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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL, ROOM 447
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, JANUARY 27, 2010
TIME: 4:16 P.M.

Reported By: Mary Clark Transcribing
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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

CYNTHIA BRYANT, Chief Deputy Director, Policy, designated representative for Ana Matosantos, 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 BOB HUFF

ASSEMBLY MEMBER JEAN FULLER

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER JOAN BUCHANAN

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

ROB COOK, Chief Executive Officer

LISA SILVERMAN, Deputy Executive Officer

LISA KAPLAN, 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 BRYANT: Okay. We'll go ahead and get started. Call this meeting of the State Allocation Board to order. Will the secretary call the roll.

5

6

MS. GENERA: Senator Lowenthal.

7

SENATOR LOWENTHAL: Here.

8

MS. GENERA: Senator Hancock.

9

SENATOR HANCOCK: Here.

10

MS. GENERA: Senator Huff.

11

SENATOR HUFF: Here.

12

MS. GENERA: Assembly Member Buchanan.

13

ASSEMBLY MEMBER BUCHANAN: Here.

14

MS. GENERA: Scott Harvey.

15

MR. HARVEY: Present.

16

MS. GENERA: Kathleen Moore.

17

MS. MOORE: Here.

18

MS. GENERA: Cynthia Bryant.

19

CHAIRPERSON BRYANT: Present.

20

MS. GENERA: We have a quorum.

21

CHAIRPERSON BRYANT: Thank you. Our first item for business is the **Consent Calendar**. Is there any -- anybody want to pull anything off of the Consent Calendar?

23

24

SENATOR LOWENTHAL: Yeah.

25

CHAIRPERSON BRYANT: Senator.

1 SENATOR LOWENTHAL: The administrative cost item,
2 Tab 5, page 19, be pulled from the Consent Calendar and what
3 I would really like is -- pull the item and request that
4 a -- it's the expenditure report -- that a more detailed
5 expenditure report of administrative costs on the specials
6 agenda of the February SAB meeting to have it more -- I
7 felt -- I didn't really understand where the money was being
8 just listed. Didn't tell us what was being spent and I
9 would like a more detailed report before Board approval --
10 discussion and approval.

11 CHAIRPERSON BRYANT: Okay. Mr. Harvey.

12 MR. HARVEY: On that point, I really, Senator,
13 have no issue with you having a more robust report, but my
14 understanding is that these are dollars that are directly
15 appropriated by the Legislature and this is simply a report
16 of that action.

17 You know, we get to allocate the school
18 construction dollars. That's something we do, but on this
19 one, the action has taken place, but if you would like more
20 detail, that's one thing, but I'm not sure it needs action
21 by --

22 SENATOR LOWENTHAL: I don't have any detail at
23 all. I would just -- I'm not even saying --

24 MR. HARVEY: -- wish to correct --

25 SENATOR LOWENTHAL: -- administrative -- the

1 Education Code section states that the SAB shall determine
2 the amounts necessary for administration of this program.
3 So this should be a discussion item.

4 And I'm not even saying -- I'm just not sure what
5 they're spending the money on at all.

6 CHAIRPERSON BRYANT: Rob, do you have a comment on
7 that?

8 MR. COOK: We can bring back a detailed budget. I
9 will also ask our sister agencies that are funded from the
10 program to provide detailed expenditures and we can bring
11 that back. This is a ministerial action. The budget -- our
12 budgets all go through the regular budget process and this
13 is then brought before the Board. But more than happy to
14 bring back detail.

15 Again we will -- Kathleen Moore's organization
16 within the Department of Education receives funding out of
17 this as well as the California School Finance Authority and
18 then there are some expenditures at the -- over at the State
19 Controller's Office associated with handling our funds.

20 CHAIRPERSON BRYANT: Okay. We can do that. I
21 apologize because I'm -- this is obviously the first meeting
22 I've chaired and so I was looking at the script and kind of
23 didn't do this quite right. We should have had a separate
24 for the Minutes. Are there any changes on the Minutes?
25 I'll do that next. I took it out of order. We did the

1 Consent Calendar. We're removing the -- we'll go ahead and
2 remove the budget item, put it on February.

3 SENATOR HANCOCK: Oh, I have another comment or
4 question I'd like to make about Item 5 --

5 CHAIRPERSON BRYANT: Okay.

6 SENATOR HANCOCK: -- as it's removed and put over
7 till February, and that is I have to say that I was -- this
8 is forward looking pretty much. I was struck by the fact
9 that we have four agencies all of whom have to have their
10 hands and eyes on these documents and that we end up
11 spending \$17 million on this and really would like to know
12 in these very difficult financial times if we have looked at
13 or can look at how we could streamline that.

14 I think it would also -- also the Office of the
15 School Architect -- or the State Architect looks at it. So
16 many people look at these things and if we are going to put
17 people to work, we want things to move much more rapidly
18 than they have been.

19 There have been stories about the state -- you
20 know, how long it is taking things to move from desk to desk
21 and some organizations have brought to my attention this
22 group called, Lean, L-e-a-n, that I guess Toyota started
23 which helps agencies streamline their administrative
24 procedures and do more in one stop. And it just seemed to
25 me that this might be a good time to look forward and see if

1 there's a way that we can move the money faster.

2 CHAIRPERSON BRYANT: That's a good suggestion. So
3 is that -- we include that in the budget item next time --

4 SENATOR HANCOCK: Yeah, if we could.

5 CHAIRPERSON BRYANT: -- that discussion?

6 SENATOR HANCOCK: Yeah.

7 CHAIRPERSON BRYANT: Okay. That sounds good. So
8 is there a motion on the **Consent Calendar**?

9 SENATOR HUFF: I'll move it.

10 CHAIRPERSON BRYANT: Second?

11 MR. HARVEY: I'll second.

12 MS. MOORE: I have one item that I'll be
13 abstaining from the Elk Grove Unified School District
14 consent items and voting on all remaining items.

15 CHAIRPERSON BRYANT: Okay. All right. Do we need
16 a roll call or --

17 MR. COOK: Just a voice vote.

18 CHAIRPERSON BRYANT: Without objection -- okay.

19 Thank you.

20 MR. COOK: If we can step back to the **Minutes**.

21 CHAIRPERSON BRYANT: Yes.

22 MR. COOK: The Minutes of our November 4th meeting
23 are ready for your approval.

24 MS. MOORE: I'll move the Minutes.

25 SENATOR HANCOCK: Second.

1 CHAIRPERSON BRYANT: All those in favor. I'm
2 abstaining from the Minutes since I wasn't here.

3 ASSEMBLY MEMBER BUCHANAN: I need to abstain as
4 well.

5 CHAIRPERSON BRYANT: Okay.

6 SENATOR HUFF: I need to abstain.

7 CHAIRPERSON BRYANT: Do we have enough?

8 MR. HARVEY: We'll have to put it over.

9 CHAIRPERSON BRYANT: I don't mind voting on them
10 if I have to. We'll leave it open till we get the rest of
11 our members here.

12 MR. COOK: I would like to bring one correction to
13 your attention that Sophia was good enough to catch. We
14 have a minor typo on page 4 of our Minutes. It just
15 indicates that a school district had billions of dollars
16 worth of projects when it's in fact millions of dollars in
17 projects, so with that --

18 MR. HARVEY: Oh, they're only hoping it was
19 billions.

20 MR. COOK: Well, yeah. On four schools, that's
21 quite a bit to swallow. Anyway so offer that as a
22 correction.

23 CHAIRPERSON BRYANT: Okay. We'll deem it open but
24 to be adopted the way you just discussed it. Okay. So
25 Tab 3, the **Executive Officer's Statement**. Mr. Cook.

1 MR. COOK: Given that we just wrapped up a year
2 and we're starting a new calendar year, I wanted to go
3 through some of the numbers that this Board dealt -- this
4 Board and the Office of Public School Construction dealt
5 with last year.

6 In a very difficult year, we actually were able to
7 release last year \$1.83 billion which is -- if you'd asked
8 me whether we'd have been able to do that in January a year
9 ago, I would have thought you were crazy, but we've been
10 lucky enough to get \$2.4 billion worth of funding over the
11 last year and we've released a substantial amount of that.

12 Also we've executed nearly 400 unfunded approvals
13 here at this Board and just short of \$2 billion worth of
14 unfunded approvals. And then the various applications that
15 we've received at OPSC over the year is just under 1,400,
16 various types, and then there's a further breakdown of the
17 types of work that we've dealt with over this year.

18 Given tough times, we've actually had quite a bit
19 of -- I consider this we've had a lot of success in a tough
20 time, so --

21 Also wanted to bring your attention to an audit of
22 Proposition 1D bond funds under the Governor's Executive
23 Order for bond accountability. The Office of State Audits
24 and Evaluations will be auditing the school facility
25 program.

1 We had our entrance conference earlier this month
2 with them and the objective of this audit is to ensure the
3 bond expenditures are in compliance with applicable laws and
4 regulations.

5 Also to note one of the issues that was raised at
6 our Audit Subcommittee was one of overlap with local audits
7 that occur. I sent a letter -- knowing that the Office of
8 State Audits and Evaluations was going to be entering the
9 program and looking at it this year, I sent a letter to them
10 asking that they also include in our scope -- the scope of
11 their audit to look at overlap issues and examine to see if
12 any of those -- where overlaps might occur and they have
13 agreed to include that in the scope of their audit of the
14 program.

15 Also very notable, you might -- folks to my left
16 and my right, we've had some personnel changes. At the
17 November Board, Ms. Kaplan was appointed as our Assistant
18 Executive Officer. Lisa has prior tenure in government
19 relations as well as working for members of the Legislature
20 and she's a proud member of the Natomas School Board, which
21 gives us a local perspective on things in our office.

22 And then Ms. Silverman was just appointed as our
23 Deputy Executive Officer. She has stepped up from our Chief
24 Fiscal Officer for the organization and Lisa brings a very
25 deep background from both Franchise Tax Board and Board of

1 Equalization in 24 plus years -- 25 years of audit
2 experience and she has done outstanding things as our Chief
3 of Fiscal and I look forward to great things as our Deputy
4 Executive Officer.

5 CHAIRPERSON BRYANT: Okay. Thank you.
6 Congratulations, both of you. Did you need to talk a little
7 bit about item -- what's at Tab 4, delegation --

8 MR. COOK: Just briefly. Tab 4 is the **delegation**
9 **of authority** that needs to be executed. Again I'm the
10 person that signs the delegation of authority.

11 There are two resolutions before you, one on
12 behalf of Ms. Kaplan and another on behalf of Ms. Silverman.
13 We can have these read into the record and then I can
14 execute the delegations of authority.

15 CHAIRPERSON BRYANT: Okay. We'll deem them read
16 into the record. Mr. Harvey, do you have a comment?

17 MR. HARVEY: If I might. Board, if you would
18 indulge me just a moment. I come from a local government
19 perspective as I know many of you have and we always had as
20 a courtesy to the public a public comment portion to our
21 agenda. I've never seen one on our agenda and I think it's
22 probably, for those items that are not going to be discussed
23 on an agenda, a transparent and nice thing to do to allow
24 the public to comment on whatever they feel is germane to
25 our general business but not on a particular agenda.

1 And I'd like to propose that we add one today and
2 we have one going forward. And again I'd like to have it
3 early in the meeting. I had colleagues while I was on the
4 city council say, oh, let's put it at the back. If we do it
5 at the back, they'll leave before we finish business.

6 So I would like to have it early on, limit the
7 comment to no more than two minutes, and let the public have
8 their say and I'm hoping we can do it ongoing right before
9 the Consent Calendar, sometime after we've heard from our
10 Executive Director.

11 Does this make sense? Can we do this ongoing and
12 even have one comment today because I do know there is an
13 individual who lives out of the area who would like to
14 comment on high performance schools, not on our agenda, and
15 I would love to have that opportunity to hear from him.

16 CHAIRPERSON BRYANT: Is there any objection?

17 SENATOR HANCOCK: No. I think it's a good idea.

18 SENATOR LOWENTHAL: I like it.

19 CHAIRPERSON BRYANT: Okay. Well, without
20 objection we'll move into general public comment -- oh,
21 Senator.

22 SENATOR HUFF: It's not a real objection, but I
23 think that the idea of transparency is a wonderful thing
24 when it all works, keeping in mind that we don't want to
25 lose a quorum at these meetings either. And I have no

1 problem with putting it up near the front, but if we have --
2 particularly if we start shifting around our workload, we
3 may want to consider putting it at the end so people still
4 have an opportunity to say it.

5 Everybody has an opportunity to come to us
6 individually and weight in. They can send us letters. So
7 it's not like we're squelching public input, but our primary
8 focus here is we get the business of this Board done. And
9 so, you know, I would hate to in the eagerness of just
10 jumping on this bandwagon and say yes and yet we find
11 ourselves down the road because we're all very busy
12 people -- not to say the public isn't -- but they have
13 access to us all month. It's not just at these meetings.
14 But I would recommend that we figure out where it's going to
15 be, but probably at the end of the meeting is going to allow
16 us to get our business done and those of us that can stay
17 around could certainly do that. Just my comments.

18 MR. HARVEY: Can we experiment at least, see how
19 it goes. We may not have a lot of people do it.

20 SENATOR HUFF: I've done it both ways at a local
21 city council and, you know, for the most part, it stayed at
22 the beginning and that was a healthy thing, so --

23 CHAIRPERSON BRYANT: Well, let's do this first.
24 Let's do this for today. Show of hands, does anyone have
25 public comment that's not related to an item on the agenda

1 today? We have one hand. I suspect it's about high
2 performance schools. Would you go ahead and like to address
3 us. And then, Staff, if you can think out in the future, if
4 you can figure out a way to manage this, figure out ahead of
5 time approximately how much time it will take and we can
6 make a decision based on the members and the schedules if we
7 should do it at the beginning or the end.

8 MR. HARVEY: That's fair. Thank you.

9 MS. KAPLAN: I think it's appropriate discussion
10 for rules and operating procedures.

11 CHAIRPERSON BRYANT: And just two minutes.

12 MR. ORR: My name is Bill Orr and I'm the new
13 Executive Director with the Collaborative for High
14 Performance Schools and thank you for the brief opportunity
15 to address you today.

16 The main thing I wanted to raise is that while I'm
17 new as the Executive Director for CHPS, I'm not new to
18 Proposition 1D and the high performance incentive funding
19 process. I was previously a CHPS board member when the
20 regulations were written and what I'm here to talk about
21 today is the fact that the money is not going out to
22 modernization projects.

23 And while most of the new school money is spoken
24 for, there is still about half of the money that was
25 allocated through Proposition 1D that's still available for

1 modernizations. And somewhere between 75 and 80 percent of
2 the \$100 million is still available for the high performance
3 and incentive funding.

4 And so what I'd like to request is that the State
5 Allocation Board consider three things: first of all,
6 opening up the regulations to reexamine the incentive
7 funding for modernizations, to really incentivize it. Right
8 now there have been zero modernization funds allocated for
9 modernization projects. That's after over two years. I
10 think it's time to reexamine that.

11 The second thing is that CHPS just recently
12 revised our criteria that the high performance incentive
13 funding process was based on and it should be updated to
14 reflect the new Title 24 Energy Code requirements and the
15 new CHPS criteria.

16 And the third thing is that to help streamline the
17 process and not duplicate efforts that third-party review
18 process is like going through a CHPS certification should be
19 recognized as part of the allocation process.

20 So I would be happy to answer any questions, but I
21 think that in 2010 it's time to open up the regulations
22 again. I've been working with Rob's staff. I've been
23 working with the State Architect's staff for six months
24 since I've been onboard as the Executive Director and we've
25 not made a lot of process.

1 We've had some good meetings, but we need to build
2 some momentum and really look at getting -- spending the
3 time when we don't actually have money to allocate, fixing
4 sort of this process problem.

5 So I'm here as the Executive Director and willing
6 to continue to work with both the staff of OPSC and the
7 State Architect and stakeholders to fix this and really
8 focus on modernizations.

9 CHAIRPERSON BRYANT: Thank you.

10 MR. HARVEY: If I might as a future agenda item,
11 can we have that kind of discussion and can we direct, I
12 hope, that this ongoing workshop dialogue take place between
13 OPSC, DSA, other stakeholders. I know C.A.S.H. has got a
14 working group looking at what could be obstacles to getting
15 these dollars.

16 We did a good job of taking obstacles away on the
17 seismic. Perhaps it's time to begin to address what we can
18 do to make sure these important dollars go out as well.

19 CHAIRPERSON BRYANT: Senator Hancock.

20 SENATOR HANCOCK: Yeah. I would actually like to
21 see that as an agenda item for our next meeting because
22 again time is of the essence and we want these dollars going
23 out the door. I know, Mr. Orr, you have some suggestions,
24 that C.A.S.H. does, that would be very useful to us and it's
25 something really I think that all Board members would want

1 to facilitate.

2 CHAIRPERSON BRYANT: Did you have a comment, Rob?

3 MR. COOK: Just that the area is fairly complex
4 and Bill can vouch for that. I can assure you unfortunately
5 that we will not have the regulation package ready for this
6 Board to consider at our next Board.

7 This is a complex area. Certainly provide, you
8 know, background information, some education in the area and
9 some discussion about the possible barriers, but it took us
10 months to put together the original regulations. It will
11 take some time to get -- to work this one through.

12 CHAIRPERSON BRYANT: So can we add it to the
13 agenda next time so -- just in terms of having a report on
14 it and figure out whether or not the Board wants to move
15 forward with looking at the regulations --

16 MR. COOK: Um-hmm.

17 CHAIRPERSON BRYANT: -- have that as a discussion
18 item as opposed to bringing us a full regulatory packet.

19 MS. KAPLAN: And it could be an Implementation
20 Committee item as well as that's where regulations generally
21 are looked at for stakeholders, so --

22 CHAIRPERSON BRYANT: Senator Hancock.

23 SENATOR HANCOCK: Yeah. I want to add that I have
24 been concerned since I did push very hard to have the
25 hundred million written into the last bond, have tried and

1 the Board members know we have worked to speed up getting
2 the money out the door.

3 The regulations that were written are very complex
4 and clearly they have not facilitated spending the money.
5 This is some place where really I'd like to have some of the
6 practitioners give us the outline of what they think would
7 work for them and I truly believe that if we could agree on
8 some principles that regulatory language can be done in one
9 way or another by Leg. Counsels or whatever to speed this
10 up.

11 I mean we're talking about people unemployed, on
12 the street, while money -- and we need to be ready as soon
13 as we get more bond money for that money to go out. So I
14 just -- I don't want to -- we passed the bond in 2006. It's
15 2010. In 2011, it should all be spent.

16 CHAIRPERSON BRYANT: Okay.

17 ASSEMBLY MEMBER BROWNLEY: So may I get a
18 clarification what's going to happen on the agenda the next
19 time? We're going to agendize for discussion or agendize
20 how we -- if we want to discuss it or not?

21 CHAIRPERSON BRYANT: I thought we were going to
22 agendize it for -- to have further discussion -- more
23 information because staff said they couldn't bring us a
24 completed regulatory package, but we could certainly expect
25 a work plan and, you know, how we can get to what the

1 Senator raised here.

2 MR. COOK: Yes. I think that's a reasonable
3 expectation. We can have a full and certainly more than
4 happy to tap Bill and see if we can come up with a full
5 discussion, educate the Board on the general background, and
6 get at the key barriers.

7 One of the barriers that -- just for general
8 background. One of the key barriers that is actually
9 sitting there for this program -- there are some structural
10 issues, but the key one is executive buy-in and I'm talking
11 about the school board level and superintendent level. We
12 need to figure out how to get that kind of buy-in because
13 frankly if -- there are certain districts -- Los Angeles is
14 one example -- they have executive level buy-in. Their
15 board has sponsored this and every project they bring
16 forward is -- they bring under CHPS.

17 And if we could get that level of buy-in out
18 there, we need to fix some structural issues, but executive
19 level buy-in would get this money out the door, at least
20 this virtual money out the door.

21 But there are other issues that we need to address
22 as well.

23 MS. MOORE: Is there time to agendize this for the
24 Implementation Committee meeting so a practitioner
25 discussion could occur?

1 MS. KAPLAN: Not for next week's.

2 MS. MOORE: Is it not. Okay.

3 CHAIRPERSON BRYANT: Okay. Next is the **Consent**
4 **Special** items. Do you go through them each individually or
5 is that -- you take it up as a group?

6 SENATOR LOWENTHAL: Madam, I'm just wondering as
7 we're trying to figure out, you know, the agenda as we move
8 forward, I would just like to say -- ask that at the
9 appropriate -- I don't know -- that the SAB meeting
10 frequency, that's Item -- Tab 25 be heard earlier in the
11 meeting to bring that up while there's people here. I think
12 a lot of what we're talking about really is going to be --
13 there's been -- there's an information item about the
14 frequency of SAB meetings. I'd like that to be heard as
15 early as possible on the schedule.

16 CHAIRPERSON BRYANT: Is there any objection to
17 taking it out of order?

18 MR. COOK: I'd like to -- and I didn't notify the
19 Board at the outset, although we have individually in
20 briefings. We have more than \$100 million in resources
21 available that we could actually make allocations at our
22 next meeting, but there are three policy issues that this
23 Board really has to grapple with in order to -- for us as
24 staff to be able to build out the Consent Agenda for that
25 funding and those are under -- all under the Special

1 section. I would -- I want to preserve -- I would like to
2 preserve as much time as we need to take care of that
3 essential business and then --

4 SENATOR LOWENTHAL: Then move to -- that's fine.

5 CHAIRPERSON BRYANT: Okay. Then let's do --

6 SENATOR LOWENTHAL: Whenever it's appropriate. I
7 would just like it moved from the back to when it's
8 appropriate.

9 CHAIRPERSON BRYANT: Okay. Let's do that. We'll
10 do it after we go through the Special Consent items and we
11 still are missing a member over here on the right anyway.
12 So we can -- maybe it will all work out.

13 So --

14 MS. MOORE: Ms. Bryant. As well with that, can we
15 move the report of -- the finance report to prior to taking
16 up those policy items so that we as the State Allocation
17 Board know exactly where the funds are before we're making
18 decisions concerning the funds. I notice that that report
19 went to the back of the agenda and like you said, there's a
20 hundred million. Is it -- it's next meeting that we may
21 have that? But I think it's important that the Board know
22 exactly where the funds are from that report before we start
23 taking policy and actual actions on funding items.

24 MR. COOK: Are you referring to our Status of
25 Funds?

1 MS. MOORE: Yes.

2 MR. COOK: Okay.

3 MS. SILVERMAN: Or the fund release report.

4 MR. COOK: Of the fund release report? Okay. If
5 we could take -- I think the issues regarding our Consent
6 Specials are all resolved. I think that group of items can
7 be dealt with in one action. We can get that off the table
8 and then we could move to that report.

9 CHAIRPERSON BRYANT: Okay. So the **Consent**
10 **Specials**, is there -- anybody want to pull one of them off
11 or if you want to take them up as a group? Okay. Is there
12 a motion?

13 MR. HARVEY: I would so move approval of the
14 entire section.

15 ASSEMBLY MEMBER BROWNLEY: Second.

16 CHAIRPERSON BRYANT: It's been moved and seconded.
17 Can we have a roll call? Just for clarification, which
18 tabs -- that's tab -- I just want to make sure I have it --
19 Tabs 6, 7, 8, 9, 10 and 11?

20 MR. COOK: Through 11. That's correct.

21 CHAIRPERSON BRYANT: Okay. Assemblywoman Brownley
22 has joined us just for the record.

23 ASSEMBLY MEMBER BROWNLEY: And I just seconded the
24 Consent Calendar.

25 SENATOR LOWENTHAL: So we're taking --

1 MR. HARVEY: 6 through 11 in one motion.

2 SENATOR LOWENTHAL: Yeah. I think -- can we see
3 though on 11, the -- there may be people from the Inglewood
4 Unified School District that may be here and want to
5 address --

6 MR. COOK: And those individuals are here,
7 Senator.

8 SENATOR LOWENTHAL: So if we -- how would we do
9 this? We -- should we allow them to address first before we
10 vote --

11 MR. HARVEY: We could pull it or we could let them
12 address it --

13 SENATOR LOWENTHAL: Yeah. Because I just want
14 them, if they've come, to be able to address --

15 CHAIRPERSON BRYANT: Well, I should ask for
16 public -- is there public comment on Items 6 through 11?

17 SENATOR HANCOCK: I move Items 6 and 11.

18 MS. KAPLAN: You can move Items 6 through 10 and
19 then take up 11 separately.

20 SENATOR HUFF: Right. Procedurally that would
21 make sense.

22 MR. HARVEY: And then have a discussion on 11.

23 CHAIRPERSON BRYANT: All right. Let's do that.

24 ASSEMBLY MEMBER BROWNLEY: Yeah. Withdraw your
25 motion. I'll withdraw my second.

1 MR. HARVEY: And the new motion would be to
2 approve 6 through 10 only.

3 ASSEMBLY MEMBER BROWNLEY: And I would second
4 that.

5 CHAIRPERSON BRYANT: Okay. It's been moved and
6 seconded on Items 6 through 10. Can you call the roll.

7 MS. GENERA: Senator Lowenthal.

8 SENATOR LOWENTHAL: Aye.

9 MS. GENERA: Senator Hancock.

10 SENATOR HANCOCK: Aye.

11 MS. GENERA: Senator Huff.

12 SENATOR HUFF: Aye.

13 MS. GENERA: Assembly Member Brownley.

14 ASSEMBLY MEMBER BROWNLEY: Aye.

15 MS. GENERA: Assembly Member Buchanan.

16 Scott Harvey.

17 MR. HARVEY: Aye.

18 MS. GENERA: Kathleen Moore.

19 MS. MOORE: Aye.

20 MS. GENERA: Cynthia Bryant.

21 CHAIRPERSON BRYANT: Aye.

22 MS. GENERA: It carries.

23 CHAIRPERSON BRYANT: Okay. Item 11, did you --
24 staff, since we're taking it separate, do you present it
25 real quick.

1 MR. COOK: The item is actually relatively simple
2 and this is overcrowding relief grant program. We had
3 certain -- this program was established a preset number of
4 funding rounds established in regulation and this Friday is
5 the last one that is set in regulation and after that, we
6 don't -- the Board doesn't have any operating -- well, any
7 more funding rounds noted.

8 The regulation that you have before you
9 establishes a future funding round for July 30th of this
10 year and then gives the Board authority to set additional
11 funding rounds at its discretion. It's very simple. It
12 just enables that.

13 And if you want -- the representatives from
14 Inglewood wanted to discuss their issue.

15 CHAIRPERSON BRYANT: Go ahead, sir.

16 MR. KIRSCHENSTEIN: Good afternoon. Joel
17 Kirschenstein, consultant for the Inglewood Unified School
18 District. The gentleman with me is Mr. Rick Ivie, counsel
19 for Inglewood Unified, and Cornell Williams is Director of
20 Facilities for Inglewood Unified in the audience.

21 We -- first we want to thank staff for their
22 efforts on this particular matter. Inglewood's situation
23 was very unique in that about a year ago they were in DSA
24 and the plans came out of DSA. The architect took it over
25 to the modular manufacturer and there was a sign on the door

1 that the modular manufacturer had filed for bankruptcy.

2 When the bankruptcy process completed itself, it
3 took almost a year to go through the different trustees and
4 the different authorizations, which Mr. Ivie can speak to,
5 and then bring onboard another modular manufacturer and when
6 that was filed and the set of plans went into DSA, we were
7 in substantial compliance at that time. Everything was
8 complete, but DSA informed the district that they could not
9 get to it by the deadline.

10 So that's where we are today. We were very
11 concerned that we would lose the opportunity with the ORG
12 grant and hopefully this sustains our opportunity. We want
13 to be on record that we had no -- it was out of our control
14 when that happened and we want to be able to come back and
15 get the funding.

16 Again for the record, the district has already
17 invested almost 2 million in site acquisition and
18 architectural fees for this particular project. So we're in
19 a unique situation and we do appreciate all the way that has
20 gone into this particular item.

21 MR. IVIE: I would like to reiterate the
22 appreciation that Joel expressed to the staff, to Rob, and
23 to this body and thank you for the opportunity to address
24 you.

25 The only -- and we do support the regulations that

1 have been proposed. The only thing that we would ask is
2 that perhaps that be tasked with developing additional
3 options such that there won't be any delay in Inglewood
4 receiving this grant.

5 As we stand today, we expect that DSA will have --
6 will process our plans and we're hopeful that we can have
7 it -- have DSA process it by March or April. They've
8 assured us that they will have it taken care of by April.

9 We would not like -- we would like to avoid having
10 any delay in the allocation of the funds. So I understand
11 it being in the second cycle could potentially delay
12 allocation to November. We'd like at least explore options
13 or explore the funding -- that the funding be allocated at
14 the time that DSA issues its approval.

15 CHAIRPERSON BRYANT: Did you have a comment on
16 that request?

17 MR. COOK: We can't -- well, just general, we
18 can't accept and the Board cannot fund anything that does
19 not have DSA approval and we have not yet received and we
20 couldn't receive an application from them until it has been
21 stamped and approved by DSA.

22 So until we receive that and then are able to
23 process it, we won't know what the funding should look like.
24 What we have set up in regulation is a new funding round
25 that should accommodate the needs of the district.

1 CHAIRPERSON BRYANT: Mr. Harvey.

2 MR. HARVEY: If I might. This may be a germane
3 and appropriate time to comment about something that Senator
4 Hancock said and what you're alluding to and I will tell you
5 that we have put a task force together and this task force
6 is charged with ensuring that the bin time, that is the time
7 that these applications stay at DSA, will be no longer than
8 30 days.

9 We found ways of redirecting staff. We found ways
10 of working through barriers and we're making a commitment
11 publicly that the bin time will shrink to 30 days.

12 So the question you confronted before -- the issue
13 you confronted before I hope will be taken care of with this
14 promise and all other DSA activities will be similarly
15 handled. We've also recognized the need to create jobs and
16 any application that is only locally funded doesn't require
17 the need to go to us at OPSC for state dollars since we're
18 not generating any state dollars currently, those are
19 prioritized.

20 So it's locally funded projects that are shovel
21 ready go to the top of the stack, but no one will stay
22 longer than 30 days.

23 Now, Rob, I assume if you get this stamped from
24 DSA, we have a process that moves it quickly through and
25 with the approval of this agenda item, they will at least

1 have the facility to get their funding. But there are no
2 barriers at our end, is there?

3 MR. COOK: No, there aren't, not once this
4 regulation is put in place.

5 CHAIRPERSON BRYANT: Assembly Member Brownley.

6 MR. KIRSCHENSTEIN: Excuse me. One of the -- just
7 a point of clarification. We basic -- we came out of DSA
8 with a set of plans with very little bit of markups left and
9 again when we went back to the manufacturer, they weren't
10 there.

11 So one of the issues was should we -- we can move
12 forward with this item or should we go forward with an
13 appeal. And that's something we would just like to take
14 some time to discuss with staff. This is critical that we
15 preserve the integrity of the funding considering the
16 district's investment of their local tax dollar in this
17 particular project site.

18 So whether it's -- what we need is some time, now
19 that we see this regulation, to work out what the best
20 course of action would be and we would work closely with
21 staff on whatever it would be.

22 CHAIRPERSON BRYANT: Okay. Assembly Member
23 Brownley.

24 ASSEMBLY MEMBER BROWNLEY: Yeah. I just -- I
25 think that we're not able to really discuss this in full

1 because it's not an item that's been agendized, but I do
2 think that there's a situation -- this is extenuating
3 circumstances for Inglewood and I think by virtue of this
4 item establishing a sixth round of funding with a deadline
5 is one option in terms of solving the problem.

6 But what I would like to ask staff is if we
7 could -- perhaps they could look at the situation and come
8 back to us maybe at the next meeting with a set of various
9 options that the Board could deliberate on to, you know,
10 help Inglewood, to ensure them that their project's going to
11 move forward on a timely basis and I think probably the
12 other concern is making sure that there is money at the end
13 of the rainbow here.

14 And so by expediting it in a deliberate and as
15 quickly as we possibly can will, you know, obviously ensure
16 that. So that's what I would ask is if we could come back
17 with some options that we can deliberate on to help
18 Inglewood move forward because I do believe that they are --
19 you know, they had some extenuating circumstances with their
20 contractor and the bankruptcy, et cetera. So --

21 CHAIRPERSON BRYANT: Did someone over there have a
22 comment? Okay.

23 SENATOR HANCOCK: I think we should move the
24 recommendation.

25 CHAIRPERSON BRYANT: Is there a motion on Item 11?

1 MR. COOK: Item 11.

2 SENATOR HANCOCK: Item 11.

3 MR. HARVEY: Second.

4 CHAIRPERSON BRYANT: It's been moved and seconded.

5 If there's no objections, we can substitute the last roll
6 call. Okay. Thank you.

7 MR. KIRSCHENSTEIN: Thank you very much.

8 MS. MOORE: Did that motion include that we'll
9 come back with a report for other options on this particular
10 issue?

11 ASSEMBLY MEMBER BROWNLEY: Yes. That's what I was
12 asking for. Whether I was clear or not --

13 SENATOR HANCOCK: Yes.

14 CHAIRPERSON BRYANT: That's how I took it.

15 ASSEMBLY MEMBER BROWNLEY: Yeah. Okay.

16 CHAIRPERSON BRYANT: All right. Great. Thank
17 you.

18 MR. COOK: We can certainly provide that whether
19 it was in the motion or not, so --

20 ASSEMBLY MEMBER BROWNLEY: Whether what or not?

21 MR. COOK: Whether it was in the motion or not.

22 ASSEMBLY MEMBER BROWNLEY: Thank you.

23 CHAIRPERSON BRYANT: Item 12.

24 MR. COOK: At this point, to accommodate
25 Ms. Moore's request, we can skip to the **Status of Funds** and

1 lay out where the money is and isn't and then take up these
2 items.

3 CHAIRPERSON BRYANT: So we'll skip to Item 25?

4 MS. MOORE: 22.

5 CHAIRPERSON BRYANT: 22.

6 MR. COOK: And Lisa Silverman will address this.

7 MS. SILVERMAN: Good afternoon. What I want to
8 present to you is our **financial report**, basically giving you
9 a check and balances of the authority of the bond funds and
10 where we stand today and where we stand with the unfunded
11 approvals.

12 So obviously there's a lot of -- there's a few new
13 members here and we wanted to highlight in Proposition 1D,
14 which is a first. Yeah. It's at the top of your page, if
15 you turn the book sideways.

16 Proposition 1D, we originally received
17 \$7.3 billion in bond allocation for the program and to date,
18 we have provided almost 967 million in unfunded approval,
19 but what we're presenting today at this Board is
20 \$12.3 million that represents nine projects. We also have a
21 seismic item that's on the agenda of .4 which is a Piedmont
22 project that -- Ms. Hancock's district.

23 And we also wanted to highlight we are presenting
24 \$123 million in modernization, unfunded approvals. That
25 represents 80 projects. We are also providing allocation

1 for overcrowding relief of .8 million and -- excuse me.
2 That's high performance and 73.7 in overcrowding relief that
3 represents 15 projects.

4 So in Proposition 1D alone, we're providing
5 \$210 million of unfunded approvals.

6 And if you go to the middle category, which is
7 Proposition 55, we originally received \$10 billion in
8 authorization and what we're presenting today is one project
9 in new construction that represents \$.3 million and that's
10 the activity that we have solely for Proposition 55.

11 In Proposition 47, we initially received
12 \$11.4 billion dollars in authorization and what we are
13 presenting at this Board is \$173 million of unfunded
14 approvals in new construction that represents 36 projects.

15 And so in total what we're presenting -- and
16 you'll see at the bottom of the sheet there -- we're
17 presenting \$383 million of unfunded approvals at this Board,
18 which brings our accumulation of unfunded approvals in a
19 program of \$1.93 million.

20 And if you turn to the next page, we wanted to
21 draw your attention to the emergency repair program.
22 There's a middle chart there and what we're presenting today
23 is \$37.2 million in unfunded approvals which represents 52
24 applications. But in the prior month's activities,
25 obviously we have no funds in the program currently and so

1 we have 15.2 million unfunded approvals that was presented
2 as an accumulation at the last Board.

3 And so that's the presentation of the financial
4 statement.

5 CHAIRPERSON BRYANT: Are there any questions for
6 Ms. Silverman? Mr. Harvey.

7 MR. HARVEY: As you know, you were kind enough to
8 agree that at some future Board meeting you were going to
9 talk about organizing bond covenants and what have you,
10 whether there was an ability to take the energy set-asides
11 in 55 and 47 and somehow work them with the high performance
12 bonds and therefore get more bang for the buck in this area
13 of energy efficiency.

14 Is it possible that that discussion can be part of
15 what we're doing next month?

16 MS. SILVERMAN: Yes, we can do that.

17 MR. HARVEY: Thank you very much.

18 CHAIRPERSON BRYANT: Okay. Questions?

19 MS. MOORE: And then if I may, can you just talk
20 about the implications of cash flow that you --

21 MS. SILVERMAN: Oh, sure.

22 MS. MOORE: -- not right now but as you talked
23 about --

24 MS. SILVERMAN: Okay.

25 MS. MOORE: -- at the items that we may consider

1 through the Special Consents -- how that impacts the --

2 MR. COOK: Oh, on the -- you're talking about the
3 items -- the beginning of Special Consents.

4 MS. MOORE: Right --

5 MR. COOK: Tokay and so on.

6 MS. MOORE: -- where you indicated there's a
7 hundred million that could actually be apportioned at some
8 point.

9 MR. COOK: Right.

10 MS. MOORE: Can you talk about that contextually
11 within this -- as you present those within this report. Or
12 how it affects this report. Thank you.

13 MR. COOK: Okay. It doesn't so much. I mean this
14 is just a reflection of the actions the Board takes. It
15 doesn't really have much impact on this other than it is a
16 reporting.

17 But if the Board is ready, we can start taking up
18 those special items.

19 CHAIRPERSON BRYANT: Okay. Item 12.

20 MR. COOK: Yes. Item 12. There are three policy
21 issues that the Board needs to address so that we can -- we
22 know how far the money will go and to whom it would go as
23 a -- and so I won't -- the first item before you is under
24 Tab 12 and it's for **Tokay High School** in Lodi.

25 This is a facility hardship project, \$7.7 million.

1 The -- this project received an unfunded approval in May.
2 We believe there's regulatory authority.

3 If one of the key agencies involved in this
4 process unnecessarily delays a project, there's the ability
5 to move the date with the Board's approval -- authority to
6 move the date of the project up.

7 In this case, the Office of Public School
8 Construction believes we did not do as diligent a job on
9 this project as we should have and it was therefore
10 unnecessarily delayed and our recommendation on this item is
11 that we move it forward and give it an earlier date in line.

12 The district spent these funds. This is a
13 reimbursement to the district of the state funds in an
14 amount of about 7.7 million.

15 ASSEMBLY MEMBER BROWNLEY: I would move that we
16 approve that date change of March 25th, 2009.

17 SENATOR HANCOCK: Second.

18 CHAIRPERSON BRYANT: Second -- it's been moved and
19 seconded. Any -- Mr. Harvey.

20 MR. HARVEY: No objection. I have a question
21 based on how you began this presentation and marrying it up
22 with what Ms. Moore had to say about the hundred million.
23 If we take action on this, which I support, for about
24 7 million, does that leave us 93- for the rest of the items?
25 Are we connecting the hundred million to what we act on

1 these Special Consents?

2 MR. COOK: This pushes this project earlier and
3 means that it will get -- it will receive funding within the
4 \$100 million. It's not taking -- as you could characterize
5 it taking -- it's certainly moving it up in the priority.
6 It will get funded, so -- by necessity, some other project
7 somewhere at the end --

8 MR. HARVEY: Pushed back farther.

9 MR. COOK: -- is pushed back further.

10 MR. HARVEY: Okay. Thank you.

11 MR. COOK: That's an effect of that as these other
12 items.

13 CHAIRPERSON BRYANT: Ms. Moore.

14 MS. MOORE: Okay. So -- just so I understand, are
15 you saying that -- my understanding is we have fund -- we
16 have allocated actual funds to projects that were approved
17 as of December 17th, 2008, correct?

18 MR. COOK: Um-hmm.

19 MS. MOORE: That was our unfunded list that is now
20 covered by the bonds that were issued both throughout last
21 year and finally in the fall. So we've covered all those
22 projects; correct?

23 MR. COOK: That's correct.

24 MS. MOORE: Where does the hundred million that
25 you were referring to come from now? Does that mean that

1 we -- how do we have a hundred million actual dollars now?

2 MR. COOK: Oh -- well, I'll describe that for you,
3 stopping if I could -- anyway I won't go too technically on.

4 Bond sales for this program have gotten a lot more
5 complex since the -- once upon a time, we used to get loans
6 directly out of the Pooled Money Investment Board and the
7 Treasurer's Office would determine times they would go to
8 market and then replenish the Pooled Money Investment Board,
9 basically repaying loans on our behalf.

10 In going to the Pooled Money Investment Board,
11 there was a lot of flexibility and we could ask for funds as
12 we needed them and they would sort out all of the issues --
13 address all the issues on the backend associated with the
14 various pots of funds, the sources of the money, the types
15 of bonds that can be sold. For example, our charter
16 projects because they have a loan component cannot be tax
17 exempt bonds. They are actually taxable bonds.

18 Same thing with our career tech programs. Since
19 there are loans issued, they can only be issued as taxable
20 bonds. And in the October bond sale, we asked for funds to
21 be sold in certain configurations to cover all the
22 outstanding projects we had. We needed funds -- we needed
23 bonds sold out of Prop. 1D, 47, and 55 and taxable and
24 nontaxable and another -- Build America bonds which have
25 further --

1 MS. MOORE: This was to cover through
2 December 17th; correct?

3 MR. COOK: That was to cover through -- yeah,
4 through the December 17th. There was -- the bonds were not
5 sold in the precise configurations that we asked for and
6 there was -- charter schools wound up -- the money that we
7 had hoped to have for charter schools actually got held up
8 because the funds weren't sold properly. We had an extra
9 20 -- the top line figure was the right figure, but the
10 configuration of the bonds was off.

11 We were short for charter and we had 25 million
12 that we didn't have -- that was -- wasn't obligated by any
13 apportionments. Okay. There were later financings in
14 November and -- twice in November that gave us some
15 additional money, took care of the charter problem for us as
16 well, and there was a commercial paper sale. These were
17 small financings that the state did that had given us
18 additional money.

19 MS. MOORE: So is it correct to categorize our
20 decision-making on the next three items that if it -- if we
21 approve them, those items would go ahead of say the
22 December 18th project?

23 MR. COOK: Their dates are by the -- well, the
24 Board that they were apportioned at. So --

25 MS. MOORE: I'm sorry. Okay. So they would be

1 January 25th, 2009, something like that?

2 MR. COOK: We didn't start -- we technically
3 didn't start making apportionments until March. We've moved
4 the Tokay project to the March Board.

5 MS. MOORE: So we have a hundred million to begin
6 apportioning to projects that are -- that took care of the
7 December list. Now we're moving on to 2009 apportionments.

8 MR. COOK: That's correct.

9 MS. MOORE: Actual apportionments and our actions
10 today can impact that apportionment list; is that a correct
11 characterization?

12 MR. COOK: Yes. Yes. And these -- yeah. And we
13 need these decisions made because I can tell you we've tried
14 to go through all the permutations on this. There are an
15 endless number based on the bond source and the program type
16 and the type of funds that we have available: taxable,
17 nontaxable, and Build America. It changes the outcome quite
18 a bit. And so --

19 MS. MOORE: Does it change the outcome of the
20 funding by date order which was what the Board approved?

21 MR. COOK: No matter what we do, because of the
22 pots of funds, there will be projects of one type that will
23 get funded that may have a later date than a project of
24 another type and it's completely unavoidably that we sit on
25 cash until --

1 MS. MOORE: I think it would be important that we
2 have a public agenda item where people understand how that
3 works because I can see where someone would say how come Joe
4 X got funded before me and I know that my date is before
5 theirs. Without a public disclosure, that -- that happened
6 because of how the bond sales happened or whatever the
7 reasoning is. I think it's very important as we move
8 forward as a Board and we have a lot of people that sit on
9 lists and every one of them believes their project is very
10 important and we want to get it funded and they believe
11 they're sitting in a funding order; that if we are not
12 funding within that order that we talk about that and
13 publicly disclose it.

14 MR. COOK: There's no issue of public disclosure.
15 Once we've made these policy calls, we will be able to
16 publish a list. I'm more than happy to discuss with anybody
17 what the consequences of that are as far as date order goes,
18 but fundamentally it has to do with, you know, the amounts
19 of money that we have in various pots and it -- this isn't
20 an issue when you have, you know -- when you money is
21 flowing. It becomes a very big issue now that our
22 alternative frankly is to sit in if you don't expend all the
23 funds within a given pool of funds for projects that may
24 come a little bit later than somebody in another pot.
25 You're going to just be sitting on cash that you could

1 otherwise get out to the street and get a project going.

2 CHAIRPERSON BRYANT: Assembly Member Brownley.

3 MR. COOK: Am I --

4 ASSEMBLY MEMBER BROWNLEY: Yeah. I must say that
5 I'm a little confused. I do understand what you're
6 saying is that there are several pots of money. There is
7 the stimulus money, there's taxable, nontaxable, and then
8 there's this group of projects that we're going to approve
9 or not approve and it sounds to me as though we actually
10 need to know from what funding source these projects are
11 coming from so that we can discern -- I mean I presume that
12 everything that's before us today is eligible for a certain
13 pot of money and we're not going to deplete any of those
14 pots; right?

15 MR. COOK: Um-hmm.

16 ASSEMBLY MEMBER BROWNLEY: Is that true or --

17 MR. COOK: The projects that we would be moving
18 here -- based on the changes that we're proposing here,
19 these projects will get funded.

20 ASSEMBLY MEMBER BROWNLEY: Okay. But some
21 projects are going to get funded earlier than others
22 depending on what pot of money they're funded from.

23 MR. COOK: Yeah. The -- we're wandering into a
24 very complicated area that's probably easier to diagram for
25 you, but there are -- for example -- and just use for

1 example the \$25 million that we had for charters that are
2 taxable bonds. Those we're set aside. The same thing --
3 the same issue with career tech.

4 Those had to be sold out of non-Build America,
5 taxable bonds. They can only -- they could be used for
6 other projects, but those projects can't access any other
7 bit of funds.

8 Then there are Build America bonds that are in
9 each of the categories, Proposition 1D, Prop. 47, Prop. 55,
10 that can be used for most of our program.

11 ASSEMBLY MEMBER BROWNLEY: And we can put that
12 money in any pot we want to?

13 MR. COOK: No, no.

14 ASSEMBLY MEMBER BROWNLEY: It has to be
15 distributed in a certain way.

16 MR. COOK: The money was sold in a certain
17 configuration and it is locked down --

18 ASSEMBLY MEMBER BROWNLEY: Got it, uh-huh.

19 MR. COOK: -- in that configuration.

20 MS. MOORE: But what we can -- what will happen --
21 and I think again if I were a district, I'm locked on what's
22 my date and are the funds flowing and when am I getting my
23 piece and if they see somebody that is below them in a date
24 order get funded, it looks funny.

25 And so they will -- we -- I think we have to

1 publicly go through how that's operating because we approved
2 as a Board to fund in date order.

3 CHAIRPERSON BRYANT: Assembly Member Buchanan.

4 ASSEMBLY MEMBER BUCHANAN: It seems to me that the
5 issue that's immediately before us is relatively simple.
6 You have a district that has gone through the process as
7 prescribed and because of our own failure to act in a timely
8 manner, they're asking us to correct that error and change
9 the date of the application.

10 So it really -- you know, to me that seems like a
11 reasonable request and, you know, it's a district that is
12 eligible and that would have been funded if we hadn't made
13 those errors. So what they're really asking us to do is
14 correct that.

15 CHAIRPERSON BRYANT: Senator Hancock.

16 SENATOR HANCOCK: Well, I agree with that. I have
17 to say, if you read the item, it appears that OPSC made an
18 error. We are rectifying the error. Seems to me the less
19 we said about it and moved on, the better. But if we need
20 to have public disclosure to be transparent, I suppose we
21 could say OPSC error next to it as a reason why. Is that --

22 MS. MOORE: I'll just clarify. I'm not talking
23 about this item specifically. I'm talking about globally.

24 We are now beginning to fund off of the
25 post-December 17th freeze and globally I think that

1 districts will want to know where they stand on the list and
2 are they getting funded as the funds flow.

3 We have a hundred million that's flowing. If we
4 decide as a Board this should be the first priority of that
5 funding, I think that's what this item is saying, but
6 that -- but ongoing we need to know who on the list is
7 receiving funding and in what order.

8 MR. COOK: And what -- that will be laid out
9 completely for the Board. If you take these decisions, that
10 money, all of that falls out from those decisions and we'll
11 be able to lay out where the money is, who gets it, in what
12 order. That's easy.

13 MS. MOORE: That's what I --

14 MR. COOK: Okay. Once the decisions are made. It
15 is impossible. We were trying to go through the
16 permutations on this. It is possible to come to every
17 possible combination here and so -- ask the Board to make
18 these decisions and then it will be easy to disclose that
19 once those are made.

20 MR. HARVEY: Move the question.

21 CHAIRPERSON BRYANT: I think we have public
22 comment.

23 MR. DUFFY: Thank you, Madam Chair. Tom Duffy for
24 the Coalition for Adequate School Housing. Ms. Moore has a
25 point. We in this time of no funding have discussed the

1 issue of line jumping and date order. This is the first
2 that we have understood that there was anything having to do
3 with dates and the various bonds that were sold.

4 Rob, you and I had a conversation last summer
5 about facility hardship projects and you told me that those
6 go to the top of the list no matter what the date order it
7 is.

8 MR. COOK: That's not accurate. They are at the
9 top of the list on a given date.

10 MR. DUFFY: On a given date, yes. So for that
11 month, they would get -- if there's limited amount of
12 funding, they would receive funding when others may not and
13 that was the only difference that we'd understood to the
14 issue of going out of date order.

15 But we would like very much to know, Rob, the --
16 what this construct is that you were describing so we can
17 make sure districts are aware of it.

18 MR. COOK: It's --

19 CHAIRPERSON BRYANT: Well, can I just ask a quick
20 question. This is -- I just wanted to clarify. This
21 question of having all the different types of fund sources
22 and types of bonds that have been sold, that's not a
23 decision that was made by this Board; right? And it was not
24 a decision made by the Office of School Construction either;
25 right? It's just something -- it was decided by the

1 Treasurer in conjunction with what the market conditions
2 are.

3 MR. COOK: That's correct.

4 CHAIRPERSON BRYANT: So what we're stuck with is
5 implementing in that scenario. And so we're in the middle
6 of uncharted --

7 MR. COOK: Taking the funds available and trying
8 to get them as --

9 ASSEMBLY MEMBER BROWNLEY: I think the -- you
10 know, the only thing -- I mean I hear what you're saying and
11 I think you're right. I think what Mr. Duffy is saying is
12 that -- is we've got the group of districts who are applying
13 for funds -- they don't know that there's different buckets
14 of funds. They're applying for funds and after they go
15 through that process and they're awarded or not awarded
16 projects, they're going to find out that I was -- my project
17 was approved on X date and somebody else got approval, you
18 know, three months later but yet got moved up, you know, the
19 ladder for some reason.

20 And I think we're just struggling with making sure
21 that districts understand that we don't have control over
22 that and that these dates will be variable because of it.
23 And I think they're accustomed to saying first in line,
24 first approval, et cetera. So that's -- I think that's the
25 primary issue.

1 CHAIRPERSON BRYANT: Yeah. And I think it sounds
2 like -- I mean I'm obviously relatively new to this. It
3 sounds to me like we're in -- really in uncharted territory.
4 The Board decided to make decisions even though there wasn't
5 funding available and we just have to make sure that the
6 expectations of the stakeholders -- that they understand and
7 I think that's your point, that we just want to have some
8 sort of system and you're saying that we have to make these
9 three decisions so you can do all the rest of the puzzle
10 pieces and provide that information. Am I understanding
11 that correctly?

12 MR. COOK: That's correct. That's correct.

13 MR. DUFFY: And, Madam Chair, we support OPSC in
14 trying to make sure that dollars get on the street if they
15 have real dollars. It's just we want to make sure our
16 districts understand what that construct is.

17 CHAIRPERSON BRYANT: What the rules are.

18 MR. DUFFY: Yes.

19 CHAIRPERSON BRYANT: What is the impact -- and I
20 think we can't -- we don't know perhaps how the dominoes
21 below this Tokay High decision, how the rest of -- if it
22 affects other people, you have -- the variables are immense,
23 it sounds like, if I'm understanding.

24 MR. HARVEY: The irony here is that they're not
25 line jumping. When we correct the date to what it --

1 CHAIRPERSON BRYANT: Right.

2 MR. HARVEY: -- should have been, we're putting
3 them where they would normally have fallen. So they're not
4 really bumping anybody. They're going right where they
5 should be. So in a sense, this has been a healthy
6 discussion and maybe -- but it's not necessary -- maybe what
7 we need is to Rob to say if you take this action, you are
8 affecting dollars that are currently available, just so we
9 know that it means this project is going to be funded.
10 Maybe that is the public notice that people need. Because I
11 think there are so many permutations of what may happen. I
12 don't know how you even do it in a graph, but --

13 MR. COOK: We struggled with it frankly and it
14 was -- I long ago gave up trying to anticipate where this
15 Board is going to go on any one topic. So --

16 MR. HARVEY: We're going to move this one right
17 now. I move the question.

18 ASSEMBLY MEMBER BUCHANAN: I second.

19 CHAIRPERSON BRYANT: It's been moved and seconded
20 on Item 12. Is there any objection to substituting our
21 previous roll call? Okay. Then let's move to Item 13
22 **[School Facility Program Date Changes for Unfunded**
23 **Approvals]** which is going to still raise the same issues, I
24 think --

25 MR. COOK: Definitely the same general issues.

1 What we have is a group of projects of approximately
2 \$9.7 million. The majority of these are actually projects
3 that were given a real apportionment in December of 2008.
4 They were the first round of funding under the overcrowding
5 relief grant program.

6 But that program is not an automated program and
7 some of the calculations associated with it, we
8 miscalculated some of the funding. These projects were
9 shorted their money. We caught up with that and corrected
10 the error in May of this year and give them an unfunded
11 approval. We didn't have the authority to make an
12 apportionment for them.

13 But they have a real apportionment and real cash
14 backing part of their project, but they do not have all the
15 resources.

16 What we're suggesting is that we move this date
17 forward as well so that they also get funding so they have
18 all -- so that they're able to get all the funding for the
19 project so that we can then keep them to the timelines and
20 get the money out and get these projects done.

21 Absent that, they're going to be hanging out with
22 half an apple for an extended period of time.

23 CHAIRPERSON BRYANT: Are there any questions or
24 comments?

25 SENATOR HANCOCK: Move the item.

1 MR. HARVEY: Second.

2 CHAIRPERSON BRYANT: Any public comment on this
3 one? Okay. Moved and second. Any objection to
4 substituting our last roll call? All right. Item 14.

5 MR. COOK: Okay. Item 14 is an **annual grant**
6 **adjustment** that is made. The Board is required in January
7 of each year to adjust the grants according to a
8 construction -- a Class B Construction Cost Index.

9 This Board has since going back to '98 has used a
10 Marshall & Swift construction index. Since 2005, it has
11 used, with one exception, an Eight California Cities Index
12 to adjust those grants and these -- there's a -- this
13 adjustment has gone up in all prior years, sometimes fairly
14 substantially, sometimes not so substantially.

15 And this year, based on -- well, frankly the
16 depression that's going on in the building industry, this
17 index that reflects labor and materials is negative for the
18 first time and staff is recommending that we adopt the Eight
19 California Cities Index. It is minus 6.74.

20 CHAIRPERSON BRYANT: I think there's probably
21 public comment on this item. That's my guess. Want to go
22 ahead? Unless the members want to ask questions first. Do
23 you want to hear public comment first?

24 MS. BROWN: Good afternoon. My name is Margaret
25 Brown and I am the outgoing Assistant Superintendent for

1 Facilities Development with the San Ramon Valley Unified
2 School District here in the East Bay and I am in the
3 incoming Director of Facilities Program Management for the
4 Los Angeles Unified School District.

5 MR. HARVEY: Well, congratulations.

6 MS. BROWN: Thank you. So I'm wearing two hats
7 today and maybe even a third, representing Chapelle Homes
8 because this CCI adjustment that's before you today affects
9 all three of those districts -- all three of those entities.

10 My districts have reviewed the Construction Cost
11 Index proposal for this upcoming meeting and we are
12 concerned with the implication will be on projects currently
13 on the unfunded list. We do not believe the OPSC or the SAB
14 should apply the negative CCI adjustment to projects on the
15 unfunded list when the state has bond funds to apportion.

16 Until today, the practice has always been to apply
17 the current CCI at the time of apportionment and this made
18 sense because the state had exhausted all bond authority and
19 did not have funds to allocate for the projects in the year
20 that they were funded.

21 The last time an unfunded list was created was in
22 2006. But today the situation is much different, yet it is
23 very significant. Today the SAB is operating under the
24 Department of Finance budget letter 08-33 which directs
25 state agencies, including the State Allocation Board, to

1 cease apportioning bond funds.

2 This is not a case of when bond authority has been
3 exhausted. This is a case of a state agency making a
4 decision to freeze apportionments to protect the state's
5 general fund.

6 School districts have done everything they could
7 to complete the funding process and otherwise would have
8 received an apportionment if not for the budget letter.

9 And we are not blind to this economic reality.
10 There is no cash, but there -- but we also should not be
11 harmed by the state's inability to issue bonds which we
12 already are because we're building projects and we're
13 floating the money -- the state's share -- and then again
14 make us subject to the CCI adjustment one year after the
15 fact.

16 And let's assume we don't sell bonds for a whole
17 year. We would be subject to the CCI adjustment in 2011.

18 For my current district, San Ramon Valley Unified,
19 that affects the only state-approved seismic project. We
20 have the only state-approved project. It's a gym that we're
21 replacing. It's on the unfunded list. It's under
22 construction and that would have a 7 percent -- that
23 6.74 percent hit to that project.

24 California High School modernization is going on
25 in that school district and that would also take a

1 6.7 percent hit. More importantly in the San Ramon Valley,
2 we have a unique joint venture agreement with developers in
3 that valley who build our schools and they get reimbursement
4 from the state.

5 The last school built by Chapelle Homes was a bid
6 in 2008, was occupied in September of 2009, and it sits on
7 that unfunded list for \$22 million. That project would take
8 a 6.7 percent hit and maybe even another hit in 2011 if the
9 state doesn't sell bond funds, and it just doesn't make
10 sense.

11 For my future employer, Los Angeles Unified, it's
12 the same thing, only to a greater extent. They have many,
13 many more projects on the unfunded list and they would take
14 an unnecessary hit for projects that are under construction
15 or already built and it just isn't fair because the state
16 has the bond authority.

17 I need to cite one other thing for you.
18 Regulation Section 1859.95 provides for exemptions to the
19 application process when the state agency impedes a
20 district's ability to file a funding application and
21 provides that the school district receive the appropriate
22 date in line. Oh my God, just like the last items.

23 And so -- it's very interesting how this works.
24 And so the intent of that regulation is to hold harmless a
25 school district if a state agency in any way delays the

1 normal flow of the process that resulted in a disadvantage
2 to a school district.

3 And we think this is one such disadvantage, that
4 it's nothing that the school district has done and we should
5 not be subject to the 6.7 percent hit.

6 The intent of highlighting this section is to show
7 that provisions have been made in the regulations that
8 contemplate when a state agency might have slowed or impeded
9 the process and we think that's the case in this case. For
10 all us school districts who have done everything correctly
11 and we sit there fronting the state's share of the money
12 because you don't have the cash. We're willing to do that,
13 but don't make us take a 6.7 percent hit on projects that
14 have already been bid or already awarded or maybe we're
15 already in them.

16 Any questions?

17 CHAIRPERSON BRYANT: Does anybody have any
18 questions? Any -- oh, go ahead, Assembly Member Buchanan.

19 ASSEMBLY MEMBER BUCHANAN: Well, I actually wish
20 we would have taken the approval of the grant amounts prior
21 to the application, but -- and I have -- I will do two
22 confessions here. I was a board member of San Ramon Valley
23 High School District for 18 years, but during that time, we
24 went through about a billion dollars in construction
25 projects, so I'm very familiar with the state's process and

1 all that we go through.

2 But I do think there's an inherent unfairness not
3 just for San Ramon Valley or LA Unified, but if a school
4 district receives approval from the state, an approval to
5 fund X dollars for a project, and goes on and does all of
6 its planning based on those dollars, then, you know, after
7 the fact because the state is borrowing from the pooled
8 money to fund its general fund receives less money, I think
9 it's just inherently unfair.

10 So irrespective of what we think should be done
11 with the grant amounts, I'm assuming that if we made this
12 effective for projects we decide to fund after January 1,
13 then those -- you know, versus afore, then those districts,
14 you know, would know what the grant amount is at the time
15 they're actually going out to bid and making the
16 construction decisions.

17 MS. BROWN: So my -- you know, I was trying to
18 play with the wording in Option 1 because we do agree the
19 CCI should be applied for projects either with an unfunded
20 approval after January 1, but it shouldn't apply to any
21 projects with unfunded approvals prior to January 1 and
22 that's the key here.

23 CHAIRPERSON BRYANT: If the CCI went up, would you
24 want to just stay where you are then?

25 MS. BROWN: You know, we -- if the CCI went up, we

1 would take that money and I'll tell you why. In the past,
2 when the CCI went up and we had a project that was either
3 occupied or was under construction, we still weren't at
4 50-50. We were never at 50-50 and I think upcoming item
5 will prove that to you and that's why we have the AB127
6 6 percent adjustment.

7 We were never there. In LA Unified, all their
8 last projects, they were funding 70 percent. I think the
9 statistics today is that new construction's funding
10 65 percent. So would we take the CCI? Absolutely. Are we
11 taking more than our 50 percent share? Never. Thank you.

12 CHAIRPERSON BRYANT: Thank you. Next.

13 MS. KNAUSS: Hi, everyone. I'm an architect, so I
14 have pictures because that's how we roll. My name is Laura
15 Knauss and I'm a principal at Lionakis Architects. We're a
16 230 person firm, five offices here in California, with about
17 30 to 40 percent of our business in school construction.

18 What I've put in front of you is a case study
19 of --

20 CHAIRPERSON BRYANT: I think you need to talk into
21 the skinny mic.

22 MS. KNAUSS: Into the skinny mic? Better?

23 CHAIRPERSON BRYANT: Yeah.

24 MS. KNAUSS: What I put in front of you is a case
25 study of the old program elementary school compared to the

1 current grant funded elementary school and I have some
2 footnotes in there. And the reason I've done that is
3 because we feel like we're constantly running to keep up and
4 get to the place of parody with the old lease-purchase
5 program.

6 I titled this Questioning the Assumptions for a
7 reason because I think -- Margie talked specifically --
8 Margie talked to you a little bit about why the CCI is so
9 important to districts on the unfunded list. I think it's
10 also important to all projects and the reason is that our
11 assumptions keep changing, but we keep using the old model
12 on which to add the adjustments.

13 And so in this particular example when I'm talking
14 about soft costs and questioning the assumptions, we've
15 continued over the years to add bureaucracy to our schools
16 and that's a Department of Toxic Substance Control, access
17 compliance, and CDE have fees that they didn't back in the
18 day. California geologic survey, CEQA, SWIPPs, all of these
19 things keep getting added into a school construction project
20 with very little recognition in the funding bumps that we're
21 taking.

22 Even the Berkeley study found that our bureaucracy
23 is holding us back in terms of dollars per student spent on
24 construction. Even technology costs, furniture, and
25 equipment we're not keeping up with that.

1 Then the second assumption I would question is
2 trying to compare ourselves to a lease-purchase program that
3 an elementary school had 59 square feet per children.

4 The Department of Ed's new study on complete
5 schools showed us that the average complete school has
6 74 square feet per child at the elementary level. Why is
7 that? Because of class size reduction in part; because of
8 specialists we have in our schools that are required.

9 The Civic Center Act and community access to
10 facilities has us being asked and mandated to provide
11 additional facilities and certainly the issue of core
12 facilities.

13 In my rough little guideline here, I used \$225 a
14 square foot. You're going to ask me could I bid this
15 project today and have it come in the grants given the world
16 that we're in today and the answer is probably, if I had
17 enough bidders here.

18 But would it be answering all the problems and the
19 problems come in a lot of different ways and one of them I
20 think is that we're getting to that place on the backs of
21 overhead and profit for contractors that are going to go
22 under carrying that overhead and profit.

23 Right now in California, all the recent data shows
24 that we are seeing about a 4 percent bump in the labor rates
25 for our school, about a 1.6 percent drop in material costs

1 for a net of, you know, 3 percent, somewhere in there, and
2 that we're finding the 10 to 15 percent reductions in costs
3 all coming out of contractor overhead and profit to keep
4 their machines running and their people working.

5 What does that mean for us in 2010 or 2011? Most
6 of them won't be around and especially subcontractors
7 because you can't continue to run at -- with no overhead and
8 profit and still get to a place of building your business.

9 So the analysis we did in terms of site costs and
10 construction costs might be valid in today's market, but the
11 reality of the situation is we're going to see those people
12 go under if they continue to bid projects at the rates that
13 we're seeing right now.

14 So just to the last point, I think as we look
15 forward maybe not on this issue of grant increases, maybe
16 not on the CCI, but maybe as we look forward to the program,
17 are we questioning the right things, are we asking ourselves
18 the right questions. Is parody with the lease-purchase
19 really what we want? Are we acknowledging the soft costs
20 that we as a state keep layering on our school construction;
21 and finally and sort of an architectural, big picture way,
22 are we really building the schools that we want to build?
23 Thank you.

24 CHAIRPERSON BRYANT: Thank you. Next.

25 MR. ROZZI: Thank you, Madam Chair, Board members,

1 Ted Rossi, Assistant Superintendent of Facilities,
2 Corona-Norco Unified School District. I'm not going to
3 reiterate some of the points of the previous speakers, but
4 just to reinforce a few points, one being obviously as all
5 school districts are going to be concerned with any
6 reduction in the grant amounts, we think it's at a minimum
7 that this should not apply to any projects that have already
8 been approved but are unfunded. I mean that seems to be a
9 minimum.

10 I'd also offer and request that you also consider
11 not applying it to projects which have already been bid. We
12 have a project -- an elementary school that we completely
13 reconstructing which has been going through the state
14 approval process, going through DTSC, currently at CDE, will
15 eventually get to OPSC, and all the agencies find no fault
16 in it. It's just the process of going through OPSC -- this
17 project was bid 18 months ago -- will not be occupiable
18 until the end of calendar year.

19 But again because of the DTSC process and they did
20 everything they could to help us through it, we lost about a
21 year of construction time just in having to remediate some
22 dirt with an unacceptable level of termiticide in it and
23 it's an existing school site that's been used for 60 years.
24 But to rebuild the school, we had to find other time, so for
25 us we had bids a year and a half ago that now based on the

1 expected state reimbursement will be reduced because of --
2 through no fault of anyone, it's just the process and we
3 support the process because it does provide the safest sites
4 for our students.

5 So beyond just those which are unfunded --
6 approved but unfunded, I would request you consider all
7 those that have already been bid because that is another
8 major item. It's one thing to know going in that your
9 reduction -- or your apportionment's been reduced, but to
10 have a project because of the natural process be reduced --
11 and then I'll reiterate what Laura just said about the types
12 of projects.

13 I think what this reflects is the lack of projects
14 that have been examined over the last year and in our area,
15 we have five projects ongoing and we also have the same
16 experience where contractors are telling us that the reason
17 the bids are so good, A, because they're bidding against
18 people who don't normally bid school projects. They're
19 bidding against residential construction builders and all
20 types of other contractors, and as she indicated, they're
21 bidding against people who are just trying to keep their
22 doors open.

23 So when you're taking a loss or a zero overhead
24 and profit, it really does reflect the prices and reduce
25 them unfavorably and which not -- would not occur normally.

1 So that is really something that I just wanted to reiterate
2 that she said. I'm not sure this really reflects what
3 currently happening in the market. I don't know that my
4 prices are getting any smaller on labor, materials,
5 furniture, and equipment. It's really just the overhead and
6 profit of the contractors. Thank you.

7 CHAIRPERSON BRYANT: Next.

8 MS. BECKER: Christina Becker, Director of Santee
9 Schools Maintenance/Operations/Facilities and it's a very
10 small district with only nine schools. I have 6,000
11 students. It was very important when my local board passed
12 a bond of only 60 million to do their schools. So we moved
13 forward, even though it was said, you know, don't go
14 forward. They made a promise to my community. We moved
15 forward. I have six projects on today's allocation and I
16 have 33 million already unfunded that I moved forward with.

17 So we're just hoping to be reimbursed. To find
18 out that that reimbursement is going to go down because of
19 an economy flip this year isn't fair.

20 I see that, yes, it comes down 6 to 7 percent, but
21 when you look at how that attributes to all the supplemental
22 grants for energy and access, it's probably a 10 to
23 15 percent hit in my grant amount and allocation.

24 And so it's just more onto what I can't do in the
25 future. And because of that \$25 Southwest fare, I'm here to

1 tell you that and I always like to come up and say hi, I'm
2 here to talk about one of those little districts you never
3 get to see. Thank you for your time.

4 CHAIRPERSON BRYANT: Thank you.

5 MR. DUFFY: Tom Duffy again for C.A.S.H. You have
6 three items that are on your agenda that are really
7 interrelated. The one is the OPSC study of grants, the
8 other is the CCI that you have before you right now, and the
9 third is the developer fee -- the one developer fee item.

10 What has been requested by the prior speakers of
11 not affecting the unfunded approvals with a compromise of a
12 negative CCI I think is reasonable. The fact that
13 \$2 billion worth of schools were not placed under contracts
14 in 2009 are reflective of the number that you have in
15 that -- what is proposed by OPSC.

16 So we would ask that you leave the projects from
17 2009 alone and have them at the very least not be affected
18 by a negative CCI should you choose to do that.

19 I would also request looking ahead to the item of
20 the OPSC study that we think that that study by our analysis
21 and clarifying an error that's in it that it identifies that
22 the overall projects that are in the study are really funded
23 at about 37 and a half percent, so certainly way down from
24 that 50 percent which would support a 6 percent increase.

25 So one option for you would be to provide an

1 increase for the projects that were approved as unfunded in
2 2009 which was an option the Board left open for itself last
3 year when it continued to wait to really bring this action
4 forward -- to -- and by the way, that's to reflect cost from
5 2008.

6 So you have the 2009 adjustment of the 6 percent
7 that you could make. You -- if you were to apply the
8 negative CCI that's there, then it would leave about a
9 .7 percent negative.

10 What Laura Knauss told you was that there's an
11 increase -- and we've seen this -- in cost of labor and a
12 slight decrease in the cost of hard construction materials.

13 One thing that she mentioned that really I have to
14 underscore for you -- and, Mr. Harvey, you were talking
15 about DSA and processing today. DSA was at a C.A.S.H.
16 meeting this morning and talked about increases in fees for
17 DSA. They're not reflected in the CCI. Those come out of
18 the pupil grants as soft costs -- planning costs.

19 So there's -- what Laura stated for us is that the
20 Berkeley study -- and Jeff Vincent's in the audience here
21 who did the study -- identified that California regulates
22 construction of public schools more than anyone else --
23 building the smallest schools at the largest price.

24 So with all that, I would ask you to really take
25 these three items into consideration and recognize -- and

1 this will be my final comment on this -- recognize that we
2 have been in an anomaly and that anomaly is sharing with us
3 a negative CCI that people in the field, such as the ones
4 that just spoke to you don't believe is real because of what
5 contractors are doing.

6 Ever since last year when the PMIB was meeting,
7 they heard from contractors -- Mr. Sheehy was here. They
8 heard from contractors who were basically saying what we're
9 doing is we're just keeping our doors open, keeping people
10 working, not taking a profit and in fact taking losses.

11 So when the economy goes up, we would not want to
12 have an entire year affected by this negative CCI because
13 you don't get to visit it under statute until next January
14 unless you put it off.

15 Thank you very much. I appreciate your patience.

16 CHAIRPERSON BRYANT: Any other comment?

17 MS. DIXON: Good afternoon. My name is Janet
18 Dixon. I'm the Director of Planning and Development for
19 Riverside Unified School District and just to piggyback on
20 some of the comments that were made there earlier by some of
21 my colleagues.

22 We would request that projects that have already
23 been submitted to OPSC be exempted from the negative
24 adjustment in the -- in the grant amount. We had a project
25 approved today, one of the ORG projects. We're very excited

1 about it. We actually started construction on that project
2 in December. But we submitted that application last July
3 and due to the slow down in OPSC due to furlough days and
4 other factors, it is taking an extraordinary amount of time
5 to get projects through OPSC and even get them to the Board
6 to get on the unfunded list.

7 So where we would normally have already been on
8 the unfunded list, due to that slowdown, it's taking longer
9 and we proceeded in good faith not realizing that we'd be
10 hit on the backside with this reduction. Thank you.

11 CHAIRPERSON BRYANT: Okay. Thank you. Any other
12 comment? Any questions or comments from the Board? Senator
13 Lowenthal.

14 SENATOR LOWENTHAL: Yeah. I am sensitive to
15 that -- what I'm hearing a consensus, the recommendation
16 that for 2009 unfunded approvals that we not apply this to,
17 but for those that are going to be moving forward in 2010
18 that whatever we decide to -- for the new CCI decrease,
19 that -- whether we do the 6.74 or the 6. I think it's 2,
20 whatever we choose, that that's -- those are the projects
21 that it applies to, but we not apply it to those projects
22 that have already been approved but just not funded.

23 That's a substitute motion.

24 SENATOR HANCOCK: I would second that.

25 CHAIRPERSON BRYANT: In the staff memo, it seems

1 to imply that it's after 2010.

2 ASSEMBLY MEMBER BUCHANAN: No. It's apportioned.

3 MR. COOK: If we make an apportionment in 2010,
4 what we do is we reset all -- based on the CCI, we reset all
5 the grant amounts.

6 When we go to an apportionment -- and this is
7 longstanding -- I mean this is practice that goes back ten
8 years and there have been a couple of times when there have
9 been unfunded approvals made in the program. They enjoy in
10 good times an increase in the Construction Cost Index.

11 CHAIRPERSON BRYANT: Right.

12 MR. COOK: This is a unique situation. It's the
13 first time it's ever declined, but they are adjusted -- our
14 grants are adjusted. Those are programmed. We would then
15 bring those forward. I don't know how we would execute a --
16 this bifurcation.

17 CHAIRPERSON BRYANT: I was confusing the unfunded
18 approval with the apportionment, so I apologize.

19 MR. COOK: Yeah.

20 CHAIRPERSON BRYANT: So let me just ask you this.
21 The Board made a decision at some point to go ahead and do
22 the unfunded approvals. As an alternative, what could have
23 happened is the Board could have decided to just hold off
24 making any approvals until bonds were able to be sold again
25 and the market conditions improved.

1 MR. COOK: Um-hmm.

2 CHAIRPERSON BRYANT: In that case, no one would
3 know that they were getting cut so to speak because there
4 would not have been any of these unfunded approvals made and
5 now what we're talking about is we have -- so there's -- I
6 think we're sort of faced with looking at specific projects
7 when we're really talking about a policy in state law that
8 you -- that these amounts get reduced or increased --
9 usually they get increased. We're in a reduction year.

10 So there's -- you know, I'm sympathetic to
11 everything that the commentator said. You know, they have
12 specific schools and specific projects, but if we had never
13 done unfunded approvals, they would not really know that
14 they were affected. They would have a sense that they were
15 going to be coming into the queue, but they wouldn't be in
16 it yet. Am I -- do I have it wrong?

17 ASSEMBLY MEMBER BUCHANAN: Yeah. Actually I think
18 you do and this is why. Every school district knows what
19 your grant funds are for elementary, middle, and high
20 school, and once they have approvals, they move forward and
21 plan those projects and bid those projects and do their
22 facilities budget based on what they anticipate getting from
23 the state in those grant funds.

24 So if you waited to make the change at the time of
25 apportionment, they're going to know that they were

1 anticipating one amount and were getting 6 or 6.7 percent
2 less.

3 And so, you know, when you have school districts
4 that are going out -- first of all, they've taken over
5 20 percent cuts to their general fund in the last two years.
6 They're going out and bidding projects, waiting for the
7 state's apportionment because we can't sell bonds or we're
8 using that bond money to balance the general fund. They are
9 making those assumptions.

10 So if they don't get that money, they have to make
11 it up somewhere else. If they can make it up within their
12 own facilities program, great. If not, they have to dip
13 into the general fund. So we're affecting their financial
14 planning, you know, in a much bigger way than just how much
15 we write the check.

16 The same is true is you have a developer-built
17 school. Those developers are making their plans and
18 planning their budgets and how they're going to build out
19 and everything based on what the costs are and we're in some
20 respects changing the rules mid game not to any fault on the
21 part of the districts or the developer, but because of our
22 own financial problems here at the state.

23 And I think it's actually -- I mean I understand
24 that -- I think what will happen is you'll have to have two
25 rates in place so that schools who had unfunded approvals

1 prior to January 1 will receive facility grant funding at
2 one rate and schools who have unfunded approvals January 1
3 or after will receive funding at the new rate.

4 But it seems to me that -- from my point of view,
5 that's the way we should be going.

6 CHAIRPERSON BRYANT: Mr. Harvey.

7 MR. HARVEY: How much of this really a paper
8 adjustment because we really are not going to be selling
9 bonds for who know how long in the sense that we take action
10 to stay the course, increase it, or decrease it, but how
11 does that really affect when a district gets the money if
12 we're not going to do it two years from now and next year
13 we're going to be faced with adjusting it up or down and the
14 year after that we're faced with adjusting it up or down,
15 and unless you keep putting these -- well, it's going to be
16 '09 for these -- I mean --

17 ASSEMBLY MEMBER BUCHANAN: We're keeping track of
18 it on paper, but they're real dollars the districts used to
19 plan their facilities and it makes a big difference to the
20 district when they're trying to decide if they can add
21 classrooms at a school that's overcrowded or modernize a
22 school or make other decisions, is to what -- you know, this
23 is how much we have in the bond, this is what our bid amount
24 is, our contingency, this is how much we expect to get from
25 the state, and they making forward planning decisions based

1 on that. And many of those districts have been making
2 decisions for a year or so now.

3 We had one person testify that he would like to
4 see it extended to projects that have been bid that don't
5 have approvals yet, so that's a district that's really sort
6 of betting out. They're assuming that the state's going to
7 have money.

8 MR. HARVEY: As to bids, I'm not a contractor, but
9 every time I've remodeled a home, the bid amount was for a
10 set period of time. It didn't go on for 18 months or
11 24 months.

12 ASSEMBLY MEMBER BUCHANAN: Right. But this is
13 where they're -- this is again where they're sort of loaning
14 the project money from future projects assuming that they
15 are going to get approval and apportionment.

16 So I mean I would move that we accept staff's
17 recommendation for Option 1, but we change the wording to
18 adjust the grant for state SFP projects for unfunded
19 approvals on or after January 1, 2010, using the Eight
20 California Cities Index.

21 CHAIRPERSON BRYANT: Is there any comments,
22 questions from the other side? Senator Huff.

23 SENATOR HUFF: I think we need a second that and I
24 do have a question.

25 SENATOR HANCOCK: Yeah. I think we agree.

1 SENATOR LOWENTHAL: I think we agree. I think
2 that's what I said. Right. Yeah.

3 SENATOR HUFF: Do we have a second on that motion?

4 CHAIRPERSON BRYANT: I think you have a second.

5 SENATOR HUFF: Okay. Yeah, for -- just a question
6 of Mr. Cook because I thought I heard him say he didn't know
7 how he was going to implement such a bifurcated thing. I
8 agree with what you're saying. I just want to make sure
9 technically we have the ability to do that or if not, maybe
10 we can put this off to a time we could figure out how to do
11 it.

12 MR. COOK: Well -- yeah, just -- we would --
13 normally when these adjustments are made, we plug these
14 numbers into our system, okay, and then they start -- and
15 they're automatic calculations that start coming out as we
16 process projects.

17 In this bifurcation here, that means we're going
18 to have to do a manual process on one side or the other
19 which means that we're going to -- we are literally, I mean,
20 you know, we're going to run a tape on projects in -- rather
21 than our automated systems and we'll have to choose one over
22 the other.

23 MS. MOORE: Isn't it possible, however, to write a
24 program that says for those projects that have a date of,
25 you know, between January 1st, 2009, and December 31st that

1 the adjustment is X and when -- and those projects after the
2 adjustment is Y? I mean it seems fairly simple on that --

3 SENATOR HUFF: May I just ask this. We're not
4 giving out any money here.

5 MR. COOK: Are you volunteering to program --

6 MS. MOORE: I'll have our program people come
7 over.

8 SENATOR HUFF: If I could say something. We still
9 have not allocated funds; right? I don't see the immediacy
10 of the decision. We have staff that's trying to figure out
11 how we're going to implement the will of the Board and in
12 that there's nothing go out in the meantime, is this
13 something that we could put over to the next meeting, have
14 him bring back a comprehensive approach of how he would do
15 this so that can help shape our -- I don't think it's going
16 to change our outcome, but at least we will know going into
17 it what it means of staff in implementing the will of the
18 Board. Would that be reasonable?

19 CHAIRPERSON BRYANT: Rob, did you want to --

20 MR. COOK: We don't know where the Board would be
21 on this. If the Board were to apply the change to projects,
22 just simply unfunded approvals as we have in the past, that
23 change is where the money falls out when we -- the money
24 that we have to allocate.

25 If the Board splits it and, you know, those that

1 have unfunded approvals from 2009 are at the old amounts, we
2 could then move that forward, but that decision kind of
3 needs to be made now -- just for us to make that allocation
4 at next month's boards. That's all.

5 CHAIRPERSON BRYANT: It just really strikes me
6 that where this -- we're almost arguing for not getting into
7 the situation of where we are doing these unfunded
8 approvals. I'm -- you know, if we're not part of -- the
9 whole system is this adjustment, why would we -- why are we
10 even doing them. I think it begs the question and we're
11 making your list. It's always going to be Ms. Moore's list
12 from now on in my mind, but it makes it more complicated, it
13 sounds like, in terms of accounting and tracking.

14 I mean I would just argue that we're just in a
15 weird time and that this list is what the list is and it's
16 kind of a rick that the people who got unfunded approvals,
17 you know, have to take and they should be cut, but I can
18 tell I'm not winning that, so we can go ahead and move the
19 question.

20 ASSEMBLY MEMBER BUCHANAN: I have a suggestion as
21 to how you can solve that problem. You're manually entering
22 these rates in the computer; correct? And then the funding
23 feeds off those rates; is that what you're saying?

24 MR. COOK: No. The rates are actually basically
25 set in the system and as we process a project, the numbers,

1 you know, kind of self-calculate based on --

2 ASSEMBLY MEMBER BUCHANAN: Right. Why can't you
3 not put the new rates into the system till you process the
4 first January 1, 2010, approval? Wouldn't all the 2009
5 approvals then fund off the prior rates?

6 MR. COOK: They certainly would. Any unfunded
7 approvals we make from this point forward though are going
8 to get an incorrect amount unless we --

9 ASSEMBLY MEMBER BUCHANAN: I see.

10 MR. COOK: -- manually -- although it's not a
11 commitment. An unfunded approval is not a commitment of
12 funding, but nevertheless it will calculate at a different
13 rate.

14 CHAIRPERSON BRYANT: Are there any other questions
15 or comments? We have a motion to --

16 SENATOR HUFF: Could you restate the motion?

17 CHAIRPERSON BRYANT: I think the motion -- it was
18 your motion. I think it is to go with Option 1, adjusting
19 the grant for using M&S Eight California Cities for all
20 projects going forward after January 1st, 2010, and the
21 projects that are already unfunded approvals would get the
22 current rate.

23 ASSEMBLY MEMBER BUCHANAN: Right. For unfunded
24 approvals on or after January 10 is when the new rates
25 apply.

1 CHAIRPERSON BRYANT: Okay. So do you want to --

2 ASSEMBLY MEMBER BROWNLEY: Which is the same thing

3 all 2009 projects.

4 SENATOR LOWENTHAL: Now, do we also have to decide

5 on what that rate is because they gave us two options.

6 SENATOR HUFF: Well, that was included in

7 Option 1.

8 SENATOR LOWENTHAL: Oh, that's in --

9 MS. MOORE: Does that mean that we are taking the

10 higher of the two indices?

11 SENATOR LOWENTHAL: Which one are we taking?

12 CHAIRPERSON BRYANT: I think it was -- Option 1 is

13 the Eight California Cities.

14 MS. MOORE: Which is the higher -- it is a greater

15 decrease than the other; is that correct?

16 CHAIRPERSON BRYANT: 6.74 versus 6.22. Is that

17 your motion?

18 ASSEMBLY MEMBER BUCHANAN: Well -- it makes sense

19 to me. I know if you were picking and choosing, you'd want

20 the second option, but it makes sense to me to base

21 California construction index on California costs and not

22 have other states drive what our costs index is.

23 CHAIRPERSON BRYANT: Okay. Do you want to --

24 staff, did you have something? We're good? Okay. Call the

25 roll.

1 SENATOR LOWENTHAL: Well, what are we good at?
2 Just be clear. I know we're good.

3 CHAIRPERSON BRYANT: We're good. We're really
4 good.

5 SENATOR LOWENTHAL: We're good.

6 CHAIRPERSON BRYANT: What we're good at is we have
7 a motion on the table that we're going to from this point
8 forward apply --

9 SENATOR LOWENTHAL: Any new approvals --

10 CHAIRPERSON BRYANT: We're going to apply the --

11 SENATOR LOWENTHAL: Any new unfunded approvals.

12 CHAIRPERSON BRYANT: -- 6.74 percent cut per the
13 Eight California Cities Index and then the stuff that's the
14 unfunded approved will stay at the current rate.

15 SENATOR LOWENTHAL: That's right. People know
16 what -- you know --

17 ASSEMBLY MEMBER BROWNLEY: But it's the unfunded
18 approvals in 2009; right?

19 CHAIRPERSON BRYANT: Right.

20 ASSEMBLY MEMBER BROWNLEY: Right.

21 MS. BORON-IRWIN: What about the unfunded
22 approvals that you approved earlier at this meeting?

23 MS. OROPEZA: That's after January 1st.

24 MR. COOK: That's after January 1st.

25 MS. KAPLAN: They were backdated.

1 CHAIRPERSON BRYANT: They're backdated.

2 MS. BORON-IRWIN: So they'll be the new --

3 CHAIRPERSON BRYANT: They're backdated.

4 MS. BORON-IRWIN: Okay. Just so --

5 SENATOR LOWENTHAL: Yeah. Some of those were
6 already backdated to other dates.

7 CHAIRPERSON BRYANT: Is it by the date they're
8 backdated to or is it by today's adoption?

9 ASSEMBLY MEMBER BUCHANAN: It's by the approval --

10 MR. COOK: I'm with you, Senator. No. I think
11 apples and oranges on that. There's a group of consent
12 projects that are dated today and then there are the other
13 ones that are still back in 2009 and all we did was shift
14 their date within 2009.

15 CHAIRPERSON BRYANT: Okay. So call the roll.

16 MS. GENERA: Senator Lowenthal.

17 SENATOR LOWENTHAL: Aye.

18 MS. GENERA: Senator Hancock.

19 SENATOR HANCOCK: Aye.

20 MS. GENERA: Senator Huff.

21 SENATOR HUFF: Aye.

22 MS. GENERA: Assembly Member Fuller.

23 ASSEMBLY MEMBER FULLER: Aye.

24 MS. GENERA: Assembly Member Brownley.

25 ASSEMBLY MEMBER BROWNLEY: Aye.

1 MS. GENERA: Assembly Member Buchanan.

2 ASSEMBLY MEMBER BUCHANAN: Aye.

3 MS. GENERA: Scott Harvey.

4 MR. HARVEY: Aye.

5 MS. GENERA: Kathleen Moore.

6 MS. MOORE: Aye.

7 MS. GENERA: Cynthia Bryant.

8 CHAIRPERSON BRYANT: No.

9 MS. GENERA: It carries.

10 CHAIRPERSON BRYANT: I said no. Did you get that.

11 ASSEMBLY MEMBER BROWLEY: I think there was
12 someone that wanted to speak to the item before we voted.

13 MS. BECKER: I'm sorry, but --

14 CHAIRPERSON BRYANT: Oh, I'm sorry.

15 MS. BECKER: -- my projects were scheduled for
16 last November and December, but it was canceled and they
17 were pushed forward, so those six are on today's date, but
18 yet I already awarded them last year, so what do we do about
19 me? Do I just go back and tell my board I'm sorry?

20 MR. HARVEY: Yes.

21 CHAIRPERSON BRYANT: Okay. Item 15.

22 MR. COOK: Item 15 is also a **statutory adjustment**,
23 in this case to **developer fees**, and this is an action that
24 the Board takes every two years and sets the level for
25 developer fees associated with again the same Construction

1 Cost Index that we just took up. And you'll -- and I know
2 that there's been a little bit of debate about the -- legal
3 debate on the -- legal debate on this and so I think it
4 would be appropriate to call on Counsel at some point.

5 But we are recommending that the adjustment be
6 made according to the Eight California Cities Index. That
7 would leave developer fees -- they would decline by 1 cent
8 from 2.97 to 2.96. And again that's -- this is driven
9 off -- here's a 6 percent Construction Cost Index increase
10 applied last year, a 6.7 -- in this case, 6.74 decrease
11 applied this year. It adds up to a penny per square foot on
12 developer fees -- is the impact.

13 CHAIRPERSON BRYANT: Okay. Counsel, did you want
14 to address it or --

15 MS. BORON-IRWIN: Yeah. The memo is in response
16 to the January 26th letter from the Coalition of Adequate
17 School Housing which -- basically they were of the opinion
18 that these fees only could be increased and that if the
19 index would permit a decrease, we were precluded by the
20 statute from decreasing it, that the statute only permits
21 increasing it.

22 And I looked at that opinion. Initially I did
23 actually read the statute like that and after speaking with
24 some of my other colleagues this morning, revisited it and
25 have now determined that the amounts -- the amount of the

1 limits that says they'll be increased was only referring to
2 the increase that was required in 2000 and that the way the
3 statute was written -- the second sentence that's talked
4 about, and every two years thereafter according to the
5 adjustment core inflation set forth in the state cost index
6 for Class B construction permit it and to be adjusted
7 consistent with the state cost index, whether that would be
8 up or down.

9 And basically that would be a reasonable
10 interpretation because I believe that the intent was to have
11 the limits adjusted and consistent with the state cost-wide
12 index and that to interpret to only permit increases would
13 frustrate the purpose of the intent of the statute to
14 maintain the level for funding for school construction at
15 the current cost.

16 CHAIRPERSON BRYANT: Mr. Duffy.

17 MR. DUFFY: Thank you, Madam Chair. Tom Duffy
18 again for C.A.S.H. I appreciate you referencing our letter
19 and we still read the statute in that same manner.

20 What school districts will do and typically do
21 after you take action in January is to have a needs analysis
22 done but not for Level 1 necessarily, but for Level 2 fee
23 and -- so this is an important action.

24 One cent isn't necessarily something to argue
25 about, but I want to go back to something that you said

1 under the last item when you were talking about if districts
2 hadn't received unfunded approvals, they would not have
3 known.

4 We recommended to Rob and his staff and to the
5 Board last year that unfunded approvals be made so that
6 districts could continue to know what their projects would
7 be -- be able to encourage them to bid projects and help
8 stimulate this economy. And one of the things that we did
9 not do was to -- for our member school districts who said
10 the Allocation Board is not making apportionments, doesn't
11 the Government Code say when the Allocation Board is not
12 making apportionments because it has no funds that we're at
13 Level 3, which is doubling the Level 2 fee. And we said
14 that's exactly what the statute says, but this is not a good
15 time to be dealing with the market in such a negative state.

16 We've worked with CBIA and we basically -- we're
17 tracking the new construction dollars that you have and I
18 will give you a chart that shows where it looks like you're
19 going to run out of new construction dollars. But we have
20 districts ask us this question of Level 3.

21 We don't control everyone. Somebody may file a
22 writ at some time in the future. They could do it tomorrow
23 on this question, but we're asking districts to be patient.

24 So this whole question of what is it that
25 districts would be able to receive through the unfunded

1 approvals is very important to keep the economy going and to
2 continue to work with the development community and turn
3 things around.

4 One of the things that we've done is we've
5 basically written to the Governor saying you've got
6 \$2 billion worth of projects that are out there. Let's put
7 those on the street by selling more bonds. We want to
8 encourage districts to do that.

9 So on the topic of dropping the developer fee by
10 1 cent, that you're going to listen to your Counsel, and
11 that's understandable, but I wanted to make sure that I
12 commented on Level 3 because it gets a reality that's in
13 statute and the state is not making apportionments and
14 somebody could make that argument, but we're not pressing
15 that issue.

16 CHAIRPERSON BRYANT: Okay. Can you explain
17 Level 3 to me, Rob --

18 SENATOR LOWENTHAL: Good. That's exactly right.
19 This side of the table also needs to know.

20 SENATOR HANCOCK: -- table wants to know too.

21 CHAIRPERSON BRYANT: Oh, good. I'm glad. I
22 decided I would risk --

23 MR. COOK: Mr. Lyon can well explain Level 3
24 developer fees for you.

25 MR. DUFFY: What -- when we --

1 CHAIRPERSON BRYANT: We can have an explanation
2 from Mr. Duffy and Mr. Lyon.

3 MR. DUFFY: Of course. We work closely together.
4 In 1998, we settled a number of issues having to do with the
5 school facility program and basically reconstructed the
6 program.

7 Level 1 fees began in 1987 and it was a flat fee
8 throughout the State of California. We identified that
9 there were housing -- or building costs and land costs that
10 were different in different parts of the state.

11 If you're going to build in Beverly Hills, land's
12 going to be a lot more than if you're building somewhere say
13 up near Modoc. So we came to an agreement that there would
14 be Level 2 fee based upon the state pupil grant amount that
15 was placed in the statute with that bill and that districts
16 that had the ability because of having eligibility to seek
17 state funds could then levy Level 2 fees based upon their
18 trying to match up with the state cost for the pupil grant
19 as well as cost of land and the cost of developing the land.

20 And so the state was a partner with districts and
21 developers in that matter. We settled an argument over
22 three Appellate Court decisions that were published
23 decisions so they had the force and effect of law and those
24 were called Mira, Hart, Murrieta and we said we'll set those
25 aside in exchange for if the state does not have bond funds

1 to match up what you have at local level with Level 2 fees
2 that Level 2 fees could double and that doubling would be
3 the whole grant amount or that was the theory to be able to
4 build the schools in a time when there may be a bond
5 failure.

6 We had a bond failure in 1994 and it was very
7 difficult for districts for that period of time. So what
8 Government Code 65995.7 says that if the Allocation Board
9 has no funds with which to make apportionments that the
10 Board sends a letter to the Clerk of the Assembly and the
11 Secretary in the Senate and that is published in the Daily
12 Record and that triggers double three fees and then
13 districts at the local level can say to the developer now
14 you have to pay double what you were paying before.

15 CHAIRPERSON BRYANT: Richard.

16 MR. LYON: Thank you, Madam Chair. Richard Lyon
17 on behalf of California Building Industry Association. The
18 issue on the agenda has nothing to do with Level 3. It is
19 the statutory Level 1 fee and on that issue, I'm not going
20 to, you know, bust a blood vessel arguing for a penny
21 increase or a three penny decrease except to say whatever
22 the rules of the game have been in the past in terms of
23 applying the Construction Cost Index to the statutory fee
24 should be the applicable cost measurement today, whether
25 that goes up or whether that goes down. Consistency is

1 important here.

2 And we happen to agree with the counsel in terms
3 of the statute that it does not prohibit the fee from going
4 down.

5 On the Level 3, it's a partnership for new
6 construction funding. On the new construction side, it's a
7 partnership. It's the state, it's school districts, and
8 what the building community determined to do was to backstop
9 the school district if the school district couldn't come up
10 with 50 cents to match the state's 50 cents and that was the
11 deal.

12 And in many cases in new growth areas, districts
13 are not able to go out and raise the appropriate revenue, so
14 we backstop the district and in many cases we provide
15 50 cents to the state's 50 cents and you build a school.

16 There came a point in the negotiations on SB50
17 when people were saying, well, that sounds like a great
18 partnership and we're ready to go, let's go do it. Then
19 somebody said, well, what happens if the state's money isn't
20 there; what happens if we no longer have state bonds. And
21 in order to put a good partnership together, the home
22 building industry stepped up and said in the event in that
23 gap of time between the state no longer having funds and the
24 next state bond, we would basically assume the state's
25 position and pay a hundred percent financing.

1 Now that was then; this is now. We are in a
2 severe economic depression and let me just give you a sense
3 of how bad it is.

4 We're down 83 percent from the high of this last
5 building cycle which was 2004. What that translates to is
6 we are under 177,000 units under what we did in 2004. We
7 did 36,000 permits last year. We did 213,000 in 2004. So
8 we have taken a precipitous drop in housing construction.
9 It's showing up in the bids that are coming in and it's
10 showing up in the cost index and it also puts a fine point
11 on the fact that if we do reach the point sometime later
12 this year when we're out of new construction money, it isn't
13 politically or economically feasible to expect the home
14 building industry to pick up the amount.

15 And so we've been talking with Mr. Duffy and
16 others and saying how do we keep this program afloat. How
17 do we keep it above water until the time we can get to a
18 more secure funding source, be that state bond or some other
19 source.

20 So that's kind of a long-winded way of saying
21 Level 3 is a hundred percent financing. On a home building
22 community that is doing 36,000 units, we're not going to get
23 very far on that.

24 MR. DUFFY: So in lieu of any of that, we
25 suggested that the Allocation Board make unfunded approvals

1 and they're continuing to do it and we're tracking each
2 money. So I've got a chart that we can share with you and
3 we want to resolve this issue. We're not in conflict. CBIA
4 and C.A.S.H. are not in conflict. We need to resolve this
5 issue and we talked to members and we talked to their staff
6 and we've been actually doing this for about the last year
7 and a half anticipating that this is going to -- not year
8 and a half, but year -- couple months -- anticipating this
9 is a problem to resolve.

10 CHAIRPERSON BRYANT: Okay.

11 MS. OROPEZA: Can I ask a question?

12 CHAIRPERSON BRYANT: Yeah. Does anyone have an
13 objection if Ms. Oropeza asks a question?

14 MS. OROPEZA: Just for clarification. Thank you.
15 So, Mr. Lyon, would you agree that the statute actually says
16 when the State Allocation [sic] stops apportioning money or
17 when the State Allocation runs out of money?

18 MR. LYON: It's as I recall when the State
19 Allocation Board is no longer approving apportionments for
20 new construction funding.

21 MR. DUFFY: For which it has no funds.

22 MR. LYON: So -- and we went through this issue
23 back in the Godinez times back in the early 2000s and there
24 was an Attorney General -- and Mr. Lockyer that said that
25 means that the State Allocation Board has to be out of money

1 for new construction funding.

2 MS. OROPEZA: Right. Out of money not necessarily
3 apportioning at --

4 MR. LYON: That's right.

5 MS. OROPEZA: -- any given point in time. So I
6 just want to clarify your issue about --

7 MR. DUFFY: And we heard today you have
8 \$100 million and we're happy about that and would like to
9 see that spent wisely. We know that you have no other bond
10 funds at this time for which to make apportionments, but
11 again we're not making issue with that. I was responding
12 really to your comment.

13 CHAIRPERSON BRYANT: Okay. Thank you.

14 MR. DUFFY: Thank you.

15 CHAIRPERSON BRYANT: Any other questions?

16 Assembly Member Buchanan.

17 ASSEMBLY MEMBER BUCHANAN: I just want to say that
18 it's clearly a problem we have to solve because we all know
19 that given today's economy, if we went to the point of
20 assessing Level 3 fees -- and I've negotiated with
21 developers in mitigation -- but if we went there,
22 developers -- there would be no building. There would be no
23 tentative maps because they -- those -- the fees or the
24 mitigation is negotiated, you know, up front of the project.

25 But given the item that's with us today and

1 wanting to be consistent with the fact that we just approved
2 funding based on the California Cities, I'd like to move
3 Option 1.

4 SENATOR HUFF: Second.

5 MR. DUFFY: Thank you very much.

6 CHAIRPERSON BRYANT: We have a motion and a
7 second. Go ahead and call the roll.

8 MS. GENERA: Senator Lowenthal.

9 SENATOR LOWENTHAL:

10 MS. GENERA: Senator Hancock.

11 Senator Huff.

12 SENATOR HUFF: Aye.

13 MS. GENERA: Assembly Member Fuller.

14 Assembly Member Brownley.

15 Assembly Member Buchanan.

16 ASSEMBLY MEMBER BUCHANAN: Aye.

17 MS. GENERA: Scott Harvey.

18 MR. HARVEY: Aye.

19 MS. GENERA: Kathleen Moore.

20 Cynthia Bryant.

21 CHAIRPERSON BRYANT: Aye.

22 MS. GENERA: Doesn't carry.

23 CHAIRPERSON BRYANT: Okay. We'll -- should we --
24 I guess the motion failed.

25 SENATOR LOWENTHAL: No. Place it on call.

1 CHAIRPERSON BRYANT: Placed on call. We'll place
2 it on call.

3 ASSEMBLY MEMBER FULLER: Yeah, place it on call.

4 CHAIRPERSON BRYANT: Item 16 or 17? 17.

5 MR. COOK: Actually Item 16. This is **new**
6 **construction grant adjustment**. I have Josh Damoth who was
7 part of the team that put together the report that you all
8 have and you may want to refer -- there's a separate report
9 binder in front of you that has this document. I think Josh
10 will be referring to it.

11 And just to set the stage a little bit, Assembly
12 Bill 127 which authorized Proposition 1D created a
13 discretionary authority for the State Allocation Board to
14 increase the grants up to 6 percent or decrease those grants
15 based on an analysis of construction costs.

16 For many of the members that weren't with us at
17 the time, there was an analysis done in 2007-2008 that
18 wasn't well received and then subsequently in 2008 approved
19 a 6 percent increase.

20 At the point, the Board has met its statutory
21 obligations under the provision. The Board has the
22 authority but no requirement to make an adjustment, but we
23 have through this last year developed a new analysis on the
24 question and Josh will present that for you.

25 MR. DAMOTH: Josh Damoth, Policy Analyst with

1 Office of Public School Construction. It's my honor to
2 highlight for the State Allocation Board the findings of the
3 OPSC's new construction grant adjustment report.

4 I'm going to be starting on page 7 and so go ahead
5 and if you could -- if you want to follow along, go ahead
6 and turn there.

7 MR. COOK: There should be a separate copy of the
8 report that's at the dais for all the members.

9 CHAIRPERSON BRYANT: Looks like this.

10 MR. DAMOTH: Yep. Okay. Yeah. And this report
11 goes hand in hand with Tab 14. It's a -- so the context of
12 this report is that every year grants are adjusted by
13 Construction Cost Index and as Rob said, AB127 in 2006 gave
14 the Board discretionary authority to increase or decrease
15 the new construction grants.

16 What we've done is the statute also had the Board
17 create analysis of -- comparing the costs of new
18 construction with the funding provided. We've studied 166
19 new construction projects representative of the projects
20 funded in the school facility program.

21 The scope of our study was we defined it that we
22 compared the amount of state funding with the self-reported
23 costs by school districts of new construction projects.

24 The study is based off self-reported data. The
25 dataset is the only one of its kind. It's currently the

1 richest dataset on public school construction costs in
2 California's history. If you look at page 7 here, we've
3 provided a chart. I just want to give the Board a basic
4 background. I know that this program began in 1998. It's
5 very important to understand the context of the -- the
6 context of how the grants are provided. So -- I'm on
7 page 7.

8 MR. COOK: It's the standalone report.

9 MR. DAMOTH: Yeah. The standalone report that
10 was --

11 MR. COOK: At the dais.

12 SENATOR HANCOCK: I understand that, but didn't we
13 just get this?

14 ASSEMBLY MEMBER BUCHANAN: The chart -- this page;
15 right?

16 MR. DAMOTH: This -- no. We basically brought an
17 extra copy so we all have one here, but this was provided in
18 November.

19 SENATOR HANCOCK: Okay. We just got this, so
20 we're going to have to walk through this slowly.

21 MR. DAMOTH: Okay.

22 SENATOR HANCOCK: This is technical.

23 ASSEMBLY MEMBER BUCHANAN: It's in the book too
24 under Tab 16.

25 SENATOR HANCOCK: It is? I didn't --

1 MR. COOK: This report was agendized in November
2 and was provided to all members in November.

3 MR. DAMOTH: But let me try to -- I can try to
4 walk you through it.

5 CHAIRPERSON BRYANT: Did you discuss it in
6 November or was it put over?

7 MR. COOK: No. It was put over to this agenda,
8 but it was distributed to all members of the Board then.

9 MR. DAMOTH: Okay. So on page 7, we've basically
10 provided a chart. State funding is provided to new
11 construction projects in two categories. There is a per
12 unhooded pupil grant and there's also supplemental grants.
13 The pupil grants, they are composite dollar figures. They
14 were set in law in '98. Each grant represents an unhooded
15 pupil based on the difference between a district's
16 enrollment and the capacity -- the classroom capacity within
17 the district.

18 Supplemental grants are on top of that. They
19 augment pupil grant funding. They are often multipliers to
20 the pupil grant; so oftentimes changes to the pupil grant
21 also affect changes to the supplemental grants like
22 Ms. Brown was talking about earlier. I think it was her.
23 It was -- Santee -- one of the districts.

24 Okay. Projects in the study that we've studied,
25 this is 166 projects. 64 percent of state construction

1 funding was from the pupil grants; 36 percent was from the
2 supplemental grants.

3 The fundamental component of this program is that
4 districts have to provide a match at least equal to the
5 state funding provided.

6 So if you look at the chart here on page 7, this
7 is -- starts in 1998. As you can see, the green line
8 represents high school -- or -- yeah, high school grants
9 starting between 6- and \$8,000. It's climbed up to in 2009
10 an amount higher than 12,000. So basically since 1998,
11 pupil grant funding has increased by 80 percent for
12 elementary school and middle school grants and 75 percent
13 for high schools.

14 Since 2004, the increase has become more dramatic.
15 Elementary and middle school grants have increased only
16 since that time alone 55 percent and 50 percent. So if you
17 go to the next page, page 8, we've provided a chart on the
18 supplemental grants. There's bar charts there. The blue
19 lines represent pupil grant funding and the other bar
20 represents supplemental grant funding.

21 I just wanted to show that supplemental grants
22 have increased dramatically. In 1999, supplemental grants
23 were 13 percent. In 2008, supplemental grants were
24 38 percent. So basically a number of supplemental grants
25 have become available to school districts. We're

1 continually doing outreach, making districts aware of these
2 supplemental grants, so they're going up too.

3 Next if you go to page --

4 SENATOR HANCOCK: Can I just ask --

5 MR. DAMOTH: Yeah.

6 SENATOR HANCOCK: I presume something like a high
7 performance school is a supplemental grant.

8 MR. DAMOTH: Correct.

9 SENATOR HANCOCK: And the other ones would be like
10 special ed classroom grants, CTE classroom grants, that kind
11 of thing?

12 MR. DAMOTH: That would be a different program.
13 If you look at page 9, we've listed all the supplemental
14 grants here. So there's -- this is in order. The top
15 section on page 9 is dependent grants meaning that the
16 amount is dependent on the pupil grant and the bottom half
17 of the page is independent grants meaning that they're not
18 dependent on the pupil grant amount.

19 So you see like one of the highest ones is urban
20 security. That's available to urban districts for --
21 they're all for different excessive costs reasons, like --
22 projects have extra -- added costs for project-specific
23 reasons and there's extra grants, for example, geographic
24 percentage factor for site development costs, fire
25 sprinkler, all kind of different things that districts can

1 apply for supplemental grants.

2 When you add them all up, to the overall funding,
3 they're about 38 percent. So pupil grant's only a part of
4 it, is what we're trying to say.

5 Okay. Next -- before we get to the main findings
6 of the study, I want to go through the projects that were
7 included in the study. So if you go to page 10, we've
8 broken down in pie charts the types of projects that are
9 included.

10 These projects represent, just for context to
11 everybody in the audience and the Board, over 3,000 indoor
12 facilities, 70 outdoor facilities were provided. This
13 includes over 2,800 classrooms. Other facilities include
14 multipurpose, libraries, gyms, stadiums, performing arts,
15 athletic fields.

16 So we looked at all of these components of the
17 projects. So if you look at the pie chart here, 67 percent
18 of the projects that the Board funded were additions
19 projects, additions to existing school sites. 33 percent of
20 the projects were new school sites.

21 The next chart kind of shows the construction
22 type. Looks like close to half of the projects were
23 permanent construction. Half of the projects were portable,
24 modular, or some combination of that.

25 The next pie chart on page 11 shows that -- the

1 project grade level and we also broke down the projects --
2 if you look at page 12, there's a regional breakdown within
3 these projects, which counties got how many dollars, how
4 many dollars per classroom, et cetera.

5 Just wanted to go through the range of these
6 projects. There's a huge range of the projects that we
7 studied. One project, for example, one portable classroom
8 of 960 square feet ranging all the way to a whole complete
9 new school.

10 The square footage per pupil ranges from 36 square
11 feet to 161 square foot per pupil. Cost per square foot
12 ranges anywhere from \$99 a square foot to \$950 a square
13 foot. State funding per square foot ranges from \$53 to \$379
14 per square foot and the percentage of state contribution for
15 these projects range of 17 percent all the way up to
16 109 percent state funded.

17 Just to go over the key findings real quick.
18 Starting on page 13, there are some problems that we came up
19 with that are -- that we basically need to delve into a
20 little deeper in order to get the answer to what we're
21 looking for.

22 What we're -- we're trying to find out whether
23 grant adjustment is necessary. We're trying to find out
24 what the state's responsibility is and liability to
25 providing funding to school districts.

1 One of the issues we found is that these projects
2 are under local control which is a fundamental tenet of our
3 program. Districts have freedom to determine design and
4 building components including size, construction type,
5 quality, and we acknowledge that local resources and
6 available local funds obviously will factor heavily into
7 these decisions.

8 Under the lease purchase program of 1978, that
9 lasted all the way until '98, so there was an old program
10 before the current program where there was a square footage
11 per pupil. There were more standards by which it was
12 possible to judge what the state's responsibility was.
13 Under this current program, we believe that standard does
14 not exist. We could not determine the state's
15 responsibility and what they needed to provide.

16 The next page, that leads right into the next
17 finding is that we think that it's an unclear funding model.
18 The basic -- there's basically one thing that determines how
19 these projects are funded basically. There's other things,
20 but the number one thing is the number of classrooms.

21 So if you build -- your square footage per pupil,
22 your construction type, your added facilities, gym,
23 multipurpose room, your type of construction, none of these
24 things affect the funding provided by the state. It's
25 basically a simple formula that's derived by -- it's kind of

1 like a one-size-fits-all approach.

2 And then the third thing that we found is
3 section -- on 15 it says districts requesting all or a
4 portion. A large number of school districts requests less
5 funding than which the project was eligible, meaning if you
6 have a project to build 20 classrooms and a district only
7 requests eligibility for 15, then the grants are going to be
8 for 15 classrooms not 20. So the costs are going to be
9 higher.

10 We also laid out in the report four reasons why
11 school districts do this. They're there for the Board. The
12 fourth reason, low cost projects, some of the projects which
13 are more -- tend to more portable and modular, we broke
14 those out separately.

15 Finally I'd like -- kind of one of the big charts
16 that we've been highlighting, we've had a couple of public
17 meetings with our stakeholders. If you go to page 19, this
18 is really kind of an interesting chart. We broke out -- we
19 looked at only permanent construction.

20 So the top chart, which is the blue line, shows
21 number of projects that -- and the funding -- and the costs
22 per square -- I'm sorry. The cost per square foot of
23 project. So as you can see projects -- there's kind of
24 three groupings. There's one grouping that kind of goes
25 from \$250 to -- I'm sorry -- from about 300 to 360. Then

1 there's the one that goes from about 400 to 500. Then
2 there's one that goes from 620 all the way up to \$780 a
3 square foot.

4 So many of these projects that are for permanent,
5 brand-new schools are costing, you know, based on the
6 self-reported data we're receiving between 620 and \$700 per
7 square foot.

8 The next graph shows the state funding, where it's
9 at. State funding -- remember state provides the funding,
10 the district must provide at least what the state gives
11 them. So you can see that's where it's at. We noted that
12 these give the projects a starting budget of \$240 to \$520 a
13 square foot is the range of what we're giving them when you
14 add in the district required local match.

15 So there's always got to be a conclusion to a
16 study like this. We made one. We feel that the perpetual
17 debate over the adequacy of state school facility funding at
18 this time is irresolvable unless a declaration can be made.
19 Basically we need guidance from the Board policymakers.

20 We gave examples of how that answer could be
21 derived. We could recast the funding model to make more
22 explicit rather than unstated assumptions, identify square
23 foot per pupil that is a standard by which to judge, declare
24 the state dollars per square foot, provide funding that
25 scales with project scope, and set life cycle cost effective

1 design as a standard.

2 So that's where we feel that this is at this time.
3 So we kind of solved the data gap during the problem. We
4 were collecting a great set of data through the Project
5 Information Worksheet and we were able to make the study and
6 then that's kind of where we're at. We're at a stopping
7 point now.

8 CHAIRPERSON BRYANT: Do you have any other
9 comments?

10 MR. COOK: Just entertain questions.

11 CHAIRPERSON BRYANT: Any questions from the Board?
12 Assembly Member Buchanan.

13 ASSEMBLY MEMBER BUCHANAN: The new member here has
14 all the questions today. How do we fund 109 percent of the
15 school?

16 SENATOR HANCOCK: How do we fund what?

17 ASSEMBLY MEMBER BUCHANAN: Well, he said the
18 funding range from I forget what percent to 109 percent.
19 I'm just curious how do we fund 109 percent of the school.

20 MR. COOK: Obviously the self-reported costs on
21 that project are less than the amount of the state grants.

22 ASSEMBLY MEMBER BUCHANAN: So then what, do we
23 then recoup the additional 9 percent?

24 MR. COOK: Districts are able to retain savings on
25 projects unless they're financial hardship.

1 ASSEMBLY MEMBER BUCHANAN: Okay. Okay. And then,
2 you know, I -- I've sort of been trying to reconcile your
3 methodology with the memo we have from C.A.S.H. to where we
4 just were with developer fees.

5 MR. COOK: Um-hmm.

6 ASSEMBLY MEMBER BUCHANAN: And the numbers don't
7 all support each other entirely. And, you know, if you come
8 up with a mix of projects from schools reporting, for
9 example, you've got your pie chart on how many were school
10 additions and how many were new construction. Do we know if
11 we're comparing that to previous numbers? Are there school
12 additions -- they all adding approximately the same number
13 of classrooms or -- I mean are they adding less now or more
14 before? I mean how do we know we have a true apples to
15 apples comparison with that.

16 MR. COOK: All I can -- I'm not sure I have a
17 direct answer for your question. I can tell you a little
18 bit about the data that we collected and how we do it.

19 We have -- when districts come in for a fund
20 release request or -- and at the first year, districts are
21 required to report at annual intervals after receiving the
22 funds. We collect data on projects at the fund release
23 which is typically -- you know, bids are let, folks have got
24 their contracts underway, and the costs are largely
25 estimates at that point.

1 We also collect data at the first year of
2 reporting where some of the costs should have been firmed up
3 because they're underway and then we do it at the closeout
4 when the project is over and done with.

5 Those figures should be quite good. There's a
6 good reason for that. We want to be able to capture
7 information as we go along so that it -- to look at this
8 question whether the grants are adequate or not. It doesn't
9 do us a great deal of good to look backward at a project
10 that was done seven years ago and try to make an adjustment
11 today. We try to do the best we can with the --

12 ASSEMBLY MEMBER BUCHANAN: I'm just saying -- I
13 mean if we want to say costs went up 10 percent, are we sure
14 that entire 10 percent was because of construction cost
15 inflation or is it because the schools that we're building
16 today are different.

17 I mean let me just give you an example. If
18 Assembly Member Brownley, when they build their elementary
19 school, if they just build classrooms, an office, a
20 multi-use room, and maybe some offices for support staff and
21 we decide in our district, well, when we build them, we also
22 want to have a science lab and a computer lab and other
23 facilities. Then the cost per student in my school district
24 is going to be higher than the cost in Assembly Member
25 Brownley's. I'm just curious --

1 MR. COOK: Um-hmm.

2 ASSEMBLY MEMBER BUCHANAN: -- as to how do we
3 adjust for that so that we're getting --

4 MR. COOK: The data we collect captures the size
5 of the facilities including the components of the facilities
6 and then convert -- that becomes relatively simple to figure
7 out what the student capacity is, the square footage per
8 student, the square footage per facility, as well as the
9 dollars per square foot spent on the facility.

10 You could dive deeper into the data to try to make
11 comparisons between schools with different components in
12 them, but when you can convert it down to the square footage
13 and the square footage per child and the dollars per square
14 foot, you're about as comparable as you're going to get
15 probably in the building world absent substantial
16 differences in construction types, which we don't capture
17 that.

18 ASSEMBLY MEMBER BUCHANAN: Right.

19 MR. COOK: Whether somebody uses steel frame
20 construction or stick build or, you know, a steel roof or --
21 versus a -- those are things we don't capture.

22 ASSEMBLY MEMBER BUCHANAN: And I appreciate that,
23 but if you, for example, this time included -- you have a
24 mix two-thirds additions, one-third new schools and before
25 you didn't have that same mix, you could come up with very

1 different numbers; right?

2 MR. COOK: You could certainly track. Over time
3 you could see. It's been fairly consistent for a long time
4 that two-thirds of the new construction projects that come
5 in our door are additions to existing sites. Don't know the
6 reason behind that, but two-thirds -- it's been very
7 consistent for the time I've been involved in this program
8 that two-thirds of the new construction projects are
9 additions.

10 ASSEMBLY MEMBER BUCHANAN: I just have a couple
11 more questions. I think you made a comment partway through.
12 You were talking about none of the basic auxiliary
13 classrooms are determinative of cost. The biggest is the
14 classrooms themselves?

15 MR. DAMOTH: That's one of the problems is that a
16 project for -- I mean when you're looking at like you said
17 the additions projects. A school district can come in.
18 They have a portable classroom and -- or two portable
19 classrooms and they'll get funded with the same grant with a
20 school district that has the two portable classrooms and a
21 full gym.

22 So -- and that school district may not have an
23 adequate gym at their site -- may not have, you know, some
24 of these subsidiary facilities. So right no the way the --
25 the funding model is very simple. It's just number of

1 classrooms is the basic -- basically what you get funded by.

2 ASSEMBLY MEMBER BUCHANAN: Okay. And then -- let
3 me tell you, one of my problems -- we just looked at a
4 developer fee adjustment where we were going down by one
5 penny and if you divide, you know, the -- potentially --
6 hasn't been passed yet -- developer fee by the old, it's a
7 drop of .34 percent and yet we're talking about the cost of
8 school -- which is designed for new construction; correct?
9 I mean to supplement that --

10 MR. COOK: Um-hmm.

11 ASSEMBLY MEMBER BUCHANAN: -- and yet we're
12 talking about a 6.7 percent decline here. So how do you
13 reconcile those two number?

14 MR. COOK: Well, I can tell you how the -- what
15 the effect is and why the developer fee changed the way it
16 did. Last -- well, last year -- I think we actually did it
17 in February -- we did our annual Construction Code Index
18 adjustment for the pupil grants. Okay. It went up
19 6 percent. This year, you know, minus 6.74.

20 The developer fee is adjusted every two years.

21 ASSEMBLY MEMBER BUCHANAN: Okay.

22 MR. COOK: It went up 6 percent. We're just
23 catching up on the index. It went up 6 percent last year
24 and down a little over 6 percent this year and that's why
25 you're seeing it relatively flat. That's all. It's just

1 the same numbers over two years.

2 ASSEMBLY MEMBER BUCHANAN: Two different points in
3 time. Okay.

4 MR. COOK: Yeah.

5 CHAIRPERSON BRYANT: Do you have a question?

6 MS. MOORE: Couple questions and also input. Just
7 as an aside of what you indicated about two classrooms
8 receiving the same as a new school, there is some caveat
9 there in that we also restrict by 60 percent those two
10 classrooms that come in separately. We say you must have
11 hard costs of 60 percent; whereas -- and that -- which they
12 probably cannot reach because they're not building those
13 areas and we don't allow that money to be banked necessarily
14 for future additions that may be necessary on those schools.

15 I think a fundamental issue within our program.
16 So that -- I think there's a more -- there's additional
17 information on that question.

18 The other piece that is of -- I think interesting
19 here as well, we're not looking at a 6 percent increase with
20 this study. This study was to look at because AB127
21 recognized that perhaps there was a problem with how we
22 converted from a square footage program to a per pupil
23 program and were we truly funding what was conceptually
24 50 percent of project cost at the state level and then the
25 local level with their developer fee component of that.

1 Having lived at the local level, I will maintain
2 that it did not and that in fact over time, the locals have
3 been funding more of the project and you saw the emotional
4 outreach of that with the people that say please do not
5 reduce us further because we never were equal.

6 And I think this is also an opportunity. We
7 continue to have the opportunity to ensure that our schools
8 are schools of longevity. When we cut the costs, we may be
9 cutting 6 percent now, but 15 years from now, we're
10 contributing 50 percent more because we built a portable
11 building versus a permanent building that does not have life
12 cycle nor longevity in our system.

13 So we may be cutting our nose to spite our face.
14 We're saving a little bit now, but what have we done I think
15 overall and overall for the State of California as well as
16 for the liability of schools at the local level.

17 In the same manner that we talked about the
18 developer fee, we did not do an adjustment in 2009 based on
19 any reports. This report is now coming in 2010.

20 So if we were -- if we had adjusted in 2009 and
21 2010, what would -- you know, at the maximum allowed, we
22 would be at 12 -- hypothetically we would be at 12 percent;
23 is that correct? The max amount allowed.

24 MR. COOK: That's correct.

25 MS. MOORE: We did neither, whereas the developer

1 fee, you saw it kind of -- it equaled out. We just took a
2 6.7 percent cut in the program for 2010 based upon the bid
3 situation that we believe is occurring. Some others don't
4 believe that, but that's for the future.

5 But we never in 2009 addressed this issue of are
6 we truly at a partnership with schools and I would maintain
7 that we are not as a state -- as a state, we have not. Now,
8 whether people think we should or should not be there, I
9 think is a policy consideration ultimately that the
10 Legislature could look at, but as we have been in the
11 system, I would maintain we continue to need to look at this
12 issue.

13 In this report, it shows that for permanent
14 buildings which the program was built upon -- I think the
15 unintended consequence of adding on to existing facilities
16 has increased our overcrowded problem and I would say have
17 we -- has the unintended consequence of how we fund made our
18 schools much larger in California than they are anywhere
19 else in the nation and/or have we added onto existing
20 campuses because that's what we could afford to do versus be
21 able to build what we know educationally is smaller than
22 3,000 -- but some range in there, smaller schools benefit
23 our students educationally.

24 So we've had some unintended consequences here as
25 well. And you look at this report, you look at the

1 permanent construction component of it. We are not at
2 50 percent.

3 Just on your numbers alone here, we are at I think
4 37 percent on a complete school. I don't think this program
5 anticipated simply additions. We anticipated building
6 complete schools and I think that's where we want to be both
7 locally and as a state contributing to life cycle costs for
8 long-term, 30-year buildings in our system.

9 So I for one think that we need to adjust
10 accordingly on that, but if we need -- we may need more time
11 to look at this as well.

12 ASSEMBLY MEMBER BUCHANAN: So are you recommending
13 we not adjust down since we're not funding 50 percent?

14 MS. MOORE: We already made the adjustment down.
15 That was voted on by this Board, the CCI index. This is
16 separate.

17 ASSEMBLY MEMBER BUCHANAN: Okay.

18 MS. MOORE: This I think is looking more big
19 picture. The CCI index is an annual adjustment that we are
20 required as a board to do. To me this report is looking I
21 think as they tried very hard to do -- we tried it a couple
22 of times. It's -- I think Mr. Cook is absolutely correct.
23 It's a very difficult task to do. We're going to hear from
24 other people how difficult it is.

25 I know that on the ground, however, that we have

1 had a very difficult time to build quality construction with
2 the percentages that we receive from the state and that it
3 behooves us to build quality schools, both educationally and
4 I think infrastructure capacity-wise so we're not coming
5 back and fixing those problems 15 years from now.

6 CHAIRPERSON BRYANT: Is there -- did you want to
7 say something, Mr. Cook?

8 MR. COOK: The conclusions to the report frankly
9 are the huge variability in the types of projects out there
10 from wealthy districts to those that don't have funds to --
11 you know, the beauty -- one of the great beauties of our
12 program is the local control and the flexibility that it
13 provides.

14 That local control and that flexibility coupled
15 with a funding model that, you know, funds kids basically --
16 or funds, you know, the housing of a kid versus laying out
17 dollars in construction terms makes this a really -- it's
18 just a really challenging thing to figure out where -- what
19 the appropriate level of funding is. It's just simply there
20 are no standards as far as -- you know, there is no set
21 standard that we fund to. We just can't -- to judge
22 against.

23 And it's -- we have a lot of data now. We
24 certainly see what folks are doing and I hope this -- you
25 know, this can inform a future bond debate. Certainly I

1 think that would be the appropriate time to look seriously
2 at the funding models -- figure out how we can make it much
3 more explicit, how we can make it -- outcomes, but it's --
4 this is a real -- simply just a really tough question to
5 grapple with.

6 CHAIRPERSON BRYANT: Any other questions or
7 comments from the Board? Public comment, Mr. Duffy.

8 MR. DUFFY: Thank you again. Two things.
9 C.A.S.H. did a study on its own and we shared that with you
10 and is that what you were referring to is -- or was it
11 newer --

12 ASSEMBLY MEMBER BUCHANAN: It was the -- I guess
13 it was the study that said elementary schools are 32 percent
14 underfunded, middle schools 7, and high schools 41 percent?

15 MR. DUFFY: Yes. And we had shared that study
16 last month with the Board -- or not last month. It was
17 November with the Board anticipating that this item would be
18 discussed.

19 Our -- in our study, we approached it differently
20 than the OPSC study in that we believe this program was
21 built on the old program that Josh talked about which was
22 the square foot model where within that square footage a
23 portion of it went to classrooms, toilet rooms, libraries,
24 and the like, ancillary facilities such as gyms, and that
25 the combining the square footage that you receive per child,

1 you then determine, for a 600 pupil elementary school, how
2 you use that square footage and that -- there was
3 flexibility there except for classroom sizes for the most
4 part.

5 We believe that doing the -- and one other thing.
6 It was -- that was looking at building a complete school and
7 building a complete school on a new site.

8 We believe that this study should have been
9 approached in that way in that the program was really
10 conceived to build complete schools, although there is --
11 the option of course has been discussed of building
12 additions.

13 So in our study, we basically screened out the
14 Project Information Worksheets that had projects that were
15 starting early. We only wanted projects that were almost
16 complete so we knew what those dollars were for the end
17 product.

18 And we utilized schools that involved site
19 acquisition because that site acquisition identifies that
20 it's a new site -- new school. So our approach took all the
21 other data and basically left that aside saying in so many
22 words, the additions and the other kinds of facilities, the
23 breakouts that Josh has in the study, really don't inform
24 the question of the shall we increase the grants by
25 6 percent.

1 One other thing that's important to note for you
2 is that the -- there was the discussion of the other costs
3 that are identified that are supplementary. The statute
4 says that the 6 percent is for the pupil grant. It's not to
5 look at these other costs that basically have come into the
6 program since 1998.

7 So one that was mentioned was the fire alarm
8 safety system which includes sprinklers in new schools.
9 There's an additional cost because when Jack O'Connell wrote
10 that legislation we said there needs to be a way of paying
11 for that and we'll pay half, but the state needs to ante.

12 So that wasn't in the pupil grant that was added
13 on. Access compliance was mentioned. That came as a result
14 of a DSA determination. It wasn't even -- it wasn't
15 legislation.

16 So there have been things that have been added
17 into the program and we have argued for costs to cover those
18 and we think that they need to be segregated out of the study
19 and look only at the pupil grant. And you read off the
20 numbers that we have, the 32 percent differential for
21 elementary, 7 for the middle school, and 41 for high
22 schools.

23 We took the OPSC study and analyzed that and I
24 don't think you have a copy of -- or a letter on that, but I
25 will give you one. And a couple of you just I think didn't

1 get a chance to really digest that, but we looked at the
2 OPSC study and felt that there was something that was wrong.
3 We had different view of how to approach it by saying, okay,
4 let's look at their numbers and see if we agree with what
5 comes out.

6 Well, in the document that has a chart in it that
7 looks like this, we discovered that there was an error in
8 our view of how you approach this study in that the
9 projects -- and these are all 166 projects that Josh
10 mentioned. The projects are identified there and then
11 they're divided out by numbers of projects which give a
12 false percentage.

13 So the one that we're showing here is K-6 portable
14 additions which were at \$4.7 million represented, according
15 to the OPSC data, 12 percent when in essence if you divide
16 by value of the projects, not by number, it's just a little
17 over a half of percent.

18 In comparison, there's a 7-8 permanent new site
19 and the total apportionments were 272- -- almost
20 273 million, their value in the blue, according to the OPSC
21 information, is at 11 percent as compared to portable
22 additions at 12, when really permanent new sites is
23 31.60 percent.

24 If you take all of that and aggregate it and look
25 at what has the state paid of those 166 projects, that's

1 what's in yellow. It's the 37.5 percent, the bottom,
2 whereas the OPSC information says that it's almost 47 and a
3 half which we believe is not accurate.

4 So we believe that using the OPSC information, if
5 you were to do that, supports a 6 percent increase as I
6 noted before for 2009 and this is supposed to be
7 retrospective. I'm not sure of how you want to approach
8 2010.

9 CHAIRPERSON BRYANT: Mr. Harvey.

10 MR. HARVEY: I need some help in understanding
11 some of the terms. You use the term complete school.

12 MR. DUFFY: Yes.

13 MR. HARVEY: And in your letter, you say that when
14 you talk about the additions, those shouldn't be part of a
15 complete school, even though they do things like sprinklers
16 and handicap access and things that I think make a complete
17 school.

18 You go on to argue that really what you have to do
19 is make sure it's the libraries and the gymnasiums and the
20 science labs and the other things that by your definition
21 apparently is a complete school.

22 I'm having difficulty understanding what a
23 complete school is and what I don't want as a policymaker is
24 to simply say the state should pay half of whatever a
25 district decides to build, in that the definition of

1 complete can be -- you know, I'll say pejorative -- the Taj
2 Mahal as opposed to something that really is about educating
3 kids in the proper environment.

4 So the thing I'm wrestling with is trying to
5 understand the public policy reason for why it went to per
6 pupil. I can see it -- I mean it seems like it was an
7 effort to say we're not going to worry about all this other
8 stuff the districts may want to do. We really want to know
9 what it's going to cost to put an individual, no matter
10 where they may be, in their seat.

11 So that sounds logical, but I'm really confused
12 about what a complete school is and how I as a policymaker
13 should be factoring whether additions are part of that or
14 they're not part of that and how we really make sure the
15 state is not overpaying for what someone decides is a
16 complete school.

17 MR. DUFFY: Mr. Harvey, during the latter part of
18 2003 through 2004, '05, '06, and beyond, school districts
19 being funded through the program here on pupil grants were
20 frequently not building complete schools, although the
21 California Department of Education had approved their plan
22 for 30 classrooms, a library, toilet rooms, and the like
23 because of the bid climate at that time.

24 So they frequently -- and that kind of data I
25 think is important because of this ebb and flow of

1 construction costs. So districts frequently took plans that
2 CDE approved, put them in a corner, basically did degrading,
3 called a modular manufacturer and said can you replicate
4 with classrooms what we have here and we don't have enough
5 money to provide the library and other ancillary facilities
6 except maybe toilet rooms.

7 That was a reality. There were appeals before the
8 Board asking for additional funds because the full and final
9 apportionment statutory language that those were denied.
10 They were denied outright, although the Board listened and
11 said, you know, we wish we could help you.

12 So this program was constructed in such a way and
13 came out of SB50 as we said. I'm recalling that it was Bill
14 Leonard who came up with the idea of the per pupil grant
15 saying can't we come up with a simple way and make this a
16 simpler program.

17 There were complaints about OPSC at the time and
18 they were saying can't we get it through faster, give
19 districts more discretion.

20 So the question that's come up, well, should we
21 have a different means of paying for additions on sites if
22 districts are not going to be building the expensive
23 ancillary facilities like gyms and libraries and toilet
24 rooms, that they're building simply classrooms.

25 Well, you have a mechanism in your policy that

1 basically controls for that. It's called the 150 percent
2 rule and it's been an issue before you in the past. That's
3 because it was recognized that districts -- if districts
4 want two classrooms' worth of pupil grants at the elementary
5 level that would be 50 and if they can build more than two
6 classrooms with that amount of money, your policy allows
7 them to do that up to a certain number.

8 So there are program issues related to the school
9 facility program that have negatives for districts and have
10 positives for districts depending upon what they're building
11 and what they can add into the cost of the project.

12 But for purposes of this study, we believe that if
13 you just use OPSC's data and do the sort that we did,
14 correcting the error, it shows that you should increase the
15 grants by 6 percent.

16 If you want to look at our study, our studies have
17 definitely looked at a different kind of facility that's
18 saying let's look at complete school when it's done, when
19 the projects pretty much closed out and you know what you've
20 spent on those change orders. You know what you've spent on
21 what you found underground that you didn't know when you did
22 your borings, that kind of thing.

23 So we would -- we see that using OPSC's data you
24 could increase by 6 percent. If you want it increased by
25 more than that, you can look at our dataset.

1 CHAIRPERSON BRYANT: Assemblywoman Fuller.

2 ASSEMBLY MEMBER FULLER: Well, here's the deal.
3 We've been sitting here a really long time and we have lots
4 of agenda items to go and I really appreciate all the
5 discussion, but the problem here remains twofold. One, on
6 this agenda item, we've already approved the grant; right?
7 We've already approved the adjustment to the pupil grant.
8 We've done that; right?

9 CHAIRPERSON BRYANT: No, we haven't. We did
10 the --

11 ASSEMBLY MEMBER FULLER: We're going to restate
12 that question then shortly and we're going to do that.
13 Okay. Meanwhile, all this other stuff is about how we
14 arrive at the grant and if -- I think Rob's first statement,
15 if we decide that we are going to change the grant or do
16 research -- and I agree with you. I think we've heard
17 complaints forever about the adequacy of the grant. We
18 don't have a definition of complete school that everybody
19 agrees to.

20 So at the bottom of the day, this Board has to
21 appoint someone to do whatever it is in a different section,
22 not in a Board meeting, that comes up with that.

23 Personally, I like the good old days. You had X
24 kids, you got X classrooms, and you got X percent to augment
25 for the cafeteria and the library or whatever you wanted to

1 choose, but you got X percent of the building to choose and
2 then, yes, we probably need to put over here and you get
3 X percent over that for all of the new CEQA and other stuff
4 that we have to do.

5 And at the end of the day, that gave us
6 flexibility. Now we have gone down to all kinds of pricing
7 and flexibility and 16 different ways of looking at things
8 and so we're arguing about every single thing at every
9 single meeting and all these poor people are coming here and
10 having to be put over and put over and put over.

11 So I would like to call for the question on this
12 and have it restated by Lisa or whomever as to what it is
13 that this particular item requires tonight and I would like
14 another agenda item at another point that Lisa and Rob and
15 maybe the Chair get together and say here's some options for
16 studying this or resolving this question, task force,
17 special meetings, whatever, but some process outside of a
18 regular Board meeting agenda because this is too big a
19 question. We've argued about it now for six months and
20 we're not getting anywhere.

21 And then thirdly, I think that we should probably
22 just stop trying to say whether it's adequate or not because
23 I think we all have our opinions on that and we should come
24 up with the next question which is pretty soon we are going
25 to be out of money entirely. That's a way bigger issue than

1 this. Like we'll have no money.

2 And right now my experience with Level 3 fees is
3 that when it goes to a Level 3 fee, everybody's so dead in
4 your district they leave you or they can't build, so there's
5 no money -- that's no help at all. If we go to Level 3,
6 we're done in my opinion and especially in this climate.

7 So let's start out with the questions in order
8 which is, one, when we run out of money, what are doing and
9 let's have a task force or whatever we're going to do to
10 come up with some legitimate ideas and that should be
11 some -- Rob, Lisa, the Chair issue; and then, two, after we
12 come up with that, at what point do we need this question
13 revisited is a pretty easy answer and that's same structure
14 could come up with the options we could consider.

15 So thank you, but I think we should move on.

16 CHAIRPERSON BRYANT: Senator Hancock.

17 SENATOR HANCOCK: I would agree with that and I
18 don't think we need to make a motion on it. But simply
19 suggest that maybe we need to bring in some outside people
20 or Rob or, you know, or whoever could look at that. I don't
21 know if the LAO has the technical capability, but they might
22 be able to look at these reports and suggest some things.

23 And then there is the University of California.
24 It's -- yeah, Center for Cities and Schools that looks at
25 these things. They sent us a letter saying they had some

1 suggested changes to the OPSC report too.

2 And so when we look at it, I think it would be
3 helpful to the Board if there was some consensus in terms of
4 concrete recommendations of a different way to do it that
5 would be simple and easy for schools to use. Other than
6 that, I agree. Our problem is going to be more money and
7 how we -- in a situation where there is inadequacy in almost
8 every level of funding at the state, we deal with this
9 particular level of inadequacy.

10 ASSEMBLY MEMBER FULLER: So can I call for the
11 question and have somebody restate --

12 MR. HARVEY: What's the question?

13 ASSEMBLY MEMBER FULLER: -- what is the question.

14 SENATOR HANCOCK: I don't think there is a
15 question. I think --

16 CHAIRPERSON BRYANT: I think we don't have an
17 answer to the question.

18 SENATOR HUFF: A motion to take no action on all
19 the stuff that you just talked about.

20 ASSEMBLY MEMBER FULLER: What is the actions that
21 we're asking for on this voting item?

22 CHAIRPERSON BRYANT: They're asking -- we're being
23 asked to whether or not we want to adjust the per pupil
24 grant amount and there's not a recommendation of an amount,
25 so we can go any level. This presentation was to try to get

1 us to feel comfortable setting a level. I for one share
2 your frustration. I don't know what adjustment. I'd
3 probably just leave it at this point.

4 But the three of these items are all interrelated
5 and I don't know the answer. Rob?

6 ASSEMBLY MEMBER FULLER: Short.

7 CHAIRPERSON BRYANT: Short.

8 MR. COOK: Keep it nice and short. There is no
9 right answer. There just isn't.

10 ASSEMBLY MEMBER FULLER: Okay. So here's what I
11 think. Okay. What is the date, Rob, that we need to know
12 this by -- this information? Because this is a he said, she
13 said report issue that's never going to end. We need a
14 process. We don't have any process.

15 MR. COOK: Well --

16 ASSEMBLY MEMBER FULLER: Okay. If we don't do
17 anything for four months or a year, that's a problem?

18 MR. COOK: No. This is --

19 ASSEMBLY MEMBER FULLER: If we don't do anything
20 for a month.

21 MR. COOK: This is strictly discretionary on the
22 Board. The Board is not obligated to take any action
23 whatsoever on this.

24 CHAIRPERSON BRYANT: And if we take an action
25 four, five, or six months from now, it would be retroactive

1 to this point? It could be retroactive to this point?

2 MR. COOK: It could be made retroactive to this
3 point.

4 ASSEMBLY MEMBER FULLER: And how about this.
5 Let's have someone -- your committee or whomever --
6 recommend a process that comes forward to resolve the he
7 said, she said mass of reports and a timeline for us and
8 maybe that gets run through the Implementation Committee so
9 everybody in the audience can comment on it before it comes
10 back.

11 SENATOR HUFF: I second that motion.

12 SENATOR LOWENTHAL: What is this motion now?

13 SENATOR HUFF: I believe I heard her motion to be
14 table the item tonight and have -- process and bring it back
15 at a future meeting.

16 CHAIRPERSON BRYANT: And have the Implementation
17 Committee do that?

18 SENATOR LOWENTHAL: Yeah.

19 CHAIRPERSON BRYANT: Look at it. Okay. Quickly,
20 Mr. Harvey.

21 MR. HARVEY: Very quick question. Our staff
22 report indicates that there was a category of student, the
23 special day class nonsevere and special day class severe
24 that inadvertently had been let out of the calculation.
25 Effective January 1st of this year, they're back in.

1 By tabling or postponing, are we doing anything to
2 not recognize what could be an adjustment for them and
3 should we do something about a 6 percent adjustment on them
4 to make them whole to what others had received earlier when
5 they were inadvertently left out?

6 MR. COOK: We can -- if this Board wants to keep
7 this question open, any apportionments we make which we
8 would be making some next month could be held open, would be
9 held not full and final until the question is resolved which
10 means that those -- the population that you described could
11 be held harmless in that.

12 MR. HARVEY: That's -- thank you very much.

13 CHAIRPERSON BRYANT: Okay. So moving onto Item 17
14 **[Biggs Unified]**. And who's presenting on this, Rob?

15 MR. COOK: Jason Hernandez will be presenting this
16 item.

17 CHAIRPERSON BRYANT: Jason.

18 MR. HERNANDEZ: Okay. Well, good evening. Again
19 my name is Jason Hernandez and I'm the Audit Supervisor for
20 the financial hardship team for the Office of Public School
21 Construction.

22 This item was brought back from the November SAB
23 meeting, if you remember, and my program, the financial
24 hardship program, is the one program that a district can
25 potentially get up to a hundred percent state funding

1 instead of the standard 50-50 for new construction or the
2 60-40 for modernization.

3 The basic premise of the hardship program is that
4 you first have to meet what some of us call the light
5 switch. You have to meet the qualifying criteria for
6 hardship and there's four basic criteria. Is it a small
7 school district with a total bonding capacity of less
8 \$5 million. Is it a district that's bonded to at least
9 60 percent of their total bonding capacity. Have they
10 passed a Prop. 39 bond for the maximum amount within the
11 last two years from the date they filed for financial
12 hardship, or if you're a County Office of Education, you
13 meet that light switch or that qualifying criteria
14 automatically.

15 If you don't meet one of those four qualifying
16 criteria, you do have the option to present under other
17 evidence to the Board and that's what the Biggs items here
18 before you today is.

19 Just a quick recap also, we went over the
20 qualifying criteria. The amount of the request that we are
21 considering for the Biggs, it's a total estimated state
22 apportionment of approximately 3.1 million, an estimated
23 financial hardship apportionment of 2.096 million, leaving a
24 total estimated project cost of approximately 5.2 million.

25 Some of the special circumstances for Biggs that

1 they reported to us, one being that back in 2008, '09 under
2 their first interim report, they had a negative report from
3 their County Office of Education under AB1200. One thing to
4 also consider too is that by their third interim report,
5 they had moved from a negative through cuts and other things
6 that I'm sure the district could explain better than I could
7 to a positive.

8 But as part of that, the COE said in a letter to
9 OPSC as part of the package they submitted that even though
10 they did make it to a positive determination for the third
11 interim report, the district could not handle any additional
12 debt such as COP.

13 And also the district had attempted two general
14 obligation bonds I believe in -- through 2008 and both those
15 measures had not passed. I think they both narrowly failed
16 in the area.

17 So that was the basic premise of the request. One
18 of the things the Board had asked the district last time was
19 to come back with a list of projects. You can see the list
20 of projects that the district submitted on stamped page 313
21 and that basically almost pretty much mirrors the projects
22 that I had listed on the first page on 309, but it goes into
23 a little more detail as far as what those projects
24 encompass.

25 I know one of the -- an item that was brought up

1 by one of the Board members, an area of concern so to speak
2 was that if this item was approved under the criteria that
3 the district had not -- would not have made a reasonable
4 effort which is one of the basic premises of a financial
5 hardship program. You're making a reasonable effort to fund
6 your projects.

7 This potentially opened up the door or set
8 precedent for other districts to come in under the same
9 criteria but not actually qualifying for hardship and
10 potentially set a precedent and have a liability for the
11 district.

12 That is basically the real quick recap in a
13 nutshell and I can answer any additional questions that the
14 Board may have, and obviously then I'm sure the district as
15 well would like to come up and further present their case.

16 CHAIRPERSON BRYANT: Is there anyone here from the
17 district?

18 MR. CORNELIUS: Hi, I'm Bill Cornelius,
19 Superintendent of Biggs Unified School District. Per your
20 request, I provided a list of district modernization needs
21 and I'd like to reiterate that we have been working very
22 closely with OPSC since 2006 to pursue approval of financial
23 hardship status based on other reasonable effort and have
24 done everything suggested by the OPSC, including two bond
25 elections.

1 The district has made all reasonable efforts to
2 impose all levels of local debt capacity and developments
3 through levying the maximum developer fee justified under
4 law and its attempt to pass two bonds.

5 Based on this information, we'd like to request
6 approval of Option 2. Thank you.

7 CHAIRPERSON BRYANT: Is there any questions,
8 comments from the Board? Senator Hancock.

9 SENATOR HANCOCK: Thank you. I am going to simply
10 make a motion that we approve the staff recommendation. We
11 talked about this hard time. If you can qualify for
12 hardship because you didn't pass a bond, why would any
13 community pass a bond.

14 CHAIRPERSON BRYANT: Is there a second?

15 ASSEMBLY MEMBER BROWNLEY: I'll second.

16 CHAIRPERSON BRYANT: Call the roll.

17 ASSEMBLY MEMBER FULLER: I'd like discussion
18 before we vote.

19 CHAIRPERSON BRYANT: Oh, okay. I'm sorry.

20 ASSEMBLY MEMBER FULLER: Okay. Before we get to
21 much further, I agree that this community needs to pass a
22 bond. There's no doubt about it. I agree with that.
23 However, what I disagree with is that when I look at this
24 list, replace leaking, deteriorating roofs, install fire
25 alarm to meet current codes, modernize heating and

1 ventilation systems, bathrooms ADA compliant, and then we go
2 down here to remove hazardous materials, replace 20-year-old
3 portable classrooms, modernize phones, and when you look at
4 the schools, you will see that the schools are one built in
5 1950. I believe that means they are approximately 60 years
6 old because I was born in 1950 and I feel a need of some
7 rehab myself and so I think that while this district does
8 need to pass a bond, number two gives them the flexibility
9 because look how small they are. When you're a school that
10 size, you don't have any other money you can pull. How are
11 they going to fix their leaking roofs.

12 I don't think anybody in here wants a school to
13 have leaky roofs, un-ADA compliant bathrooms which they will
14 be sued for by the first severely handicapped student that
15 they get, and we will all be paying for that, et cetera.

16 By doing Option 2, that gives them the chance to
17 go out and pass the bond and say to their people, look, you
18 guys, we're not going to get anything at all, but we're
19 going to get this hardship money if you pass it and maybe
20 get them over the hump.

21 Otherwise, we have kids going to a very unsafe
22 school situation.

23 Now, you should have passed a bond, but your
24 people didn't do it. I understand that. If we say no, then
25 there's approximately \$70,000 that's been identified and

1 supposed to fix all those things. I don't know what the
2 hazardous material is, but that alone is probably more than
3 \$70,000 according to the other statistics.

4 So I don't know when you can go. I don't know
5 what you can do. I don't know how we can fix it.

6 So by 2, we invest a little bit of money in them
7 and give them a chance, but at the end of the day, they lose
8 if they don't pass the bond. So I will not be voting yes on
9 this motion, but I agree with part of its intention.

10 CHAIRPERSON BRYANT: Senator Hancock, anything?

11 SENATOR HANCOCK: No.

12 CHAIRPERSON BRYANT: All right.

13 MS. MOORE: Is that a substitute in that motion?

14 ASSEMBLY MEMBER FULLER: Yes. Thank you.

15 MS. MOORE: Is it accepted?

16 SENATOR LOWENTHAL: What is the substitute to
17 do -- Option No. 2?

18 SENATOR HANCOCK: No. I never substitute --

19 CHAIRPERSON BRYANT: Is there a second for the
20 substitute motion? Does it have to be accepted by the
21 original motioner?

22 SENATOR HANCOCK: Yeah. I don't accept it as a
23 substitute motion.

24 SENATOR HUFF: No. I'll second the motion and the
25 substitute motion, it gets acted on separately and then it

1 goes back to the primary motion if it fails.

2 MS. MOORE: So which motion are we on?

3 CHAIRPERSON BRYANT: We're on the substitute
4 motion.

5 SENATOR LOWENTHAL: We're on Option No. 2.

6 ASSEMBLY MEMBER FULLER: Doesn't she get to go
7 first?

8 SENATOR LOWENTHAL: No. No. No. And then if it
9 doesn't pass, we go back to the original motion.

10 CHAIRPERSON BRYANT: Yes. Go ahead and call the
11 roll.

12 MS. GENERA: Senator Lowenthal.

13 SENATOR LOWENTHAL: This is on the substitute
14 motion?

15 MS. GENERA: Yeah. Option 2.

16 SENATOR LOWENTHAL: No.

17 MS. GENERA: Senator Hancock?

18 SENATOR HANCOCK: No.

19 MS. GENERA: Senator Huff.

20 SENATOR HUFF: Aye.

21 MS. GENERA: Assembly Member Fuller.

22 ASSEMBLY MEMBER FULLER: Aye.

23 MS. GENERA: Assembly Member Brownley.

24 ASSEMBLY MEMBER BROWNLEY: No.

25 MS. GENERA: Assembly Member Buchanan.

1 ASSEMBLY MEMBER BUCHANAN: Aye.

2 MS. GENERA: Kathleen Moore.

3 MS. MOORE: Aye.

4 MS. GENERA: Cynthia Bryant.

5 CHAIRPERSON BRYANT: Aye.

6 MS. GENERA: No. It fails.

7 CHAIRPERSON BRYANT: It fails. Okay. Back to the
8 original motion.

9 SENATOR LOWENTHAL: It did not pass?

10 SENATOR HUFF: No. It failed.

11 MS. KAPLAN: It was a 5-3 vote. It needs six.

12 CHAIRPERSON BRYANT: Go ahead.

13 MS. GENERA: Senator Lowenthal.

14 SENATOR LOWENTHAL: This is the original motion
15 which is Option No. 1? Aye.

16 MS. GENERA: Senator Hancock.

17 SENATOR HANCOCK: Aye.

18 MS. GENERA: Senator Huff.

19 SENATOR HUFF: No.

20 MS. GENERA: Assembly Member Fuller.

21 ASSEMBLY MEMBER FULLER: No.

22 MS. GENERA: Assembly Member Brownley.

23 ASSEMBLY MEMBER BROWNLEY: Aye.

24 MS. GENERA: Assembly Member Buchanan.

25 ASSEMBLY MEMBER BUCHANAN: No.

1 MS. GENERA: Kathleen Moore.

2 MS. MOORE: No.

3 MS. GENERA: Cynthia Bryant.

4 CHAIRPERSON BRYANT: No.

5 MS. KAPLAN: Is Mr. Harvey coming back?

6 MS. OROPEZA: Yes. He's on the phone.

7 CHAIRPERSON BRYANT: Okay. Let's -- now I don't
8 know which item we're leaving open. I guess we're --

9 ASSEMBLY MEMBER BROWNLEY: Well, we should have
10 not -- if we're -- we should have waited on the substitute
11 motion for Mr. Harvey's vote; right -- or no?

12 ASSEMBLY MEMBER FULLER: Can we leave them both
13 open till he comes back or on call or something?

14 ASSEMBLY MEMBER BROWNLEY: He's going to call it
15 one way or the other I guess.

16 CHAIRPERSON BRYANT: Okay. We're leaving -- I
17 think we're leaving the substitute motion open. Although I
18 guess I said motion failed. I'm sorry. My Robert's Rules
19 of Order are sort of fuzzy here.

20 MS. KAPLAN: You can redo a third motion.

21 SENATOR LOWENTHAL: You would have to do a third
22 motion.

23 CHAIRPERSON BRYANT: We can have Mr. Harvey make
24 the motion when he comes back.

25 SENATOR HANCOCK: If he wishes to.

1 CHAIRPERSON BRYANT: Okay. Item 25.

2 SENATOR LOWENTHAL: Yes.

3 CHAIRPERSON BRYANT: For Senator Lowenthal.

4 SENATOR LOWENTHAL: We're having so much fun at
5 these meetings. Item 25 has to do with the **frequency of SAB**
6 **meetings**, and it's really considered an informational item.

7 I believe that the change in SAB meetings has to
8 be an action item because this Board has not a
9 recommendation and then it goes forward.

10 A little background. I really believe that the
11 role of the Board and these Board meetings really provide
12 the transparency and the accountability and as you see,
13 there are very serious kinds of issues that come up.

14 I also believe that OPSC says that their workload
15 is very difficult for them to have meetings every month
16 because of the furloughs that are taking place.

17 I have since -- and remember this first came to
18 us -- this Board, for those new members, on September 10
19 where we received a notification that the SAB meetings --
20 the State Allocation Board meetings would be reduced to
21 every other month. We sent a memo to -- when we received
22 that to the Executive Officer opposing the reduction and
23 asking them that this topic be included in an agenda.

24 I then heard -- in October there was a memo that
25 was sent by the Chair to Board members further asserting

1 that there would be a reduction in Board meetings because it
2 was necessary. I then sent a letter asking, before we take
3 that action, could you look at other workload
4 reprioritization -- to reprioritize other workload and
5 provide us with options before we take this as the only way
6 to do deal with this issue.

7 We then received a letter back that's telling the
8 necessity of it but never dealing with whether the OPSC
9 could provide us with other options besides reducing the
10 numbers. Now the option is to have just the consent
11 calendar every month -- a meeting and not have the full
12 Board meeting till every other month.

13 I still believe that what we need to do is to
14 first agendize this. This has to be an action item. We
15 make the decision about what the -- whether the kinds of --
16 the numbers of our Board meetings. And the second one is to
17 present us with some options.

18 Right now there have been no options presented and
19 we know that there are options. The administration itself
20 is moving people. We know the Executive Officer has a
21 second job now and so there are reallocations of resources
22 and reprioritization.

23 We need to hear those, whether it's possible. If
24 it's not possible, then the Board will act accordingly.
25 Right now we don't have the slightest idea whether there are

1 options that are available to us.

2 So I say accept this item today as an information
3 item, agendize it as an action item, and provide us with
4 options for our next meeting.

5 CHAIRPERSON BRYANT: Mr. Cook, any thoughts on
6 this?

7 MR. COOK: We had a bit of a discussion on this
8 earlier and the letter sent out in September was -- well,
9 was a recommendation, certainly in recognition that as a
10 result of furloughs, literally 36 working -- roughly it
11 turns out to about three months' worth of time working days
12 is actually taken out of our calendar.

13 That's like working partway into October and then
14 taking the balance of the year off and we have a Board that
15 is, you know, Bagley-Keene noticed. We have production
16 cycles associated with it. We have workload that we've got
17 to figure out and I've got to figure out how to drop eight
18 new assignments into what we already planned for future
19 Boards as a result of tonight's actions and in simply fewer
20 workdays.

21 As far as project application and as we discussed
22 with the Senator earlier, the project applications have
23 dropped somewhat, although folks still want their place in
24 line. And processing applications and getting those to the
25 Board isn't where the pinch point is in the organization. I

1 mean it'll lengthen out as issue of workdays to get the job
2 done, but it's just setting a cutoff date.

3 What really takes the real time and is --
4 highlight just tonight's discussion are working through very
5 complex policy matters and a relatively small staff that are
6 dedicated to that portion of the operation. Much of the
7 staff is dedicated to process application, audits,
8 accounting, and those take up a substantial portion.

9 But working through high performance, through
10 seismic, coming up with some of these other things take
11 relatively highly skilled individuals and a relatively small
12 pool of those folks to try to get these things resolved so
13 that we can bring something forward to the Board.

14 CHAIRPERSON BRYANT: Do we have our next meeting
15 set?

16 MR. COOK: We have --

17 CHAIRPERSON BRYANT: Is it March, whatever's in
18 this memo, March 24th? Is there anything before then?

19 MR. COOK: I think the item is -- yeah, I think
20 it's noted in here as March 24th.

21 SENATOR LOWENTHAL: Again we did not vote on this.
22 They just decided on that.

23 CHAIRPERSON BRYANT: Is there a February meeting
24 on people's calendars or not?

25 MR. COOK: It is not currently set on this

1 calendar.

2 CHAIRPERSON BRYANT: Okay. Can I -- this is where
3 I'm in a place where I am new to this job and I haven't --
4 Rob and I had the briefest conversation about this item and
5 so if it's -- if the Board will indulge me, I can work with
6 Rob and we can talk through the workload question. We can
7 be a subcommittee of two, I think. We can talk about it.

8 I don't want to -- I just -- I don't know this
9 well enough and we're -- it's getting late and I don't know
10 what the right answer is.

11 SENATOR LOWENTHAL: We're not taking any action
12 tonight because this is not an action item. It's listed as
13 an informational item and this Board has to decide this.

14 CHAIRPERSON BRYANT: When the next meeting is? Do
15 we --

16 SENATOR LOWENTHAL: That's right.

17 CHAIRPERSON BRYANT: We could set a meeting -- I
18 mean --

19 MS. MOORE: Traditionally we have met monthly with
20 one exception. The November-December meeting has always
21 been combined. So we've traditionally met 11 times a year
22 and I think what the Senator is saying is that until such
23 time as the Board acts to change that, it should be that
24 course, which would mean that we would meet on the fourth
25 Wednesday in February. I don't know what that date is.

1 MS. JONES: 24th.

2 MS. MOORE: February 24th would be our next
3 meeting at which time it could be agendized for action
4 should the Board determine to change it.

5 CHAIRPERSON BRYANT: Okay. I would consider not
6 coming at all -- kidding. Okay. I like bi-monthly.

7 ASSEMBLY MEMBER FULLER: Not an option for most of
8 us.

9 CHAIRPERSON BRYANT: Yeah. Anyway, so can we set
10 a February 24th meeting and then we could --

11 MR. COOK: We certainly can and frankly we were
12 going to propose doing a February meeting anyway because
13 based on policy decisions made by this Board tonight, we can
14 actually start funding -- we can actually out-take real
15 money on the 24th.

16 CHAIRPERSON BRYANT: Okay.

17 MR. COOK: And we're already going to propose
18 that.

19 CHAIRPERSON BRYANT: And then we can work on this
20 calendar question and bring it back for a complete
21 discussion then and whether or not we want to change it.
22 Okay. All right.

23 SENATOR LOWENTHAL: But we would like to hear some
24 options.

25 CHAIRPERSON BRYANT: Right.

1 MS. KAPLAN: And just hate to confuse the issues,
2 the same question has been applied for the Implementation
3 Committee --

4 SENATOR LOWENTHAL: Yes.

5 MS. KAPLAN: -- which has been set by OPSC for
6 every other month. I as your employee seek direction from
7 you because although I may be the Chair, OPSC staff -- our
8 next Implementation Committee is next Thursday, but we
9 wouldn't have another one till April unless you then tell us
10 to stay the course and plan one for February and for
11 potentially March because if we wait till the February
12 meeting of the State Allocation Board, one week time to
13 prepare the next Implementation Committee is not enough.

14 SENATOR LOWENTHAL: So I would like then as part
15 of this motion to agendize to also continue the
16 Implementation Committee meeting until an action item there
17 is brought to -- also to the Board.

18 CHAIRPERSON BRYANT: But doesn't the
19 Implementation Committee set its own agenda?

20 MS. OROPEZA: Um-hmm. Yes.

21 SENATOR LOWENTHAL: But they're unilaterally
22 saying they're going to cut those meetings.

23 CHAIRPERSON BRYANT: Well, who's on the
24 Implementation Committee?

25 MS. KAPLAN: As I as Chair and then stakeholders

1 and it was set up by the State Allocation Board to be a kind
2 of policy reference guide to look at regulations for the
3 State Allocation Board.

4 MR. HARVEY: But OPSC staffs it, do they not? So
5 you're again talking about impacting OPSC staff as it
6 relates to putting together our agendas. You're now meeting
7 every other month?

8 SENATOR LOWENTHAL: No. Meeting every month.

9 MR. COOK: No. We're actually on an every other
10 month schedule with the Implementation Committee. And --

11 MR. HARVEY: Then I would say you stay the course
12 there as you are here.

13 MR. COOK: I -- one thing I really simply have --
14 on behalf of my staff, we have had a 15 percent reduction in
15 work force, but we have had -- you can't reduce the
16 available man-hours on our --

17 ASSEMBLY MEMBER BROWNLEY: People hours.

18 MR. COOK: -- people hours and expect the same
19 outputs. You just can't do that. I'd be happy to come
20 forward with options, but we literally have had 36 workdays
21 take -- I mean three months' worth of work taken out of our
22 schedule. Something's got to give.

23 I can burn out my staff. I have tremendous
24 turnover and, you know, they can go someplace else and, you
25 know, and not deal with the same schedule. That's the --

1 and they do have that flexibility within state service, but
2 fundamentally when -- as we were looking at this and more
3 than happy to share with you what we're trying to do with
4 the organization. We're running -- with those three days
5 knocked out of our schedule, we're running into deadlines
6 that just are not sustainable.

7 It was tight when we had two furlough days. It's
8 impossible with three and something's got to give. And so
9 I'm more than happy to try to come up with options, but
10 something has got to give.

11 MS. MOORE: Just as a solution. The Imp.
12 Committee is already scheduled to meet, correct, and they
13 won't meet again -- it wouldn't have met again anyway before
14 this discussion happens. Just include it in the discussion.
15 It's already scheduled to meet --

16 MS. KAPLAN: February and then again in April.

17 MS. MOORE: -- in February. But it can be
18 included in the February discussion of the --

19 CHAIRPERSON BRYANT: You're already planning to
20 meet in February; right?

21 MS. KAPLAN: Right. And then again in April. We
22 may meet in March on other issues if you directed to give us
23 on a single issue if need be, but --

24 CHAIRPERSON BRYANT: Okay. We can -- so we can
25 deal with that in the February 24th meeting as well. Did

1 you have comments on this item?

2 MR. DUFFY: I did.

3 CHAIRPERSON BRYANT: Okay.

4 MR. DUFFY: Or do. Thank you. Again, Madam
5 Chair, members, Tom Duffy for C.A.S.H. We support Senator
6 Lowenthal's idea of, first, that this Board has always met
7 on a regular schedule as Ms. Moore said except in the month
8 typically of November. Ironically the Board met in November
9 last year.

10 The idea of discussing it among you as Board
11 members -- I served the Board for 12 years. The Board told
12 me when they wanted to meet. I didn't necessarily always
13 want to be there because it got late, but I was there.

14 The idea of options and just one option and you
15 representing Finance, Ms. Bryant, we had issues with DSA not
16 necessarily being able to accommodate a lot of the
17 processing needs because of the three-day furloughs.

18 There was a relaxation of that for DSA. They were
19 also able to hire additional staff. DSA is paid by school
20 districts by fees. So it's not general fund. In fact
21 Finance borrowed money from that fund to support the general
22 fund last year.

23 So we argued that there's a different source of
24 funds. We can argue the same thing for Rob and his staff.
25 Why don't we give him back those three furlough days because

1 they're being paid out of state bond funds that we
2 apparently have in order to support that office.

3 So we've heard from school districts for over the
4 last year that there is continuing slowing down at OPSC,
5 except in a couple of areas where they've ratcheted it up.
6 But the processing time -- and if it is the issue of the
7 furlough days and the continuity of staff and even staff
8 morale, we recommend that to you because it's a different
9 source of fund than general fund. Thank you.

10 CHAIRPERSON BRYANT: Thank you. The Governor's
11 budget includes a proposal that would change the furlough
12 for the state.

13 MR. DUFFY: In July.

14 CHAIRPERSON BRYANT: In July. So -- and those
15 dates -- the Governor's policy on the furloughs is pretty
16 clear in terms of what doesn't -- the fund source
17 irrelevant. So -- thank you.

18 MR. DUFFY: Okay. Thank you.

19 CHAIRPERSON BRYANT: And by the way, I do really
20 appreciate the work of the staff. Just -- it is amazing
21 what people in the state are doing in there terrible times,
22 so I just thank you, all of you.

23 Anything else on that item?

24 ASSEMBLY MEMBER BROWNLEY: I'd like to say
25 something.

1 CHAIRPERSON BRYANT: Assembly Member Brownley.

2 ASSEMBLY MEMBER BROWNLEY: Thank you. I just, you
3 know, want to say to the staff that I certainly do
4 understand the deficit that you've been working under and I
5 guess -- but I support what Mr. Lowenthal is asking for and
6 I think we're asking, you know, you to go back and to see
7 where -- I mean are there other areas, you know, within the
8 operation that we could cut.

9 Mr. Duffy has I think come up with a good option
10 as well that we could consider, but I think at this juncture
11 in time in our state and our economy -- and again I want to
12 underscore I understand the amount of time that has been
13 taken away through furloughs, but not only do we need to
14 move the money that we have through to the schools because
15 we need schools and we need new schools or we need
16 modernized schools, but we also need to get Californians
17 back to work, you know, and it's -- you know, it's important
18 I think at this juncture and time, given our economy, that
19 we with any agency quite frankly and with any projects that
20 are sort of in the pipeline in California that we
21 collectively as a Legislature and as a state that we need to
22 look at all of those projects and push them out the door as
23 quickly as we possibly can to get people back to work.

24 So I think it's sort of serves as a dual purpose
25 and then I'd also like to say as well in terms of the

1 meetings that we do have, it seems as though every time we
2 have a meeting, we end up tabling a whole lot on the agenda
3 because we don't have time to deal with all of the issues.

4 And so I think that there is -- you know, there is
5 perhaps a happy medium in there too where if we were meeting
6 on a regular basis that we could get back to the work at
7 hand that we've tabled because we haven't been able to
8 address it if we had it and that wouldn't require I think
9 any additional work, you know, from your staff.

10 So I just wanted to express my support for Senator
11 Lowenthal on this issue and I think we're here -- again, you
12 know, these meetings are important to move projects through,
13 but it's also important that school districts up and down
14 our state know what we're doing so that they can prepare and
15 have as much information as possible for planning purposes
16 down the road as well, so -- thank you.

17 CHAIRPERSON BRYANT: Okay. Senator Hancock.

18 SENATOR HANCOCK: Just briefly. I don't know if
19 we discussed the possibility of meeting every month to have
20 a consent calendar to move money when we have money to move
21 and that we do every other month for policy discussion and
22 we really try to set aside some fairly serious blocks of
23 time with specific recommendations from the things we have
24 here to discuss, but maybe, Rob, you could think about that
25 so that we could both move the money, create the jobs every

1 month, but keep the long discussions to every other month.

2 MR. COOK: Um-hmm. That actually would meet much
3 of the concerns I think that some of the folks have raised
4 that they want to make sure that we're processing those
5 applications and a consent agenda is not that -- could
6 certainly -- the work the folks who are working on it, but
7 that isn't where the pinch point is in our organization. So
8 it's working on the things that you guys spend a lot of time
9 discussing because as you know, they're really complicated
10 and there's a fair amount of work that goes in to even
11 getting them to that point.

12 CHAIRPERSON BRYANT: All right. Well, we will
13 work on this issue. I think I've -- I think you're all
14 really clear on what your thoughts are on it.

15 Back to Items -- I lost my numbers here. 17
16 whichever Biggs is. So --

17 SENATOR HANCOCK: Ms. Bryant.

18 CHAIRPERSON BRYANT: Yes.

19 SENATOR HANCOCK: I do have a request I guess for
20 Ms. Jones or Ms. Irwin. It is my understanding that under
21 Robert's Rules if a motion fails that it needs to be brought
22 up by somebody who was not on the prevailing side and I --
23 sometimes we get very out of order in here. We don't really
24 follow specific rules, but it does seem to me that this
25 probably ought to be tabled and that somebody might want to

1 bring it back next time, but we have two motions, both of
2 them failed. And unless -- so there's no prevailing side.

3 CHAIRPERSON BRYANT: We can just put it off --

4 MS. KAPLAN: Or I believe because Mr. Harvey did
5 not vote on either side, he may substitute -- make a third
6 motion.

7 CHAIRPERSON BRYANT: Okay.

8 MS. KAPLAN: Per Robert's Rules.

9 CHAIRPERSON BRYANT: Okay. Well, under Robert's
10 Rules can I tell him what happened or --

11 MR. HARVEY: I could hear the discussion. Does
12 that make a difference?

13 CHAIRPERSON BRYANT: Why didn't you come running
14 back in then?

15 ASSEMBLY MEMBER FULLER: He could make the motion.

16 SENATOR LOWENTHAL: He could make the motion.

17 ASSEMBLY MEMBER FULLER: He could make the motion.

18 SENATOR HANCOCK: Yeah. So he came make a --
19 well, if we -- yeah, if we return to that item.

20 MR. HARVEY: Are we returning to that item?

21 SENATOR HANCOCK: I'd be happy to let him return
22 to that item.

23 CHAIRPERSON BRYANT: Thank you.

24 MS. KAPLAN: Well, can you double-check, Teresa?

25 MS. BORON-IRWIN: You know, I can't find it. I've

1 just spent about 20 minutes looking at this.

2 I know -- I don't -- I know the Legislature -- I
3 wasn't able to find that rule in Robert's right here and I
4 know that that's one of the issues or one of the items
5 that's on the agenda as far as adopting rules and procedures
6 by this Board.

7 MR. HARVEY: I move that item.

8 MS. BORON-IRWIN: So we don't really have -- we're
9 not really operating under any particular set of rules. I
10 know the Legislature usually uses Mason's. I don't know
11 what Mason's --

12 ASSEMBLY MEMBER BROWNLEY: Yeah, but Mason's
13 doesn't apply to this kind of governing board. It's --

14 CHAIRPERSON BRYANT: I think we have a couple --
15 we have a couple options here. I mean we know that it
16 hinges on Mr. Harvey, so we can ask -- we can hear from him.
17 We could put this item over. I sort of hated doing that
18 because it seems like we have a bad habit of putting things
19 over and Biggs is here. They drove down. So I was trying
20 to just get their item off one way or the other if we can.
21 But -- you know.

22 MR. HARVEY: If I may then on this item, I would
23 move Option 2.

24 SENATOR HANCOCK: Ms. Bryant.

25 CHAIRPERSON BRYANT: Yes.

1 SENATOR HANCOCK: I am going to speak against
2 Option 2 and I want to do this for the record.

3 SENATOR HUFF: We need a second, don't we?

4 ASSEMBLY MEMBER FULLER: I would like to second
5 that.

6 SENATOR HANCOCK: And that is that if a school
7 does not meet the hardship criteria and yet we are going to
8 pay 100 percent, even if it's the planning money, I believe
9 we are saying essentially we have no rules and no standards
10 and I hope that any school that comes and says gee, our roof
11 is leaking and we can't get a bond passed so we want you to
12 pay a hundred percent will get the same treatment from this
13 Board because that is not what we have done. There -- and
14 if that qualifies as hardship, there are going to be a lot
15 of other districts coming in and I would suggest frankly
16 that we then change our policy to say come and tell us you
17 can't pass a bond and that will be enough and we will pay a
18 hundred percent of your costs of rebuilding.

19 And I understand that Option 2 is only covering
20 planning for the rebuilding, but I think this is setting a
21 very, very bad precedent for all the districts. Many of
22 them with many low income people and many very old schools
23 who stepped up to the plate time and again and passed school
24 bonds and taxed themselves so that they could come to this
25 Board and get funding for their schools.

1 ASSEMBLY MEMBER FULLER: I don't disagree with
2 most of what you've said except that it's pointed out in the
3 binder that Monterey and Needles were exceptions to this
4 rule in the past and this is a fairly new ruling. The other
5 reasons was, as you know just passed last year, was I think
6 Karen Bass and Kevin de Leon's bill that changed the
7 criteria entirely that allowed different criteria to be
8 brought forward and we're just -- been moving through that
9 and that was the whole purpose of that bill, which I voted
10 against because I like the more strict standard that we had
11 in the past.

12 But we are where we are now and when I look at
13 we've already done it for sort of two schools -- not
14 completely the same, true, but very much the same and we
15 have passed a looser standard overall for all schools to use
16 a lot of different criteria that are much looser to come
17 forward and at the end of the day when I look at the school,
18 we're going to have a school in our lap one way or the other
19 down the road, so I'd rather take the halfway measure, and
20 remember I'm a Republican. I don't even like halfway
21 measures. I would never normally be on Option 2. I would
22 be on Option 1. We're --

23 SENATOR LOWENTHAL: Good.

24 ASSEMBLY MEMBER FULLER: -- actually doing the
25 opposite of what we would normally do, but in this case, I

1 see absolutely no option to deal with this school any other
2 way because of their size.

3 My experience dictates -- their size, their
4 location, their issues, and the process that we have imposed
5 is so terribly confusing. They probably have some little
6 teacher/superintendent, so I advocate for Option 2 at this
7 time. Thank you.

8 CHAIRPERSON BRYANT: Assembly Member Brownley.

9 ASSEMBLY MEMBER BROWNLEY: Thank you. With all
10 due respect to my colleague and her statement, to support
11 Senator Hancock's statement and looking -- going back and
12 reading the comments on this agenda, both Needles and
13 Monterey in terms of their hardship, they had other
14 extenuating circumstances that were not consistent with what
15 the issues I believe are here.

16 Monterey had to deal with the closure of Fort Ord
17 and the loss of \$10 million annually in federal impact aid
18 and Needles Unified had to relocate off of federal land
19 because of the Colorado River Indian Tribe. So I think they
20 are sort of a different set of circumstances. With all due
21 respect.

22 ASSEMBLY MEMBER FULLER: That's fine. I
23 totally -- at the end of the day, we're all trying to help
24 schools in our own way.

25 SENATOR HUFF: Call for the question.

1 CHAIRPERSON BRYANT: Roll call.
2 MS. GENERA: Senator Lowenthal.
3 SENATOR LOWENTHAL: No.
4 MS. GENERA: Senator Hancock.
5 SENATOR HANCOCK: No.
6 MS. GENERA: Senator Huff.
7 SENATOR HUFF: Aye.
8 MS. GENERA: Assembly Member Fuller.
9 ASSEMBLY MEMBER FULLER: Aye.
10 MS. GENERA: Assembly Member Brownley.
11 ASSEMBLY MEMBER BROWNLEY: No.
12 MS. GENERA: Assembly Member Buchanan.
13 ASSEMBLY MEMBER BUCHANAN: Aye.
14 MS. GENERA: Scott Harvey.
15 MR. HARVEY: Aye.
16 MS. GENERA: Kathleen Moore.
17 MS. MOORE: Aye.
18 MS. GENERA: Cynthia Bryant.
19 CHAIRPERSON BRYANT: Aye.
20 MS. GENERA: Passes.
21 CHAIRPERSON BRYANT: Okay. Where are we?
22 MR. COOK: Really quick, we didn't -- we never
23 closed action on the Minutes.
24 CHAIRPERSON BRYANT: Yeah, we did. We have
25 actually two items open. We have the Minutes which is Item

1 No. 2 and then I think Item No. 15 was on call. So why
2 don't we go ahead and lift the calls on both those items.
3 Item 2, we left that open because some of you -- you weren't
4 here quite yet approving the Minutes. We needed another
5 vote, so --

6 MR. HARVEY: Can we roll call on the Minutes
7 first? We've got people ready to vote.

8 CHAIRPERSON BRYANT: Yeah.

9 MS. GENERA: Senator Lowenthal.

10 MR. HARVEY: These are on the Minutes and those
11 that were absent -- those that were already recorded, you
12 don't need to re-read.

13 SENATOR LOWENTHAL: Yeah. I've already voted on
14 the Minutes. It was on call.

15 CHAIRPERSON BRYANT: We just didn't have -- we
16 didn't have enough people here.

17 ASSEMBLY MEMBER BUCHANAN: No, you didn't take a
18 vote.

19 CHAIRPERSON BRYANT: We didn't even vote. So
20 actually why don't we do a voice -- well, we could just do a
21 voice vote. All those in favor.

22 (Ayes)

23 CHAIRPERSON BRYANT: Those opposed? How many
24 abstentions? I'm abstained. One, two -- and Senator Huff,
25 so three abstentions. I got it. Okay. Item 15, that was

1 on call. That was the developer fee question. Do you want
2 to call the roll?

3 SENATOR LOWENTHAL: Wait. Which one is that?
4 What are we voting on?

5 MR. COOK: Item No. 15, it is the developer fee --
6 the index adjustment to the developer fee.

7 SENATOR LOWENTHAL: Did we not vote on that?

8 MS. KAPLAN: And the motion was Option 1 of which
9 there were only four that voted and the rest abstained or
10 were not here.

11 SENATOR LOWENTHAL: On item number -- what item --

12 CHAIRPERSON BRYANT: Item No. 15.

13 MS. KAPLAN: Tab 15 --

14 SENATOR LOWENTHAL: Tab 15. I'd like to make a
15 substitute motion then because it only had four votes. The
16 substitute motion would be to keep the developer fee at the
17 same level as the -- where we started at, the '08 level,
18 which was the CCI, California Cities, of \$2.97. That's
19 exactly where we started.

20 We're not going to raise it or lower it.

21 ASSEMBLY MEMBER BUCHANAN: I'm willing to withdraw
22 my motion and accept yours.

23 CHAIRPERSON BRYANT: Okay. Want to call the roll
24 on the -- is there a second? I'm sorry.

25 ASSEMBLY MEMBER BROWNLEY: I'll second. I just

1 wanted to discuss it for a minute --

2 CHAIRPERSON BRYANT: Okay.

3 ASSEMBLY MEMBER BROWNLEY: -- if we could. I
4 support the motion, but just one thing that I was thinking
5 about was that on the CCI that we voted on, we didn't not
6 vote on that. We voted to reduce that figure.

7 SENATOR LOWENTHAL: Right. Or -- I guess for
8 those that were --

9 ASSEMBLY MEMBER BROWNLEY: Correct. Right. But
10 for the future -- you know --

11 SENATOR LOWENTHAL: -- January 1 --

12 ASSEMBLY MEMBER BROWNLEY: -- for the future, we
13 didn't -- so I'm trying to look at sort of consistency. So
14 in this case if we do that, we're going to be inconsistent
15 in our actions.

16 I still believe -- I've kind of lost my place now,
17 but I still believe that the Government Code Section 65995
18 that the attorney responded to in the letter is -- while she
19 has a second interpretation of that language, the first
20 interpretation of that language was that you must increase
21 the developer fee, which would be -- and if we did that, the
22 only option that we would have would be to increase the --
23 to, you know, 1.3 percent based on the Ten Western State
24 Index.

25 So it's a matter of interpretation. She expressed

1 one. There is another believes that the language is really
2 perfectly clear if you read that section.

3 So I am, you know, not in support of going in the
4 reduction mode, but by doing nothing, then we're going to be
5 somewhat inconsistent, but the other alternative would be to
6 interpret the language in that Government Code saying that
7 you must increase the fees and then the only other option to
8 that would increasing it by the 1.3 percent

9 And then there's an argument that would say that
10 we have been -- we've acted consistently between the two
11 issues. It's something to consider.

12 ASSEMBLY MEMBER BUCHANAN: Can I just add. It
13 seems to me -- I mean the reason I made the original motion
14 is because it seems to me if you're going to use a certain
15 construction index, you ought to be consistent throughout
16 and not pick or choose for one number versus another.

17 Having said that, even our BIA representative said
18 that, you know, that they could live with whether it's the
19 same or a penny increase or whatever. So I think if we hold
20 it at the same, then, you know, we're basically -- you know,
21 we're adopting the philosophy that we're not lowering it,
22 but it's more consistent with the index we applied with the
23 other fee adjustment.

24 I mean I still -- my preferred would be to adopt
25 the index and apply it, but I think given that, you know,

1 there's not real opposition that it would make sense to keep
2 it the same and move on.

3 ASSEMBLY MEMBER BROWNLEY: Well, the two indexes
4 have been used interchangeably, it's my understanding, over
5 time, so --

6 ASSEMBLY MEMBER BUCHANAN: I agree -- I know they
7 have. I'm just saying consistency makes some sense.

8 ASSEMBLY MEMBER BROWNLEY: I'm arguing for
9 consistency as well.

10 CHAIRPERSON BRYANT: Senator Huff.

11 SENATOR HUFF: Yeah. I'd just like to say while I
12 don't BIA had a problem with one penny, I think the issue --
13 if I remember their testimony, they wanted some consistency
14 in process and for that reason, I favor following the Eight
15 Cities as we did before that would result in a penny which I
16 think either way is probably not that significant, so I
17 won't be supporting the motion.

18 CHAIRPERSON BRYANT: Okay. The motion is to leave
19 the developer fee at the current level. Want to call the
20 roll.

21 MS. GENERA: Senator Lowenthal.

22 SENATOR LOWENTHAL: Aye.

23 MS. GENERA: Senator Hancock.

24 SENATOR HANCOCK: Aye.

25 MS. GENERA: Senator Huff.

1 SENATOR HUFF: No.

2 MS. GENERA: Assembly Member Fuller.

3 ASSEMBLY MEMBER FULLER: No.

4 MS. GENERA: Assembly Member Brownley.

5 ASSEMBLY MEMBER BROWNLEY: Aye.

6 MS. GENERA: Assembly Member Buchanan.

7 ASSEMBLY MEMBER BUCHANAN: Aye.

8 MS. GENERA: Scott Harvey.

9 MR. HARVEY: No.

10 MS. GENERA: Kathleen Moore.

11 MS. MOORE: Aye.

12 MS. GENERA: Cynthia Bryant.

13 CHAIRPERSON BRYANT: Aye.

14 MS. GENERA: Carries.

15 CHAIRPERSON BRYANT: Okay. So agenda, what we

16 have left -- is there anything else we have to take up today

17 because I sense that people need to leave?

18 MR. HARVEY: How about moving agenda Item 18 so we

19 have a process to follow as amended by Ms. Kaplan.

20 CHAIRPERSON BRYANT: There's like three more items

21 left. There's discussion -- all right. There's -- who

22 knows what we have left? I'm sorry. I know we have 18

23 which is the rules. We have 25 -- 22 which is the audit

24 report.

25 MS. KAPLAN: And then you have Item 19 which is

1 the Audit Subcommittee report.

2 MR. HARVEY: And Item 20. Did we do 20?

3 MS. OROPEZA: Haven't done 20.

4 MS. KAPLAN: And Item 20 which is the
5 regulations --

6 MR. HARVEY: Is there any opposition to Item 20,
7 the staff recommendation which is to leave the bifurcation
8 either 3 percent in kind of adopt 60 percent? Is there any
9 opposition to that?

10 CHAIRPERSON BRYANT: Wait a minute. I think
11 we're -- first of all, we're on Item 19.

12 MR. HARVEY: Okay.

13 CHAIRPERSON BRYANT: And why don't we -- what is
14 the Board's pleasure? Should we keep going or do people
15 want to stop? I think that the -- my sense is, is that
16 the -- that item -- which is the Item 19 has a longer
17 discussion, if I read it right. I'm not sure if there's the
18 will to do that tonight or if we should put that over.

19 MS. KAPLAN: I think it's maybe -- if it is the
20 will of the Board to put it over to February, make it as,
21 you know, an action item and one of the first that is
22 discussed.

23 CHAIRPERSON BRYANT: Well, then we need to have a
24 discussion about it because I don't think we know what
25 action the action item would be if we're going to do that,

1 so --

2 MS. KAPLAN: But allow it to be under action so if
3 the Board decides to take action, they can do so.

4 CHAIRPERSON BRYANT: Okay. Well, I'd rather leave
5 it as -- then let's go ahead and talk about it a little bit
6 now. Did you want to --

7 SENATOR HANCOCK: You know, I think some of us
8 have to leave. One member already has. Is there an
9 immediate danger to life and limb if we hold those over?

10 CHAIRPERSON BRYANT: No, I don't think so.

11 SENATOR HANCOCK: I think we should.

12 CHAIRPERSON BRYANT: I just would like to leave it
13 as a discussion item for the next meeting.

14 Anything else that we have to take up tonight or
15 should we move to adjournment? I'm --

16 MS. MOORE: I apologize for being out of the room.
17 Did you at all address -- I think there is someone that may
18 speak on the emergency repair program issue.

19 CHAIRPERSON BRYANT: Okay.

20 MR. HARVEY: That's only a report though.

21 MS. MOORE: And that's a report.

22 MR. HARVEY: How about 20, that's an action item.

23 MS. MOORE: Is there an action item before it?

24 MR. HARVEY: There's an action item before it. Is
25 there any --

1 CHAIRPERSON BRYANT: Does anybody want to take up
2 Item No. 20?

3 MR. COOK: This is a regulation change on
4 modernization and -- access compliance and modernization.
5 And it's --

6 MS. KAPLAN: And this went through the
7 Implementation Committee. There was some -- a majority
8 consensus. There was some disagreement and I believe the
9 one was I gave you information from San Diego Unified. So I
10 think if anybody's here to talk about an opposition it would
11 be San Diego Unified, but otherwise Option 1 was at the Imp.
12 Committee -- not a total consensus.

13 CHAIRPERSON BRYANT: I feel like the committee --
14 I feel like the Board's ready to go and I feel rushed. I
15 feel like we should put this over. Does anybody object to
16 that motion of putting it over?

17 SENATOR LOWENTHAL: No. That's fine.

18 CHAIRPERSON BRYANT: Okay. All right. And what
19 was -- someone wanted to comment on the report? Should we
20 go ahead and do that item?

21 SENATOR LOWENTHAL: Which one are we talking
22 about?

23 MR. HARVEY: It's a report.

24 MR. COOK: -- describing emergency repair; is that
25 what you're talking about?

1 CHAIRPERSON BRYANT: 23, is that what you thought
2 someone wanted to speak about, Ms. Moore?

3 MS. MOORE: It is and I -- is that true? Yes?
4 Before Brook speaks, I --

5 MR. HARVEY: What's 23? It's a report.

6 MS. MOORE: I would like to reiterate, I've dogged
7 this item for about four Board meetings now and I continue
8 to have the concern that we have money to expend for
9 emergency repair program which are our most needy school
10 districts and I don't understand why we have not been able
11 to utilize the 17.7 million that was transferred from the --
12 and had budget language that supported it and perhaps
13 someone can to speak to that from Department of Finance, but
14 that's one component of this and then I think that Brooks
15 wanted to talk about a larger --

16 CHAIRPERSON BRYANT: Jeanne.

17 MS. OROPEZA: So the reason that we do not have
18 access to those dollars is that the life of an appropriation
19 is valid for one year. By the time that we determine that
20 there was money in there and tried to take action, that
21 authority expired. We do not have any legal authority to
22 use that money without an appropriation from the Legislature
23 and that's why in the Budget Act we are proposing an
24 appropriation for this purpose to cover the balance of what
25 was owed for that year.

1 So unfortunately we do not have the legal
2 authority to allow folks to expend anything from that
3 account without an appropriation.

4 MS. MOORE: Here's where it breaks down for me.
5 We had an appropriation. It indicated up to 101 million.
6 The -- and we expended 50 million -- we appropriate -- we
7 transferred 50 million of that. It went out to projects.
8 We have a long list of emergency repair projects.

9 We had 17.7 million of 2008-'09 money in the
10 reversion account that got transferred that is '08 --
11 '08-'09 funding and it appears to us that that money can be
12 expended. We have accruals of funding all the time when we
13 close our books.

14 MS. OROPEZA: The Legislature actually -- we
15 retracted the transfer that was made into that account.
16 They took an action to take all but 50 million away. We
17 cannot take an action that's inconsistent with that action
18 and now we're requesting that they appropriate money for
19 that purpose again to fill that -- the gap between what was
20 provided and what's afforded now.

21 That money sits there, but it's -- you cannot
22 spend it without a legal appropriation and we are not in a
23 position to violate any law and I don't think you --

24 MS. MOORE: I certainly wouldn't advocate
25 violating any laws. This is the concern. 51 million of the

1 '10-'11 budget, it has to make it through that system. It
2 has to be -- it's for expenditure for '07-'08 authority
3 expenditure. It has to make it through the budgetary
4 process and it has to be approved. That's at the earliest
5 July if not later and it has to make it through that process
6 in order to be -- and I appreciate that it was placed on
7 there. I know the Department of Finance said that they
8 would look at correcting that.

9 There is -- I still maintain there's 17 million.
10 These are the most high priority projects that we have in
11 our state and I respect, Jeanne, your interpretation of
12 that. I would ask for us to look at that one more time, if
13 there is any possibility that that expenditure --
14 expenditures can be made from that, if there's another legal
15 interpretation of it.

16 Because the authority is there. It was in the
17 Budget Act. The Budget Act removed '10-'11 money. It did
18 not remove the '09, '08 authority and --

19 ASSEMBLY MEMBER BROWNLEY: Ms. Oropeza, I mean as
20 a vehicle, would an emergency bill provide the ability to
21 move that money?

22 MS. OROPEZA: You would need a new valid
23 appropriation from the Legislature because that -- the
24 life -- unless it otherwise specifies, you know, two years
25 or three years for capital projects, it's a one-year

1 authority, like any other item in the budget bill and so
2 that's what we're saying.

3 So you would need a separate appropriation. We
4 put it in the budget, but yes, it could be in any other
5 vehicle.

6 ASSEMBLY MEMBER BROWNLEY: Um-hmm. So emergency
7 bill, we can move through the Legislature and it takes
8 effect 90 days after signature from the Governor.

9 CHAIRPERSON BRYANT: And does someone want to
10 speak on this item?

11 MS. OROPEZA: -- immediately after --

12 ASSEMBLY MEMBER BROWNLEY: Immediately, yes. I'm
13 sorry. Immediately after signature of the Governor.

14 CHAIRPERSON BRYANT: From the audience?

15 MR. ALLEN: It feels like I always end up in the
16 enviable position of being the one person at the end of the
17 night between everyone going home.

18 But I really just wanted on behalf of the Williams
19 plaintiffs to come before you all and thank you for your
20 continued attention to the emergency repair program issue.
21 We've distributed information that we think is critical;
22 talks about the funding history and the number of projects
23 that are in the pipeline.

24 And one of the things that we really wanted to
25 urge all of you, particularly those of you who are members

1 of the Senate and of the Assembly, is if you all can really
2 serve because you understand this issue so well, to help
3 educate your colleagues, we really will need the folks for
4 the Legislature to try to move forward and continue to live
5 up to both the commitments within the Williams settlement
6 legislation and also really meeting the needs.

7 These needs have been pending, as I put in the
8 background materials, for up to two years and, you know, our
9 lowest performing schools and they're quite critical and I
10 realize this is a time of extremely difficult budget
11 decisions, but I think those of you who sit on the State
12 Allocation Board and understand it so well are best suited
13 to really educate them in terms of importance of this even
14 at a time of difficulty in terms of placing priorities.

15 And so we understand that ongoing reversion of
16 funds are going to be difficult in an era of flexibility and
17 how we do that, so if we can have some creative thinking
18 about how we address that problem, we have a program that
19 was premised on a reversion account having sufficient
20 funding. It does not look like we will have that moving
21 forward.

22 And so, you know, if there is some creative
23 thinking of how that can be done, to try to find other
24 sources of funds to backfill this problem. We are in a
25 situation we've had no net contributions for three years and

1 that's placed us in this very difficult position where
2 projects are going unfunded.

3 So obviously we wholeheartedly support the
4 Governor's proposal 51 and hope the Legislature backs that
5 fully and then thinks creatively about how we make future
6 funds available for '10-'11 and any information that we can
7 help provide -- a lot of the districts, I know we're lining
8 up to provide a lot of information about details there too
9 and obviously anything that could be done, you know, as soon
10 as we can around the 17 million, that would help fulfill not
11 only the commitment for the Williams settlement but for the
12 students and staff who are waiting for these funds to come
13 available to make these critical repairs.

14 So we appreciate your attention.

15 ASSEMBLY MEMBER BROWNLEY: So does the Governor's
16 budget indeed ensure that the 51 billion -- or excuse me --
17 million --

18 MR. ALLEN: It includes for the 51 million that
19 would essentially fulfill the '08-'09 appropriation.
20 Because at this point, we've had 50 million.

21 ASSEMBLY MEMBER BROWNLEY: I haven't read the
22 detail of the language, but it does ensure that based on his
23 proposal.

24 MR. ALLEN: And I'm sorry. I realized I omitted
25 mentioning my name and affiliation. So my name is Brooks

1 Allen. I'm a staff attorney with ACLU Foundation, Southern
2 California, and we represent the Williams plaintiffs.

3 CHAIRPERSON BRYANT: Okay. Thank you.

4 MR. ALLEN: Thank you.

5 CHAIRPERSON BRYANT: Anything else on that item?

6 MS. MOORE: Thank you.

7 CHAIRPERSON BRYANT: I think everything else on
8 the agenda is just reports and unless anyone has any
9 questions -- entertain -- do you have anything to add? Then
10 let's entertain a motion for adjournment.

11 ASSEMBLY MEMBER FULLER: So move.

12 CHAIRPERSON BRYANT: I second it. Oh, wait. The
13 meeting's adjourned.

14 (Whereupon, at 8:03 p.m. the proceedings were recessed.)

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