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CALIFORNIA STATE ALLOCATION BOARD  
PUBLIC MEETING

STATE CAPITOL  
ROOM 4202  
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, MARCH 25, 2009  
TIME: 4:18 P.M.

Reported By: Mary Clark Transcribing  
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Sacramento, CA 95823-3413  
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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.

DR. WILLIAM J. ELLERBEE, JR, Deputy Superintendent, School and District Operations Branch, 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

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: We don't have all of our members here yet and I have been advised by a couple of the Board member offices that they will be a little delayed in arriving, but it does appear that we have a quorum here today to do business. So if staff could help us establish a quorum by calling the roll, we can go ahead and get started.

MS. JONES: Okay. Senator Lowenthal.

SENATOR LOWENTHAL: Here.

MS. JONES: Assembly Member Fuller.

ASSEMBLY MEMBER FULLER: Here.

MS. JONES: Assembly Member Brownley.

ASSEMBLY MEMBER BROWNLEY: Here.

MS. JONES: Scott Harvey.

MR. HARVEY: Present.

MS. JONES: Dr. William Ellerbee.

DR. ELLERBEE: Here.

MS. JONES: Rosario Girard.

MS. GIRARD: Here.

MS. JONES: Tom Sheehy.

CHAIRPERSON SHEEHY: Here.

MS. JONES: We do have a quorum.

CHAIRPERSON SHEEHY: Okay. Great. Thank you, Lisa. Just a couple of housekeeping items. We're not going

1 to be able to approve the **Minutes** today. I'm sure you're  
2 all terribly disappointed to hear that. Our transcriber  
3 wasn't able to get them to us in time for the meeting, so if  
4 there's no objection from the Board members, I think we're  
5 going to have the February 25<sup>th</sup> Minutes approved at our next  
6 meeting.

7           And also we had a request this afternoon by  
8 Senator Gloria Romero to enter a letter into the record and  
9 this was -- this is a letter that all the Board members will  
10 get, but it's a letter commending the Board for its decision  
11 to have its meetings broadcast live via Webcast, which we  
12 can thank among other people the Department of General  
13 Services and Mr. Harvey helping to facilitate, and staff, if  
14 you could take this letter and have it entered in to the  
15 record -- Lisa, into today's record, I'm sure that Senator  
16 Romero would very much appreciate that. Mr. Harvey.

17           MR. HARVEY: Well, as a tag to that, I did want to  
18 confirm that this is literally the first meeting that is  
19 going to be Webcast and I want to thank those in DGS who  
20 made it possible. It is something we are starting with on  
21 audio and visual. We ultimately hope to have it interactive  
22 over time, but it's I think a wonderful statement of  
23 transparency and I want to thank the Board members for  
24 agreeing that this was a good idea. But we are doing it  
25 today live, realtime.

1           CHAIRPERSON SHEEHY: Let the record show that the  
2 Board approved this despite Mr. Harvey's strong support of  
3 the measure.

4           Okay. Mr. Cook, we don't have the Minutes. What  
5 should we move to first? Can you help us --

6           MR. COOK: To the **Executive Officer's Statement** --

7           CHAIRPERSON SHEEHY: Okay. Thank you. Rob Cook.

8           MR. COOK: -- which I'll take up very briefly. I  
9 wanted to give the Board members an update on the Pooled  
10 Money Investment Board, some good news that we've recently  
11 gotten.

12           Now, at the last Pooled Money Investment Board,  
13 the board voted to authorize up to \$500 million for all the  
14 infrastructure programs -- not this one in specific, but all  
15 the infrastructure programs -- upon the successful sale of  
16 \$4 billion in bonds. I'm very pleased to announce that the  
17 Treasurer has been more than successful and has been  
18 successful in selling I believe the number is 6.5 billion in  
19 bonds.

20           And so over the next several days, we will be  
21 getting an idea of how much will be available to this  
22 program out of that, noting please that there is a  
23 substantial portion of that that has to go back to paying  
24 back loans beforehand, but there should be some money  
25 available to this program so that we can help take care of

1 some of those projects that are in our backlog.

2           So that's some good news. I'll let -- you will be  
3 the first to know how good the news is when we get that  
4 information.

5           Also I want to thank the Department of Finance,  
6 Department of Education, and the State Controller's Office  
7 in helping us transfer \$50 million from the Prop. 98  
8 reversion account to our emergency repair program. That  
9 transaction occurred last night and everybody came together  
10 and we were able to effect it. So next month, we will be  
11 able to fund emergency repair projects at our April Board.

12           So with that --

13           CHAIRPERSON SHEEHY: If it please the members of  
14 the Board, I would be happy for one moment to change hats to  
15 my Finance hat if you'd like and just a few more pieces of  
16 information to Mr. Cook's report on the bonds. Would that  
17 please the Board? Okay.

18           SENATOR LOWENTHAL: That'd be fine.

19           CHAIRPERSON SHEEHY: I would want to just add to  
20 Mr. Cook's report that first of all, I think that H.D.  
21 Palmer, Department of Finance, was quoted in the papers  
22 today as complimenting the Treasurer and I would like to  
23 really amplify that by saying, you know, we're all extremely  
24 pleased with the work by the State Treasurer's Office and  
25 Bill Lockyer -- Treasurer Bill Lockyer. They've really

1 exceeded everybody's expectations. I think the Treasurer's  
2 Office going in thought they'd sell \$4 billion in bonds and  
3 in fact they sold 6 and a half. So that's really good news  
4 for us and for everybody that is interested in the state  
5 bond program or public works program.

6           So we're still sorting out the details, but we  
7 believe what this means is that it will in fact allow the  
8 Treasurer, the Controller -- it will allow the Pooled Money  
9 Investment Board to pay off \$3.8 billion in PMIB loans and  
10 also to cover the costs of the projects that we exempted.

11           There were originally 276 projects that were  
12 exempted from the freeze in December and some of those were  
13 school construction projects. Many of those were not school  
14 construction projects, but those projects have continued and  
15 in many cases haven't received a dime of bond money because  
16 we haven't had any to allocate.

17           So now that -- because they have been exempted and  
18 they've continued to do that work, we're in a position now  
19 to pay some of those bills. We also believe that we'll be  
20 in a position to repay a portion of the bills for work  
21 previously done but which hasn't been paid. That clearly  
22 includes some of the work in the school facilities program.  
23 We're all -- at Department of Finance, we're very much aware  
24 of the \$1.3 billion in requests for fund releases which  
25 we've not been able -- which the Pooled Money Investment

1 Board has not been able to release funds on due to the  
2 freeze.

3           And I'm not saying -- I don't know -- the most  
4 direct, frank answer is today I don't know how much of that  
5 we can chip away at, but I'm quite sure based upon the  
6 Treasure's sale that we will in fact be able to chip away at  
7 it in a very meaningful way.

8           And I think that, you know, as Finance continues  
9 to work with the Pooled Money Investment Board, you know,  
10 one of the things it's going to continue to focus on looking  
11 at how these resources can be allocated to the highest good  
12 will be to continue to look at things like critical safety,  
13 health and public safety issues, the creation of jobs,  
14 shovel-ready projects, reimbursing work that's already been  
15 done and commitments that have already been made and also  
16 trying to see in whatever ways that we can address things  
17 like -- address issues associated with the drought that  
18 we're facing and our water conditions.

19           So the picture is still evolving. The Treasurer  
20 is going to go back to market next month and sell taxable  
21 bonds and that's going to be important to a whole other  
22 class of folks and at the same time that he's selling  
23 taxable bonds, he's going to be selling another bond that's  
24 been made available through the Obama administration  
25 stimulus program. These are called the Build America Bonds.

1           The Build America Bonds hold special -- I'm  
2 advised by my colleagues who know more about this than I do,  
3 the Build America Bonds have special attention to them right  
4 now. We're looking at them because they are bonds that are  
5 marketed and sold as taxable bonds, but in fact we can use  
6 them for tax exempt purposes and of course the school  
7 facilities program is funded with tax exempt bonds.

8           And the key thing about these Building America  
9 Bonds is since they can be sold in the taxable market, it  
10 gives us more options for selling bonds. In other words,  
11 the large institutional pension funds that normally wouldn't  
12 buy our tax exempt bonds because they don't have a high  
13 enough yield, they may in fact be interested in some of  
14 these Build America Bonds.

15           And the good news for the state is, is that the  
16 federal government will actually rebate back to us  
17 35 percent of the interest costs, making them to us -- costs  
18 look like a tax exempt bond.

19           So, you know, we don't have a crystal ball and we  
20 don't know what the Treasurer will be able to do next month,  
21 but we're encouraged by our financial advisors that these  
22 Build America Bonds will have a wider market than some of  
23 our other options and if the Treasurer is as successful next  
24 month as he was this month, then it seems logical to assume  
25 that we'll be able to chip away even further in a

1 significant way towards the backlog of all of these  
2 projects.

3           So with that, I've pretty exhausted my knowledge,  
4 but I'd be happy to take questions from members of the  
5 Board. Senator Lowenthal.

6           SENATOR LOWENTHAL: Do we have a clear picture --  
7 I think you mentioned a little over 1.3 billion of all the  
8 projects -- school facility projects that we've not been  
9 able to fund either -- in total. We talked about the 276.  
10 There's a portion of that 276 and then there are others  
11 also. I think there was over at one time I thought 5,000.

12           How many are school construction and do we know  
13 the total amount, if we were able to totally fund  
14 everything?

15           CHAIRPERSON SHEEHY: Mr. Cook, can you help answer  
16 Senator Lowenthal's question?

17           MR. COOK: There are five health and safety  
18 projects on that list that -- there was -- there's actually  
19 more than that. There are quite a few health and safety  
20 projects that are in school facility area, but many of those  
21 were actually conceptually approved by this Board and not  
22 actually finally approved by this Board, so they're not  
23 eligible for funds yet.

24           There are five projects that were fully approved  
25 by this Board that are on that exemption list. I know the

1 dollar figure for a few of them, but I don't recall the full  
2 dollar figure for all of them. That if those projects can  
3 receive funding -- said there five projects, I think the  
4 largest of which is a 13- or \$16 million project.

5 MR. HARVEY: But isn't it --

6 SENATOR LOWENTHAL: So that's -- it's just -- of  
7 all the projects that are on that list, there's just five  
8 that are school construction -- or just the health and  
9 safety?

10 MR. COOK: There -- of the group of projects that  
11 were exempted by the Pooled Money Investment Board from the  
12 freeze --

13 SENATOR LOWENTHAL: Right.

14 MR. COOK: -- there were a group of health and  
15 safety projects that were all school facility program  
16 projects.

17 SENATOR LOWENTHAL: What about the ones that are  
18 not health and safety? Are there others that were --

19 MR. COOK: There -- it was strictly health and  
20 safety projects that were approved for exemption.

21 SENATOR LOWENTHAL: Okay. So there are no other  
22 projects that were not funded is what you're saying. I'm  
23 just wondering how many projects are out there waiting for  
24 us to sell the bonds.

25 MR. COOK: Well, there's -- they're in fact in --

1 in your book today, there is a -- that list exists in your  
2 book today.

3 SENATOR LOWENTHAL: Oh, good.

4 MR. COOK: And we will get to it when we deal --

5 SENATOR LOWENTHAL: Okay.

6 MR. COOK: -- with the funding priority issue.

7 But it's an extensive list that shows every single project  
8 that has been approved --

9 SENATOR LOWENTHAL: Right. That's --

10 MR. COOK: -- but not apportioned.

11 SENATOR LOWENTHAL: -- what --

12 MR. COOK: That is --

13 CHAIRPERSON SHEEHY: Rob, for the record, could  
14 you just take an estimate of how many hundreds of projects  
15 that is because I think --

16 MR. COOK: It's 848 projects, 250 school  
17 districts --

18 CHAIRPERSON SHEEHY: Does the 800 --

19 SENATOR LOWENTHAL: 848 projects.

20 CHAIRPERSON SHEEHY: Does that 848 roll up to the  
21 \$2.4 billion in apportionments?

22 MR. COOK: That's correct.

23 SENATOR LOWENTHAL: Okay. So 848 projects,  
24 \$2.4 billion.

25 MR. COOK: That's correct. And that involves 250

1 school districts overall.

2 SENATOR LOWENTHAL: Okay. And we're expecting to  
3 get then out of the 848, about 6-, 700 of those at  
4 \$2 billion; was that it?

5 CHAIRPERSON SHEEHY: Well, I didn't -- Senator  
6 Lowenthal, I purposely didn't go there.

7 SENATOR LOWENTHAL: Mr. Harvey said so. He told  
8 me that you did that.

9 CHAIRPERSON SHEEHY: Well, my colleague can speak  
10 for himself, but I purposely didn't go there because I don't  
11 want to give out bad information.

12 SENATOR LOWENTHAL: No. I understand. I'm  
13 just --

14 CHAIRPERSON SHEEHY: Yeah.

15 SENATOR LOWENTHAL: -- really encouraging, you  
16 know, as we -- this Board has just -- and we know that --  
17 you know, that you understand the needs anyway of the school  
18 construction.

19 CHAIRPERSON SHEEHY: So I know that that's been a  
20 topic of a lot of interest. Ms. Brownley.

21 ASSEMBLY MEMBER BROWNLEY: So the five exempted  
22 projects though, they come first? They're first in the  
23 queue?

24 MR. COOK: That's -- well, yeah. I'll let Tom  
25 handle that.

1           CHAIRPERSON SHEEHY: So what we did is, is we said  
2 that since we exempted those projects, the first call on the  
3 money is to get all those -- to pay the exempted projects  
4 for the work that has been done that they haven't been paid  
5 for and to pay them at least through the first half of the  
6 '09-'10 fiscal year.

7           Since we exempted them, we got to pay them.

8           ASSEMBLY MEMBER BROWNLEY: Right.

9           CHAIRPERSON SHEEHY: So that would be the first  
10 call on the money, but then there'll be additional funds  
11 that will be available beyond that to help pay for work  
12 that's already been completed by other entities that weren't  
13 on the exempted list; for example, there are a number of  
14 school projects where all the necessary contracts were let  
15 and they were ready to come in for fund releases, but we  
16 weren't -- they weren't able to get a fund release because  
17 of the freeze. Because of the bond sales, we would now be  
18 able to address part of that population.

19           ASSEMBLY MEMBER BROWNLEY: Okay.

20           CHAIRPERSON SHEEHY: And then there's other  
21 projects like -- in other areas. There's transportation  
22 projects. There are water projects. There are multi-family  
23 housing projects and so on and so forth that are in a  
24 similar situation that we need to pay bills for work that's  
25 already been done.

1           And so, you know, we're going to chip away at that  
2 with this money that we have and then hopefully make more  
3 progress next month.

4           ASSEMBLY MEMBER BROWNLEY: Okay. And so if we --  
5 I know nobody here has a crystal ball, but if we -- there is  
6 authorization for 500 million, we're going to get a certain  
7 percentage of that I would presume. I mean maybe we'd get  
8 zero percent. I guess that is an outcome that could happen.

9           CHAIRPERSON SHEEHY: Is that a question?

10          ASSEMBLY MEMBER BROWNLEY: Yes, that is a  
11 question.

12          CHAIRPERSON SHEEHY: You know, I don't know  
13 exactly what's going to happen, but I know what the -- sort  
14 of the general framework is here. The framework is to make  
15 significant payments on the exempted projects. Remember, we  
16 cap two and a half billion dollars here.

17          ASSEMBLY MEMBER BROWNLEY: No, I understand.

18          CHAIRPERSON SHEEHY: And to make a significant  
19 payments to repay a portion of the bills for work previously  
20 done and that clearly includes schools and also, you know,  
21 we want to continue -- you know, when we look at what our  
22 other options are, we want to continue to focus on critical  
23 health and safety projects, job creation, our ability to  
24 capture federal stimulus dollars, you know, there are things  
25 that we can do in the water area that deal specifically with

1 things like drought. These are things that we're going to  
2 continue to look at, but, you know, we're still analyzing  
3 exactly sort of where all the pieces fall.

4 ASSEMBLY MEMBER BROWNLEY: I think -- I guess, you  
5 know, the message is while we want to be as aggressive as we  
6 can about getting as much money as we can around these  
7 projects, I think the message is, is that probably most of  
8 this money's going to kind of backfill loans and that  
9 there's not going to be that many projects that get funded  
10 from this.

11 So, yes, we're talking about a lot of good news in  
12 terms of amount of bonds being sold. That is really good  
13 news, but it's not -- nobody should walk away from here  
14 thinking it's really good news that, you know, hundreds of  
15 projects are going to get funded because that's not the case  
16 and it's probably -- you know, if we're lucky, it might be  
17 ten projects that are funded or some paid that needed to get  
18 paid and shored up, but in terms of kind of new things down  
19 the road, they're in that queue -- anyway, I just wanted to  
20 make that message.

21 CHAIRPERSON SHEEHY: Well, I'm glad that you  
22 delivered that message and not me. But to put that in  
23 better perspective --

24 ASSEMBLY MEMBER BROWNLEY: Anytime I can be the --  
25 you know, your messenger, I'm happy.

1           CHAIRPERSON SHEEHY: To put that in better  
2 perspective, you know, you're absolutely right. When we  
3 have \$7.3 billion in loans that the Treasurer needs to pay  
4 off and this is only going to pay off a portion of them. So  
5 everything you said comports with exactly the situation  
6 we're facing and in all seriousness I'm glad you raised that  
7 subject. I -- you know, we are working very closely with  
8 the Treasurer and the Controller to figure out -- to make  
9 every dollar available we can, but they had \$7.3 billion in  
10 loans that were outstanding and they needed to get as much  
11 of that paid off as possible to make the pool solvent.

12                   So you're absolutely right and I'm --

13           SENATOR LOWENTHAL: So what I don't understand  
14 then, if I might, there's -- how much money in loans now?  
15 7.3 --

16           CHAIRPERSON SHEEHY: 7.3 billion.

17           SENATOR LOWENTHAL: And they sold 6 -- tell me and  
18 they sold 6.56 billion. Does that mean that we're getting  
19 close or is there just less than -- or is there other call  
20 on that money? Are you talking about that we're really only  
21 short now somewhere around \$700 million or are you saying --

22           CHAIRPERSON SHEEHY: Well, that's an excellent  
23 question, Senator. I'm glad you asked it. There's three  
24 types of debt that exist to the Pooled Money Investment  
25 account as I understand it from the experts at the State

1 Treasurer's Office.

2           They had 3.8 billion in debt that was for tax  
3 exempts.

4           SENATOR LOWENTHAL: Um-hmm.

5           CHAIRPERSON SHEEHY: So this sale that they are in  
6 the process of completing -- and the sale will be actually  
7 completed next week, is the sale of tax exempt bonds.

8           SENATOR LOWENTHAL: Right.

9           CHAIRPERSON SHEEHY: So the maximum amount they  
10 could reimburse the Pool for the tax exempts was 3.8 billion  
11 because that's what the outstanding liability was.

12          SENATOR LOWENTHAL: Right.

13          CHAIRPERSON SHEEHY: So since they sold 6.5, they  
14 had enough -- they have enough to not only reimburse the 3.8  
15 tax exempts but to also have an additional two and a half  
16 or --

17          SENATOR LOWENTHAL: Right.

18          CHAIRPERSON SHEEHY: -- 2.7 billion to fund all  
19 these other priorities that we've been talking about. But  
20 then they also have other debts to the Pool for taxable  
21 bonds. And say when he goes -- when the Treasurer goes to  
22 market next month, he'll have another target he's trying to  
23 get on taxable bonds, and if he hits that level of taxable  
24 bonds, then he can fully repay the Pool with that and  
25 anything over that will then be available for additional

1 projects that can be funded with taxables.

2 In addition, they have 1.3 billion as I understand  
3 it in commercial paper that needs to be repaid with bond  
4 proceeds and I'm not certain, but I think those also have to  
5 be repaid with taxables.

6 So there's these different types of debt that  
7 exist to the Pool and the sale that they're in the process  
8 of finishing this month will fully reimburse the Pool for  
9 all the debt that existed in the tax exempt category, but  
10 then we'll have to see how he does next month with the  
11 taxables.

12 SENATOR LOWENTHAL: Okay.

13 CHAIRPERSON SHEEHY: And as far as I know, the  
14 school facilities program state bonds are funded primarily  
15 with tax exempt bonds; isn't that right, Rob?

16 MR. COOK: Yeah, exclusively. Yeah.

17 CHAIRPERSON SHEEHY: Yeah. So -- and I mentioned  
18 the Build America Bonds because those bonds that he'll be  
19 selling next month along with the taxables, those are sold  
20 to the same market as the taxable markets, but the Build  
21 America Bonds can in fact be used for tax exempt projects.  
22 And so the advantage to us is, is that they'll have a wider  
23 market they could be sold to which theoretically will give  
24 us a better opportunity to see, but then those proceeds we  
25 can actually use for tax exempt projects and the key element

1 of the Build America Bonds, the key policy on that with the  
2 Obama administration is they want that money to be used for  
3 projects that will last a long time. They'll have a long  
4 life cycle and clearly new school construction would have a  
5 long life cycle and would be a good candidate for those  
6 bonds.

7           So, you know, we're hopeful that -- you know, that  
8 it's being moved forward that that in fact will be a  
9 successful program. Yes, Mr. Wyland.

10           SENATOR WYLAND: I apologize for coming in late.  
11 You happen to be talking about something that is very  
12 important to me and that's why I've been bringing it up. So  
13 I apologize if I ask you to repeat.

14           My understanding is the bond sale they completed  
15 today, what they intended for it to be 4 billion, interest  
16 was so great that it's 6 billion.

17           SENATOR LOWENTHAL: 6.5 billion.

18           CHAIRPERSON SHEEHY: 6.5.

19           SENATOR WYLAND: 6.5 which I will say sort of  
20 underscores the point I've been making. As a matter of  
21 fact, I did talk to brokers today and they said they could  
22 have sold more. So that's what the demand is and if you  
23 look at it historically, with the 30-year bonds, I think  
24 we're out to a little bit over 6 percent. You can go back  
25 like 15 years or so when that was very common. So I think

1 that's a good thing.

2 But the part that I want to make sure I understood  
3 you to say is that money would really pay those funds in the  
4 Pooled Money Investment fund. Does that mean then -- what  
5 does that mean for us in terms of getting money for these  
6 projects?

7 CHAIRPERSON SHEEHY: Sure, Senator Wyland. The  
8 Pooled Money Investment account has \$3.8 billion in loans  
9 outstanding that would need to be repaid with the proceeds  
10 of tax exempt bonds. So as I understand from the  
11 Treasurer's Office, the first 3.8 billion in the sales  
12 therefore would be used to replenish the Pooled Money  
13 Investment account. And that's important because the  
14 Treasurer hasn't been to market since June of '08 and of  
15 course with our cash situation, that's what got us into the  
16 freeze in the first place.

17 But above that, you know, you've got another  
18 \$2.7 billion in bond above that which then gives us the  
19 ability to address some of our needs and, you know, we have  
20 needs for the projects that got exempted. We have needs to  
21 pay their cash requirements through the end of the current  
22 fiscal year and to pay their cash requirements on into the  
23 next fiscal year.

24 We have needs to make payments on projects that  
25 had already had work completed but hadn't gotten reimbursed

1 at the time the freeze happened. Some of those include  
2 school facilities. Some of those include other types of  
3 projects. So we need to make progress of paying the bills  
4 for work that's already been done and we don't have -- you  
5 know, we don't have a spreadsheet that sort of lays all this  
6 out. We're still -- you know, the dust is sort of still  
7 settling here.

8           SENATOR LOWENTHAL: Don't we have a little on this  
9 one that we were handed that had 2. -- I think \$1.1 billion  
10 in contracts that were under contract and -- under  
11 construction and under contract already.

12           CHAIRPERSON SHEEHY: I'm sorry, Senator Lowenthal.  
13 The --

14           SENATOR LOWENTHAL: I think I had that they  
15 were -- of school facilities, there was 1.1 billion that  
16 were under contract and under construction.

17           CHAIRPERSON SHEEHY: Yes. I -- Rob Cook can  
18 correct me if I'm wrong, but I think that we had  
19 \$1.3 billion in requests for fund releases based upon  
20 apportionments that this body had made but for which we  
21 haven't been able to make those fund releases. Is that  
22 right, Rob?

23           MR. COOK: That's correct.

24           SENATOR WYLAND: So does that mean, if it's 1.3,  
25 that excess money -- it's Finance that is going to make --

1 to go back, is going to make the determination as to where  
2 the money goes.

3 CHAIRPERSON SHEEHY: Well, actually as I had  
4 commented on several public meetings, the Department of  
5 Finance welcomes the policy input from this body. If in  
6 fact we don't \$1.3 billion I funds to fully release -- to  
7 fully satisfy the 1. -- if there's not enough money at this  
8 particular point in time to fully satisfy the full  
9 \$1.3 billion in fund releases that we know there's demand  
10 for and it's some lower number, that therefore there will  
11 have to be a prioritization. And I have said in my role  
12 here that -- because I have this dual role of Finance, that  
13 we welcome the State Allocation Board's policy on that.

14 I know there's been quite a bit of discussion on  
15 the Implementation Committee about this. I don't -- maybe  
16 we'll hear a report later today. I think it's on our  
17 agenda how much progress they've made, but we would welcome  
18 the input -- we wouldn't just welcome. We would in fact  
19 accept the recommendation from the State Allocation Board,  
20 but if you're asking me, Mr. Wyland, if I think we'd be able  
21 to in one fell swoop take care of all 1.3 billion, the  
22 direct answer is I don't know. So I can't answer that  
23 because I don't know.

24 SENATOR WYLAND: So I guess what I'm saying is the  
25 amount left over after the 3.8 billion which replaces --

1 replenishes those funds will be more than 1.3.

2 CHAIRPERSON SHEEHY: Yes.

3 SENATOR WYLAND: And someone somewhere in the  
4 administration is going to make the call.

5 CHAIRPERSON SHEEHY: Well, as I said before, the  
6 first call on it -- the very first call on that money that's  
7 left over is going to be to cover the exempt projects  
8 because they got an exemption four months ago from the  
9 freeze and they had -- that work has been continuing and no  
10 payments have been made. None of those contractors -- in  
11 many cases, contractors have been using their own money.  
12 Some of the transportation projects have had to do some  
13 fancy footwork to find other fund sources. There have been  
14 all sorts of different, you know, methods used that I'm not  
15 even aware of to try to keep some of these projects going  
16 probably with baling wire and bubble gum.

17 So the first call on those funds is going to be to  
18 make payments on the projects that were exempted. There are  
19 a small handful of those that are school projects. They  
20 were health and safety.

21 Beyond that, we need to repay as much of the bills  
22 as we can for work that's already been done. Bills have  
23 been submitted, but we haven't made any payments. That  
24 includes a number of different types of public works  
25 projects, many of which are school projects but not all of

1 which are.

2           So, you know, the process that we're looking at is  
3 for paying for the projects that were exempted and for  
4 paying for projects for which the work has already been  
5 completed but for which we haven't paid, and we're going to  
6 pay off as much of that as we possibly can and we're going  
7 to continue to focus on things like critical health and  
8 safety projects, projects that will result in immediate jobs  
9 that are shovel ready, projects that will capture federal  
10 funds and stimulus funds. We're going to continue to do  
11 everything we can, but the reality is, is that, you know,  
12 the Treasurer sold 6.5. He didn't sell 16.5. So, you know,  
13 not every single need is going to get met immediately.  
14 We're going to keep our fingers crossed that the Treasurer  
15 will be just as successful next month as he was this month  
16 and that will give us a greater ability to address more of  
17 these things.

18           SENATOR WYLAND: Well, I guess what I'm saying is  
19 I -- what you're saying makes absolute sense and, you know,  
20 there are other projects I'm sure in all of our districts.  
21 I've got transit projects that I'd also like to see get  
22 money some of which are underway. I just hope that we can  
23 weigh in on that process.

24           In terms of the 1.3 billion, do we know how much  
25 in addition to that we owe -- the money you're talking about

1 that we actually owe? I'm not sure quite how to  
2 characterize it -- money that we had not -- we have not paid  
3 and that we owe.

4 MR. COOK: Well, if I can address that. The Board  
5 has allocated about \$2.4 billion to approximately 848  
6 projects out there in about 250 different school districts  
7 that we cannot yet release funds to. Just short of  
8 1.4 billion of those had actually come in and met all the  
9 requirements for fund release including that they've their  
10 contracts in place.

11 So the overall -- if you're asking what's the  
12 pool -- what's the backlog, it's 2.4 billion all together.

13 SENATOR WYLAND: Well, I guess what I'm trying to  
14 determine and what I heard Mr. Sheehy talking about, if I  
15 understood it correctly, is money we already owe and we owe  
16 it I know in transportation projects that had to stop and in  
17 school projects. And maybe we don't know that, but if we  
18 could get that money which obviously should be the number  
19 one priority, if we could get a number there, I think it  
20 would be helpful.

21 MR. COOK: I think the right number there is the  
22 1.3 billion in requests for fund releases. That's -- I  
23 believe that's the right --

24 SENATOR WYLAND: And then that --

25 MR. COOK: That's the short answer for that.

1           SENATOR WYLAND: And when you say for fund  
2 releases, they've already started.

3           MR. COOK: They all -- every single one of those  
4 projects has their contracts in place. Many of them have  
5 proceeded. I couldn't tell you how many of them. We have  
6 that information. I can't tell you how many of those have  
7 proceeded.

8           SENATOR WYLAND: Okay. That's fine. That's fine.  
9 I just think it's important because I think what Mr. Sheehy  
10 is saying is we know there's transportation projects that  
11 shut down and I understand what he's saying is I think it  
12 would be true of the schools. At least we could get that  
13 money. All right. Thank you.

14          CHAIRPERSON SHEEHY: Mr. Harvey.

15          MR. HARVEY: I have a perhaps good story to tell  
16 and there's another category of projects that are not  
17 dependent on school money to proceed and those are projects  
18 that are fully funded because they have no need for state  
19 bond money. They have all of their funding locally or they  
20 may have funding from the fed stimulus that comes directly  
21 to them. They may be looking to get our state money at a  
22 later date, but there are a category of projects that are  
23 shovel ready now and can go and I am aware that the State  
24 Architect is looking at mechanisms and techniques and  
25 authorities that would allow him to move those projects

1 through the system so that we again have more school  
2 projects built not waiting for action by someone else.  
3 They're ready to go. We can be of assistance and I think  
4 that is a good story that needs to be told as well.

5 SENATOR WYLAND: Are you talking about those that  
6 are not yet been apportioned that don't need money?

7 MR. HARVEY: Correct. They are perhaps at the DSA  
8 as an application. They haven't come to us for  
9 apportionment. They don't need an apportionment.

10 SENATOR WYLAND: They just need to be -- do we  
11 need to approve those if they don't need an apportionment?

12 MR. COOK: No, we do not.

13 MR. HARVEY: I was told we do not, so that the  
14 architect's stamp on it and their validation that they're  
15 shovel ready could mean that they could start within 30  
16 days.

17 SENATOR WYLAND: Is it possible to get a list of  
18 those projects?

19 MR. HARVEY: I'm sure we can share that list with  
20 you, Senator, when the architect has developed it. I'm sure  
21 he's doing his due diligence now to try to identify those,  
22 cull those out, and we'll be happy to make that a public  
23 pronouncement when it's available.

24 SENATOR WYLAND: And then that's the last stop is  
25 the State Architect.

1 MR. HARVEY: For those categories and projects.

2 SENATOR WYLAND: For those categories.

3 CHAIRPERSON SHEEHY: Are there other members that  
4 have questions? I'm going to put -- I'm going to take my  
5 Department of Finance hat off now and return back to just  
6 being a member of the State Allocation Board.

7 Mr. Cook, where are we?

8 MR. COOK: Well, that was quite a warm-up to the  
9 **Consent Agenda**, so I think that's where we are.

10 CHAIRPERSON SHEEHY: Okay. So can you take us --  
11 is there anything we need to discuss on the Consent Agenda,  
12 Mr. Cook?

13 MR. COOK: If no members have any issues with the  
14 items on the Consent Agenda, it's ready for your -- for a  
15 motion and approval.

16 CHAIRPERSON SHEEHY: We at Tab 4. There weren't  
17 any -- are there any requests of any members of the Board to  
18 remove any items from the Consent Agenda today? There's  
19 nothing controversial on there, is there, Rob?

20 MR. COOK: Nope. Not that I'm aware of.

21 CHAIRPERSON SHEEHY: Okay. Seeing no requests to  
22 remove any items from the Consent Agenda, is there a motion  
23 to approve?

24 MR. HARVEY: So move.

25 MS. GIRARD: Second.

1           CHAIRPERSON SHEEHY: We have a motion by  
2 Mr. Harvey, a second by Ms. Girard. All in favor.

3           (Ayes)

4           CHAIRPERSON SHEEHY: All opposed? Nobody's  
5 opposed. Okay. The Consent Calendar's approved. Excuse  
6 me. All right. Financial reports.

7           MS. MORGAN: The next is behind Tab 5, page 63 in  
8 your agenda, and it's the **Status of Funds**. The Board just  
9 approved unfunded approvals for new construction  
10 23.4 million and 16.2 in modernization. There will be an  
11 item presented in the Consent Specials totaling 8.3 and from  
12 Proposition 1D, it remains 3.8 billion available for the  
13 Board.

14           There were some funds captured through rescission  
15 and closeout in Proposition 55 totaling 14.9 million,  
16 leaving 551.7 million available to the Board.

17           In Prop. 47, some minor adjustments, totaling -- a  
18 balance remaining of 934.5. On the following page, you can  
19 see there still remains 22.3 million available in  
20 Proposition 1A with a grand total of 5.38 billion available  
21 to the Board once we have the ability to make  
22 apportionments.

23           The -- in the Consent section, there was also  
24 5.1 million in unfunded approvals for the emergency repair  
25 program, and as Rob mentioned earlier, we will bring those

1 projects back for funding in the following Board in April.

2 And that concludes the Status of Funds. The fund  
3 releases on the following page haven't moved yet in  
4 accordance to our conversation earlier today.

5 CHAIRPERSON SHEEHY: Okay. Thank you, Ms. Morgan.  
6 Do we have any questions of the Board Members of Ms. Morgan  
7 on the financial report? Okay. Seeing none, we're going to  
8 move on to **Consent Specials**. We have three items today on  
9 Consent Special and I am going to ask that Item No. 7 --  
10 Tab No. 7 which is Lammersville that that be -- that we do a  
11 roll call vote on that one, but if it's okay with the Board  
12 members, we can do a unanimous vote if there's no objection  
13 on Tab No. 6 and No. 8 after staff describes what they are.

14 I'm just asking for a roll call vote because I'm  
15 going to abstain on Tab No. 7.

16 MS. MORGAN: If it pleases the Board, behind Tab 6  
17 on Page 66 is a conceptual approval for rehabilitation for  
18 the Pacific Unified School District. It's a health and  
19 safety project regarding some structural issues and their  
20 energy systems. This is an estimated cost once the project  
21 does come forward of just under 500 million and we would ask  
22 that the Board approve the recommendations as outlined on  
23 page 67.

24 CHAIRPERSON SHEEHY: Question or comments on Tab  
25 No. 6, Pacific Unified? Staff is recommending approval of

1 the district's request. Mr. Wyland.

2 SENATOR WYLAND: I want to make sure. I think you  
3 just misspoke. You said 500 million. You mean 500,000.

4 MS. MORGAN: Oh, yes. Thank you. Just did the  
5 Status of Funds.

6 CHAIRPERSON SHEEHY: Ms. Morgan, just because we  
7 sold --

8 SENATOR WYLAND: That's a lot of energy.

9 CHAIRPERSON SHEEHY: Just because we sold a lot of  
10 bonds, don't get carried away.

11 MS. MORGAN: Well, there's 19 children there. I  
12 just wanted to just get them a little extra month. Sorry  
13 about that.

14 CHAIRPERSON SHEEHY: Okay. So seeing no other  
15 questions on Tab No. 6, can you please present No. 7.

16 MR. COOK: Yes. Under Tab 7 is a funding item for  
17 Lammersville Elementary. As you may recall at the -- at our  
18 February Board, an appeal was heard on this item. The Board  
19 approved the appeal. This is the funding item or actually  
20 it's an unfunded approval since we don't actually have cash  
21 in the accounts at the moment.

22 But it's an unfunded approval for this project and  
23 it would be in an estimated amount of 8.3 million. We had  
24 to do an estimated amount because we haven't actually had an  
25 opportunity to process the full application yet.

1           CHAIRPERSON SHEEHY: Are there questions regarding  
2 Tab No. 7? Okay. Let's go on to Tab No. 8, then we'll take  
3 a vote, and then we'll approve these.

4           MS. MORGAN: Yes, on Tab No. 8, that's the  
5 transfer of the critically overcrowded school program. It's  
6 a follow-up to the discussion that we had at the last Board  
7 and consistent with the conversation that took place and  
8 direction provided by the Board, the recommendations  
9 outlined on page 71 authorizes the transfer of 700 million  
10 from the critically overcrowded schools account to the new  
11 construction funds and that will be moved on an as-needed  
12 basis for projects when the actual transfer of the funds  
13 will occur.

14           Consistent with the Board's direction, 140.7 has  
15 been held back for a period of three months and at which  
16 time we'll bring back another items for discussion and  
17 consideration by the Board.

18           We will also be sure that we carefully review the  
19 applications and fund them -- process them for unfunded  
20 approvals in accordance to whether or not they have a labor  
21 compliance program so that they are authorized out of the  
22 appropriate pot of money. At a certain point, we will have  
23 exhausted the Proposition 1D authority and so we make sure  
24 that we go on record that districts need to be aware that  
25 there is a potential when we only have Proposition 47 and 55

1 monies available that they would be required by law to have  
2 a labor compliance program.

3 Consistent with the conversation that took place  
4 at the last Board, we will put out mass mailers to all of  
5 the districts and post this information on our Website; so  
6 we include that in our recommendations today before you for  
7 the Board's consideration.

8 CHAIRPERSON SHEEHY: Okay. So, Ms. Morgan, if I  
9 understood you correctly then, this \$140 million  
10 reservation, we would come back and address in the June  
11 meeting; is that right?

12 MS. MORGAN: Yes.

13 CHAIRPERSON SHEEHY: Okay. Mr. Duffy, did you  
14 want to address the Board?

15 MR. DUFFY: Thank you, Mr. Chairman and members.  
16 Tom Duffy for C.A.S.H. Just -- we talked about this topic  
17 two weeks ago. We expressed two concerns. One was the  
18 intent of the use of the funds and we really have seen new  
19 construction as being the major area, although as I pointed  
20 out to you, the term new construction in the appropriate  
21 code section is a small n and small c.

22 What our concern is that you -- if you make -- if  
23 you take action to move these funds, we believe that you  
24 would not have any authority to retrieve funds from the  
25 category of new construction.

1           I do not know at this time what the implications  
2 are for labor compliance, but as we shared with you at the  
3 last Board meeting, you may have a means of addressing this  
4 through your staff. It could be simple and not complicate  
5 what goes on with funding sources and the comingling of  
6 dollars that have labor compliance requirement and those  
7 that do not.

8           So I don't see -- we don't see the urgency to move  
9 forward at this time. You're not making real  
10 apportionments. You still have a good deal of money left in  
11 the Proposition 55 new construction category. Could we  
12 relax this and take a look at what the implications are for  
13 it and bring it back the next time? We have not had an  
14 opportunity to really dialogue with your staff. This was  
15 only two weeks ago and so we're asking for your patience  
16 with us and with this and just say don't do this at this  
17 time.

18           We have others that we are dialoguing with about  
19 these funds. There's a good deal of concern about what will  
20 happen with the eventual exhaustion of the Prop. 55 new  
21 construction funds and that whole question of level three,  
22 something that C.A.S.H. has said over and over again we  
23 think is complicated and we're not anxious to get there.  
24 But we think that we want to make sure that all that you  
25 know and all that we know is all that we can know about what

1 could happen with these funds.

2 CHAIRPERSON SHEEHY: Thank you, Mr. Duffy. You  
3 know, I'd be remiss if I didn't say I'm just completely  
4 perplexed with your testimony today. You know how highly I  
5 think of you and I'm sure you're aware of the fact that  
6 we've got over \$800 million in workload right now for new  
7 construction, but we've only got \$499 million actually  
8 available to address it.

9 So I'm -- I'd be happy to go along with the  
10 majority of the members of the Board if they'd like to delay  
11 this action, but I'm really quite taken aback that  
12 C.A.S.H.'s position would be with only \$499 million  
13 available that we wouldn't want to transfer the funds from  
14 the critically overcrowded school program right now when we  
15 have almost twice that amount of workload on the books and  
16 this clearly could address that.

17 So I'm -- I feel like I'm taken a bit -- this  
18 clearly catches me off guard. I just would have assumed it  
19 would have been a natural decision for everybody to want to  
20 get this money into the new construction where we have far  
21 more need right now than resources available and I'm  
22 actually quite surprised at your testimony today.

23 Mr. Harvey.

24 MR. HARVEY: Mr. Chair, that's kind of consistent  
25 with my concern, but I articulated it differently last month

1 and that was it has been my interest all along to have as  
2 much money in the new construction category as you've  
3 articulated.

4           And I was troubled when we had the direction to  
5 set aside 140 million. To me it should be zero. This was a  
6 program that was scored out of the new construction category  
7 when it was conceived a handful of years ago and that's  
8 where it belongs as far as I'm concerned. So if we do delay  
9 this, I'm going to want to know why 140-, justify 140-. I'm  
10 hoping it's much, much less and I'm also interested in  
11 knowing if the district that has access to other funds to  
12 reimburse themselves for the expenditures for these kinds of  
13 activities. I think they may exist and I'd like to know  
14 that because again it helps me understand that maybe all of  
15 this should be moved to new construction because I share  
16 your concern, Mr. Chair, that we've got a far higher need in  
17 that category than funds available.

18           MR. DUFFY: If I --

19           CHAIRPERSON SHEEHY: Mr. Duffy, please.

20           MR. DUFFY: Let me share my opportunity to be  
21 perplexed. You had a very interesting conversation early on  
22 about what the bond sale today really means and we really  
23 don't know when real dollars are going to go out to school  
24 districts.

25           We asked beginning in December for -- recognizing

1 that this freeze was happening for the Board and your staff  
2 to work to do a variety of things and you've done many of  
3 them. Unplugged the clock. The most recent was the  
4 request -- although we asked for it long ago, the request to  
5 do unfunded approvals.

6           If you are doing unfunded approvals, it means you  
7 do not have real funds to actually give to school districts  
8 which is consistent with the discussion that was had  
9 earlier. So I guess I'm perplexed not knowing what the  
10 urgency is if we're really not talking about providing fund  
11 releases to districts when we have \$1.3 billion worth of  
12 projects that are actually under contract.

13           So all we're asking for is an opportunity to do  
14 two things. One is to know what it is that's going to  
15 really happen with these dollars and we're not shy about  
16 talking about level three and the issue about running out of  
17 new construction funds.

18           The second is what does this really mean for  
19 districts if they receive any of these dollars and the  
20 complications of labor compliance recognizing that as we  
21 shared with you at the last Board meeting, that your budget  
22 bill did now cause a transfer of bond dollars to DIR and  
23 therefore taking out of the school district's area of  
24 responsibility -- there are some caveats there -- but to  
25 take out of their area of responsibility running labor

1 compliance programs.

2           So in short, would there not be a means of taking  
3 some portion of those funds and putting them into DIR who  
4 will then relieve districts of running labor compliance  
5 programs. And I don't think we understand all the details  
6 of that.

7           We did share it with your staff. We shared it  
8 with you at both -- at the last Board meeting. So asking  
9 for your patience just to make sure we understand what it is  
10 we do because I don't think you can retrieve this money --  
11 if you actually put it into the new construction category  
12 with a capital N and capital C, I don't think that you can  
13 just take it back if indeed there is some error there.

14           CHAIRPERSON SHEEHY: Okay. Very good. Thank you,  
15 Tom. I really appreciate that input. I do want to assure  
16 you that Department of Finance does have DIR funded fully,  
17 so that's not a problem and none of us have a crystal ball.

18           What's the will of the committee? Did you want to  
19 put this item over?

20           SENATOR LOWENTHAL: Yeah. I would like to --

21           CHAIRPERSON SHEEHY: So I see heads shaking. Did  
22 you want to comment on this, Senator Lowenthal?

23           SENATOR LOWENTHAL: No. I just think that it just  
24 needs more discussion and I would like --

25           CHAIRPERSON SHEEHY: Okay. So -- yes, Mr. Wyland.

1           SENATOR WYLAND: Well, how long would we put it  
2 over for because I -- frankly I share your response. I  
3 don't see why we aren't moving the money.

4           CHAIRPERSON SHEEHY: I can't answer that question.

5           SENATOR WYLAND: And I understand the issue,  
6 but --

7           CHAIRPERSON SHEEHY: I'm happy to go with the  
8 majority of this committee on this issue. I think -- you  
9 know, my point of view is that -- you know, I continue to be  
10 perplexed because since the very moment I assumed this new  
11 job, one of the very first things I started getting lobbied  
12 on by people sitting in this room was the urgent need to  
13 transfer the critically overcrowded school program funds to  
14 new construction. We have this great amount of workload  
15 that far exceeds what's available, but, you know, if a  
16 majority of the members would like to go ahead and put this  
17 over and wait, I'm fine doing that. I'm just -- I'm  
18 perplexed. Yes, Dr. Ellerbee.

19           DR. ELLERBEE: I'd like to ask Rob, what are the  
20 consequences with us delaying this?

21           MR. COOK: We currently have approximately  
22 \$499 million in bond authority under Proposition 1D left in  
23 the new construction account. These funds up to  
24 840.7 million in critically overcrowded schools could be  
25 transferred over to new construction purposes allowing us to

1 continue to fund projects for an extended period of time.

2 Now, recognize that currently this is bond  
3 authority and it's not real cash, but at some point when we  
4 exhaust our bond authority under Proposition 1D, level three  
5 developer fees would theoretically kick in which is onerous  
6 burden upon developers out there in an environment where the  
7 building industry is not only in a recession, they're in a  
8 depression, and it also stops this Board from making either  
9 unfunded approvals or regular approvals assuming that we  
10 have funds. That would -- we would cease at that point.

11 CHAIRPERSON SHEEHY: Did that help, Dr. Ellerbee?

12 DR. ELLERBEE: Yes.

13 CHAIRPERSON SHEEHY: I see we have a  
14 representative here from the building industry. Mr. Lyon,  
15 would you like to address this Board.

16 MR. LYON: Thank you, Mr. Chairman and members of  
17 the committee. Richard Lyon on behalf of the California  
18 Building Industry Association. We sympathize with Mr. Duffy  
19 and we too are concerned about school districts being  
20 exposed for LCP costs. We think the appropriate information  
21 coming from the Office of Public School Construction out to  
22 school districts that there is an obligation to comply with  
23 LCP should solve that problem.

24 We want to go on record and need to go on record  
25 as saying we believe that the full amount of the COS money

1 from Prop. 47 should be shifted over to the new construction  
2 program. We are good neighbors. We understand the concern  
3 of some of the urban school districts, so we would be  
4 comfortable with the staff recommendation today to move  
5 700 million over today and to keep 140 million in reserve  
6 for three months. We think that's the appropriate action to  
7 be taken by this committee.

8 We are getting close, members, to use a football  
9 term, to the red zone where the unfunded list is larger than  
10 the money that's in the new construction account and when we  
11 get to the point where the State Allocation Board has run  
12 out of money for new construction, we are at the point then  
13 when a hundred percent of the cost for financing new  
14 construction is on the back of new home buyers and I would  
15 say that that's a crisis point, that that's the nuclear  
16 option for this program. None of us want to get there.

17 As Mr. Cook said, this industry -- the home  
18 building industry is in a deep, deep trough and it's going  
19 to be some time before we come out. So we would support the  
20 recommendation of the staff today and we would urge you to  
21 take that action today.

22 CHAIRPERSON SHEEHY: Mr. Wyland.

23 SENATOR WYLAND: Yes, Mr. Chairman. I agree with  
24 that assessment and I would at least -- I don't know what  
25 the rule is, but I would move that we accept that and I

1 think it's been outlined very clearly. The need is there  
2 and it happens to dovetail with our other critically  
3 important problem which is the houses that are being built.

4 CHAIRPERSON SHEEHY: Okay. Thank you, Mr. Wyland.  
5 So you have a motion to approve this item. It's so noted.  
6 It's on the floor. We have had a request by other Board  
7 members to have some more testimony on this item. I know  
8 that Senator Lowenthal has some questions he'd like to ask,  
9 and so I will leave your motion on the floor and Senator  
10 Lowenthal.

11 SENATOR LOWENTHAL: In listening to the  
12 discussion, I would be find with voting for it today. I  
13 mean I really do think we could -- but I'm listening to the  
14 discussion about the need to put it into the new  
15 construction.

16 CHAIRPERSON SHEEHY: Okay, Senator. Are there  
17 other Board members that wanted to comment on this item?

18 ASSEMBLY MEMBER FULLER: I'd like to hear the rest  
19 of the testimony.

20 CHAIRPERSON SHEEHY: Okay. Could you please  
21 identify yourself for the record.

22 MR. DIAZ: Sure. Mr. Chair, members, Cesar Diaz  
23 on behalf of the State Building and Construction Trades  
24 Council. I feel the need to come up here and express our  
25 concerns with regards to different pots of money and

1 different requirements that are being put on the school  
2 districts.

3           We are supporters of labor compliance programs.  
4 As you understand, during the budget negotiations, we did  
5 negotiate and had actually the formation -- creation of a  
6 state public works enforcement fund to actually provide the  
7 Department of Industrial Relations with the resources they  
8 need to go out and enforce labor compliance that are now  
9 being enforced by a school district for a third-party labor  
10 compliance programs.

11           The actual regulations are yet to be formulated  
12 and set and so they do not go into effect. And so no  
13 contract is effected until those regs are in place which we  
14 see probably at the end of the year if we are able to  
15 develop the group of stakeholders and then develop the  
16 guidelines and regulations for that.

17           We do want to express though that labor compliance  
18 programs are an essential and an important piece especially  
19 now when so many contractors are going out and bidding on  
20 public works projects because of the dry spell in  
21 residential construction. A lot of these contractors have  
22 no experience with regard to public works contract law or  
23 prevailing wage law.

24           So the guidance that this Board can provide to  
25 school districts in terms of which pots of money are able to

1 trigger the labor compliance programs is important now. We  
2 would suggest perhaps that they comingle some of these funds  
3 so that there isn't any confusion and that the labor  
4 compliance programs are funded and they run simultaneously  
5 until the Prop. 47 monies run out.

6 CHAIRPERSON SHEEHY: Oh, I really appreciate that  
7 testimony. I think you raised some really good points. I  
8 would like to just get a couple more things on the record  
9 relative to what you said, sir. I do want to assure you  
10 that the personnel and funding requirements for the  
11 Department of Industrial Relations is being taken care of  
12 through the Governor's budget; in fact it was approved in  
13 February of this year when the Legislature passed the budget  
14 early and I know that there is a lot of concern. I'm not an  
15 expert; I'm not an attorney. But I know there's a lot of  
16 concern as to whether or not these bond funds could even be  
17 available to fund that.

18 But we're using general fund dollars and other  
19 special fund dollars to fund the work of the Department of  
20 Industrial Relations; so I don't want you to be concerned  
21 that any action that we take on these bond funds may somehow  
22 put DIR at a disadvantage. That's not the budget plan that  
23 was approved by the Legislature.

24 MR. DIAZ: Sir, I'd like to clarify that. We  
25 actually were proponents of SB2X-9, the Padilla bill that

1 created the public works enforcement fund and what that  
2 actually did was allow the Department of Industrial  
3 Relations to levy a fee of up to a quarter of 1 percent out  
4 of every state public works contract to actually go to DIR  
5 and select those --

6 CHAIRPERSON SHEEHY: Excellent.

7 MR. DIAZ: So we're support of that as well.

8 CHAIRPERSON SHEEHY: Good.

9 MR. DIAZ: But until that goes into effect, our  
10 concern is that some of these requirements in terms of 47,  
11 the labor compliance requirement there, will go bare or  
12 ignored because of the confusion with Prop. 1D not carrying  
13 a labor compliance program requirement.

14 CHAIRPERSON SHEEHY: Okay. Do we have -- yes,  
15 Ms. Brownley.

16 ASSEMBLY MEMBER BROWNLEY: Well, I just -- you  
17 know, I think at the last meeting, Ms. Moore had requested  
18 staff to develop a process to protect, you know, the  
19 applicant's order in line on the -- in the event of these 1D  
20 funds.

21 I don't see a recommended process to give us those  
22 certainties, and I think that we should have that before us  
23 clearly before we begin to proceed on this. And so I would  
24 propose that we delay this decision until we have more  
25 information.

1           And actually I see these letters from the Building  
2 Industry Association and letters from the Speaker of which I  
3 have not received, so --

4           CHAIRPERSON SHEEHY: The -- I have not received a  
5 letter from the Speaker either. What does the Speaker's  
6 letter say?

7           SENATOR HANCOCK: I haven't seen it either.

8           ASSEMBLY MEMBER BROWNLEY: So anyway, I just -- I  
9 would rather have information -- have all of the information  
10 in front of me before I proceed with a vote and would prefer  
11 to have it delayed.

12          SENATOR WYLAND: Could we -- I think many of us  
13 would be interested in what the Speaker has to say, but we  
14 haven't see that.

15          ASSEMBLY MEMBER FULLER: Actually I got these in  
16 the hall and I would be happy to share them after I -- since  
17 no one else has them, after I make sure they're authentic  
18 because you're making me nervous now. That's all right. I  
19 don't mind sharing with you, Julia. I just assumed  
20 everybody else got one in the hall.

21          CHAIRPERSON SHEEHY: Go ahead, Mr. Wyland.

22          SENATOR WYLAND: I just want to make sure I  
23 understand the concern.

24          ASSEMBLY MEMBER FULLER: Let the next speaker  
25 speak a minute.

1           CHAIRPERSON SHEEHY: Senator Wyland, do you want  
2 to ask your question first or do you want to have Mr. Lyon  
3 provide some more information?

4           SENATOR WYLAND: I will follow Assembly Member  
5 Fuller's suggestion.

6           ASSEMBLY MEMBER FULLER: It may help.

7           CHAIRPERSON SHEEHY: Mr. Lyon, could you, please.

8           MR. LYON: I think maybe I can shed some light on  
9 the letters. I wrote Rick Simpson a week ago asking Rick if  
10 in his opinion the Prop. 47 money, the critically  
11 overcrowded school money, is required by law to go back into  
12 the new construction account. That was the only issue I  
13 asked him.

14           He wrote back to me and said yes, according to  
15 law, the Prop. 47 COS money is required to go back into the  
16 new construction account. That's what the letter says.  
17 Nothing at all to do with the LCP issue.

18           CHAIRPERSON SHEEHY: I would like to just add one  
19 more thing I think is important for all the members to  
20 consider and whatever the will of this committee is, is fine  
21 with me, but I'd to send the wrong signal to those people  
22 out there that are trying to make decisions on what to do  
23 with the bond funds. And I think that, you know, we have a  
24 lot of workload on the books for new construction and we  
25 don't have enough resources there -- authority there right

1 now to fund it. And if this body continues to delay making  
2 those resources available, it might influence some decision  
3 makers and say well, they don't need all that money for  
4 schools right now.

5 I mean I think we need to do everything we can and  
6 show all the signals that we can that we're serious about  
7 getting the school construction money out the door. I just  
8 worry about the signal that delaying this vote would send.  
9 Mr. Harvey.

10 MR. HARVEY: I would like to second Senator  
11 Wyland's motion.

12 MS. GIRARD: To delay it?

13 MR. HARVEY: His motion was to accept the transfer  
14 of funds.

15 CHAIRPERSON SHEEHY: So we have some members here  
16 that would like to delay it and we have some members that  
17 expressed their willingness to move forward and so should we  
18 have a vote on this to see where the votes are?

19 ASSEMBLY MEMBER FULLER: Could I just have a  
20 question?

21 CHAIRPERSON SHEEHY: Yes, Ms. Fuller.

22 ASSEMBLY MEMBER FULLER: I'm trying to follow up  
23 on Ms. Brownley's -- initially we were trying to I think --  
24 I'm trying to see if by doing this we could fund -- if by  
25 comingling we could fund more school districts' projects

1 because of the way the timelines and the stipulations were.  
2 That was one of our concerns and I can't -- I don't know --  
3 and I -- really I can't tell by looking at this if actually  
4 by doing that we accomplish that by being able to fund more  
5 districts than we would have been able to fund.

6 That's like the first question and then I have  
7 another one after that.

8 MR. COOK: Well, I'm not sure the answer to your  
9 question is about comingling. I will tell you that as we  
10 were transitioning from Proposition 55 that has a labor  
11 compliance program requirement in it to Proposition 1D that  
12 does not have this, our staff became very adept at  
13 confirming the presence or lack thereof of a labor  
14 compliance program and funding school district projects  
15 accordingly.

16 And I believe our record stands for itself in that  
17 no one got into trouble regarding labor compliance program  
18 in our handling of those dollars and those projects.

19 So we know how to pay attention to it. We know  
20 it's a very big deal to folks out there. We're -- we  
21 believe that outreach and making sure that folks are aware  
22 of the requirements out there is obviously a big step, but  
23 our staff is adept at managing that. We got very good at it  
24 under Prop. 55 to 1D. We can manage the same thing in  
25 Prop. 47 to 1D.

1           CHAIRPERSON SHEEHY: Ms. Fuller, did you have a  
2 follow-up question?

3           ASSEMBLY MEMBER FULLER: Okay. So if I understand  
4 the situation correctly, we thought that if we moved  
5 money -- if we moved this money that we would be able to get  
6 it out faster even though we don't have the funding now  
7 because approvals would be done and that we would be able to  
8 fund a larger amount of schools quicker who need relief.

9           Now we have one group who wants the money now, one  
10 group who's not sure if the people will know what to do if  
11 they get it because they're not sure what the regulations  
12 are, and another group who's pretty sure they don't know  
13 what the regulations are.

14           I'm a little confused. So if anybody can clear  
15 that up, then I'll know how to vote because right now I  
16 don't.

17           CHAIRPERSON SHEEHY: Hold on. I have Ms. Girard  
18 and then I have Mr. Wyland and I would like to just say for  
19 the record I never thought this was that confusing and I get  
20 the sense that there have been some that have tried to make  
21 it more confusing. May you can unwind a little bit for us,  
22 Rob. I have Ms. Girard and then Mr. Wyland.

23           MS. GIRARD: Actually I just want to go on the  
24 record. Labor compliance programs, I'm not for them. I  
25 think that they're added costs that we don't need.

1           But under the circumstances we have right now, we  
2 do need to get the money out there. So for me -- and I know  
3 that staff is very good at keeping control and making sure  
4 that they advise the school districts so that there is no  
5 problems with this. We have funds there we need to move.  
6 I'd like to see these problems move forward.

7           We're stuck with this labor compliance situation  
8 and I think for me, I would say -- I would ask and go along  
9 with you to move this forward.

10           CHAIRPERSON SHEEHY: Okay. Senator Wyland.

11           SENATOR WYLAND: I think one of the issues -- and  
12 see if I have this correct -- in addition to the transfer of  
13 funds is the labor compliance issue. I agree that that's  
14 real and as I understand it from Mr. Diaz it's going to be a  
15 while before it's all set in place with the DIR.

16           I just -- I would hate to not -- to hold this up  
17 if we have a method which exists now even though it's going  
18 to be supplanted by this new method that I understand, Rob,  
19 is working.

20           MR. COOK: Um-hmm.

21           SENATOR WYLAND: Because most -- at least in my  
22 area, all of the schools that are built do have various  
23 forms of labor compliance agreements and it seem -- and it  
24 just seems to me that we need to start doing this.

25           The other issue with C.A.S.H. is not as clear to

1 me and it just -- seems to me we ought to move the money and  
2 (coughing). We can take care of labor compliance however  
3 imperfectly -- and until the DIR regulations begin.

4 CHAIRPERSON SHEEHY: Thank you. Ms. Hancock.

5 SENATOR HANCOCK: Thank you and I appreciate  
6 Mr. Wyland's question. I think I need to ask it again  
7 partially because we're all trying to figure out why what we  
8 thought was a noncontroversial item is controversial.

9 And I would actually like to ask -- it appears to  
10 me to be logical and efficient to move the money out today  
11 unless it leaves a big loop hole and question mark about  
12 whether the project labor agreements which are now required  
13 I believe by law, but the regulations are not finished yet,  
14 that -- are we creating a loop hole in which projects would  
15 move forward without labor compliance agreements in place.

16 MR. COOK: If I can answer your question. This  
17 would not create a loop hole. Proposition 47 required and  
18 the funding associated with it requires a labor compliance  
19 program. Proposition 1D does not require that.

20 If we move these funds from Proposition -- these  
21 funds stay within Proposition 47. They are simply  
22 transferred to new construction under Proposition 47. They  
23 don't move over to 1D. That is something this Board can't  
24 do.

25 They stay within Proposition 47. They retain all

1 the features of Proposition 47 including the labor  
2 compliance program component. So these projects are all  
3 under that umbrella, anything that's funded from this.

4 As far as the broader issue with the recent  
5 trailer bill, we've actually initiated discussions with the  
6 Department of Industrial Relations to try to determine  
7 whether as an umbrella program that that would take care of  
8 the labor compliance issues for school construction projects  
9 in general and if not, then how we advise school districts.

10 But we've already initiated discussions with the  
11 Department of Industrial Relations because this is a very  
12 important issue and it's something that has to be dealt  
13 with. It means the difference between access to the funds  
14 and not. So --

15 SENATOR HANCOCK: Okay. Rob, now I don't  
16 understand this because the recent trailer bill --

17 MR. COOK: Um-hmm.

18 SENATOR HANCOCK: -- sets out a sort of general  
19 requirement for project labor agreements and bond funded  
20 construction. Am I right?

21 MR. COOK: Um-hmm. I believe you're correct. I  
22 am not familiar with the specifics of the bill.

23 SENATOR HANCOCK: Okay. If that's what it does,  
24 but if Proposition 47 requires that already --

25 MR. COOK: Um-hmm.

1           SENATOR HANCOCK: -- what would -- I would assume  
2 that until any new regulations are developed, whatever the  
3 regulations are in Prop. 47 would continue.

4           MR. COOK: That is correct.

5           SENATOR HANCOCK: Okay. So what's the problem?

6           MR. COOK: I don't see a problem.

7           CHAIRPERSON SHEEHY: Mr. Walrath, are you tag  
8 teaming with your colleague, Mr. Duffy, tonight?

9           MR. WALRATH: No. Actually I wasn't intending to  
10 come up until the conversation started confusing me as well.  
11 Dave Walrath representing Small School Districts  
12 Association.

13           Senator 9 of Second Extraordinary Session  
14 contained a number of provisions. One is the DIR provision  
15 on the fee. The second is, to the best of my knowledge, it  
16 refuels the ability to use third party LCP providers.  
17 Henry's nodding his head up and down.

18           Small School Districts do not have their own LCPs.  
19 They have always used third-party providers. So the issue I  
20 bring before you is if this goes forward prior to the DIR  
21 regulations being taken care of, then I'm not sure where a  
22 small district is that doesn't have their own, who's under  
23 47 required to have one, cannot do a third party, but is  
24 going to have to rely upon DIR. I don't know what the  
25 timing and sequencing is.

1           So up until some of these other conversations, I  
2 too thought this was a fairly straightforward issue. I'm  
3 now not so sure.

4           The second piece is we don't even have the money  
5 to make fund releases on 1.2 billion that's sitting there  
6 already to go under fund release. This is a transfer for  
7 future apportionments for which we have no assurance that we  
8 have any money right now to make on a fund release.

9           In addition to the 2.4 billion of which half may  
10 be subject to fund release, another 1.2 coming in on the  
11 2.4.

12           I would request that you delay not for any other  
13 reason than all of a sudden, I'm not sure how a small  
14 district who might get an apportionment under this might be  
15 affected as we go forward and I thought Ms. Moore's comments  
16 on a process would have created a structure that would have  
17 protected small districts by the nature of that process. So  
18 I'm now confused.

19           CHAIRPERSON SHEEHY: Thank you, Mr. Walrath. Rob,  
20 is there anything you can say that will address the issue  
21 about the small school districts and their using third  
22 parties with the Prop. 47 funds?

23           MR. COOK: All I can say is I would defer to  
24 Cesar's judgment that this bill doesn't become effective  
25 until the regulations become effective. So I think frankly

1 that Proposition 47 would be governing in this instance and  
2 that would mean that they would have access to third-party  
3 providers.

4 Also we've -- many --

5 CHAIRPERSON SHEEHY: Rob, I'm sorry. I'm going to  
6 interrupt you. This would be adding to a pot of  
7 \$499 million that's already there. If there was a small  
8 school district that came forward and it was unclear --  
9 there's some ambiguity, you know, the regs hadn't been  
10 adopted or whatever, couldn't their request be funded out of  
11 this other pot of money and not Prop. 47? I mean --

12 MR. COOK: That's correct. It could well be.

13 CHAIRPERSON SHEEHY: So wouldn't that address the  
14 issue that Mr. Walrath raised?

15 MR. COOK: That would.

16 CHAIRPERSON SHEEHY: Okay. So there may be some  
17 uncertainty here over these regs and what would be governing  
18 this and that, but what we're really talking about is we got  
19 \$800 million in workload on the books right now. We've only  
20 got 499 million to fund it. We've got, you know,  
21 840 million sitting over in this other pot and I don't know  
22 whether that letter's authentic or not, but we've got  
23 somebody that's a lot smarter than I am in the Speaker's  
24 office, Rick Simpson, who says the legislation clearly said  
25 that this money should and would be available to transfer

1 over and it just seems to me that we could do that and  
2 increase the size of this pot significantly and send a  
3 signal to everybody that we're serious about doing business.

4 Rob, I don't know if you want to add anything to  
5 that.

6 MR. COOK: No. I think you said it all.

7 CHAIRPERSON SHEEHY: Ms. Girard, did you want to  
8 add something else? Do any other members want to -- we do  
9 have a motion and second on the floor.

10 ASSEMBLY MEMBER BROWNLEY: I'd like to hear from  
11 Mr. Duffy.

12 CHAIRPERSON SHEEHY: Oh, sure. Of course.  
13 Mr. Duffy.

14 MR. DUFFY: Mr. Sheehy -- and again thank you for  
15 your patience. You made a comment a few minutes ago that I  
16 think is important. You said we don't want to send a  
17 message that we don't need this money. We're really not  
18 talking about actual funds because the actual funds are not  
19 available.

20 However, if the \$1.3 billion that we know school  
21 districts have signed contracts for would be funded quickly  
22 because of this action, C.A.S.H. would be willing to support  
23 it, the caveat being that no one gets hurt because of the  
24 issues of the labor compliance and DIR.

25 So the -- you're smiling, sir. The --

1           CHAIRPERSON SHEEHY: No. That's very -- I'm  
2 just -- I think you're making a very logical request and I'm  
3 admiring your skill.

4           MR. DUFFY: Well, it seems to me that if indeed we  
5 are talking about sending a signal -- and I realize that  
6 you, sir, not only in your role here but your role with the  
7 Department of Finance is significant in how that signal is  
8 received -- C.A.S.H. would be very much in support of moving  
9 this with the caveat that no one gets hurt because the labor  
10 compliance issues -- if indeed it means that the  
11 \$1.3 billion of funding could go out and could go out  
12 quickly to school districts because that clearly is a signal  
13 on the part of you as a body that you want to fund  
14 (coughing) that really the state is obligated to fund by  
15 virtue of statute.

16           We have sent a letter to you that you would have  
17 received today in response to the communication from the  
18 Treasurer's Office about the bridge financing. So we're  
19 trying to do everything we can to keep school districts  
20 alive with their projects, but if you could do that,  
21 Mr. Chairman and Board, then we would withdraw our concern  
22 about moving forward with this. Thank you very much.

23           CHAIRPERSON SHEEHY: Tom, I admire you very much  
24 and I admire -- for the most of you that are wondering why I  
25 was smiling, when I was sitting at the Pooled Money

1 Investment Board the other day, Mr. Duffy came to testify  
2 and you did a great job, but he also pivoted on me and  
3 started lobbying me on State Allocation Board issues and now  
4 at the State Allocation Board, you're pivoting me -- you're  
5 pivoting and lobbying on other issues. You're very good,  
6 Tom. I admire you very much.

7 I'm willing to go with -- I'm happy to support the  
8 majority of this committee. I know there are a couple  
9 members who'd like to put this over. We do have a motion  
10 and a second. Do we have further questions and discussion  
11 on this item? Sir, did you want to address the Board?

12 MR. ZINGER: I did, sir, if I may.

13 CHAIRPERSON SHEEHY: Please come forward, identify  
14 yourself for the record.

15 MR. ZINGER: Mr. Chairman, members of the Board.  
16 Terry Zinger, President of the Association of Labor  
17 Compliance Professionals and also President of Golden State  
18 Labor Compliance, once of those third parties that you're --  
19 understandably, we have paid specific attention to 9X2, the  
20 Senate Bill, and we are very -- we've been around for as  
21 long as there's been widespread labor compliance since 2003.

22 I want to say that I believe that the -- with all  
23 due deference to my friend, Tom Duffy, and others, I will  
24 not speak to any of the other issues, but I think this whole  
25 LCP issue is somewhat of a solution in search of a problem.

1           The confusion issue I think can be overblown.  
2 We've been through it twice, at the initiation -- right  
3 after the labor compliance requirement was passed, 1506 in  
4 2002, there was a bright line in the sand project prior to,  
5 projects after. There was no significant confusion.

6           As Rob has -- Mr. Cook has properly noted, we also  
7 went through the passage of 1D and the initiation of funding  
8 out of 1D. That has not resulted in widespread or general  
9 confusion.

10           The small district issue, it has been said that  
11 9X2 prohibits the use of third-party labor compliance. That  
12 is not true. It creates a financial -- it seeks to create a  
13 financial disincentive in that certain waivers can be  
14 passed -- or can be granted to districts who want to  
15 continue to operate their own approved LCP, but if the  
16 district wants to continue to use third party, that quarter  
17 of one percent or up to a quarter of one percent fee may not  
18 be waived.

19           It is not true that they're prohibited. They are  
20 free to use third parties till the cows come home and in  
21 fact projects will be funded out in November/December of  
22 this year because we truly -- and I've been in close contact  
23 with counsel at DIR -- they don't expect the regs to be done  
24 till about the first of the year.

25           You could have a two-, three-year high school

1 project. That will continue to have the old rules applied  
2 two, three years out because it was initiated. So there  
3 really isn't a problem here.

4           We would see it because we would get that panic  
5 call from the districts who didn't know they had to and now  
6 they have to and back and forth and we're just not seeing  
7 that. Occasionally you get the one who's just asleep at the  
8 wheel, but by and large, districts are not that unaware.  
9 We're putting the word out. OPSC is putting the word out.  
10 It's quite clear. And I think it's somewhat of a false  
11 issue. Other things notwithstanding, things -- concerns  
12 over level threes and stuff, I certainly defer to, but --

13           CHAIRPERSON SHEEHY: Okay. We've had quite a bit  
14 of testimony. I know that there's -- you know, there's  
15 mixed feelings on this Board. I know that also Senator  
16 Torlakson who's not -- Assembly Member Torlakson who's not  
17 here at the moment will be arriving later and he may want to  
18 weigh in this, so if it's okay with the Board members, we  
19 could take a vote, we could place this measure on call. I  
20 don't know how Assemblyman Torlakson might want to vote.

21           If we don't have enough -- if it doesn't look like  
22 there's enough support for this, then we'll just simply have  
23 it put over because there's not enough support. But if  
24 there is, then we can move on. Is that -- okay.

25           So we have a motion by Senator Wyland to approve

1 the staff recommendation which is to transfer 700 million  
2 and reserve 140 million for three months until the June  
3 meeting and we have a second by Mr. Harvey. Ms. Jones,  
4 could you, please, call the roll and I'm going to just say  
5 ahead of time, we're going to move a call on this issue and  
6 leave it open so that the members who aren't here can weigh  
7 in.

8 MS. JONES: Okay.

9 MR. NANJO: Mr. Chair, one footnote. Since one of  
10 the speakers noted about my nodding of the head, I did  
11 not -- I agreed with the first part of that speaker, but my  
12 conversation with DIR is consistent with the last speaker,  
13 that is LCP programs and third-party LCPs are not repealed.  
14 There is a financial disincentive and based on my  
15 communications with DIR, I also got the same information  
16 that the regulations at the earliest case scenario, they're  
17 looking at January of 2010.

18 CHAIRPERSON SHEEHY: Okay. Henry, well, you know,  
19 hopefully we're going to have all this money out the door by  
20 then. So we have a motion and a second. Ms. Jones, could  
21 you please call the roll.

22 MS. JONES: Yes. Senator Lowenthal.

23 SENATOR LOWENTHAL: Aye.

24 MS. JONES: Senator Hancock.

25 SENATOR HANCOCK: Aye.

1 MS. JONES: Senator Wyland.

2 SENATOR WYLAND: Aye.

3 MS. JONES: Assembly Member Fuller

4 Assembly Member Brownley.

5 ASSEMBLY MEMBER BROWNLEY: Not voting for the

6 moment.

7 MS. JONES: Scott Harvey.

8 MR. HARVEY: Aye.

9 MS. JONES: Dr. William Ellerbee.

10 DR. ELLERBEE: No.

11 MS. JONES: Rosario Girard.

12 MS. GIRARD: Aye.

13 MS. JONES: Tom Sheehy.

14 CHAIRPERSON SHEEHY: Aye. Okay. We have six  
15 ayes, one abstention, and one no. We're going to leave this  
16 measure on call because we have a couple of members that  
17 would still like to weigh in and we'll come back to this  
18 when Assemblyman Torlakson's here, okay?

19 Now, so we have Item No. 8 on call. Item No. 6  
20 was noncontroversial. Can we have a motion and a second to  
21 approve Item No. 6.

22 MR. HARVEY: So move.

23 SENATOR HANCOCK: Second.

24 CHAIRPERSON SHEEHY: We have a motion and a second  
25 to approve Tab No. 6. Is there any objection to a unanimous

1 roll call here? Okay. So Item No. 6 is approved.

2 I had requested a roll call vote on Item No. 7  
3 which is the Lammersville Elementary funding. Ms. -- do we  
4 have a motion to approve Item No. 7?

5 SENATOR HANCOCK: So move.

6 ASSEMBLY MEMBER BROWNLEY: So moved.

7 CHAIRPERSON SHEEHY: We have a motion and a  
8 second. Ms. Jones, could you, please, call the roll on Item  
9 No. 7, Lammersville.

10 MS. JONES: Yes. Senator Lowenthal.

11 SENATOR LOWENTHAL: Aye.

12 MS. JONES: Senator Hancock.

13 SENATOR HANCOCK: Aye.

14 MS. JONES: Senator Wyland.

15 SENATOR WYLAND: Aye.

16 MS. JONES: Assembly Member Fuller.

17 ASSEMBLY MEMBER FULLER: Aye.

18 MS. JONES: Assembly Member Brownley.

19 ASSEMBLY MEMBER BROWNLEY: Aye.

20 MS. JONES: Scott Harvey.

21 Dr. Ellerbee.

22 DR. ELLERBEE: Aye.

23 MS. JONES: Rosario Girard.

24 MS. GIRARD: Aye.

25 MS. JONES: Tom Sheehy.

1           CHAIRPERSON SHEEHY: I'm going to abstain. Okay.  
2 So that motion has seven votes. It's approved. So we've  
3 taken care of the Consent Special items. We have one item  
4 on call we'll come back to. Rob, can you help move us  
5 forward now on the **Special Appeals**.

6           MR. COOK: Certainly. At the blinding pace we're  
7 moving here. I'd turn your attention towards Tab 9 and I'll  
8 let Lori -- actually is Barbara here? Yeah. Barbara  
9 Kampmeinert who does a stellar job with charter schools and  
10 charter school community will address this item.

11           MS. KAMPMIENERT: Good afternoon. On  
12 February 23<sup>rd</sup>, 2005, the Board approved 28 preliminary  
13 apportionments.

14           CHAIRPERSON SHEEHY: I'm sorry, Miss. Could you  
15 just move that microphone or could you try to scoot a little  
16 bit closer. I think it might help. Thank you.

17           MS. KAMPMIENERT: The Board approved 28  
18 preliminary apportionments to charter schools out of the  
19 funding made available through Proposition 55. To date,  
20 seven have converted to a final apportionment and eight have  
21 been rescinded. The remaining 13 applicants have requested  
22 that the Board grant them a one year extension.

23           The Board has the authority under the Education  
24 Code and I regulation to grant a single one-year extension  
25 to those applicants who have made progress towards filing an

1 application for final apportionment.

2 Staff has reviewed the extension request from the  
3 13 applicants and believes that a one-year extension is  
4 warranted for all of the projects.

5 The recipients of these funds have faced several  
6 challenges in converting their apportionments. In the  
7 interest of maximizing the number of apportionments made,  
8 SB15 made changes to the charter school facility program  
9 which strictly capped the preliminary apportionment amount.

10 A while back, the Board acknowledged the  
11 difficulty of converting to a final apportionment and  
12 constructing a project within the original preliminary  
13 apportionment allowances and provide the regulatory relief  
14 at the April 2007 meeting.

15 Since that point, which was about two years into  
16 the four-year time frame, the applicants have been working  
17 diligently to move forward. Recently the state's inability  
18 to release funds has also hindered some of these projects  
19 from finalizing site purchases.

20 Given the circumstances these applicants have  
21 faced, staff believes that all have been working in good  
22 faith towards conversion and recommends that the Board grant  
23 the one-year extension for the 13 applicants listed on the  
24 attachment.

25 CHAIRPERSON SHEEHY: Okay. So staff's

1 recommending approval of the appeal request. Is there a  
2 question or comments by Board members? Mr. Harvey.

3 MR. HARVEY: I just have a point of clarification.  
4 I have no issue I am sure with the San Francisco  
5 application, but in four categories, nothing has been X'd  
6 and you talked in terms of progress during the last four  
7 years. We're giving them a year extension. What certainty  
8 do we have that this charter can move forward in that time  
9 frame since they haven't even had a CDE progress.

10 I just wanted to make sure we're not building  
11 false expectations, not doing something imprudent because  
12 they may have issues and we should recognize those if there  
13 are because there's 14 million sitting there and if this is  
14 not going to happen, that could be put back into the pot and  
15 others could qualify for and use those dollars.

16 So give me a little better sense of your finding  
17 that they made progress when nothing has been checked.

18 MS. KAMPMIENERT: Well, for that project, we  
19 actually met with them just this week to check in. They  
20 were the last project in line when Prop. 55 was funded, so  
21 they had the option to either not receive any funding at all  
22 or to limit the apportionment amount and what they did is  
23 they cut out the majority of their acquisition budget.

24 At the time the program was capped so that you  
25 could not transfer money from your construction categories

1 to your site categories and they felt that they would have  
2 more flexibility in finding a site for the lesser dollars  
3 than in finding a contractor that would build a school for  
4 lesser amounts.

5 So initially they had hurdles in finding a site  
6 within San Francisco Unified School District. The area is  
7 very developed. Land is very expensive.

8 Recently they have experienced some positive  
9 interactions with the district and they've informed us that  
10 they have several options. As we noted on the attachment,  
11 they are pursuing some legislative changes to try to help  
12 this project go forward, but they have also assured us that  
13 they have ever intention to actively pursue a plan B in case  
14 that legislation does not pass. So they are looking for  
15 project sites that may be viable in the event that the  
16 legislative changes that they're seeking do not go forward.

17 CHAIRPERSON SHEEHY: Additional question/comments  
18 from the Board? Yes.

19 MR. HARVEY: Just a quick follow-up. Do we  
20 monitor throughout the year their progress or lack thereof  
21 so if they really aren't as optimistically able to do what  
22 they want to do, as they hoped to, we could revisit this  
23 14 million because I'm sure there are others standing in  
24 line that would love to access it.

25 MS. KAMPMIENERT: We do check in with all of the

1 applicants on a fairly regular basis and we have had  
2 applicants that have approached us prior to the deadline to  
3 rescind the project. However, I think the second answer to  
4 that question is that the money for the Prop. 55 project is  
5 reserved through regulations until all of the Prop. 55  
6 projects either convert or rescind.

7           So even if we were to rescind this project today,  
8 the money would not be available until all of the Prop. 55  
9 projects had either converted or rescinded. So we're  
10 looking at if any of them are granted a one-year extension,  
11 there's the one-year extension and then the time period  
12 where the apportionments become inactive is also added on  
13 there. So we're a ways away from actually being able to  
14 reapportion those funds.

15           MR. HARVEY: Thank you for clarifying. I  
16 appreciate it.

17           SENATOR HANCOCK: Move the --

18           CHAIRPERSON SHEEHY: We have a motion by Senator  
19 Hancock to approve Item No. 9 Is there --

20           ASSEMBLY MEMBER BROWNLEY: Second.

21           CHAIRPERSON SHEEHY: We have a second by  
22 Ms. Brownley. Is there any request for a roll call vote  
23 here. If not all in favor.

24           (Ayes)

25           CHAIRPERSON SHEEHY: Okay. This item's approved.

1 Mr. Cook, could you please set up Item No. 10.

2 MR. COOK: Yes. Item No. 10 deals with **career**  
3 **technical education facilities**. As you may know, this Board  
4 funded the first round of career technical education  
5 facilities at our March meeting a year ago and within our  
6 regulations, districts are required to bring in DSA approved  
7 plans within one year of the apportionment. That date is  
8 tomorrow for those projects.

9 At our February meeting, this Board adopted  
10 emergency regulations to provide up to a 12-month extension  
11 to those projects due to the issues we have with the funding  
12 freeze. Those regulations are not yet in effect, but what  
13 this item before you seeks to do is to -- for the Board to  
14 declare that a fiscal emergency does exist and declare the  
15 intent of this Board to provide an extension to these  
16 districts -- pardon me -- to these projects when those  
17 regulations become effective.

18 CHAIRPERSON SHEEHY: Okay. Good. Senator  
19 Wyland's still here because I know this is an important  
20 issue with him. Are there other questions or comments from  
21 Board members here on Item No. 10 which deals with the  
22 career technical education facilities?

23 SENATOR HANCOCK: I would move the item. I don't  
24 think --

25 ASSEMBLY MEMBER BROWNLEY: Second.

1           SENATOR HANCOCK: -- it's controversial.

2           CHAIRPERSON SHEEHY: Okay. We have a motion and a  
3 second, the motion by Senator Hancock, the second by  
4 Assembly Member Brownley. All in favor.

5           (Ayes)

6           CHAIRPERSON SHEEHY: Item No. 10's approved. Item  
7 No. 11.

8           MR. COOK: Yes. I would like to introduce  
9 Ms. Masha Lutsuk to discuss --

10          CHAIRPERSON SHEEHY: I'm sorry, Rob. Could you  
11 read her name into the record again. I didn't catch that.

12          MR. COOK: Masha Lutsuk.

13          MS. LUTSUK: It's a challenge to pronounce my  
14 name.

15          CHAIRPERSON SHEEHY: Ms. Lutsuk, could you please  
16 address Item No. 11 for us on the **fund releases** for  
17 apportioned projects.

18          MS. LUTSUK: Thank you. This item in front of you  
19 is really a continuation of earlier discussions both here at  
20 the Board and also at the Implementation Committee regarding  
21 potential fund release priorities in -- upon future  
22 availability of state bond funds.

23                 And the universe of projects that we're talking  
24 about at this moment is also listed on the attachment and  
25 those are the projects that have been apportioned by the

1 State Allocation Board that are subject to the fund release  
2 freeze by the PMIB.

3           The -- at the February meeting, the Board  
4 requested staff to bring the item back to the Implementation  
5 Committee for discussion which we did and the first part of  
6 this discussion item on stamped page 76 under staff comments  
7 is intended to provide you a quick synopsis of the  
8 discussions at the committee and those discussions were very  
9 fruitful. They were very in depth and we highlight some of  
10 the concerns that were elevated at those meetings. They are  
11 in the bullet list at the bottom of the page.

12           The committee and audience wanted to explore the  
13 potential use of general obligation bond funds to cover  
14 unanticipated borrowing costs that districts had to incur.  
15 This would include loan origination fees and interest costs  
16 that they had to incur in absence of state funds.

17           There was also a lot of discussion regarding  
18 potential appeals to the priority funding order to be  
19 established by the Board and as we felt in the -- the  
20 majority of the discussion resulted in the agreement that  
21 appeals at this moment would be very impractical because  
22 there would be a multitude -- appeals with a multitude of  
23 different circumstances expressed by school districts.

24           There was also discussion regarding prioritization  
25 based on notice to proceed which we cover in some of our

1 options later on in the item as well as discussion about a  
2 potential option of reserving a certain amount of funds to  
3 cover projects in what was described as worst of the worst  
4 circumstances.

5           So if you follow with me and turn to page 77 under  
6 the discussion section of this item. Based on the  
7 discussions at the Implementation Committee, we outlined  
8 some options and I will quickly cover these options for you.

9           We tried to briefly summarize some of the pros and  
10 cons for these different options as well as actions  
11 required. Under Option A, simply would represent a status  
12 quo and that's --

13           SENATOR HANCOCK: Excuse me. Could you just tell  
14 me where you are?

15           MS. LUTSUK: Stamped page 77.

16           SENATOR HANCOCK: Okay. We're now --

17           MS. LUTSUK: Tab 11.

18           SENATOR HANCOCK: Gotcha'. Thank you.

19           MS. LUTSUK: Tab 11, stamped page 77, and I'm just  
20 on top of that page under Option A. So this would simply  
21 represent a status quo. If we had the normal circumstances  
22 surrounding this issue and funding would be provided -- or  
23 fund release requests would be processed by the Office of  
24 Public School Construction in the order of date received and  
25 that is also -- on the attachment, we list the projects in

1 the order of date received on the 5005 just for your  
2 information so you could see the universe of projects in the  
3 order that they would fall in under this option.

4 This is what we refer to FIFO, first in/first out,  
5 and there is really no additional action required by the  
6 Board. This approach, although it's convenient and it is a  
7 status quo and districts know what to expect under normal  
8 circumstances, it does not have a means to address districts  
9 in the worst of the worst circumstances.

10 So that's when we move onto Option B which would  
11 first in/first out process for providing funds when funds  
12 become available with the exception of granting exemptions  
13 to school districts deemed to be in the worst of the worst  
14 circumstances.

15 And since as I already mentioned appeals wouldn't  
16 be a practical option, this option would require further  
17 discussions at the Implementation Committee to develop these  
18 criteria for determining which districts may be granted an  
19 exemption to the first in/first out funding order.

20 Option C is also as continue in kind of logical  
21 variation on this option and under Option C, this reflects  
22 the discussion at the Implementation Committee where some  
23 members expressed interest in prioritizing fund releases  
24 based on notice to proceed. So this would give preference  
25 to more mature projects over projects that are -- have been

1 entered into contract and started construction later.

2 This option can also be further modified to  
3 include certain projects for exemption requests, but again  
4 we would also then need to establish some criteria for which  
5 projects qualify for exemption.

6 The challenge for us under this option would be  
7 without a submitted Form 5005 which is what we --

8 CHAIRPERSON SHEEHY: Masha, I'm sorry. Before we  
9 go into the challenge on that option, since we don't know  
10 whether there's any interest in that option yet, why don't  
11 we go onto what Option D is and go to your recommendation.

12 MS. LUTSUK: Okay. This was another option  
13 presented by the stakeholders which would be upon  
14 availability of funds, providing funding based on the first  
15 in/first out order and reserve from each available amount of  
16 funds a small portion to fund projects in the worst of worst  
17 circumstances. So this would be -- you know, could be set  
18 up as a percentage, say 10 percent of all available funds  
19 could be available for -- to fund projects with extenuating  
20 circumstances.

21 CHAIRPERSON SHEEHY: Okay. So, Masha, I want to  
22 ask a question. So we were unable to get a clear  
23 recommendation out -- or we were unable to get a firm  
24 recommendation out of the Implementation Committee on  
25 anything other than first in/first out; is that an accurate

1 assessment?

2 MS. LUTSUK: Yes, but I believe that we've made  
3 progress.

4 CHAIRPERSON SHEEHY: Okay. All right. So our  
5 policy has been up to this point for the State Allocation  
6 Board and OPSC to fund projects on a first in/first out  
7 basis. We had asked to see if we wanted to adopt a policy  
8 that could modify that for extreme hardships. They've been  
9 working on it. I'm -- we can engage in that policy  
10 discussion now if the members would like.

11 What I think the -- I guess the staff  
12 recommendation here is essentially to continue FIFO and to  
13 continue working in the Implementation Committee --

14 MS. LUTSUK: Right.

15 CHAIRPERSON SHEEHY: -- to come up with a process  
16 for dealing with extreme hardships. You know, we could try  
17 to have that discussion now or we could just continue with  
18 the first in/first out and bring this -- recalendar this  
19 item for our next meeting to see if we have a recommendation  
20 on the Implementation Committee. What would the members  
21 like to do on this item?

22 SENATOR HANCOCK: I would move your  
23 recommendation.

24 ASSEMBLY MEMBER FULLER: I second it.

25 MS. GIRARD: Second.

1           CHAIRPERSON SHEEHY: Okay. So we have a motion  
2 and two seconds to approve the staff recommendation. Let me  
3 see if I got this right because I didn't --

4           SENATOR HANCOCK: Approve your recommendation.

5           CHAIRPERSON SHEEHY: To approve my  
6 recommendation -- the Chair's recommendation which would be  
7 to continue our current policy which is FIFO, to continue to  
8 have the Implementation Committee -- have an Implementation  
9 Committee meeting scheduled between now and our next meeting  
10 and ask them to continue to work on a firm recommendation on  
11 how to deal with extreme hardships and to calendar this same  
12 item for our next meeting.

13           So that is the motion and we have a second. All  
14 in favor.

15           (Ayes)

16           CHAIRPERSON SHEEHY: That item is approved. Okay.  
17 Item No. 12 is a uncontroversial, uncomplicated issue. It's  
18 **deferred maintenance.**

19           MR. COOK: Okay. As you will recall at our last  
20 meeting, we spent some time discussing deferred maintenance  
21 which is a general funded program and what had recently  
22 occurred under the -- under budget action taken up in  
23 February. As you may know, these funds are part of the  
24 categorical relief effort that was put into that budget and  
25 so these funds, while this Board allocates those funds, they

1 are now available -- once they're allocated, they are -- the  
2 amounts that this Board sets set a baseline for the next  
3 five years and these funds are available for any educational  
4 purpose. So they no longer retain the normal restrictions  
5 that would be on deferred maintenance and the health and  
6 safety portion of these funds, extreme hardship.

7 Under statute, this body has the authority -- or  
8 has the flexibility to dedicate up to 10 percent of these  
9 funds for extreme hardship -- or that's the category, but  
10 those are health and safety projects.

11 And as we discussed at our last meeting, we came  
12 up with a number of options that would accommodate -- or at  
13 least do the best we can -- accommodate the new reality  
14 under statute and if I can go over those briefly with you.

15 Option 1 would be to simply --

16 CHAIRPERSON SHEEHY: Rob.

17 MR. COOK: Yeah.

18 CHAIRPERSON SHEEHY: I'm going to -- since you're  
19 just starting on what our options are, I'm going to ask your  
20 permission to pause for a moment and switch gears. We have  
21 at least one member, maybe two, that may have to leave the  
22 meeting and they've expressed a desire for us to be able to  
23 add onto the item that we have on call.

24 So before we get into the options of the deferred  
25 maintenance, I'm going to ask Ms. Jones to open the roll.

1 We have three members here I believe -- the three Assembly  
2 Members who haven't had a chance yet to vote on this item.  
3 Could you please call the role for those members, Ms. Jones,  
4 and if there is any of the members that want to change a  
5 vote, we can do that too.

6 MS. JONES: Okay. Assembly Member Fuller.

7 ASSEMBLY MEMBER FULLER: Aye.

8 MS. JONES: Assembly Member Brownley.

9 ASSEMBLY MEMBER BROWNLEY: Aye.

10 MS. JONES: And Assembly Member Torlakson is not  
11 here.

12 CHAIRPERSON SHEEHY: Okay. We're going to leave  
13 this item on call because Assembly Member Torlakson is going  
14 to be here soon and so -- are the other members okay? Very  
15 good. All right. Rob, do you want to take us back to the  
16 deferred maintenance item.

17 ASSEMBLY MEMBER FULLER: Thank you.

18 CHAIRPERSON SHEEHY: You're welcome.

19 ASSEMBLY MEMBER BROWNLEY: Thanks.

20 MR. COOK: Certainly. Option 1 that we've  
21 developed is simply a -- is a distribution. It would simply  
22 take all the funds that were unavailable under this and  
23 distribute it proportionately to all the participants in the  
24 deferred maintenance program which is nearly all school  
25 districts in the State of California.

1           That particular option does not provide any  
2 set-aside for any of the extreme hardship health and safety  
3 projects that we currently have on our workload.

4           Option 2 would be to set aside 10 percent of those  
5 funds and distribute those funds to school districts with  
6 extreme hardship and distribute proportionately the rest of  
7 the rest of the funds to all other participants in the  
8 program.

9           One of the issues with that particular option is  
10 that it sets a baseline that would ultimately fund extreme  
11 hardship projects at about 160 percent over five years.

12           Option 2A tries to accommodate that issue by  
13 distributing 93 percent of the funds -- of the deferred  
14 maintenance funds proportionately among school districts,  
15 reserving 7 percent to distribute proportionately to the  
16 extreme hardship projects providing 20 percent funding each  
17 year over the next five years, eventually making those  
18 projects whole.

19           SENATOR LOWENTHAL: 2A that is, right?

20           MR. COOK: That's correct. 2A. Option 2B is a  
21 very minor variation on that which increases the allocation  
22 per year to 21 percent over 20 to accommodate potential  
23 interest costs if someone were to pursue financing to  
24 complete those projects.

25           Option 3 would distribute the bulk of the --

1 90 percent of these funds to deferred maintenance  
2 projects -- deferred maintenance participants  
3 proportionately and then take the 10 percent set-aside and  
4 fund approximately 40 projects at 100 percent this year.

5           The -- one of the issues with that particular  
6 option is that it would reset the baseline for districts and  
7 could -- would fund those extreme hardship projects at  
8 approximately 500 percent over the five-year period.

9           Option 4 would distribute those funds -- well,  
10 Option 4 was developed as a result of our discussion at our  
11 last Board to continue whether these funds could be  
12 transferred to an alternative account and then retain the  
13 feature of extreme hardship. After examining that issue, we  
14 came to the conclusion that that would be effected as an  
15 appropriation either through an individual bill or through  
16 the Budget Act but not necessarily something that this Board  
17 would effect itself.

18           CHAIRPERSON SHEEHY: So, Rob, we could do  
19 Option 4, right?

20           MR. COOK: That's correct.

21           CHAIRPERSON SHEEHY: Doing Option 4, it would  
22 require legislation either through the Budget Act or through  
23 separate legislation; is that correct?

24           MR. COOK: That's correct.

25           CHAIRPERSON SHEEHY: Okay. So that does remain an

1 option. Okay.

2 MR. COOK: That's correct.

3 CHAIRPERSON SHEEHY: Please continue.

4 MR. COOK: And then Option 5 was -- is an option  
5 that would provide conditional funding of these projects,  
6 meaning that the State Allocation Board would put conditions  
7 on the funding delivered to those districts, would  
8 distribute 90 percent of the funds to all deferred  
9 maintenance participants proportionately, and then provide  
10 100 percent funding to approximately 40 extreme hardship  
11 projects with conditions that the district complete the  
12 project, that they do not add it to their baseline in the  
13 course of this.

14 In examining this particular option, the Board has  
15 every authority to put conditions on the funds. As we were  
16 looking at it though, it would not necessarily mean that the  
17 statute would prevail over the Board's conditions and there  
18 would be no obligation for the district to actually execute  
19 the projects and this would add to the baseline for a  
20 district, providing 500 percent of the funding over a  
21 five-year period.

22 And with that, that's the extent of the options  
23 that we've developed.

24 CHAIRPERSON SHEEHY: Did the staff have a  
25 recommend -- I know you have these options. Did you have a

1 recommendation or --

2 MR. COOK: Staff would recommend Option 2A as a --

3 CHAIRPERSON SHEEHY: Do you want to just explain  
4 one more time succinctly what the recommendation is under 2A  
5 and then let's see how the Board members feel.

6 MR. COOK: Option 2A would provide 20 percent of a  
7 project's funding for the extreme hardship projects in any  
8 one year, fully funding those projects over a five-year  
9 period. That's in essence what that -- and it would also  
10 declare that those projects are funded and not eligible for  
11 funding under any other program.

12 CHAIRPERSON SHEEHY: Okay. So I know we have some  
13 public comment on this. Are there any questions right now  
14 of the Board members or do we want to add any more options  
15 to the table to consider?

16 SENATOR LOWENTHAL: No more options.

17 CHAIRPERSON SHEEHY: Okay. Sir, did you want to  
18 come forward, identify yourself for the record.

19 MR. CRAWFORD: Thank you for giving me the  
20 opportunity to speak. I really am authentic. I am a school  
21 superintendent and my name is Les Crawford. I'm  
22 superintendent of Twin Hills School District in Sebastopol,  
23 California, and the school that I'd like to speak to you  
24 about is called Apple Blossom. It's an elementary school.

25 And my grandson happens to go to school there and

1 that's where my office is located. So every day I have the  
2 opportunity to see not only my grandson but also 346 other  
3 children. And what I would ask you to consider is that we  
4 have been in the queue now for almost two years that we were  
5 funded -- we were approved for funding in October of 2007  
6 and our project is valued at approximately the cost of about  
7 \$1.2 million.

8           And we expected -- we're extreme hardship because  
9 of a safety issue around mold and leaking roofs. Now, we  
10 haven't had a lot of rain in Sebastopol for the last couple  
11 years, so that's helped us out. But we could get -- next  
12 year we could get more torrential rains. We could get up to  
13 50, 60 inches of rain and we have a serious problem again,  
14 the health and safety of the kids.

15           And we cannot afford to do this project on our  
16 own. If we only got 20 percent of the project, we don't  
17 have any way to finance the other 80 percent. We were cut  
18 this year. We have \$3.2 million budget. We were cut this  
19 year in funding \$500,000. That was money that we  
20 anticipated getting from the state.

21           And there -- and we had to lay off four teaching  
22 positions this year for next year and so we have had to make  
23 serious cuts in our budget, so we just don't have any way to  
24 borrow that kind of money to do this project. We need it to  
25 be fully funded by the state.

1           So I urge you please -- you know, for those school  
2 districts that are extreme hardship for health and safety  
3 reasons, please fully fund those projects. Perhaps there  
4 might be some who could afford to finance it. We are not in  
5 the position to be able to finance and it's my duty and  
6 responsibility to try to keep those kids as safe and healthy  
7 as possible and so I'm here today to ask you to please, if  
8 at all possible, fund those extreme hardship projects at a  
9 hundred percent in the order in which they were approved.  
10 That's what the process has been. That's been the rules of  
11 the game and I urge you to continue to follow the rules that  
12 we all started this game under. Thank you.

13           CHAIRPERSON SHEEHY: So, Mr. Crawford, you're  
14 supporting Option No. 1.

15           MR. CRAWFORD: No, I'm not sure about the options.  
16 I heard several of them, but I want -- we need a hundred  
17 percent funding for our project.

18           SENATOR LOWENTHAL: No. No. 5.

19           SENATOR HANCOCK: No. You're supporting  
20 Option No. 5 I think.

21           CHAIRPERSON SHEEHY: Oh, he's supporting No. 5? I  
22 apologize, Mr. Crawford. You're supporting Option No. 5.

23           MR. CRAWFORD: Okay. Thank you.

24           CHAIRPERSON SHEEHY: Okay. Mr. Walrath.

25           MR. WALRATH: To be clear, I don't think

1 Superintendent Crawford is suggesting that it go into his  
2 baseline.

3 MR. CRAWFORD: No.

4 MR. WALRATH: Dave Walrath representing Small  
5 School Districts Association. Before touching on extreme  
6 hardship, there are still 850 districts who are not part of  
7 extreme hardship and it's my understanding that they will be  
8 receiving their apportionments under the regular deferred  
9 maintenance program and that this item is not interfering  
10 with that and I just want to confirm those funds will be  
11 flowing out to the other 850.

12 CHAIRPERSON SHEEHY: Is that right, Mr. Cook?

13 MR. COOK: We would -- depending on the option  
14 chosen by this Board, we will bring an item back at our next  
15 regularly scheduled Board and we may have to shuffle --  
16 there may be some adjustments to those funds, but it all  
17 depends on the options that are chosen by the Board.

18 CHAIRPERSON SHEEHY: Well, I think -- and, Dave,  
19 please excuse me if I'm wrong and clarify the record. I  
20 think in part what he's asked is he wants to make sure that  
21 we don't do something -- we don't take an action tonight or  
22 lack of action tonight that's going to further delay for  
23 everybody else them getting their funds; is that right?

24 MR. WALRATH: Correct. What I would suggest is no  
25 matter -- you know, we have our proposal, Small School

1 District Association. The request is that if you do not  
2 make a decision tonight because of the various options that  
3 at least 90 percent the baseline money go out to districts  
4 now. If you defer this till April or no matter what you do,  
5 try to get out the money to the other 850 immediately  
6 because there's no reason to defer their money. You can  
7 always do a supplemental if you go from 90 to 92 or 90 or  
8 93.2 or 90 to some other number. But at least use the  
9 90 percent number so that they'll have it there.

10 This is stimulus. This get people to work --  
11 trying to get it out as fast as possible rather than  
12 delaying till April.

13 Having said that, I've talked to all of you  
14 individually or through your staff on our proposal and that  
15 is essence that districts so certify. I realize that there  
16 is a disagreement as to what the legal provisions are. We  
17 believe a district that says that they want it out of their  
18 baseline that comes in and litigates would be in a  
19 tremendously awkward litigation position having certified  
20 they don't want it in their baseline but then come forward  
21 and say, oops, thank you for the money. We now want to  
22 basically undo our certification.

23 We believe that they would be in a tremendously  
24 difficult legal position. Can I guarantee that no district  
25 would ever do that? I suspect no district would ever do

1 that, but I cannot give you the guarantee.

2           You heard Superintendent Crawford's comments.  
3 Many, many other small districts are in that situation.  
4 Small budgets. They cannot borrow money because to the  
5 extent that they do, that's a debt and if you have a  
6 \$3 million budget and a million dollar debt, the state has  
7 no assurance it can repay because this 20 percent is not  
8 guaranteed for the next five years. It's contingent upon  
9 state appropriations.

10           So the districts are at significant risk. They  
11 now have a large debt and their county office will start  
12 looking at how are you going to repay that debt under AB1200  
13 conditional -- qualified conditional or negative  
14 certifications.

15           These are the problems we all face. We urge you  
16 to take the risk of potential litigation, do the proposal  
17 which is to fully fund the projects on the condition that  
18 the district commits that they will not include it in their  
19 baseline, on the condition that the district will make its  
20 match, on the condition that the district will use the money  
21 to fund the project for which they're apportioned. And then  
22 let the courts do what the courts do. And if the courts  
23 take an action, then there's always statutory relief that  
24 can be acquired to prohibit them coming back on in.

25           We request that in order to protect the very, very

1 small districts under health and safety projects along that.  
2 Thank you.

3 CHAIRPERSON SHEEHY: Thank you very much,  
4 Mr. Walrath. Is Mr. Patton here? I have a note that a  
5 Mr. Jim Patton wanted to address the -- I'm sorry. Senator  
6 Hancock.

7 SENATOR HANCOCK: Well, I just have a question and  
8 maybe you could answer it or Rob could answer it.

9 CHAIRPERSON SHEEHY: Okay. Senator Hancock --

10 SENATOR HANCOCK: But before we go on with this,  
11 could you explain the baseline? The baseline, what does  
12 that mean? In the baseline or out of the baseline?

13 MR. COOK: Right. The trailer bill that provided  
14 the categorical relief in the state budget set the dollar --  
15 well, it establishes this year -- I believe this year -- as  
16 a baseline meaning that this would be -- whatever funding a  
17 district receives in this year would affect the amount that  
18 it gets next year in a proportional basis. Whereas if it  
19 got -- simple example -- a hundred dollars this year under  
20 these findings and the budget goes up by 5 percent, next  
21 year they would see \$105. If it went down by 5 percent,  
22 they'd see \$95, but it sets the amount that they would get  
23 from this point forward.

24 SENATOR HANCOCK: Thank you. I understand that.  
25 So if we gave somebody 100 percent of the project and it was

1 included in their baseline, they would get a lot more money  
2 over time. Thank you.

3 And so the issue here is how we clarify in  
4 whatever regulations we adopt that that will -- should we  
5 advance the entire amount of money, it would not come out of  
6 the baseline, number one, and number two, even though  
7 included in flexibility, should the district decide not to  
8 finish the project, they would not be able to come back for  
9 more money later.

10 MR. WALRATH: Correct. And on the baseline issue,  
11 the district would certify that they reject having this  
12 money put into their baseline, so it'd be excluded from  
13 baseline calculation.

14 CHAIRPERSON SHEEHY: Thank you, Mr. Walrath. I  
15 believe Mr. Patton wanted to address the Board.

16 MR. PATTON: Thank you, Mr. Chairman and Board  
17 members. I just wanted -- I talked about our project last  
18 time. I'm Jim Patton representing Anderson Valley School  
19 District in Mendocino County.

20 So I've been following what's been happening at  
21 the Implementation Committee. We've been looking very  
22 carefully at the options that have been presented at the  
23 Implementation Committee and I just want to tell you that we  
24 have been looking at this at the district level and we  
25 simply cannot borrow the money.

1           And so we're faced with having to close down a  
2 facility that is a focal point of the entire community.

3           CHAIRPERSON SHEEHY: I'm sorry, Mr. Patton. Did  
4 you have a recommendation for the Board though? Was there  
5 an option you were supporting?

6           MR. PATTON: Yeah. The way that -- and I've been  
7 working with Office of Public School Construction for many  
8 years and the way we have done projects over time is date  
9 order received.

10           I recognize that these are perilous times, but to  
11 kind of shift gears in the middle here is in my view  
12 counterproductive. So, yeah, the date order received and I  
13 think a set-aside -- I know that there are those districts  
14 out there that proceeded in good faith with projects and are  
15 unable to complete them even with the extreme hardship.

16           CHAIRPERSON SHEEHY: Okay. And you are giving us  
17 your views on the deferred maintenance item, Mr. Patton?

18           MR. PATTON: Extreme hardship, I'm talking about.

19           CHAIRPERSON SHEEHY: Okay.

20           MR. PATTON: Just as Superintendent Crawford. We  
21 have an extreme hardship.

22           CHAIRPERSON SHEEHY: Yes, Senator Lowenthal.

23           SENATOR LOWENTHAL: Yeah. I need a -- just to  
24 understand. If we chose Option No. 5, would that need  
25 legislation?

1           MR. COOK: Option No. 5 assumes that the --  
2 basically, if I could, that the program really didn't  
3 undergo a statutory change for the most part. And so I do  
4 believe that that would -- and really in order to be  
5 effective, I do believe it would require legislation.

6           CHAIRPERSON SHEEHY: I just think it's -- you  
7 know, I know we have -- this is a difficult call for us all  
8 to make, but I think it's important to point out that there  
9 was a bipartisan budget deal in February that, you know,  
10 broke down the walls so to speak on these categoricals and I  
11 don't think there's going to be bipartisan support to put  
12 those walls back up. So we sort of are where we are. I  
13 don't think we're going to unring that bell.

14           We had to give the districts flexibility in order  
15 to live at the lower level of revenue limits we were  
16 actually giving them. So as much as I'm sure there's some  
17 people in this room that -- you know, myself included if it  
18 was an option to solve this, would like to be able to do it  
19 that way. I just don't think we're going to be able to  
20 re-erect those walls.

21           And if you're right, Rob, that it would require  
22 legislation to do this, I -- we could certainly make that  
23 recommendation and try to do it, but I'm concerned that it  
24 might not pass and then we're just holding up dollars that  
25 otherwise would go out to schools. So --

1           MR. PATTON: Mr. Chairperson, I understand that.  
2 It's just that it's really hard to accept this when both of  
3 the districts I'm working with were in the queue since 2007.

4           CHAIRPERSON SHEEHY: I understand.

5           MR. PATTON: And I understand the legislative  
6 part.

7           CHAIRPERSON SHEEHY: And I'm very -- you know, I'm  
8 sorry that your district is in this situation, Mr. Patton.  
9 I wish we -- there's an action we could take tonight that  
10 could address that. Mr. Harvey.

11           MR. HARVEY: It would be nice if we could abide by  
12 the rules that we all thought we had, but when the  
13 Legislature did shake up this arena our Chair has alluded  
14 to, the language was these categoricals got folded into one  
15 pot of money, including this program, and they can used for  
16 any educational purpose.

17           MR. PATTON: And I recognize --

18           MR. HARVEY: So for me to do it on a conditional  
19 basis, I'm not sure that's an option because the statute  
20 preempts that.

21           MR. PATTON: Yeah. And it's unfortunate for the  
22 Board too. I know that -- and I've listened to you and I  
23 know your major concern is to get jobs out on the street.  
24 My issue is, is you fund all the projects at 20 percent, how  
25 many jobs are going to be on the street. How many --

1           MR. HARVEY: My only comeback -- and I know we've  
2 cut your dollars extensively, but one of the freedoms in  
3 folding the categoricals all together is you get to make  
4 your choices on how those dollars can be spent in each and  
5 every school district. And if this capital facility project  
6 is that important, you might be able to fund it out of some  
7 of those dollars that can now go to any educational purpose.

8           As a result, I am going to, for the purposes of  
9 discussion to see if we can have action, move staff  
10 recommendation on Option 2A.

11           CHAIRPERSON SHEEHY: So could you please describe  
12 your understanding of Option 2A again for the record,  
13 Mr. Harvey, now that you've made a motion.

14           MR. HARVEY: What it does it distributes  
15 93 percent of this category of money proportionally to all  
16 participating school districts and provides 7 percent, in  
17 other words -- the difference between a hundred and 93 --  
18 for hardship -- extreme hardship projects. And you  
19 distribute that 20 percent across the board so every project  
20 in extreme hardship, all 126, get some money, not 40, not  
21 10, but everybody.

22           And when you fund that over five years, a hundred  
23 percent of the projects costs are paid for.

24           CHAIRPERSON SHEEHY: Okay. Thank you, Mr. Harvey.  
25 We have a motion on the --

1 MR. CRAWFORD: Could I have a chance to address  
2 the --

3 CHAIRPERSON SHEEHY: Yes.

4 MR. CRAWFORD: -- categorical programs. The  
5 categorical --

6 CHAIRPERSON SHEEHY: Yes, sir. Yes, you may. You  
7 absolutely may, but let us do our business first. We're not  
8 going to vote on it yet. We have a motion on the floor. Is  
9 there a second.

10 ASSEMBLY MEMBER FULLER: Second.

11 CHAIRPERSON SHEEHY: Okay. We have a motion by  
12 Mr. Harvey and a second by Ms. Fuller. And please identify  
13 yourself for the record.

14 MR. CRAWFORD: Les Crawford, Superintendent, Twin  
15 Hills School District.

16 CHAIRPERSON SHEEHY: Yes, Mr. Crawford.

17 MR. CRAWFORD: The categorical funding flexibility  
18 is a really good thing. We get about \$120,000 a year. The  
19 bulk of that is going to pay staff to teach Title 1 reading,  
20 providing tutorial support for students that we do not have  
21 the flexibility there -- I guess we do have the flexibility.  
22 We could choose not to educate the kids and we could put it  
23 in the facilities.

24 I would ask you this. If it appears that the only  
25 way that you can resolve this is to spread this money out

1 over a period of five years, it would be possible I think to  
2 be able to convince a local school board who has fiduciary  
3 responsibility and we have to have an approved budget by the  
4 county that if we could be assured that the financing costs  
5 over that five-year period of time was going to be part of  
6 what was going to be covered by the state, then we could  
7 probably then take that risk to go ahead, move forward with  
8 the project, if we knew for certain that the entire project  
9 was going to be funded including the financing over a  
10 five-year period of time.

11 That might make us whole and allow us to move  
12 forward.

13 CHAIRPERSON SHEEHY: Thank you, Mr. Crawford. I  
14 appreciate that testimony.

15 Okay. We do have a motion on the floor and a  
16 second. Ms. Hancock.

17 SENATOR HANCOCK: Yeah. I think maybe we should  
18 save it. Nobody really knows anything about what's going to  
19 happen in five years because we never thought we'd be taking  
20 some of the votes we took on the budget.

21 But I am concerned about hearing that if the costs  
22 are spread over five years, there are some districts that  
23 won't be able to do that for five years because my  
24 understanding is we're talking about some things like septic  
25 tanks. I mean extreme hardship is heavy-duty health and

1 safety kinds of issues.

2           And I'm wondering why we couldn't in our own  
3 regulations forget the trailer bill language and the  
4 baseline simply indicates that if we did hold this money out  
5 and gave them to schools, they would sign a waiver saying  
6 that they would not come back for any more money for this  
7 project.

8           So if you don't -- if you decide to hire another  
9 reading teacher and not replace your septic tank, how you  
10 replace your septic tank is up to you.

11           CHAIRPERSON SHEEHY: Okay, Ms. Hancock.

12           SENATOR HANCOCK: I mean -- and I --

13           CHAIRPERSON SHEEHY: Are you making a --

14           SENATOR HANCOCK: I mean could we do that.

15           SENATOR LOWENTHAL: Could we do that.

16           SENATOR HANCOCK: I mean -- because it would seem  
17 to me then we wouldn't have to deal with legislation and the  
18 intent of the law. We'd be dealing with our own  
19 regulations.

20           CHAIRPERSON SHEEHY: Rob, before you answer that,  
21 an Finance shed any light on that from the standpoint of how  
22 we do the budget? I know you don't really want to jump into  
23 this, Jeannie, but I think Senator Hancock has asked a good  
24 question and I think we need to understand how the budget's  
25 going to be built next year. And then you may want to make

1 a substitute motion depending on what Ms. Oropeza says.

2 MS. OROPEZA: So I think there's maybe two  
3 different issues as to whether or not districts can come  
4 back either after the five-year period to get funding for  
5 these same projects. So I'm not sure if that's where your  
6 question is going because theoretically the way the budget  
7 language is written, we could give all these districts the  
8 full amount over five years and they technically could come  
9 back in after those five years and submit the same project  
10 for funding.

11 And I'm not sure if that's what you're trying to  
12 address.

13 SENATOR HANCOCK: No, no. See, what I was asking,  
14 Ms. Oropeza, was dealing with extreme hardship only. I mean  
15 right now, the 90 percent of the funds that we give out for  
16 deferred maintenance may in fact go to hire another reading  
17 teacher or some other worthy purpose under the flexibility  
18 decision.

19 But that's the regular deferred maintenance which  
20 almost every school building we have that hasn't had  
21 modernization money recently has a problem with.

22 Extreme hardship is health and safety stuff. We  
23 have heard that some smaller districts, unless they get the  
24 lump sum of money really don't have the capacity to borrow  
25 enough money to do something like, say, replace a septic

1 tank.

2           So if we give them an extreme hardship grant, this  
3 Board, and they accept it, but they signed a waiver at the  
4 request of this Board saying that they would execute the  
5 project and they would not come back ever for money for that  
6 septic tank that we would go ahead and advance them a  
7 hundred percent of the money and we would be covered so that  
8 they wouldn't in fact take the money and run so to speak and  
9 come back in five years for the same project.

10           MS. OROPEZA: Right. I think the way the law is  
11 currently written, you could not do that because if you gave  
12 them the money, it would be built into their base. And so  
13 you would need a statutory change to say that that would not  
14 happen.

15           And as Mr. Sheehy said, at this point, the  
16 administration is going to stick to the agreement that was  
17 reached as part of the overall budget and we wouldn't  
18 necessarily support those types of changes. Once you take  
19 one program out or make other changes, then everything else,  
20 you know, starts to come out and it was a difficult enough  
21 agreement to make to begin with, so --

22           CHAIRPERSON SHEEHY: Senator Wyland.

23           SENATOR WYLAND: I wish we could do what Senator  
24 Hancock suggested and I'm trying -- let me just go back to  
25 make sure I understand. That's the same thing that would

1 apply in Option 5 as you understand that it would require  
2 statutory change.

3 Well, I feel the plight of these districts and I  
4 think it's much more difficult in a really small district.  
5 They are just harder -- it's harder because there's just not  
6 much there. In a larger district, any larger entity there  
7 are more moving parts and I mean it's easier to do that.

8 Was this contemplated? Maybe -- and you don't  
9 have to answer this. I think my impression is that when a  
10 lot of budget deals are done -- you can't contemplate every  
11 single thing that might occur and so I just -- and you may  
12 not even have the answer to this, but I wonder -- I mean  
13 your sense is that even in a special case this, it was not  
14 contemplated that the administration would be reluctant to  
15 support it because of fear of everything --

16 MS. OROPEZA: Well, and I can tell you for a fact  
17 that we did have a discussion on the extreme --

18 SENATOR WYLAND: Okay.

19 MS. OROPEZA: -- when we made the decision to  
20 include it. I personally think there's more flexibility,  
21 you know, and obviously we want to try and work with the  
22 district to see what flexibility there was, but there's  
23 several categoricals that I know go to every single district  
24 and while it may not be optimal to have to use it for that  
25 purpose, it may give them enough flexibility to maybe work

1 something out.

2 CHAIRPERSON SHEEHY: Senator Lowenthal.

3 SENATOR LOWENTHAL: I believe -- was it  
4 Mr. Carpenter from the small school district. I wanted to  
5 ask if I -- Crawford. Mr. Crawford.

6 If 2A -- I'm just wondering the impact because  
7 what you're saying is if we did 2A, Mr. Crawford, you could  
8 live with over five years if the financing costs were also  
9 include within that; is that not so.

10 MR. CRAWFORD: I believe that would be workable  
11 because what I would need in order to get the votes of the  
12 school board is to be able to assure them that we were going  
13 to be able to afford this two years, three years, four  
14 years, five years out.

15 SENATOR LOWENTHAL: But what if you -- since you  
16 have the flexibility now anyway, what if you got the  
17 20 percent and you only spent -- you didn't spend all the  
18 deferred. You spent 16 or 17 -- 90 some odd percent of it,  
19 whatever it is, and you use the remaining amount for the  
20 financing to get the whole amount at that -- what you would  
21 get would be once you add the finance, it possibly would be  
22 smaller. You would have that flexibility; would it not be  
23 true?

24 MR. CRAWFORD: It's possible, you know, that given  
25 the market in construction we might get a bid that would

1 come in lower than --

2 SENATOR LOWENTHAL: That's right.

3 MR. CRAWFORD: -- what the original estimate was.

4 So --

5 SENATOR LOWENTHAL: And then you could use the  
6 remaining amount to finance that over five years; is that  
7 not what you're saying.

8 MR. CRAWFORD: That's possible, but again from the  
9 perspective of a superintendent trying to convince a local  
10 school board that these best case scenarios are going to  
11 happen given what we've experienced in our economy, that's a  
12 pretty tough sell because they have to take risks to do that  
13 and then we have to have our budget approved by the county  
14 office of education, whether we're positive or negative. So  
15 that creates some --

16 SENATOR LOWENTHAL: Do you think it's a lot more  
17 difficult sell than us convincing Finance to support this?

18 MR. CRAWFORD: No. No. No.

19 SENATOR LOWENTHAL: Thank you.

20 MR. CRAWFORD: We are kindred spirits in this.

21 CHAIRPERSON SHEEHY: Okay. Senator Lowenthal,  
22 that was good. That was very good. Okay. We do have a  
23 motion and second on the floor to approve -- oh, I'm sorry.  
24 Oh, Assemblywoman Brownley, yes.

25 ASSEMBLY MEMBER BROWNLEY: And I understand -- I

1 mean I can clearly understand that dilemma here, but if we  
2 weren't going to change this particular item in terms of the  
3 tiers of flexibility but we were going to hold it there but  
4 within -- you know, within this one categorical, we were  
5 going to slightly change statutorially, you know, the  
6 requirements but not change it within, you know, kind of the  
7 larger spectrum, by just making this one change so that  
8 school districts would all get -- we -- you know, if we  
9 decided to give them all the same amount and some school  
10 districts could use that amount, you know, to finance their  
11 projects, they can choose one way or the other.

12           So they would have a choice of either being able  
13 to potentially do the project or not and use it for a  
14 reading specialist or whatever they -- you know, whatever  
15 they may do.

16           So it looks like in a bipartisan way here, we're  
17 all searching for a solution and it just -- this one is just  
18 so tough because it's so hard to just have a hard and fast  
19 formula on this, that there are particular projects that we  
20 need to address sort of surgically and we just can't --  
21 like, we're so close, but we can't quite get there.

22           CHAIRPERSON SHEEHY: We might have a solution for  
23 that that's just been called to my attention. Dr. Ellerbee.

24           DR. ELLERBEE: I don't know if this is a solution,  
25 but, Rob, we've been talking -- or at least the motion is on

1 Option 2A and I was listening to Superintendent Crawford and  
2 his concern and Option 2B sounds more appealing to me as it  
3 relates to his issue.

4 But if we put his issue aside, could you just  
5 briefly explain Option 2A and 2B, the pluses and minuses. I  
6 know it's written, but I want to see which one of these  
7 options would be say the better to support a district that  
8 has an issue like he does.

9 MR. COOK: The chief difference between the two  
10 options -- they're almost identical. Option 2B would  
11 very -- in a very minute way, reduce the allocation under --  
12 to most districts under deferred maintenance and slightly  
13 increase the allocation to extreme hardship projects. It  
14 would be a 1 percent bump. It would add up to 5 percent  
15 over five years with the notion that it would, you know, in  
16 some way compensate for interest costs.

17 CHAIRPERSON SHEEHY: Mr. Cook -- Mr. Ellerbee, may  
18 I ask a follow-up question on that?

19 DR. ELLERBEE: Sure.

20 CHAIRPERSON SHEEHY: If 2B provides an extra  
21 1 percent a year, doesn't that help address the issue that  
22 Mr. Crawford raised with Senator Lowenthal about having a  
23 little bit extra to pay the financing and that 2B is really  
24 essentially the same as 2A except we give them a little  
25 bump. Isn't that the solution we've all been looking for

1 and it's been right in front of us? Please say yes.

2 MR. COOK: Yes. Yes, it is.

3 CHAIRPERSON SHEEHY: I don't know. Was the maker  
4 of the motion Mr. Harvey or was it Ms. Fuller?

5 ASSEMBLY MEMBER FULLER: Harvey.

6 CHAIRPERSON SHEEHY: Mr. Harvey --

7 MR. HARVEY: I am convinced that 2B is superior.

8 CHAIRPERSON SHEEHY: Mr. Harvey, would you be  
9 willing to withdraw your motion?

10 MR. HARVEY: Yes, and I would then --

11 CHAIRPERSON SHEEHY: Okay. Hold on. Before you  
12 make it, I want to make sure I didn't cut Mr. Ellerbee off.  
13 Was -- did you --

14 DR. ELLERBEE: No. That was -- you're right on  
15 target.

16 CHAIRPERSON SHEEHY: Okay. So Mr. Harvey has  
17 withdrawn his motion and Ms. Fuller has graciously withdrawn  
18 her second. Do you want --

19 ASSEMBLY MEMBER FULLER: As long as this is a  
20 bipartisan solution, I'm real excited to withdraw.

21 CHAIRPERSON SHEEHY: Did you want to make -- and  
22 to bring Senator Torlakson along, we were focusing in,  
23 Senator, on -- because the other options we explored  
24 required legislation. We heard testimony from the  
25 Department of Finance representing the administration that

1 they might not be willing to go along with this legislation  
2 since the budget deal had given the categorical flexibility.  
3 We'd also heard testimony from some of the districts it'd be  
4 very hard for them to take 20 percent of the money for per  
5 year for five years because they didn't have financing costs  
6 and we've sort of focused in on this Option 2B because it  
7 actually gives them 21 percent of the money per year for  
8 five years, which is a higher bump which would help address  
9 the financing in part.

10 And so I think that's -- I don't mean to rush you  
11 into a decision, Senator Torlakson, but I think that's sort  
12 of what we're got to. Mr. Harvey.

13 MR. HARVEY: Go 2B. Go 2B.

14 CHAIRPERSON SHEEHY: Mr. Harvey, did you want to  
15 make a motion?

16 MR. HARVEY: I move 2B.

17 DR. ELLERBEE: I second that.

18 CHAIRPERSON SHEEHY: We have a motion by  
19 Mr. Harvey and we have a second by Dr. Ellerbee.

20 ASSEMBLY MEMBER BROWNLEY: Mr. Chair.

21 CHAIRPERSON SHEEHY: Yes, Assemblywoman Brownley.

22 ASSEMBLY MEMBER BROWNLEY: May I just ask the  
23 superintendents if they agree that this might be helpful to  
24 them.

25 MR. CRAWFORD: Not like being put on the spot.

1 Wow. I think what -- how I'll answer this -- that question  
2 is that this is an extremely difficult economic time for all  
3 of us and I think that if we have as a district the  
4 assurance that there's going to be a five-year payback and  
5 there's some flex in there to help us cover the financing, I  
6 believe that me as a superintendent, I can make it work.

7 CHAIRPERSON SHEEHY: Okay.

8 ASSEMBLY MEMBER BROWNLEY: So you would say that  
9 2B is better than 2A?

10 MR. CRAWFORD: Yes, because what I understand is  
11 that there's a little bit of bump as the Senator said and  
12 given that there's a little bump there and given that the  
13 construction market is as it is that we could possibly then  
14 get a good bid, we might be able to make it work and we  
15 don't have to accept any bid until we actually see what  
16 comes out in the wash.

17 CHAIRPERSON SHEEHY: Okay.

18 ASSEMBLY MEMBER BROWNLEY: And the other  
19 superintendent, are you willing to comment?

20 MR. PATTON: Thank you. I'm a step back from the  
21 firing line because I just work for the district. I'm not  
22 the superintendent.

23 ASSEMBLY MEMBER BROWNLEY: Oh.

24 MR. PATTON: But I think that superintendent --

25 ASSEMBLY MEMBER BROWNLEY: You look like a

1 superintendent.

2 MR. PATTON: Old enough to be, yeah. I think that  
3 the problem is in the one that we've discussed as a district  
4 is just as Senator Hancock said, we don't know what's going  
5 to happen next year, the year after, or the year after. So  
6 assuming that we go out for financing and we get that little  
7 bit of a bump, then what happens in two years or three years  
8 if the money doesn't come and that's a real issue. That's  
9 one that we've discussed at the district level.

10 So 2B is the best option that's on the table, but  
11 it still has its issues for us at the local level. Thanks.

12 CHAIRPERSON SHEEHY: Any more comments from Board  
13 members? Okay. We do have a motion and a second on the  
14 floor to approve staff recommendation Item 2B. Ms. Jones,  
15 would you call the roll, please.

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

17 SENATOR LOWENTHAL: Aye.

18 MS. JONES: Senator Hancock.

19 SENATOR HANCOCK: Aye.

20 MS. JONES: Senator Wyland.

21 SENATOR WYLAND: Aye.

22 MS. JONES: Assembly Member Fuller.

23 ASSEMBLY MEMBER FULLER: Aye.

24 MS. JONES: Assembly Brownley.

25 ASSEMBLY MEMBER BROWNLEY: Aye.

1 MS. JONES: Assembly Member Torlakson.

2 ASSEMBLY MEMBER TORLAKSON: Aye.

3 MS. JONES: Scott Harvey.

4 MR. HARVEY: Aye.

5 MS. JONES: Dr. Ellerbee.

6 DR. ELLERBEE: Aye.

7 MS. JONES: Rosario Girard.

8 MS. GIRARD: Aye.

9 MS. JONES: Tom Sheehy.

10 CHAIRPERSON SHEEHY: Aye.

11 MS. JONES: The motion passes.

12 CHAIRPERSON SHEEHY: Okay. That motion has been  
13 approved. Oh, yes, Mr. Walrath.

14 MR. WALRATH: Thank you. Just a couple things.  
15 The next appropriation's already been made. It will be  
16 available in July. Is it possible at this point since you  
17 have crafted the process by which you'll be allocating these  
18 funds to have these apportionments made for the '08-'09  
19 money in July of '09 so the funds will start flowing a  
20 little bit faster so school districts can be putting people  
21 to work to the extent that can be done.

22 The second is could you ask staff to survey  
23 districts in six months or so to find out who has not been  
24 able to start their project because of financing concerns or  
25 other concerns so we'll have that data available to us as we

1 try to look at potential ways of adjusting this in the  
2 future.

3 CHAIRPERSON SHEEHY: That's a great suggestion.  
4 Rob, we can do that, can't we?

5 MR. COOK: Answer to the second one, absolutely.  
6 To the first one, so long as that budget number stays static  
7 that's been named, we can actually do that -- we can do the  
8 math for that relatively simply based on the action tonight.

9 There is an issue with statute. It requires that  
10 we distribute those funds after December 1 of each year, so  
11 to the extent that we would need statutory authority, we'd  
12 do it at an earlier date -- well, we would need legislative  
13 authorization to do that at an earlier date.

14 CHAIRPERSON SHEEHY: Rob, is the first fiscal year  
15 under which this 20 percent would go out, the '08-'09 fiscal  
16 year or the '09-'10?

17 MR. COOK: It's current year.

18 CHAIRPERSON SHEEHY: It's '08-'09. So,  
19 Mr. Walrath, I'm sorry. You're asking can the '08-'09 money  
20 go out sooner; is that what you're asking, Mr. Walrath?

21 MR. WALRATH: No. What I'm asking is that  
22 statutorially it's a December 1, but in the crafting -- when  
23 people start looking at the budget bill or trailer bills or  
24 other actions between now and July 1, if the funding stays  
25 the same that part of the budget language allow this to go

1 out in July rather than in December.

2 CHAIRPERSON SHEEHY: So did the '08-'09 money  
3 already go out?

4 MR. COOK: It has not been distributed.

5 CHAIRPERSON SHEEHY: So when would the '08- --

6 MR. COOK: That's this item.

7 CHAIRPERSON SHEEHY: Yeah. When would -- well,  
8 our fiscal year is over June 30<sup>th</sup>.

9 MR. COOK: Um-hmm.

10 CHAIRPERSON SHEEHY: So is the '08-'09 money going  
11 to go out before June 30<sup>th</sup>?

12 MS. MORGAN: Yes.

13 MR. COOK: Yes.

14 CHAIRPERSON SHEEHY: When?

15 MR. COOK: As soon as -- we will make the  
16 allocation at next month's Board and then we will distribute  
17 the funds thereafter.

18 CHAIRPERSON SHEEHY: Okay. Is there any way to do  
19 it sooner or does it require us to come back --

20 MR. COOK: It would require a funding item by this  
21 Board.

22 CHAIRPERSON SHEEHY: Okay. All right. So we're  
23 going to get the '08-'09 money out in 30 days. Now,  
24 Mr. Walrath, what you're asking is -- you're asking us to  
25 seek a way to get the '09-'10 money out before December 1<sup>st</sup>.

1 MR. WALRATH: Correct. Because that will allow  
2 the districts to have a little bit more money up front to be  
3 able to hire people to do deferred maintenance programs and  
4 to address some of the critical hardship issues.

5 CHAIRPERSON SHEEHY: I bet you I could speak for  
6 every member on this Board saying that we all support that.  
7 However, I don't know that it's in our power to make that  
8 happen.

9 MR. WALRATH: It is not, but I'm doing what Tom  
10 does. I'm lobbying some of the legislative members of the  
11 Board on budget issues.

12 CHAIRPERSON SHEEHY: See, I knew Tom was rubbing  
13 off on you, Mr. Walrath. Very good. Okay. Thank you.

14 What's next, Mr. Cook.

15 MR. COOK: The next item is **regulations**  
16 **implementing Senate Bill 658** and I'd introduce Juan Mireles  
17 to introduce that item to you.

18 CHAIRPERSON SHEEHY: Oh, yeah, Rob, before we do  
19 that, we do have Senator Torlakson here. Since we did have  
20 one item that was still on call, we have a chance now to  
21 close that item.

22 Senator Torlakson, we left Item No. 8 on call. We  
23 had a spirited discussion about it and this item would  
24 transfer \$700 million from the critically overcrowded school  
25 program to the new construction program and it would also

1 reserve \$140 million for three more months until our June  
2 meeting. That was at the request of Mr. Smoot. I just  
3 wanted you to know, Senator, that that item had eight aye  
4 votes, one -- was it a no or was it an -- there was one no  
5 vote.

6 MS. JONES: It was a no.

7 CHAIRPERSON SHEEHY: And then we were just waiting  
8 for you.

9 ASSEMBLY MEMBER TORLAKSON: I'm an aye vote.

10 CHAIRPERSON SHEEHY: Okay.

11 ASSEMBLY MEMBER TORLAKSON: I vote aye.

12 MS. JONES: Okay.

13 CHAIRPERSON SHEEHY: That item has been approved.  
14 Thank you. Sorry, Rob. Go ahead.

15 MR. COOK: Not a problem. Juan, please continue.

16 MR. MIRELES: The next item includes amendments to  
17 the school facility program regulations in order to  
18 implement Senate Bill 658. The bill phases out the  
19 multi-track year round education grants that are awarded by  
20 the Department of Education over a four-year period and  
21 provides an exemption from the increase in school building  
22 capacity.

23 Staff has made the necessary changes to the  
24 regulations to address the new changes in law as they relate  
25 to the new -- to the school facility program. Staff has

1 also presented the proposed regulations to the  
2 Implementation Committee and has incorporated suggestions  
3 made from the stakeholders.

4 With that the regulations are ready for your  
5 approval.

6 ASSEMBLY MEMBER BROWNLEY: Move the item.

7 CHAIRPERSON SHEEHY: Okay. We have a motion by  
8 Ms. Brownley.

9 SENATOR HANCOCK: Second.

10 CHAIRPERSON SHEEHY: We have a second. Any public  
11 comment on this item? Seeing none, all in favor.

12 (Ayes)

13 CHAIRPERSON SHEEHY: Item No. 14 has been put over  
14 till next month. Item No. 15, **seismic mitigation**.

15 MR. COOK: At our December Board, the Board asked  
16 staff to bring forward a discussion on our seismic  
17 mitigation program. There is some concern that the program  
18 hasn't been blossoming as we would like and that we -- there  
19 are -- we certainly need to do everything we can to address  
20 health and safety concerns out there and that since the  
21 funds were originally appropriated under Proposition 1D, we  
22 have not yet allocated any funds here.

23 I will give you an update on -- at least some  
24 good news. There have been two applications that have come  
25 into our office on this. One is a \$9 million replacement of

1 a facility and another is a \$5 million retrofit of a  
2 facility that have come in and have been judged by Division  
3 of State Architect as eligible under the criteria.

4 That's a little bit of good news.

5 I'm going to reach back a little bit in time. In  
6 1933, there was a devastating earthquake known as the Long  
7 Beach Earthquake. The best thing that happened associated  
8 with that earthquake is that it happened after school hours.  
9 As a result of that earthquake, 230 schools collapsed in  
10 that area. And in your Board item, there happens to be a  
11 photo of the damage brought at one junior high in that area  
12 and you could clearly tell by that photo had that school  
13 been occupied at the time, there would have been death and  
14 injuries resulting from it.

15 Within 30 days of that earthquake, the Field Act  
16 was put into place and since 1933, the State of California  
17 has had an unmatched commitment to seismic safety in its  
18 schools.

19 One of the features of the Field Act that -- was  
20 that any facilities that were built prior to the Field Act  
21 had to be taken either retrofit or taken out of service by a  
22 date in the 1970s and since that time, every school facility  
23 has been reviewed for every -- for its life safety  
24 performance by the Division of the State Architect.

25 We -- even with that, earlier in this decade,

1 AB300 was put into place to take an inventory of school  
2 facilities and determine the relative seismic safety of  
3 those facilities. That report was developed by the Division  
4 of State Architect and identified the potential for a number  
5 of facilities that, you know, might have been built under  
6 earlier codes that as science has advanced may be vulnerable  
7 to a seismic event.

8           In reaction to that AB300 report, Proposition 1D  
9 allocated up to 199.5 million for seismic repair,  
10 reconstruction, or replacement. That's a relative small sum  
11 of money when you deal with facilities and that  
12 Proposition 1D further required that we take care of the  
13 most vulnerable facilities of a specific type, Category 2  
14 facilities.

15           And our task under -- in developing this program  
16 is to come up with criteria that provides an opportunity for  
17 us to take care of the most vulnerable facilities within the  
18 limited funds available. And the key criteria associated  
19 with that program are the facility has to be occupied by  
20 students and teachers. It has to be in a ground shaking  
21 intensity zone of 1.7G or higher which is derived from U.S.  
22 Geological Survey Maps. It is one of four types of  
23 Category 2 construction, and an structural engineer's report  
24 has come back conclusive that the facility is subject to  
25 catastrophic collapse.

1           Those are the criteria of the program and that was  
2 focused on trying to isolate the funds on the worst -- you  
3 know, to fixing the worst first.

4           As we've progressed -- at the outset of this  
5 program and those regulations, it was assumed that  
6 approximately 77 facilities were in the pool of eligible  
7 facilities. Over the last several months, the Office of  
8 Public School Construction and the Division of State  
9 Architect have done extensive outreach to school districts  
10 to try to determine whether those facilities are still  
11 frankly even in some cases in existence, but whether -- how  
12 many of these facilities are actually eligible.

13           In the course of that outreach, many of those  
14 facilities have fallen off (indiscernible) at some point in  
15 the past were already retrofit. In other cases, they've  
16 been taken out of service. And so we believe today the  
17 number of facilities that fall within the 1.7G zone is  
18 somewhere in the neighborhood of 37 or less that have all  
19 the other -- meet all the other criteria.

20           And to look at the policy questions that this  
21 Board asked us to address, should the ground shaking  
22 intensity factor be lowered for this program and should this  
23 program make a special grant for -- to cover interim housing  
24 costs. Should this program provide a grant for the  
25 structural engineering report and should this program offer

1 an unfunded list for future projects that may -- if the  
2 funds were to run out.

3           In looking at the -- in looking at lowering the  
4 ground shaking intensity factor, any shift in that would  
5 obviously make more facilities eligible and could help us to  
6 take care of that. Setting that factor at too low a level  
7 risks diverting funds away from the worst facilities first  
8 and to less vulnerable facilities.

9           But adopting a change in that criteria is a matter  
10 of regulation and within the authority of this Board.

11           As for interim housing interim housing probably  
12 now -- while schools are open, they need -- you know, they  
13 need to be able to serve students and in cases such as  
14 modernization and some of the extreme hardship projects  
15 you've heard about tonight, students need to be displaced in  
16 order to make repairs to the facility.

17           Interim housing is largely accomplished by  
18 providing portables at a site, repurposing other facilities  
19 on a given site for classroom purposes, or diverting  
20 students to alternative campus.

21           Under the school facility program today, we do not  
22 provide a specific separate grant for interim housing. It  
23 is an allowable expense under the program, meaning that our  
24 grants are provided to school districts and they can apply  
25 them to those expenses. They can apply their own funds to

1 those expenses. They're an eligible project cost, but we  
2 have a set-aside for that specific purpose.

3           Within that, in examining the policy question on  
4 interim housing should a separate grant be set aside, it  
5 would -- one of the pros obviously is it assists school  
6 districts in executing these projects. One of the issues  
7 with that is it diverts funds away from -- specifically from  
8 seismic repair, reconstruction, and replacement towards  
9 these costs.

10           And according to the construct of the legislative  
11 language, at least as we read it, that would need to be  
12 effected via statute and it just so happens, Senator Hancock  
13 has a bill, SB375 I believe, that takes up that issue.

14           Also regarding -- the same issues apply to a  
15 structural engineering report. As you heard at our last  
16 meeting, we have been successful with the Seismic Safety  
17 Commission in obtaining a grant from that organization in  
18 the amount of \$200,000 so that we can assist districts in  
19 obtaining structural engineering reports, but this program  
20 does not have a specific grant set aside for that type of  
21 study.

22           And again as the same issue with interim housing,  
23 that could be addressed legislatively.

24           CHAIRPERSON SHEEHY: Rob, is the Item No. 3, the  
25 funding for structural engineering reports, is that also in

1 SB375?

2 MR. COOK: That's correct. It is.

3 CHAIRPERSON SHEEHY: Okay. Thank you.

4 MR. COOK: And finally when we get to the unfunded  
5 list, there are -- there have been districts that expressed  
6 that as they go through the lengthy process of determining  
7 whether a facility is structurally unstable and then  
8 developing a mitigation strategy associated with that  
9 facility that at some point, those limited funds may run out  
10 and that they don't want to be left without resources and  
11 some expressed the desire to have an unfunded list  
12 established.

13 There are many liability issues that swirl around  
14 and surround this matter that this particular issue was  
15 considered by the Board when the original regulations were  
16 adopted. There are -- I think you can find folks on both  
17 sides of that issue for liability purposes. It certainly is  
18 a feature that could be implemented through regulation --

19 CHAIRPERSON SHEEHY: I'm sorry, Rob.

20 MR. COOK: -- by this Board. This Board could  
21 adopt regulations implementing an unfunded list --

22 CHAIRPERSON SHEEHY: Okay.

23 MR. COOK: -- if it so desires.

24 CHAIRPERSON SHEEHY: So the Item No. 1 which was  
25 the GSI, ground shaking intensity, and Item No. 4 which was

1 the unfunded list are both within this Board's authority to  
2 act on through regulation. Item No. 2 which was funding for  
3 interim housing and Item No. 3 which was funding for  
4 engineering reports is also something we can do, but it is  
5 your judgment we need statutory change and we conveniently  
6 have Senator Hancock's SB375 which would implement both of  
7 those; is that an accurate summary?

8 MR. COOK: That is an accurate summary.

9 CHAIRPERSON SHEEHY: Okay. Questions and comments  
10 by the Board members? Mr. Harvey.

11 MR. HARVEY: I appreciate this report very much  
12 because you articulated at the outset, Rob, this is really  
13 about health and safety, making sure kids are safe in their  
14 schools and I think the intent of AB300 that you alluded to  
15 back in '98, report was issued in '02, focused on the great  
16 need.

17 For me, I am comfortable moving forward on those  
18 items where we can do so by regulation. And I would like to  
19 see you bring back a very complete discussion on what  
20 happens if we lower that shake zone.

21 I think you made a compelling case that when we  
22 looked at the worst of the worst, we thought there were 70  
23 some odd buildings, now there are only 17. Of that two have  
24 stepped forward. It seems to me given all the other  
25 criteria, you've got to have kids in it, you've got to have

1 a local match, so forth and so on, if we broaden that  
2 somewhat, you would allow more districts to come forward.  
3 We would be able to access those dollars more quickly. We  
4 could await the outcome on SB375, but we've -- we by virtue  
5 of your agreement with the Seismic Safety Commission also  
6 cover for those districts early in the pipeline the ability  
7 to have that structural engineering report paid for.

8           The only issue where we put them somewhat at risk  
9 is the interim housing. You've talked in terms of how that  
10 is an allowable expense. It's something they could put into  
11 their match category. We have legislation that could  
12 address it.

13           To me the important thing is getting these dollars  
14 out as quickly as we can. We recognized some of the  
15 obstacles. If we open up the shake zone more broadly, we  
16 will have more districts stepping forward and we address  
17 more problems.

18           So for me the key is liberalizing the shake zone,  
19 seeing what happens on the others. That's my spin.

20           CHAIRPERSON SHEEHY: Thank you, Mr. Harvey.  
21 Mr. Duffy, would you like to comment on this item? I know  
22 it's of interest. We've talked about it many times.

23           MR. DUFFY: We have and thank you, Mr. Sheehy.  
24 Again Tom Duffy for C.A.S.H. I appreciate this item being  
25 on the agenda. We have for a number of months now going

1 back into the fall asked to have the regulations here so we  
2 could really look at them and talk about some changes.

3 I respectfully disagree with Mr. Cook about your  
4 authority to deal with the interim housing issue and the  
5 other issue. If we have the -- an item next month that has,  
6 as Mr. Harvey is I think suggesting, potential for some  
7 change, I think that would be very, very positive and we  
8 could have that discussion.

9 This is an issue that continues to just sort of  
10 ebb and not really be addressed. The legislation,  
11 Mr. Harvey, that goes back to the prior decade now is this  
12 year a decade old and we have the AB300 list and we have  
13 money set aside through a bond, although limited, to be able  
14 to address something that's significant in California  
15 because we're a seismically sensitive state, and yet there  
16 seems to be, just being very direct with you, a push back  
17 because of this potentially being significant in terms of  
18 the fiscal implications for the state and for school  
19 districts.

20 I think that it's important -- you as a body are a  
21 very serious body. You deal with significant issues dealing  
22 with school districts. Well, this is one of them and one of  
23 the things that we frequently hear is districts don't really  
24 want to own up to having a seismically sensitive school  
25 because of the implications at the local level.

1           Well, many of us have done that. In Ms. Hancock's  
2 district and I think largely through the outreach of David  
3 Thorman and the State Architect, who's very serious about  
4 this business, a school district Piedmont has found that it  
5 must vacate classrooms. It's done an extraordinary thing.  
6 It's gone to an adjacent district Emory and has contracted  
7 to use classrooms there so that they could deal with their  
8 issue because interim housing is indeed vital.

9           You can't go in and reconstruct a building when  
10 children are in it. So the -- I don't think I have to lobby  
11 or admonish you. This is serious business. We just seem to  
12 have trouble getting close to the heavy-duty discussion.

13           We appreciate very much Ms. Hancock's willingness  
14 to take this issue on and whatever we can do in regulation  
15 in terms of some substantive change, we'd like to do that  
16 and therefore we'd like to have those regs back and have  
17 actionable item next month and then we will continue to work  
18 with Ms. Hancock and the Senate and then hopefully the  
19 Assembly on dealing with this issue and report back to you  
20 as we make progress.

21           But if we could take a first step at actually  
22 having the regulations before us with a potential action  
23 item -- I think Ms. Moore was in support of that notion at  
24 the last meeting two weeks ago -- we'd appreciate that very  
25 much. And you've been very patient with me and with

1 everyone, so I'll stop at thank you very much.

2 CHAIRPERSON SHEEHY: Thanks, Tom, but don't  
3 disappear. I have a couple follow-ups. So on the issue of  
4 interim housing and structural engineering -- paying for  
5 structural engineering reports, you are the -- or C.A.S.H.  
6 is of the opinion that those can be handled through  
7 regulation and it doesn't require legislation?

8 MR. DUFFY: I believe that they can be,  
9 Mr. Sheehy. Various reports are done for new construction  
10 and modernization today using funds that are a combination  
11 of state and local funds. Reports and analyses of buildings  
12 and grounds and soils are common.

13 CHAIRPERSON SHEEHY: Okay. I'm going respectfully  
14 request our counsel, Henry Nanjo, to report back  
15 specifically on that issue at the next meeting.

16 MR. NANJO: Sure.

17 CHAIRPERSON SHEEHY: I want you to look at the  
18 code, case law, whatever you need to do so we can have a  
19 further discussion on that. In the meantime, I assume  
20 you're working with Senator Hancock to get her legislation  
21 passed through the Senate and on to the other House so it  
22 can then be considered there.

23 And then you've talked about the regulations.  
24 Mr. Cook did say that the ground shaking intensity factor  
25 and the unfunded list was in this Board's authority through

1 regulation. So if a majority of the members on this Board  
2 would like to have those regulations come forward, I think  
3 we're in a -- I think, you know, we're in a position to -- I  
4 see a lot of heads nodding up and down. I think we're in a  
5 position to make that happen.

6 SENATOR HANCOCK: Wasn't there a motion?

7 CHAIRPERSON SHEEHY: I'm sorry, Ms. Hancock. Was  
8 there a motion? I do think -- I have no particular  
9 expertise on this issue of the ground shaking index, but I  
10 do think that if this body were to act on that issue, we  
11 would want to hear from the State Architect who does have  
12 expertise in this area and it does seem to me that before  
13 any change was made in the regulations or in law regarding  
14 the GSI issue that this body would need to take some  
15 testimony here on that. Ms. Fuller.

16 ASSEMBLY MEMBER FULLER: Well, I really do  
17 appreciate Senator Hancock's bill and I would like to have  
18 the opportunity to see what it says and work on it on the  
19 legislative side because I have three very large concerns  
20 about this, none of which have to do with content, all of  
21 which have to do with process.

22 One is if we create an unfunded list, what  
23 liability we have created for the state that we have now  
24 recognized that there is a need that we can't fund.

25 Number two is -- actually it's four concerns.

1 Number two is if there is an earthquake or some shaking and  
2 we need to change the priority of that list because some  
3 area is now more critical than the other areas, I really  
4 don't want to be sitting on this Board when all those people  
5 come down here and we have to try to dispute that. That's  
6 going to be a tough go.

7           Number three is that these are three new very  
8 substantial expenses and I don't really see that they are  
9 necessarily a fee nor -- so we could pass this and have it  
10 held up with some kind of lawsuit when we actually have  
11 Senator Hancock's bill on the way that, knowing her, it's  
12 probably crafted quite well and we could avoid having 10,000  
13 lawsuits that might tie this up.

14           And number four, I just personally think in times  
15 of, you know, fiscal crisis the way we are for a board to  
16 take on substantial costs without a funding stream is unwise  
17 without far more counsel than we are receiving.

18           So I would prefer to have a legislative solution  
19 since we have one in the pipeline.

20           CHAIRPERSON SHEEHY: Ms. Fuller, if it's okay, I'd  
21 like to amplify a couple of your concerns. I'd like you to  
22 know I share your concern about the liability issue. I also  
23 share Mr. Duffy's concern which has been expressed here by  
24 him and others regarding getting the out the door. We do  
25 have a \$200 million pot of money to address some of these

1 problems in schools that are in vulnerable areas and I think  
2 it's a darn shame if we can't find a way, Tom, to get that  
3 money out.

4 I also like the idea you've suggested of having  
5 this done in the context of legislation, perhaps Senator  
6 Hancock's bill, because there could be more public  
7 testimony. It does seem to me that there are some issues on  
8 the liability and there could very well be winners and  
9 losers with respect to the change in the ground shaking  
10 index and I certainly don't -- I wouldn't know how to  
11 support or not support those changes without having folks  
12 that knew far more than I that could come in and give some  
13 good testimony on that.

14 So I just want to say for the record that I  
15 share -- one of the goals I share with Mr. Duffy and with  
16 C.A.S.H. and other people that are concerned about this is  
17 getting the \$200 million out the door and put to productive  
18 use to make the schools that we can safer. I'd like to see  
19 that happen.

20 But I do share Ms. Fuller's concern that we ought  
21 not here to act precipitously without having information.  
22 So, you know, Ms. Hancock's acting on a couple of these  
23 matters. Perhaps we could find a legislative vehicle to act  
24 on the rest of them so there could be more discussion.

25 We could also have draft regulations or have some

1 regulations presented here to have them ready to act on at  
2 some point, but I really do think we need to have some more  
3 discussion and testimony on the impacts of some of these  
4 changes and how it would affect the State of California and  
5 this program. Mr. Harvey.

6 MR. HARVEY: I think we have the platform to do  
7 that. I think if this is put on next month's agenda and we  
8 have the ability to discuss the two that we can control by  
9 regulation only, that would be a good start.

10 I see the State Architect is in the audience. If  
11 he's comfortable stepping forward to comment at all about  
12 his willingness to be here next month to talk openly and  
13 aggressively about a recommendation on the shake zone issue  
14 because I think that is an important one. There are winners  
15 and losers.

16 I've made my statement for why I think it's a  
17 worthwhile discussion to have because we have fewer  
18 districts in the pipeline now, but, Mr. Thorman, do you have  
19 anything you're comfortable saying today and would you be  
20 available next month to address that specific question?

21 MR. THORMAN: Dave Thorman, State Architect.  
22 First, let me say that I think that Rob presented very well  
23 the total situation. I really believe that we need to find  
24 a way to get this \$200 million out there and working. We do  
25 have projects that are in need of this money. We're more

1 than willing as the State Architect and DSA to work with  
2 OPSC and come up with recommendations for the Board for the  
3 next meeting.

4 CHAIRPERSON SHEEHY: I'm sorry, Mr. Thorman. I  
5 heard the first part, but what was your concluding comment,  
6 that you what? I apologize. I missed it.

7 MR. THORMAN: The concluding comment was that I  
8 believe that we need to find a way to get this money out and  
9 I would be more than willing with DSA to work with Rob and  
10 OPSC on adjusting the regulations so we can find a clean way  
11 to do that.

12 CHAIRPERSON SHEEHY: Could you also loop in the  
13 Department of Finance staff so that they have an opportunity  
14 to take a look at what it might mean in terms of the fiscal  
15 impact because I know that Ms. Fuller has expressed the  
16 concern about that. I share that. There may be others. I  
17 think that would be good to have as part of the mix.  
18 Mr. Thorman.

19 MR. THORMAN: Sure.

20 CHAIRPERSON SHEEHY: Okay. Thank you. Hi. Could  
21 you identify yourself for the record, please.

22 MS. BROWN: Sure. Good afternoon. Margaret  
23 Brown, Assistant Superintendent for the San Ramon Valley  
24 Unified School District. And I'd like to say that I support  
25 Mr. Harvey's motion or -- at this point in time, but -- and

1 I do want to say that I do hear that the SAB is worried  
2 about liability to the state about an unfunded list, but  
3 what about the liability for school districts.

4           You expect us to go out and complete those studies  
5 and then hold onto those reports and then do what with them?  
6 We need the unfunded list -- we need the State Allocation  
7 Board and the State of California to help us improve the  
8 seismic safety of our schools.

9           We need you to stand there with us, not just ask  
10 us to take the risk to do those studies and then hold back  
11 and just wait for an earthquake.

12           So we really do need that unfunded list and we  
13 need to get the attention and hopefully get additional  
14 funding for those seismic programs and I just think it's  
15 very, very critical that while the state is worried about  
16 liability, you know, we have great liability too in the  
17 districts and we would really appreciate that unfunded list.

18           The other thing is I do believe that the State  
19 Architect, Dennis Bellet specifically, can help with the  
20 shake zone and reducing that. Initially, when we looked at  
21 the implementation of the bill on how to dole out the  
22 \$199 million, the shake zone was set at 1.55. There was a  
23 lower number.

24           And then as the State Architect identified many  
25 more buildings and too big a list that shake zone was raised

1 to 1.7. So we actually have some initial numbers of how  
2 many buildings might qualify under 1.55 and that's been  
3 around for about a year now.

4 So I think that's pretty easy to do and we should  
5 be able to do that by next month. But I do appreciate the  
6 idea of regulatory changes for an unfunded list and I'll be  
7 glad to answer your questions if you have any.

8 CHAIRPERSON SHEEHY: Thank you, Ms. Brown. Please  
9 make sure the information that you were talking about the  
10 GSI is shared with all the appropriate folks, if they don't  
11 already have it. That will be very helpful.

12 Other questions or comments from Board members?  
13 So it sounds like the will of this Board would be to have  
14 this item agendized for our next meeting as an action item  
15 in case they would like to take action on regulations and,  
16 Rob, I want you to make sure that we have -- that this Board  
17 has the appropriate staff or experts here that we have  
18 access to that can testify on the questions I'm sure Board  
19 members are going to have.

20 But we'll have this queued up so that if the Board  
21 wants to take some action, we can. Was there any other  
22 question or comments on this item? See none --

23 MR. HARVEY: One quick --

24 CHAIRPERSON SHEEHY: We're going to need a -- do  
25 we need a motion on this, Rob?

1 MR. COOK: There's no need for a motion.

2 CHAIRPERSON SHEEHY: All right. So you're going  
3 to bring that back. Okay. Yes, Mr. Harvey.

4 MR. HARVEY: This may be a little off point, but I  
5 do know having read some reports out of Japan, that is a  
6 country that has very aggressively looked at an early shake  
7 warning system and I don't know if there is some way of  
8 having a discussion about whether that could be folded into  
9 anything we do because it at least gives you an early alert  
10 that an earthquake is coming. You have the ability to put  
11 people in a safer position. It doesn't address the  
12 retrofit, but I don't know if there is any merit in looking  
13 at what Japan has done and save lives by having early alert  
14 as part of what they do in schools and in their commercial  
15 settings.

16 I'm not endorsing any product or anybody, but I'm  
17 wanting to know about that subject and whether or not that  
18 can be something we discuss or at least make available.

19 MR. THORMAN: Dave Thorman. Let me just comment  
20 that I'm a member of the Seismic Safety Commission and I can  
21 take this to the next commission meeting. I think that's  
22 probably an appropriate place to do the research and find  
23 out the answer to your question.

24 CHAIRPERSON SHEEHY: Mr. Thorman, if you could do  
25 that and report back to us, that would be great.



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