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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL, ROOM 4202
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, SEPTEMBER 23, 2009
TIME: 2:08 P.M.

Reported By: Mary Clark Transcribing
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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 ALAN LOWENTHAL

SENATOR LONI HANCOCK

SENATOR MARK WYLAND

ASSEMBLY MEMBER JEAN FULLER

ASSEMBLY MEMBER TOM TORLAKSON

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

ROB COOK, Chief Executive Officer

LISA SILVERMAN, Chief of Fiscal Services

JUAN MIRELES, Program Services Policy Manager

SUSAN RONNBACK, Interim Assistant Executive Officer

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

TERESA BORON-IRWIN, Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON SHEEHY: Sue, can you help us establish a quorum. Thank you.

MS. GENERA: I'd be happy to. Senator Alan Lowenthal.

SENATOR LOWENTHAL: Yes.

MS. GENERA: Senator Loni Hancock. Senator Mark Wyland.

Assembly Member Jean Fuller.

ASSEMBLY MEMBER FULLER: Present.

MS. GENERA: Assembly Member Julia Browning.

MS. GENERA: Assembly Member Torlakson.

ASSEMBLY MEMBER TORLAKSON: Here.

MS. GENERA: Scott Harvey.

MR. HARVEY: Present.

MS. GENERA: Kathleen Moore.

MS. MOORE: Here.

MS. GENERA: Tom Sheehy.

CHAIRPERSON SHEEHY: Present.

MS. GENERA: We have a quorum.

CHAIRPERSON SHEEHY: Thank you, Sue. Now, two announcements and one question. The first announcement is for those of you in the audience that do not know, our Board member Rosario Girard has resigned. I have a letter that I

1 passed out to our Board members that I just received on
2 Monday from Ms. Girard. So we do have a vacancy. It's not
3 going to change our quorum requirements of the Board. The
4 Board is still a Board of ten members. It's just we only
5 have nine sitting members and one vacancy. So we'll see if
6 we can't get the ball rolling to find a replacement for
7 Ms. Girard and get a new appointment made to the Board, but
8 it could be some time before that happens.

9 My second announcement is that I understand from
10 OPSC staff that we'll have eight Board members today. I
11 talked with Senator Wyland's staff before the meeting
12 started and they indicated that Senator Wyland's plane was
13 landing right before 3:00 and we expect him here about 3:30.

14 At that time, my intention would be to go into
15 closed session for purposes of personnel matter pursuant to
16 our notice agenda and then my question for Mr. Cook is do we
17 know whether or not Senator Hancock will be joining us
18 today.

19 MR. COOK: Yes. We understand Senator Hancock
20 will be here as well.

21 CHAIRPERSON SHEEHY: Great. Okay. So with that,
22 Rob, do you want to go ahead and -- what are we going to do
23 first? The Minutes. Do we have Minutes to approve.

24 MR. COOK: Yeah. That's correct. The **Minutes**
25 from our August meeting are before you and ready for

1 approval.

2 CHAIRPERSON SHEEHY: Do we have a motion?

3 SENATOR LOWENTHAL: This is on the?

4 CHAIRPERSON SHEEHY: Minutes.

5 SENATOR LOWENTHAL: I have a question though.

6 CHAIRPERSON SHEEHY: Yes, Mr. Lowenthal.

7 SENATOR LOWENTHAL: If I can figure out how to do
8 this. Am I on now?

9 MS. JONES: Yes.

10 SENATOR LOWENTHAL: I do think that the Minutes --
11 I know they've been amended to reflect Ms. Chick's comments
12 of last month, which I missed because I not able to get here
13 that early.

14 I think that she said that she does not have
15 authorization over school facility bond funds but that if
16 she's asked by the proper authority, she would respond to
17 those.

18 I would just like to point out, to me the proper
19 authority is the State Allocation Board. We are the
20 oversight board on that. So if she has concerns, I think
21 she should in the future or if there's any request, it
22 should come from the State Allocation Board, so --

23 CHAIRPERSON SHEEHY: Okay. Duly noted. Any other
24 questions or comments from Board members on the Minutes?

25 MR. HARVEY: Move approval.

1 CHAIRPERSON SHEEHY: We have a motion.

2 MS. MOORE: Second.

3 CHAIRPERSON SHEEHY: We have a motion and a
4 second. All in favor.

5 (Ayes)

6 CHAIRPERSON SHEEHY: Those opposed? Hearing none,
7 the Minutes are approved. Okay. Item No. 3, **Executive**
8 **Officer's Statement.**

9 MR. COOK: Good afternoon. I have three items for
10 the Board this afternoon. First of all, at the beginning of
11 this month on September 8th, the Governor issued an
12 Executive Order on governmental transparency directing state
13 agencies to post audits, program reviews, monitoring and
14 accountability reports, evaluations, inspections and
15 assessments, and studies of their operations dating back to
16 January 1, 2008, to the Website. The Website link is
17 available for folks in your documents, but www.reporting --

18 CHAIRPERSON SHEEHY: I'm sorry, Rob. Could you
19 try speaking just a little bit closer to your microphone. I
20 don't think you're as loud as you could be. Thank you.

21 MR. COOK: Okay. Anyway the Website is
22 reportingtransparency.ca.gov. I believe we will be posted
23 under the umbrella of the Department of General Services on
24 that Website.

25 MS. MOORE: May I ask a question.

1 CHAIRPERSON SHEEHY: Please.

2 MS. MOORE: How will that affect the reports that
3 you -- what would be posted to that Website? Are you saying
4 every school district's audit?

5 MR. COOK: We're trying to evaluate what would --
6 what needs to be posted on that site. We certainly post a
7 great deal of information on our Website. Our entire agenda
8 is available electronically and on our Website, so that may
9 satisfy some of the requirements.

10 MS. MOORE: Because it says audits, program
11 reviews, monitoring and accountability reports, evaluations,
12 inspections, assessments.

13 MR. COOK: Um-hmm.

14 MS. MOORE: That seems very broad reaching, so I
15 would -- I for one Board member would be interested when you
16 do determine, that you bring forward what it is that we
17 would post there separately than what we post onto the State
18 Allocation Board Website already.

19 MR. COOK: Um-hmm. Okay. No problem. Also I
20 wanted to provide the Board an update on regulations. On
21 August 31, regulations on our emergency repair program that
22 provide districts a three-month extension to complete their
23 projects and also accelerates return of savings back to the
24 state went into effect and then on September 18th,
25 regulations approving the general site development costs,

1 most that date to January 1 of 2010 also became effective.

2 And then just one general note for our Webcast,
3 many of our constituents are relying on Webcasts. Travel
4 budgets have been slashed. This is one -- Webcasts are one
5 way for them to participate in our meetings and keep
6 informed.

7 At our last meeting, we had some audio
8 difficulties. Some members were not using their microphones
9 and so on. We were receiving comments that parts of our
10 Webcast were really ineffective for folks. And so just
11 encourage folks to use their microphones and I'll -- Tom's
12 admonishment, I'll try to speak up as well, but -- so that
13 we can make these Webcasts useful for our constituents.
14 That concludes my remarks.

15 SENATOR LOWENTHAL: I just had -- I think this is
16 the appropriate time being in the Executive Officer report.
17 I received from you, Rob, on -- I think it was on the 10th
18 of September a letter about the State Allocation Board
19 meetings in terms of -- and you said that you were proposing
20 the following revised meeting schedule, that we would meet
21 on odd months. I then sent to you an email saying on -- I
22 think it was sent on the 16th that I disagreed, I did not
23 agree with reducing the number of Board meetings because of
24 transparency and it was unclear whether you were going to
25 propose that we would have a discussion in here at the Board

1 about whether to make this change or not.

2 So I did see that our next Board meeting is
3 proposed in November. I'm wondering is this now a policy
4 change? You said you were proposing it. I gather when you
5 propose it, it's up to the Board to decide whether in fact
6 we want to accept that.

7 CHAIRPERSON SHEEHY: Mr. Cook, may I help respond
8 to that and you're welcome to follow up. Senator Lowenthal,
9 I think your point's a good one and that we should have a
10 Board discussion. So no, there is no policy change yet. I
11 would note that this Board never formally adopted any
12 schedule to begin with.

13 SENATOR LOWENTHAL: Which is fine.

14 CHAIRPERSON SHEEHY: But that said -- let me just
15 be clear. If a majority of the Board members feel very
16 strongly that we should not do this, then we won't. But I
17 think we should have the discussion. You know, we may end
18 up with a tweener somehow. We may not end up with 12
19 meetings in a year, but we may not end up with 6, but I
20 think that any concerns that the Board members have should
21 be discussed.

22 And so I have told Rob and I am formally
23 requesting and stating now that we'll have this as a
24 discussion item in our next meeting to see how all the Board
25 members feel so we can have it thoroughly discussed. You

1 have my assurance on that.

2 SENATOR LOWENTHAL: That's all I ask for.

3 CHAIRPERSON SHEEHY: And I think the next Board
4 meeting is scheduled for November. We might have one in
5 October. It's in part going to depend upon how things go
6 today, Senator, and so we will continue to work closely with
7 your office and the office of all the Board members, but I
8 want to assure everybody we're not going to unilaterally
9 make a change in our meeting policy, although I think some
10 changes are needed, but we're going to discuss that because
11 I understand there are those that feel -- that have, you
12 know, different points of view. So we need to have those
13 all fully aired.

14 SENATOR LOWENTHAL: Good.

15 CHAIRPERSON SHEEHY: Okay. Mr. Harvey.

16 MR. HARVEY: That's kind of a natural segue
17 perhaps to the issue I was going to ask Rob. A year ago, we
18 were privileged to have a Board meeting in Southern
19 California that coincided with the Green Schools Summit, one
20 that I think was well attended, one that was very
21 interactive. That is another opportunity for us. At least
22 I would suggest it is. It's in December and I am not at the
23 Green School Summit advisory committee, so I can be here,
24 but had I been there, I would have at least sought their
25 advice and consent as to whether or not it would make sense

1 as it did a year ago for us to meet during that session.

2 You really see the people who we affect.

3 So I don't know what my colleagues feel about it,
4 but we were in Anaheim last year when this event took place
5 and I think we had one of the more robust discussions while
6 we were there and I think it's helpful to come out of
7 Sacramento and actually go into the field on occasion. And
8 I would ask that we seriously consider doing that in
9 December.

10 It's the first part of December and I know we kind
11 of have meetings early in December if we do meet so we're
12 not pushed up against any holiday schedule.

13 CHAIRPERSON SHEEHY: And, Rob, before you answer
14 Mr. Harvey's question, could you address Ms. Moore's
15 question. I think she has a comment.

16 MS. MOORE: Well, just a comment that by virtue of
17 meeting in November we do change the monthly, so maybe it's
18 that we meet in October and make the decision. It has been
19 historically that the Board has combined the
20 November/December meeting and that's what you're referring
21 to last year that because of the holidays, we've always met
22 only once in those two months.

23 And so if you want -- if we want to discuss
24 changing the policy before we change the policy, we'd have
25 to do it in October.

1 CHAIRPERSON SHEEHY: Your point's well taken,
2 Kathleen. Thank you very much. Anyone else? Rob.

3 MR. COOK: Yeah, Mr. Harvey. Last year, we did
4 attend the Green Schools Summit. Staff participated in more
5 than a few panels at that. One of the -- there are a couple
6 of key objectives that we laid out -- or the staff, what we
7 laid out for the siting of that meeting at that venue. One
8 was that we would expose our Board to the environment.
9 Unfortunately, I think we fell short on that. I think most
10 of our Board members were very busy and just barely made it
11 to the meeting that day and didn't -- weren't able to
12 actually participate in any of the general sessions. So we
13 fell short on that goal.

14 We did have -- we did certainly help draw some
15 folks to that event and I think we helped -- I think it
16 was Synergistic and that -- on that score. It does add some
17 travel expense to our holding a meeting and we kind of have
18 to balance out what we can do.

19 More than happy to -- if we're going to have a
20 December meeting, I'm more than happy to consider siting it
21 in -- it would be Pasadena this year at that -- you know, at
22 that time.

23 CHAIRPERSON SHEEHY: What are the dates, Rob?

24 MS. GENERA: December 9th through 11th.

25 CHAIRPERSON SHEEHY: Okay.

1 MR. COOK: And so our date would probably be the
2 10th in that, so --

3 MR. HARVEY: Well, the other advantage perhaps
4 would be that we would have the ability to have a session
5 talking about the CHPS, whatever we call our funding for the
6 green schools. I mean some of us had felt very partial to
7 that program, even though I can't pronounce it, but -- I'm
8 hoping we do. Thank you for considering it. I don't know
9 if anyone from the audience has something to say.
10 Mr. Duffy, are you wanting to address it?

11 MR. DUFFY: May I?

12 CHAIRPERSON SHEEHY: Not until I say you can.

13 MR. DUFFY: That's why I looked at you,
14 Mr. Chairman.

15 CHAIRPERSON SHEEHY: Mr. Duffy, would you please
16 fill us in.

17 MR. DUFFY: I will. Thank you. And I'd like to
18 talk about both items. I agree with Senator Lowenthal. I
19 think -- I'm sensitive to the workload OPSC has. Rob and I
20 were having a conversation before the meeting about the
21 impact. Maybe fewer things get done, but the meetings
22 continue as they would normally go. As Ms. Moore was
23 suggesting the historical package of meetings was through
24 October and then not till December because of the holidays
25 and in early December, which if you do that -- meet next

1 month, don't meet in November -- it accommodates
2 Mr. Harvey's request and I appreciate him noting that.

3 We met with the green technology people
4 yesterday -- could not come to the meeting today because of
5 other meetings, but we're in full support. We will do three
6 workshops there and I think it's helpful to have members of
7 the Allocation Board there to be able to attend and to learn
8 things, Mr. Harvey, such as the -- how the CHPS model and
9 the high performance program administered by OPSC basically
10 line up and where they don't line up.

11 So I would encourage you to have your meeting next
12 month. I would encourage you to if possible meet in
13 Pasadena and attend those sessions.

14 As I've told others, going to the Green Schools
15 Conference -- and I think it's because of pulling in the
16 private sector as well as school districts -- we see faces
17 of people that we don't normally see and that shows you how
18 broad the green technology world is in terms of people
19 developing business and of course developing business in
20 California is what we want to do today in order to have more
21 taxes come in and get us out of the financial doldrums we're
22 in.

23 Anyway, thank you very much.

24 CHAIRPERSON SHEEHY: Thank you very much,
25 Mr. Duffy. Was there other public comment before we move

1 on? Rob, are you through --

2 ASSEMBLY MEMBER TORLAKSON: Tom.

3 CHAIRPERSON SHEEHY: I'm sorry. Senator
4 Torlakson.

5 ASSEMBLY MEMBER TORLAKSON: Yes. Thank you. As
6 we would agenda that item of the schedule of meetings for
7 the future and the impact of the furloughs on our overall
8 workload, I'd like us to also agenda and consider something
9 I raised at the last meeting and we had a pretty good
10 discussion about it, but the overall impact of the furloughs
11 on our ability to deliver the bond money, the construction
12 projects. At what point might our staff foresee that the
13 furloughs will not only impact their ability perhaps to
14 staff the Board meetings on a regular basis, but the actual
15 delivery of projects and with those projects, of course we
16 have the construction jobs and we have part of economic
17 recovery aside and apart from the fundamental purpose and
18 benefit of having excellent new classroom facilities,
19 modernized or rehabbed facilities for our kids.

20 And with that, the consideration of a letter
21 objecting to the furlough of our staff -- just for the Board
22 to consider. If it turns out that their analysis is this
23 has no impact on getting money out the door or construction
24 jobs, we could weigh that, but if it does, I think it's
25 something that we should bring to the attention of the

1 Governor.

2 And I know we had a good discussion, Mr. Chairman,
3 you did a great job of describing the financial web we're in
4 and the interconnectiveness of our funds, but I'd note that
5 the Courts just recently found that the furloughs to the
6 workers' compensation board were not legal and there is the
7 jeopardy of having to pay -- not only stop the furloughs,
8 but pay back pay with interest and could we face a similar
9 situation if ultimately these furloughs for our staff are
10 found to be not legal.

11 So I would like us at least to have that on the
12 agenda for consideration as staff would put together an
13 analysis of workload and how that impacts not only staffing
14 these meetings and getting the money out the door.

15 CHAIRPERSON SHEEHY: Thank you, Mr. Torlakson.
16 I'm glad you mentioned that. By the way, the issue that you
17 mentioned with SCIF is a very unique one and as you know all
18 of the other lawsuits have pretty much been dispensed with
19 and the Governor's prevailed on those. So I don't think
20 that that -- that what happened with SCIF is going to be an
21 issue with the rest of the state's civil service.

22 And of course as you know, the furlough issue with
23 the constitutional officers is an issue that is on appeal.
24 It was initially also found in favor of the Governor, but it
25 has been appealed by the constitutional officers and that

1 will have to play itself out.

2 On the issue of workload, I think you're right.
3 There's no question but that the furloughs are impacting
4 OPSC. I think when we have our next meeting, which it looks
5 like is probably going to be next month, we can discuss this
6 extensively, but, you know, with three furlough days a
7 month, you know, you have 150 person working days a month
8 now that are being lost at OPSC and I think, you know, one
9 of the most critical things that our staff can do for us is
10 to work with the school districts to get issues resolved, to
11 do the necessary research for the Board members, and to have
12 the time and space to actually think about what it is
13 they're going to recommend and to serve us.

14 And in order to do that, I'm not sure having a
15 meeting every month is going to ultimately be practical, but
16 why don't we save that discussion for our next meeting.
17 We'll agendize it. We could have a full discussion. We may
18 want to hear from other Board members that also have
19 experience with moving to an every other month scenario.

20 And I'd like to make one more comment before I
21 turn the floor over to our colleague, Ms. Fuller. The
22 single biggest factor right now that is impacting our
23 ability to get money out the door is the state's budget,
24 financial situation, and our ability to access the capital
25 markets.

1 It is the work that is being done at the Division
2 of the State Architect or at the Office of Public School
3 Construction. Our single biggest obstacle right now,
4 Senator Torlakson, is to simply get enough bonds sold that
5 we can meet the backlog necessary so that we can get more
6 money out the door for new projects. I think we have about
7 \$1.7 billion in unfunded approvals that are on the books,
8 plus we have \$460 million worth of apportionments that this
9 body already made before December 18th that we still don't
10 have funding for.

11 I want to know that that \$460 million number is
12 very high on the Schwarzenegger administration's radar
13 screen. It will get the first call on any school money that
14 becomes available so that those school districts that
15 received a valid apportionment from this body will get taken
16 care of. But I can assure you that that is not being
17 delayed in any way whatsoever as a result of the furlough
18 situation. It is really a matter of how quickly can we
19 access long-term debt financing for the State of California.

20 That said, I think we need to be as thorough as we
21 can at looking at how it's impacting our staff and so I have
22 no objection to that and I think that that's a good
23 suggestion that Mr. Torlakson's made, Rob, so please any
24 additional statistics you can compile on how it's impacting
25 OPSC, we should discuss that. I think that's a good idea.

1 Assemblywoman Fuller.

2 ASSEMBLY MEMBER FULLER: Well, I was going to try
3 not to talk about this today, but back to -- I'd like to
4 move back one to the moving the Board meeting in December. I
5 just want to weigh in that I do feel uncomfortable with
6 that. I feel very uncomfortable with moving it in December
7 to another site in Pasadena.

8 And I think the intention is good and I think we
9 could all learn something, but there's four things that are
10 troubling me. The first is that school districts and their
11 lobbyists and representatives will now have an added burden
12 to try to get down to another place that they haven't been
13 to and if they have lobbyists that work with them, they'll
14 have to get down there. So it's imposition to them to some
15 degree.

16 And also in December, that's a really hard time
17 for school districts. I mean my version. I just wanted to
18 survive December. I did not want to have to come look for a
19 State Allocation Board meeting somewhere. So that's a
20 personal issue.

21 Number two is the travel and the overtime and the
22 airfare for all our staff, they don't have enough money and
23 time right now, so it seems like this is the time to stay
24 home and all of us work as hard as we can to get the money
25 out the door as fast as we can.

1 And the next thing is the audio. Now we're trying
2 to get people hooked in to listening to the audio so they
3 don't have to come up here, save the money, and I don't know
4 how you set the audio up down there, so that's a problem.

5 And I think it was two years ago when I was
6 enthusiastic about doing this and at the end, I don't think
7 any of us actually got there.

8 MS. MOORE: I did.

9 ASSEMBLY MEMBER FULLER: Thank you. You remember
10 then. There was -- it was just extremely difficult and we
11 all know there's likely to be a special session in December
12 for Finance and so half your Board won't be able to go.

13 So I think that the idea is great. How do we
14 learn more about the program is the issue, but I'm not so
15 sure that the time, money, and resources are practical given
16 our opportunities right now and it may be something we want
17 to put off for another year.

18 So I hate to be the sort of bad guy weighing us
19 down today, but that's kind of my thoughts is what our
20 schools need from us is to sit here -- right here and get as
21 much out the door as we can. Thank you.

22 CHAIRPERSON SHEEHY: Thank you, Assemblywoman. Is
23 there further -- we're going to -- as I said, we'll have a
24 robust discussion at our next meeting about scheduling. So
25 we can have more discussion now or we can wait till our next

1 meeting which is looking like it's going to be October and
2 we'll have a robust discussion then, but we can take more
3 comment now. Is there any more -- seeing none, Rob, are you
4 done with your Executive Officer report?

5 MR. COOK: I hope so.

6 CHAIRPERSON SHEEHY: Okay. Good. So let's move
7 ahead. Ms. Hancock's here and, Ms. Hancock, I want you to
8 know that Senator Wyland will be joining us too and when he
9 does, we'll go into closed session for purposes of
10 personnel.

11 Ms. Moore, did you have something?

12 MS. MOORE: No.

13 CHAIRPERSON SHEEHY: Okay. Okay. Mr. Cook, can
14 you please present the **Consent Calendar**.

15 MR. COOK: Yeah. The Consent Agenda is ready for
16 your approval.

17 CHAIRPERSON SHEEHY: Are there any requests from
18 Board members to remove any items from consent or to recuse
19 themselves from any items on consent? Consent is Tab No. 4.

20 Ms. Moore, did you have any items this month
21 that --

22 MS. MOORE: I don't believe so.

23 CHAIRPERSON SHEEHY: -- were an issue for you?

24 MS. MOORE: No. I'm fine.

25 CHAIRPERSON SHEEHY: Okay. Is there any public

1 comment on the Consent Calendar? I know this is not a shy
2 crowd. I don't see anybody walking up to the microphone.
3 Therefore I think a motion would be in order.

4 MS. MOORE: So moved.

5 SENATOR HANCOCK: So move.

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

8 (Ayes)

9 CHAIRPERSON SHEEHY: Any opposed? Hearing none,
10 our Consent Calendar is approved. Financial reports,
11 Ms. Silverman. Tabs No. 5 and 6.

12 MS. SILVERMAN: Yes. Tab No. 5, please. Okay. I
13 direct your attention to Tab 5, page 95. We wanted to
14 highlight the **Status of Fund Release Report**. Two items:
15 the general obligation bond sale for March, \$548 million was
16 received in proceeds. Again there's -- pretty much the
17 money has been spoken for. 99 percent of that has been
18 committed and there's been no activity moving in that
19 account.

20 In the April bond sale, we received \$1.4 billion
21 in bond proceeds. We have released \$1.1 billion to date and
22 there's a bond fund balance of 321. And the significance
23 from last month to this month is the activity of funds being
24 released has diminished. We've reported only \$17.2 million
25 have gone out the door last month, and so that's a

1 significant drop and what we've been doing in the prior
2 months.

3 So if I can get your attention to move over to the
4 following page. And we've provided a chart -- since we've
5 been presenting this report back in June, we were able to
6 accomplish -- to move \$761 million in this particular pot of
7 funds and in July, we moved 300 million.

8 And then last month we reported we moved
9 38 million, but this month unfortunately it's dropped
10 significantly. So we -- only be able to push out and
11 release \$17.2 million from last month's activity.

12 And from those remaining proceeds in April, we
13 have \$236 million that are available to tap for those
14 apportioned projects that were -- received apportionments
15 prior to the freeze. So we still have \$695 million of
16 apportioned projects on our books and again, as Mr. Sheehy
17 pointed out earlier, we still have a shortfall of nearly
18 \$460 million.

19 And with that, I'll open it for questions.

20 CHAIRPERSON SHEEHY: Okay. Do we have questions
21 or comments? Senator Hancock.

22 SENATOR HANCOCK: Yeah. Thank you. I wonder if
23 you could comment on why the amount that we're being
24 requested to give out has dropped so dramatically. Is that
25 something that happens on a yearly basis? As school starts

1 up, there's less attention being paid to spending money or
2 that we couldn't sell the bonds?

3 MS. SILVERMAN: No. This is cash we have on hand
4 and it's accessible to school districts that have active
5 apportioned projects that were -- and we've provided
6 apportioned projects prior to the freeze back in December.
7 So these are live, active apportionments in which school
8 districts could access as cash.

9 So -- we haven't heard too much about why
10 districts haven't come in as far as trying to access these
11 funds. Part of the issue could be contracts. You know,
12 maybe -- because this a moving target unfortunately. Every
13 week, every day school districts could come in with their
14 fund release requests accessing these funds. So we haven't
15 heard much from the field as far as why they're not coming
16 in to access the cash.

17 SENATOR HANCOCK: Yeah. It seems like it peaks in
18 June when school's out and I just wondered if this -- if we
19 show -- if you showed us the chart -- the same chart for
20 last year, would it look at all like this or would it be
21 quite different?

22 MR. COOK: Last year's was much more of a
23 floodgate. I mean we had ready access to cash last year and
24 we had no -- I mean we were releasing funds on a flow basis.
25 This is -- we had \$2.4 billion worth of apportionments prior

1 to the freeze going into effect in December. We've gotten
2 nearly \$2 billion in cash from bond sales in March and
3 April, but we're still short of being able to fund
4 everything that we've -- you know, that has a real
5 apportionment.

6 I mean what you're seeing is this isn't business
7 as usual. Last year when we had ready access to loans out
8 of the Pooled Money Investment account, we were releasing
9 money every single month on a flow basis.

10 We're just seeing -- you know, it's just -- the
11 requests are dropping off.

12 CHAIRPERSON SHEEHY: Mr. Harvey.

13 MR. HARVEY: This too was striking when I read it
14 and I'm wondering if there's not another element that this
15 Board may want to wrestle with. I don't know if tolling the
16 time as we did gave people pause and said we're not as
17 serious about getting the money out.

18 Here we've got over 300 million. You indicate
19 it's available. These are apportioned projects. I don't
20 know if we should have a policy discussion about plugging
21 the time back on these categories of projects to see if
22 indeed we can get the money out. We can create jobs. We
23 can do what we're supposed to be doing rather than adding to
24 some unfunded list.

25 I mean is there a possibility that we are sending

1 mixed signals relative to not only the constraints we have
2 for those that are unfunded, but those that even are funded
3 by unplugging the clock, we're saying oh, maybe you want to
4 wait. I mean I don't know.

5 From my perspective, I think it's worth our
6 discussion because these are monies that should be accessed
7 and they're not.

8 CHAIRPERSON SHEEHY: Mr. Cook.

9 MR. COOK: There's a fair amount of discussion
10 about a future bond sale, ideally, you know, next month
11 maybe. I don't know. If that bond sale is successful in
12 covering all the apportionments that we have outstanding, I
13 think the time is ripe for us to plug -- you know, plug the
14 clock back in. Everyone will have cash backing their
15 apportionment and they'll be able to perform without risk of
16 getting themselves in a position of contracts that
17 suddenly -- you know, obligating themselves and then
18 suddenly not having any cash to access.

19 I think that may be purely speculation on my part,
20 that that may be chilling some of the activity. It's also
21 entirely possible that some of these projects, districts
22 have decided that they aren't going to proceed with them and
23 they aren't obligated to tell anybody about that either and
24 I expect we will probably see a little bit of that in this.

25 But as soon as there is cash backing all of our

1 apportionments, I think the Board is in a position to plug
2 the clock back in and for these projects to perform.

3 CHAIRPERSON SHEEHY: Mr. Duffy, just -- you're
4 going to be next. I want to just cascade -- or jump on also
5 what Rob said. I think that to some extent it must be
6 understandable in some districts since they know that there
7 is a need out there \$460 million greater than cash on hand,
8 I could see where some districts might be reluctant to sign
9 contracts and then they come and they might find out that
10 the cash went out of the door.

11 So I think that once we sell more bonds and we're
12 fully funded at the 460-, I think we really would be -- it
13 would be necessary for us at that point to plug the clock
14 back in because then there would be no fear of any district
15 that has a full apportionment of worrying about the money
16 not being there when they showed up. But I think that's
17 probably part of what's going on.

18 Mr. Duffy, did you want to also shed some light on
19 this matter?

20 MR. DUFFY: I did, Mr. Chairman. Thank you. Tom
21 Duffy again for C.A.S.H. I agree with what Rob said, that I
22 think districts are being very, very careful because of what
23 we've suggested to you before, that you must sign a contract
24 before you request your fund release. And districts are
25 being shy about doing that not knowing if they would get

1 that cash or not.

2 Now we've suggested to you I think in a letter we
3 sent you in May that you could interpret the statute
4 differently and you could actually provide a fund release
5 simply because they've signed contracts with others, not the
6 construction contract. And, Mr. Chairman, you and I and
7 Mr. Cook met, talked about this, and said well, let's talk
8 about this maybe in the future.

9 Maybe the future is now. That was a couple months
10 ago. But there's something else that's really important,
11 Mr. Harvey, that you understand. This is the worst year in
12 public education -- I've been involved in public education
13 for 40 years. This is the worst year we've ever seen and
14 besides the state having difficulty with bond sales, local
15 school districts are having difficulty also. So the market
16 is a difficult market.

17 Some districts have been able to sell but after
18 several tries and after negotiations, but it's -- the issues
19 that are facing the State of California are facing school
20 districts also and -- so please be patient with them.

21 We recognize that you made apportionments in
22 December and some of those apportionments, about
23 \$250 million, was for career technical education programs.
24 Those are real apportionments. We communicated with the
25 state architect's office about two weeks ago saying you've

1 got CTE projects there. Remember they were to be a
2 priority. Can you move those along so those apportionments
3 could be accessed, trying to help you reach the goal of
4 getting those dollars out.

5 Mr. Thorman, good person that he is, said, Tom, we
6 don't know what's CTE and what isn't. So we communicated
7 out with districts to say if you've got a CTE project,
8 communicate with DSA to let them know because you'll be
9 ransacked as a priority.

10 So we're trying on a number of different fronts to
11 move forward on this. We have a fall conference in a couple
12 of weeks. We've asked the Treasurer's Office to be involved
13 in a presentation on how do you bridge during these
14 difficult times. What are the safe things you can do.

15 Ms. Fuller, being a former superintendent, you
16 know how difficult it is to make a recommendation to your
17 board to say, yeah, let's enter into that contract. We're
18 not sure if these dollars would come here. You wouldn't do
19 that.

20 So we're looking for how do you bridge, how do you
21 safely move projects along. Thank you very much.

22 CHAIRPERSON SHEEHY: Thank you, Mr. Duffy, and I
23 hope we find a way to get the dollars out the door because
24 one concern that I have is as the different bond funded
25 programs are looked at in an era of there not being enough

1 money to go around, I think one of the things they're going
2 to look at is are those programs that have received bond
3 cash, are they drawing it down. And I don't want them to
4 look at the school facilities program and say they've got
5 money that they're not drawing down, maybe they don't need
6 as much.

7 So I do hope that we can -- if there's anything
8 that we can do to help get the money down that we do have
9 and that we can release now because we have funds on hand, I
10 hope there's a way we can find to do that. So please keep
11 the information and ideas coming forward on what we could do
12 to help facilitate that.

13 Ms. Hancock, did that answer your question on the
14 fund releases? It's probably more than you wanted.

15 SENATOR HANCOCK: Yes. Thank you very much.

16 CHAIRPERSON SHEEHY: Okay. Did we have other
17 questions or comments from Board members on the financial
18 reports? Okay.

19 MS. MOORE: -- a comment --

20 CHAIRPERSON SHEEHY: Ms. Moore.

21 MS. MOORE: Perhaps you can comment on whether the
22 state is looking at a bond issuance in October and if so,
23 you know, how are we positioning ourselves -- our programs
24 to be at the forefront of that and if not, I would think we
25 would like to -- I would like to hear from the Treasurer

1 perhaps at the next meeting or a representative from the
2 Treasurer's Office. They came before us before, kind of
3 giving the insight of where the state process was in terms
4 of issuing bonds for all infrastructure and I think that
5 would be instructive in October or if we know we're going to
6 a bond sale prior to that meeting happening, what is it that
7 we're positioning for here through the State Allocation
8 Board.

9 CHAIRPERSON SHEEHY: Okay. That's a great
10 request. Rob --

11 MR. COOK: Um-hmm.

12 CHAIRPERSON SHEEHY: -- why don't you see with
13 respect to our next meeting and maybe -- since it's a little
14 bit up in the air at the present moment exactly when that
15 will be, but I think since -- who's the gentleman that came
16 here last time?

17 MR. COOK: That would have been Blake Fowler.

18 CHAIRPERSON SHEEHY: No, no, no, not him. The
19 other gentleman. He's since left. He was their --

20 MR. COOK: Yes. He retired. Yes. I believe .

21 CHAIRPERSON SHEEHY: Yeah, I forget his name.

22 MS. JONES: Rosenstiel?

23 CHAIRPERSON SHEEHY: Yeah. Rosenstiel. Stan.
24 Yeah. Stan's left, but I think Blake Fowler would be the
25 guy --

1 MR. COOK: Um-hmm.

2 CHAIRPERSON SHEEHY: -- would be the gentleman
3 from the Treasurer's Office to come talk with us. I'll tell
4 you what I know which is a little bit. We are -- we being
5 the Schwarzenegger administration -- are actively looking at
6 what our needs are to fulfill the financial requirements for
7 projects that have already been approved and already
8 received bond funds that are moving forward. Those are of
9 course our highest priority. We don't want to start new
10 projects until we're sure we have enough money to fund the
11 projects we've already authorized.

12 There's been quite a bit of communication with the
13 Legislature and other interested parties about what we're
14 doing in those regards. The State Treasurer is in the third
15 day of a three-day sale for state revenue anticipation
16 notes. The good news is, is that our target was I think
17 8.8 billion and three-quarters of that need were met on
18 Monday and Tuesday in the retail market which means
19 literally ma and pa investors. You know, you only need I
20 think, you know, a thousand dollars or something to buy --
21 you know, to be an individual investor to buy those RANs.

22 And then because of the great retail demand, it
23 bid the price way up of those RANs which means the interest
24 rate came way down and the institutional market is closing
25 today and the last I heard, we will hit our target in the --

1 in fact it might be oversubscribed. We might actually have
2 to turn some people down.

3 So the good news is, is that on our short-term
4 debt this Treasurer, Bill Lockyer, has done an excellent
5 job. He has done exactly what the Controller and the
6 Governor had asked him to do, which was to sell \$8.8 billion
7 in revenue anticipation notes.

8 The interest rates I believe are going to be 125
9 basis points for a May maturity and 150 basis points for a
10 June maturity. That's -- for those of you that don't
11 understand basis points speak, that's only one and a half
12 percent which is a very low figure and compared to what we
13 thought we were going to have to spend when we adopted the
14 state budget in terms of debt service, we're going to get
15 close to \$15 million in general fund savings by getting
16 those RANs issued at a lower rate.

17 So we -- hats off to the Treasurer. Mr. Lockyer
18 did a -- and his staff did a great job.

19 Now, as I understand it, once the RAN process has
20 completed itself, which will be I guess by the end of this
21 week, and the dust settles, then I think the Treasurer's
22 Office is going to roll up its sleeves and start looking at
23 the long-term debt market, Ms. Moore, and they will be
24 working with members of the Governor's cabinet and other
25 interested parties on, you know, determining, you know, what

1 are our needs and what do we think we can reasonably sell
2 and will we be able to sell enough to meet our needs, and if
3 not, what would be an appropriate public policy approach to
4 getting the money out as well as we can.

5 I think it's entirely possible our need may be X
6 and our supply may be Y, but hopefully our supply will meet
7 our need, but we'll know more I am sure as October rolls
8 around.

9 MS. MOORE: I as one Board member would certainly
10 want to ensure that at minimum we're asking for the
11 differential for -- so that we can apportion projects as you
12 said and districts are not reticent to come forward to
13 access those funds because they might think they're -- be
14 out of them.

15 So we make the December 17th list whole at a
16 minimum and at a greater maximum, I would think that we
17 would want to look into the next quarter of our line, which,
18 you know, January, February, March, April quarter of our
19 line and at least be advocating for that because again
20 these -- as all infrastructure is and I know the state has
21 to, you know, with great wisdom, weigh all the different
22 infrastructure projects, but they are job creation and
23 stimulative and, you know, bring taxes back into our coffers
24 and build, you know, schools that are needed and modernize
25 schools that are needed in communities.

1 So I would hope that we are advocating for at a
2 minimum make December whole and perhaps at a maximum and not
3 appear too piggy is to look to our next quarter of projects
4 that are patiently waiting in line.

5 CHAIRPERSON SHEEHY: Ms. Moore, earlier this year,
6 this body sent a letter which was signed by all the Board
7 members except for me because I didn't think it was
8 appropriate to send a letter to my boss that I signed asking
9 him to -- telling him to do something, but that letter
10 essentially highlighted the issues you just addressed.

11 And since we are hoping to go back to market this
12 fall for bond sales, perhaps now would be a good time to
13 repeat that exercise. It would give all of the Board
14 members an opportunity to weigh in and so I think, unless
15 there's any objection, Rob, can you take a look at the
16 letter we did in the spring, perhaps update it to reflect
17 our current conditions, and circulate that around to the
18 Board members and their staffs so they can look at it and I
19 think now would be a good time for this body to weigh in
20 again with the Department of Finance and the Pooled Money
21 Investment Board on this issue.

22 MS. MOORE: Okay. Thank you, Tom.

23 CHAIRPERSON SHEEHY: Okay? Can you --

24 MR. COOK: Certainly.

25 CHAIRPERSON SHEEHY: Rob, can you do that and get

1 something out to us next week?

2 MR. COOK: Um-hmm. Absolutely.

3 CHAIRPERSON SHEEHY: So we can try to get
4 something out by the beginning of October. Okay?

5 MR. COOK: Yes.

6 CHAIRPERSON SHEEHY: Other questions or comments?
7 Okay. Let's move on to our Consent Special items.

8 MS. MOORE: We didn't have the regular finance
9 report, did we?

10 CHAIRPERSON SHEEHY: We didn't?

11 MS. SILVERMAN: Yeah.

12 CHAIRPERSON SHEEHY: Sorry about that. Let's have
13 the regular finance report.

14 MS. SILVERMAN: Yeah. Let's go to Tab 6 and let's
15 go to page 96. In the **Status of Funds** report, we wanted to
16 highlight in Proposition 1D that we provided 37 and a half
17 million dollars of unfunded approvals for new construction
18 and that represents 80 projects. And we're actually making
19 significant progress in the modernization funding category.
20 We're providing 58.3 million in unfunded approvals. And so
21 in totality, we're providing \$95.8 million in unfunded
22 approvals in Proposition 1D.

23 And if I could direct your attention to the lower
24 chart, we wanted to highlight -- we're providing
25 \$10.9 million in unfunded approvals in new construction. So

1 in totality for the school facilities program --

2 SENATOR HANCOCK: The lower chart?

3 MS. SILVERMAN: Yeah. In Proposition 47 --

4 CHAIRPERSON SHEEHY: Lisa -- I'm sorry. Lisa, can
5 you back up a little bit. You lost me and you might have
6 lost other Board members.

7 MS. SILVERMAN: On the same page, Proposition 47.

8 CHAIRPERSON SHEEHY: We're on page 96; right?

9 MS. SILVERMAN: Correct. Correct. Yeah. We're
10 providing \$10.9 million in unfunded approvals and new
11 construction. So in totality this month, we're providing
12 106.7 million in unfunded approvals this month. That
13 represents both new construction and modernization projects.

14 CHAIRPERSON SHEEHY: That's a lot smaller number
15 than the last couple of months, isn't it?

16 MS. SILVERMAN: Yeah.

17 CHAIRPERSON SHEEHY: Why is that?

18 MR. COOK: It's -- you know, it's a reflection of
19 what comes in the door. So that's -- there are -- we were
20 given an indication that earlier in the summer, the Division
21 of State Architect workload had dropped. We haven't -- we
22 don't know whether it's a long-term trend or a blip. Don't
23 know. But as Mr. Duffy indicated, you know, assessed
24 valuations have dropped out there. There's clearly very
25 little building activity happening, so there are no

1 developer fees to be had.

2 Assessed valuations have dropped, so in many
3 cases, bonds are difficult to sell. Local match may be hard
4 to come by at this point in time, and with no building,
5 there's also -- districts are not necessarily growing
6 either. So --

7 CHAIRPERSON SHEEHY: I'm glad you mentioned that
8 comment about the reduced developer fees. You know, in
9 2008 -- I may not have the statistic perfect. I notice
10 there's representatives here today from CBIA. They could
11 always jump up. They're not required to, but 2008 I think
12 our total number of housing starts was 50,000. That was for
13 both single and multi-family and that was the lowest number
14 that the State of California had in 50 years.

15 And of course it could have been a longer period
16 of time, but we've only been keeping records since 1958. So
17 it was the lowest record we've ever had on hand and then
18 I've heard just recently that in 2009 the number dropped
19 even lower than 50,000. It was more in the range of
20 somewhere between 30- and 40,000 permits.

21 So as bad of a year as the construction industry
22 is having, I mean in the home construction industry, it is
23 just incredibly bleak. I see Mr. Lyon wanted to address the
24 Board. Did you want to comment on that?

25 MR. LYON: Yes. Mr. Chairman and members, Richard

1 Lyon, California Building Industry Association. The --
2 you've identified very accurately, Mr. Chairman, the serious
3 economic decline that the housing industry in California is
4 in.

5 In 2008, last year, we did a total of 65,000 units
6 and that's a total of a combination of single family and
7 multi-family. To have a healthy housing market to keep up
8 with household formation, with job creation, and with
9 population growth, we should be building about 220,000 units
10 a year. Last year we did a total of 65,000.

11 This year we have revised our forecast as of
12 September to a 2009 total of 39,500 units total. Next year
13 we're hoping that we pick up again. The projections for
14 2010 are somewhere around 60,000 units, but again, members,
15 this year we are looking at doing under 40,000 units in
16 California this year when we should be doing 220,000.

17 CHAIRPERSON SHEEHY: Thank you, Mr. Lyon. And
18 thank you for correcting the record. Mr. Harvey.

19 MR. HARVEY: I know there's a handful of us on
20 this Board that care deeply about the high performance
21 schools. I notice that in Prop. 47, the new construction
22 category you outlined says energy. Is there any way of
23 combining the kinds of authorized activities in Prop. 47
24 with what we're doing in 1D so that we actually expand the
25 opportunities for high performance schools?

1 MR. COOK: I'm not -- well, it depends on what
2 you're proposing there. We would have to -- those funds are
3 available for the purposes under the Bond Act under which
4 they were authorized.

5 MR. HARVEY: I understand that. What I was trying
6 to suggest and I know it's very prescriptive. It's either
7 in statute. It's either in the bond itself, but I was
8 looking for a way of trying to -- if it's possible. Our
9 staff -- by the way, you know, you're interested in doing
10 this high performance school under 1D. If you do the other
11 kinds of things outlined in Prop. 47, you get to do that
12 many more things that benefit energy savings.

13 I didn't know if there was some way of recognizing
14 the kinds of projects so you stretch. You get more bang for
15 the combined buck.

16 The thing I see is that you've got almost
17 6 billion in 47. You still have over 731,000 --

18 SENATOR LOWENTHAL: Million.

19 MR. HARVEY: -- million languishing. So I was
20 trying to find a way of incentivizing energy efficiency
21 between two bond programs. That's all.

22 MR. COOK: We'd have to look at the statute and
23 the bond covenants associated with that and see if there's a
24 way.

25 MR. HARVEY: Senator Hancock, do you like that

1 idea?

2 SENATOR HANCOCK: It would be good if there way.
3 I totally, totally agree.

4 CHAIRPERSON SHEEHY: Okay. On that note of
5 agreement, picking up where we left off, is there any
6 further comment from Board members on this financial report?
7 Seeing none -- oh --

8 MS. MOORE: I do have a comment if we're --

9 CHAIRPERSON SHEEHY: Yes, Ms. Moore.

10 MS. MOORE: -- if we're going to end the report
11 and that is on the emergency repair funds, I believe at the
12 last Board meeting we had indicated that there had been a
13 transfer of 17.7 million. I don't see that reflected here
14 in the report and I'm hoping -- and we're also -- we're in
15 an unfunded category now with that. I was hoping we would
16 be able to because that is one of the monies that actually
17 exists and can go out and fund or reimburse these projects.

18 MS. SILVERMAN: You are correct. We actually are
19 providing 13 million in approvals this month in that
20 category and again 7 million unfunded approvals, but just to
21 get back to your point about the funds being available, we
22 have communicated with the Controller's Office today and
23 hopefully we can get those monies posted to reflect in next
24 month's Board.

25 MS. MOORE: Excellent. And so we would be able to

1 take those 7 million off --

2 MS. SILVERMAN: Provide them --

3 MS. MOORE: -- off of the unfunded as well as
4 others, bring them forward?

5 MS. SILVERMAN: Correct.

6 MS. MOORE: Thank you.

7 CHAIRPERSON SHEEHY: Is that 17 million a
8 recurring transfer, Kathleen?

9 MS. MOORE: No. That was the --

10 CHAIRPERSON SHEEHY: Budget Act amount?

11 MS. MOORE: -- as you remember, there's -- well,
12 there's -- the Budget Act was a hundred million -- a hundred
13 and one million I believe and it was coming out of the
14 Prop. 98 reversion account.

15 CHAIRPERSON SHEEHY: Um-hmm.

16 MS. MOORE: And we made a -- and it was to come
17 in, you know, obviously as things reverted and it's -- you
18 know, they're -- districts are not reverting funds as I
19 think some people anticipated and we transferred 50 million
20 at the mid year I think and this is the 17 million that
21 is -- that remained at the close of the budget year --

22 CHAIRPERSON SHEEHY: I see.

23 MS. MOORE: -- from the Department of Education's,
24 you know, monitoring of that account. I think what we
25 continue -- what we have is a \$30 million problem because

1 there's been a Budget Act that's -- you know, that's
2 allocated those funds. I'm not a cash flow expert, but the
3 cash has not flowed to make that whole.

4 So I think we probably want a discussion around
5 that 30 million at some point. How it works in the Budget
6 Act, that gets authorized, but we seem to have missed it and
7 I don't think there's going to be any more coming forward
8 from the Prop. 98 reversion account for fiscal year -- for
9 the last fiscal year.

10 CHAIRPERSON SHEEHY: Well, Ms. Silverman, we
11 should have this as a standing reporting item. I'm glad to
12 hear that the Controller's Office -- you think you can get
13 this worked out with them quickly.

14 MS. SILVERMAN: Yes. We're hoping to get this
15 worked out within the next few weeks.

16 CHAIRPERSON SHEEHY: Okay. Any more comments on
17 this? Seeing none, we have eight members here today, which
18 is our full complement today. Senator Wyland, I don't know
19 if you know, but our colleague -- our former colleague, Rose
20 Girard, has resigned, so we do have a vacancy now on the
21 State Allocation Board. If you know of any good candidates,
22 please feel free to recommend them to Governor
23 Schwarzenegger.

24 Ladies and gentlemen, we are going to recess into
25 closed session.

1 SENATOR LOWENTHAL: Do we need on that last
2 financial --

3 CHAIRPERSON SHEEHY: These are -- they're
4 informational.

5 SENATOR LOWENTHAL: No. Okay. Okay.

6 CHAIRPERSON SHEEHY: We're going to recess into
7 closed session pursuant to our agenda item and we will
8 reconvene in approximately 40 minutes to an hour. It
9 depends on how things go.

10 (Whereupon at 2:59 p.m., the open meeting was recessed
11 for the closed session and resumed as follows at 4:35 p.m.)

12 CHAIRPERSON SHEEHY: The most important one is
13 schedule. The Board has unanimously agreed that we're going
14 to forego an October meeting, which is going to make Rob
15 Cook deliriously happy; right?

16 MR. COOK: Well, I'm not sure about delirious.

17 CHAIRPERSON SHEEHY: However -- that's the good
18 news, Rob.

19 MR. COOK: Um-hmm.

20 CHAIRPERSON SHEEHY: The bad news is, is they're
21 not doing it for the reasons that you want. At any rate, we
22 are going to meet that first Wednesday in November. What
23 date is that? Is that -- the first Wednesday in November.

24 MR. COOK: The first Wednesday in November?

25 CHAIRPERSON SHEEHY: Yes.

1 MR. COOK: Okay. We were --

2 CHAIRPERSON SHEEHY: What date is that? Is
3 that --

4 MR. COOK: We were proposing the 18th, but --

5 CHAIRPERSON SHEEHY: Who's got a calendar?

6 ASSEMBLY MEMBER FULLER: Is the 4th.

7 MR. HARVEY: November 4th.

8 CHAIRPERSON SHEEHY: Okay. So this body's going
9 to meet -- and we'll notice it. We're going to meet
10 Wednesday, November 4th, in lieu of -- what did we have here
11 in this agenda was --

12 MR. HARVEY: 18th.

13 CHAIRPERSON SHEEHY: 18th? So we're not doing the
14 18th.

15 MR. COOK: Okay. It would be the 4th.

16 CHAIRPERSON SHEEHY: We're going to do Wednesday,
17 November 4.

18 MR. COOK: Okay.

19 CHAIRPERSON SHEEHY: And we also -- Mr. Cook,
20 letting you know right now and everybody, we're going to
21 need another closed session item to go over personnel
22 matters at that time --

23 MR. COOK: Okay.

24 CHAIRPERSON SHEEHY: -- on the 4th and we will --
25 and then in addition to the closed session, we will take up

1 whatever regular business items that we can. We anticipate
2 having a full Board for that meeting and -- so there'll be
3 no meeting in October. We'll have a meeting in November and
4 I think at this point, December's an open question.

5 As far as -- as long as we're all here, let me
6 reiterate a couple things we said earlier. We're also going
7 to have a discussion at the next meeting -- a discussion
8 item on the whole schedule issue where we can discuss in
9 more detail some of the questions, concerns, and points that
10 have been brought up by various Board members on that point
11 and if we have any leftover items that we can't get finished
12 today, they'll roll over.

13 Also I've had a request by Senator Lowenthal.
14 Since he has -- he is part of a legislative delegation that
15 is going to be doing a fact-finding mission and he's going
16 to have to catch an airplane flight in about 50 minutes, he
17 asked me if we could take up an item out of order on the
18 agenda and I told him that would be fine. So as soon as we
19 get our quorum back, we're going to go to the Long Beach
20 issue which is Tab -- is that Tab 18? I think it's Tab 18.

21 So that's what we're going to do next and then
22 we'll see how much more business we can get down and those
23 are all the announcements that I have. We'll just wait till
24 we get a quorum back.

25 Do we have any more informational items, Mr. Cook,

1 Ms. Silverman, that we could either start on while we're
2 waiting for our colleagues?

3 MR. COOK: We have informational items on the
4 material inaccuracy issue in general, but those could take
5 some time.

6 CHAIRPERSON SHEEHY: We were going to do those
7 before we got to Long Beach, weren't we.

8 MR. COOK: We were.

9 CHAIRPERSON SHEEHY: Well, I think we're going to
10 just have to deal with a curve ball. We're going to go
11 ahead and talk about Long Beach first. After we do that,
12 then I think we have to go back and do the informational
13 items. I don't see how we can possibly do them both and
14 accommodate Senator Lowenthal's schedule. I told him we
15 were going to do that, so -- so we'll just have to proceed
16 accordingly.

17 MR. COOK: Okay.

18 CHAIRPERSON SHEEHY: Mr. Cook, were those the only
19 informational items left?

20 MR. COOK: I believe those are the only
21 informational items left.

22 CHAIRPERSON SHEEHY: Okay. We could start as a
23 subcommittee, but I'd hate to start without Senator
24 Lowenthal since it's an item he requested. So we'll wait.

25 MR. COOK: There is an opportunity to take up the

1 Consent Specials and move those very simply because I don't
2 believe there's any controversy associated with those and --

3 CHAIRPERSON SHEEHY: Yeah, we can do -- we can
4 make a recommendation as a subcommittee. Okay. Why don't
5 you present the **Consent Specials**. That's where we left off.
6 And those are -- I think there are no -- there's no
7 opposition to the staff recommendations on the Consent
8 Specials, I believe.

9 MR. COOK: Um-hmm.

10 CHAIRPERSON SHEEHY: Those are Tabs No. 7, No. 9,
11 and No. 10; is that right, Mr. Cook?

12 MR. COOK: That's correct.

13 CHAIRPERSON SHEEHY: And is there anybody in the
14 audience that has any objection to the staff recommendation
15 on Items 7, 9, and 10 which are the Consent Specials? I
16 understand these are noncontroversial.

17 Okay. Do we have a --

18 ASSEMBLY MEMBER FULLER: I'll move.

19 CHAIRPERSON SHEEHY: We're going to go ahead and
20 we're going to have a motion.

21 MS. MOORE: Second.

22 CHAIRPERSON SHEEHY: And a second and we're going
23 to have a unanimous recommendation from the subcommittee to
24 approve the Consent Specials. We'll wait for our colleagues
25 to come back; okay?

1 MR. COOK: Okay.

2 CHAIRPERSON SHEEHY: So we've got that out of the
3 way. Is there anything else we can do while we're waiting?

4 MR. COOK: Also the **fiscal crisis regulations** are
5 a very important matter on this Board. I don't believe that
6 there's any controversy associated with those.

7 CHAIRPERSON SHEEHY: Which tab is that, Rob?

8 MR. COOK: It is Tab 11.

9 CHAIRPERSON SHEEHY: Okay.

10 MR. COOK: So this is --

11 CHAIRPERSON SHEEHY: Tab 11 would extend for one
12 more year the regulations that give the districts the
13 flexibility. Do you want to give some explanation?

14 MR. COOK: Very simply, this has to deal with the
15 emergency regulations that we adopted at the beginning of
16 the year in January to deal with fiscal crisis. The two
17 regulations that are before you -- and simply an extension
18 of one year of those regulations.

19 One of them is what we call the unplugging the
20 clock regulation. Ideally if we're really successful with
21 the bond measure in October, that one starts to become less
22 relevant and in fact irrelevant.

23 CHAIRPERSON SHEEHY: We can revisit it at that
24 time though; right?

25 MR. COOK: We can revisit it. The other one

1 allows charter school and critically overcrowded schools
2 projects additional time while we have no cash backing the
3 apportionments to -- it basically unplugs the clock for
4 those projects as well.

5 CHAIRPERSON SHEEHY: Okay. Is there anybody in
6 the audience that is objecting to the staff recommendation
7 on Tab No. 11? Okay. Seeing no objections, if there's no
8 objection from the Board members, is there a motion to
9 approve the staff recommendation on Item No. 11.

10 MS. MOORE: So move.

11 CHAIRPERSON SHEEHY: A motion by Ms. Moore.

12 MR. HARVEY: Second.

13 CHAIRPERSON SHEEHY: A second by Mr. Harvey. All
14 in favor.

15 (Ayes)

16 CHAIRPERSON SHEEHY: We have unanimous
17 recommendation for the committee on Item No. 11. Mr. Duffy,
18 do you want to come address this?

19 MR. DUFFY: We're pleased that it's here. We
20 requested that in a correspondence about two months ago.
21 Just wanted to note, Rob and I had a conversation about an
22 item that we had also requested be on the agenda. It has to
23 do with the general site allowance which also would sunset
24 at the end of the year. In our conversation -- you want to
25 just speak to that?

1 CHAIRPERSON SHEEHY: Are we changing subjects?

2 MR. DUFFY: It was related because we requested
3 all of this in a letter we sent to the Board a couple months
4 ago and it's about a dying regulation.

5 CHAIRPERSON SHEEHY: The site allowance. This
6 is --

7 MR. COOK: Right. And we will agendize something
8 on that issue for the November meeting.

9 CHAIRPERSON SHEEHY: Is that -- Mr. Duffy, is that
10 agreeable to you? I'm not sure we could do anything --

11 MR. DUFFY: It's absolutely agreeable. Thank you
12 very much.

13 CHAIRPERSON SHEEHY: We're going to -- so for
14 those of you that weren't following this, I know it's
15 important to the school districts. The site allowance issue
16 will be agendized for the November -- is it the 4th or 5th?
17 I forget.

18 MR. COOK: The 4th now.

19 CHAIRPERSON SHEEHY: November 4th agenda. Okay.
20 Now, Senators Hancock and Lowenthal, while you were gone, a
21 subcommittee recommended that we approve the Consent Special
22 items which were Items 7, 9, and 10 for which there is no
23 opposition, but we need one of you to concur with our
24 recommendation. It was unanimous to approve the staff
25 recommendation.

1 SENATOR LOWENTHAL: Fine. I concur.

2 CHAIRPERSON SHEEHY: Senator Lowenthal and Hancock
3 will be recorded as an aye vote. We've approved the Consent
4 Specials.

5 And then Item No. 11, Senators, is the emergency
6 regulations we adopted earlier this year to give the school
7 districts some flexibility since we weren't able to release
8 the cash -- do the fund releases and we need to extend
9 those. There is no opposition to the staff recommendation
10 on Item No. 11 and we voted unanimously as a subcommittee to
11 approve it. Would you like to be recorded as an aye vote?

12 SENATOR LOWENTHAL: Yes.

13 SENATOR HANCOCK: Yes.

14 CHAIRPERSON SHEEHY: Okay. So let's -- so we have
15 Senators Hancock and Lowenthal approve. So we've taken care
16 of Item No. 11. Mr. Duffy, was there something else?

17 MR. DUFFY: No. I just wanted to say thank you.

18 CHAIRPERSON SHEEHY: Very good. You're welcome.
19 Let's move on then to Item No. 18 which is the **Long Beach**
20 **Unified** material inaccuracy and we were going to do an
21 informational item first so we could talk more about this,
22 but because of your schedule, Senator, I thought we could go
23 right to this.

24 SENATOR LOWENTHAL: Thank you.

25 CHAIRPERSON SHEEHY: Okay. Rob, can you please --

1 MR. COOK: Yes. Rick --

2 CHAIRPERSON SHEEHY: Or have Mr. Asbell present to
3 us.

4 MR. COOK: And it would of course be useful to
5 have that background since most of our members haven't
6 deal -- or many of our members haven't dealt with the issue
7 before, but we will get -- Rick, I will ask you to kind of
8 expand along as you go along.

9 CHAIRPERSON SHEEHY: Rick, do the best you can to
10 try to set the table a little bit, but then get to the heart
11 of the Long Beach issue.

12 MR. COOK: Right.

13 MR. ASBELL: Okay.

14 MR. COOK: Thank you, Rick.

15 MR. ASBELL: Okay. So if you would go stamped
16 page 170. The purpose of this report is to request the SAB
17 find a material inaccuracy has occurred which resulted in a
18 funding advantage for Long Beach Unified School District.

19 Additionally, we're seeking to request the return
20 of excess state funding and to adjust the pupil baseline
21 eligibility to reflect the reduction in apportionment.

22 So just a little bit of background on the project
23 itself. The district requested state funding for the
24 construction of 26 new classrooms at Cabrillo High School.
25 During the closeout audit process, staff discovered the

1 district only completed construction on 17 of the 26
2 classrooms requested for state funding. For the nine
3 classrooms in question, the district receive 1.9 million in
4 funding.

5 Staff has made several attempts through
6 correspondence to obtain documentation substantiating when
7 these nine relocatable portables were originally purchased.
8 To date, staff has received no supporting expenditure
9 documentation, for example, contracts, purchase agreements,
10 or lease agreements to justify the inclusion of these
11 portables in the project.

12 Therefore the nine classrooms are not considered
13 new pupil capacity consistent with the intent of SFP new
14 construction project.

15 The district does acknowledge that it moved nine
16 portables from an existing site to Cabrillo High. However,
17 it should be noted that by moving these portables from one
18 site to another does not increase capacity on a
19 district-wide level.

20 If you use the district's rationale, the district
21 could apply again for funding for nine new classrooms at
22 another site and relocate these portables to the new site
23 without creating additional new classrooms time and time
24 again.

25 Let's talk real briefly about material inaccuracy

1 and false certifications. As far as material inaccuracy, it
2 is defined in statute -- and this was effective January 1 of
3 2001 -- provides that OPSC shall notify the SAB if any
4 certifications of eligibility or funding, application
5 related information is found to have been falsely
6 certification by school districts, architects, or design
7 professionals. Additionally, the SAB has the authority to
8 impose penalties if material inaccuracies occur.

9 Additionally under the law and regulations
10 governing material inaccuracy, the term falsely certified is
11 used. It is not necessary for the SAB to determine that the
12 certification was knowingly false. The term in this context
13 is simple and common meaning of inaccurate or not true.
14 This standard does not require a finding of any intent or
15 specific knowledge on the part of the district.

16 So with that back drop, staff believes that the
17 district falsely certified on the number of classrooms to be
18 constructed in the SFP new construction project application
19 for funding which is the Form 5004 and received a funding
20 advantage.

21 The district is requesting to retain the funding
22 for nine classrooms that it did not build. However,
23 regulation requires an adjustment to the district's new
24 construction baseline to reflect the reduction in the state
25 apportionment.

1 The 243 pupil grants, which is equivalent to the
2 nine classrooms, associated with the additional funding will
3 be reinstated to the district's baseline eligibility to
4 offset the reduction in new classrooms and the district is
5 required to return the approximately 1.9 million in excess
6 state funding.

7 One other note, staff can only recommend a
8 material inaccuracy. Only the Board can find a material
9 inaccuracy. So based on staff's audit findings, there are
10 two major issues for consideration by the Board.

11 First, material inaccuracy: The district falsely
12 certified on an application for funding submittal that it
13 would add 26 classrooms to the district's capacity. Under
14 the law and regulations governing material inaccuracy, the
15 term falsely certified is used and once again we talk about
16 there doesn't have to be intent. It's just the mere fact of
17 what they certified to.

18 If the SAB finds that the district's applications
19 were materially inaccurate, statute requires that the
20 district shall repay the excess state funding, which is the
21 1.9 million, received as a result of the classroom
22 reduction.

23 In the event of this finding, the law also
24 requires that the district be prohibited from
25 self-certifying project information on future applications

1 for a period of up to five years.

2 If we could go real quickly to stamped page 181
3 and it's Attachment B4. This is the methodology that we
4 used to come up with a five year loss of self-certification
5 as what we're going to be recommending.

6 So basically we start up at the very top left is
7 the issue in new construction, 180 day, date of occupancy
8 reimbursement issue. In this case, it's a no. Is issue a
9 scope change issue: yes. Determine number of classrooms at
10 issue, and in this case we identified nine classrooms. And
11 as you can see on the right-hand side, we have it broken out
12 from years one through five as far as loss of
13 self-certification and you can see that the increment goes
14 two, four, six, eight, and then nine or greater. So that's
15 how we came up with the recommendation.

16 Going back to page 171, continuing on, and the
17 regulations require that the SAB shall charge the district
18 an amount of \$100 per hour for the additional hours to
19 process and review the district's applications.

20 The second issue to deal with is repayment of
21 apportionment, interest lost by the state, and baseline
22 eligibility adjustment. The state's share of the excess
23 apportionment for the project totals approximately
24 1.9 million.

25 Since the funds were released to the district, the

1 district received a funding advantage and the state lost
2 interest on these funds. Interest for a material inaccuracy
3 is calculated at the higher of the general obligation bond
4 interest rate or the pooled money investment account
5 interest rate at the time the funds were released according
6 to Education Code.

7 The PMI, or the pooled money investment account,
8 rate is typically lower than the general obligation bond
9 rate and the PMIA is applied to the audit findings.
10 Additionally, upon repayment of the full amount, an
11 adjustment is necessary to increase the district's baseline
12 and eligibility by 243 pupils which is the nine classrooms
13 to reflect the actual capacity built pursuant to regulation.

14 So we've laid out two options for the Board's
15 consideration. First option -- and this is the Board's --
16 or the staff's recommendation: the Board find a material
17 inaccuracy. Under that, find that a material accuracy
18 occurred on this particular project that resulted in a
19 funding advantage. Payment of the principal amount within
20 60 days after the Board made the finding of material
21 inaccuracy or payment of principal in installments with
22 interest within a period of no more than five years from the
23 date the Board made the finding of material inaccuracy.

24 Additionally, require the district to repay the
25 principal amount of excess state funding in the amount of

1 1.9 million; hold in abeyance the application of material
2 inaccuracy interest to the principal until the Board sets
3 policy; prohibit the district from self-certification of
4 project information for five years until September 23rd,
5 2014; specify that the district will be charged an amount of
6 \$100 per hour for the additional hours necessary to process
7 and review the district's applications; reinstate 243 pupils
8 to the district's baseline eligibility.

9 The second option is no finding of material
10 inaccuracy. Under option 1 or 2, direct staff to bring back
11 a general discussion item on setting Board policy on
12 interest terms. And then there is an asterisk as it's
13 associated with option number 2. The project will be
14 subject to repayment of audit findings.

15 CHAIRPERSON SHEEHY: Is that it, Mr. Asbell?

16 MR. ASBELL: That's it.

17 CHAIRPERSON SHEEHY: Now, I -- I'm sorry.

18 Apologize. This was found through an audit?

19 MR. ASBELL: Yes.

20 CHAIRPERSON SHEEHY: Has there been an audit
21 letter sent requesting the return of the \$1.9 million?

22 MR. ASBELL: Yes.

23 CHAIRPERSON SHEEHY: All right. Now, we don't
24 have any policy on material inaccuracy with respect to the
25 interest issue yet; correct?

1 MR. ASBELL: That's correct.

2 CHAIRPERSON SHEEHY: All right. So there is no
3 material inaccuracy at this point, but we do have a request
4 for the return of the funds. Is there an appropriate
5 interest rate that would be applied to those funds if they
6 were returned as a result of the request of the audit
7 letter?

8 MR. ASBELL: I believe it would be --

9 CHAIRPERSON SHEEHY: What does the law provide
10 for?

11 MR. ASBELL: I believe it would be at the PMIA
12 rate not GOB, but it would just be PMIA.

13 CHAIRPERSON SHEEHY: Right. And question for
14 counsel: Is that something if this Board chose to have the
15 funds returned along with the PMI rate and we haven't found
16 any material inaccuracy, we don't run into any legal
17 problems there; right?

18 MS. BORON-IRWIN: No, not at all.

19 CHAIRPERSON SHEEHY: Okay. All right. I just
20 want to know that. Thank you, Mr. Asbell. Should we hear
21 from Long Beach now. Would the representatives from Long
22 Beach Unified please come forward so you can address the
23 Board and identify yourself for the record, please.

24 MS. MATSUMOTO: Thank you, Mr. Chairperson,
25 members of the Board. I'm Carri Matsumoto.

1 CHAIRPERSON SHEEHY: Welcome.

2 MS. MATSUMOTO: Thank you. I'm the Executive
3 Director of Facilities for the Long Beach Unified School
4 District and on behalf of our Long Beach Unified Board of
5 Trustees and the Superintendent, Chris Steinhauser, and our
6 87,000 students, I just wanted to express my appreciation
7 for your consideration of this matter tonight.

8 It's been a long road. We've been in this audit
9 for four and a half years and we're really interested and
10 committed to working with the state to seek a resolution for
11 us so that we can all move forward. And I just have a
12 couple of brief comments I'd like to make.

13 The district filed this application back in 2001
14 and added 26 classrooms to the Cabrillo High School pursuant
15 to the SAB regulations and followed -- and believe they
16 followed all the rules and regulations in 2001.

17 The district housed new students and the 26
18 classrooms placed at that school site helped with the
19 overcrowding in that community and the plans as approved by
20 the State Department of Education and the DSA, the Division
21 of State Architect, never -- we never actually had a scope
22 change on this project.

23 We relocated nine portables and we built 17
24 classrooms and that was part of the original project scope
25 as outlined in those approved plans. It wasn't until the

1 audit in 2005 where OPSC staff questioned the relocation and
2 use of these nine portables and after eight years from the
3 filing of this application, we recognize that there is a
4 disagreement today about the interpretation of the law and
5 the regulations in place in 2001.

6 We believe this is really an audit issue and not a
7 material inaccuracy, and more importantly, the district
8 disagrees that it falsely certified an application made from
9 2001. The district would under no circumstances ever
10 falsely certify an application over nine portables.

11 The district met also the 60 percent commensurate
12 in expenditures and even contributed an additional
13 \$1.7 million to complete the 26 classroom project. In
14 addition at the same time because of our housing crisis, the
15 district added 300 more portables newly acquired and spent
16 \$27 million out of our own local funds in a period of time
17 where we were experiencing a high enrollment spike in order
18 to provide these new classes for our students.

19 We believe a material inaccuracy penalty is really
20 unwarranted under these circumstances and inapplicable and
21 that a five year loss in self-certification would be
22 extremely punitive and damaging to a district of our size
23 and it would hinder our ability to move forward with our
24 \$1.2 billion capital facilities program where voters just
25 recently supported Measure K in November 2008.

1 There are other administrative solutions that we
2 believe exist today and would have back in 2001 if the
3 district would have known that the nine portables today
4 would have caused so much controversy.

5 So we have offered solutions to the remedy this
6 disagreement and we believe that this matter can be resolved
7 through the audit process and through this closeout process
8 and we are willing to work with you on this without a
9 material inaccuracy penalty. And when you consider all the
10 facts in totality, the district believes the application was
11 valid and that we met all the laws and regulations, that
12 there was no false certification, and that we could easily
13 remedy this with other alternative solutions and we
14 respectfully request your consideration in this matter.

15 We are willing to provide any documentation as it
16 relates to the nine portables. We produced that for the
17 original nine and we also have documentation supporting the
18 acquisition of 300 portables during that same time frame of
19 which we could produce further documentation if so desired,
20 but we are more than willing to work with you and we
21 appreciate your consideration today.

22 CHAIRPERSON SHEEHY: Thank you, Ms. Matsumoto. I
23 have a follow-up question. Could you tell the Board just a
24 little bit more about the local bond measure that recently
25 passed and then the size of it and what all that means for

1 the Long Beach Unified School District.

2 MS. MATSUMOTO: I appreciate that. The Long Beach
3 Unified School District and the voters of our community
4 passed a \$1.2 billion bond in November in support of the
5 district's facility master plan which this Board adopted in
6 '08 and actually it was a two-year process with our
7 community and all our stakeholders to identify the needs in
8 the Long Beach Unified School District. That plan sets a
9 road map for the next 20 to 25 years of all the projects
10 that are contemplated in our district with over a \$6 billion
11 need in facilities and new construction.

12 In particular because we have a lot of
13 overcrowding in our high schools, one of our biggest
14 priorities is to move forward with small thematic career
15 tech ed high schools and one of our biggest projects that
16 we're looking to move into construction in the summer of
17 2010 is a hundred million dollar career tech ed high school
18 project. And so that really is one of the platforms and
19 objectives of the district is to move forward to relieve
20 overcrowding in our high schools, so that's why we really do
21 think that a loss of self-certification for the next five
22 years really would be detrimental.

23 It would impact us if we got any delays to move
24 forward with that particular project and our cash spend-down
25 plan for the first series of bonds which we just issued. We

1 issued \$250 million recently. We've spent 50-. We're now
2 building a new middle school in our district and we're --
3 the next project out is the new career tech ed high school
4 at about a hundred million dollars.

5 CHAIRPERSON SHEEHY: Great. Thank you. Questions
6 of the Board. Mr. Harvey and then Mr. Lowenthal.

7 MR. HARVEY: I have a question of staff first and
8 then I have a follow-up question if I can to the speaker.
9 One of the key issues I hear is staff arguing that the plan
10 called for new construction and that for nine classrooms
11 existing portables were used. Even though they were housing
12 the proper number of students per the plan, they weren't
13 new.

14 Where does it say if you're accommodating students
15 and your plan shows the need for 26 buildings they have to
16 be new?

17 MR. COOK: The portables -- well, just to be
18 clear, portables have to be new to the district. They could
19 have been leased facilities that they acquired. They could
20 acquire used portables for that matter, but they have to
21 acquire -- it's fundamental that the district increase its
22 capacity district-wide and site specific.

23 MR. HARVEY: I guess I'm a neophyte. I -- if
24 you're accommodating a certain number of students, where
25 does it say that that accommodation has to all be new?

1 MR. COOK: This is a new construction program. It
2 has to add capacity to the district.

3 MR. HARVEY: Okay. Now to the speaker, you
4 indicated you offered solutions. Can you briefly tell me
5 what those might include and at any point, does your
6 solutions admit that you falsely certified?

7 MS. MATSUMOTO: Well, first off, we've never
8 admitted to falsely certification because the district
9 believed that application to be valid. If we had a problem
10 with that, we could have had a remedy in 2001. We could
11 have easily not have asked for funding for the nine
12 classrooms. We could have actually still did the complete
13 project with those nine classrooms in there, but asked for a
14 use of grounds on the 17 classrooms to increase our funding
15 for the project.

16 So the district never believed that it had an
17 invalid application until there was the audit and then there
18 was a problem with the relocation because they were too old
19 and that was brought up.

20 And so what was suggested we actually provided two
21 different remedies. We said we could have done a use of
22 grant if we believed there was going to be a problem with
23 this and we could have still covered the cost.

24 CHAIRPERSON SHEEHY: Sorry. Carri, for the
25 benefit of some of the Board members, could you just briefly

1 explain what that means, we could have used the use of
2 grants. That's a technical term that --

3 MS. MATSUMOTO: Sure.

4 CHAIRPERSON SHEEHY: -- we may not all be as
5 conversant with as you.

6 MS. MATSUMOTO: I'm going to ask Emily Baratta of
7 School Facility Consultants to answer that.

8 MS. BARATTA: Thank you. I'm Emily Baratta with
9 School Facility Consultants and in essence, the use of
10 grants basically said you could ask for -- forgive the
11 technical terms -- up to 135 percent of the capacity of a
12 project, so essentially ask for more pupil grants than were
13 really being housed in the project as a way to cover costs.

14 And in this particular scenario, a use of grants
15 application would have covered about 23 out of the 26
16 classrooms that were funded. So that was one of the options
17 and the other second option I think Carri was alluding to,
18 and I'll let her step back up here, is related to the 300
19 portables that were added in the district that added
20 capacity elsewhere on other school sites.

21 CHAIRPERSON SHEEHY: Scott, did you want to
22 continue or --

23 MR. HARVEY: Just a follow-up. Do any of your
24 solutions or remedies involve paying back any money?

25 MS. MATSUMOTO: The use of grants scenario would.

1 There is a difference there and a differential that would
2 not have been covered and so we would have -- actually do
3 owe back a certain dollar figure for that.

4 MR. HARVEY: Do you have any idea what that would
5 be?

6 MS. BARATTA: A rough estimate of that would be
7 somewhere around \$700,000, so given that difference
8 equivalent to three classrooms' worth of pupil grants.

9 MR. HARVEY: Thank you.

10 CHAIRPERSON SHEEHY: Thank you, Mr. Harvey.
11 Senator Lowenthal.

12 SENATOR LOWENTHAL: Yeah. It seems to me as I
13 read it that the critical statement was -- and following up
14 with what Mr. Harvey said -- it would add 26 classrooms to
15 the district's capacity. It does not mention new at that
16 point. That's the critical statement.

17 And it seems to me also as I understand that the
18 district applied for I think, which turned out to be 702
19 pupil grants which turned out to be the 26 classrooms that
20 it was awarded. It built the 17 and that at the same time,
21 it was out there and using probably -- and I need to know
22 some of this -- to purchase 300 additional portables. It
23 was in -- it was out there buying at the same time
24 portables. It was in this tremendous growth spurt. Just
25 remember, this is the third largest district in the state.

1 And so it was purchasing the school down the
2 street while it's doing all this -- also was changing
3 whatever it was, that international school. They took some
4 of those portables as they -- and you moved some of those
5 because of the need to Cabrillo as they used some of these
6 other new ones that they were purchasing to other places
7 also because they were purchasing 300 of them, some of them
8 with this money.

9 So it wasn't as if they used any of this money not
10 to add to the district's capacity. The question was did
11 every single one of those new have to be at Cabrillo or
12 could it have been moved to someplace else because what they
13 did was use this money to deal with this overwhelming crisis
14 in the district.

15 And I think that there are other ways of dealing
16 with this than a material inaccuracy. I think that there
17 are some issues that are raised, but this -- this is a
18 district that has been recognized internationally as the
19 outstanding urban district in the state. It is just -- it
20 just recently won the Eli Broad award as the outstanding
21 urban district.

22 It has now again this year for the third time been
23 awarded the runner-up to the Broad award as the --
24 nationwide as the outstanding urban district.

25 This is not a district that for a small amount of

1 money is going to deliberately falsify or falsify. Whatever
2 the issues are -- and I'm not saying that there aren't
3 mistakes made on all sides.

4 I think this can be handled in other ways than
5 making a major material inaccuracy and taking a district and
6 a community that wants to fund new school districts, school
7 construction and has had a great record in doing this to say
8 let's figure this out through the audit process rather than
9 through the material inaccuracy and that's what -- really
10 what I would recommend.

11 CHAIRPERSON SHEEHY: I'd like to comment on that.
12 You know, I -- one of the things, Senator Lowenthal, that
13 I'm concerned about here is the cloud of material inaccuracy
14 hanging over this district at this time in light of the
15 \$.2 billion bond authorization that that district has
16 authorized and their ability to move forward with that.

17 So I would like to just say for the record if
18 there is a way that this can be resolved, I would encourage
19 the OPSC staff to continue working with the district. I
20 think the \$1.9 million and interest is an issue that we have
21 to deal with, but I'm going to have to hear more before --
22 I'm just not convinced -- well, I guess I share some of your
23 sentiments on this and I'd like to see if there's a way we
24 could find to resolve this rather than taking such a harsh
25 approach with a material inaccuracy because it seems that

1 there is some question here, but of course we need to hear
2 back -- we need to hear from more members and we need to
3 hear from staff.

4 Senator Wyland.

5 SENATOR WYLAND: There's something I'm a little
6 confused about. The district is saying that in its
7 application it made --

8 MS. JONES: Turn your mic on.

9 SENATOR WYLAND: The district is saying that it
10 included in its application the information that it was
11 going to relocate these classrooms and SAB and OPSC is
12 saying no?

13 What did the -- I guess what I'm trying to get at
14 is was the fact that these were going to be relocated part
15 of the application or did the applications imply state
16 capacity and list the number of -- and I'd like to hear from
17 both on that. Am I asking that question in -- do you
18 understand what --

19 MR. ASBELL: Well, when a district submits an
20 application and it's for new construction, it's assumed that
21 you're bringing in new capacity. You're not shifting around
22 existing capacity from another site.

23 SENATOR WYLAND: I understand that. So the
24 application itself, there was no indication that there would
25 be relocation. It just said -- but I assume it indicated

1 that part -- I assume in the application it indicated that
2 for the 26 classrooms, 17 were going to be built and 9 were
3 going to be portables. Is that --

4 MR. ASBELL: I don't have that information in
5 front of me right now. I can't --

6 SENATOR WYLAND: I guess what I'm trying to say is
7 in terms of a material inaccuracy, one is to either lay it
8 out the way we're going to do it and maybe it was overlooked
9 until the later audit or another is to not indicate that
10 we're going to do it that way and I think that's important
11 to know as to what they -- what their application actually
12 said because I understand from staff you're saying their
13 application itself was misleading.

14 And then I guess the other -- and we may not know
15 right now, but the other thing I don't understand from the
16 district is if you spent 20 some million for 300 portables,
17 why didn't you apply for money for that? Or did you?

18 MS. MATSUMOTO: Not all of those portables for
19 applied for funding. The majority of them were not because
20 they were placed across the district. We have 98 sites and
21 they probably went to almost every single site, like one,
22 two, three, up to probably 10 to 12 here and there and
23 realistically in that time frame, it was about a four window
24 period. There was 11,000 students that entered the district
25 in that time frame and so there was really an emergency to

1 be able to put down portables quickly.

2 And in the case where we wanted to be efficient to
3 maximize our projects too where we actually had major
4 developments going on for new construction, it made sense in
5 this particular case to actually put this particular project
6 with the Cabrillo High School project.

7 So I believe it was really for a purpose of
8 efficiency and one of timing and just in terms of where we
9 would like to utilize our resources for other capital
10 projects.

11 SENATOR WYLAND: That's not -- I'm not -- I just
12 want to make sure I'm clear on that. In other words, during
13 this same time frame, you spent all this money on new ones,
14 but you didn't apply and -- is that because of the way it's
15 set up, it's too difficult to apply for, you know, four for
16 this site and three for this site? I mean I'm -- why didn't
17 you apply for that money.

18 MS. MATSUMOTO: Not necessarily that it was
19 difficult. Like I mentioned, I think the district could
20 have applied for that, but we chose not to necessarily do
21 that.

22 SENATOR WYLAND: Were you working there then?

23 MS. MATSUMOTO: No, I was not, so I can't
24 necessarily say that that was the case, but --

25 SENATOR WYLAND: Would you keep this accounting

1 separate? I guess part of what staff is saying and I'm
2 assimilating to the district certainly because you spent all
3 this money on portables, but I guess what they're saying is
4 in this application, you got that money for new, whether it
5 as bought used or whatever, and you see the contracts to
6 transfer it. It's amazing how much -- I mean if anyone
7 looks at this contact, if I read it right, the relocation
8 cost itself was just incredible.

9 But then after all this, isn't one of your
10 solutions -- and I wasn't clear about what the solution
11 is -- just to give the money back? How much money are we
12 talking about?

13 CHAIRPERSON SHEEHY: 1.9 million.

14 SENATOR WYLAND: 1.9 million.

15 CHAIRPERSON SHEEHY: One solution would be for
16 them to return 1.9 million plus interest and if there's an
17 audit exception, I think we've already requested the money,
18 one solution would be to do that, get the money back and put
19 the matter to rest.

20 SENATOR WYLAND: And forget the other penalty.
21 That's one. The other is they spent all this money -- spent
22 millions on these other 300 during this same time period.

23 MS. MATSUMOTO: Correct.

24 SENATOR LOWENTHAL: Yes.

25 SENATOR WYLAND: Well, one solution would be to

1 just pay the money back, but it is -- and it certainly seems
2 however this application was done, it seems wrong to have
3 done it. I appreciate staff's perspective, but at the same
4 time, if they're spending \$26 million on 300 portables right
5 at the very same time and they took it all out of their own
6 money, I mean in some ways I suppose it's --- I suppose
7 it's -- even though it's not technically accurate in the
8 application, it's fungible in a way. So I don't -- anyway.
9 All right.

10 CHAIRPERSON SHEEHY: Thank you Senator Wyland. I
11 have Ms. Moore and then Ms. Fuller.

12 MS. MOORE: Yes. So how I see it is that the
13 district did believe that they were delivering 26 classrooms
14 which was the application and therefore you're very
15 reluctant to say we did a material inaccuracy. You're
16 very -- and I think that that perspective is fair.

17 Where I see the problem and perhaps can offer a
18 solution for consideration is that the portables that you
19 utilized were of the wrong age and they perhaps were already
20 in the district's baseline capacity. And in fact if they
21 had moved other portables that they bought during that time
22 period and moved the expenditures for those portables into
23 this project, we would not be having this conversation
24 today.

25 And perhaps that's a possible solution to ensure

1 that -- and now we of course on a practical level would not
2 want the district to move other portables and move others
3 out, but on a paper piece, I think that could be a solution
4 and then I don't think we want to give the message out there
5 that you can use an old building and move it around as staff
6 indicted. That is not what this program was about -- maybe
7 have been misunderstood at that point and certainly that was
8 eight years ago and we were a bit in our infancy in how all
9 of this was playing out from the new law, but I think that
10 could be a possible solution.

11 CHAIRPERSON SHEEHY: Thank you, Ms. Moore.
12 Ms. Fuller.

13 ASSEMBLY MEMBER FULLER: I'd like to make sure I
14 have my facts straight, but first I'd just like to say that
15 the 300 portables that you bought I don't know if they're
16 eligible to even be bought by the state, so those are like
17 off the record for me at this point.

18 You put your money in 300 portables, but maybe
19 they were eligible, maybe they weren't. I think the
20 evidence that's important here is what I do believe about
21 Long Beach is, you're absolutely right. Long Beach for nine
22 portables -- the district itself would never, you know,
23 commit some kind of error over nine portables. That's like
24 not probably even possible.

25 But I would like to say that I'm very concerned

1 because I think you're exactly right. When we find
2 something in an audit, that means nobody told us. Nobody
3 looked around. Everybody just put their head down and said
4 hmmm and how many people are there that can walk by nine
5 portables and not know they're new.

6 I mean if you ever look at a portable, especially
7 one that's been moved twice, those nine portables, they're
8 beat up. They move them and they look terrible. So I have
9 to believe that somebody in the maintenance department knew
10 that those nine portables were not new.

11 So here's the facts. The facts are -- the first,
12 the audit finds that they can't produce a receipt for nine
13 portables that they specified these are portables we bought
14 new, but they don't have a receipt. The reason they don't
15 have a receipt is because they're moving those nine
16 portables.

17 I'm much more worried -- I'm not very worried
18 about Long Beach as a district cheating or a material
19 inaccuracy.

20 I think you ought to go back to your department
21 head and find out where that 1.9 million went because you're
22 nine portables short as far as I can tell and that
23 concerns -- you can tell. I'm agitated.

24 That concerns me even more than the audit finding
25 because I think now that we're to the stage where, okay, we

1 all know where it is. It's got to be paid back. It's got
2 to be paid back with interest and we want you to go do
3 something to find where that 1.9 million went and then as
4 far as the material inaccuracy, I don't know. Five years
5 might be too much, but a year might not be bad. All it is,
6 is not to self-certify.

7 Now, if they've got a good record of certifying
8 themselves since 2001 with the new people -- obviously you
9 and others have taken over -- then the material inaccuracy
10 wouldn't be as inappropriate a punishment. So I think that
11 would be important to know and maybe there is some audit
12 remedy.

13 So I'm asking the Board to consider that this --
14 the seriousness of being caught in an audit with not having
15 receipts for the buildings you said you bought is serious.
16 Whether or not the district intended to do this, I don't --
17 I doubt.

18 MS. MATSUMOTO: I just want to clarify that when
19 we submitted our application for funding for one, you asked
20 about the application, and in the DSA approved plans, the
21 portables say relocated. And so I just wanted to make that
22 point.

23 It was always the intention that -- from what I
24 can tell that those portables were relocated which is why I
25 have always said that the application in the district's

1 perspective was valid.

2 And the second thing I wanted to just address
3 relative to the project cost for that 1.9 million, eligible
4 project costs that we spent was 13 million. Over
5 \$13 million was spent on the project, including the
6 relocation of those portables. And actually we were only
7 supposed to spend \$11 million for that project, but the
8 district contributed an additional \$1.7 million to cover the
9 costs for not only building the 16 classrooms but also for
10 the relocation of the portables, relative to answering that
11 and just clarifying that.

12 CHAIRPERSON SHEEHY: Okay. Senator Lowenthal and
13 then Senator Wyland.

14 SENATOR LOWENTHAL: So what you're saying is --

15 CHAIRPERSON SHEEHY: I'm sorry. Senator
16 Torlakson.

17 SENATOR LOWENTHAL: -- in terms of your
18 application, you were allocated how much money in the grant?

19 MS. MATSUMOTO: Approximately a little over
20 5 million. It was supposed to be a matching 50-50, so --

21 SENATOR LOWENTHAL: So you were allocated -- given
22 \$5 million and you were supposed to match it with \$5 million
23 and you're saying that including the 16 or 17 permanent --
24 or 17 classrooms that were new and the whatever form they
25 were -- and the 9 that were moved from someplace else, you

1 spent \$13 million.

2 MS. MATSUMOTO: Correct. OPSC sent us
3 correspondence last week confirming from our last
4 expenditure report for the project that all of the project
5 eligible costs for that project amounted to 13 million --

6 SENATOR LOWENTHAL: So --

7 MS. MATSUMOTO: -- a little over 13 million.

8 SENATOR LOWENTHAL: So OPSC -- we've spent
9 5 million and you spent \$8 million and so it wasn't as if --
10 and you can document that -- is it wasn't as if you spent in
11 this process you put that money someplace because you're
12 asking where that money went. That money was spent on that
13 project.

14 MS. MATSUMOTO: Correct.

15 SENATOR LOWENTHAL: And on that project, you
16 spent -- on increasing that capacity by 26 classrooms, you
17 spent \$13 million of which -- you can document of which
18 5 million of that came from the state and the school
19 district can document the additional \$8 million that they
20 spent.

21 MS. MATSUMOTO: Correct. That's been accepted --

22 SENATOR LOWENTHAL: I do not believe it's a
23 material inaccuracy.

24 CHAIRPERSON SHEEHY: Senator Wyland. Then Senator
25 Torlakson.

1 SENATOR WYLAND: I think a lot of what we're
2 trying to do here is figure out what happened and I thank
3 Jean for making it really clear. We do set it down.
4 There's no receipt for the new portables which clearly was
5 what staff intended, but there is here on page 183,
6 Attachment C from 1998 -- can you tell me -- and I'd like to
7 make sure staff and everyone agrees -- what that is?

8 CHAIRPERSON SHEEHY: I'm sorry. Senator Wyland,
9 could you repeat the question.

10 SENATOR WYLAND: It's page 183 and it's
11 Attachment C. It's entitled Emergency Resolution, award of
12 contract without bidding and advertising, to dismantle,
13 transport, install, support as well as purchase of new
14 portable restroom units and refers to from the old
15 international elementary school. Is that where these
16 portables were taken from?

17 MS. MATSUMOTO: Correct. So this is -- the
18 emergency resolution is actually for the installation.
19 That's what you --

20 SENATOR WYLAND: So I want to make sure staff
21 agrees. So you -- staff says at issue is 1.9 million which
22 is I guess what the cost would have been of the nine
23 portables. And the district spent \$2,250,000 to move old
24 portables.

25 I mean this is a different issue from what we're

1 talking about. But that's what the district did was to move
2 old portables to this site for \$2.25 million. Old portables
3 when for apparently 1.9 you could have bought brand new
4 ones.

5 Now -- and I assume because they have to be set on
6 site and hooked up and all of that, 1.9 million included all
7 that and that's not -- it really is a separate issue from
8 what we're doing here today, but maybe that explains where
9 you spent the money because the thing I always had is well,
10 you got the 1.9 million. Where is it? I mean -- and others
11 have brought that up and why shouldn't we get that back and
12 just call it a day.

13 Do you know what -- does anyone know what -- it
14 looks to me like that's what it is and then you have
15 Attachment D and E -- well, E I don't know why that's there,
16 but that's 36 portables from international school to various
17 sites. You were moving a lot of them around. And I
18 think -- it looks to me like that was just for the actual
19 movement -- you know, the actually movement.

20 MS. MATSUMOTO: Can I just --

21 SENATOR WYLAND: So -- please.

22 MS. MATSUMOTO: -- clarify. The lease -- to the
23 1.9 on eligible project costs for that project and so we did
24 spend the money on building not only the 16 classrooms and
25 the 17th classroom, the one portable, but also the others

1 that were relocated including those portables from
2 international.

3 So what you see is documentation that reflects
4 their installation and relocation across to the campus and
5 that is emergency resolution which authorized us to do that.

6 I also wanted to mention though because you asked
7 about receipts. The district has provided and has currently
8 all of these receipts here illustrating the \$27 million we
9 spent on acquiring portables. We have actually produced --

10 SENATOR WYLAND: Those -- I mean just with all due
11 respect, I think Assemblywoman Foster pointed out that --

12 CHAIRPERSON SHEEHY: Fuller.

13 ASSEMBLY MEMBER FULLER: By tonight I'll want to
14 be Foster.

15 CHAIRPERSON SHEEHY: That's a \$50 fine, Senator
16 Wyland.

17 SENATOR WYLAND: At least. That those may have
18 been subject to all sorts of different rules and that may be
19 why you never applied for it.

20 I mean -- the point is -- the point of what people
21 are saying is -- and I guess part of it is, is the district
22 isn't willing to come forth really -- I'm very sympathetic
23 to the district and I'm sympathetic and I think others are
24 as well. I wish you'd just come forth and say we messed
25 this up.

1 It was clear -- unintentionally perhaps, but we
2 messed this up and even if it did cost you a quarter million
3 dollars plus whatever the cost of moving them there and that
4 would have been only half because the 1.9 million from the
5 state was supposed to only represent half the money you
6 needed to provide this and then you say, well, but all that
7 money was used there. It just -- something doesn't add up.

8 So I'm willing to be very sympathetic. I'm just
9 trying to grab what's happened and I -- I have no further
10 comments or questions.

11 CHAIRPERSON SHEEHY: Okay. We have Senator
12 Torlakson.

13 ASSEMBLY MEMBER TORLAKSON: Thank you,
14 Mr. Chairman. Following on Senator Wyland's comments, I
15 have written in my notes that just sort of trying to get an
16 apple to apple comparison of the, quote/unquote, used
17 portables versus new and just sort of still fact finding.

18 I'm sympathetic as Senator Wyland, Senator
19 Lowenthal both indicated but trying to figure out what
20 happened and want to ask you did you do any estimate of the
21 value of those nine used portables compared to nine brand
22 new ones? What's the differential? Is it 50 grand? Is it
23 20 grand? Any way of estimating? Has that been looked at?

24 It seems like you -- and I know there's a dispute
25 over whether you should have used the used ones or not, but

1 you did install nine portables worth something and what's
2 the apple to apple comparison of buying -- you know,
3 ultimately one of my questions is why didn't you use nine
4 portables from the batch of new ones you bought and what
5 would that have cost compared to what you did spend?

6 MS. MATSUMOTO: We could easily actually do that
7 comparison based on the warrants we have for the purchases
8 we made for actual portables during the same time period.
9 So if we took any of the 300 and went, okay, let's just go
10 through this and pick --

11 ASSEMBLY MEMBER TORLAKSON: Sure.

12 MS. MATSUMOTO: -- so many, I can tell you an
13 estimated amount for that cost of that portable. So there
14 is a way to make comparison of what the cost would have been
15 and that's actually a remedy that we have actually proposed
16 to do.

17 And so -- and also it's not an unwillingness on
18 the district's part to not find a remedy for this because at
19 that time in 2001, our understanding was different.

20 I -- you know, it's really difficult for me to say
21 what their understanding was, but from what I see in the
22 record, their understanding was that they were complying
23 with what they believed to be the regulations and laws in
24 place.

25 Like I mentioned, if we thought this was going to

1 be so controversial today, we would just remedy this and we
2 have proposed to do that.

3 ASSEMBLY MEMBER TORLAKSON: One thing that would
4 help me and perhaps the other Board members if you can find
5 the part of the documents that you thought you were
6 complying with or your predecessors were complying with and
7 then have our staff look at the same documents and refute it
8 or circle the words that you discuss with on that point, but
9 the other point that Senator Wyland was sort of pursuing in
10 a similar way that as I was thinking is just the district
11 seems to have had good intent to meet its emergency needs.
12 It had a lot of students coming in, a lot of facilities to
13 get ready in a hurry, and you've had a record of investing
14 in the kids and your taxpayers invest and the district
15 putting out your own local money.

16 So looking at that issue of the difference between
17 what the cost of the used versus the new, you could do a
18 ledger or some kind of apple to apple comparison sheet and
19 what the installation costs separate and apart from the
20 building costs, what those were apple to apple, so that we
21 could sort of look at that as one other way to measure and
22 perhaps again as part of a direction of the Board, I would
23 be in favor of having the audit process and the district and
24 our staff look at some other alternative solutions.

25 I don't think the district was intentionally

1 playing games with those classrooms, but I think we need to
2 come to some fair resolution of what if anything is owed
3 back the state.

4 MS. MATSUMOTO: And we're prepared to do that.

5 CHAIRPERSON SHEEHY: Thank you, Senator Torlakson.
6 Do we have more questions? Mr. Harvey, you wanted to make a
7 comment.

8 MR. HARVEY: My comment would be to try to bring a
9 resolution to this and if it's satisfactory to the Senator
10 or he can make a subsequent if he's not happy, but I would
11 like to bifurcate this. It seems to me there may be no
12 issue -- at least in my mind there's no issue in the fact
13 that you should return the money.

14 I also think you should get your eligibility
15 back -- the apportionment. The thing that I think is more
16 contentious and I would have this as a separate motion for
17 others to make if they so choose is the question of material
18 inaccuracy.

19 So what I would like to do is to try a motion that
20 says that we would seek the return of the money and it would
21 include the pooled money investment account interest
22 attached thereto and consistent with the staff
23 recommendation, we would reapportion the 200 and whatever it
24 was in eligibility because we're --

25 CHAIRPERSON SHEEHY: And then you want to

1 bifurcate that from an MI issue.

2 MR. HARVEY: And I want to bifurcate it from an
3 MI. That is a separate issue. I will let others make a
4 motion on that because I'm not willing to do that right now.

5 CHAIRPERSON SHEEHY: Mr. Torlakson.

6 ASSEMBLY MEMBER TORLAKSON: Just a question,
7 Mr. Harvey on that motion. What's the net impact
8 financially to the district? When you say restore
9 eligibility, does that go to the point of that they could
10 have been eligible for 23 classrooms at the time, stick
11 built new classrooms versus -- and boils it down to an issue
12 of three portables?

13 MR. HARVEY: No. What I'm doing is returning the
14 excess state funding because they didn't use 1.9 to buy new
15 construction and I think they admit that. So I think we are
16 entitled to have that back with interest.

17 The other thing I'm doing consistent with the
18 staff recommendation is to adjust the pupil baseline
19 eligibility to reflect the reduction in apportionment
20 because they've returned the money.

21 CHAIRPERSON SHEEHY: How does that work? That's
22 the one thing -- I apologize -- I don't understand
23 technically if we -- we return the eligibility, does that
24 give them money back or take money -- what does that do?
25 I'm sorry. I just -- I'm having a senior moment.

1 MR. COOK: Let me -- okay. That's fine. Let me
2 explain how that works. I know, Kathleen, you know this
3 quite well. The district eligibility in access program and
4 it's based on unhoused kids.

5 In this case, they originally used their
6 eligibility to obtain this funding, claiming that they were
7 going to house children that didn't have classrooms and we
8 reduced their eligibility accordingly for the number of kids
9 that would have fit in new classrooms in this case since
10 they were --

11 CHAIRPERSON SHEEHY: So you looked at their total
12 eligibility and then you reduced it by the number of per
13 pupil grants they were being awarded.

14 MR. COOK: Right. And number of kids that they
15 were, you know, creating classrooms for. Given that they
16 didn't create new classrooms, I think the number is about
17 232 pupil grants or maybe 242 --

18 CHAIRPERSON SHEEHY: I mean the definition of
19 eligibility is you look at how many slots you have versus
20 what your enrollment is; right? And that difference is your
21 eligibility.

22 MR. COOK: That's correct.

23 CHAIRPERSON SHEEHY: So when they got awarded this
24 money, their eligibility was taken down by the number of
25 slots they were getting awarded; is that right?

1 MR. COOK: That's correct. And since those didn't
2 occur, we would propose giving them eligibility back for --
3 you know, 243 pupils' worth of eligibility back to the
4 district which assuming if they have positive eligibility,
5 they could turn around and use that on a new --

6 CHAIRPERSON SHEEHY: Future apportionment.

7 MR. COOK: -- on a new project -- on a future
8 apportionment.

9 CHAIRPERSON SHEEHY: I'm sorry --

10 MR. COOK: It has nothing to do with the money in
11 this case. It's just about restoring their eligibility.

12 CHAIRPERSON SHEEHY: Okay. So we have a motion.
13 We don't have a second yet. Senator Lowenthal.

14 SENATOR LOWENTHAL: I'd like to make a substitute
15 motion --

16 ASSEMBLY MEMBER FULLER: I'll second.

17 CHAIRPERSON SHEEHY: Okay. We do have a second on
18 that motion. Go ahead, Senator.

19 SENATOR LOWENTHAL: -- to do option number 2 I
20 think which is no finding of material inaccuracy.

21 CHAIRPERSON SHEEHY: What page are you on,
22 Senator? I'm sorry.

23 SENATOR LOWENTHAL: I'm on page 173.

24 CHAIRPERSON SHEEHY: Yeah.

25 SENATOR LOWENTHAL: There's the option --

1 ASSEMBLY MEMBER TORLAKSON: 173?

2 SENATOR LOWENTHAL: The district would not be
3 found materially inaccurate and that the project will still
4 be subject to the repayment of the audit findings.

5 CHAIRPERSON SHEEHY: Which would be?

6 SENATOR LOWENTHAL: Option 2 that was presented.

7 We --

8 CHAIRPERSON SHEEHY: Okay. Now your two motions
9 are not mutually exclusive because Mr. Harvey said he wanted
10 to have a vote first on returning the money, which you're
11 agreeing with; right?

12 SENATOR LOWENTHAL: No. I'm saying the first one
13 I want to find no material inaccuracy is the first and then
14 the second part of it would be the returning of the money.
15 The way it's written here --

16 CHAIRPERSON SHEEHY: It's part of the same motion.

17 SENATOR LOWENTHAL: Right. One motion.

18 CHAIRPERSON SHEEHY: So in other words, you
19 don't --

20 SENATOR LOWENTHAL: I'm just doing option 2 that
21 was done here. The first would be no finding of material
22 inaccuracy, but the project would still be subject to the
23 repayment of the audit findings.

24 CHAIRPERSON SHEEHY: Which would mean that --
25 so -- okay. Since Mr. Harvey asked for the repayment of the

1 1.9 plus PMIA interest, in your substitute motion, will you
2 state the 1.9 million plus the PMIA interest?

3 SENATOR LOWENTHAL: I think -- is that what the
4 audit findings were? I think -- whatever the audit findings
5 were, my substitute motion is option number 2 and that is
6 that no finding of material inaccuracy and the project would
7 be subject to the --

8 CHAIRPERSON SHEEHY: Okay. So we had a motion by
9 Mr. Harvey and a second by Ms. Fuller that would require the
10 returning of the 1.9 million plus interest at the PMIA rate
11 with the understanding that there'd be a separate vote on
12 the MI issue.

13 Senator Lowenthal has made a substitute motion
14 that is the staff recommendation number 2 that would find
15 there is no material inaccuracy and would require the
16 district to return the 1.9 million plus interest at the PMIA
17 rate. Do I have that right?

18 SENATOR LOWENTHAL: Yes.

19 CHAIRPERSON SHEEHY: Okay. Then the appropriate
20 thing to do --

21 SENATOR HANCOCK: I would second the substitute
22 motion.

23 CHAIRPERSON SHEEHY: And we have a second on
24 Mr. Lowenthal's motion. The appropriate thing now would be
25 to have a vote on the substitute motion first.

1 Ms. Genera, can you please call the roll. This is
2 on the substitute motion.

3 ASSEMBLY MEMBER FULLER: And make sure I got it
4 straight. They pay the 1.9 back plus interest, but they're
5 not materially inaccurate.

6 SENATOR LOWENTHAL: Right.

7 MS. MOORE: It's as an audit exception.

8 CHAIRPERSON SHEEHY: Yeah. It's an audit
9 exception.

10 SENATOR LOWENTHAL: -- an audit exception.

11 ASSEMBLY MEMBER FULLER: Okay.

12 CHAIRPERSON SHEEHY: Okay? Everybody understand
13 the vote? Okay. Please call the roll.

14 MS. GENERA: Senator Lowenthal.

15 SENATOR LOWENTHAL: Aye.

16 MS. GENERA: Senator Hancock.

17 SENATOR HANCOCK: Aye.

18 MS. GENERA: Senator Wyland.

19 SENATOR WYLAND: Aye.

20 MS. GENERA: Assembly Member Fuller.

21 ASSEMBLY MEMBER FULLER: Aye.

22 MS. GENERA: Assembly Member Torlakson.

23 ASSEMBLY MEMBER TORLAKSON: Aye.

24 MS. GENERA: Scott Harvey.

25 Kathleen Moore.

1 MS. MOORE: Aye.

2 MS. GENERA: Tom Sheehy.

3 CHAIRPERSON SHEEHY: Aye.

4 MR. HARVEY: Harvey, aye.

5 CHAIRPERSON SHEEHY: Harvey, aye; okay. It's
6 unanimous. We got that resolved.

7 MS. MATSUMOTO: Thank you.

8 CHAIRPERSON SHEEHY: Thank you. Now, as if we
9 haven't heard enough, I think -- we need to have the fuller
10 policy discussion on MIs and interest rate calculations.
11 The question to you, Rob, should we take -- we have an
12 action item that involves LAUSD and the movement of
13 critically overcrowded schools. I want us to make sure we
14 take that up now while we have a quorum. Should we do that
15 next before we lose our quorum?

16 Okay. Because, you know, we've been here three
17 and a half hours. We're not going to keep our quorum much
18 longer. We still have it. So let's move to Item -- help me
19 out, Rob. Is it Item 13?

20 MR. COOK: Yes. It's Item 13. That's correct.

21 CHAIRPERSON SHEEHY: So we're going to move to Tab
22 No. 13 which is the transfer of **critically overcrowded**
23 **schools program funds.**

24 MR. COOK: Juan Mireles will present this item.

25 MR. MIRELES: The next item on the agenda deals

1 with the transfer of available bond authority in the
2 critically overcrowded schools program to the new
3 construction program.

4 To date, there have been two funding rounds for
5 the COS program. The first was in 2003 from funding made
6 available through Proposition 47 and the second was in 2004
7 from Proposition 55 funds.

8 The COS program allows districts to receive a
9 preliminary apportionment or to secure funding as they go
10 through the process of obtaining the necessary plan
11 approvals from the Division of the State Architect and the
12 Department of Education. Districts then have up to five
13 years to come in with these plan approvals and submit a
14 final apportionment.

15 All of the Proposition 47 projects have converted
16 to a final apportionment. The Board has already transferred
17 700 million of bond authority to the new construction
18 program leaving a balance of 68 million in unused funds.

19 The Proposition 55 preliminary apportionments
20 received an inactive status as a result of the fiscal crisis
21 regulations approved by the Board, thereby extending their
22 five-year time limit. This funding round reserved an amount
23 of 293 million for authorized increases to the preliminary
24 apportionments when the projects convert to a final
25 apportionment.

1 In addition to this 293 million, there is an
2 amount of 318.3 million available to transfer to the new
3 construction program.

4 The Los Angeles Unified School District had
5 previously requested to reserve a portion of the
6 68.1 million in Proposition 47 funds for future hazardous
7 waste removal, grant increases at the time of closeout.
8 Staff has been working with the district and with legal
9 counsel to confirm that closeout adjustments costs for both
10 Proposition 47 and 55 COS projects can be made from either
11 the new construction fund or funds from Proposition 55
12 reserve amount.

13 Staff is recommending transfer of 68.1 million
14 from the Proposition 47 funds and 318.3 million from the
15 Proposition 55 funds to the new construction fund.

16 CHAIRPERSON SHEEHY: Okay. Thank you,
17 Mr. Mireles. Is there any --

18 ASSEMBLY MEMBER FULLER: I'll make a motion.

19 CHAIRPERSON SHEEHY: Is there anybody here today
20 that is in opposition to the staff recommendation on
21 Item 13?

22 If you're not in opposition, Mr. Smoot, we're
23 going to move on. Is there anybody in opposition? LA
24 Unified is opposing this?

25 MR. SMOOT: Sir, we would like an additional item

1 put into this action. We've asked all along that it be
2 specified in the action that up to \$35 million of the
3 Prop. 55 reserves shall be held for a period of time for the
4 closeouts associated with Prop. 47 projects.

5 CHAIRPERSON SHEEHY: I was assured by your
6 representative, Mr. Bacci (ph), that you wouldn't need more
7 than 12 months. Mr. Bacci -- he's nodding his head yes. So
8 any reservation would only be for a 12-month period of time.

9 MR. SMOOT: Fine.

10 CHAIRPERSON SHEEHY: So stipulated?

11 MR. SMOOT: Yes, sir.

12 CHAIRPERSON SHEEHY: It's part of the motion. Is
13 there any opposition to approving the staff recommendation
14 and the staff recommendation is being -- is it the
15 modification, Rob, to withhold -- to do a \$35 million
16 reservation for no more than one year?

17 MR. COOK: Is it a modification?

18 CHAIRPERSON SHEEHY: Yeah, it is, isn't it?

19 MR. COOK: It's a modification of our discussions
20 with the district. There's a --

21 CHAIRPERSON SHEEHY: Why? What did the district
22 say to you?

23 MR. COOK: Well, we had I thought worked in good
24 faith on putting this together. According to statute,
25 there's a \$283 million reserve that we have in the Prop. 55

1 COS account.

2 CHAIRPERSON SHEEHY: Yes.

3 MR. COOK: And that will be there for an extended
4 period of time. The district has gotten assurances in
5 writing that what they wish to do is a legal act and there's
6 ample funds sitting in the account.

7 CHAIRPERSON SHEEHY: And what Mr. Smoot's asking
8 is that we say that 35 million of that balance be earmarked
9 to pay for -- what's it called, post --

10 MR. SMOOT: Prop. 47 closeout --

11 CHAIRPERSON SHEEHY: -- closeouts for up to 12
12 months. Is that a problem? I mean it seems --

13 MR. COOK: I fully expect the funds to be there.

14 CHAIRPERSON SHEEHY: From my perspective, it seems
15 like a distinction without a difference to the staff
16 recommendation because I don't think it's going to matter,
17 but if there is a material matter here, then I think we need
18 to have a fuller discussion.

19 MR. COOK: I fully expect that the fund will be
20 there for 12 -- that reserve will be there for 12 months
21 regardless of --

22 CHAIRPERSON SHEEHY: Okay.

23 MR. COOK: -- any actions we take today.

24 CHAIRPERSON SHEEHY: So if you think it's -- I'm
25 going to just make sure it's right because I don't want to

1 jam OPSC staff.

2 If you think that 35 million's going to be there
3 regardless, then them asking that that 35 million be
4 reserved for 12 months doesn't really change what you've
5 agreed to and negotiated; is that correct?

6 MR. COOK: I would have to agree to a distinction
7 without a difference.

8 CHAIRPERSON SHEEHY: You don't think it's
9 necessary, but it is sort of a distinction without a
10 difference, isn't it.

11 MR. COOK: Right.

12 CHAIRPERSON SHEEHY: Okay. Mr. Harvey.

13 MR. HARVEY: Well, as -- being asked to vote on
14 something to reserve an amount of money that I don't even
15 know if it's equitable, fair, too high, too low. Why 35-?
16 What is that based on?

17 MR. SMOOT: Sir, you -- we've had these
18 conversations in the past. You recall originally we had
19 asked you to hold \$100 million and you told us you weren't
20 going to do that unless we could prove we needed the money.

21 We went back and did a detailed analysis of the
22 amount of money we believe we will -- we are fairly certain
23 at this point -- that we will need for the additional costs
24 associated with acquisition and relocation expenses
25 associated with land.

1 That's where the money came -- the dollar value
2 came from. We've gone through a detailed analysis of our
3 projects and determined that we'll need \$35 million to
4 complete those projects.

5 CHAIRPERSON SHEEHY: Had that detailed analysis
6 been shared with OPSC?

7 MR. SMOOT: Yes, sir.

8 CHAIRPERSON SHEEHY: Rob, do you disagree with
9 Mr. Smoot or does the \$35 million figure seem reasonable?
10 Setting -- I know you don't think you need the carve-out,
11 but -- for the 12 months, but do you think --

12 MR. COOK: Right.

13 CHAIRPERSON SHEEHY: -- the \$35 million figure is
14 reasonable?

15 MR. COOK: No, we don't have issue with the
16 estimate.

17 CHAIRPERSON SHEEHY: Okay. Other questions from
18 Board members? Assembly Member Fuller.

19 ASSEMBLY MEMBER FULLER: I just hate to ask this
20 question, but I'll feel better after I sleep tonight. Lyle,
21 why should we give you cuts in line?

22 MR. SMOOT: Ma'am, this is not a cut in line.

23 ASSEMBLY MEMBER FULLER: Then explain to me
24 because that's what it looks like to me. To me -- let me
25 say what I think and then you tell me whether it's right or

1 not.

2 It looks to me like we reserve this money for you.
3 Other people are in line ready to go. We stop handing out
4 money -- we get to that amount until you get your paperwork
5 in and we give it to you.

6 And, you know, that's very frustrating for regular
7 school districts, if that's the case. What is it really
8 then?

9 MR. SMOOT: I will start with the program was set
10 up for urban districts. Okay. There are I think 19 urban
11 districts that applied for the money originally and it was
12 set up because it was in recognition of the fact that it
13 takes a lot of additional time to build a school in an urban
14 setting. Okay.

15 So the money was set aside for this purpose. As
16 far as cutting in line, this is to cover costs associated
17 with projects that are ongoing right now. We are spending
18 this money.

19 CHAIRPERSON SHEEHY: That you were approved for.

20 MR. SMOOT: We're spending this money right now.

21 CHAIRPERSON SHEEHY: That you were approved for.

22 MR. SMOOT: We are approved for. We are
23 apportioned --

24 CHAIRPERSON SHEEHY: You just can't submit the
25 claim yet because it's not done.

1 MR. SMOOT: That's exactly right.

2 CHAIRPERSON SHEEHY: Is that right?

3 MR. SMOOT: That is exactly right. And --

4 ASSEMBLY MEMBER FULLER: Are there other school
5 districts in that same situation that you're in that they're
6 building and they can't do the claims yet?

7 MR. SMOOT: I don't know that for a fact, but I
8 assume that any urban district is in the same boat. This is
9 a problem that's created by condemnation actions.

10 CHAIRPERSON SHEEHY: Lyle, I think Ms. Fuller's
11 just hit a key point. If LA Unified gets this treatment,
12 then any other --

13 ASSEMBLY MEMBER FULLER: 17.

14 CHAIRPERSON SHEEHY: -- any other should have the
15 same -- Rob, can you comment on that? Are there others that
16 have the type of exposure that Los Angeles has? Let's hear
17 from Rob first.

18 MR. COOK: Los Angeles certainly has the largest
19 dollar volume in this program, but there are other active
20 districts in the program and these are toxic cleanup costs
21 that would be taken care of at closeout audit and any one of
22 those urban districts could well be exposed on their
23 projects for the same thing.

24 CHAIRPERSON SHEEHY: Do we have any estimate on
25 what their needs would be? Have --

1 MR. COOK: No one else has submitted any --

2 CHAIRPERSON SHEEHY: Have any of them come forward
3 asking for the same sort of set-aside?

4 MR. COOK: No.

5 MR. SMOOT: I just want to make it clear. We're
6 not asking for this just for Los Angeles. We're saying this
7 \$35 million is our estimate of what we need, but if somebody
8 else comes in that is eligible for this money from the COS
9 program and they get it first --

10 CHAIRPERSON SHEEHY: Okay. So we want to make it
11 clear that the --

12 MR. SMOOT: -- they get it.

13 CHAIRPERSON SHEEHY: We want to make it clear
14 right now --

15 ASSEMBLY MEMBER FULLER: So we're not holding it
16 then.

17 CHAIRPERSON SHEEHY: Well --

18 MR. SMOOT: This is just clarifying that anyone
19 that has a Prop. 47 closeout need for funding is eligible
20 for that money.

21 CHAIRPERSON SHEEHY: Here's the issue. Here's the
22 issue; right? Correct me if I'm wrong. We want to move
23 this money so that it can be allocated for new construction;
24 right? But the concern that LA and perhaps some other
25 districts have, although they haven't come up here -- or

1 haven't expressed it, is that because of these post -- tell
2 me again the terminology.

3 MR. SMOOT: They're audit adjustments.

4 CHAIRPERSON SHEEHY: The post -- the audit
5 adjustments --

6 MR. SMOOT: Yeah.

7 CHAIRPERSON SHEEHY: -- that when those
8 adjustments are made and they come forward, the money will
9 have all gone out as new construction. They will have been
10 left holding the bag.

11 So they're basically saying we know we're going to
12 have these costs. We can't claim them now. We've done --
13 they've said and apparently our staff has concurred, they
14 have a methodology where they did an estimate that appears
15 reasonable.

16 Our staff doesn't think the 12 month set-aside for
17 this is necessary because they think the money's going to be
18 there anyway because they don't think it's going to go out
19 so fast.

20 LA's concerned that the money will go out so fast
21 that it won't be there and they're simply saying we know
22 we're going to have these costs. I called LA's bluff and
23 said I'll support this -- this was in a meeting I had. I
24 said I'll support this if you're willing to stipulate
25 because the LA representative told me, look, our costs will

1 all come in within 12 months and I said well, do you
2 stipulate to that and to a Board action and he said yes,
3 absolutely.

4 So I have a pretty high degree of certainty those
5 costs are there. They just can't get them right now. As
6 long as this --

7 ASSEMBLY MEMBER FULLER: I agree with that part.
8 I only -- my only problem is just determining they cut in
9 line. So -- but now I think I understand what your last
10 statement was, which was you said anybody else in that 19
11 that comes forward that wants to get the 35- -- some part of
12 the 35 million, if they have eligible costs, is free to do
13 that. Is that what you're saying?

14 MR. SMOOT: Yes, ma'am.

15 ASSEMBLY MEMBER FULLER: Hey, I'm good with that.
16 Thank you, Lyle.

17 CHAIRPERSON SHEEHY: So there's no -- so the
18 carve-out is not for LA. The carve-out is for the 19
19 districts that qualify for this; right?

20 ASSEMBLY MEMBER FULLER: Yep. If that's it,
21 that's the motion, I'm good.

22 CHAIRPERSON SHEEHY: So what is the appropriate
23 motion to make then, Rob?

24 MR. COOK: A modification on staff recommendation,
25 just simply to add this element to reserve 35.1 million for

1 any of the districts that are eligible under this program
2 for closeout audits for a 12-month period.

3 CHAIRPERSON SHEEHY: And at the end of 12
4 months -- it'll be 12 months from the date of the motion
5 which is today. The end of the 12 months, we don't need a
6 subsequent Board action and go through a bunch of drama. At
7 the end of 12 months, that money will be transferred over to
8 new construction if it hasn't been claimed.

9 MR. COOK: Um-hmm.

10 CHAIRPERSON SHEEHY: Now you would agree with
11 that, Mr. Smoot?

12 MR. SMOOT: Yes, sir.

13 CHAIRPERSON SHEEHY: It's part of the record. You
14 guys, don't try arguing it in 12 months. Okay. So that is
15 the motion. Is there a second.

16 MR. HARVEY: Second.

17 CHAIRPERSON SHEEHY: We have a second by
18 Mr. Harvey. All in favor.

19 (Ayes)

20 CHAIRPERSON SHEEHY: Any opposed? Hearing none,
21 this item is dispensed with.

22 MR. SMOOT: Thank you very much.

23 CHAIRPERSON SHEEHY: You're welcome. Okay. What
24 do we need to do next, Rob? I think we have -- we're going
25 to close this meeting in ten minutes because our Board

1 members are tired and we've been here for four hours. Is
2 there something else we could do in ten minutes?

3 MR. COOK: I would strongly recommend if we're
4 going to close in ten minutes that we actually put over the
5 informational items on material inaccuracy to a future
6 meeting.

7 CHAIRPERSON SHEEHY: No. We have to have the
8 discussion on material inaccuracy policy and educational
9 items. So we're going to need to schedule that for our next
10 meeting.

11 MR. COOK: That's correct.

12 CHAIRPERSON SHEEHY: There was another MI issue on
13 this agenda which was which district?

14 MR. COOK: Chula Vista. I think --

15 CHAIRPERSON SHEEHY: I want to say right now for
16 the record, I will not unless there's -- everybody on this
17 Board disagrees with me, but I will not support hearing the
18 Chula Vista -- is it Chula Vista?

19 MR. COOK: Yes.

20 CHAIRPERSON SHEEHY: -- the Chula Vista item and
21 discuss any more material inaccuracy issues on this Board
22 until we have -- and I don't care whether it's the next
23 meeting or if it takes six months -- until we have gone
24 through the full discussion on what the policy is, what our
25 responsibility is, and what our options are. We really have

1 to have that discussion for legal reasons and I think we
2 ought not be having anything more.

3 So I'm letting everybody know right now that we
4 are not going to hear any more MI issues until we have done
5 our policy and educational discussions on MI. Okay?
6 Unless -- you know, you all decide to change your minds on
7 me, but I think that's very, very important.

8 What else, Rob?

9 MR. COOK: The last item -- you said --

10 CHAIRPERSON SHEEHY: Did we get -- we got the regs
11 done; right?

12 MR. COOK: We have the regulations done on that.
13 We do have one other set of regulations on modernization.

14 CHAIRPERSON SHEEHY: Is that -- yeah. That was
15 Item No. 12?

16 MR. COOK: It's Item No. 12.

17 CHAIRPERSON SHEEHY: And is -- that one had --
18 that one, there's not -- that one's going to require some
19 discussion, is it not?

20 MR. COOK: That will require some discussion.

21 CHAIRPERSON SHEEHY: Are we going to -- are any
22 school districts going to be harmed if we don't take that up
23 tonight?

24 MR. COOK: No.

25 CHAIRPERSON SHEEHY: Okay. So if no school

1 districts are going to be harmed, then we can put that one
2 over -- okay.

3 MR. COOK: That's correct.

4 CHAIRPERSON SHEEHY: Senator Wyland and then
5 Mr. Harvey.

6 SENATOR WYLAND: Just quickly as we wrap up,
7 number one, Mr. Sheehy, I absolutely agree with you. It's
8 very clear we need to understand the MI issue.

9 And also I think not only for all these reasons,
10 but I think we want -- staff has done a lot of work on this.
11 They work on this every single day and I think we need to
12 figure out a system so they aren't frustrated that -- and we
13 also understand this.

14 So -- the only other comment I'd like to make and
15 I don't know if it's under our purview and I'll just make
16 the comment and we don't need to discuss it further, but
17 what I pointed out with the Long Beach district, the
18 emergency resolution which was the award of a contract
19 without bidding and advertising for two and a quarter
20 million dollars which was just essentially to set up these
21 classrooms -- portables that were moved and that was in
22 1998, I've been around construction a fair amount. That's a
23 lot of money it seems to me. It didn't moving them. Just
24 setting them up.

25 CHAIRPERSON SHEEHY: It didn't include the moving

1 costs?

2 SENATOR WYLAND: Nope. Moving is separate. It
3 did include -- they put in a restroom, but -- and I don't
4 know if it's under our purview, and so I'll just leave that
5 as a thought for all of us when there's limited funds and
6 when you see a bid -- and I know nothing about the rules --
7 award a contract without bidding and advertising.

8 So there's just sort a parting thought. You know,
9 we all want money for as many schools as possible.

10 CHAIRPERSON SHEEHY: Okay. Mr. Harvey.

11 MR. HARVEY: Rob, as you look to prepare future
12 agendas, I have two requests for your consideration. One of
13 them is an issue which has pending in the Implementation
14 Committee for well over a year and it's the hardship
15 regulations.

16 CHAIRPERSON SHEEHY: The what?

17 MR. HARVEY: Hardship. It's a very timely
18 discussion, one that needs remedy. I don't think anyone
19 would say we don't need to change them and I think we should
20 get about the business of changing them. I'd like that
21 scheduled sometime.

22 And secondarily, again this can be far off, that
23 issue I raised earlier today about the hopeful blending, if
24 you will, of the statutory bond covenant programs defined as
25 energy in the Prop. 47 and trying to marry that with

1 programs statutorily driven or bond covenant driven for the
2 high performance schools, the idea being you can do more
3 energy efficiency if you can combine those two definitional
4 concepts into one program.

5 MR. COOK: Um-hmm.

6 CHAIRPERSON SHEEHY: Well, as long as we're on the
7 subject, do any Board members have any other agenda items
8 they want to raise? It won't necessarily be at our next
9 meeting that we'll be able to get it because of constraints,
10 but are there other agenda items any members want to raise?
11 Mr. Wyland and then Ms. Hancock.

12 SENATOR WYLAND: We do have this outstanding issue
13 of governance and I apologize. It just did not work out at
14 the end of session with the legislative staff side.

15 I don't know when we're going to be able to do
16 that. I know we can at the beginning of the year. We're
17 obviously operating okay. Perhaps we can do that --

18 CHAIRPERSON SHEEHY: Sure. Mr. Wyland, I'm going
19 to send you some suggestions that I'm going to send directly
20 to you and I'm going to cc our Board members and then we can
21 engage in some more discussion on that. Thank you.
22 Ms. Hancock.

23 SENATOR HANCOCK: Yeah. Thank you. This was just
24 on the bigger discussion that we're going to have on MI next
25 time. Is there a way to differentiate between honest

1 mistakes in a very complicated process and some kind of
2 deliberate falsification because sometimes the terminology
3 that's used --

4 CHAIRPERSON SHEEHY: Fraud. Fraud. Mistakes
5 versus fraud.

6 SENATOR HANCOCK: Yeah. And then have a range of
7 penalties or different things to fit different
8 circumstances. I think that would be helpful and if not,
9 why not. I mean you have to parse definitions carefully, I
10 know, but that's something that always is troubling to me
11 when we look at these issues.

12 MR. COOK: I think we can illuminate things for
13 the Board on at least approaches that have been taken in the
14 past that make some distinctions between patterns of
15 behavior versus one off instances. Intent is something that
16 the Courts generally get engaged in. We don't look at
17 intent, but you can definitely see patterns of behavior or
18 patterns of disregard perhaps for statute and regulation
19 versus one off instances and that's about as close as we get
20 to distinguishing.

21 We don't touch on intent because that's a very
22 difficult thing. I mean that's a criminal/civil issue to
23 establish.

24 SENATOR HANCOCK: Well, what you could do to make
25 that differentiation and also if there are other penalties

1 or other things besides loss of self-certification because
2 my understanding is that that adds enormously to the cost
3 and delays for schools -- for districts in the future so
4 that even if they made attempts, they change their rules or
5 their procedures or whatever, they could be for decades or
6 for years anyway paying OPSC staff a fairly high rate to
7 come in and certify and then also by having to do that,
8 delaying their applications for a long time.

9 CHAIRPERSON SHEEHY: Thank you, Senator.

10 Additional comments? I'd like to --

11 MS. MOORE: I have one.

12 CHAIRPERSON SHEEHY: I'm sorry. Ms. Moore.

13 MS. MOORE: Just on the material inaccuracy. I
14 know we didn't discuss it today, but I know that the scope
15 changed. Part of that is new to the Board and I have not
16 seen it on an item.

17 I know that you've discussed MIs with the Imp.
18 Committee ad infinitum and you probably don't want to reopen
19 that, but I do -- I think it would be beneficial to have the
20 school district input and others' input on scope changes and
21 the Department as well has some concerns around scope
22 changes that don't seem to be -- that -- reflected in the
23 current course and I know that's the first time that you're
24 bringing it before the Board, but I would suggest that the
25 scope change of MI, not having to open up the whole thing

1 again to the Imp. Committee be discussed at Imp. Committee.

2 CHAIRPERSON SHEEHY: Tom, you'll get a chance in a
3 moment if it's really urgent. So in summary then, we're --
4 I'm sorry. Ms. Fuller.

5 ASSEMBLY MEMBER FULLER: I just have one question
6 on this letter of resignation from Mrs. Girard.

7 CHAIRPERSON SHEEHY: Yes.

8 ASSEMBLY MEMBER FULLER: It mentioned some issues
9 that she was disappointed in and I'd just like to ask Susan
10 to find out more about that and brief me on it. I wasn't
11 aware of any issues and so I'd like to know. Thanks.

12 CHAIRPERSON SHEEHY: On Rose's letter of
13 resignation.

14 MS. RONNBACK: Right. I will look into it for
15 you.

16 CHAIRPERSON SHEEHY: Okay. Very good. So, Susan,
17 you'll work with Assembly Member Fuller on that issue. So
18 we know then -- recap -- that we're going to meet again on
19 November 4th which is a Wednesday. We're going to take up
20 the material inaccuracy/educational policy issues for sure.
21 We're going to have a discussion about the Board's schedule
22 going forward and we're going to also have a closed session.
23 As soon as we get a quorum and our members are here, we're
24 going to go into closed session.

25 I want to apologize to OPSC staff. I know

1 particularly Mr. Asbell who worked very hard putting
2 together the MI items for today. I am sorry we weren't able
3 to get to them the way that would have probably been better
4 had we had more time.

5 Our closed session, if you looked at the time that
6 we spent from the time we went in to the time we got out
7 took a full hour and a half today, members. So that took up
8 a lot of our time. It took up a big chunk of our time.

9 So as soon as we have our personnel issues
10 resolved, presumably that time will be freed up for more
11 Board deliberation. So I'm sorry we didn't get to it. It's
12 not because we don't think it's important. It was just
13 press of time.

14 So, Mr. Duffy, did you want to make a last
15 comment?

16 MR. DUFFY: As a teacher, I found a teachable
17 moment here. I wanted to make sure I responded to Senator
18 Wyland's comment about spending a lot of money without going
19 to bid.

20 There's a provision within the Education Code that
21 allows a board of education to avoid a bid if there is an
22 emergent situation. As hearing the Long Beach item, what
23 was emergent there was a huge amount of growth. So by
24 four-fifths vote of the board, they could avoid going to bid
25 and just choose a contractor and move forward.

1 We did that once in my district when a contractor
2 failed to perform and so we -- because school was going to
3 be starting in about six weeks, I took a resolution to the
4 board, they adopted it, and we chose a very good contractor.
5 We made sure everybody knew about it. We asked for lots of
6 quotes not bids.

7 But when emergent situations do exist -- and this
8 happens frequently with mold in buildings and other things,
9 Senator, so I just wanted to make sure I answered that
10 question so it doesn't appear that districts just flout the
11 public contract code.

12 SENATOR WYLAND: Right. Thank you.

13 MR. DUFFY: And, Senator, if we can assist you in
14 siting your committee meeting, I'd like to talk to you about
15 that separately. We've got a conference in Costa Mesa on
16 the -- it's the 13th and 14th of October and the afternoon,
17 we could work with you to host it at the hotel if you'd like
18 to do that. Thank you. Thank you, Mr. Chairman and
19 members.

20 CHAIRPERSON SHEEHY: Okay. That's great. Thanks,
21 Tom. All right. Seeing no other business to come --
22 Ms. Ronnback.

23 MS. RONNBACK: I'm sorry. I just have
24 clarification to ask of Mr. Harvey. When you mentioned that
25 you wanted the hardship issue scheduled, did you want that

1 scheduled at the Implementation Committee which is right
2 now --

3 MR. HARVEY: No. I want it here. It's been at
4 the Imp. Committee for over a year.

5 MS. RONNBACK: Right. Okay.

6 CHAIRPERSON SHEEHY: Please understand, that
7 doesn't necessarily mean it has to be scheduled for the next
8 meeting if the agenda's too full. I want to be sensitive to
9 the fact we have the furlough issue and everything else
10 which we'll discuss at our next meeting.

11 Seeing no other business to come before the Board,
12 this State Allocation Board is adjourned.

13 (Whereupon, at 6:02 p.m. the proceedings were recessed.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

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

That the proceedings herein of the California State Allocation Board, Public Meeting, were duly reported and transcribed by me;

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

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on October 1, 2009.

Mary C. Clark
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Reporter and Transcriber