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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

CALIFORNIA DEPARTMENT OF EDUCATION
1430 N STREET, ROOM 1101
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, MAY 27, 2009
TIME: 4:10 P.M.

Reported By: Mary Clark Transcribing
4919 H Parkway
Sacramento, CA 95823-3413
(916) 428-6439
maryclark13@sbcglobal.net

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

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

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

SENATOR LONI HANCOCK

SENATOR ALAN LOWENTHAL

ASSEMBLY MEMBER JEAN FULLER

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER TOM TORLAKSON

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

ROB COOK, Executive Officer

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: I'd like to apologize to my fellow Board members and to the audience for being late today. I have no excuse. Secretary, please call the roll so we can establish a quorum.

MS. JONES: Very good. Senator Lowenthal.
Senator Hancock.

SENATOR HANCOCK: Here.

MS. JONES: Senator Wyland.
Assembly Member Fuller.

ASSEMBLY MEMBER FULLER: Here.

MS. JONES: Assembly Member Brownley.

ASSEMBLY MEMBER BROWNLEY: Here.

MS. JONES: Assembly Member Torlakson.

ASSEMBLY MEMBER TORLAKSON: Here.

MS. JONES: Scott Harvey.

MR. HARVEY: Present.

MS. JONES: Kathleen Moore.

MS. MOORE: Here.

MS. JONES: Rosario Girard.

MS. GIRARD: Here.

MS. JONES: Tom Sheehy.

CHAIRPERSON SHEEHY: Here.

MS. JONES: We have a quorum.

1 CHAIRPERSON SHEEHY: Great. Rob, what is our
2 first item today? Do we -- is it the **Minutes**?

3 MR. COOK: First item is Minutes and for the
4 April 22nd Minutes, I'd like to note one correction.
5 Ms. Brownley is noted as present but was only able to very
6 briefly come into the room. I believe you wanted that noted
7 for the record.

8 ASSEMBLY MEMBER BROWNLEY: That's correct.

9 MR. COOK: Okay. So with that one change, the
10 Minutes are ready for your approval.

11 CHAIRPERSON SHEEHY: Do we have any questions or
12 comments from Board members?

13 MS. MOORE: Move approval.

14 CHAIRPERSON SHEEHY: We have a motion to approve.

15 MR. HARVEY: Second.

16 CHAIRPERSON SHEEHY: We have a second. All in
17 favor.

18 (Ayes)

19 CHAIRPERSON SHEEHY: 20 second recess.

20 (Pause)

21 CHAIRPERSON SHEEHY: Okay. Sorry about that,
22 ladies and gentlemen. Senator Wyland will not be with us
23 today and he has asked -- Senator Wyland did say he wanted
24 to weigh in on the Glendale matter and he did ask that that
25 item be put over. If there isn't strong objection to that,

1 I'm delighted to do it. I know the Board -- I think the
2 Board members here are ready vote on that item. I think we
3 might have six votes when Senator Lowenthal shows up. So
4 it's up to you. Your colleague asked that it be --

5 SENATOR HANCOCK: Mr. Sheehy.

6 CHAIRPERSON SHEEHY: Yes. Senator Hancock.

7 SENATOR HANCOCK: Could I just ask, did Senator
8 Wyland vote for?

9 CHAIRPERSON SHEEHY: Yes, he's supporting this
10 item.

11 SENATOR HANCOCK: Okay. I believe I had questions
12 about that at our last meeting --

13 CHAIRPERSON SHEEHY: Uh-huh.

14 SENATOR HANCOCK: -- and since then I've reviewed
15 the timeline and looked into it and I am prepared to vote
16 for it now. So --

17 CHAIRPERSON SHEEHY: I believe Senator Lowenthal
18 is too, so be happy to take that item up. I do want to note
19 for the record Senator Wyland did want -- asked that it be
20 put over. So I'll leave it up to the Board when our other
21 colleague is here.

22 And then Senator Lowenthal will be here in a
23 little bit. He -- as you all know, the Budget Conference
24 Committee is convening and he had the great fortune or maybe
25 I think misfortune of being on that budget conference

1 committee. They're having to make some very difficult
2 decisions here on the state budget, but he will be here and
3 he asked that several items be put over that he would like
4 to be here on.

5 So we're going to try to accommodate Senator
6 Lowenthal as much as we possibly can and if we run out of
7 things to do, we'll take up some of those items and we'll
8 just leave them on call so that he can still weigh in. In
9 fact anything that we vote on, we'll leave on call so
10 Senator Lowenthal can add on.

11 So let's leave the roll call on the Minutes open
12 as well. Okay. Can we do that? Okay. Great. How about
13 the **Executive Officer's Report**.

14 MR. COOK: I have some great news to --

15 CHAIRPERSON SHEEHY: I apologize, Rob. My
16 colleagues inform me that there's two sets of Minutes that
17 need to be approved today. Did we just get one of them?

18 MR. COOK: There are two sets of Minutes. I
19 thought the action the Board just took approved both. Is
20 that not accurate?

21 MS. MOORE: I thought we took April, but if you
22 can be inclusive of both, fine.

23 CHAIRPERSON SHEEHY: Is there any objection from
24 the Board members to include -- was it March?

25 MR. COOK: That's correct.

1 CHAIRPERSON SHEEHY: -- include the March Minutes
2 along with April.

3 ASSEMBLY MEMBER BROWNLEY: And on April 22nd
4 meeting, I would abstain since I was not present.

5 CHAIRPERSON SHEEHY: Okay. We have an abstention.
6 Do we have any other comments from Board members on that?
7 Okay. So -- yes, Senator Torlakson.

8 ASSEMBLY MEMBER TORLAKSON: When you're done with
9 that actually, I just got word that Senator Lowenthal would
10 like me to go ahead and present the resolution to Lori
11 Morgan.

12 CHAIRPERSON SHEEHY: Okay. Great.

13 ASSEMBLY MEMBER TORLAKSON: He does not need to
14 wait for that.

15 CHAIRPERSON SHEEHY: Okay. Great. So hearing no
16 objection on the revised motion to approve the Minutes, all
17 in favor.

18 (Ayes)

19 CHAIRPERSON SHEEHY: Okay. And we're going to
20 leave the roll open for Senator Lowenthal. Senator
21 Torlakson.

22 ASSEMBLY MEMBER TORLAKSON: Thank you,
23 Mr. Chairman and members of the public who join us on a
24 regular basis here. I am please on behalf of the
25 Legislature to recognize the outstanding service and loyal

1 service, the dedicated and effective service of **Lori Morgan**
2 and on behalf of those Board members who aren't here who
3 have served with this body as it's moved on its challenging
4 course to build the school facilities to the quality we all
5 dream of, both Senator Lowenthal, Senator Simitian, Assembly
6 Member de Leon add their congratulations to Lori, 24 years
7 of incredible service starting back in 1985.

8 Lori's been known as a problem solver, one who
9 cares about the kids that we serve in this body and on
10 behalf of the Legislature, on behalf of the State Allocation
11 Board, we'd like to present you with a special resolution of
12 commendation for your outstanding service.

13 CHAIRPERSON SHEEHY: Lori, could you come forward.

14 (Applause)

15 MS. MORGAN: Thank you so much. I feel as though
16 you're family and so I hope you can indulge me for just a
17 moment. I wanted to say a few words. This is an honor.
18 Thank you. It's with pride that I call myself a public
19 servant and my loyalty and service to this Board and
20 California's school districts -- to this Board and to
21 California's children and to the school districts and their
22 representatives and to all of the people at OPSC all
23 throughout my years, I just -- it's meant a great deal to
24 me.

25 And I couldn't have asked for -- to work with such

1 a dedicated and talented group of people and I think them
2 for all that I've learned from them and as well as my
3 mentors through the years. I've learned from everyone that
4 has crossed my path.

5 And this is a challenging and never-ending work, a
6 labor of love that I always did for the sake of my family
7 and without their love and support, I couldn't have had the
8 successes that I have had through the years.

9 I'd like to take a moment to introduce my husband,
10 my incredibly handsome and talented --

11 (Applause)

12 MS. MORGAN: And my wonderful son, he couldn't be
13 here with us today. He's hard at work and his bride to be
14 in October, Megan and Nic. So I send my love to them at
15 home.

16 I will treasure my years in service to this Board
17 forever and I just want to thank everybody very much.

18 (Applause)

19 MS. MORGAN: Thank you.

20 CHAIRPERSON SHEEHY: Thank you very much, Senator
21 Torlakson and, Lori --

22 MS. MORGAN: Thank you.

23 CHAIRPERSON SHEEHY: -- thank you for all of your
24 years of service. You know, I had the tough job of filling
25 Anne Sheehan's shoes. The first thing she told me she said,

1 look, if you ever really get stuck on something, even if
2 it's late at night, she says call Lori Morgan. She said
3 she'll know the answer and she'll be able to bail you out.
4 And so, you know, we all think very highly of you and we're
5 just so proud of all the service that you've provided to
6 OPSC and the State of California, Lori. Thank you so much.

7 MS. MORGAN: Thank you.

8 MR. HARVEY: And we still have that phone number.

9 MS. MORGAN: That's okay.

10 CHAIRPERSON SHEEHY: Okay. Now I have another
11 guest here today who's not on the agenda but that I'd like
12 to introduce to you. The Governor appointed Laura Chick to
13 be our Inspector General for the federal recovery funds.
14 The federal recovery funds is the American Reinvestment Act
15 signed into law by President Barak Obama in February and
16 Laura's going to help make sure that the funds are accounted
17 for and spent properly, and of course one of her interests
18 here I think will be our bond program because we are in fact
19 using the Build the America Bonds. Ms. Chick, would you
20 like to come forward and say hello to the Board.

21 MS. CHICK: Certainly. Good afternoon -- or --
22 well, is it working? That button? Now it's working. And I
23 know most people hesitate on my name. It's actually Chick.

24 CHAIRPERSON SHEEHY: I apologize.

25 MS. CHICK: No. It's okay. I think -- I

1 understand why you hesitate.

2 CHAIRPERSON SHEEHY: Better you said that than me.

3 MS. CHICK: Well, and my title used to be Controller
4 Chick and some people got it mixed up with Controlling
5 Chick. So now I'm Inspector General Chick. But anyway
6 thank you very much. It's a pleasure to be here and I'm on
7 a steep learning curve from the City of LA, but eager to
8 take in as much information as possible and thank you for
9 your good work and I'm just pleased to be here and looking
10 forward to working more with you.

11 CHAIRPERSON SHEEHY: Thank you very much,
12 Ms. Chick.

13 MS. CHICK: Thank you.

14 (Applause)

15 CHAIRPERSON SHEEHY: Yes. Assemblywoman Brownley.

16 ASSEMBLY MEMBER BROWNLEY: Yes. I just wanted to
17 extend my warm welcome to Laura. I had the opportunity -- I
18 think I might be the only Southern Californian
19 representative here along with Ms. Girard, but we've had the
20 opportunity to see Laura's work firsthand for the City of
21 Los Angeles and the Governor has made an absolutely fabulous
22 decision in appointing her in this position and I know she
23 will be a good rudder for us all and will make sure that the
24 state moves in the right direction and that we spend our
25 money wisely and effectively, fairly and efficiently, and

1 I'm just delighted that she's here and has an extra set of
2 eyes on the work that we're doing. Thank you.

3 CHAIRPERSON SHEEHY: Great. Thank you very much,
4 Ms. Brownley.

5 MS. CHICK: Thank you, Assembly Member.

6 CHAIRPERSON SHEEHY: Other comments from members?
7 Seeing none, okay, Rob, why don't we move to your **Executive**
8 **Officer's Statement.**

9 MR. COOK: Thank you. I have fortunately some
10 very good news to share with folks today and it's related to
11 the March and April bond sales. I want to note at the
12 outset that we were asked to set a standing item for funding
13 on our agenda; handling it through the Executive Officer's
14 Statement at this round because our success has been so
15 high. But we will have that on our -- as a standing item if
16 there are issues that we need to deal with on future
17 agendas.

18 But in the March round, this program -- March
19 round of bond sales, this program received \$548 million all
20 out of Proposition 1D. In the April sale of Build America
21 Bonds, this program received approximately just under
22 \$1.44 billion. Combined we're at about 1.98, \$1.99 billion
23 which is the most that any infrastructure program in the
24 State of California has received through the bond sales,
25 including 700 million -- by \$700 million more than the next

1 infrastructure program.

2 And given that the state is not the contractor and
3 not the liable party to many of -- to the infrastructure
4 projects that we fund, that commitment should be lost on no
5 one. That's a sizeable commitment by the State of
6 California for this.

7 That still leaves us short of funds to cover all
8 of the projects that have been apportioned. There were
9 \$2.4 billion in projects that were apportioned. We're a
10 little over \$400 million short of being able to cover all of
11 those, but we will be able to release funds to every project
12 that has a valid fund release before us today.

13 And if you'd asked me whether we'd be in that
14 position back in February, I would not have believed our
15 current state of affairs. So I think that's excellent news.

16 I will also give you an update on the release of
17 funds under the March bond sale. There's 548 million. Most
18 of that money is out on the street today. We're literally
19 down to one district that is looking for some contract
20 documents. Everybody is either money is in their hands or
21 it's on the way to them. So we're highly successful in
22 moving that money out on the street and we look forward --
23 we've done recent certifications for the April bond sale.
24 We will be moving those funds out to districts very quickly.

25 Then at our last Board meeting, Senator Hancock

1 asked us to distribute a letter to school districts to
2 encourage them to take advantage of our high performance
3 incentive grant program. Behind the Executive Officer's
4 Statement, you will find that letter that as issued on
5 May 19th. It provides districts some basic information
6 about the program as well as the regulations, links to
7 Collaborative for High Performing Schools, links to LEED for
8 schools, and to the Division of State Architects Grid
9 Neutral Guidebook which we had some hand in developing as
10 basic information for school districts.

11 You will note a letter that was sent on May 11th
12 from the State Architect and I to school districts
13 encouraging them to take advantage of the Grid Neutral
14 Guidebook and the Grid Neutral Program that have been
15 developed and that's there for your information.

16 We also recently went through some efforts to
17 streamline our internal operations and one of the things
18 that we assessed in developing the Board books that are
19 before you, we run through about 30 cases of paper every
20 month, which means that we -- there are a couple forests we
21 have our name on out there.

22 We have looked at how we streamline our operations
23 and of course we'll deliver hard copy to Board members, but
24 we're going to be encouraging school districts and others
25 who are of interest, we're going to be posting our Board

1 books online. In fact posted today the first edition -- but
2 to encourage folks to go and draw down what they -- go
3 online and get the items they wish without having to go
4 through the expense of a, in this case, 508 page document
5 that many districts care about one or two or three items.

6 The current process is to copy all of that and
7 give it to them even if they only want two or three pages.
8 So we look forward to that, encouraging districts to take
9 advantage of that option and obtain their information
10 electronically rather than hard copy.

11 With that, that concludes my remarks.

12 CHAIRPERSON SHEEHY: I have one more thing I'd
13 like to add and then I'm going to have Ms. Moore. Also,
14 Rob, I believe at the last meeting there was a request to
15 have as a standing item through the end of this year a
16 status of funds in light of our bond situation of fund
17 releases.

18 I know you covered that in your Executive
19 Officer's Statement today and I'm sure the Board members
20 appreciate that, but I think it would be helpful for others
21 and for us to have that as a standing item at least through
22 the end of this year. Hopefully by the end of this year,
23 we'll be in a little firmer standing. Ms. Brownley --
24 Ms. Moore. I'm sorry. Why do I do that, Kathleen. I
25 apologize.

1 MS. MOORE: Kathleen. It's great company, so
2 you're --

3 CHAIRPERSON SHEEHY: Kathleen -- I'm very sorry.

4 MS. MOORE: -- anytime. I just want to -- so
5 the -- Rob, the entire -- or the entire agenda is available
6 online, all 500 pages? So anybody could access any portion
7 of it?

8 MR. COOK: Yes. It's all online. It's on our
9 Website right now.

10 MS. MOORE: That's great. Thank you.

11 CHAIRPERSON SHEEHY: Ms. Brownley.

12 ASSEMBLY MEMBER BROWNLEY: I just want to thank
13 you for taking that step in terms of getting the agenda
14 online and I also in terms of a status report that the Chair
15 spoke of, I think that would also be a great thing to add.
16 The most information we can get online so that school
17 districts and the public can see it and get the most
18 current, up-to-date information I think will be very
19 helpful.

20 CHAIRPERSON SHEEHY: Thank you. And for those of
21 you out there listening that are always looking for more
22 information, check the Department of Finance Website from
23 time to time. I think the most recent budget letters -- so
24 every time we issue a budget letter, we put it on our
25 Website -- gives a pretty good recap of what the Treasurer

1 was able to do in terms of bond sales, the taxable bonds as
2 well as the Build America Bonds and how those proceeds have
3 been utilized and specifically how much of him went into the
4 school facilities program. So I would also encourage you,
5 if you're looking for even more information, please feel
6 free to check Finance. Senator Hancock.

7 SENATOR HANCOCK: Yeah. Again -- also this is a
8 good report with steps forward in many, many areas. I have
9 an informational question since I'm still relatively new to
10 the Board.

11 When we get almost \$2 billion, which is wonderful
12 news, does it go -- you know, they're for three different
13 bond measures essentially, is it just for new and
14 modernization general construction? What happens to say the
15 high performance account, the seismic account, some of those
16 subaccounts? How does, you know, the gross sum of monies
17 get divided?

18 MR. COOK: Those funds are available to any
19 apportioned project out of those bond funds. So it can go
20 from critically overcrowded school programs in Prop. 47 or
21 55. It can -- any of the programs that are authorized under
22 those bonds have funds available to them.

23 SENATOR HANCOCK: Great. Thank you. Thank you
24 very much.

25 CHAIRPERSON SHEEHY: Okay. Are there other

1 questions or comments from Board members. Mr. Harvey.

2 MR. HARVEY: I have one that came out of a
3 discussion -- a family discussion at Memorial Day and I've
4 got a question of staff and I would like perhaps some input
5 from all of you because it was most interesting.

6 We were talking about all the good things we try
7 to do through our bond program and I was able to allude to
8 what we got from the Treasurer's sale and also the Build
9 America Bonds, but I also went on to talk a little bit about
10 something I mentioned a meeting or two ago where our State
11 Architect took the time to develop a program that said if
12 you are self-funded, you're not going to get dollars from
13 the state, and you can put the shovel in the ground within
14 75 days, we're going to expedite that because you don't have
15 to go to OPSC. It's consistent with getting money in the
16 street and let's go. That'll be a Category I fund and I
17 mentioned that and my grandson said they're certifying
18 they're not coming to the state, that is your Board, right,
19 because they're self-funded. And I said, yeah, that's all
20 part of it. The superintendent certifies that he's going to
21 use his own dollars or federal stimulus dollars and not any
22 state bond money.

23 What happens if they do? And I said well,
24 99.9 percent of the district would never do that. They're
25 certifying that they're never going to go to OPSC. That was

1 the promised they made.

2 But, Grandpa, what if they do? So I ask, do we
3 have a way of cross-referencing those Category I programs
4 that DSA has stamped, put through the system. School
5 districts are building their schools. What happens if they
6 say there's no sanction here. We'll apply to OPSC and get
7 some bond dollars to make up half our costs. Do we have a
8 way of tracking that? Do we have a way of saying no, you
9 can't? Do we have a way of saying to a cheater, no, you
10 can't? I want to give my grandson an answer.

11 CHAIRPERSON SHEEHY: Rob, before you address that
12 point, I think it -- I think we're going to have to hook --
13 was that your grandson, Scott?

14 MR. HARVEY: Yep.

15 CHAIRPERSON SHEEHY: I think we're going to have
16 to hook Mr. Harvey's grandson up with Ms. Chick because I
17 think he's got a future as an auditor.

18 MR. COOK: Mr. Harvey, we do not -- while we use
19 common project tracking numbers with the Division of State
20 Architect so a project that goes before the State Architect
21 has got a number that transfers over to our organization and
22 that number is in common -- let's call that a Social
23 Security number on the project -- we don't have any
24 mechanism to -- you know, to identify or certainly haven't
25 established any procedures with the Division of State

1 Architect to identify anyone who would maybe certify to the
2 Division of State Architect one thing and then do another by
3 submitting an application to our office.

4 MR. HARVEY: But you have a common number.
5 There's got to be a way of doing it. I don't know if any of
6 you -- I think it's very remote, but I think frankly there
7 should be a sanction if somebody pledges they're not going
8 to do it but because there's nothing we've said to prohibit
9 them, they come and get state bond money.

10 Now, I don't know -- I'm not asking for the answer
11 today, but I'm wondering if there's not some way that
12 between you and the Division of State Architect we can
13 develop something that says, no, you're not going to do
14 that.

15 CHAIRPERSON SHEEHY: Mr. Harvey, I just want to
16 make sure we're not coming up with a problem in search of a
17 solution. Is that the right term? I mean is this -- I mean
18 do we -- do -- it's a valid concern, but do we actually have
19 any complaints that this is actually a problem?

20 MR. HARVEY: I can't cite any, but I -- again
21 maybe it's the auditor in me. I mean I'm trying to just say
22 do we have a mechanism that recognizes it somehow and maybe
23 we should hear some options.

24 CHAIRPERSON SHEEHY: Okay.

25 MR. HARVEY: I'm not trying to make --

1 CHAIRPERSON SHEEHY: We're going to take public
2 testimony on this, but since this wasn't on the agenda and
3 we can't resolve it today, is this something, Mr. Harvey,
4 that we can follow up on?

5 MR. HARVEY: That's -- I was asking for some of
6 your input on it.

7 CHAIRPERSON SHEEHY: Sure. Mr. Duffy.

8 MR. HARVEY: I'm hoping we can follow up on it.
9 I'm not asking for action today.

10 CHAIRPERSON SHEEHY: Okay. Great. Mr. Duffy.

11 MR. DUFFY: Thank you. Mr. Chairman, members, Tom
12 Duffy for C.A.S.H. It's important that you know that when
13 we discovered that this concept of having your own cash, not
14 coming to the state, being shovel ready, and therefore being
15 first in line for approval, we objected to that verbally.
16 We said that's not the way the program works and in fact we
17 don't think that that's a prudent thing to do because during
18 the time when this first began, we were still struggling
19 with even funding.

20 You just heard from Mr. Cook the wonderful level
21 of funding, but during the time that this was being
22 discussed, the first phases of it anyway, as we were
23 understanding it before it was in writing, we objected to
24 it.

25 When it took further shape and we saw that there

1 were four levels of identity for projects, basically those
2 that could pay their own way and not come to the state at
3 all, those that could bridge finance and come to the state
4 later, those that could not pay their own projects but had
5 to in essence be hardship projects or projects that could
6 not even bridge being in the third category and the fourth
7 category time sensitive projects, we said we really should
8 have a discussion of this because what this is doing is it
9 is taking California back about 40 years and saying that
10 your level of wealth in your school district gives you a
11 priority in educating your children.

12 When this continued on and became something that
13 was a written document, we sent a letter to the Governor and
14 we identified that this was really something that we would
15 not agree with and could not agree with, that it indeed turn
16 back time, and what I was referring to, although I didn't
17 write this in the letter, was the Serrano decision when John
18 Serrano, a parent in Baldwin Park, sued Ivy Baker Priest,
19 the Treasurer of California, saying that the system of
20 funding for operations is really unfair because in Beverly
21 Hills we have a lower tax rate and yield more money than in
22 Baldwin Park that has a higher tax rate and yields less
23 money.

24 And the Supreme Court of California agreed with
25 that. We think that there may be different issues here, but

1 the concept is the same. I was responded to by
2 Mr. Aguire (ph) who basically confirmed that this is very
3 good policy, that it's having your own funds and being
4 shovel ready, being first to be approved is really the way
5 to get projects on the street.

6 Our response to that is because of circumstances
7 in California that have been resolved to some degree and in
8 a large degree because of the bond sales, we held up a
9 number of districts who had signed contracts from having
10 funds and really put them at risk and we've talked to you
11 about that.

12 So we think that there's really inconsistent
13 thinking with this and be pleased to dialogue with you,
14 Mr. Harvey, at any length that you would like on this --

15 MR. HARVEY: Well, let's do it because let's be
16 honest. This was initiated at a time when there was no bond
17 money at all and as a way of getting some programs going,
18 this was conceived as something to do that.

19 Now maybe we can talk about whether it's still
20 timely or not, but let's be fair about the fact that we had
21 nothing going on. We had \$2 billion of authorizations with
22 no one doing anything at all. This was a way of making sure
23 some school districts got some money to build facilities for
24 kids. So let's be honest about how it started and I'll be
25 very happy -- we're going to have a later report on this

1 apparently -- to dialogue with you about whether it's run
2 its course or not. But it started in good faith.

3 MR. DUFFY: And I will accept that assurance that
4 that's how it started, but as you noted a moment ago -- and
5 I have to disagree with you, there was a lot going on in
6 California with those apportionments. There was a
7 hundred -- 1.4 -- as Rob said, \$1.4 billion worth of
8 projects that were under contract and districts were
9 struggling to take care of those projects. We're still
10 hearing from districts that have had trouble bridging or
11 moving them forward because the state didn't come through
12 with the obligations that the statute basically put on the
13 state.

14 So I won't go further because you've got other
15 items on the agenda, but our membership is very firmly
16 against this policy and we will talk with you further about
17 this and I'll call to make an appointment to talk you,
18 but --

19 CHAIRPERSON SHEEHY: I thought we were -- I'm
20 sorry. I want -- I guess I may be the only member up here
21 that's not following this. I thought we -- weren't we doing
22 FIFO, first in, first out? We -- that was our policy,
23 wasn't it?

24 MR. HARVEY: That's the Board. This is the
25 Architect.

1 MR. COOK: That's regarding fund releases; that's
2 true. What Mr. Harvey is talking about is an approach at
3 the Division of State Architect.

4 CHAIRPERSON SHEEHY: Well, is that -- okay. So
5 that's -- but --

6 MR. DUFFY: And we want is that same thing at DSA
7 because that has been what has occurred there over time.

8 CHAIRPERSON SHEEHY: This sounds like obviously a
9 very important issue, but I'm just wondering is this issue
10 with the Division of the State Architect, is that an issue
11 that this body may address. I'm not sure we -- I mean it's
12 an issue that sounds like it needs to be addressed, but is
13 that --

14 MR. DUFFY: Well, Mr. Harvey I think was asking
15 for some connection between DSA and OPSC for sanctions for
16 someone that said I -- that's what I was understanding
17 anyway, Mr. Harvey --

18 CHAIRPERSON SHEEHY: Yeah.

19 MR. DUFFY: -- where someone that signed off and
20 said, you know what, we're not going to come to the state
21 for any funding, but then thereafter for whatever reason
22 says, you know what, we really need to come to you for
23 funding and I think Mr. Harvey was asking for a mechanism to
24 say there's a transference of information to say there's a
25 blockage that the district in those first categories that

1 the preference districts basically couldn't change their
2 mind.

3 CHAIRPERSON SHEEHY: Okay.

4 MR. DUFFY: And I believe that there's no
5 substance within statute for the state to do this --

6 CHAIRPERSON SHEEHY: Okay.

7 MR. DUFFY: -- and I believe in fact that statute
8 supports our position by statute and also on practice.

9 CHAIRPERSON SHEEHY: All right. May I make this
10 suggestion, Mr. Harvey.

11 MR. HARVEY: Sure.

12 CHAIRPERSON SHEEHY: Since this wasn't on the
13 agenda for today and obviously you've got strong feelings
14 about it and it sounds like some of the school districts do,
15 Rob, can we have this as an item for OPSC to look at, work
16 with Mr. Harvey. I'd like Mr. Duffy representing C.A.S.H.
17 and others that have an interest in this item. Maybe we
18 could have some analysis or write-up on this so that we
19 could have more of a thoughtful discussion about it because
20 it's catching me off guard. I wasn't -- I for one wasn't
21 prepared to engage in this subject today and it sounds like
22 there's some interest in it. So is that agreeable to you,
23 Mr. Harvey?

24 MR. HARVEY: Absolutely.

25 CHAIRPERSON SHEEHY: Mr. Duffy, would you be

1 willing to work with Mr. Harvey and OPSC on this issue?

2 MR. DUFFY: I would be pleased to work with
3 Mr. Harvey and Mr. Cook, Mr. Thorman, and yourself --

4 CHAIRPERSON SHEEHY: Okay.

5 MR. DUFFY: -- and whomever and thank you very
6 much again for listening to me.

7 CHAIRPERSON SHEEHY: Oh, of course. Absolutely.
8 All right. So, Rob, where are we?

9 MR. COOK: We're prepared to take up the Consent
10 Agenda.

11 CHAIRPERSON SHEEHY: All right.

12 SENATOR HANCOCK: Oh, could I just --

13 CHAIRPERSON SHEEHY: Senator Hancock.

14 SENATOR HANCOCK: I do have one other thing that
15 got triggered here and I think this is probably the
16 appropriate place to raise it. As many of you know, I have
17 been extremely concerned that we deal with the high
18 performance aspect of school construction, most particularly
19 that we deal with maximizing energy conservation which will
20 help schools in the out years and now that we're facing
21 possible cuts to education, every dollar that we save in
22 energy is really a dollar that can go to the classroom.

23 And also given the state's dire water situation,
24 if we're going into construction and modernization, even if
25 schools had not in their original applications had things

1 like low flow toilets and other water conservation measures,
2 it would be good if they could incorporate them into their
3 planning without having to go back through a big
4 bureaucratic process and I'm so pleased that we, you know,
5 print out the high performance grid and we're looking at --
6 and there was the letter that went out encouraging schools
7 to look at this.

8 But I'm hoping that we can be even more assertive
9 on behalf of the state and I'm wondering if we could get the
10 staff to work with perhaps the Implementation Committee to
11 send out another letter to schools recommending that they
12 really look at particularly the toilets, the water
13 conservation. I understand from talking with schools that
14 irrigation is another major area where water is used and
15 energy is used and make some specific recommendations around
16 the specific things they could do that are actually no more
17 expensive than -- the low flow toilets for instance are no
18 more expensive that regular toilets which use between three
19 and seven and a half gallons for every flush. And
20 literally, you know, we're talking about building peripheral
21 canals, so it seems to behoove us to try to mesh the issues
22 here.

23 And I don't think it would take a motion. I don't
24 know if it would to refer this to the staff and the
25 Implementation Committee.

1 CHAIRPERSON SHEEHY: Senator Hancock, we're going
2 to ask for input on this. I think that's a great idea. I
3 want to hear from Rob, but before I do --

4 SENATOR HANCOCK: Yes. Rob and I talked about --

5 CHAIRPERSON SHEEHY: -- I saw that Finance wanted
6 to weigh in on this issue. Please identify yourself for the
7 record.

8 MS. OROPEZA: Jeannie Oropeza with the Department
9 of Finance. We concur in identifying things that could save
10 money for schools going forward. I think we just want to be
11 cautious that we don't mandate or it appear that we mandate
12 certain activities because then we could very well end up
13 having to pay full cost of the difference in what they're
14 doing now and when the cost would be.

15 So we just want to be cautious. We agree with
16 your goal.

17 CHAIRPERSON SHEEHY: Ms. --

18 SENATOR HANCOCK: Yeah, I think that's right.
19 I -- what we want to do is call to the attention of school
20 officials who have many, many things on their mind that this
21 is something they could do with a minimum effort and
22 certainly minimum dollars if any additional dollars.

23 CHAIRPERSON SHEEHY: Ms. Hancock, I think this is
24 something that we can do. I would want to be sensitive to
25 Ms. Oropeza's comments. So is this -- I don't know if your

1 staff has drafted something or would like to work with OPSC
2 to draft such letter. I would only ask that that letter be
3 run -- if it's agreeable to you, Senator Hancock -- that
4 letter be run by Finance just to make sure we don't create
5 any mandate issues. Lord knows we're having a difficult
6 time paying the bills presented to us as they are.

7 SENATOR HANCOCK: No, no. I understand that these
8 are recommendations. Actually I'd be happy to try to do
9 that. Would we work with you, Ms. Oropeza? Mr. Sheehy, who
10 would we work with.

11 CHAIRPERSON SHEEHY: You could work with Mr. Cook
12 and, Jeannie, you want them to work with your staff or with
13 you on that issue?

14 MS. OROPEZA: Yes. We'll all work together with
15 OPSC to help you achieve that goal.

16 CHAIRPERSON SHEEHY: Okay. Will you reach out to
17 Senator Hancock's office then and then we'll have something
18 we could circulate for the whole Board to see. Okay. Is
19 there more questions or comments on that item?

20 So we were going to go to the **Consent Calendar**
21 which we're going to take up, but we'll also leave the roll
22 open so Senator Lowenthal could add on. Rob, you want to
23 walk us through -- is there anything on the Consent Calendar
24 today that we needed to comment on?

25 MR. COOK: It's simply ready for your approval.

1 CHAIRPERSON SHEEHY: Okay. Any Board members have
2 any questions or comments about the Consent Calendar.

3 SENATOR HANCOCK: Move the Consent Calendar.

4 CHAIRPERSON SHEEHY: We have a motion.

5 MS. GIRARD: Second.

6 CHAIRPERSON SHEEHY: We have a second. All in
7 favor.

8 (Ayes)

9 CHAIRPERSON SHEEHY: Okay. Tab No. 5 is the
10 **Status of Funds.**

11 MS. SILVERMAN: Good afternoon. Please turn to
12 Tab 5, page 108, Status of Funds. Proposition 1D, we will
13 processing \$34.2 million in estimated unfunded approvals
14 that represent 13 projects. Of that, additionally we also
15 will be moving forward \$31.3 million of estimated unfunded
16 approvals that represent 11 projects.

17 In the high performance category, we also will be
18 moving forward 2.6 million in estimated funding approvals;
19 in the charter category, \$10 million in unfunded approvals;
20 and that leaves a balance in Proposition 1D of 3.8 -- in
21 excess of \$3.8 million.

22 In Proposition 55, we will bringing back -- excuse
23 me -- returning funds to program in new construction as a
24 result of consent specials and the COS item, it looks like
25 we will be moving forward 342.4 million in estimated

1 unfunded approvals. That leaves \$552.1 million in
2 Proposition 55.

3 The Proposition 47 activity will be absorbing
4 costs of \$2 million in interest and administration costs.
5 In addition, there would be \$2.2 million returned back to
6 the program as a result of closeouts and recessions. That
7 leaves available in Proposition 47 \$934 million -- in excess
8 of \$934 million.

9 Flip to the next page on stamp page 109,
10 Proposition 1A activity, there'd be \$0.1 million of funds
11 being returned as a result of rescissions and closeouts.
12 That leaves a balance of Proposition 1A of 22.5 million.
13 And this leaves a total funds available for school facility
14 program in excess of \$5.384 billion.

15 In the needs assessment category with the
16 emergency repair program, we'll be moving forward
17 \$13.8 million in applications and in addition to that, we
18 have estimate project approvals of \$6.7 million, which
19 leaves a balance of \$37 million in emergency repair program
20 funding.

21 And the lease purchase program, there is no
22 activity to report, which leaves a balance of \$36.8 million
23 in the program and as far as fund release activity for the
24 month of April, we move forward \$250,524,950 and this
25 concludes the State of Funds.

1 CHAIRPERSON SHEEHY: Yes, Ms. Moore.

2 MS. MOORE: Thank you. I was wondering if we
3 could have the 700 million of the critically overcrowded
4 school funding money show that the Board took the action to
5 place that money into new construction so that anybody
6 reading this can really follow the bouncing ball a little
7 better.

8 MR. COOK: I think we can represent that. As you
9 may recall, the action that the Board took on that was --
10 authorized 700 million and we would move it on an as-needed
11 basis so that we didn't run into arbitrage issues in
12 matching those funds up with projects and also trying to
13 control the issues around bigger compliance program.

14 MS. MOORE: No. Completely understand that.
15 That's on the administrative side. This is a report and I
16 think that it would be better for us to actually show that
17 the Board took the action. Those funds now sit in a
18 different category --

19 MR. COOK: Right.

20 MS. MOORE: -- so that everyone has -- so that
21 that's just readily known.

22 MS. SILVERMAN: Well, actually to address that
23 question, we do have a footnote of a number sign symbol in
24 that fund category, and so that number sign symbol
25 obviously, if you read the fine print, it says that we have

1 motion to approve --

2 MS. MOORE: Right. I think we should make the
3 transfer on the report. I think it would be clearer to the
4 public that those funds are no longer in critically
5 overcrowded schools funds. They are in the new construction
6 funds and this is simply a report. People rely on the
7 report for their information and I think that it should show
8 the action of the Board and not be a footnote.

9 I mean tell me there's a problem with that.

10 MR. COOK: I'm sure we can find a way to represent
11 it a little bit more obviously.

12 MS. MOORE: Thank you.

13 CHAIRPERSON SHEEHY: Further questions or comments
14 of Board members on the Status of Funds. This is a
15 nonaction item, so there's no motion necessary here. So the
16 next item is -- let's see -- yes. Item 6 but I think, if I
17 can -- Ms. Garrity, how are we doing on conference
18 committee? You think we're --

19 MS. GARRITY: Should be shutting down as we speak.

20 CHAIRPERSON SHEEHY: Okay. Why don't we move to
21 Tab No. -- let's hold off on No. 6 and go to Tab No. 7,
22 please, **Facility Inspection Tool**.

23 MS. LUTSUK: Good afternoon. Masha Lutsuk with
24 the Office of Public School Construction, and the item in
25 front of you today is the revisions to the Facilities

1 Inspection Tool, otherwise conveniently known by some as the
2 FIT. This particular evaluation tool and our item in front
3 of you today is really a continuation of our implementation
4 efforts for the settlement legislation in the case of
5 Williams vs. California.

6 And the law requires the Office of Public School
7 Construction to develop an evaluation mechanism for school
8 districts and County Offices of Education to determine
9 whether school facilities are maintained in good repair or
10 not.

11 And this tool has an impact throughout the state
12 in determining good repair for both school districts and
13 County Offices of Education that conduct inspections of the
14 schools in deciles one, two, and three based on academic
15 performance index.

16 From the beginning of this function in our office,
17 we have been very thankful for the participation of members
18 of a work group that's been set up for the purpose of
19 developing the initial tool, the report to the Legislature
20 in good repair standards and that work group includes
21 participants from County Offices of Education, American
22 Civil Liberties Union, school districts, C.A.S.H., and
23 representative from the California Department of Education.

24 This group has been very active and the group
25 actually recently addressed our office with the need for

1 revisions to the facility inspection tool and the main goal
2 for the revision is to address the inherent positive bias
3 that we built into tool via mostly the calculations that we
4 built into the tool to determine the percentage of the
5 facility that it's in good repair.

6 So we reconvened the (indiscernible) in the fall
7 and winter, went through several reiterations of revisions,
8 tested them on actual inspections, and came up with a
9 document that we are including districts on. The revisions
10 begin on stamped page 116.

11 I do want to point out that the revisions are --
12 the tool has been in the field for two years and we've
13 recognize that there's been a certain amount of expertise
14 built in in using the tool and we want to point out that
15 we're not changing the methodology for the inspections.
16 We're not changing the layout of the inspections. That only
17 thing that is really changing is the calculation at the end
18 that an inspector would perform to determine the percentage
19 of the facility that's in good repair.

20 And it is important to address the positive bias
21 that have been built in. It important to note that there
22 have been in the past instances where schools with extreme
23 deficiencies were still able to get a good rating and that
24 really did fit the purpose of the settlement legislation
25 that I wanted to invoke change and improvement in the school

1 facilities throughout the state.

2 So with that we ask that the Board approves the
3 changes. We will upon approval by the Board provide
4 outreach to school districts and County Offices of Education
5 and we also ask that if approval were to be granted that the
6 effective date of the change would be July 1st of this year
7 to coincide with the beginning of the new fiscal year to
8 make it easier for everybody to have a good cutoff date.

9 CHAIRPERSON SHEEHY: Thank you, Ms. Lutsuk. Has
10 there been any opposition expressed to the use of this new
11 tool?

12 MS. LUTSUK: No. We have discussed it at the
13 Implementation Committee and provided examples actually on
14 how the old -- how the inspections would work under the old
15 method versus the new method and that's been discussed at
16 the May Implementation Committee meeting.

17 CHAIRPERSON SHEEHY: Okay. All right. So there's
18 no opposition. Question to Board members? Seeing none, is
19 there a motion to approve Item 7?

20 ASSEMBLY MEMBER FULLER: So moved.

21 CHAIRPERSON SHEEHY: We have a motion.

22 MS. MOORE: Second and a comment just that -- for
23 the record that we received a letter of support from Brook
24 Selland (ph) of the ACLU in support of this item which I
25 think is important as they were a critical part of putting

1 this program together.

2 CHAIRPERSON SHEEHY: Excellent. Thank you,
3 Ms. Moore. All in favor.

4 (Ayes)

5 CHAIRPERSON SHEEHY: Okay.

6 MS. LUTSUK: Thank you.

7 CHAIRPERSON SHEEHY: So Item 7 is approved.

8 ASSEMBLY MEMBER BROWNLEY: That was with the
9 revisions; correct?

10 MR. HARVEY: Yes.

11 CHAIRPERSON SHEEHY: I'm sorry. Was there a
12 question about the -- yes.

13 ASSEMBLY MEMBER BROWNLEY: Yes. With the
14 revisions.

15 CHAIRPERSON SHEEHY: Yeah. Yeah. Okay. So we're
16 going to move on then to Item No. 9, **Aspire Public Schools**.

17 MR. MIRELES: The next --

18 MR. COOK: Juan and Barbara Kampmienert of our
19 charter program.

20 MR. MIRELES: Actually the next two items, Tab 9
21 and 10, both deal with the use remaining funds in the
22 charter school facility program. Currently the Board has
23 approximately 46 million under Proposition 47 and an
24 additional 24 million available from Proposition 1D.

25 Tab 9 addresses a request by a charter school

1 organization to use part of the remaining funds from
2 Prop. 1D, while Tab 10 discusses the use of the remaining
3 funds in Proposition 1D pending the outcome of Tab 9 and the
4 remaining funds in Proposition 47.

5 Both of these items were discussed at the April
6 Implementation Committee meetings as well as a separate
7 meeting with the charter school community. While we didn't
8 have general consensus on either of the meetings, we did
9 provide various options that are discussed in our outline in
10 the items before you.

11 So specifically with Tab 9, beginning on stamped
12 page 140, the Aspire Public Schools is requesting to use
13 part of the remaining 24 million under 1D to fund the
14 Clarendon project which is the next one in line to receive
15 funding.

16 The Clarendon project requested a preliminary
17 apportionment under Proposition 1D in the amount of
18 approximately 42 million. However, since the Board only had
19 24 million available, the project was not funded.

20 Aspire did receive a preliminary apportionment for
21 another project under 1D, named the Antonio Maria Lugo
22 Academy project for a total of 32 million. Aspire is
23 requesting a reduction of site acquisition allowances for
24 both projects to enable the Board to award preliminary
25 apportionment for the Clarendon project.

1 MS. KAMPMIENERT: There is precedent from
2 Proposition 55 regarding this issue. The initial requests
3 for the last project that was funded in that round did
4 exceed the funds that were available at the time and staff
5 offered the charter school the choice to reduce their
6 request in order to receive funds.

7 This offer was not made to Aspire in the Prop. 1D
8 filing round as it did appear that the funding deficiency
9 would impede their ability to actually complete the project.
10 However, Aspire has justified their request based on reduced
11 land costs for both of the projects while maintaining the
12 same construction budget that was originally proposed.

13 The options presented for the Board's
14 consideration on this item are to either approve or deny
15 Aspire's request and if the Board chooses to approve this
16 request, the approval wouldn't guarantee a timeline for
17 funding and it would be considered an unfunded approval.

18 For Tab 10, as Juan mentioned, deals with the
19 remaining charter school funds and in this item there are
20 several options that came out at our stakeholder meetings.

21 Staff is recommending option 1 and what option 1
22 does is establish a new filing round that would open on July
23 1st of this year and it holds that filing round open for
24 eight months after preliminary apportionments are awarded.
25 The benefits to this option include that it is equitable to

1 all applicants including those charter schools that were
2 unable to apply for the previous rounds of funding.

3 Also this funding round can occur quickly by using
4 the existing requirements and regulations that are already
5 in place for the program. Keeping the item open for a
6 limited term balances the desire for an unfunded list which
7 was something that we did hear from a lot of stakeholders
8 and it balances it with the need to apply the funding system
9 that is currently in existence using data that is reasonably
10 current.

11 Also keeping the item open for a limited term
12 potentially allows for the redistribution of any remaining
13 Proposition 55 funds that may come back in to the program
14 after that filing round closes out. And this concludes our
15 presentation on both of these items and we'd be happy to
16 address any questions.

17 CHAIRPERSON SHEEHY: Is there somebody here from
18 Aspire that would like to address the Board?

19 MR. ROBITAILLE: Yes. Mr. Chairman, Charles
20 Robitaille from Aspire Public Schools. I'm the Director of
21 Real Estate.

22 Really I think rather than being repetitive here,
23 the main thing I would like to bring out here is the
24 apportionments that were originally being entertained by the
25 state and the State Allocation Board were funds that were

1 really, for lack of a better word, inflated from what the
2 actual funds we really needed. As a result of that,
3 particularly in the land acquisition side of it, there was
4 something like \$15 million on each side on properties that
5 we know we could acquire in Los Angeles for somewhere in the
6 4 to \$5 million range, possibly 6 at the most.

7 So we were able to look at the numbers that we
8 were apportioned and say look, I don't need all this for
9 land. Why don't we take that on both sides -- the Antonio
10 Maria Lugo apportionment and the Clarendon apportionment,
11 combine those, and put it back into the Clarendon
12 apportionment where I could then fund another much needed
13 facility in the Huntington Park. That is terribly
14 overcrowded and I know we could really -- the community
15 could really use this facility.

16 So to that end, I respectfully request approval of
17 your -- of this request so hopefully we can get this done.

18 CHAIRPERSON SHEEHY: Thank you, Ms. Brown --
19 Ms. -- Kathleen. Kathleen.

20 MS. MOORE: Yes, Chuck. Mr. Robitaille, I did
21 have a question. I just wanted to ensure that the reduction
22 is actually in the site acquisition costs and it is not in
23 reduced acreage for these projects. I'm aware of the
24 acreage amounts currently. They are small. We would have
25 an educational concern if they were reduced. So I just

1 wanted that assurance.

2 MR. ROBITAILLE: It's a reduction in dollars and
3 not size at the site.

4 MS. MOORE: Thank you.

5 MR. ROBITAILLE: Okay. Thank you.

6 CHAIRPERSON SHEEHY: Thank you, Kathleen.

7 ASSEMBLY MEMBER TORLAKSON: Mr. Chairman.

8 CHAIRPERSON SHEEHY: Yes, Senator.

9 ASSEMBLY MEMBER TORLAKSON: I would move approval
10 of that item on the Aspire and on alternative 1 on the rest
11 of the report.

12 MS. MOORE: I'd second.

13 CHAIRPERSON SHEEHY: Okay. So we have a motion
14 and a second. Was there additional public comment? Yes,
15 sir.

16 MR. MILLER: Good afternoon. My name is Colin
17 Miller. I'm with the California Charter School Association
18 and we do support the Aspire request as well. And on the
19 other item, the Allocation funds, we really appreciate the
20 work that the staff have done. One of -- gone around the
21 state talking to charter schools.

22 It is clear that there is a really strong
23 consensus on how to reallocate these funds. We're a little
24 bit concerned with option 1 just because it does seem to
25 create a whole new process for what is relatively a very,

1 very small amount of funds.

2 Right now there are about 50 projects that were
3 not funded under Prop. 1D that already have applications in.
4 We think there might be some way to review those and really
5 fund down that list with just kind of updating that
6 information. It might be a little more efficient than
7 reopening a whole new application process.

8 The concern of course is that, you know, the
9 school is facing the budget situations. They are -- their
10 resources are tight. The resources needed to really pay
11 attention and put in that -- a brand new application -- it's
12 pretty extensive. And we're really looking at money that
13 was going to fund maybe two or three projects.

14 So, you know, we're looking at the staff looking
15 at, you know, 50 to 100 new applications for the point of,
16 you know, funding two or three projects. There may have
17 been a more efficient way to get at it and we'd like to look
18 at that.

19 We also would just note that if you want to go
20 with option 1 that we would request that you not go hard and
21 fast to the eight month limit on that, that you just allow
22 whatever those projects are to be considered once the 55
23 funds are reverted to the extent that there are any so that
24 you don't have to go through this process again, so that you
25 actually have a process in place that will automatically

1 fund those projects once those funds come back. Thank you
2 very much.

3 CHAIRPERSON SHEEHY: Okay. Those are excellent
4 suggestions.

5 ASSEMBLY MEMBER TORLAKSON: Could we have staff
6 respond to it sounds like logical and some efficiencies
7 could be achieved. If we could hear from staff, maybe we
8 could modify the motion to reflect that.

9 MR. MIRELES: Well, we can certainly go down a
10 list under Proposition 1D. One of the things that we would
11 need to clarify is if we update the information. Part of
12 the process for the charter schools is that we use
13 information that changes annually which is at this point
14 outdated. So we would have to freeze the list and everybody
15 would be in the same understanding that we're not going to
16 update for any of the projects.

17 So we can certainly do that. Another component of
18 this is that these charter schools are still going to have
19 to go through another financial soundness review by the
20 Treasurer's office. So it's not just a simple matter of
21 going down the list. Because these apportionments had been
22 made some time ago, we would ask the Treasurer's office to
23 reevaluate to make sure that they're still financially
24 sound.

25 CHAIRPERSON SHEEHY: Mr. Harvey.

1 MR. HARVEY: One other point if I could. It seems
2 to me the other issue that I was wrestling with because I
3 certainly saw -- not a lot of money. How many schools are
4 we really going to fund -- the efficiency tradeoff with the
5 equity tradeoff. That is by at least opening it up to
6 districts that did not apply last time, were not ready to
7 apply, could at least, if we open it up, start at ground
8 zero and compete with all others and since the information
9 is dated and we've got this other thing with the Treasurer,
10 I'm comfortable with option 1.

11 CHAIRPERSON SHEEHY: Okay. So -- Ms. Brownley.

12 ASSEMBLY MEMBER BROWNLEY: Just before we vote on
13 this measure, I just wanted to say that I've had an
14 opportunity to visit several Aspire Schools up in Oakland,
15 California, and they really are doing some -- I believe some
16 really extraordinary work and so I just want to complement
17 them on the work they are doing.

18 CHAIRPERSON SHEEHY: Excellent. So, members,
19 where are we on the motion then?

20 MR. MIRELES: Mr. Chair, if I can. Can we just
21 clarify that we're taking the action on Tab 9 first --

22 MR. HARVEY: Yes.

23 MR. MIRELES: -- and then moving on to Tab 10?

24 CHAIRPERSON SHEEHY: Correct. So we have a motion
25 to approve the staff recommendation on Item 9 for Aspire and

1 then we had some suggestions made and I think Mr. Torlakson
2 wanted to know if we could -- if we might need to modify the
3 motion to incorporate some of that. Rob, can you help us
4 with that?

5 MR. COOK: Okay. Well, as Juan laid out, the
6 approach that we would need -- okay. If we were to freeze
7 on -- and just apply any available funds to those who
8 applied under Prop. 1D, we'd have to take a look at those
9 who are out of the money on Prop. 1D, update information
10 from them, and retumble that list because the information is
11 dated, and they would also need to be submitted before the
12 California School Finance Authority and the Treasurer's
13 office for financial review.

14 The benefit to that is it's faster. It reduces
15 the application period for -- I mean people don't have to go
16 through a whole new application. The downside to that is it
17 does not create an opportunity for anybody who wasn't ready
18 in the last round to come in for -- to compete for funding.

19 And it was that issue that really kind of turned
20 given that we had dated information in the old applications
21 and that we were cutting out anyone who might have an
22 opportunity to come in now. Those were the reasons why
23 we're proposing option 1.

24 It's not -- there are winners and losers in both
25 cases. It's not clear-cut.

1 ASSEMBLY MEMBER TORLAKSON: Is it clear-cut
2 that -- if the ones that were previously went and fully
3 qualified with the Treasurer's review, et cetera, that there
4 would be no money left for any new schools to apply? Is
5 that clear-cut or --

6 MR. COOK: Yeah. We're dealing with if you
7 approve the Aspire request, there's a little over
8 \$50 million that's available and I think Mr. Robitaille --
9 or pardon me -- that does turn into about two or three
10 projects out there. It's not a lot to work with.

11 SENATOR HANCOCK: And how many projects are on the
12 waiting list?

13 MS. KAMPMIENERT: There are about 50 that were not
14 funded in the Prop. 1D filing round, so there are about
15 50 --

16 SENATOR HANCOCK: Well, it seems to me that that
17 makes the case for taking the top three of the 50 and moving
18 forward because of the economic stimulus if nothing else
19 that we'd get from getting the money out on the street.
20 Because if it is first come, first served, other people who
21 apply are going to just get on the list, right, waiting for
22 more bonds or more bonds to be sold.

23 MR. HARVEY: I think --

24 SENATOR HANCOCK: So I think the suggestion that
25 was made was very good.

1 MR. HARVEY: If you could just go down the list,
2 I'd agree with you, but what I heard is you've got to go
3 back out and validate information. You're got to go to the
4 Treasurer for a financial check. It's almost like you're
5 starting fresh and by going to the old list, you're not
6 allowing those that are outside the bubble competing, so --

7 SENATOR HANCOCK: But what are we going to do?
8 Move somebody else up ahead of the 50 projects that were in
9 line?

10 MR. HARVEY: Based on new information --

11 SENATOR HANCOCK: It sounds to me like --

12 MR. HARVEY: -- and new financials, that's what we
13 do.

14 SENATOR HANCOCK: Okay. And I thought I
15 understood that it was first come, first on the list now if
16 you qualify.

17 MS. KAMPMIENERT: This program's actually very
18 competitive given the limited amount of funding and the
19 large number of applications. There are criteria set out in
20 the statute that define how we are to rank the projects if
21 we are oversubscribed, so there are about I think it's 12
22 categories in which an application can be funded.

23 So if we use the Proposition 1D list with updated
24 information, it will change the order of the projects, so it
25 may not just be the next few that are in line unless the old

1 information is used, but the old information is -- I believe
2 it's over two years old at this point, so that would be a
3 concern.

4 Mr. Miller from the association also brought up
5 an issue about extending the eight-month deadline if the
6 Board were to select option 1 and that is something that
7 would be possible to hold that open potentially. The only
8 concern we have there is the same as with using the old
9 data. We don't know when Proposition 55 funds will become
10 available or if there will be any available.

11 So it would need to be a decision whether or not
12 we phrase the data points to hold that open knowing that the
13 data is going to get older and older as that date gets
14 pushed out, that it is not to be considered.

15 CHAIRPERSON SHEEHY: Mr. Torlakson.

16 ASSEMBLY MEMBER TORLAKSON: Okay. So we're
17 getting some good information. I would to follow on Senator
18 Hancock's comment. Is there a way to proceed sort of a
19 modified 1 alternative to allow those districts that had
20 qualified before to see if they still test out as being
21 fiscally sound and ready to go since they had competed and
22 had gotten in the queue to allow that vetting and process to
23 take place, but to have the rest of the one recommendation
24 kick in if they're found not to be able to move forward and
25 not to be able to use the money that then it would open it

1 up.

2 I do hear the point that Senator Hancock made that
3 these projects competed. They were ready. They may indeed
4 still be ready and if they are ready, get some money out
5 there faster and get something that had been deemed
6 appropriate to move ahead -- deemed appropriate at one time
7 to move ahead.

8 CHAIRPERSON SHEEHY: Rob, is -- Rob, what do you
9 recommend?

10 MR. COOK: If it's --

11 CHAIRPERSON SHEEHY: To try to accommodate the
12 points that Senator Hancock and Torlakson have --

13 MR. COOK: If it's the will of the Board to use
14 simply those that were not funded through -- that applied
15 under Proposition 1D and were not fund -- were -- fell out
16 of the money, we can -- that's an option before this Board.
17 We can execute that. Again we would update the information,
18 you know, and there were 50 projects that were outside of
19 the funding. So it's certainly a large pool. I'm sure that
20 with two or three fundable projects in there, there will be
21 viable projects in there that will absorb those funds --

22 CHAIRPERSON SHEEHY: But the result of that then
23 would be Aspire wouldn't get the money; correct?

24 MR. COOK: No. That's -- if the Board adopts
25 staff's recommendation under number 9 tonight, they will --

1 they were the next in line under the old information. They
2 would be -- they'd get an unfunded approval as a result of
3 that action.

4 MS. MOORE: I just have a comment on the
5 retumbling, that I see a potential issue that people were in
6 line, you know, they -- just like Aspire. We're not
7 retumbling Aspire with the recommendation that the staff
8 has. It seemed to have support here.

9 And I could see that causing some angst. So
10 somebody gets tumbled out of being in slot for funding
11 because we update their information. If we go for option --
12 I think it's 3 that's talking about using the existing list,
13 I would be more inclined unless staff tells us otherwise
14 that we use the information and go down the list
15 accordingly.

16 Otherwise if we're retumbling, why aren't we at
17 option 1 which is really both retumbling and opening up for
18 those charters that may not have been able to say I've been
19 in business for two years and avail themselves through this
20 program which is one of our requirements because it's been
21 two years since we had this funding round so to speak. Is
22 that --

23 MR. COOK: Yeah. Let me speak to the first part
24 of your comments. You may or may not recall that a couple
25 of months ago we had a charter school applicant under

1 Prop. 1D who was well out of the money that came before this
2 Board to appeal the use of a different year's data that
3 would have put them up into the money.

4 Having said that, I expect that the demand will be
5 that we retumble the Prop. 1D list. That particular project
6 would score much higher today and would be eligible for --
7 likely eligible for funding. If we don't retumble that
8 list, they won't be.

9 MR. HARVEY: I think the question is can we --

10 MR. COOK: So I expect an appeal. Let's put it
11 that way. I expect an appeal of that --

12 MS. MOORE: But do we have to retumble the list?
13 Is that a decision the Board can make?

14 MR. COOK: Absolutely. The Board can --

15 MS. MOORE: Okay.

16 MR. COOK: The Board can make that decision.

17 CHAIRPERSON SHEEHY: Okay.

18 ASSEMBLY MEMBER TORLAKSON: Can we pass Item 9 and
19 then come to a separate motion on 10. I'm leaning now more
20 towards the idea that those that have been in line, if they
21 prove out financially sound, had gotten a prior approval,
22 they're on a list, they may indeed be more ready to go and
23 to have them to go back through an application process
24 and -- doesn't seem as efficient as letting the ones that
25 had gone through before and had some level of approval prove

1 their financial soundness to proceed with the Treasurer's
2 review but not have to go back through -- they'll have to
3 provide updated financials, but they won't have to go back
4 through a whole application process. That's where I sort of
5 lean now on Item 10, along the lines of Senator Hancock's
6 comments.

7 CHAIRPERSON SHEEHY: But we still don't -- we
8 still haven't closed out Item 9, have we? I'm --

9 ASSEMBLY MEMBER BROWNLEY: No.

10 ASSEMBLY MEMBER TORLAKSON: Let's do number 9.
11 Let's close that out and we'll separate it and move 9
12 separately now.

13 CHAIRPERSON SHEEHY: Okay. So you -- Senator
14 Torlakson, was your motion then to approve the staff
15 recommendation on Item 9?

16 ASSEMBLY MEMBER TORLAKSON: To approve Aspire's
17 application, yes.

18 CHAIRPERSON SHEEHY: Option 1. Okay. So is there
19 any objection in the Board to approving Item No. 9?

20 SENATOR HANCOCK: Option 1.

21 CHAIRPERSON SHEEHY: Option 1.

22 SENATOR HANCOCK: Let's just clarify what we're
23 doing.

24 CHAIRPERSON SHEEHY: Option 1, Item 9, the staff
25 recommendation was option 1. Okay. All in favor.

1 (Ayes)

2 CHAIRPERSON SHEEHY: All right. Now, Item 10, is
3 there a motion on the floor?

4 ASSEMBLY MEMBER TORLAKSON: Trying to determine if
5 Item 3 or choice 3 gets to the kind of discussion we had or
6 that I was expressing. It was -- my preference would be to
7 allow those that had made it through the process before and
8 had been approved but for the availability of funding were
9 not approved but to have a caveat that they must meet the
10 financials clearance to make sure they're a viable project
11 still and that the institution's viable to continue its
12 charter plan.

13 MR. COOK: And if I could add to -- at least
14 insert the comment that I do believe that, just from a
15 standpoint of equity, that we would probably need to
16 retumble that data, basically get updated data from them on
17 which they would be judged because I know that there are
18 projects with later data score higher and I -- and they will
19 be before this body at some point.

20 CHAIRPERSON SHEEHY: Rob, which -- of the four
21 options that are presented in the agenda, which option's
22 closest to the view Mr. Torlakson's expressing? How would
23 we have to amend that in order to conform to what
24 Mr. Torlakson has suggested?

25 MR. MIRELES: It would be option 3.

1 CHAIRPERSON SHEEHY: Option 3. And, Juan, can we
2 take option 3 as is or do we need to amend it? Option 3
3 says continue the funding down the list from the May 2008
4 preliminary apportionment item using either the existing or
5 a revised funding priority order using updated data for the
6 funding system.

7 MR. MIRELES: It would be up to the Board to keep
8 it as is or to update it.

9 CHAIRPERSON SHEEHY: I'm sorry?

10 MR. MIRELES: We -- it would be up to the Board to
11 keep the data as is --

12 CHAIRPERSON SHEEHY: We need to make that decision
13 now to either keep the data as it is or is the term
14 retumble?

15 MR. MIRELES: Yes.

16 MR. COOK: Um-hmm.

17 CHAIRPERSON SHEEHY: Okay. So what is the will of
18 the Board? Do we want to -- yes, Ms. Fuller.

19 ASSEMBLY MEMBER FULLER: Well, I'm concerned that
20 if we -- that if we don't retumble the data, we're going to
21 have like land values and property values and projects
22 change and so we're going to have more people bringing in
23 like too much money or too little money projects and then
24 we're going to be doing this one by one.

25 On the other hand, I'm afraid that -- you know, I

1 like the idea of trying to retumble the list and giving
2 everybody who stood in line their best shot at the term, but
3 the bottom line is is that we need shovel-ready products out
4 the door. We need to get whatever money out there we can
5 get.

6 So to me I'm just trying to find what is the
7 shortest, quickest way to get money out to people who are
8 ready without creating a situation for ourselves, that we're
9 giving old figures funding that probably don't match because
10 either land values went down or construction projects went
11 down or whatever.

12 So in that case, if that's what 1 does -- if
13 that's what option 1 does, then I'm willing to support 1
14 even though at a later date I would really like to get in
15 line a better thing, but I don't think we -- you know, I
16 don't think at this time we want to hold things up to
17 retumble the whole thing or risk by not retumbling it not an
18 accurate match up of the funding giving.

19 So tell me, is 1 that or is one of the other
20 options that? Which is the fastest that does not -- that
21 gives us the least risk of having funding that doesn't
22 really fit because of old data.

23 MR. MIRELES: Just to clarify the program a little
24 bit, these are considered to be preliminary apportionments.
25 What they are is they're basically set-asides on estimated

1 costs. Charter schools then have four to five years to go
2 and get the necessary plan approvals, to come in with a
3 construction ready project if you will.

4 So at this point, it's just a set-aside and it's
5 based on estimated costs. So the data that we're talking
6 about is mostly due to changes in free and reduced lunch
7 data and enrollment data, not necessarily hard costs in
8 terms of land values. Just for example, the cost that we
9 used to determine the site acquisition allowance is based on
10 a median cost of an acre of land. Because at this point,
11 it's at very early stages of the program, they may not have
12 a site selected, so we set aside a certain amount of money
13 just to get an idea of what they're going to need in four or
14 five years.

15 ASSEMBLY MEMBER FULLER: So it doesn't stayed tied
16 up for five years then because you said set this amount
17 aside or it does?

18 MR. MIRELES: It's a reservation of funds and the
19 total amount is fixed for five years, but when they come in
20 with the plans, we take a look at the actual plans and
21 determine the actual cost just like we would with any other
22 typical new construction or modernization project.

23 So the reserves say 2 million. Then they come in
24 with the plans and we take a look at the actual costs of the
25 project and then we adjust accordingly.

1 ASSEMBLY MEMBER TORLAKSON: I wasn't sure if your
2 question was fully answered because you asked is number 1 or
3 number 3 closer to that approach with updating the data
4 somewhat.

5 CHAIRPERSON SHEEHY: I'm sorry. May I ask a
6 question? I think we're having a great discussion, but
7 would it be appropriate for us to check back in with the
8 charter association since it's their facilities that are on
9 the list. I don't know if they want to weigh in at this
10 point or -- I mean maybe they can help us.

11 ASSEMBLY MEMBER FULLER: Can we just finish the 1
12 or 3 --

13 CHAIRPERSON SHEEHY: Maybe they can help us get to
14 closure on this issue in a way that would be helpful.

15 MR. MILLER: Thank you. I appreciate the
16 conversation you're having because it's very consistent with
17 the same conversation we've been having with our --

18 CHAIRPERSON SHEEHY: I'm sorry. Could you
19 identify yourself again, sir.

20 MR. MILLER: Yeah. Colin Miller with the Charter
21 Schools Association. And it's very consistent with the type
22 of conversation we've been having for the last several
23 months with the staff and with our members and they've been
24 having with our members as well, and there isn't a clear
25 shining, you know, perfect way to do this and so, you know,

1 I just want to be clear.

2 I wanted to share some concerns and some issues
3 around that. I don't know that we have a particularly
4 strong recommendation on one way that's absolutely better
5 than another. The staff I think has done a great job in
6 laying out those options for you.

7 What I was suggesting was something that looked a
8 little bit more like option 3 probably just in terms of
9 trying to lay out what you're doing. Option 3 with
10 reshuffling the data, although I'm hearing some good
11 arguments for not reshuffling the data at this point as
12 well. So I don't know if that's at all helpful, so I mean
13 sorry --

14 MR. HARVEY: Let me try something. I too believe
15 having heard the discussion that 3 is probably the quickest
16 way of getting it out and if you start with the existing
17 funding priority, that locks that in and then the question
18 is do you want to update the information because of the
19 concerns you articulated,

20 I'm going to suggest if you take a look at number
21 3 that after using you strike either and you strike after
22 existing or a revised, so it would read --

23 CHAIRPERSON SHEEHY: I'm sorry. Strike either and
24 then what?

25 MR. HARVEY: Or a revised.

1 CHAIRPERSON SHEEHY: Strike or a revised.

2 MR. HARVEY: So it would read continue funding
3 down the Prop. 1D list from the May '08 preliminary
4 apportion item using the existing funding priority. You
5 could put a period there, if you don't want to update the
6 information, but I heard convincing arguments for the need
7 to update and if you want to update it, you would say using
8 the updated data for the funding system. And I think --

9 CHAIRPERSON SHEEHY: Yeah. Is that it?

10 MR. HARVEY: You strike those four words and I
11 think you've got it.

12 CHAIRPERSON SHEEHY: All right. Is that a motion?

13 MR. HARVEY: It's a motion.

14 SENATOR HANCOCK: Second.

15 CHAIRPERSON SHEEHY: Do we have a second? We have
16 a second. Is there additional comment by Board members? We
17 have a motion and a second?

18 MS. KAMPMIENERT: I'm sorry. One comment on that.
19 If you update the data, it changes the funding order. So I
20 don't know that that motion would actually work because
21 you're updating --

22 CHAIRPERSON SHEEHY: All right. So fine. At the
23 end of priority, we're going to put a period.

24 MR. HARVEY: That would -- I was trying to address
25 the concerns of Member Fuller, but to be -- get it out the

1 quickest possible, you put the period after order and I'll
2 amend my motion.

3 CHAIRPERSON SHEEHY: Jean, are you okay with that?

4 ASSEMBLY MEMBER FULLER: Yes.

5 CHAIRPERSON SHEEHY: Okay.

6 MS. MOORE: I just --

7 CHAIRPERSON SHEEHY: Ms. Moore.

8 MS. MOORE: I do have a comment and I'm looking at
9 the long haul and the long haul is first of all, it's my
10 understanding this program goes to the back of the line in
11 terms of any funding that's going to occur with it with the
12 situation of Pooled Money Investment. Is that correct? So
13 they are not -- they do -- they're not -- they haven't been
14 apportioned. These projects haven't been apportioned yet
15 and they will be waiting their turn for Pooled Money
16 Investment release of funds; is that correct?

17 MR. COOK: That's correct. These are -- when we
18 make an award, it will be an unfunded approval.

19 MS. MOORE: And there could be more than
20 50 million coming back to this program depending upon what
21 happens with other charter schools out there and if they,
22 you know, adjust their costs or revise. There could be more
23 money coming back. So we are locking in a subset of
24 charters that have -- that get to compete for that versus
25 option 1 that allows for more charters to compete, and I

1 just want to be clear because it isn't -- they're not going
2 to be shovel ready with -- they have five years to get
3 shovel ready.

4 So I'd like to look more at the long term of, you
5 know, what's fair to charters. Now, if the charter
6 association says they want to go with option 3 and that
7 reduces the universe and I think that's what you said,
8 Colin; is that -- are you -- is that what you're
9 recommending?

10 MR. MILLER: Yeah. I'm more for the expediency of
11 the -- you know, trying to get these things moving a little
12 quicker. It seems like opening up to a full application for
13 just three or four projects seems a bit -- not very
14 practical.

15 MS. MOORE: So that is the lay of the land. If
16 you want to continue with the motion --

17 CHAIRPERSON SHEEHY: Are you okay with the motion?

18 MS. MOORE: I prefer option 1 and I do because I
19 think that there are charters that -- I think that there's
20 going to be more money coming back to the program. I don't
21 think there's a hurry in my mind because they got to get in
22 line at the end of the Pooled Money Investment funds and
23 they have five years to perfect their project.

24 So with that -- and I agree that it may only be
25 three projects now, but it could be 12 projects when we're

1 all said and done. And we excluded some people from the
2 table. So that's where I'm coming from.

3 MR. HARVEY: Without looking wishy-washy, I may
4 want to withdraw my motion because I was really comfortable
5 with option 1 at the get-go. I mean I articulated --

6 MS. MOORE: Well, that was the first motion we
7 had.

8 CHAIRPERSON SHEEHY: Okay. Well, we could try
9 having a couple of votes here to see where the votes line
10 up. I'm willing to go -- I don't have a dog in this fight,
11 which is maybe not the right analogy, so I'm happy to go
12 along with either -- any of these motions.

13 I was prepared to support number 1 too, but I was
14 also ready to prepare [sic] number 3 as amended. So we do
15 have a motion on the floor for number 3 as amended. Did
16 you -- are we going to vote on that motion or did you want
17 to withdraw it or what are we doing, folks.

18 MR. HARVEY: I would like to withdraw the motion.

19 CHAIRPERSON SHEEHY: Okay. The staff
20 recommendation was item number 1. Ms. Moore has explained
21 that she's supporting item number 1. I think Mr. Torlakson
22 was leaning towards item number --

23 ASSEMBLY MEMBER TORLAKSON: Yeah. I'll replace
24 the motion that was just withdrawn and just put it out there
25 and let's cast the votes --

1 CHAIRPERSON SHEEHY: Okay.

2 ASSEMBLY MEMBER TORLAKSON: -- and see.

3 CHAIRPERSON SHEEHY: Mr. Torlakson --

4 ASSEMBLY MEMBER TORLAKSON: There's no clear-cut
5 deal, but I think it --

6 CHAIRPERSON SHEEHY: Mr. Torlakson is going to
7 move item 3 as amended by Mr. Harvey. let's have a vote on
8 that first. Please call the roll.

9 MS. JONES: Okay. Senator Hancock.

10 SENATOR HANCOCK: Aye.

11 MS. JONES: Assembly Member Fuller.

12 ASSEMBLY MEMBER FULLER: No.

13 MS. JONES: Assembly Member Brownley.

14 ASSEMBLY MEMBER BROWNLEY: No. b

15 MS. JONES: Assembly Member Torlakson.

16 ASSEMBLY MEMBER TORLAKSON: Aye.

17 MS. JONES: Scott Harvey.

18 MR. HARVEY: No.

19 MS. JONES: Kathleen Moore.

20 MS. MOORE: No.

21 MS. JONES: Rosario Girard.

22 MS. GIRARD: No.

23 MS. JONES: Tom Sheehy.

24 CHAIRPERSON SHEEHY: Aye.

25 MS. JONES: Well, the motion failed.

1 CHAIRPERSON SHEEHY: That motion fails. Is there
2 another motion?

3 MR. HARVEY: I would move option 1.

4 CHAIRPERSON SHEEHY: Mr. Harvey's moved option 1.
5 Is there a second?

6 MS. MOORE: I'll second with -- and also a caveat
7 that if there's any way that we can streamline the process
8 given Mr. Miller's comments, that staff try and do that.

9 CHAIRPERSON SHEEHY: Okay. So we have a motion
10 and we have a second by Ms. Moore with a request to try and
11 streamline it as much as possible. Secretary -- is there
12 any opposition to this motion?

13 MS. GIRARD: No. I don't have --

14 CHAIRPERSON SHEEHY: Okay. Let's have a roll call
15 vote.

16 ASSEMBLY MEMBER BROWNLEY: Could I just have one
17 more clarifying question. So on option 1, will we require
18 updating data? We're retumbling?

19 MS. KAMPMIENERT: Yes, we will.

20 ASSEMBLY MEMBER FULLER: Okay. All right. Thank
21 you.

22 CHAIRPERSON SHEEHY: Please call the roll.

23 MS. JONES: Okay. Senator Hancock?

24 SENATOR HANCOCK: Aye.

25 MS. JONES: Assembly Member Fuller.

1 ASSEMBLY MEMBER FULLER: Aye.
2 MS. JONES: Assembly Member Brownley.
3 ASSEMBLY MEMBER BROWNLEY: Aye.
4 MS. JONES: Assembly Member Torlakson.
5 ASSEMBLY MEMBER TORLAKSON: No.
6 MS. JONES: Scott Harvey.
7 MR. HARVEY: Aye.
8 MS. JONES: Kathleen Moore.
9 MS. MOORE: Aye.
10 MS. JONES: Rosario Girard.
11 MS. GIRARD: Aye.
12 MS. JONES: Tom Sheehy.
13 CHAIRPERSON SHEEHY: Aye.
14 MS. JONES: And that motion passes.
15 CHAIRPERSON SHEEHY: Okay. So thank you. That's
16 all for Item 10. Okay. Members, we're going to go to Item
17 No. 14 and then after this item, we're going to go back to
18 the beginning of the agenda and start picking up some of the
19 items that we passed over.
20 Item No. 14, **Implementation of SB1556.**
21 Mr. Mireles.
22 MR. MIRELES: This item includes proposed
23 regulatory amendments to implement Senate Bill 1556 which
24 allows elementary school districts that meet certain
25 criteria to establish eligibility on a high school

1 attendance area basis.

2 Staff has made minor necessary changes to
3 implement the bill. We've presented this item to the
4 Implementation Committee and have received -- or heard no
5 objections or concerns with this item.

6 So with that, the item is ready for your approval.

7 CHAIRPERSON SHEEHY: Do we have --

8 SENATOR HANCOCK: Move approval.

9 CHAIRPERSON SHEEHY: We have a motion to
10 approve --

11 MS. GIRARD: Second.

12 CHAIRPERSON SHEEHY: -- with a second by
13 Ms. Girard. Is there any public comment on this item?
14 Seeing none, all in favor.

15 (Ayes)

16 CHAIRPERSON SHEEHY: Okay. That's Item No. 14.
17 Mr. Cook, have you already handled the general obligation
18 bond report?

19 MR. COOK: No, we have not. Do you want to go to
20 the report?

21 CHAIRPERSON SHEEHY: Well, why don't we take care
22 of the two reports. Maybe by then Senator Lowenthal will be
23 here. If not, we'll go ahead and go back to the beginning
24 of the agenda. We have Item No. 16 and we have Item No. 17.
25 Why don't you start with No. 17.

1 MR. COOK: The **General Obligation Bond Report** is a
2 statutorily required report that involves both Propositions
3 55 and 1D. We -- the Office of Public School Construction
4 is required to bring forth a report to the Legislature.
5 This report has been issued to the Legislature. It details
6 every single project that is funded under either of those
7 two bond programs.

8 One update that we've done to that particular
9 report, it's a mere 200 pages because we've been kind of
10 busy and we've put out a lot of money -- is we have done
11 summaries by county so that folks can take a good look at
12 the activity that occurs within given counties.

13 We've -- to the extent that we have data
14 available, we have identified dollars per acre and
15 additional other information that you can -- that -- in fact
16 if I can turn your attention to page 13 of the report. This
17 is under Tab 17.

18 CHAIRPERSON SHEEHY: Sorry. Page 13?

19 MR. COOK: Page 13 of the report under Tab 17.

20 CHAIRPERSON SHEEHY: Okay.

21 MR. COOK: This is a statewide snapshot of funding
22 under Proposition 55. As you will note there, more than
23 \$5 billion in new construction funding more than 1,100
24 projects --

25 CHAIRPERSON SHEEHY: Sorry, Rob. I'm having a

1 hard time seeing that. Where's the 5 billion?

2 MR. COOK: It's up at the very top of that page,
3 Attachment -- it's near Attachment B --

4 ASSEMBLY MEMBER BROWNLEY: It's the new
5 construction line item.

6 MR. COOK: -- Proposition 55 summary.

7 CHAIRPERSON SHEEHY: Thank you.

8 MR. COOK: But the totals overall -- and just to
9 go quickly to the summary -- more than \$9.3 billion
10 involving 2,950 projects out there and the number of acres
11 acquired, nearly 4,500 acres acquired under the various
12 programs and then we have a breakdown site funds per acre
13 that have been involved in those.

14 That's just a very high level statewide summary of
15 what was done under Proposition 55. And then a breakout
16 county by county by country throughout the state --

17 CHAIRPERSON SHEEHY: Okay.

18 MR. COOK: -- to help folks see what's going on in
19 various locales.

20 CHAIRPERSON SHEEHY: Where the money's gone.

21 MR. COOK: We provide similar information for
22 Proposition 1D.

23 CHAIRPERSON SHEEHY: Questions or comment from
24 Board members? There -- yes, Mr. Harvey. There is no
25 action required on this item. It is informational.

1 Mr. Harvey.

2 MR. HARVEY: Just a quick question given what you
3 said about posting things on the Web. I notice that the
4 letter was sent to Leg. Counsel from Mr. Bush talks in terms
5 of keeping with our commitment to encourage conservation, we
6 have posted this report to our Website.

7 Now, could we similarly do that when we send this
8 report to the joint budget committee or whomever we send
9 this to so we're not sending 200 pages to the Legislature?

10 MR. COOK: Yeah. That's the consistent approach
11 with these sorts of reports.

12 MR. HARVEY: So that's what we do.

13 MR. COOK: That's what we have done and this is --

14 MR. HARVEY: And you just gave us the 200 pages.

15 MR. COOK: That's correct. Because you're kind of
16 old school.

17 MR. HARVEY: I know I am. I can be much better at
18 being on the Web you -- hey, send me my stuff on the Web.

19 CHAIRPERSON SHEEHY: I want you to know, Mr. Cook,
20 I recycle my notebooks.

21 MR. COOK: Um-hmm.

22 CHAIRPERSON SHEEHY: I do. I do. Good. So do
23 our other Board members.

24 MR. COOK: Yes.

25 CHAIRPERSON SHEEHY: Are there other questions or

1 comments on this item? Seeing none, we're going to go back
2 to the beginning of this agenda -- I'm sorry. We're going
3 to go back to the beginning of the agenda, start --

4 MR. HARVEY: 16?

5 CHAIRPERSON SHEEHY: Oh, I'm sorry. I apologize.
6 Item 16. We're going to do that first. This is the **report**
7 **on how many times we don't report**. Is that what it is?
8 Let's do -- I tried to skip it again, but I got caught.

9 MR. COOK: Yeah.

10 CHAIRPERSON SHEEHY: Item 16.

11 MR. COOK: It's kind of like -- you know, it keeps
12 on clicking. Anyway this report has been before the Board
13 on prior occasion. We provided for your information is a
14 simple attempt to capture information on how many times we
15 revisit issues and this particular report all by itself has
16 been revisited several times, so -- anyway, it's for your
17 information.

18 CHAIRPERSON SHEEHY: Rob, is there -- there's
19 information here. I'm sure that Board members can draw
20 their own conclusions. Is there anything that jumps out at
21 your that is informative for the Board in terms of an
22 analysis of this data? I mean what does it tell us.

23 MR. COOK: The key thing that jumps out at me is
24 that issues don't die at this Board.

25 ASSEMBLY MEMBER TORLAKSON: It's means we're

1 lively.

2 MR. HARVEY: Unless and until someone gets six
3 votes. That's the key.

4 CHAIRPERSON SHEEHY: Okay. All right. Well,
5 that's good to know. Any questions or comments on this
6 item? You can now officially take this off the agenda now
7 that we've heard the report.

8 We're going to go ahead now back to Item No. 6
9 which is the **financial needs of the State Relocatable**
10 **Classroom program**. Is this an action item, Rob, or is this
11 just a report?

12 MR. COOK: Given the budget control language
13 that's in effect, this is an informational item.

14 CHAIRPERSON SHEEHY: Okay. Ms. Moore.

15 MS. MOORE: As I -- we commented on this last
16 time. I appreciate that the control language for the
17 Education Code is in here and I think to -- the information
18 that we'll revisit this issue in December. So it's in the
19 order that we asked for it to come back to us and I for one
20 appreciate that.

21 CHAIRPERSON SHEEHY: And we're going to hear this
22 again then in December so that we -- the plan is not to be
23 preempted by the Governor's budget; is that right?

24 MS. MOORE: That's correct.

25 CHAIRPERSON SHEEHY: That's the plan? We had a

1 pretty full discussion about this last time. Ms. Brownley,
2 I think you might have come in on the tail end and missed
3 it, but because of -- you know, we've had a rather unusual
4 budget process the last 18 months. Hopefully going forward
5 we'll be back on more of a regular schedule.

6 Okay. So hearing no further questions or comments
7 on Item 6 --

8 MR. NANJO: I'm sorry. Mr. Chair, did I miss
9 something. I thought Item 6 was an action item.

10 CHAIRPERSON SHEEHY: No, it's not.

11 MR. NANJO: There are recommendations?

12 CHAIRPERSON SHEEHY: It's really not.

13 MR. COOK: No. The budget control language is --

14 CHAIRPERSON SHEEHY: Preempted us.

15 MR. NANJO: Okay.

16 MR. COOK: Preempts action.

17 MR. NANJO: That's fair. Thank you.

18 CHAIRPERSON SHEEHY: \$50 fine, Nanjo. Okay.

19 Okay. So at this point in the agenda, here are the items
20 that we haven't heard yet. We have not heard Murrieta which
21 I'd like to close out today. We have not heard Glendale. I
22 think there may be enough support to close Glendale today,
23 but Mr. Wyland had asked that it be put over, so I'm open to
24 what my colleagues want to do on that one. Of course we
25 need Senator Lowenthal. We -- yes, sir.

1 ASSEMBLY MEMBER TORLAKSON: Mr. Chairman, on that
2 point, is there a way that we could communicate through one
3 of staff members to Senator Wyland's office to see if
4 there's a way to let him know that the votes are apparently
5 here and there's an interest in moving ahead. Would he
6 mind -- he already cast a vote in favor of this. So I'm
7 just curious if --

8 CHAIRPERSON SHEEHY: Yes, I know. He supports it.
9 Yes, Ms. Brownley.

10 ASSEMBLY MEMBER TORLAKSON: -- we could get
11 feedback and a green light. We always like to honor a
12 colleague's request to put something over, but if he's in
13 favor of expediting it and getting it off the agenda, that
14 would be cool too.

15 CHAIRPERSON SHEEHY: And some of these school
16 districts that are here today have made multiple trips to
17 Sacramento to get their --

18 ASSEMBLY MEMBER TORLAKSON: Yes.

19 CHAIRPERSON SHEEHY: -- item closed out like
20 Murrieta, so I'm hoping we're going to resolve that issue
21 today and I think it'd be great also since Glendale's made
22 several trips up here to resolve their issue today as well
23 if we can.

24 So -- but, you know, I want to be respectful. If
25 one of you weren't here --

1 SENATOR HANCOCK: Is Glen --

2 CHAIRPERSON SHEEHY: -- I'd want to respect your
3 wishes. Ms. Hancock.

4 SENATOR HANCOCK: I just wondered if Glendale is
5 here.

6 CHAIRPERSON SHEEHY: Is Glendale here today?

7 SENATOR HANCOCK: I had heard that they weren't
8 here.

9 CHAIRPERSON SHEEHY: Is there a representative
10 from Glendale Unified here today? Because if they're not
11 here, we're putting them over.

12 MR. YOUNG: I need to check the public --

13 CHAIRPERSON SHEEHY: Bathroom?

14 MR. YOUNG: No. There's an additional viewing
15 room.

16 MS. JONES: The overflow.

17 CHAIRPERSON SHEEHY: That's -- I've never --
18 that's a first. I have not heard that one. Yes,
19 Ms. Brownley.

20 ASSEMBLY MEMBER BROWNLEY: Well, I just going to
21 say I don't know whether they're here, but I was told in
22 advance of the meeting that we weren't going to be doing
23 Glendale --

24 CHAIRPERSON SHEEHY: Okay. All right.

25 ASSEMBLY MEMBER BROWNLEY: -- and I know that

1 there have been people who have come to my office to speak
2 to me about Glendale. I do not see them in the audience, so
3 I am suspect that they are not represented here and I
4 certainly want to move ahead with Murrieta, but I think the
5 other one should be postponed until all who are concerned
6 can be --

7 CHAIRPERSON SHEEHY: Well, Ms. Brownley, all I
8 could say to that is under the general topic of no good deed
9 goes unpunished, why don't we just take it up and deny it
10 right now.

11 Okay. We're going to -- if any of you here were
12 waiting for Glendale, we're going to put that item over. So
13 that leaves us with Murrieta, seismic, the report from OSAE.
14 Why don't we take up -- well, no, I know we've got lots of
15 interest in that one. Why don't we move to the -- and we
16 also have closed session we'd like to do, but we're
17 definitely not going into closed session without our full
18 membership. So why don't we move to the **mercy clause** issue.

19 I think Mr. Cook has some statistics here he'd
20 like to go over with. Is that Item 12? Is that Tab 12?

21 ASSEMBLY MEMBER BROWNLEY: Is closed session on
22 the agenda? Did I miss it?

23 CHAIRPERSON SHEEHY: Yes, we noticed closed
24 session. We're going to make our -- we have a
25 recommendation to the Board today to make an appointment for

1 our AEO.

2 ASSEMBLY MEMBER BROWNLEY: Oh.

3 CHAIRPERSON SHEEHY: For our interim AEO. Sorry.

4 So this mercy clause issue I think was in response to a
5 request by Senator Hancock at the last meeting, I believe,
6 and --

7 MR. COOK: That's correct.

8 CHAIRPERSON SHEEHY: -- so, Rob, do you want to go
9 ahead and walk us through this item.

10 MR. COOK: Yes. If you'd turn behind Tab 12 and
11 page 151 of your book -- provide some context. Many of the
12 members of this Board are new and have not seen us in normal
13 times, but -- and we may not see normal times for a while
14 yet.

15 But I -- to provide some context on the program.
16 The voters have been generous enough to authorize more than
17 \$35 billion in this program over the last 10 years, almost
18 11 years now. 29 billion of that has been apportioned out
19 for more than 9,000 projects and that all by itself is a
20 notable achievement.

21 For calendar year 2008, this program issued more
22 than \$5 billion in funding to nearly 1,300 projects and you
23 see detail there on the various categories. And over the
24 last few months, we've been making unfunded approvals and
25 that -- the tally is pushing 1,400 projects since January of

1 2008.

2 Of those nearly 1,400 projects, 11 individual
3 projects have come forward as appeals before this Board in
4 that time frame, representing less than 1 percent of the
5 overall projects and a little over 1 percent of the funds
6 that this Board has apportioned.

7 CHAIRPERSON SHEEHY: Okay. So let me get this
8 straight. You're telling me that out of 1,400 projects
9 that's come to OPSC that have gone through your process that
10 a fraction -- a fraction of 1 percent, less than 1 percent
11 of those projects, only 11 of them, have actually had to
12 come before this Board for some sort of appeal.

13 In other words, you've been able to at OPSC
14 actually resolve the problems and work with the districts to
15 get the issues resolved so that those issues could go
16 forward; is that right?

17 MR. COOK: That's accurate.

18 CHAIRPERSON SHEEHY: Okay. I just wanted to make
19 sure I understood that. That's a pretty impressive
20 statistic at least in my mind. Please go ahead, Mr. Cook.

21 MR. COOK: Much of that success is due to a fair
22 amount of flexibility in education and outreach to districts
23 and internal processes that assist districts in moving
24 through to this Board ideally on our consent agenda, which
25 is where the overwhelming majority of our funds are

1 allocated.

2 Now, in there -- and I'd certainly like to call
3 this program the crown jewel of California's public
4 infrastructure programs and I think that's born out by our
5 success.

6 CHAIRPERSON SHEEHY: I think -- take exception to
7 that, Rob, but you're welcome to your -- you're entitled to
8 your opinion.

9 MR. COOK: Um-hmm. Part of the outreach in the
10 last calendar, our staff conducted nearly 200 outreach
11 efforts involving going out to 42 of the 58 County Offices
12 of Education and in multiple venues to educate individuals
13 on -- school districts and others on the program.

14 Staff also delivered training and presentations at
15 six different events sponsored by various organizations
16 including the Coalition for Adequate School Housing, the
17 Collaborative for High Performance Schools, and the
18 California Green Schools Summit as well as -- along with the
19 Division of the State Architect.

20 Internal processes that we have that manage issues
21 are -- we have a number of processes that help us help
22 districts get through successfully to fund fully. We track
23 on a routine basis the number of applications that come into
24 us insufficient. 39 percent of projects come in incomplete
25 at our door. Between notifications and working with

1 districts, we get that to a 97 percent pass rate at the
2 door. The 3 percent are returned to districts without
3 prejudice. They are able --

4 CHAIRPERSON SHEEHY: I'm sorry. I apologize. I
5 didn't understand that. If 39 percent show up and they
6 aren't fully complete, you get it down to 3?

7 MR. COOK: We provide notifications for districts.
8 We help them get -- you know, we identify the documents --
9 the necessary documents that they need to get into us and we
10 provide an opportunity for those districts to get a complete
11 application before us so that we can put that on our
12 workload.

13 CHAIRPERSON SHEEHY: Okay. All right. Please
14 continue.

15 MR. COOK: And the -- and again we achieve a
16 97 percent success rate at that level. And then we have
17 multiple processes. I know, Kathleen, you're quite familiar
18 with them, but the folks in the field know these as 15-day
19 letters and 4-day letters that are opportunities for folks
20 to provide additional information along the way to help to
21 get their projects ready and prepared before this Board.

22 Those processes are essential for us to be able to
23 bring projects forward in date order received and get them
24 before this Board in a definable and predictable time frame
25 and those processes are fairly successful.

1 Anyway, with all of that, we do wind up with a few
2 projects that wind up before this Board for appeals and
3 they're, as you well know, fairly substantial discussions
4 that engage on that.

5 We believe that the current processes work pretty
6 well and this Board stands as the court of appeal for those
7 projects that we can't quite make work. And so -- anyway.

8 Now, if the Board is interested in pursuing the
9 notion of a mercy clause, the Education Code has a model in
10 it for that and it's a model that's used for waivers at the
11 State Board of Education and that statute is on this item
12 here in your Board books.

13 But it lays out a process by which the State Board
14 of Education is able to waive statute and regulation and
15 other aspects of the Education Code. There are a list of
16 exceptions such -- large global issues as issues involving
17 civil rights are exempted, issues increasing cost to the
18 state are -- can't be waived, and there are specific
19 programs that cannot be waived, but it does provide a fair
20 amount of flexibility within the rest of the Education Code
21 and we would oppose that. If the Board wishes to pursue a
22 mercy clause that it be a legislative solution modeled after
23 the State Board of Education's approach.

24 MS. MOORE: Just a comment -- the comment was that
25 it -- specifically the State Board of Education is

1 prohibited from waiving any issue concerning the State
2 Allocation Board programs, so that is one that the State
3 Board of Education never hears and it by law is precluded
4 from hearing any waivers. I think appropriately so because
5 this Board hears those.

6 So just with that caveat on what they can waive.

7 CHAIRPERSON SHEEHY: Senator Hancock.

8 SENATOR HANCOCK: Yeah. I was very impressed also
9 with the large percentage of applications in this very
10 complicated area that go through and are handled in a very
11 expeditious manner and really I think that just the
12 discussions that have taken place in the very few meetings
13 I've attended have really revolved around substantial
14 compliance because I believe the Board -- I don't know if
15 the executive director or the staff have the ability to
16 determine what is substantial compliance and I don't think
17 we need a legislative solution necessarily.

18 I would -- I was thinking that maybe we could just
19 refer this to the Rules and Procedures Committee to see if
20 they don't think that substantial compliance is an adequate
21 way for us to resolve most of these things and if they
22 should think that we need to go further, we could, but --

23 CHAIRPERSON SHEEHY: So Ms. Hancock is
24 recommending that we move this item for further review?

25 SENATOR HANCOCK: Well, that we -- yeah. That we

1 simply send it to a subcommittee to have -- to look and see.
2 I mean the one thing we don't want is to -- I mean I think a
3 little discussion of the definition perhaps of substantial
4 compliance could take care of this.

5 ASSEMBLY MEMBER TORLAKSON: Tom.

6 CHAIRPERSON SHEEHY: Yes, sir.

7 ASSEMBLY MEMBER TORLAKSON: Appreciate that you
8 raised this issue, Senator Hancock. Since I've been back on
9 the Board, we've had at least two and -- three very
10 contentious and unclear situations where we felt that there
11 were there -- like the woman who had cancer. There were
12 circumstances beyond a district's control and then we got
13 into this fuzzier gray area where we're not sure if by --
14 you know, we took action, no one sued us. We're okay. But
15 we sort of define substantial compliance as what we thought
16 it was, but it wasn't necessarily something that the statute
17 might have allowed.

18 So I think the idea of sending it to a committee
19 to review is good, but I almost think that it would be
20 helpful to have a legislative fix of some kind that's very
21 narrow, but something that clarifies that the Board has the
22 ability to do that under circumstances that could be defined
23 A, B, and C types of circumstances. So like the State Board
24 of Education, it does not get into this Board's work. It
25 does not have the power to do that, but there are certain

1 areas where you could have that consideration so that we're
2 not caught sideways with legal counsel telling us this isn't
3 what we like to see done because the statutes say X, Y, and
4 Z, and yet we're doing it because we think there's been
5 substantial compliance. Do we leave ourselves open to
6 potential lawsuits in the future plus the angst and the work
7 that the districts have to go through to figure out whether
8 that appeal is a go or not and leaving things up in the air
9 so much.

10 So I would second or support this going to
11 committee, but ask the committee to look at whether a very
12 narrowly crafted procedure such as the State Board of
13 Education has might work for those unusual circumstances
14 that we've encountered.

15 CHAIRPERSON SHEEHY: Well, I think that's a great
16 idea. I certainly think those approaches are compatible.
17 They're not mutually --

18 ASSEMBLY MEMBER TORLAKSON: Yeah.

19 CHAIRPERSON SHEEHY: -- exclusive. I want to just
20 say for the record that my concern goes beyond lawsuits on
21 this issue. My concern goes to the Attorney General bond
22 validations and if we get into a situation where -- and I'm
23 not saying it has happened, but at some point in the future,
24 if this Board were to take an action that it thought there
25 was substantial compliance and somebody raised the issue and

1 the AG felt that there wasn't and that we acted outside of
2 the law, it could in fact imperil future opinions on bonds
3 which means we couldn't sell bonds -- state bonds with the
4 program. That's my biggest concern. I'm far less concerned
5 about litigation than I am about future bond validations.

6 Hasn't been a problem yet. I'm not saying it will
7 be in the future, but if I was to wake up in the middle of
8 the night concerned about something, that would be my
9 concern because that affect potentially hundreds of school
10 districts and a whole lot of construction projects.

11 Mr. Duffy.

12 MR. DUFFY: Thank you. Mr. Chairman, members, Tom
13 Duffy again for C.A.S.H. I like the idea of this discussion
14 going to your subcommittee. We have an alterative for
15 consideration that we have proposed in a letter that we've
16 sent to Mr. Sheehy and the rest of you and I'd like to
17 outline it.

18 But first -- may be help to give an alternative
19 viewpoint. The 1 percent that you talked about certainly is
20 an important statistic, but if we look back over the period
21 of the last couple of years, the hours and hours and hours
22 of hearings that you've had on projects that have been
23 appealed to you, some of which that have gone from meeting
24 to meeting and have had a great deal of contentiousness,
25 have included places like Davis and Val Verde, two from

1 San Bernardino.

2 You are in litigation as I understand it with a
3 district because the district was told that they couldn't
4 appeal to -- the issue to the Board. I know the LA item
5 that you heard some months ago on the 150 percent rule -- it
6 was actually the other Board, before the Board changed --
7 150 percent rule -- 60 percent rule was something that as
8 I'm understanding it LA was told they couldn't actually
9 appeal the issue.

10 In a conversation with us, we said we believe
11 everything's appealable to the Board. You did hear that and
12 there was a lengthy appeal.

13 What is our suggestion to assist you in the number
14 of hours and meetings that you spend on the types of issues
15 we're talking about is a place where you have a second level
16 of review.

17 Ms. Fuller and I were superintendents at the same
18 time. We dealt with grievances. A teacher would grieve a
19 contract issue to a principal. The principal would deny the
20 grievance and the teacher would take it to the
21 superintendent. That's second level. If the superintendent
22 denied that grievance, it would go to the Board of Education
23 and so the Board of Education would have final -- like you,
24 a Board, that multiple people that considers the issues and
25 makes the financial determination.

1 There's a similar process for dealing with
2 students that may be suspended from school, if that's
3 appealed, or expulsions which are a bit more serious. But
4 there is a process that involves several steps.

5 So our suggestion is this. You are, as we believe
6 it, looking for a new AEO. The AEO is independent of the
7 Office of Public School Construction. The AEO serves the
8 Board. The AEO could -- and this sounds like a good deal of
9 work, depending upon the amount of time, but if it's
10 1 percent and it's done in a particular way, maybe it limits
11 the amount of time and that's the idea, the AEO would be
12 that second level of appeal to say let's review this and the
13 AEO then -- and the process could take different shapes, but
14 in essence gives you the view of the AEO of this or the AEO
15 makes the determination themselves.

16 I'm thinking the Board would probably want to make
17 sure that they heard the whole thing through. But the idea
18 here is to give you a second set of eyes and ears.

19 In reading the staff report, it certainly
20 identifies that the concept of a mercy clause suggests the
21 Board may allocate state bond funds on the basis of
22 circumstances rather than law.

23 I would say it would be on interpretation of law
24 and regulation and you have one interpretation. You may --
25 for Lammersville, you came to a different interpretation of

1 that issue and that took a while to adjudicate, but you got
2 to an end that it sounded like the Board wanted to get to.

3 So not to belabor this. It's in a letter and the
4 suggestion is created and may be created with a sunset as to
5 having a review so that you see if you do cut down on the
6 amount of time that comes before you. And we offer this not
7 in criticism. We offer this as a suggestion as a friend of
8 the Board to help you with the hours and hours that you
9 spend because you're busy people with other jobs.

10 CHAIRPERSON SHEEHY: Thank you, Tom.

11 MR. DUFFY: Thank you.

12 CHAIRPERSON SHEEHY: Hold on, Scott. I'm going to
13 push back a little bit. I've now done about 9 meetings with
14 this Board, maybe 10 or 11 if you count some of the short
15 closed session meetings we had, and -- so I don't have as
16 long of a history as Mr. Duffy or some of the other members
17 on this dais, but I would offer a different opinion about
18 how long this Board takes to do certain things.

19 I'm very pleased that Senator Lowenthal made a
20 motion three meetings ago to create two subcommittees, one
21 of which to look at OPSC's audit authority and what it's
22 doing as far as audits and perhaps traditional guidelines
23 consistent with the law, but I was also extremely pleased
24 when Senator Lowenthal made a motion for a subcommittee that
25 would establish rules and procedures for this body.

1 If this body operated like any other legislative
2 committee that the legislative members on this Board sat on,
3 we'd cut our time in half easily. We spent hour after hour
4 after hour after hour hearing the same item over and over
5 and over. Why? Because we couldn't get to a majority vote
6 and this Board has ten members on it.

7 So what happens is is everybody in the advocate
8 committee goes running around lobbying trying to get their
9 way on it and it comes back to the Board and we go through
10 this process.

11 Now on any legislative committee, if a member
12 brings a bill and they can't get enough votes to get the
13 bill passed, what happens. The bill fails and it gets
14 reconsideration. They can come back a second time or the
15 bill can get made into a two-year bill; they can come back a
16 following time.

17 If we had a rule or procedure where something
18 could only come before the Board for a couple of votes, then
19 it would be disposed of one way or another. So I don't
20 think we go on and on because the staff hasn't done a good
21 job in working on the issues. I think sometimes it's
22 because we're an even numbered Board and we don't have any
23 way of closing these items out because we haven't adopted
24 any operating rules.

25 So I don't disagree. I think your approach has a

1 lot of merit, Tom. I'm certainly willing to consider it
2 more along with the colleagues on the Board to get their
3 views on it. What I've seen from my own experience, limited
4 though it is, that we spend a lot of time having issues
5 coming back, like that LA issue that you mentioned on the LA
6 appeal. That had come before the Board four times and spent
7 just a huge amount of time.

8 One of the meetings that I went to, that went on
9 for over an hour and a half on that one item. I'm sorry.
10 Other comments of the Board. Ms. Brownley.

11 ASSEMBLY MEMBER BROWNLEY: How could you tell? I
12 just had that look, I guess.

13 Well, I -- I mean I hear what you're saying. I
14 think I disagree a little bit. I think, you know, the
15 difference between a bill and what we do here is we're
16 dealing with taxpayer money and with a bill, we're not
17 really dealing with that.

18 So I mean it seems in some sense -- and I'm very
19 happy with the idea of taking this on and discussing it in
20 committee and coming back to us, but in some sense I think
21 what we're doing in acting -- and I think when I took on
22 this job and I haven't been doing it very long either, I
23 understood that part of the role and responsibility was to
24 serve as an appeals board.

25 I think the small -- very small percentage of

1 people that come and the data that we have here and I think
2 sometimes when it's an appeal and it doesn't fit into a
3 right hole and a right square, it's difficult and you have
4 to spend time really sort of wrestling with it.

5 I think some of the problem is the reason we have
6 to discuss it over and over again is our ability to be --
7 attend at the time that we need to attend the meetings.
8 Obviously right now, we're struggling because we have
9 missing members and we can't deal with a particular item.

10 So I think that sort of plays into some of the
11 longer deliberations if you will, but I just think when
12 you're struggling with something like this and really having
13 to wrestle with the except to the -- not the exception to
14 the rule but the exception that doesn't really kind of fit
15 into the rules and regulations and therefore that's why
16 we're having the appeal in some sense, is -- is sort of an
17 appropriate procedure.

18 Do I want to stay here longer than we need to?
19 Absolutely not. But I do think when you get to that, you
20 know everything goes -- all these other cases move along in
21 the structure of which we have set out to do and we have
22 this very small percentage, but it is -- the small
23 percentage requires focus and attention and time and
24 differences and opinions and issues that we -- you know,
25 does require debate and to wrestle with an finally come the

1 right conclusion.

2 CHAIRPERSON SHEEHY: I just want you to know I
3 don't disagree with anything that you just said. My only
4 issue is, is after having gone through all of that, it'd be
5 nice to be able to get to a conclusion, not have a split
6 vote and, you know, have to re-agendize it and then we put
7 it over because somebody's not here and -- you know -- so
8 that's why I really look forward to the work of the Rules
9 and Procedures Committee.

10 I think you're right. This isn't your -- my
11 analogy to the bill process I think was fair on process but
12 not on substance. I agree with you, Mr. Brownley.
13 Mr. Harvey.

14 MR. HARVEY: Thank you, Mr. Chair. You've said --
15 both of you said two things which I subscribe to and that is
16 it's a privilege to serve on this body, but it is a task
17 that we must do collectively and I think we should find a
18 mechanism, whether it's this Rules and Procedures, that
19 maybe helps things come to us more expeditiously.

20 But I think it should be decided here and not some
21 step in between. I think it's proper to send it to the
22 Rules and Procedures Committee. I think wrestling with the
23 definition of substantial compliance may give us some
24 guidance.

25 I'm not afraid of a legislative solution here, but

1 I support what you --

2 SENATOR HANCOCK: Okay. So if we -- so the motion
3 would be that we refer this to the Rules and Procedures
4 Committee to consider --

5 MR. HARVEY: Yes.

6 SENATOR HANCOCK: -- to consider whether we should
7 have a narrowly crafted piece of legislation for a waiver
8 process or whether a more -- or whether the definition as it
9 stands of substantial compliance is adequate.

10 MR. HARVEY: All things should be on the table. I
11 think that would be the proper motion.

12 ASSEMBLY MEMBER BROWNLEY: I'll second that
13 motion.

14 MR. NANJO: Mr. Chair.

15 CHAIRPERSON SHEEHY: Okay. So we have a motion
16 and second. Senator Torlakson.

17 ASSEMBLY MEMBER TORLAKSON: Just to add to the
18 point you raised, Mr. Chairman, it could possibly also be
19 addressed in terms of bond covenants and in terms of future
20 bonds and if the future bonds anticipate that there is a
21 narrowly crafted place where mercy situations or unusual
22 circumstances not the fault of the district, not an
23 intentional attack on the integrity of the process or trying
24 to get money you don't deserve that that could then be
25 reflected in future bond covenants in a way that it wouldn't

1 be an issue there either.

2 CHAIRPERSON SHEEHY: Sure.

3 MR. NANJO: Mr. Chair, if I can just weigh in real
4 quickly. The question of the Board's authority had come up
5 previously and I did have an opportunity to take a look at
6 that briefly.

7 The concern -- I kind of dovetail both Assembly
8 Member Torlakson and your concerns that you raised in that
9 the finding I made is there are some -- there is quite a
10 line of case law out there that say administrative agencies,
11 which the State Allocation Board is considered, legally have
12 limited powers. Their powers are limited to those which are
13 conferred on them expressly or by implication, by
14 constitution or statute.

15 CHAIRPERSON SHEEHY: Okay.

16 MR. NANJO: Now, that is somewhat of a flexible
17 definition as to what impliedly has been placed on you. The
18 concern I would want to make sure the Board is aware of is
19 if you're found to have exceeded those powers, then those
20 actions that you took were void.

21 CHAIRPERSON SHEEHY: All right.

22 MR. NANJO: So that may be something that lends
23 toward a legislative fix to have some certainty in that
24 aspect.

25 CHAIRPERSON SHEEHY: Okay. Henry, thank you for

1 clarification. Kathleen.

2 For the benefit of the audience, after we finish
3 with this item, we're --

4 MS. MOORE: I'll be right back.

5 CHAIRPERSON SHEEHY: Oh.

6 MS. MOORE: Just one second.

7 CHAIRPERSON SHEEHY: We have to -- I just want to
8 let the Board members know we have to go into closed session
9 with six members today because we have an appointment we
10 have to make because if we don't, a lot of people are going
11 to be very disappointed. So we have to do that and I
12 understand, you know, time is marching on.

13 So -- I know we don't have everybody here that
14 wants to be here, but we're going to have to go into closed
15 session before we lose this quorum.

16 I'm sorry. Ms. Moore.

17 MS. MOORE: Just a final comment on this if I may.
18 Assembly Member Hancock, I know this is your issue. I do
19 think two things. I think appropriately so, Rob, you talk
20 about the 15- and 4-day letters I think was put into place
21 by the former administration and it was a good process to
22 have things move along.

23 But I would say that within that process very
24 often on those four-day letters, districts make decisions
25 and they say, you know, the Office of Public School

1 Construction says I'm going to get a million dollars. I
2 believe I need a million -- I believe I deserve a million
3 two. Is it worth the 200,000 to appeal the project.
4 Districts make those kinds of decisions all the time and on
5 the whole, I think they make the decision I've got to move
6 my project forward. I'll agree to what has been determined
7 for it.

8 So there is that universe that goes on. I was
9 astounded by the rate. It's very low, but there are times
10 that districts are making decisions not to move an appeal
11 forward, to just get the funds that they can, even if they
12 might have a difference and move their project out into
13 construction.

14 And that's part of the system. But I do believe
15 that a very -- if we're going to look at our board
16 procedures around -- that we do have a clear appeal process
17 to school districts and that the merit of what Mr. Duffy
18 brought forward around that should -- I would like to see
19 with your permission -- it's -- I know it's your issue --
20 the subcommittee look at as well.

21 SENATOR HANCOCK: Oh, fine. No. That's fine. In
22 other words --

23 CHAIRPERSON SHEEHY: Well, the Board can give the
24 subcommittees direction I think at any time. Now -- so I'm
25 sorry. Senator Hancock, would you just repeat your motion

1 because, I apologize, I didn't get it.

2 SENATOR HANCOCK: The motion is to send the --
3 this agenda item to the Committee on Rules and Procedures,
4 to ask them if they have any recommendations for the Board
5 to tighten up our procedures so that the process is
6 clarified.

7 CHAIRPERSON SHEEHY: On appeals.

8 SENATOR HANCOCK: On appeals.

9 CHAIRPERSON SHEEHY: And to look at substantial
10 compliance.

11 SENATOR HANCOCK: And to look at -- yeah --
12 definitions of substantial compliance or if they believe
13 that legislation to create a formal waiver process is
14 necessary to let us know that.

15 CHAIRPERSON SHEEHY: With your permission, I'd
16 like to tack one more thing on there, which I think will be
17 noncontroversial. Can we tack on your motion a requirement
18 for staff to provide us an update on the statistics
19 quarterly so that we -- so that if we start to see that the
20 number of appeals are going up that might be an early
21 warning sign for us that there's a problem, you know --

22 SENATOR HANCOCK: Right. That's fine.

23 CHAIRPERSON SHEEHY: -- some sort of quarterly
24 report so we could see how things are going.

25 SENATOR HANCOCK: That's fine. And also

1 Mr. Duffy's proposal. I think we just want to look at -- we
2 know that we have a little roadblock here. We just want to
3 figure out the most expeditious way to move it forward.

4 CHAIRPERSON SHEEHY: Okay. So we have a motion
5 and a second on the floor. And for Mr. Duffy's benefit -- I
6 don't know if he's still here. He is. Your suggestion will
7 be taken up for review by the subcommittee.

8 MR. DUFFY: Thank you.

9 CHAIRPERSON SHEEHY: Okay. Seeing no objection to
10 this, all in favor.

11 (Ayes)

12 CHAIRPERSON SHEEHY: Okay. Okay. Members, we've
13 taken care of everything now except for OSAE, seismic -- I'm
14 sorry. Did we want to put -- Ms. Hancock, did you want to
15 put seismic over?

16 SENATOR HANCOCK: I did want to put seismic over
17 for a month so that we could have both the shaking
18 regulation presented to us and the review of construction
19 type which was the other thing that we could -- we decided
20 we could do by regulation. Because if we increase the
21 number of construction types as well as the work that we did
22 on shaking, we could do one set of regulation changes and
23 move on.

24 CHAIRPERSON SHEEHY: Is there any --

25 SENATOR HANCOCK: So I -- especially because of

1 the lateness of the hour.

2 CHAIRPERSON SHEEHY: Yes.

3 (Whispered conversation)

4 CHAIRPERSON SHEEHY: Yeah, except if we're putting
5 seismic over, we're putting it over. So is there any
6 objection to members of the Board putting the seismic item
7 over? We'll be happy to take public comment -- I'm sorry.

8 ASSEMBLY MEMBER TORLAKSON: I'm just wondering on
9 that point if people had come to testify and I don't know
10 that there are that many, but maybe we could see. It's not
11 like a dozen. It may be only one school district here that
12 had something that would be relevant to us. Maybe they
13 don't need to come back again if they get their point across
14 today.

15 CHAIRPERSON SHEEHY: Senator Torlakson, I agree
16 with you. I'm very sensitive and I also know we've got
17 people in the audience that have been here to now three or
18 four meetings and I'm afraid that we're not going to get to
19 them tonight either.

20 So I'm -- we can take the seismic testimony later
21 in this hearing if this gentleman or others want to talk
22 about it, but we've got people that flew up here from
23 Southern California, that have made three trips up here, so
24 why don't -- if it's okay with you, sir, we'll take
25 everything on the record, but we're not going to take that

1 item up right now. Is that okay?

2 MR. SPEAKER: Of course.

3 CHAIRPERSON SHEEHY: Okay. Very good. So we'll
4 take -- anybody that wants to testify on the seismic item
5 we'll take it up, but we're not going to take it up for
6 action. So we're left now with Murrieta, OSAE, and -- did
7 we do Item No. 4, Rob, financial needs of the state
8 relocatable classrooms?

9 MR. COOK: Yes. There's no action required.

10 CHAIRPERSON SHEEHY: Okay. And we need to go into
11 closed session. I'd like to -- yes, Ms. Garrity.

12 MS. GARRITY: I'm sorry to interrupt. Senator
13 Lowenthal is on his way now. I apologize --

14 CHAIRPERSON SHEEHY: Okay.

15 MS. GARRITY: The Conference Committee just
16 adjourned. Actually since the other items are so important
17 to him, if you could hear the seismic testimony now that
18 would -- and then he could arrive for the other -- that
19 would be --

20 CHAIRPERSON SHEEHY: Okay. Very good. So we're
21 going to -- in deference to Senator Lowenthal, we'll take
22 that public testimony on seismic now. Then we're going to
23 go into closed session for purposes of a personnel action,
24 and then we've got to hold on to six members and take up
25 Murrieta and OSAE because we've had these on our agenda so

1 many times. Mr. Botelho from the Office of Statewide Audits
2 and Evaluations has made several trips here. He's here
3 again tonight and I think it would only be fair to take that
4 item up so we can dispense with it.

5 So, sir, if you'd like to come forward with your
6 testimony on **seismic**, please.

7 MR. WINGER: Thank you. I really do appreciate
8 this, Mr. Sheehy and members of the Board. I'm Mark Winger,
9 Superintendent of the Newhall School District and I will not
10 be able to be up in July, so I really do appreciate this.

11 In 1999, my school district passed a GO bond and
12 in January of 2003, I received a letter personally addressed
13 to me from the Division of State Architects regarding AB300
14 and directing districts to take a look at the list to make
15 sure a certain type -- if we had certain types of buildings
16 on that list pursuant to AB300.

17 Following that letter's direction, I asked our
18 architect to check the list and we did find two of our
19 buildings on it. That letter also specified that we needed
20 to have an engineering report done on those buildings in
21 order to see if they were vulnerable.

22 We had two buildings that were within the zone
23 defined and within the criteria defined as they were
24 originally. One was a 1940 era's poured in place concrete.
25 One was a tilt-up, 1960 era building.

1 Given that study, I felt a moral obligation to go
2 ahead and do the retrofitting that was necessary for the
3 safety of my students and my staff and the public that use
4 those buildings. The citizens committee that I worked with
5 agreed and we made about a \$2 million left turn in our
6 building project in order to do this retrofitting.

7 We did the right thing. We reacted to a letter
8 sent to us by the Division of State Architects and now we
9 don't have access to that seismic funding because of the
10 regulations that are in place today.

11 And since you're going to be looking at
12 regulations again next month, I'm asking you for
13 consideration of a date change for the effective date in the
14 regulations.

15 The AB -- I would say the AB300 list was the
16 trigger that started this process in my school district. A
17 date that would work to change the eligibility for access to
18 the funds would be the date of the letter, January 2003, or
19 in my case, the date of my notice of completion on my first
20 building, April of 2005.

21 That would allow for districts who responded to
22 the DSA letter, hired the engineer, did the study, completed
23 the work, and meet the criteria of the most vulnerable
24 buildings.

25 We have a counsel opinion that does say that the

1 SAB has the authority to set the date and that there's no
2 referenced in the initiative and -- nor in statute and
3 pursuant to code, you have the right to set the date for
4 rules and regulations.

5 Therefore I don't believe this request really asks
6 for retroactive consideration because the proposition is
7 silent on the date.

8 There was a concern in previous discussion about
9 the universe if the date was allowed and I have to tell you
10 I feel like Pluto out there all alone, not even a planet
11 anymore, because we did take a look. It's been over a year.
12 No one's claimed the \$199 million. I have a project that I
13 believe fits the criteria and as we ask the DSA for a list
14 of possible districts and we got a list of possible
15 districts, we did check with all those districts and we
16 don't believe that anyone fits the priority -- fits the
17 criteria of having done the work because of the DSA letter,
18 yet got it done before the May 2006 date that's currently in
19 regulation.

20 So I am asking for consideration of that date,
21 checking it again, and in deference to our school district
22 that did the right thing in the end and I really appreciate
23 you taking my comments tonight.

24 CHAIRPERSON SHEEHY: Well, Mr. Winger, listen.
25 I'm really glad that you made the trip up here today and I

1 want to know that it's really great to hear what you did. I
2 mean you really did do the right thing. There are a lot of
3 school districts that could follow your example.

4 And here's what I think would be helpful for this
5 body before any action's taken on an amended regulation
6 because I think that we should take a really good look at
7 this because I think, you know, we want to send the right
8 signals out to school districts to be proactive and to take
9 action to make students safer.

10 So what I'd like you to do -- I understand that
11 you've done some research to see if there are any other
12 projects out there that may qualify because of course if we
13 make this exception for you, there could be others, and I
14 think this body needs to know what the fiscal impact of that
15 decision would be before they would go along with that.

16 Is that true that you've done some research on
17 that, Mr. Winger?

18 MR. WINGER: Yeah. We've checked with probably
19 eight different school districts that were recommended by
20 the DSA.

21 CHAIRPERSON SHEEHY: Okay. So if you could work
22 with Mr. Thorman on this -- I'm assuming he'll be
23 cooperative -- and the main thing I want for Finance to do
24 is I want to make sure that the information that you looked
25 at and develop that you run through the Department of

1 Finance because I understand from some of the research
2 you've done, it doesn't appear that there are any
3 significant number or maybe not any other projects out there
4 that are going to come forward.

5 If that's the case, then the only fiscal impact we
6 have is your situation. So I think it would be helpful for
7 this body if you could coordinate with the State Architect
8 and Finance and OPSC so that you could come back at the next
9 hearing if possible -- if not, we could take it up at the
10 following hearing, but you'd have my commitment to bring
11 this issue back to this body with that analysis and with
12 Finance's sign-off that they've looked out and reviewed it
13 and then bring it before this body for an up or down vote,
14 and I think then, you know, if that's -- that's in
15 regulation that this body could amend and address your
16 situation.

17 But I think we'd have to know how many school
18 districts we're dealing with and what the fiscal impact is.
19 That's just my view. I don't know what the other
20 members feel.

21 SENATOR HANCOCK: Fine. Why don't we include some
22 of that in the -- we're putting this over. We going to get
23 both regulations, shaking and construction types, and in
24 addition that we're going to look at the Newhall situation
25 or the start date for retroactivity because I agree. We

1 were -- I think it's very impressive that you --

2 MR. WINGER: Thank you.

3 SENATOR HANCOCK: -- stepped up and did the right
4 thing at the time that you did.

5 CHAIRPERSON SHEEHY: Finance? I'm sorry,
6 Kathleen.

7 MS. OROPEZA: Yes. There is a desire to look at
8 other building types, I think that we need to expand upon
9 the data that we're looking at and see how many of those
10 buildings if we expand the building types would also be
11 eligible for this funding, if we want to look at a complete
12 picture of what the potential is in terms of funding
13 projects that have already been completed.

14 CHAIRPERSON SHEEHY: Okay. Kathleen.

15 MS. MOORE: Can I just be clear. What is Finance
16 staff doing that OPSC staff wouldn't normally be doing?
17 What kind of -- just so I understand.

18 CHAIRPERSON SHEEHY: Well, the reason, Ms. Moore,
19 I ask for Finance is because I want a fiscal estimate. I
20 think if we have somebody come before the Board and say, you
21 know, you adopted this program, we took an action before you
22 adopted the program, we'd like to be grandfathered in, I
23 think out of fairness we would have to be willing to
24 grandfather in anybody else that's done that.

25 Finance is the entity that I normally rely upon

1 for fiscal estimates and I'd like them to take a look at it.
2 If you're uncomfortable with that, we could certainly
3 discuss it, but I'd like them to work with us.

4 MS. MOORE: I think -- I don't want to belabor it,
5 but I do think the staff is -- the Office of Public School
6 Construction and they could work in concert with Finance.

7 CHAIRPERSON SHEEHY: Okay.

8 MS. MOORE: But I don't believe that Finance has a
9 direct line responsibility to the Board.

10 CHAIRPERSON SHEEHY: I agree with you they don't.

11 MS. MOORE: And so I would --

12 MS. OROPEZA: That is what we're doing, working
13 together. We're not doing something separate from them. We
14 are working in tandem.

15 MS. MOORE: Okay. Thank you.

16 CHAIRPERSON SHEEHY: Are you comfortable with
17 that?

18 MS. MOORE: I am.

19 CHAIRPERSON SHEEHY: Okay. Yes, Ms. Brownley.

20 ASSEMBLY MEMBER BROWNLEY: Yeah. I just wanted to
21 say I think, you know, the data that we're going to try to
22 collect is the appropriate thing to do. I just wanted to
23 also comment that I think that there are a lot of
24 districts -- and again I don't have all of the data to back
25 up what I'm saying, but I am certainly anecdotally aware of

1 some who have done lots of earthquake/seismic upgrades out
2 of their bond funds and through modernization and new
3 construction and did not qualify or did not go after the
4 earthquake or seismic funding that was the set-aside here.

5 So I think there are districts out there doing
6 their normal course of work in terms of modernization --
7 particularly I guess would be more modernization than new
8 construction -- that are doing seismic upgrades.

9 So now they might not be on the AB300 list, which
10 this is a case where a school district was notified by
11 government to say that they had buildings that were
12 seismically unsafe. So -- but I do want to say that I think
13 that there are districts out there that are morally doing
14 the right thing in terms of upgrading their facilities with
15 existing funding that's not coming out of the set-aside for
16 seismic retrofit.

17 CHAIRPERSON SHEEHY: Okay. Thank you very much.
18 Mr. Savidge.

19 MR. SAVIDGE: Thank you, Mr. Chair. Bill Savidge,
20 West Contra Costa Unified School District and I want to
21 concur with Assembly Member Brownley. Our district has 17
22 school sites on the AB300 list. We have six sites that meet
23 the 1.7G ground shaking on the Hayward fault. Of those six
24 we've voluntarily retrofitted, torn down, and rebuilt
25 several -- four of the schools.

1 And so I think you're absolutely correct. School
2 districts have been making this investment in modernization
3 and seismic retrofitting and upgrade for many, many years
4 using local funds. It's very clear.

5 But what I really wanted to focus on is supporting
6 Senator Hancock to put this item over and to focus OPSC and
7 DSA on expanding the building types and considering again
8 the issue that if we have a structural engineer's report
9 that indicates that there's a probability of collapse, what
10 does it matter what type of building it is. If it's going
11 to collapse, that's a serious safety risk for our students,
12 and so I think we need to work with DSA to really revise and
13 give them more flexibility.

14 I want to raise one more issue that is not
15 addressed in the legislation and that we have -- we have
16 submitted our first seismic program application to the state
17 for Portola Middle School in El Cerrito. And this school is
18 subject to earthquake induced landslide hazard and it has
19 already received a concurrent letter from DSA and a
20 concurrent letter from the California Geological Survey that
21 the site is unsafe to occupy.

22 It's not a classic project in terms of the program
23 as it exists now, and yet this is a safety risk of the
24 magnitude that the district is abandoning the site and
25 moving to a new school site and building a new building to

1 replace it.

2 And so I would urge you to consider giving DSA the
3 flexibility to consider a variety of types because
4 geotechnical issues are really huge in the earthquake area.
5 You're talking about liquefaction. You're talking about
6 earthquake induced landsliding. You're talking about
7 lateral spreading and fault rupture that creates serious
8 student safety risks and they're not really addressed in the
9 way that the program is structured at this time.

10 So we really do appreciate OPSC and DSA starting
11 the process and getting as far as they've gotten, but I
12 think there's a lot more work to do and I appreciate holding
13 this over and looking at this further. Thank you.

14 CHAIRPERSON SHEEHY: Thank you, Mr. Savidge.
15 Welcome, Senator Lowenthal. How are you doing?

16 SENATOR LOWENTHAL: We had eight hour --

17 CHAIRPERSON SHEEHY: I almost feel like we need to
18 come give you a group hug after all that.

19 SENATOR LOWENTHAL: Eight hours of listening to --
20 very painful. Painful. Public testimony. I think a very
21 positive thing is that it's an open process. Everyone's
22 getting a chance to talk about what the impacts are, which
23 is quite different than how we have been doing it recently
24 and I think that part hopefully will reestablish the trust
25 and the beginning of a dialogue and understanding that these

1 are such difficult times. But I'm really tired.

2 CHAIRPERSON SHEEHY: Okay. Fair enough, Senator.
3 I just want you to know I know from past experience and from
4 my colleagues how difficult this process is -- how difficult
5 this process must be that you're going through and thank you
6 for serving on that committee. I know that must be
7 incredibly difficult.

8 We have Mr. Harvey and then it looks like Mr. Tao
9 would like to address us. Yes, Scott.

10 MR. HARVEY: The one thing that continues to haunt
11 me is that we have such need in this area and we have such a
12 small pot to draw from and the guidance that we have had to
13 follow up to this point is the worst of the worst and I
14 think we're going to have to continue to fall back on that.

15 I'm not saying we don't need to expand building
16 types. We don't need to expand the shake zone, but we have
17 a limited amount of dollars and that physically is something
18 that needs to be part of our discussion and our decision and
19 I know it will be, but I feel the angst on this. I think
20 the AB300 report cited billions of dollars -- billions of
21 dollars of risk and we only have 199 million.

22 So we have to start somewhere and work our way
23 down and make a case for a more robust set-aside in a future
24 bond.

25 CHAIRPERSON SHEEHY: Okay. Now, Mr. Tao, we're

1 going to let you talk and Mr. Duffy and anybody else, but
2 since we have waited some time and I'm sure we're all tired.
3 I know Mr. Lowenthal's exhausted and we really have several
4 items, we're going to defer further testimony on this item
5 and then later in the hearing, I'll stay here -- you have my
6 commitment to stay here till the cows come home if
7 necessary. We'll take all the testimony on this item for
8 the record.

9 But -- is that okay, Mr. Tao? You okay with that?

10 MR. TAO: Very well.

11 CHAIRPERSON SHEEHY: I want to make sure you get a
12 chance. Is that okay, Tom? Because we really do need to --
13 okay. We're going to go into closed session now for
14 purposes of personnel action and then when we reconvene --

15 ASSEMBLY MEMBER BROWNLEY: This is what we were
16 waiting for Alan for, for the closed session?

17 ASSEMBLY MEMBER FULLER: Murrieta, we're not going
18 to do Murrieta?

19 CHAIRPERSON SHEEHY: No. We're going to do --
20 yeah. This won't take long at all. Then we're going to do
21 Murrieta. My estimate on how long we're in closed session
22 is ten minutes or less. So as soon as you close -- we're
23 going to come back and do Murrieta and do OSAE. Is that
24 okay, Senator Lowenthal? And then we left the roll open on
25 the other items if you want to add on to anything.

1 (Whereupon at 6:37 p.m., the open meeting was recessed
2 for the closed session and resumed as follows at 6:47 p.m.)

3 CHAIRPERSON SHEEHY: -- announcement to make. The
4 State Allocation Board met in closed session for purposes of
5 a personnel action and the Board has unanimously appointed
6 **Ms. Susan Ronnback** to be our interim Assistant Executive
7 Officer.

8 (Applause)

9 CHAIRPERSON SHEEHY: I think we are extremely
10 fortunate to have Ms. Ronnback. She's got a long
11 distinguished career in public service. She has executive
12 level experience in the executive branch of government.
13 She's got a long resume also in the legislative branch of
14 government. Having spent many years working for Steve
15 Peace, she's assured me she can take any of the drama or
16 difficulties that happen on this Board and she's got good
17 program experience with the Department of Education, the
18 Office of the Secretary, and as I said, in the Legislature
19 and other experience as well.

20 So I'm delighted to welcome Ms. Ronnback aboard.
21 Thank you so much, Susan.

22 (Applause)

23 CHAIRPERSON SHEEHY: Okay. So, Senator Lowenthal,
24 just so you know, if there's any of the items that we've
25 already taken up that you'd like to add onto, we did leave

1 the roll open on everything --

2 SENATOR LOWENTHAL: I will do -- good.

3 CHAIRPERSON SHEEHY: -- including the Consent
4 Calendar. The open items that we have left are Murrieta
5 Valley and OSAE and if there's no objection, why don't we go
6 to **Murrieta Valley**.

7 MR. DUFFY: What happened to seismic?

8 CHAIRPERSON SHEEHY: Seismic's coming back.

9 MR. DUFFY: Okay.

10 CHAIRPERSON SHEEHY: Seismic's there.

11 MR. DUFFY: Okay.

12 CHAIRPERSON SHEEHY: I said I'd stay till the cows
13 come home, Tom, and I meant it.

14 SENATOR HANCOCK: Did seismic get referred or we
15 put it off till next month?

16 CHAIRPERSON SHEEHY: Well, it got put over, but
17 there was some more public testimony and I promised that
18 they could make it, but we needed to take care of the action
19 items first.

20 So is Murrieta here? Yes, please come forward
21 and, Rob, we know what this issue is. Have there been any
22 developments and I think we should hear from Murrieta and
23 then see if we can't get some action on this item.

24 MR. OLIEN: Good evening. Bill Olien, Assistant
25 Superintendent. I'll just say for the record that the

1 district concurs with the recommendations in the report and
2 we have no concerns. We're open to questions.

3 CHAIRPERSON SHEEHY: Okay. We've had this item
4 before us a couple of times. Are there -- I'm sure there
5 must be some questions and comments from the Board or --

6 SENATOR HANCOCK: Nope. I move the
7 recommendations.

8 MR. HARVEY: Second.

9 CHAIRPERSON SHEEHY: We have a motion and a
10 second. Are there additional comments or questions from
11 Board members? Anybody from the public on this item?
12 Seeing none, is there any opposition to this item? Senator
13 Lowenthal.

14 SENATOR LOWENTHAL: No. I concur with the
15 recommendations. I think it's a fair recommendation. I
16 just want to clarify I think what we're also saying is that
17 the argument -- I don't accept the argument. I don't think
18 we accept it, that by returning the funds that means that
19 there is therefore no material inaccuracy. I don't think
20 that's an argument just because you're returning the funds.
21 I -- although I think in this project, there isn't any
22 material inaccuracy. It wasn't because they just returned
23 the funds. There isn't material inaccuracy since the
24 certification was based upon an estimate and going forward,
25 I just think we need a clearer policy on that issue for

1 circumstances where the cost estimate is significantly
2 different than the actual cost.

3 So I agree in this case, it's fine, but I don't
4 want to say that we're assuming that just anytime a district
5 returns the funds there is no material inaccuracy and I
6 think we need the Implementation Committee to look at that
7 whole 60 percent commensurate issue and recommend practices
8 back to us. And that's really what I would suggest.

9 CHAIRPERSON SHEEHY: I don't know -- I think the
10 maker of the motion was Ms. Hancock. Would it be okay,
11 Ms. Hancock, to amend your motion with the referral to the
12 Implementation Committee that Senator Lowenthal requested?

13 SENATOR HANCOCK: Absolutely. Absolutely.

14 SENATOR LOWENTHAL: Fine. Then that's what I
15 would like to add.

16 CHAIRPERSON SHEEHY: Okay. So with that then, all
17 in favor.

18 (Ayes)

19 CHAIRPERSON SHEEHY: That item is approved. Thank
20 you for coming up today, sir. Okay. So let's now take up
21 the **Department of Finance, Office of State Audits and**
22 **Evaluations.** Mr. Botelho. This is Tab No. 14. Is it Tab
23 No. 15? I apologize.

24 MR. BOTELHO: Yes.

25 SENATOR LOWENTHAL: 15?

1 MR. BOTELHO: David Botelho with the Department of
2 Finance, Office of State Audits and Evaluations. We
3 previously reported on our report back in February and we
4 were asked to attend again tonight. I'm not certain of what
5 the questions are or what you would like us to discuss
6 tonight.

7 CHAIRPERSON SHEEHY: David, for my benefit, since
8 it's been quite some time, could you refresh my memory and I
9 think the Board's memory on how you got engaged with OSAE in
10 the first place and what was the nature of that engagement.

11 MR. BOTELHO: Mary, you want to join -- I'll have
12 Mary Kelly, one of our audit managers, join me. She was
13 there at the beginning of the assignment.

14 MS. KELLY: Mary Kelly, Department of Finance,
15 Office of State Audits and Evaluations. We entered into an
16 agreement with Department of General Services to assist OPSC
17 in some training of their audit staff and in developing
18 audit tools for use on the bond fund audits.

19 CHAIRPERSON SHEEHY: Okay. Well, I mean give me a
20 little bit about -- so OPSC contracts with you to come in to
21 work with them to do some training; is that right?

22 MS. KELLY: Right.

23 CHAIRPERSON SHEEHY: So the final report that got
24 distributed ended up dealing with more than just reporting
25 on the training; is that right?

1 MS. KELLY: Right.

2 CHAIRPERSON SHEEHY: So how did that happen?

3 MS. KELLY: When we were out there performing the
4 background research that we needed to do to enable them to
5 talk to us about the risk assessments, we have to get an
6 understanding of the program and the control environment in
7 which these funds are distributed.

8 We attended meetings, read information, attended
9 Board hearings, attended Implementation Committee meetings,
10 met with members of OPSC on several occasions and became
11 aware of what we call in the auditing environment or in the
12 auditing profession problems with the control environment.

13 And what our concern was was that OPSC was
14 dedicating a significant amount of resources and staff time
15 to develop this audit plan and these skills and techniques
16 where we were concerned that the environment in which they
17 were operating could potentially preclude any of these
18 measures that they were taking from being effective.

19 Additionally, they have a -- they're required to
20 comply with the Governor's Executive Order to have a bond
21 accountability plan and the concern was that some of these
22 items that they have as part of their accountability and
23 transparency were not going to be able to be effective.

24 CHAIRPERSON SHEEHY: Okay. Questions or comments
25 from the Board members. Senator Lowenthal.

1 SENATOR LOWENTHAL: Well -- the good and the bad.
2 The good part I think, just an observation, is out of this I
3 think have come two subcommittees or committees to really
4 look at how we do business and I applaud you. I think some
5 of these issues and -- really led -- but some of the
6 conclusions and especially I thought -- and just my
7 perspective and we talked about this the last time -- I
8 thought were highly critical of the State Allocation Board
9 and its relationship to OPSC and the I'd strongly disagree
10 with those conclusions and many of the statements in the
11 report.

12 So while I think some very good has come out of
13 it, I personally reject the report itself and the overall --
14 the tenor of the report and would like this Board not to
15 accept the -- or this report.

16 CHAIRPERSON SHEEHY: Okay, Senator. Other
17 comments from Board members? I want to just say that my
18 initial intention with this report was once it was done was
19 to have it distributed to all the Board members and not take
20 it up formally here for approval or rejection or whatever.
21 I thought it was a report. I thought it would be -- have
22 some useful information for some members, may be different
23 useful information for other members.

24 Just speaking on my behalf, not as a Finance
25 employee now but as the Chair of this Board, I didn't feel

1 compelled that we needed to take action on this report one
2 way or another. I would -- my preference would be to let
3 this report just be what it is.

4 I would be concerned -- I understand that not
5 everybody agrees with all of the conclusions in here, but
6 there is a lot of information in here that is useful and I'd
7 be concerned if we were to take an adverse action on this
8 report what signal we might be sending vis-à-vis our
9 stewardship of bond funds and what that might mean going
10 forward.

11 So I don't know where -- how everybody feels about
12 this, but I would request this report is a Finance report.
13 It's not on the OPSC Website. We don't have to refer to it,
14 but I think the appropriate action here would just let this
15 report stand. We don't have to accept it. I think it would
16 be a mistake to formally take a vote and reject it.

17 ASSEMBLY MEMBER BROWNLEY: I don't think that was
18 your motion, was it?

19 CHAIRPERSON SHEEHY: No.

20 SENATOR LOWENTHAL: Yes, it is my motion.

21 ASSEMBLY MEMBER BROWNLEY: Oh, to reject it?

22 SENATOR LOWENTHAL: Is to reject --

23 ASSEMBLY MEMBER BROWNLEY: I thought you said not
24 accept it.

25 SENATOR LOWENTHAL: Well, either one. Either not

1 to accept it -- a motion not to accept the report or to
2 reject the report is what I think that there are --

3 CHAIRPERSON SHEEHY: Okay.

4 SENATOR LOWENTHAL: I've already stated my
5 reasons. I don't have to go through --

6 CHAIRPERSON SHEEHY: Okay. So, Senator Lowenthal,
7 you do -- you have --

8 SENATOR LOWENTHAL: I do want to make a motion. I
9 do not want -- I think there are some things that are --

10 CHAIRPERSON SHEEHY: Okay. So we have a motion on
11 the floor. I want to make a few more comments then for the
12 record.

13 This is a report that dealt with the assessment
14 and control of construction project costs and did an
15 evaluation of that. It is also a report dealing with
16 capital budgets and how they're reviewed, grant agreements
17 and construction contracts signed between state programs and
18 local project management, project payments, progress
19 reports, program authority, approve change orders, project
20 expenditures, variance analysis, and so on and so forth.

21 This is a report that looked at how they were
22 doing that and how that compared with other things and it
23 also made some recommendations on how this program could run
24 more effectively.

25 I think it is a mistake for this body to reject

1 this report because I think it's sending the wrong message
2 to the taxpayers in this state whose support we're going to
3 need to pass further bonds.

4 So I understand how my colleague feels, but I want
5 to say for the record that I disagree with this body doing
6 that. I'd also like to put into the record, since the
7 Superintendent of Public Instruction had written a letter
8 back to OSAE and that letter was put into the record, I
9 think it would be appropriate to put the response letter
10 back into the record at this time and also to point out that
11 quite a few of the comments that were made in the OSAE
12 report were also comments that were made a report August
13 2007 by the Little Hoover Commission. I'd like to also put
14 that report back into this record at that time.

15 So I don't know the appropriate way for doing
16 that, but I'd like to do that.

17 ASSEMBLY MEMBER TORLAKSON: Mr. Chair.

18 CHAIRPERSON SHEEHY: Yes. Senator Torlakson.

19 ASSEMBLY MEMBER TORLAKSON: I'm going to look at
20 those documents. I haven't had the chance to review those,
21 but if we want to put them into the record, we should put
22 them in the record.

23 What I was -- going back to what Senator Lowenthal
24 said and here's what I thought I heard, that there were -- a
25 portion of the report that he disagreed with and I agree

1 with him, that I disagree with it too in terms of its
2 comments about the Board's discretion to make judgmental
3 assessments of the rules and regulations and come up with
4 our opinions and there was an element of the report that
5 dealt with that that seemed critical of that and also
6 with -- critical of the possible role of the
7 Superintendent's representative who gets to see the projects
8 a little bit earlier -- most of the projects earlier and
9 then gets to see them again here.

10 And that part of the report, I don't accept as
11 being accurate or valid and we just have a difference of
12 opinion. The other parts so the report that you referred to
13 in terms of efficiency or accountability or compliance with
14 the mandates to implement these bond funds in a responsible
15 manner, I think that those comments are valid and I think I
16 had heard that you were wishing to have the subcommittee
17 take a look at how to implement -- or maybe it's --

18 SENATOR LOWENTHAL: Right.

19 ASSEMBLY MEMBER TORLAKSON: -- already in front of
20 the subcommittee -- how to implement those parts of the
21 recommendations, but the part pertaining to the Board and
22 our role I think is the part that I heard you're not
23 accepting and I could support a motion not accepting of that
24 part of the report as what our opinion as a Board that we
25 assert our ability to have the discretionary judgment and

1 debate over those kinds of issues.

2 And I would second a motion like that. It seems
3 like it's close to what you were getting at.

4 SENATOR LOWENTHAL: If I might respond. I mean
5 there were just things that I found quite offensive: the
6 lack of objectivity they said about the Board, that the
7 majority of the SAB Board members are elected officials
8 resulting in an inherent conflict and we are subject to
9 inappropriate influences on occasion, have permitted
10 politics to become policy, that the Superintendent of Public
11 Instruction's, as was pointed out, delegate may not possess
12 the requisite objectivity in the consideration of projects
13 funded, the fact that when they talked about significant
14 potential impediment to effectual controls is the ability of
15 the SAB to override and negate fiscal and managerial
16 controls established by OPSC, well, that's our role is to be
17 oversight. We are a board.

18 And -- so I -- there is a thrust in this -- while
19 there are some very good points in it that we should be
20 looking at, there was a thrust in the report that I find
21 highly objectionable, especially the role of the SAB and the
22 elected officials on it and also the role of the
23 Superintendent of Public Instruction's delegate and for that
24 reason, I cannot accept this, and I -- this report.

25 CHAIRPERSON SHEEHY: I'd like to hear response

1 from OSAE on those points that the Senator just raised.

2 MR. BOTELHO: I think one of the points to make on
3 the Senator's comments, some of the comments were echoed by
4 the Little Hoover Commission's report a couple of years ago.

5 SENATOR LOWENTHAL: So you support those comments.

6 MR. BOTELHO: We do, yes.

7 SENATOR LOWENTHAL: That's why I object to it.

8 MR. BOTELHO: But consistent with the discussion
9 that was held earlier before Senator Lowenthal entered,
10 there was a discussion by the Board regarding establishing
11 some criteria and some policies and procedures. That's what
12 the report alludes to.

13 We're making recommendations for improvements to
14 the Board to provide better accountability, better
15 oversight, more transparency.

16 Ultimately when any audit organization comes in
17 and makes recommendations, it's ultimately up to management
18 whether they accept and implement those recommendations and
19 changes for the better of the organization or choose not to
20 implement those changes.

21 CHAIRPERSON SHEEHY: My concern is in rejecting
22 this report formally we're sending a message that we don't
23 want to implement those changes and I'm very concerned that
24 that sends the wrong message to a whole lot of people we
25 don't want to send it to. Particularly when we're in an

1 environment where it's going to be tough to get bonds
2 approved and to get bonds allocated, I don't want to be
3 sending a message that we're not interested in taking a hard
4 look at how we do business to make sure we're doing it the
5 best way we can.

6 MS. MOORE: Just a comment to that, Tom. The
7 report that's before us is five pages and it does not
8 address in my mind the issues that you've talked about. I
9 think what was the original agreement was to have OSAE come
10 in, audit what the OPSC was doing, and make those
11 recommendations. Those recommendations are not in this
12 report.

13 SENATOR LOWENTHAL: They're not in this report.

14 MS. MOORE: What is in this report is the lack of
15 objectivity of the State Allocation Board. So I don't see
16 it as -- in the same manner as that. I think probably what
17 you did with the staff and carrying out that portion of it
18 and working with them to have a greater internal process was
19 probably good. We don't see what that was. That's not in
20 the report.

21 What we do see is the -- you know, accusations of
22 the lack of objectivity of the State Allocation Board and as
23 we heard today in the .8 cases -- percent of the cases that
24 before this Board on an appeal, which is our statutory and
25 regulatory responsibility to hear those and to render

1 judgment. The staff can't do that. We have to do that.
2 That's our responsibility. That's why we're here as a
3 Board.

4 And of course, you know, the conflict of interest
5 issue on the SPI's delegate, of course we've already talked
6 about and the Superintendent of Public Instruction does have
7 a letter to that effect asking the Board that this is not
8 appropriate to accept -- those items.

9 CHAIRPERSON SHEEHY: David, do you want to respond
10 to Ms. Moore's comments?

11 MR. BOTELHO: I think the term accusations is a
12 fairly strong term and I don't think we've made any
13 accusations in the report. We've pointed out areas where
14 there are potential concerns. Whether those conflicts
15 actually come to fruition and cause harm to the Board or to
16 the school districts, yet to be seen. We're not saying that
17 it has happened. We're saying the potential exists that it
18 could happen. That's all.

19 CHAIRPERSON SHEEHY: Mr. Harvey.

20 MR. HARVEY: I harken back to the comment that you
21 made about making recommendations and then pointing out what
22 could be overrides to those control recommendations and to
23 me you've just summarized the advantage of hearing that
24 there might be -- and I think the words are may. It's not
25 shall or there is and it's a reminder that you, in this era

1 of transparency, need to be aware of potential conflicts,
2 potential overrides of control.

3 To me you've done what any audit function is.
4 You've made some recommendations and you've said but there
5 may be things that might make that more difficult.

6 I agree with the Chair and that is that the things
7 that are in here need to go forward and we shouldn't be hung
8 up on terms that state potential and not fact. I'm
9 comfortable with having this report simply advise the Board.

10 CHAIRPERSON SHEEHY: Well, I want to just also
11 respond to Kathleen. All due respect, you said that these
12 things weren't in the report. The report that I have is
13 actually closer to ten pages long and on page 4, they talk
14 about some of the fiscal and managerial controls that were
15 weaker at OPSC than other comparable institutions.

16 They talk specifically about the assessment of
17 construction costs, grantee submitting capital budgets,
18 grant agreements, grant disbursements, and so on and so
19 forth. I mean they specifically talked about areas where
20 OPSC was weak and where they could be stronger in
21 administering the bond funds.

22 And so I just -- I guess I just have a different
23 view than you do, but I'm basing my comments from what's
24 right in the report on page 4. I mean you're right. They
25 didn't write a 30-page how to fix it thesis because that

1 wasn't their engagement, but I think they identified
2 weaknesses and that those are in fact here in the report and
3 I think that those are areas that we should all be concerned
4 about as we administer taxpayer funds in this program.

5 ASSEMBLY MEMBER TORLAKSON: Mr. Chairman, if I
6 may.

7 CHAIRPERSON SHEEHY: Yes, Mr. Torlakson.

8 ASSEMBLY MEMBER TORLAKSON: I also focused in on
9 that page 4. There's the section called Assignment of
10 Responsibility and Authority and suggested motion here that
11 I think meets Senator Lowenthal's concerns but also the
12 concern you mentioned, that we take action to refer to the
13 subcommittee the portions of this report that deal with the
14 issues of assignment of responsibility and authority and
15 it's outlined there again on the top two-thirds of page 4,
16 but we not accept the report to the degrees that it -- the
17 sections that deal with overriding controls and objectivity
18 because of fundamental difference we have and maybe view of
19 how the Board operates as an appeal board, as a board with
20 some discretion.

21 Some of the issues by the way that deal with the
22 overriding control, that deal with the issues of
23 objectivity, we've just referred previously in our early
24 action today to the committee to look at the guidelines, the
25 rules, the statutory foundation of our ability to make

1 discretionary calls, and so we've sort of addressed that
2 part of the report separately by referring it to staff.

3 What I think Senator Lowenthal was expressing and
4 share that concern is sort of the strong way that this
5 worded.

6 So I would make a motion to not accept the report
7 as it relates to the overriding goals and the objectivity --
8 or the role of the Board and the role of the Superintendent
9 of Public Instruction's representative, but to refer the
10 portions of the report that deal with the responsibility and
11 authority and efficiencies to the committee to further
12 review -- implementing.

13 CHAIRPERSON SHEEHY: Well, it sounds to me,
14 Senator Torlakson --

15 SENATOR LOWENTHAL: I would accept that as a
16 friendly amendment.

17 CHAIRPERSON SHEEHY: It sounds to me like that's
18 an earnest attempt to find compromise and, you know, that
19 sounds like a compromise Senator Lowenthal's willing to
20 support and in the spirit of working with my colleagues, I'm
21 willing to accept that and so if that's a motion, do we have
22 a second?

23 ASSEMBLY MEMBER BROWNLEY: I second it.

24 CHAIRPERSON SHEEHY: Okay. We have a motion and a
25 second. Is there anybody that's going to object or lay off?

1 MR. HARVEY: I'm going to abstain.

2 CHAIRPERSON SHEEHY: Okay. Let's have a roll call
3 vote.

4 MS. JONES: Okay. Senator Lowenthal.

5 SENATOR LOWENTHAL: Aye.

6 MS. JONES: Senator Hancock.

7 SENATOR HANCOCK: Aye.

8 MS. JONES: Assembly Member Fuller.

9 ASSEMBLY MEMBER FULLER: Aye.

10 MS. JONES: Assembly Member Brownley.

11 ASSEMBLY MEMBER BROWNLEY: Aye.

12 MS. JONES: Assembly Member Torlakson.

13 ASSEMBLY MEMBER TORLAKSON: Aye.

14 MS. JONES: Scott Harvey.
15 Kathleen Moore.

16 MS. MOORE: Aye.

17 MS. JONES: Tom Sheehy.

18 CHAIRPERSON SHEEHY: Aye.

19 MS. JONES: Motion passes.

20 CHAIRPERSON SHEEHY: Okay. Was there additional
21 public comment on this item? Mr. Duffy.

22 SENATOR HANCOCK: I have a little public comment.

23 CHAIRPERSON SHEEHY: Oh, Ms. Hancock.

24 SENATOR HANCOCK: You know, I think parts of this
25 as I've read it honestly seem to be the perennial tension

1 between appointed administrators and elected people, a
2 little bit run amuck if you don't mind me saying so.

3 I have many friends in administration and many
4 who serve many elected bodies, cities, counties, whatever.
5 The wale is always we objective and brilliant people have to
6 deal with these ignorant, emotional, and easily influenced
7 elected officials.

8 And the tone of this, quite honestly, was kind of
9 contemptuous and I think you're hearing a reaction to that
10 and it's just an observation about the sociology of bodies
11 like this. But, you know, we were elected to exercise our
12 judgment which is what we try to do.

13 CHAIRPERSON SHEEHY: Okay. Are there further
14 questions or comments for the OSAE staff? Thank you very
15 much for coming this evening. Senator Torlakson, thank you
16 for your motion. And Senator Lowenthal, thank you for your
17 willingness to compromise on that. Mr. Duffy.

18 MR. DUFFY: Yes. Tom Duffy again for C.A.S.H.
19 This all began after a consulting group was hired to come in
20 and look at cost of construction. During that period of
21 time, the consulting group was asked to also look at a
22 program that was at issue because of an appeal before the
23 Board and that was the hardship program.

24 And it was that matter that the Macias Consulting
25 Group was reviewing in terms of hardship and what was

1 happening with internal auditing and control procedures that
2 really caused you to be asked by OPSC whether or not they
3 should enter into agreement to have a review.

4 We cautioned at the time saying we had concerns
5 about what was being asked because it appeared that there
6 was a target of the hardship program. This review that was
7 done was -- went beyond the hardship program and I agree
8 with you, Senator, that -- Senator Lowenthal, that there's a
9 lot of negative in this report.

10 Going back to the -- our original discussion with
11 the consulting group, we found them to be nonlisteners. We
12 found them to not understand construction issues and so we
13 had a natural difference of view that was really pretty
14 tense at various times.

15 So when this second report on hardship was being
16 asked to be reviewed by Finance and our cautions were there,
17 we didn't really know what was going to happen, but we
18 believed it was coming back only on the hardship program.
19 Am I not being clear, Mr. Sheehy?

20 CHAIRPERSON SHEEHY: I didn't want to interrupt
21 you, but I -- you lost me completely. What does Finance
22 asking for a report have to do -- and hardship have to do
23 with what we just dealt with?

24 MR. DUFFY: Because it was germane to the review
25 of what was happening within OPSC and these really wimpy

1 audit procedures that have been identified. And --

2 CHAIRPERSON SHEEHY: Okay.

3 MR. DUFFY: -- so what I'm saying to you is that
4 we object to this report and we believe -- and you and I had
5 a conversation last evening about a recent meeting at OPSC
6 on audits and we understand where all of the information
7 that came to us during that meeting which was about two
8 weeks ago and it's rooted in what's being recommended here.

9 So we have a fundamental divide.

10 CHAIRPERSON SHEEHY: Tom, just so I know -- and
11 since you're here and you're on the record --

12 MR. DUFFY: Yes.

13 CHAIRPERSON SHEEHY: -- is it C.A.S.H.'s position
14 that you object to this entire report?

15 MR. DUFFY: We do.

16 CHAIRPERSON SHEEHY: I think that's most
17 unfortunate.

18 MR. DUFFY: We do not object to being transparent
19 and making sure that we're all --

20 CHAIRPERSON SHEEHY: I think that --

21 MR. DUFFY: -- that we're all accountable.

22 CHAIRPERSON SHEEHY: I think you may want to
23 double-check with your membership because I'm sure the
24 membership of the Coalition for Adequate School Housing
25 doesn't want to send a message to the general public that

1 they don't support transparency and good controls in state
2 bond funds.

3 MR. DUFFY: No. We --

4 CHAIRPERSON SHEEHY: I just think that's a message
5 you don't want --

6 MR. DUFFY: We --

7 CHAIRPERSON SHEEHY: -- you don't want your
8 organization you're representing to send. Mr. Savidge is
9 here. Maybe he'd like to comment on that. I just think
10 that's a bad message.

11 MR. DUFFY: If I may just finish.

12 CHAIRPERSON SHEEHY: Sure.

13 MR. DUFFY: The difference in view is that there
14 was an agreement back in 1998 that brought about Senate
15 Bill 50 and that agreement identified that once you
16 qualified for funding that funding was to be given to you
17 and you could not come back and ask for more. You know the
18 story.

19 But that the same was true with regard to the
20 state. So we agree that we need to be transparent with the
21 public because we get audited in school districts every year
22 and those audits are done before a board and those boards
23 are frequently very critical and we have a public that
24 oversees what we do and we have citizen oversight
25 committees.

1 We believe that there are issues that are not
2 really issues for school districts that come out of the
3 Executive Order and that has been really, Mr. Sheehy and
4 members, what has been told us to be the impetus for this
5 and in fact the authority and we don't agree with that.

6 CHAIRPERSON SHEEHY: Okay. Thank you, Tom.

7 MR. DUFFY: Well, just one other thing. The
8 comments that were made about the Board at the Little Hoover
9 Commission are something that I think need to be addressed.

10 We were at that Little Hoover hearing. We had
11 given testimony through our C.A.S.H. chair. We have letters
12 that -- or a letter that's on the record and what we
13 identified was we think that this body actually functions
14 very well and we saw what was happening at the Little Hoover
15 Commission and there was clearly a bias against having
16 elected officials on a body like this.

17 I don't remember the gentleman's name. He was
18 from Berkeley, but he said there was no other body in the
19 United States that functions like this, where there's an
20 elected official that gets to be board and I think the term
21 was to get a second bite of the apple, and so --

22 CHAIRPERSON SHEEHY: Of course, Tom, the odd thing
23 about that statement you're making is that there's elected
24 officials that serve on the Little Hoover Commission and
25 they approved that unanimously. So I think you need to put

1 that on the record too, Tom.

2 MR. DUFFY: Well, it may be the members that were
3 there, but I know one who after the vote was taken disagreed
4 with what had occurred.

5 CHAIRPERSON SHEEHY: Fair enough.

6 MR. DUFFY: He's no longer in the Senate and you
7 probably know who I mean. But we do feel that this is a
8 biased report as well.

9 CHAIRPERSON SHEEHY: Okay.

10 SENATOR LOWENTHAL: Thank you. Are you mad at me?

11 CHAIRPERSON SHEEHY: Thank you, Tom. Is there
12 anything else that you wanted to add?

13 ASSEMBLY MEMBER BROWNLEY: No, I'm not mad at you,
14 Senator Lowenthal.

15 MR. DUFFY: This is the first time, Mr. Chairman,
16 that you and I have disagreed on a fundamental issue.

17 CHAIRPERSON SHEEHY: Tom, you know that I'm a big
18 fan of yours. I just think you're wrong in this case, but
19 you know, sometimes people disagree.

20 MR. DUFFY: Thank you very much.

21 CHAIRPERSON SHEEHY: You're welcome. Is there
22 more public comment on this item? Okay. Seeing none.
23 We're not going to -- I think we've covered all the business
24 items.

25 Members, we're not going to adjourn, but if

1 anybody would like to leave, they can.

2 SENATOR LOWENTHAL: Hang in there --

3 CHAIRPERSON SHEEHY: I promised to keep the
4 meeting going so that we would take testimony on seismic and
5 also, Lisa --

6 MS. JONES: Yes.

7 CHAIRPERSON SHEEHY: -- if Senator Lowenthal
8 wanted to add on to any of the items, could you please make
9 sure he has a chance to do so before he steps out.

10 SENATOR LOWENTHAL: I'm not leaving. I can --

11 CHAIRPERSON SHEEHY: Okay. So I think Terry Tao
12 was next in line on **seismic**. Mr. Tao. Thank you.

13 MR. TAO: I apologize. I realize the late hour
14 and I'll try to be brief.

15 On of the things about AB300 was it was supposed
16 to be a private report for research and analysis purposes.
17 Unfortunately and not through any actions of OPSC, it was
18 released and is generally a public document.

19 My firm represents roughly 350 school districts,
20 about a third of the school districts in the state, so we
21 regularly receive telephone calls inquiring what do we do
22 about the AB300 report, what do we do about seismic, do we
23 follow up for seismic funding.

24 And the issue that I bring before you is there are
25 two bars to seismic funding. One is the ground motion item

1 and the other is the building type, essentially a
2 redefinition of most vulnerable Category II.

3 I realize that this Board is a policy making Board
4 and there are reasons for various policies. I don't object
5 necessarily to, for example, setting ground motion at
6 whatever it is that you set the ground motion at because of
7 limited funds.

8 The concern really is the redefinition of most
9 vulnerable Category II because that is a definition and
10 there are, if I'm not mistaken, either 28 or 30 building
11 types that would fall under most vulnerable Category II, yet
12 it's been defined into four categories of which really only
13 two are viable categories. The other two there are
14 literally almost no buildings left that fall into the
15 unreinforced masonry or tilt-up building structure
16 categories.

17 When I'm dealing with school districts, they ask
18 me about their liability and they're especially interested
19 in the personal liability of school district work numbers.
20 It falls under Government Code Section 830.6, and they're
21 going through this process right now.

22 For those school districts that were brave enough
23 to say I don't -- to go beyond the I don't want to hear
24 about it; since we're not going to qualify for seismic,
25 let's pretend this conversation never occurred and are

1 processing applications or trying to process through DSA,
2 there's a very significant liability problem for anybody
3 that was on the AB300 list.

4 They are identified as potentially and likely
5 unsafe structures and in most of the school districts that
6 many of which will remain nameless, they're finding that
7 they are unsafe structures.

8 And most of them are barred both by the seismic
9 criteria and barred by the type of category of building.
10 The problem really is the course that 830.6 sends them on.

11 First, they need to analyze the costs in order to
12 correct the problem. Then they need to seek all available
13 funding.

14 Under Attorney General opinions and application of
15 the law, one of the things they must do is seek funding from
16 your Board and if they seek funding from your Board and are
17 turned down, essentially design immunity reattaches so that
18 the individual members of the school board are no longer
19 liable for their acts as long as they do one thing.

20 And the one thing is a very unfortunate thing, but
21 it is placement of a sign on the buildings identifying that
22 it's on the AB300 list and likely is an unsafe structure if
23 they can't fund, if they can't replace the structure. So --

24 MS. MOORE: If I may, Terry, in the interest of
25 moving the item along, so -- because staff is going to

1 relook at this, they will be looking at the categories;
2 correct? That was one of the directions that was given. Do
3 you have any input on that and if so, that's probably the
4 best place to provide that was we regroup on that agenda
5 item. Whatever your recommendations are for the staff to
6 consider, I think is what you should --

7 MR. TAO: I actually am prepared to do that also.
8 There is a school district that specifically asked me to go
9 on record here. It is Morongo Unified School District.
10 They are in the process of meeting with DSA in order to get
11 concurrence letters.

12 They have a school, Joshua Tree Elementary School,
13 that happens to have a ground motion of 2.2. Not 1.7 but
14 2.2. They do not qualify under any of your criteria for
15 building type. And that is disturbing because we had to
16 tell them you're not going to qualify for funding, but you
17 should try to seek funding anyway and --

18 MS. MOORE: So are you saying, Terry, that they
19 would not had under the -- an even expanded building type
20 potential, they still -- there's no building type?

21 MR. TAO: They would have to qualify under a
22 building type other than the four that you've identified.

23 MS. MOORE: Okay. But we're asking staff to look
24 at the other -- all building types. I believe that is what
25 the direction of the Board was to staff and why Senator --

1 and I think I called her Assemblywoman earlier and I
2 apologize for that, Chuck.

3 CHAIRPERSON SHEEHY: That's okay, Ms. Brown.

4 MS. MOORE: But that's the direction that we're
5 seeking. So any input that that district and yourself I
6 think can give to staff in this intervening month will be
7 helpful as the Board deliberates this at the next month.

8 MR. TAO: Thank you.

9 ASSEMBLY MEMBER BROWNLEY: Can I interrupt just
10 for one second? I just wanted to ask if you're going to
11 testify when the item comes up again. Just -- and I'm just
12 asking the question because I really need to go, but I want
13 to hear your testimony, but if you're going to testify
14 again, then that would free me up to go.

15 MR. TAO: I very much would. As the school
16 districts are making it through DSA, the individual school
17 districts will probably be mentioned and identified and
18 addressed individually.

19 ASSEMBLY MEMBER BROWNLEY: Thank you.

20 MS. MOORE: At the next meeting --

21 CHAIRPERSON SHEEHY: Okay. Ms. Brownley, thank
22 you very much and we'll keep you posted.

23 ASSEMBLY MEMBER BROWNLEY: Okay.

24 MR. TAO: Thank you.

25 CHAIRPERSON SHEEHY: Terry, did you have more?

1 MR. TAO: No. That's actually --

2 CHAIRPERSON SHEEHY: Thank you for --

3 MR. TAO: -- the -- it's building types.

4 CHAIRPERSON SHEEHY: I apologize for making you
5 pause and come back. Thank you for waiting and thank you
6 for your public comment. Mr. Duffy.

7 MR. TAO: Thank you.

8 MR. DUFFY: First, I want to thank OPSC staff and
9 leadership for bringing this item. It was actually here
10 last month. We didn't get to address it.

11 I appreciate the movement that's in there on the
12 two items that are dealt with. We believe that the dialogue
13 needs to go further and so we have a letter that has gone to
14 you and the letter basically identifies -- you know, you're
15 a busy guy. So it's probably waiting in your office, but --

16 CHAIRPERSON SHEEHY: Okay.

17 MR. DUFFY: -- I have a copy here.

18 CHAIRPERSON SHEEHY: All right.

19 MR. DUFFY: And basically the letter identifies
20 that we're bringing a work group together on this topic and
21 we'd like to invite OPSC, DSA, the Seismic Safety Commission
22 to come in to basically the discussion of -- and this would
23 be with structural engineers, architects, school district
24 folks that do this work to have a dialogue about what could
25 really work with the areas that we've identified and we

1 identified the building types you've been talking about, the
2 spectral acceleration thresholds, and the issue of the
3 pipeline.

4 The pipeline that's identified in the write-up is
5 a pipeline basically of unfunded approvals up to the 199.5.
6 What we were asking for was what happens after the
7 exhaustion of the 199.5 and the establishing of a pipeline
8 for future bonds and what to understand -- you're shaking
9 your head, Mr. Harvey, but the idea is to say how much need
10 is there going to be.

11 CHAIRPERSON SHEEHY: Tom, one think I think, you
12 know, we should probably get on the record right now. There
13 is strong concern in the Legislature as well as in the
14 Schwarzenegger administration about the state taking on
15 additional liability in this area.

16 So I just want you to understand that when you
17 feel push-back, it's not just going to be coming from
18 Mr. Harvey and I, but there are a lot of concerns in the
19 Capitol in general on this issue.

20 Now that said, I've committed and I still am
21 committed to doing everything we can to get the \$199 million
22 out that's been approved, but when we start getting into
23 issues that go beyond that into additional state liability,
24 we're going to run into a buzz saw and I just think you
25 should be aware of that because the State of California

1 doesn't have additional funds and we have to be extremely
2 careful about the liability issues that we could be stepping
3 into.

4 And so I just want to make sure. I want to get
5 that on the record right now and I want make sure that you
6 and the organization you represent are aware of that.

7 MR. DUFFY: And I appreciate you doing that and
8 indeed I do going back to the conversation we had yesterday
9 about push-back on a bond altogether.

10 What I was trying to differentiate though was what
11 we'd asked for and what's in the report and so that's
12 identified in the letter.

13 But again our intent is to try to come to a
14 solution -- the term you used and it's been used tonight
15 about this being a transparent process. The way that this
16 came together was not done that way at all. Three agencies
17 came together. We don't know all the information that they
18 put together and how all that was reviewed. And maybe some
19 of it was out there before the Imp Committee. What we want
20 to do is begin with the Imp Committee recommendations --

21 CHAIRPERSON SHEEHY: I'm sorry. I want to -- if
22 it's okay. If it's okay -- I'll wait if you want me to, but
23 I'd like to address the transparency issue straight up. Do
24 you want me to wait or should I do that now?

25 MR. DUFFY: No. Go ahead.

1 CHAIRPERSON SHEEHY: Okay. Thank you for raising
2 that as an issue. I think that's an important issue and I
3 think the transparency issue is one that is going to be --
4 become more evident when we can actually get the three
5 parties you mentioned sitting down, get into the item, have
6 them sit down and testify about it.

7 It was my belief all along that this body, the
8 State Allocation Board, would be reluctant to take action in
9 this area on the seismic retrofit issue unless it was
10 getting a recommendation from an authority.

11 Now, our head architect in this state is
12 Mr. Thorman with the Division of State Architect --

13 MR. DUFFY: And we respect him.

14 CHAIRPERSON SHEEHY: -- and therefore I have felt
15 all along and continue to feel it's extremely important that
16 we get a recommendation from the State Architect that we can
17 get behind.

18 Now maybe some people may disagree. You know, you
19 can have the debate, but I felt that we needed to have an
20 authority, somebody with the credentials and who was a
21 public servant come forward and make those recommendations.

22 I also knew from conversations that we've had with
23 leadership in the Capitol -- in the legislative branch,
24 there's a lot of concern about this issue, conversations
25 with the Department of Finance staff -- that we needed to

1 make sure that we stayed within the \$200 million that we
2 have. So we had to have Finance staff involved --
3 Ms. Moore, not doing the work but being a party to it --
4 because at the end of the day, you know, I'm going to ask
5 them, you know, do you agree with this estimate. I'm always
6 comfortable having our staff look over somebody's shoulder.

7 But certainly you're right. They've got -- and I
8 want to just acknowledge what you said before. They don't
9 have any direct line authority in this area. So I did ask
10 them to work with OPSC and the State Architect.

11 So to the point on transparency, when we have this
12 item properly cued up before us with all the Board members
13 here and we get into it, I'm going to expect all parties to
14 testify on the process they went through, what they looked
15 at, what they considered, what the constraints were they
16 had. I want there to be complete transparency.

17 I appreciate your point of view right now that you
18 feel like you don't completely understand all that. That's
19 fair. But I just want you to know we're going to have that
20 discussion with this Board.

21 MR. DUFFY: And what our recommendation to you is,
22 because we're going to bring together a variety of
23 professionals, is to basically ask your staff to work with
24 us, bring what they have. We're inviting DSA and the
25 Seismic Safety Commission and we want to make sure that we

1 all know what we're talking about.

2 This is a very serious and important issue that
3 has been delayed and delayed and delayed.

4 And, Mr. Harvey, I appreciated your comments
5 earlier about wanting to get projects on the street and the
6 whole DSA priority matter.

7 If this had been implemented effectively as we had
8 argued for it in 2007, you would have projects that would
9 have been reviewed by DSA and would be funded and some of
10 this money would have been spent, but not a dime of it has
11 been spent as you well know.

12 MR. HARVEY: And I think you will to acknowledge
13 that at one of my first meetings I became a crusader for
14 removing the obstacles and we've had hearings on why people
15 didn't apply because I saw the liability. I saw the risk
16 and it was my charge and my interest to find out more about
17 why districts weren't using this access point.

18 So I think we have come a long way and I look
19 forward to a continued discussion on it, but we are where we
20 are and we have a ceiling and we need to make sure we open
21 it up.

22 I'm going to come from the perspective that says
23 we will look at the building type. We will look at the
24 ground shaking. All of those things depending on what we do
25 will either put people in or put people out, but we will

1 have a list that at some point will have to stop at
2 199 million.

3 We can make the case for additional bonds over
4 time.

5 MR. DUFFY: Well --

6 CHAIRPERSON SHEEHY: Ms. Moore.

7 MS. MOORE: I just -- couple comments based upon
8 what you've testified, Mr. Duffy. Two points and kind of
9 the discussion that's gone on here and I very much
10 appreciate, Tom, your, you know, kind of summary of that --
11 what went on.

12 One point that we're going to want to be very
13 involved in and careful of is that we're not I guess putting
14 safety behind the numbers and that is that if indeed the
15 problem is greater than 199 --

16 MR. HARVEY: And it is.

17 MS. MOORE: -- I think that we need to take a
18 careful look at that and not put the policy being driven by
19 the numbers but the policy being driven by the safety issue
20 as well. Given that we have a cap we know, but if that cap
21 exists and we still have a safety issue, I'm going to want
22 to hear about that and I hope that when everyone comes
23 forward and discusses that, I want to have that item -- that
24 issue of safety as well. And I'm not saying that all Board
25 members are concerned about the safety issue.

1 Secondarily, in the interest of time, Tom, and
2 what we've all said this has been delayed, is your group
3 going to meet within this next month and be able to give
4 their input to the Office of Public School Construction?

5 MR. DUFFY: That's our intent.

6 MS. MOORE: Okay. And I would encourage that
7 wholeheartedly so that we can move on with this item and
8 remove some of the impediments that I think Scott has
9 identified.

10 MR. DUFFY: And --

11 CHAIRPERSON SHEEHY: I would like to add one more
12 thing because you mentioned in the interest of time and,
13 Tom, you mentioned that we -- you know, here we are. We
14 still haven't done it, but, you know, we were prepared to
15 act tonight. We had a set of recommendations that tonight
16 that I believe had they been acted on would have moved us
17 light years away from where we are right now in terms of
18 getting that money out the door. Now, I understand --

19 MR. DUFFY: It was an important move.

20 CHAIRPERSON SHEEHY: Hold on. Thank you for
21 acknowledging that. I understand that those recommendations
22 perhaps were not as complete as some might like and I
23 certainly didn't want to push back on any of my fellow Board
24 members when they requested that there be an even more
25 thorough analysis -- review put together.

1 So I think it's important of the record to show
2 that this body had it in fact teed up and I know there is at
3 least one Board member, probably more, that were ready to
4 take action tonight on this issue. That's a huge victory
5 for you. You should bank it and go home and have a glass of
6 red wine.

7 And the only reason why we didn't, Tom, is because
8 people actually want to put further review and work into it.
9 It's not because anybody's second guessing and saying oh, we
10 shouldn't have it before this body.

11 So I really think taking the 10,000 foot view and
12 not being too deep into the weeds, this is really a good
13 thing. I know people are impatient. You know, sometimes
14 government takes -- you know, we've got to notice meetings
15 and we've got to get back together and we got to do all this
16 stuff, but we'll get there. We're going to do it.

17 MR. DUFFY: The -- just finally, Mr. Harvey,
18 you're talking about the ceiling. What we're anxious -- and
19 this is a final point in this letter -- is we're anxious
20 that as these new construction dollars keep burning down
21 with the unfunded approvals that the seismic monies within
22 that new construction amount based upon the language of 127,
23 we would like you to stop if you look like you're coming
24 down below that 200 million so that you preserve those
25 seismic funds.

1 And I will -- I've got some information I can
2 share with you to make sure that you see the view that we
3 have.

4 You've been very patient with me this evening.

5 CHAIRPERSON SHEEHY: No. This is an important
6 discussion to have.

7 MR. DUFFY: But was that an offer to buy me a
8 glass of red wine, Mr. Sheehy?

9 MR. HARVEY: No. You were buying us a glass.

10 CHAIRPERSON SHEEHY: No, I -- you hurt my feelings
11 so bad about not liking our -- I shouldn't say our -- about
12 not liking the OSAE report, I think you owe me a couple of
13 beers, but we'll take that up at another point in time.

14 MR. DUFFY: All right. Thank you very much.

15 CHAIRPERSON SHEEHY: Is there more public
16 testimony that needs to come before the Board tonight?
17 Okay. Seeing none, the State Allocation Board is adjourned.

18 (Whereupon, at 7:37 p.m. the proceedings were recessed.)

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