean I'm -- I want to stress test that
9 a little bit. If there's a rejigger -- I mean because it
10 seems to me that the school districts that have gotten these
11 apportionments, as long as they get the dollar amount they
12 need to get, it's not going to matter to them which
13 proposition it was from.

14 And so if there's a way to -- and, you know, we
15 haven't released funds because of the state's financial
16 situation. We've got some time on our hands. If there's a
17 way to go in and rejigger some of those fund sources to
18 create greater flexibility on the back end with the other
19 school districts, we should do that.

20 MS. MOORE: We could --

21 CHAIRPERSON SHEEHY: That's what you're asking,
22 isn't it, Kathleen?

23 MS. MOORE: Yeah. And we could ask if there's
24 others. I mean I know -- and I don't mean to speak for
25 LAUSD. They're here today. Correct me if I'm wrong. I

1 believe you have a labor compliance program in place and
2 it's in place regardless of your funding source.

3 But there are many other districts that when the
4 law changed because we're not funding for that either, they
5 changed their practice and I think that was appropriate at
6 school districts. So now as these funds become blended a
7 little more, it's problematic. So maybe we could ask others
8 are you -- do you have labor compliance program. Let's
9 throw you into the labor compliance money and then leave the
10 remainder for those that, you know, who like rightfully so
11 made the adjustment and they thought it was appropriate.

12 MR. COOK: And that has been our practice to match
13 folks up with those funds as we funded projects. We've done
14 that. We raised the specter that if we, for example, run
15 out of all Prop. 1D funds and the only funding source left
16 is Prop. 55 and somebody does not have a labor compliance
17 program in place appropriately, they may not be able to
18 access those funds.

19 MS. MOORE: And again I guess what I'm asking is
20 can we craft a solution that doesn't require them to
21 withdraw their project. For instance, then if you come down
22 the list and they say I did it. I didn't have a labor
23 compliance. You know, I got caught, then we put them over
24 here waiting for the next round of funds versus say give
25 them the whole thing back where your agency, my agency has

1 to reapprove them and the district has to go through all
2 that which I think is a waste of everyone's time.

3 MS. MORGAN: Through the Chair if I may add.

4 CHAIRPERSON SHEEHY: Ms. Morgan.

5 MS. MORGAN: We're happy to look into the
6 suggestion about the previously apportioned, but I just want
7 to put the caution out there that we have not done that and
8 there are some issues surrounding that as far as the date of
9 apportionment and full and final implications, but we will
10 research it to see if there's a way to switch it and is a
11 form of accounting.

12 But it's not going to provide as much relief as
13 you think because the 800 million of the Los Angeles Unified
14 School District on the list were essentially all if not most
15 critically overcrowded school program projects that
16 converted to final apportionment. So therefore they were
17 already funded from Proposition 47 and 55, so they wouldn't
18 be something that we could switch to accommodate what you're
19 suggesting.

20 And just to clarify, what you are suggesting, to
21 go back regarding the current -- the already apportioned
22 list, we are suggesting here and as Rob said, we've been
23 doing as we've gone along with the conversion from 55 and
24 47, making that assessment with each and every modernization
25 and new construction project we go through. If it's -- has

1 a labor compliance program already as a component of it, we
2 fund it from the source. So this recommendation number 2 on
3 the item, page 2, will help us achieve that without running
4 afoul of the federal (coughing) because we're not going to
5 be transferring all that money until we need it for the
6 projects that indeed have the labor compliance program and
7 that will help us not have to go and fund everything from
8 the Proposition 47 pot. It will help achieve what you are
9 suggesting.

10 CHAIRPERSON SHEEHY: Okay. So it sounds like
11 then -- yes. Oh, I'm sorry. Assemblywoman Fuller, please.

12 ASSEMBLY MEMBER FULLER: I totally concur with
13 Kathleen's request and I just want to go on record as
14 supporting her in this. I think that even if it provides
15 two or three school districts relief because they don't have
16 to like withdraw and reapply and come up with -- like maybe
17 they had already decided to be labor compliance, then there
18 wasn't money for labor compliance, they decided not to be
19 and they went through all that hassle, I think we need not
20 drag them through it.

21 So I think whatever relief that you can provide,
22 let's do that, and then whatever relief you can't provide,
23 you'll have a small pool or a pool of people that we haven't
24 provided -- and perhaps you can work out a different
25 alternative that would provide the intent of Ms. Moore's

1 recommendation and bring that back to us.

2 I think this is basically a commonsense issue and
3 it's very hard times for everybody in here and the school
4 districts are short staffed, we're all short tempered, and
5 we're short of money.

6 So let's not make it any harder and if there's
7 like a pool that this suggestion doesn't affect, let's get
8 the first pool off that we can fix and come up with a
9 different fix for the others if at all possible and thank
10 you.

11 MS. MORGAN: To speak to your point, this is --
12 that is exactly what we will do for all the projects that
13 are currently on our workload. And so we will do as you're
14 suggesting. We're already going to go forward in that
15 fashion and that's what we have been doing.

16 So what we -- what Item No. 3 -- recommendation
17 number 3 will speak to is at a certain point, we are going
18 to run out of Proposition 1D funding and then we'll be left
19 with no choice but to look to Propositions 47, carryover
20 COS, and Proposition 55 carryover which will occur a year
21 from now and then we wouldn't have that option.

22 So it's important for us to caution districts now
23 that if you're coming in with an application in the future,
24 you very well better carefully consider having a labor
25 compliance program component to it because we may not have

1 any other funds but 47 and 55 to use and that's what we're
2 trying to make sure all the districts are aware.

3 ASSEMBLY MEMBER FULLER: And that's very helpful
4 and I guess it's just the -- one part of ignorance on my
5 part is wouldn't all new applications pretty much understand
6 that they are going to be accessing money that has labor
7 compliance requirement?

8 MS. MORGAN: Actually no. The districts don't
9 know what pot of money they're going to be funded from and
10 that was a challenge when we had the Proposition 1D funds
11 come forward and we were running into this issue when we did
12 the -- when that proposition came forward. So we've dealt
13 it fairly successfully in looking at what program they had
14 and to the degree possible, we will fund them out of the
15 appropriate pot so that their -- freeze up the funds that
16 districts that don't have labor compliance can be funded
17 from Prop. 1D.

18 ASSEMBLY MEMBER FULLER: So perhaps I can address
19 this to the Chair that perhaps a suggestion to staff would
20 be as they bring forth the list that -- that this can't be
21 dealt with that they bring forth an appropriate plan for an
22 advisory to all the districts coming up that this might be
23 in the hopper, so that we -- next time we know those that we
24 can fix, those that we can't fix, and an advisory that we
25 would send out immediately to help us get by and then we'll

1 know there'll be another group of people that will contact
2 us and say, well, we got the advice and we just can't do it
3 and then we deal with that group.

4 But we begin to process in segments the groups and
5 let the money go out.

6 CHAIRPERSON SHEEHY: Is there a notice -- I think
7 that's an excellent suggestion, Ms. Fuller. Is there a
8 notice on the OPSC Website that talks about this?

9 MS. MORGAN: This actually would have been the
10 prompter to that --

11 CHAIRPERSON SHEEHY: Okay.

12 MS. MORGAN: -- because this was being brought
13 before the Board today.

14 CHAIRPERSON SHEEHY: So we'll put one up on the
15 OPSC --

16 MS. MORGAN: Yes.

17 CHAIRPERSON SHEEHY: -- Website. Ms. Moore.

18 MS. MOORE: I think that's great. I think it's
19 prudent to advise districts. I just want to clarify then
20 though if they -- if a district is funded out of this --
21 that funding source and therefore has to have a labor
22 compliance program, we're funding that as well.

23 MS. MORGAN: Yes. They are entitled to the
24 additional grant.

25 MS. MOORE: Which they are not in the other

1 program.

2 MS. MORGAN: That is correct.

3 MS. MOORE: Okay.

4 CHAIRPERSON SHEEHY: Okay. I've lost track of
5 exactly where we are procedurally.

6 MR. COOK: Well, we were looking to transfer some
7 funds when we started this.

8 CHAIRPERSON SHEEHY: Oh, and I'm sorry. There's a
9 gentleman -- there's some more public comment. I'm sorry,
10 sir. Could you identify yourself for the record, please.

11 MR. GONZALEZ: Yes. Richard Gonzalez, Richard
12 Gonzalez & Associates. I like staff's write-up. That's not
13 the issue. Kathleen's suggestions are very strong and I
14 like them.

15 I wanted to share with you an example of what
16 would be a case that Kathleen's talking about. In Hanford
17 High School District, there's a Sierra High School project,
18 a full-blown high school being built, in which they have a
19 joint-use component to it. The joint-use component was
20 apportioned as was the full construction of the school.

21 Unfortunately the joint-use component was required
22 to be funded out of 47/55. It has a labor compliance
23 requirement which has placed the entire campus under
24 construction to be under labor compliance.

25 But the high school itself is being funded out of

1 1D. It does not get money for labor compliance dollars, but
2 they're required to comply with it because the joint-use
3 components in it -- if you can follow my point there.

4 To have them be able to be moved into this
5 category of being funded out of the 47 dollars which they've
6 received their apportionment; they've asked for the fund
7 release -- and be able to get the labor dollars for it, they
8 would be -- now be able to pay for more of that labor
9 compliance work that they've got going on on that school.

10 MS. MOORE: Are they on this list --

11 MR. GONZALEZ: They are on the -- they turned in
12 their fund release. They were going to be receiving their
13 funds roughly around December 23rd and were frozen out.

14 MS. MOORE: So that's one example. We'd look at
15 them to not have to -- if we can put them into the funding
16 category that doesn't have that requirement, we should.

17 MR. COOK: More than happy to look at it, see what
18 we can work out.

19 CHAIRPERSON SHEEHY: Mr. Smoot, did you want to
20 address the Board.

21 MR. SMOOT: Yes, sir, if you don't mind.

22 MS. MOORE: Did I speak erroneously on LAUSD?

23 MR. SMOOT: You would never do that, Kathleen.

24 MR. COOK: But Lyle's about to.

25 MR. SMOOT: Thank you, ladies -- give him another

1 furlough day. Again I'm Lyle Smoot representing Los Angeles
2 Unified and I want to move to a different issue that's part
3 of this discussion and that is the amount of the money
4 that's going to be left in the reserve, the \$40 million.

5 I'll try to make this as short as I can, but the
6 projects that are tied up for LA and we're most of the money
7 that's left, \$800 million roughly, is tied up in this
8 critically overcrowded schools program. And we've done all
9 of the what you call the low-hanging fruit projects. The
10 projects that are funded out of the critically overcrowded
11 schools program are the most difficult projects either in
12 terms of land acquisition or environmental cleanup and the
13 problem is when you converted this to a final
14 apportionment -- I don't know if it's been done -- there was
15 a lot of money, if you don't mind, in the preliminary
16 apportionments that was reserved for excess costs,
17 increases, et cetera. Once you made the conversion, there's
18 no money -- not much money left. This \$40 million would be
19 it.

20 We're concerned about that amount of money. We
21 believe that we might incur as much as \$100 million more
22 than that to finish our projects and so because there is no
23 real urgency on doing 800 million versus say 700 million, we
24 would ask that you change that number at this point to
25 700 million and leave the other hundred and -- whatever it

1 is -- 35-, \$40 million there while we go through a process
2 of trying to figure out our exposure. Okay?

3 And we've talked with staff. We understand that
4 there is a possibility that we could ask for Proposition 1D
5 money to complete the projects, you know, if we needed more
6 money and, you know, that's a little worrisome because
7 Proposition 1D will go out, especially we do an unfunded
8 list. Whenever the apportionment list starts going, that
9 money will go out rapidly. If there's nor reservation, we
10 may be left with a situation where we have substantial costs
11 associated with old projects that can't be covered with the
12 money that's left.

13 So we're not asking you to forever give us, you
14 know, that additional set-aside. We're just saying let's
15 slow that down on that hundred million dollars and have
16 additional conversation. We can come back two or three
17 months from now with hopefully very good numbers.

18 CHAIRPERSON SHEEHY: Okay. So that's a little
19 different than the way your request was presented to me by
20 staff. You don't want just a pure set-aside. You want a
21 temporary set-aside.

22 MR. SMOOT: Yes, sir.

23 CHAIRPERSON SHEEHY: For two months?

24 MR. SMOOT: Well, I'd rather have three.

25 CHAIRPERSON SHEEHY: Three months.

1 MR. SMOOT: The problem is that trying to
2 determine what your exposure is is a function of amongst
3 other things eminent domain and mitigation measures that we
4 don't know right now.

5 So basically what we're going to have to do is
6 look at these projects and take our best guess at those
7 numbers and so probably within three months, we could come
8 up with a pretty good guess.

9 CHAIRPERSON SHEEHY: Questions of the Board? This
10 is a new twist -- significantly new twist to this item. Any
11 Board members want to ask any questions or make any
12 comments. Mr. Smoot's asking for an action that is a little
13 different here than the staff recommendation. I think
14 essentially you're okay with this item, but you'd like to
15 see \$100 million set aside for two or three months because
16 you'd like to see what your wrap-up costs are going to be;
17 is that right?

18 MR. SMOOT: That's correct.

19 ASSEMBLY MEMBER TORLAKSON: Sounds reasonable.

20 CHAIRPERSON SHEEHY: Senator Torlakson thinks it
21 sounds reasonable. I don't have any problem with it.
22 Mr. Harvey, Ms. Fuller, Ms. Moore, Mr. Lowenthal? I don't
23 see anybody shaking their head no. Is there anybody in the
24 public that would like to comment on this item? Mr. Duffy.

25 MR. DUFFY: Thank you again, Mr. Chairman and

1 members. Tom Duffy for C.A.S.H. Not on Mr. Smoot's issue,
2 but two items related to this item that is proposed for you.

3 One is to the issue of labor compliance. Last
4 year -- last session, Mr. Padilla authored a bill that would
5 have taken a fraction of a percent or a percent of a project
6 and given that to the Department of Industrial Relations to
7 oversee the payment of prevailing wage. That bill was
8 vetoed by the Governor; however, the concept was placed into
9 statute and will be in effect in a few months.

10 CHAIRPERSON SHEEHY: I'm sorry. If the Governor
11 vetoed the bill, how is it the concept was placed in the
12 statute? I didn't follow you.

13 MR. DUFFY: Because it was part of the budget
14 deal.

15 CHAIRPERSON SHEEHY: Oh, so he vetoed the bill,
16 but then it got done as a trailer bill?

17 MR. DUFFY: This -- just this year.

18 CHAIRPERSON SHEEHY: I see.

19 MR. DUFFY: So what I'm saying to you is that I
20 believe that rather than the construct of looking at what's
21 attached to dollars that in a short period of time when
22 these dollars really become available as dollars that that
23 will be in place and I think a solution rather than
24 accounting solution would be for this body to direct its
25 staff to take a percentage consistent with what will be

1 law -- a percentage of the project and basically give that
2 to DIR as other projects will have to do into the future. I
3 think that takes away this issue of trying to account for
4 dollars, Ms. Moore that would be attached to labor
5 compliance because they're 47 or 55 as opposed to the 1D
6 dollars.

7 And that's one concept that I wanted to share with
8 you. So I think -- I would suggest that your staff look at
9 that as a solution.

10 The second thing that I wanted to talk about was
11 the -- just that the concept of moving these funds to new
12 construction. The statute for critical overcrowded schools
13 comes from AB16 which we negotiated back in 2002 and we
14 negotiated critical overcrowded schools concept set-aside of
15 over \$4 billion and there was a belief on the part of both
16 Democrats and Republicans -- there was a conference
17 committee on this and there was agreement that we would set
18 aside a significant amount of money, over \$4 billion, and
19 that if there were any dollars that were left over that were
20 not used for COS that those monies would be available for
21 new construction kind of projects.

22 If you look at the statute, the statute says new
23 construction with a small n, a small c, and it basically
24 says for any program supported by the articles under the
25 chapter which is 12.5.

1 The regulations for the Allocation Board use a
2 capital N and a capital C, basically saying these would go
3 to the new construction program. What I'm positing for you
4 is that there isn't a rush because there's no real dollars
5 here. It's concept and movement of money on paper, that you
6 may want to as a body look at other needs that may be here
7 for us. Yes, new construction's important. The issue in
8 the specter of level 3 developer fees is something we've all
9 discussed and we're all aware of.

10 But in that the statute presumed that this body
11 may want to look at other needs that would be new
12 construction kind of needs, not just the new construction
13 program, it may be that you want to deliberate on that. So
14 just I posit that for your consideration as well.

15 CHAIRPERSON SHEEHY: Okay. So, Tom, the first --
16 your first point though is you're making a request that
17 staff look at the feasibility of having some portion of the
18 money set aside to help fund the --

19 MR. DUFFY: Not labor compliance programs but go
20 to the Department of Industrial Relations for looking at the
21 payment of prevailing wage throughout California. That will
22 be the new law.

23 CHAIRPERSON SHEEHY: Okay.

24 MR. COOK: I think what Tom is trying to say is
25 does that provision provide inoculation for school districts

1 regarding labor compliance program so that they aren't in
2 jeopardy on Proposition 47 and 55 funds. Is that what
3 you're saying?

4 MR. DUFFY: Well, more than inoculation in that
5 when you actually fund these projects in the future, not the
6 ones that you were identifying as the 1.3 or the 2.4, but
7 when you put those dollars out into the future, law I think
8 will trump whatever else has been in place because the law
9 basically says that there will be a payment to DIR of the --

10 CHAIRPERSON SHEEHY: Okay.

11 MR. DUFFY: -- funds in that amount.

12 CHAIRPERSON SHEEHY: Okay. So one thing that
13 staff mentioned to me is that of course the bond was
14 approved by the voters. You're talking about a statute that
15 wasn't. So it's unlikely that the bond funds are going to
16 be able to be used for some purpose if the voters didn't
17 approve.

18 But that said, I don't think there's going to be
19 any objection here to having OPSC take a closer look at
20 this, Tom, so I'd like to ask you to look at that. I'm not
21 sure that we could use the bond funds in a way that's
22 inconsistent with what the voters approved, but we could
23 certainly take a look at that issue.

24 MR. DUFFY: The -- as we have seen more recently,
25 there are sometimes collisions with statute and intent. I

1 believe the intent of -- and since we worked on that bill as
2 well, the labor compliance program -- the intent of that
3 bill was that prevailing wage would be overseen and that's
4 what the Department of Industrial Relations I think will be
5 doing into the future. Thank you again for your time.

6 CHAIRPERSON SHEEHY: Absolutely. Is there further
7 comment or discussion on this item? Mr. Harvey.

8 MR. HARVEY: Through the Chair, I'm hoping that
9 staff will also take a look at this other little n,
10 little c/big N, big C because to me we have program needs
11 that transcend just that very narrow definition and I'm
12 always looking to spread it where we have need. So if we
13 can have that discussion, I would appreciate it as well.

14 MR. DUFFY: Thank you, Mr. Harvey.

15 CHAIRPERSON SHEEHY: Okay. So -- very good. Rob,
16 you'll take care of that?

17 MR. COOK: Um-hmm.

18 CHAIRPERSON SHEEHY: All right. Are there other
19 questions. Assemblywoman.

20 ASSEMBLY MEMBER FULLER: No. I was just hoping
21 that Ms. Moore was going to make a motion that she had
22 earlier suggested. If not, I will, but I'd like to second
23 that.

24 CHAIRPERSON SHEEHY: Okay. So do we -- now, we
25 have had a request by Mr. Smoot for \$100 million to be set

1 aside for three months. Would somebody here like to make a
2 motion to approve the staff recommendation as amended?

3 MS. MOORE: I'll move the staff recommendation
4 with the following two amendments; that we reserve 140 --
5 oh, wait a minute. No, I'm not going to move the staff
6 recommendation because we're going to -- review the two
7 issues that Mr. Duffy brought forward, correct? I mean I
8 thought that was --

9 ASSEMBLY MEMBER FULLER: -- move to table it till
10 next meeting so the staff can bring it back?

11 MS. MOORE: Yeah. I would do that.

12 CHAIRPERSON SHEEHY: So any objection to -- okay.
13 So Ms. Fuller's tabled her motion. Is there any objection
14 to putting resolution of this item over for two weeks until
15 we meet again? Senator Torlakson.

16 ASSEMBLY MEMBER TORLAKSON: No objection, but
17 perhaps Los Angeles, if there was consensus on that issue,
18 we could make that part of the motion direction for them to
19 incorporate in their report that -- implementing that.

20 CHAIRPERSON SHEEHY: Could you incorporate into
21 the report --

22 MR. COOK: That's very simple.

23 CHAIRPERSON SHEEHY: -- on this item the -- I
24 guess -- was it 140- or 100-? I --

25 MS. JONES: It was a hundred million.

1 MS. MOORE: An additional hundred.

2 SENATOR LOWENTHAL: An additional hundred? Was it
3 additional hundred?

4 MR. NANJO: It was an additional hundred that
5 would take it up to 140.7 I believe.

6 MS. MORGAN: Correct.

7 CHAIRPERSON SHEEHY: Well, I was prepared to
8 support a hundred, but if the rest of the Board wants to go
9 to 140-, I won't object.

10 MS. SPEAKER: 150-.

11 MR. HARVEY: I was trying to whittle the 40- down
12 to something smaller because I wanted to go to the program
13 uses not overage.

14 ASSEMBLY MEMBER FULLER: Perhaps we could make two
15 motions. My motion would just be to table this until next
16 meeting when you could bring back all the suggestions we
17 asked before and then have a second motion that's been
18 clarified about LA Unified because I think we all feel a
19 little different so --

20 CHAIRPERSON SHEEHY: I think that's our best
21 option, Ms. Fuller.

22 ASSEMBLY MEMBER FULLER: So either I need a second
23 or --

24 MR. HARVEY: Second.

25 ASSEMBLY MEMBER FULLER: Okay. So my motion is to

1 table this item until the next meeting, which case you bring
2 back and you show us what it would look like if no school
3 districts had to withdraw their project because of funding
4 sources changes and then any that can't be dealt with in
5 that manner that you have a suggestion for what we might try
6 and some advisories and then at that point, we'll figure out
7 what we do about those that we can't accommodate.

8 CHAIRPERSON SHEEHY: Okay. So we have a motion on
9 the floor. Mr. Harvey has seconded it. All in favor.

10 (Ayes)

11 CHAIRPERSON SHEEHY: Okay. Very good. Let's move
12 to tab Item No. --

13 ASSEMBLY MEMBER TORLAKSON: On the second part --

14 CHAIRPERSON SHEEHY: Yes, Senator Torlakson.

15 ASSEMBLY MEMBER TORLAKSON: -- Assembly Member
16 Fuller indicated that bifurcated approach that -- and if
17 there's difference, we're not going to reach consensus if
18 there's difference of opinion. I was willing to say that we
19 should grant Los Angeles the extra hundred million to give
20 them the time to shore up their actual costs. I would make
21 that as a motion. If that doesn't work --

22 MS. MOORE: I second that with a three-month time
23 period to come back and report on that issue.

24 ASSEMBLY MEMBER TORLAKSON: Yes.

25 MS. MOORE: And that would three months from

1 probably next month when (coughing) or the end of this month
2 when we consider in its totality.

3 CHAIRPERSON SHEEHY: We'd bring it back in June.

4 MR. COOK: Yeah.

5 CHAIRPERSON SHEEHY: Bring it back in June. So we
6 have a motion by Senator Torlakson. I'm sorry, Rob. Did
7 you want to --

8 MR. COOK: I just -- through the Chair. Just --
9 we'll be noticing our next Board meeting this Friday.

10 CHAIRPERSON SHEEHY: Okay.

11 MR. COOK: And our target for getting our Board
12 books out is a week in advance of the Board, so we've got
13 like five working days to get all these issues resolved.
14 But we will -- we'll do our best.

15 CHAIRPERSON SHEEHY: Going to have to sharpen your
16 arrows to hit that target.

17 MR. COOK: Yes. Exactly.

18 CHAIRPERSON SHEEHY: Okay. So we have a motion by
19 Senator Torlakson and a second by Ms. Moore.

20 MR. HARVEY: What's the motion?

21 CHAIRPERSON SHEEHY: The motion was to do the
22 \$140 million set-aside on this item with it coming back in
23 three months. We're going to bring the whole thing back in
24 two weeks anyway, but anyway, so a motion and a second. Is
25 there any objection? Mr. Harvey?

1 MR. HARVEY: Any objection. I will vote no on the
2 motion if you're going to call for the motion.

3 CHAIRPERSON SHEEHY: Okay. That's fine. Then,
4 Lisa, can you help -- I don't know if Linda's here today.
5 Can you help us with a roll-call vote?

6 MS. JONES: Yes, I can. Senator Lowenthal.

7 SENATOR LOWENTHAL: Aye.

8 MS. JONES: Assembly Member Fuller.

9 Assembly Member Torlakson.

10 ASSEMBLY MEMBER TORLAKSON: Aye.

11 MS. JONES: Scott Harvey.

12 MR. HARVEY: No.

13 MS. JONES: Kathleen Moore.

14 MS. MOORE: Aye.

15 MS. JONES: Tom Sheehy.

16 CHAIRPERSON SHEEHY: I thought I was going to vote
17 for this, but I'm wondering what the -- there seems to be
18 some --

19 MR. HARVEY: A hundred million was what I wanted
20 to do, not 140-.

21 CHAIRPERSON SHEEHY: Oh. That's your only
22 concern?

23 MR. HARVEY: My only concern.

24 CHAIRPERSON SHEEHY: I'm an aye.

25 MS. JONES: Okay. Well, the motion does not pass.

1 CHAIRPERSON SHEEHY: Okay. We're losing --

2 ASSEMBLY MEMBER TORLAKSON: We'll get it next
3 month.

4 CHAIRPERSON SHEEHY: -- members is part of the
5 problem here.

6 ASSEMBLY MEMBER TORLAKSON: Yeah.

7 CHAIRPERSON SHEEHY: So --

8 ASSEMBLY MEMBER TORLAKSON: Bring it up next
9 meeting.

10 CHAIRPERSON SHEEHY: Look, don't worry about it.
11 We'll take it up at the next meeting. Okay? Tab No. 4.

12 MS. MORGAN: Yes. Actually this is an item that
13 was requested last Board in February. A motion was made by
14 Senator Lowenthal to **develop two subcommittees of the Board**,
15 one to look at audit authority issue and a second to develop
16 rules and procedures for the Board, and so this item is
17 brought forth so that the Board can have those discussions
18 about the selections for those subcommittees.

19 CHAIRPERSON SHEEHY: Thank you, Ms. Morgan. And
20 since Senator Lowenthal was the maker of that motion --

21 SENATOR LOWENTHAL: Yes.

22 CHAIRPERSON SHEEHY: -- it was approved
23 unanimously, I'd be happy to cede the proceeding over to you
24 at this moment, if you'd like to follow up on that, Senator
25 Lowenthal.

1 SENATOR LOWENTHAL: Well, what I have is we've
2 sent out requests for membership in each of the two
3 subcommittees. I will say that immediately Assembly Member
4 Fuller declined to be on one of the subcommittees.

5 ASSEMBLY MEMBER FULLER: You have to tell
6 everybody that right out?

7 SENATOR LOWENTHAL: I had to tell everyone --

8 ASSEMBLY MEMBER FULLER: Thank you for that. I
9 really appreciate that.

10 SENATOR LOWENTHAL: -- immediately, although she
11 supported the concept completely and thought it was a great
12 idea.

13 ASSEMBLY MEMBER FULLER: And I do think I
14 mentioned there were a lot of sort of freshmen members.

15 SENATOR LOWENTHAL: That's exactly -- so with
16 that, after doing that, we have two subcommittees which we
17 have three -- one with the subcommittee on audits, right now
18 we would have myself as the Chair -- recommending myself as
19 the Chair, Kathleen Moore, and Scott Harvey. We do invite,
20 as we invited Assembly Member Fuller -- we still have not
21 heard yet from Assembly Member Torlakson, Senator Hancock,
22 and Assembly Member Brownley, and we also encourage them --

23 CHAIRPERSON SHEEHY: Senator Lowenthal, on your
24 audits committee, I would move to approve that right now if
25 you'd like to take that vote.

1 SENATOR LOWENTHAL: I bet you'd be. Yeah, we have
2 three. Right. So that would be the three --

3 CHAIRPERSON SHEEHY: I would make a motion to
4 approve that.

5 SENATOR LOWENTHAL: Good. Is there a second?

6 CHAIRPERSON SHEEHY: I'm sorry. Did you address
7 the Board before we vote?

8 MR. SMITH: About audits.

9 CHAIRPERSON SHEEHY: Is it directly related to
10 this --

11 MR. SMITH: Directly.

12 SENATOR LOWENTHAL: Certainly.

13 CHAIRPERSON SHEEHY: Sure, go ahead.

14 MR. SMITH: My name is Bill Smith and I've been in
15 solar energy for 34 years and nobody's paid me. And my
16 interest is in right now the students and saving our lives
17 and solar.

18 And I was taking look at the tax credits -- solar
19 and windmills some 24 years ago. I've been in solar for 34
20 years. And I come across a gentleman who's going to be here
21 at the Cal Expo on the weekend and he'll be doing something.
22 There's somebody else walking in nothing and he's completely
23 effacing what this gentleman has on his Website. And this
24 guy has analysts. He has the Silicon Valley (indiscernible)
25 Group, the CalPERS, the CalSTRS, Bank of America. He's got

1 all the financial institutions behind him and he has
2 analysts.

3 And I spoke to this gentleman on the phone for
4 five minutes. He said, Mr. Smith, I'm going to send you two
5 documents. I walked in his office. I just called him out
6 of the blue. He's got no sales, no marketing, no promotion.
7 I called him a couple of days ago. I told him I'm going to
8 promote what I'm doing and what I'm doing is I'm going after
9 the legislation with the Obama administration for
10 design-build.

11 CHAIRPERSON SHEEHY: Okay. Mr. Smith, I'm happy
12 to have --

13 MR. SMITH: This is important.

14 CHAIRPERSON SHEEHY: I'm sorry. I apologize. I
15 apologize. We're going to lose members and we're going to
16 lose our quorum. Unless there's a member of this Board that
17 objects right now, Mr. Smith, I'm going to give you -- we're
18 going to give you a chance to address this body later
19 because I'm about to leave and Ms. Fuller's about to leave
20 and Mr. Lowenthal is -- we have a motion on the floor and
21 he's trying to get something done.

22 So I'm sorry, Mr. Smith. We're going to delay
23 your testimony at this point. You can testify more at the
24 end of this meeting, but not now.

25 MR. SMITH: All I'm asking for analysts and if you

1 go to Cal Expo --

2 CHAIRPERSON SHEEHY: Okay. Mr. Smith --

3 MR. SMITH: -- you'll find out about it.

4 CHAIRPERSON SHEEHY: Mr. Smith, you can talk more
5 to this Board later, but right now we're going to finish the
6 business that's immediately before us. Mr. Lowenthal.

7 SENATOR LOWENTHAL: And so there's a motion on the
8 floor. Let's just -- the motion for the subcommittee on
9 audits, Lowenthal Chair, Moore and Harvey.

10 CHAIRPERSON SHEEHY: So I'd move that.

11 ASSEMBLY MEMBER TORLAKSON: Second.

12 MR. SHEEHY: All in favor.

13 (Ayes)

14 SENATOR LOWENTHAL: The subcommittee on rules and
15 procedures, Wyland is the Chair and he has confirmed that he
16 will be the Chair, Hancock, Brownley, and Harvey.

17 CHAIRPERSON SHEEHY: I would move that.

18 ASSEMBLY MEMBER TORLAKSON: Second.

19 CHAIRPERSON SHEEHY: I'm sorry. Wyland, Hancock,
20 Brownley, and --

21 SENATOR LOWENTHAL: Wyland, Hancock, Brownley, and
22 Harvey.

23 CHAIRPERSON SHEEHY: I would move that.

24 ASSEMBLY MEMBER FULLER: I second it.

25 CHAIRPERSON SHEEHY: All in favor.

1 (Ayes)

2 SENATOR LOWENTHAL: We also thought that possibly
3 that Katrina Valentine would be the lead staff and would
4 work on both subcommittees and -- as it will address SAB
5 oversight issues and that all the other staff members will
6 work closely with you on that. We're not saying not to work
7 with all, but that you would just be the lead.

8 CHAIRPERSON SHEEHY: That's an excellent
9 suggestion, Senator Lowenthal. Was there any other aspect
10 of this --

11 SENATOR LOWENTHAL: I think that's just -- that
12 concludes that part.

13 CHAIRPERSON SHEEHY: Okay. So we've approved both
14 those items. We've given the staff direction.

15 SENATOR LOWENTHAL: And we'll convene those
16 meetings and then we'll -- each of the Chairs will set up a
17 time and begin to convene that meeting. I mean we'll work
18 with Katrina.

19 CHAIRPERSON SHEEHY: Excellent.

20 MR. NANJO: Through the Chair, I just want to
21 remind the Board that those subcommittees will have to
22 comply with Bagley-Keene --

23 CHAIRPERSON SHEEHY: Okay.

24 MR. NANJO: -- for notice and those requirements.

25 CHAIRPERSON SHEEHY: Thank you, Henry.

1 MR. NANJO: Thank you.

2 SENATOR LOWENTHAL: Each of the Chair will work
3 with Ms. Valentine.

4 CHAIRPERSON SHEEHY: Okay. I apologize. I do
5 have Ms. Jeannie Oropeza here today. I think there are a
6 couple other items, so you can maintain your quorum. I
7 apologize. I have a personal matter I have -- I can't miss,
8 so I'm going to step out now and let Jeannie sit in so you
9 can finish your Board business and I'll look forward to
10 seeing you all in a couple weeks.

11 MS. MORGAN: While Ms. Oropeza gets herself
12 settled, if I could ask you to please turn to Tab 5 on
13 page 23. This item to **set a third funding cycle for the**
14 **career technical education facilities program.** We have
15 worked in concert with Ms. Moore and her staff, the
16 California Department of Education. There are components
17 that both of our agencies are responsible for and the dates
18 that you see before you as outlined as the third funding
19 cycle have been agreed by both agencies. That you can find
20 on the bottom of page 23.

21 Essentially for the sake of the audience, the
22 grant applications would be due to the California Department
23 of Education by September 18th of 2009 and the scores would
24 be published by CDE in February 2010 and then the actual
25 applications for the career tech funding would be due to the

1 Office of Public School Construction by March 31st, 2010, and
2 in the Board in approximately July or August as I understand
3 it, correct, Rob?

4 MR. COOK: Yes. We're looking at August --
5 September probably at the latest.

6 MS. MOORE: So presentation on August or September
7 of 2010?

8 MR. COOK: Um-hmm.

9 MS. MORGAN: And with that, we would move --
10 request that the Board address the recommendations at the
11 top of page 24.

12 MR. HARVEY: I would move those recommendations on
13 the top of page 24.

14 ASSEMBLY MEMBER FULLER: I would second it.

15 CHAIRPERSON OROPEZA: We have a first and a
16 second. If there's no objection, all in favor.

17 (Ayes)

18 MS. MORGAN: Thank you very much. The next item
19 is Tab 6, starting with page 25. The reason why this item
20 is before you is it's the first time that we would be
21 bringing **unfunded approvals** for the **emergency repair**
22 **program**. The emergency repair program is the program that
23 resulted from the Williams settlement and we had only
24 approximately 300,000 that was available. So these items
25 listed on the attachment on page 27 totaling approximately

1 3.5 million would be -- they have been processed. They are
2 eligible and we are requesting that the Board provide an
3 unfunded approval.

4 As we've been discussing in recent Board meetings,
5 the current fiscal year does still have 101 million
6 authorized and we've been working carefully with the fiscal
7 folks at the California Department of Education to identify
8 when the Proposition 98 reversion account funds would be
9 collected and then therefore available for transfer for the
10 purposes that they've been authorized. And once that
11 occurs, we would be bringing back an item to the Board
12 showing that adjustment on the status of funds and then to
13 the degree possible, would be moving forward to recommend
14 actual funding for the projects that have been presented for
15 the Board's approval.

16 CHAIRPERSON OROPEZA: Any -- yes, Mr. Harvey.

17 MR. HARVEY: Ms. Morgan, if I'm hearing you
18 correctly, it sounds like we have unfunded list because we
19 wait for the 98 fund to get full. It may have some money in
20 it now but not enough to fund any and all projects.

21 MS. MORGAN: It is our understanding there's
22 approximately 50 million currently that's been collected.
23 You are correct.

24 MR. HARVEY: What's precluding us from saying
25 let's go after that proportionately; that is, if there's

1 50 million available, let's get out that door and continue
2 to move the dollars as they come in rather than waiting for
3 an arbitrary amount of money, a hundred million in your
4 case.

5 CHAIRPERSON OROPEZA: I think I can answer that
6 question for you. The Controller's -- when the Legislature
7 appropriates money from the reversion account, whatever that
8 amount may be, until that last dollar actually shows up,
9 they do not release the funds. So until the 101 million
10 actually shows up in the account, they will not release the
11 money.

12 MR. HARVEY: Well, what's precluding -- I mean can
13 we talk to them about what's -- is it a policy? Is it a
14 regulation? Is it a statute? Can we not determine by
15 list -- making a case for something less than this?

16 CHAIRPERSON OROPEZA: The Legislature could come
17 back and amend the budget bill and reduce that amount if we
18 knew exactly how much was in the account at a particular
19 point in time. They could come in and amend the budget bill
20 and say 50 million or whatever was in the account and then
21 Controller's would be able to release the money.

22 It's not a policy issue. It's all technical as to
23 whether or not money has actually reverted back to the state
24 and been deposited into that account. So it's not that we
25 don't want to spend it. It's we don't know that the money's

1 actually going to physically be there to spend. Ms. Moore.

2 MS. MOORE: Yes. If I may. We've made the
3 authorization for the 50 million. We'll see if it bounces
4 back from the Controller's Office, but we've done everything
5 possible to try and apportion the funding.

6 If there's as technical hiccup, what I was going
7 to recommend is that the Department of Finance, the
8 Department of Education, and the Controller's Office get
9 together and determine if there's any possibility of
10 allowing for the fund as it currently stands to be
11 apportioned over into this so that funds -- so that projects
12 can be apportioned and then if it requires a legislative fix
13 that we identify that and work with it.

14 But we're trying to make the authorization. I
15 think that Mr. Cook has said in the past it hasn't worked
16 probably for the reasons that Jeannie said. We're willing
17 to try it again, but I think we should -- these three
18 agencies should get together and try to figure out a
19 solution so that the 50 million that's available doesn't
20 continue to sit there.

21 MR. HARVEY: Thank you. Because that's exactly
22 what I had in mind.

23 MS. MOORE: So why don't we direct staff to do
24 that.

25 CHAIRPERSON OROPEZA: And I think -- I mean we

1 know the solution. It would take a legislative change to
2 the budget bill and we can do that as part of cleanup when
3 we do -- cleanup trailer bill and other things, we can
4 incorporate that into the cleanup bill and ensure that
5 whatever's in that account actually goes out and gets paid.

6 We can set a separate appropriation that then we
7 hope gets the rest of the \$101 million and send it out that
8 way, if that's the only way the Controller's will honor that
9 request.

10 MR. HARVEY: We should take all the steps and have
11 that as the ace in the hole, right?

12 CHAIRPERSON OROPEZA: We have. We've been through
13 this for the last four or five years when we've had several
14 appropriations and they won't even say do the first three in
15 order in schedule. They wait till all the money's in there
16 before they release anything.

17 And I can't tell you why they do that, but that's
18 how they process the request. Yes, Ms. Fuller.

19 ASSEMBLY MEMBER FULLER: So -- but if we made this
20 motion now, then staff can go ahead and make their list up
21 and then if any of these other things -- we do it, because
22 we're just about to lose our quorum and then the staff won't
23 even be able to process the applications in the next two
24 weeks, as if they had time to do that with all the other
25 stuff we've given them. But let's assume that they do.

1 So I would like to make a motion that we go ahead
2 and approve this item and the contingencies you talk about,
3 I think we all are interested in doing and as the moment
4 comes where we might be able to amend this and do something
5 differently --

6 CHAIRPERSON OROPEZA: Okay. I have a first. Do I
7 have a second?

8 MS. MOORE: Second.

9 CHAIRPERSON OROPEZA: Any objection to those --
10 you're in favor, all say aye.

11 (Ayes)

12 CHAIRPERSON OROPEZA: Thank you.

13 MS. MORGAN: Thank you. I just wanted to also
14 mention for the Board's sake, when we get information, we'll
15 bring it back, but until such time, it is our intent that
16 from here forward, the unfunded approvals will be part of
17 the consent section, but of course we'll bring it as a
18 discussion as soon as we get information through the process
19 that Ms. Moore described. Thank you.

20 MR. COOK: I'll turn your attention to -- briefly
21 to Tab 8 which is **recommendation for transfer of prior bond**
22 **funds**, and we're talking about 6.6 million in prior bond
23 funds and in discussions on this -- and I spoke earlier with
24 Ms. Moore on this. It's a relatively small sum of money.
25 It isn't backed by cash at the moment today and we just

1 closed the application cycle on our joint-use program and
2 there may be some desire to direct some of these funds in
3 that direction or another direction. And in order to give
4 the Board full information so they can make an informed
5 decision on this, we suggest putting this over until we've
6 had an opportunity to work through those joint-use
7 applications to see what the real dollar need is in that
8 category.

9 MS. MOORE: I move to put it over until you have
10 that information and then the Board can make a more informed
11 decision.

12 MR. HARVEY: I would second that and the other
13 thing, it seems to me it also works very nicely with our
14 earlier discussion about the 800 million and the little
15 and -- you got it. So wonderful.

16 CHAIRPERSON OROPEZA: So without objection, we'll
17 just put this over till the next meeting.

18 MR. COOK: Tab 9 is --

19 MR. HARVEY: Was that our last action item? So
20 the rest are reports?

21 MR. COOK: That is accurate. And we've addressed
22 the seismic program. Direct your attention to Tab 11 and
23 this will be very brief as well. There's been a desire to
24 provide **Webcasting and videocasting** of State Allocation
25 Board meetings as an option to allow districts and

1 interested parties to view our meetings without having to go
2 through the effort of traveling and then to come to an
3 overcrowded board room where they can't even get in.

4 So we've, along with the Public Affairs Office of
5 Department of General Services, we've looked into this and
6 we've had very positive reception with the Senate -- folks
7 in the Senate to allow us access to the camera system in the
8 Senate. We're pending a meeting with the Assembly folks to
9 have -- provide similar access.

10 If we are able to access the camera systems within
11 the legislative chambers, this is a fairly simple and very
12 inexpensive thing to do and will accommodate most of our
13 meetings certainly. Not all. If we get bumped out of the
14 Capitol, then that can occur. But it looks very doable.

15 We do have to work through with the legislative
16 data center and satisfy security concerns that they may
17 have, but it looks promising.

18 MS. MOORE: So what's the upshot? Are you going
19 to --

20 MR. COOK: We're pursuing it and as soon as we
21 have -- we -- like I said, we haven't had that meeting with
22 the administrative office of the Assembly. If we have
23 similar results with them, then I think we're well on our
24 way.

25 MR. HARVEY: Can we do it for the 25th assuming

1 we're on the Senate side since you said that was a go?

2 MR. COOK: We'll see where we are and as far as --

3 MR. HARVEY: I appreciate that, but I think this
4 is important for all the reasons you've listed and for
5 transparency in all kinds of manners, so I hope we can do
6 this as soon as possible and I think we can even do it
7 outside of the Capitol with the equipment we have at
8 Department of General Services. So if we happen to be in a
9 location outside the Capitol, I'm confident we have the
10 technology to do it. We just need to know more than three
11 hours in advance that that's going to be the room.

12 MR. COOK: That's been a challenge. That gets us
13 into our next report.

14 MS. MOORE: So you'll bring back any information
15 about whether -- or we are going to start Webcasting? Is
16 that what you're --

17 MR. HARVEY: Well, I'm directing staff without
18 objection.

19 MR. COOK: We can easily notify members, but it
20 would be -- if we can work out the technical issues between
21 now and our meeting on the 25th, we'll be very happy to do it
22 starting on the 25th and it's just a matter -- it's also
23 helpful for everyone to know where we're going to be more
24 than a day in advance and that gets us -- I'll turn your
25 attention to **Tab 12 (State Allocation Board Meeting**

1 **Locations.)**

2 We have historically been well accommodate by the
3 Assembly and the Senate in our meetings in the Capitol. It
4 certainly is convenient for a body that has six members of
5 the Legislature sitting on it and it works well, but there
6 has been an increasing demand for these hearing rooms and
7 it's made it consistently difficult for us to get -- we've
8 also have special meetings which haven't given us much time
9 to work with securing a room.

10 I do have to say -- give my thanks to Rick Simpson
11 today for securing this room for us at the 11th hour, but we
12 normally work with a list of facilities outside of the
13 Capitol when we -- to make sure that we have a backup or --
14 and even those facilities for some reason have been heavily
15 scheduled this year.

16 For example, the Department of Education building
17 which is a great location and fairly convenient to the
18 Capitol has had events that have coincided with our Board
19 meetings and we continue to keep an eye on it. Today our
20 backup location was State Personnel Board auditorium, but we
21 could only be guaranteed about an hour of time within that
22 facility.

23 So we're continuing to work with alternative
24 locations. The ideal location is inside the Capitol.

25 MS. MOORE: So we'll continue with first trying to

1 locate inside the Capitol and then other alternatives.

2 MR. COOK: Absolutely. And, you know, with the
3 Department of Ed's facility being a --

4 MS. MOORE: Although I note it's the least able
5 to -- I mean it's the least amount of seats of the
6 alternatives that you have.

7 MR. HARVEY: What's Water Resources? That seems
8 to be interesting because it has 150 seats and it's
9 relatively close.

10 MR. COOK: Um-hmm.

11 MR. HARVEY: Can -- Rob, as you do this, do you
12 automatically have a rolling -- I mean do you reserve it as
13 a backup and then give notice if you're not going to need
14 it. So if we have our calendar for the year, we try to get
15 something in the Capitol, but do we also have a backup
16 already reserved? Can we lease a week beforehand or two
17 days beforehand.

18 MR. COOK: Yes.

19 MS. MOORE: So right now, what is our backup for
20 the 25th?

21 MS. JONES: For the 25th, is CDE.

22 MR. HARVEY: Okay. And do we have any other
23 conflicts the rest of the year with --

24 MS. JONES: Well, we have CDE for five more months
25 this year.

1 MR. HARVEY: Okay. Then that's probably --

2 MS. JONES: We were able to --

3 MS. MOORE: As backup?

4 MS. JONES: Yes, as backup.

5 MR. HARVEY: That's probably what we should do.

6 MS. JONES: That's correct and we do that every
7 year in December. We try to get backup rooms for the next
8 year.

9 MR. HARVEY: Do you want to lock down the
10 remaining --

11 MS. JONES: We could do that.

12 MR. HARVEY: -- at Water Resources?

13 MS. JONES: We could find if they're available,
14 yes.

15 MR. HARVEY: I think we should lock down our
16 alternative locations now so we don't --

17 MS. JONES: Run into problems. Okay.

18 MR. HARVEY: This is --

19 MR. COOK: Yeah. Of course this meeting was an
20 impromptu meeting, so --

21 MR. HARVEY: This -- I'm not counting this one.

22 MR. COOK: Yeah.

23 MS. MOORE: I don't think we have the capability
24 of Webcasting so that -- if we have to go to the
25 alternative, that's --

1 MR. HARVEY: We will talk with you because I was
2 told we could Webcast from the middle of the river if we had
3 to. So I would like to explore whether or not --

4 MS. MOORE: Bring your kayak.

5 MR. COOK: Yeah. Exactly. Are you suggesting any
6 location. Yeah. Anyway. Or are you --

7 MR. HARVEY: Some boats sinking and some not.

8 MR. COOK: Yeah. Or are you just saying we're all
9 wet?

10 MR. HARVEY: I would never say that.

11 MS. MOORE: And then didn't we have a member from
12 the public.

13 CHAIRPERSON OROPEZA: Yeah. Yeah. So any other
14 comments from Board members first?

15 MR. HARVEY: I do. Rob, I have heard
16 anecdotally -- you know, I've asked you every single month
17 when we do our status of funds why aren't we getting the
18 high performance school bonds out, why aren't we getting the
19 seismic bonds out. We're addressing these things slowly,
20 but I have heard from some stakeholders as -- at least to
21 the high performance schools, as wonderful as that program
22 is and I support it wholeheartedly because of what it does
23 for energy efficiency and kids' health and all these things,
24 but I'm hearing that the schools are costing more to build
25 than the money that the bonds -- so at a future agenda, I

1 would like to have a discussion about the obstacles -- as we
2 did for seismic, the obstacles that may be in the way for
3 high performance schools because it is a wonderful concept,
4 a wonderful idea for all the reasons I've alleged, but we
5 got to find out why we're not getting the money out.

6 MR. COOK: Um-hmm.

7 CHAIRPERSON OROPEZA: If there's no other comments
8 from the members, members of the public that may have
9 comments, please. And given the lateness, if I could
10 request that you limit your comments to no more than five
11 minutes.

12 MR. SMITH: I could give you six hours if you want
13 it.

14 CHAIRPERSON OROPEZA: No, no, no. I have work to
15 do. I have to go back to work.

16 MR. SMITH: All right. What I'm doing is -- the
17 gentleman I met, he just picked up 42 schools and I know a
18 gentleman who's set up the computer system for 20 high
19 schools in another district. So I'm going to bring that in.

20 I brought in BART's analyst and a gentleman from
21 BART who's the director had -- a week before I called this
22 gentleman the first time back in November. In October he
23 had a meeting with all the big solar companies in the
24 country. There's only 30 companies in the country. There's
25 only 30 people in the country doing large solar facilities.

1 Now, if you go 200 kilowatts and above, this
2 gentleman has shown with the Ray Huss (ph) Institute and I
3 just called a guy today and it turns out the Ray Huss
4 Institute, this guy's teaching schools. He's got the solar
5 school house. He's got a summer institute for educators in
6 2007. Teachers paid a thousand dollars and they walked home
7 with a portable tank system and they're in a position to
8 teach solar in the schools.

9 Well, there's not a lot of information out there
10 on solar energy and so where do you go for it? Well, if
11 you're me, you have access and you have access because
12 you're a statistician and you do multidisciplinary work.

13 What the Obama administration -- there's a
14 gentleman that just went in for policy advising from
15 Harvard. He was in energy and environment at Berkeley and
16 there's a gentleman who's an economist at Hall's (ph) School
17 of Business now who's running that division. There's an
18 economist at Berkeley doing the green world and he looked to
19 bring the entrepreneur's school to Alameda Naval Air
20 Station, Alameda.

21 And it's a key base in the country. Now, what I'm
22 doing is I'm going after -- I've got five nano technologies
23 to go to manufacture. It's going to cause tens of thousands
24 of jobs. There's already --

25 MS. MOORE: May I just ask what you're asking --

1 MR. SMITH: All right. What I'm asking you people
2 to do is to come on the weekend and see their presentation
3 at the green event at -- and you'll all be up to speed -- at
4 the green event.

5 MS. MOORE: Here in Sacramento.

6 MR. SMITH: At Cal Expo this weekend they're
7 presenting, and there's a guy going to be there from Davis
8 who's new money and they --

9 CHAIRPERSON OROPEZA: Were you --

10 MR. HARVEY: We were wondering if maybe --

11 CHAIRPERSON OROPEZA: -- you intended to be at
12 this meeting.

13 MR. HARVEY: -- you intended to address this group
14 of folk who are energy related.

15 MR. SMITH: Oh, no, no, no. I've been there. And
16 what I'm doing --

17 MR. HARVEY: This is -- you have been. So you're
18 double-dipping here.

19 MR. SMITH: -- is I'm cutting off the grab --
20 yeah.

21 MS. MOORE: So could you leave us with what --

22 MR. SMITH: This is the meeting I meant to be
23 here.

24 MS. MOORE: -- information about what --

25 MR. HARVEY: Leave us the invitation.

1 MS. MOORE: -- you would like --

2 MR. SMITH: Yeah. Well, what you want to do is
3 you want to go on your own -- on your own volition to see
4 what they're presenting. They have an educational section.
5 They may be in that one. I just got tickets today for
6 myself and this gentleman was funded by -- he studied by the
7 Ray Huss Institute. So if you got the Ray Huss Institute's
8 Website, you could find the documents that he sent me.

9 Now, I'm not affiliated with him. I'm associated
10 with him. Okay. And what they have is a six and a half to
11 ten average and they have up to 10 percent better return on
12 your money, but it's not your money. He's going to be
13 putting solar facilities all over the state.

14 And they get a 10 percent return on the money
15 better than these other guys doing the same kind of
16 projects. So what you want to do is you want to see the
17 justification of the leveraging of the private money and
18 what I'm doing is I'm vetting projects. It's like
19 private/public money. And this is the bigger money there is
20 and I'm going to bring the public -- the private people.
21 Not the institutions. They've already got them locked up
22 and they have their reputation down and nobody can walk over
23 them.

24 And these other people that are coming up,
25 Johnny-come-latelies, I'm going to get them as partners

1 because I'm going to cause legislation where you have to
2 have analysts not just auditors. And when you have an
3 analyst -- that's what he has. I walked in, I called BART
4 three times, I come up with an analyst. He signed me as a
5 partner to keep me from going to competition.

6 But I told him you're just a small piece of what
7 I'm doing. I'm doing eco-cities. My friend is underneath
8 911 is getting a settlement right now in March and he said
9 he'd finance anything I want to do. He's getting hundreds
10 of millions of dollars. He dropped a school room and cut
11 the teacher in three pieces with a school that fell down and
12 he goes and he rescues people. He pulled a little girl out
13 from a school after a week and he's American Rescue Team
14 International, saved 180,000 lives around the world. He did
15 not save four times as many people. That's why I'm sitting
16 here.

17 CHAIRPERSON OROPEZA: Okay.

18 MR. SMITH: The school system -- he went to the
19 state and they told him, oh, the school's going to fall down
20 and kill all the kids. They won't be in environmental
21 impact. Pissed the guy off. He went back to Canada. He
22 was 911. He's got seven lung diseases and he said he'd
23 finance anything I want to do. I'm doing eco-cities --

24 CHAIRPERSON OROPEZA: Okay.

25 MR. SMITH: -- and it involves the top money there

1 is in everything in energy, transit, and housing and my
2 friend in the Obama administration, they're doing
3 design-build --

4 CHAIRPERSON OROPEZA: Okay.

5 MR. SMITH: -- and so you got three months to get
6 your act together to look better than everybody else and the
7 way you're going to do it is with analysts.

8 CHAIRPERSON OROPEZA: Okay.

9 MR. SMITH: And I'm going to talk to the
10 Legislature.

11 CHAIRPERSON OROPEZA: Well, we'll take a look at
12 the Website and take your advice.

13 MR. SMITH: Thank you.

14 CHAIRPERSON OROPEZA: Thank you very much. Thank
15 you. Thank you very much.

16 MR. HARVEY: Good luck.

17 CHAIRPERSON OROPEZA: Okay. Any other public
18 comment? Oh, yes, sir.

19 DR. FOSTER: I would just like to say something
20 simple. I'm Steve Foster from Chawanakee Unified and I
21 wanted to thank Rob for getting back to the district -- a
22 letter today approving us to pursue a loan on our project.
23 It doesn't look like state funding's going to come through,
24 but Rob did send us a letter and we concur with the letter
25 and hopefully we'll continue to pursue that. It looks like

1 funding might be available May 1st on that loan process. I
2 just wanted to thank Rob for his work and getting back to us
3 on that.

4 CHAIRPERSON OROPEZA: Good work. Thanks.

5 MR. HARVEY: Thank you, Rob. Job well done.

6 CHAIRPERSON OROPEZA: Did you have a comment as
7 well? No. Any other public comments? If not, we'll
8 adjourn the meeting and thank you all for attending.

9 (Whereupon, at 6:17 p.m. the proceedings were recessed.)

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REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

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