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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL, ROOM 4203
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, APRIL 28, 2010
TIME: 4:07 P.M.

Reported By: Mary Clark Transcribing
4919 H Parkway
Sacramento, CA 95823-3413
(916) 428-6439
marycclark13@comcast.net

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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 Ron Diedrich, Acting Director, Department of General Services.

LYN GREENE, Appointee of Arnold Schwarzenegger, Governor of the State of California.

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

ASSEMBLY MEMBER JEAN FULLER

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER MARY HAYASHI

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Acting Executive Officer

JUAN MIRELES, Program Operations Manager, Policy

LISA KAPLAN, Assistant Executive Officer

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

HENRY NANJO, Staff Counsel

LANCE DAVIS, Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON BRYANT: Call the meeting of the State Allocation Board to order. Secretary, will you call the roll.

MS. GENERA: Senator Lowenthal.

Senator Hancock.

Senator Huff.

SENATOR HUFF: Here.

MS. GENERA: Assembly Member Fuller.

ASSEMBLY MEMBER FULLER: Here.

MS. GENERA: Assembly Member Brownley.

Assembly Member Hayashi.

Scott Harvey.

MR. HARVEY: Present.

MS. GENERA: Kathleen Moore.

MS. MOORE: Here.

MS. GENERA: Lyn Greene.

MS. GREENE: Here.

MS. GENERA: Cynthia Bryant.

CHAIRPERSON BRYANT: Here.

MS. GENERA: We have a quorum.

CHAIRPERSON BRYANT: Thank you. If there's no objections, we'll hold the roll open on any of our items for the absent members. I think all of them will be here at

1 some point today.

2 Moving on to the **Minutes** for the February 24th
3 meeting and the March 24th meeting, are there any questions
4 or comments from the Board? Is there any public comment on
5 these items? Is there a motion?

6 MR. HARVEY: Move approval.

7 MS. GREENE: Second.

8 CHAIRPERSON BRYANT: Is there -- without
9 objection, we'll just record everybody as an aye.

10 SENATOR HUFF: With the exception that -- excuse
11 me, Madam Chair. I wasn't here for the March 24th meeting,
12 so I would recuse myself on that voting.

13 CHAIRPERSON BRYANT: Okay. Duly noted. Okay.
14 Moving on to Tab 3, the **Executive Officer's Statement**,
15 Ms. Silverman.

16 MS. SILVERMAN: Yes. Good afternoon. What we
17 want to highlight to you today is an update on the March
18 bond sale and the activation of unfunded approvals.

19 In March, we were successful with the Treasurer's
20 office, the bond sales in a general obligation -- excuse me.
21 Little tired today.

22 We were successful in the bond market. This
23 program received \$1.35 billion in proceeds for the School
24 Facilities Fund Program. And as a part of the agenda behind
25 Tab 9, the Board will be considering an item to activate the

1 unfunded approvals and provide a portion that using these
2 funds.

3 This is the second time in 2010 that the Board has
4 an opportunity to provide apportionments.

5 Another item we wanted to highlight is the
6 Imperial County earthquake. On April 4th, there was a
7 magnitude 7.2 earthquake in Baja California -- excuse me --
8 Baja California, and New Mexico and that actually impacted a
9 lot of the school districts in Imperial County.

10 The Office of Public School Construction conducted
11 outreach calls with the districts in Imperial County to
12 determine if any school facilities were damaged and to offer
13 assistance. We'll be addressing an emergency item during
14 this meeting pursuant to Government Code Section 11125.3 so
15 that the Board may fully discuss emergency earthquake relief
16 measures.

17 Additionally, OPSC is also presenting a tentative
18 work plan for the Board. For purposes of transparency and
19 workload management, the Office of Public School
20 Construction has attached a tentative 90-day work plan for
21 future State Allocation Board meetings.

22 We would like to highlight two items that we will
23 be bringing forward in May. That includes high performance
24 incentive grant program regulations and also addressing the
25 financial hardship re-reviews.

1 Any items added to this calendar may result in
2 other items being postponed. As you know, we're trying to
3 have shorter meeting times, obviously full discussions, but
4 at this time, we're seeking the Board's approval in adopting
5 the agenda plan.

6 Additionally, what we wanted to highlight also is
7 the tax certification process for the bond sales. With all
8 of the bond sales that have gone out in the market, we have
9 a new process and that process is requiring us to seek tax
10 certification for the projects who we're providing
11 apportionments.

12 In the interest of saving time and expediting the
13 process, what the Office of Public School Construction has
14 worked out a tentative process improvement that will
15 actually allow us to provide the Treasurer the list in
16 advance of a meeting.

17 So we believe that the certification process will
18 be a five-day turnaround as opposed to the four- to six-week
19 timeline. So we've obviously worked closely with the
20 Treasurer's office to provide some improvements with this
21 process.

22 You should also see attached is your workload plan
23 and maybe for purposes, we wanted to highlight that workload
24 plan for the next three months, so if there are any
25 objections to the workload plan.

1 CHAIRPERSON BRYANT: I think we can -- does anyone
2 have any thoughts about workload or we can continue to work
3 on that as we move forward. Mr. Harvey.

4 MR. HARVEY: I just want to congratulate both you,
5 Madam Chair and staff, for bringing this formally to us. I
6 know it's always been part of our agenda, but I think it's
7 helpful for us to see what you contemplate and I think it's
8 incumbent upon us as a body to review it and if we wish to
9 make changes in it by moving something back or forward, now
10 would be the time to do it -- or our monthly meetings would
11 be the time to do it.

12 And I have experience because when we -- when I
13 served on the Teacher Credentialing Commission we had such a
14 device and it gave that body an opportunity to have input
15 into the policymaking and I think that's what we're about.

16 So I want to thank you for bringing it forward and
17 allowing us an opportunity to endorse it, comment on it,
18 change it as appropriate, but I also think it's wise to say
19 if you move something up, you got to take something off.
20 It's not a matter of always adding to the agenda, but it's a
21 collective decision and I think that's what we also are
22 doing here. Thank you.

23 CHAIRPERSON BRYANT: Okay. Any other questions or
24 comments? Ms. Moore.

25 MS. MOORE: Yes. I have a comment. Great. I

1 think it is appropriate to have the workload list. However,
2 it says in our agenda that we are asked to approve this
3 item. I don't actually believe it has been agendized, and
4 so I don't think we can take any action on it and actually I
5 believe at our last meeting we -- maybe it was two meetings
6 ago, we gave authority to you to work with staff as -- on an
7 as-needed basis and I think we would want to continue that.

8 If this is going to be an agenda item, it should
9 go out to the public as well and I wouldn't want to take any
10 action on it today absent that.

11 CHAIRPERSON BRYANT: Right. I think Ms. Silverman
12 and I just had a discussion about really highlighting the
13 key things that are coming up and that's more than -- we
14 really aren't necessarily asking for approval but really
15 just to really focus everyone thinking ahead on what we're
16 going to do over the next three meetings or so. So thank
17 you for that.

18 MR. NANJO: Madam Chair, one of the things that
19 I've noticed is it is on our alphabetical listing as an
20 item, but even above and beyond that, if it pleases the
21 Board, one of the things you can do is just kind of provide
22 input to staff so they can use it as a working document.

23 CHAIRPERSON BRYANT: Right. That's the goal and
24 we'll continue to work on it.

25 Okay. Moving on to -- oh, Mr. Harvey.

1 MR. HARVEY: Thank you. I might segue into this
2 report to do one on behalf of DGS and it's my privilege to
3 introduce to all of you Lance Davis who will be the attorney
4 assigned to this body. Lance has been a vital part of our
5 organization. Although the subject matter of education is
6 not his primary focus, it will be from here on out and he
7 has been mentoring with and sharing time with Henry Nanjo.
8 Lance has been at our meetings observing. This is the first
9 time he is sitting at the dais and it's a transition period
10 and I wanted to acknowledge him and thank you and also
11 recognize Mr. Nanjo for his second term.

12 His responsibilities are broad and deep at DGS and
13 we thank him for spending time with us yet again, but Lance,
14 welcome and thank you for being part of making kids safer
15 and better in their schools.

16 CHAIRPERSON BRYANT: Okay. So moving on to
17 Tab 3A. On April 4th, 2010, a 7.2 magnitude earthquake
18 occurred in Baja California. Damage extended across the
19 border into Imperial County and many other borders.
20 Particularly hard hit was the City of Calexico whose
21 children are still unable to return to their schools.

22 Representatives from the California Emergency
23 Management Agency, the Division of State Architect, and the
24 Federal Emergency Management Agency have been in the most
25 significantly damaged areas to perform preliminary damage

1 assessments.

2 The Office of Public School Instruction has been
3 in communication with school districts in the affected
4 areas. On April 13th, 2010, Governor Arnold Schwarzenegger
5 declared a state of emergency and signed Executive
6 Order S-06-10.

7 Government Code Section 11125.3 permits the State
8 Allocation Board to hear items of business not posted on the
9 agenda upon a finding by a majority vote of the members that
10 an emergency situation, such as a crippling disaster that
11 severely impairs public health or safety or both, or upon a
12 finding by a two-third vote of the members that there exists
13 the need to take immediate action and that the need for
14 action came to our attention subsequent to the agenda being
15 posted.

16 In an abundance of caution, the Chair is
17 recommending that the State Allocation Board make both
18 findings to consider the activation of funding for the
19 Calexico Unified School District Project No. 57/63099-00-003
20 and provide other options to other school districts impacted
21 by the earthquake including but not limited to San Pasqual
22 Valley Unified School District, Project No. 57/63214-00-001.

23 May I have a motion to hear this item.

24 SENATOR HANCOCK: So move.

25 MS. MOORE: Second.

1 CHAIRPERSON BRYANT: If there's no objection,
2 we'll -- I think we should call the roll. Sue, can you call
3 the roll on this item.

4 MS. GENERA: Senator Hancock.

5 SENATOR HANCOCK: Aye.

6 MS. GENERA: Senator Huff.

7 SENATOR HUFF: Aye.

8 MS. GENERA: Assembly Member Fuller.

9 ASSEMBLY MEMBER FULLER: Aye.

10 MS. GENERA: Scott Harvey.

11 MR. HARVEY: Aye.

12 MS. GENERA: Kathleen Moore.

13 MS. MOORE: Aye

14 MS. GENERA: Lyn Greene.

15 MS. GREENE: Aye.

16 MS. GENERA: Cynthia Bryant.

17 CHAIRPERSON BRYANT: Aye.

18 MS. GENERA: It carries.

19 CHAIRPERSON BRYANT: Okay. Thank you. So,
20 Ms. Silverman, do you want to go ahead and present this
21 item.

22 MS. SILVERMAN: Sure. What we wanted to do is
23 address the Board about the earthquake relief measures that
24 we're providing for these school districts impacted by this
25 earthquake.

1 And as the Chair has nicely stated, Imperial
2 County School District was severely impacted by the
3 earthquake on April 4th and with that, staff is requesting
4 the Board's approval of other recommendations of providing
5 relief to these school districts that have been impacted by
6 the earthquake.

7 On April 4th, there was a 7.2 magnitude earthquake
8 that occurred in Baja California and damage extended across
9 Imperial County and many border cities. One of the hardest
10 hit as stated earlier is the City of Calexico.

11 The earthquake was followed by 350 aftershocks.
12 Subsequent to the main earthquake, representatives from the
13 Division of State Architect, CaleMA also toured the most
14 significantly damaged to perform preliminary damage
15 assessments to these school sites and on April 13th, 2010,
16 Governor Schwarzenegger declared a state of emergency for
17 Imperial County and signed Executive Order S-06-10 as a
18 preliminary step to secure federal disaster funding.

19 The Office of Public School Construction has been
20 coordinating with CaleMA and Division of State Architect to
21 accurately identify the extent of the K-12 facility damages.
22 To date, the Office of Public School Construction has been
23 in contact with school districts in Imperial County,
24 San Diego, and Riverside Counties.

25 Requests for assistance have been made by several

1 school districts in Imperial County. However, no requests
2 for funding from school districts in San Diego and/or
3 Riverside County have been made to date.

4 In Imperial County, the Office of Public School
5 Construction has been working closing with school district
6 officials from the Calexico and San Pasqual Valley Unified
7 School District to formulate the best program funding
8 options.

9 Imperial County has sustained damage to 8 school
10 districts out of the 17 in the county. Preliminary damage
11 assessments for the damaged school sites total in excess of
12 \$11.2 million. These estimates have not been approved or
13 finalized by CalEMA.

14 On page 3, staff has summarized the damage
15 incurred by school districts. And as a separate item, staff
16 is recommending that the Board provide apportionments for
17 the projects listed on the unfunded list with reference to
18 Tab 9, stamped page 180. Included the recommendations for
19 apportionments is Calexico Unified modernization project
20 already completed at the Calexico High School.

21 Should the Board approve staff's recommendation,
22 activation of the unfunded approvals, staff will be able to
23 immediately process Calexico fund release requests and
24 authority the State Controller's office to release the funds
25 to the district within two days.

1 This project reimbursement will provide funds to
2 the district that can make use of the money and funds to
3 repair the project -- to initiate that cash to repairs for
4 the district for these very sites.

5 Staff would like to thank the Treasurer's office
6 for expediting certification in advance of the Board's
7 action today.

8 In addition, San Pasqual Valley Unified School
9 District has requested the Board consider their unfunded
10 approval for modernization project at San Pasqual Valley
11 High School with the acceleration of apportionment ahead of
12 other school districts on the unfunded approval list. The
13 district's project is not currently included in staff's
14 recommendation for apportionment since it cannot be directly
15 linked as a result of the earthquake.

16 This project was intended to modernize five
17 classrooms and the gymnasium on the campus and due to the
18 ongoing geographical liquefaction issues exacerbated by the
19 earthquake, the district would instead like to use this
20 funding to demolish and replace the five classrooms.

21 The district believes that they will still be able
22 to complete the project with the modernization funding.
23 Consistent with past practices, this is a change of scope
24 and would need DSA approval for the new plans and requires
25 an SAB approval for the change of scope.

1 Staff at this time does not support the request
2 for acceleration of funding and approval for this item. It
3 would create an inequity issue. Staff has presented other
4 options for the district at this time and the Board should
5 explore if they want to provide funds due to health and
6 safety reasons for this project as part of the priorities of
7 funding items. That's listed in Tab 8, stamped page 175.

8 The Board has funds available for the state
9 relocatable program that could be used to assist school
10 districts in relocating up to 52 classrooms from the
11 phase-out relocatable program. These portables are located
12 throughout the state, the closest being in San Bernardino
13 and Los Angeles County and the farthest being in Mendocino
14 County.

15 The OPSC is currently talking to previous
16 contractors for estimates to move these portables to these
17 school sites. As mentioned earlier, the cost of the
18 portables is 7,200 per portable, plus \$21 a mile.

19 The Board has several options to provide the state
20 relocatables to the district, offer them -- San Pasqual
21 Valley for purchase. Another option is to offer them to
22 lease for interim housing or also offer them on a temporary
23 basis a dollar a year lease with no moving or installation
24 cost to the district.

25 Currently San Pasqual Valley has negative new

1 construction eligibility. If the district purchased five
2 portables or the state loaned the relocatables to the
3 district, their eligibility would not be materially
4 impacted. The district would be able to use the portables
5 in the interim to assist them with their earthquake damages
6 until funding is available for their modernization project
7 or keep them and save their modernization eligibility for
8 other facility needs.

9 After the Northridge earthquake, FEMA covered
10 moving costs and the use of facilities and school districts
11 were not involved in that process. The state and FEMA had a
12 contract and FEMA reimbursed the state for 90 percent of its
13 cost.

14 Staff is still -- is in need to contact CaleMA to
15 verify whether or not this program would be eligible for
16 this reimbursement.

17 So at this time, staff recommends the approval of
18 Calexico High School modernization project for reimbursement
19 by approving staff recommendation in recommendation one in
20 the activation of unfunded approvals listed in -- under
21 agenda item.

22 And at this time, we also would request the Board
23 to deny San Pasqual Valley's request to accelerate the
24 apportionment for that particular project. The Board should
25 explore whether or not they want to provide funds due to

1 health and safety issues for this project and offer five
2 state relocatable classrooms to San Pasqual Valley Unified
3 on a temporary basis for \$1 per year with no moving or
4 installation cost to the district to house the students
5 displaced by the earthquake damage.

6 And at this time also recommend direct staff to
7 continue working with the damage districts after CaleMA has
8 made their final eligibility determination to determine if
9 ineligible FEMA activities are eligible for reimbursement
10 under this program.

11 CHAIRPERSON BRYANT: Okay. Are there -- we
12 have -- I know we have representatives here from CaleMA,
13 from the Calexico School District, and the San Pasqual
14 School District. So I'm guessing -- Board's pleasure to
15 hear from those representatives? Why don't we go ahead
16 then. Should we start with Calexico.

17 And while Calexico is moving up here, I just -- I
18 do want to really say thank you to Ms. Silverman and her
19 staff and all the people at OPSC and in our emergency
20 management systems in the state for their diligence in
21 working with all of the affected residents of Imperial
22 County.

23 MS. ARELLANO: Good afternoon, everyone. Madam
24 Chair, thank you, and -- to the Board. My name is Vivia
25 Arellano. I'm the Business Manager for the Calexico Unified

1 School District and I want to thank you for all your support
2 and for all the efforts of all the agencies that are
3 involved.

4 We have worked closely with the Office of Public
5 School Construction, with CaleMA, and with FEMA as well to
6 work through the recovery process with the Calexico
7 students.

8 Right now, just to provide you if you'd like with
9 a brief update and if you have any questions, I can address
10 those specifically.

11 The initial recovery phase entailed inspections
12 and assessments and abatement process as well as complying
13 with the procurement process. As of today, our rebuild and
14 repair phase has started (indiscernible). We have contracts
15 with a general contractor, should begin the construction
16 phase to assure that students at best would come back to
17 school May 10th.

18 We're looking for -- we're looking at a five to
19 seven construction (indiscernible) and immediately
20 following, we'll have a reopen phase where we can provide
21 service to students.

22 CHAIRPERSON BRYANT: Are there any questions from
23 the Board? Okay. Thank you. Again we're here to help and
24 sorry for everything you've gone through. Pictures from the
25 one school are just unbelievable. I'm glad it was Easter.

1 MS. ARELLANO: Yes. We're blessed that it was
2 Easter Sunday and everyone was with their families. We want
3 to add that we are providing continuity of instruction. I
4 have the high school principal, Gilbert Barraza, with me and
5 what we're trying to do is through cyber programs or remote
6 facilities because all our school sites were damaged and are
7 unsafe for children. We're able to provide instruction one
8 way or another to keep our students' academic performance --

9 CHAIRPERSON BRYANT: Okay. I don't think there's
10 any questions, are there? Okay. Then Mr. Schoneman from
11 San Pasqual.

12 MR. SCHONEMAN: Good afternoon. David Schoneman,
13 Superintendent, San Pasqual Valley Unified School District.
14 Madam Chairman, members of the Board, I just want to thank
15 DSA, Craig Rush (ph) particularly out of the San Diego
16 office for his quick action in contacting our district,
17 working with them, and then also the follow-up work with
18 Dave Zian, OPSC.

19 We've been working -- we started -- this whole
20 thing was identified by our school project that we put in
21 for new school construction. In the process of that
22 planning that construction identified a significant problem
23 with the soils which required quite an extensive foundation
24 and substructure to support any new construction.

25 Upon seeing that, I brought to the attention

1 particular cracking and foundation issues that we had in our
2 other floors and they took that into account and we have a
3 report that noted that if there are any significant seismic
4 activity in our particular area, we could have a pretty
5 catastrophic problem.

6 Fortunately for Calexico, their students were out
7 and it's a blessing to be sure that no one was injured in
8 that process.

9 At present with this report and our observation
10 and follow-up observation of DSA, we're at risk in the
11 district. Kind of a double whammy situation. When the
12 Colorado River floods, the expansive soil, the water table
13 rises and actually has flooded the district which has caused
14 some of the more severe trouble.

15 As continued seismic activity, although not shall
16 we say catastrophic, these continuing shocks/aftershocks are
17 continuing to work the cracking problem. It's not going
18 away.

19 I never presented the fact -- or presented the
20 case that San Pasqual has had a catastrophic collapse or
21 anything of that effect. To be sure, Calexico Unified
22 School District deserves all the consideration the state
23 could possibly give it.

24 San Pasqual though is one that's more of a
25 preventative type state so we don't have the situation and

1 we may not even have the luck, if there is seismic event
2 at -- for our students not to be there. That's kind of a
3 tough risk for a superintendent to take especially with the
4 fact that we know that we have a growing problem there.

5 To that end, we look at the three projects that we
6 had before the -- on the unfunded list. The one to us that
7 we felt made the most sense was the modernization one for
8 the high school. At least we could start the process in
9 correcting this problem by taking the modernization money
10 and using that to, shall we say, mitigate the issues or at
11 least partially at the high school.

12 And by using those -- and I think it's within the
13 guidelines of modernization and I -- can show that new
14 construction would be cheaper than modernization, there's an
15 argument to be had there. That's the case of San Pasqual.

16 In order for us to mitigate or to straighten out
17 the problem with modernization, we've got to change the
18 foundation. Well, that means those classrooms are going to
19 come down.

20 So that was pretty much my discussion there. As
21 far as moving projects ahead, my comment, you know, has
22 always been on that part we're a hardship district. The
23 middle school project and other ones are ready to go. If
24 there's a desire on the government's part of get money out
25 to areas in need, the high unemployment and need, there are

1 small school districts across the state that are hardship is
2 the place to invest your money.

3 So that's, you know, pretty much my case with
4 regard to that. So what we're looking at also as you
5 consider our -- should be brought into consideration here
6 are your health and safety issues as well.

7 As you move forward and as you allocate money,
8 look at your projects to help mitigate any health and safety
9 issues that might come up with further structural issues.
10 Any questions?

11 CHAIRPERSON BRYANT: Ms. Moore.

12 MS. MOORE: Can you speak a little bit about in
13 our report, it indicates that the gym floor -- an area at
14 the high school was damaged and that that's part of the
15 reason that you requested to move forward with your project
16 at the high school and that there are classrooms there that
17 appear -- are they -- were they damaged by the earthquake
18 and therefore that's why you're asking for that because the
19 staff recommendation is not to grant you --

20 MR. SCHONEMAN: Yes.

21 MS. MOORE: -- movement in line and I'd like to
22 hear what you have to say about that.

23 MR. SCHONEMAN: And let me say this about your
24 staff. They've been very clear and have communicated very
25 openly about their position, so, you know, I think -- none

1 of this comes as a surprise and actually encouraged me to
2 come and talk to the Board. So they should be commended for
3 that as well.

4 With regard to the gym, our push has always been
5 to try to replace the classrooms. The gym floor has been
6 compromised. We can't level the wood floor anymore. The
7 moisture comes through and pretty much wipes out the wood
8 floor every time we put a new one in. And so it's of a
9 critical nature as well, but, you know, you have to have
10 classrooms to move forward.

11 If we need to, you can shut the gym down, but as
12 Calexico is finding out, it's hard if you don't have your
13 classrooms.

14 CHAIRPERSON BRYANT: Can I ask a question. So the
15 gym for the --

16 MR. SCHONEMAN: Yes.

17 CHAIRPERSON BRYANT: -- follow up on Ms. Moore's
18 question.

19 MR. SCHONEMAN: Okay.

20 CHAIRPERSON BRYANT: The gym floor is damaged
21 because of your ongoing soil liquefaction problems or
22 because of this recent event?

23 MR. SCHONEMAN: It's mainly going on because of
24 the soil issues. It's exasperated by potential seismic
25 activity. It is one of the buildings at risk, but you're

1 correct, Madam Chair, this has to do with the liquefaction
2 process which, you know, is by the water table and in
3 conjunction with seismic activity.

4 CHAIRPERSON BRYANT: Mr. Harvey.

5 MR. SCHONEMAN: Does that answer your --

6 MS. MOORE: It does. Just a little bit of a
7 follow-up. Then it's also recommended in our emergency
8 packet that the state offer and provide emergency portables
9 to your district.

10 MR. SCHONEMAN: Um-hmm.

11 MS. MOORE: And so is that part of the solution of
12 this particular site and would that be helpful. Are you --
13 is that part of what you're looking at in terms of what the
14 state can provide?

15 MR. SCHONEMAN: Well, I guess you work with what
16 you can get. Being a hardship district, you welcome any
17 assistance that you can get, but the long-term help -- the
18 long-term assistance quite honestly, Ms. Moore, would be to
19 do something with the classrooms there because at the same
20 time, as you know, being a hardship district, our vendors
21 who have helped us, you know, develop plans and things as
22 we're going through the process for funding as the state --
23 we can't pay them and with our projects on hold and things
24 not coming through, we're quite honestly getting hammered by
25 our vendors as well.

1 And I know that in the past there has been
2 compensation made for those projects that did get bid and
3 got started and the funding had issues and, you know, those
4 vendors are taken care of. So I need to speak on behalf of
5 my -- so if we can move that project, I can take care of a
6 lot of problems besides mitigating our structural problems.

7 CHAIRPERSON BRYANT: Mr. Harvey then Senator
8 Hancock.

9 MR. SCHONEMAN: Beg your pardon?

10 CHAIRPERSON BRYANT: Mr. Harvey.

11 MR. HARVEY: If I might, I'd like to come at it a
12 different way. I heard staff suggest that we had an option
13 later on in our agenda to be able to apportion these through
14 health and safety and I'd like to have your comment on that
15 because to me that is the cleaner, safer way of going for a
16 number of reasons.

17 Number one, we had to notice this on an emergency
18 basis and the findings were tied directly to the earthquake.
19 We can make that finding easily for Calexico.

20 Yours is less clear and if you're satisfied to
21 address the issue with us later in the agenda where we might
22 be able to get to your questions under health and safety,
23 that's where I would prefer to go, but I would like to hear
24 your reaction. It's a different way of skinning the cat.
25 It gets you perhaps the desired result, but we do it in a

1 different agenda item.

2 MR. SCHONEMAN: I would agree. I think that does
3 make sense. The part about moving projects ahead once again
4 goes back to another issue that's not necessarily your
5 health and safety issues, like what we're talking about.
6 It's more like, you know, along the lines we're getting, you
7 know, money out to help stimulate things as what's been
8 talked about.

9 If you want to do that, that's why I made the
10 pitch for your hardship and small districts. Otherwise I
11 definitely see the logic of moving to the secondary
12 statement.

13 MR. HARVEY: I think this Board is looking forward
14 to having that very discussion.

15 MR. SCHONEMAN: Great. Well, thank you.

16 CHAIRPERSON BRYANT: Senator Hancock.

17 SENATOR HANCOCK: Thank you very much, Madam
18 Chairman. I would like to see us move forward and give this
19 district the money that they need to make the repairs today
20 and it's my understanding that in 2008 there was an
21 engineering report that said the buildings were in imminent
22 danger of collapse -- some of the buildings but that the
23 district for some reason wasn't informed that there was a
24 seismic fund and as we know, there's difficulties in the
25 definition of imminent danger of collapse and how we get one

1 so that we speed up getting that money out.

2 So the one thing I want to be sure of is if we
3 just do Calexico now, which I'd be in favor of, and we wait
4 till Tab 8, do we have to develop -- to we have to agree to
5 any particular -- are we presupposing any particular policy
6 outcome of Tab 8 or can we just go ahead and do it under
7 health and safety when we get there? Because if we can,
8 that would be a better thing to do I think.

9 CHAIRPERSON BRYANT: I don't think -- I -- correct
10 me if I'm wrong, but I don't think we're presupposing
11 anything and I think it's actually in Tab 9 where we
12 apportion and I think that we can move them up at that point
13 if we so desire. Correct? Any objections? Okay. Then --

14 SENATOR HANCOCK: Okay. Good.

15 CHAIRPERSON BRYANT: And I don't know if we need
16 to hear -- if anybody had any questions for CaleMA -- or
17 Assemblywoman Brownley.

18 ASSEMBLY MEMBER BROWNLEY: Well, I think maybe you
19 were going there with CaleMA because I -- and just asking in
20 terms of the staff's recommendation here and I understand
21 that the staff is recommending that they continue to work
22 with FEMA around these projects.

23 But how that interrelates relative to any
24 monies -- well, I guess the Calexico High School's not
25 receiving any additional monies. They're receiving their --

1 they're just getting their modernization money that they
2 needed. Never mind. I was -- I --

3 CHAIRPERSON BRYANT: Thinking out loud.

4 ASSEMBLY MEMBER BROWNLEY: Yeah. Yeah. Because
5 FEMA -- I mean I was a school board member during the
6 Northridge earthquake and we had lots of damage at our
7 schools and FEMA was very good at being there, providing
8 temporary housing for students, and getting the money out
9 very, very quickly for repairs.

10 CHAIRPERSON BRYANT: Okay. Any other questions?

11 MS. MOORE: Just one clarifying.

12 CHAIRPERSON BRYANT: Yes.

13 MS. MOORE: So the three projects of San Pasqual
14 are on the Tab 8 -- or Tab 9 list of projects?

15 MS. SILVERMAN: No, they're not.

16 MS. MOORE: Okay. So if we move to Tab -- a
17 discussion of this issue in Tab 9, their project isn't
18 there; correct?

19 MS. SILVERMAN: It's on -- further down the list
20 on the unfunded approvals.

21 MS. MOORE: Oh, it is on the unfunded approvals.

22 MS. SILVERMAN: It's on the unfunded --

23 MS. MOORE: That's what I mean. I didn't mean
24 that -- it's not within the 960, but it's on the list.

25 MS. SILVERMAN: Right. It's on the list.

1 MS. MOORE: All three of them are on the list?

2 MS. SILVERMAN: Yes. That's correct.

3 MS. MOORE: Okay. So it can be part of that --
4 thank you.

5 MR. SCHONEMAN: Okay.

6 CHAIRPERSON BRYANT: Okay then. Well, is there a
7 motion on Callexico?

8 SENATOR LOWENTHAL: Move Callexico.

9 ASSEMBLY MEMBER BROWNLEY: Second.

10 CHAIRPERSON BRYANT: All those -- why don't we go
11 ahead and call the roll.

12 MS. GENERA: Senator Lowenthal.

13 SENATOR LOWENTHAL: Aye.

14 MS. GENERA: Senator Hancock.

15 SENATOR HANCOCK: Aye.

16 MS. GENERA: Senator Huff.

17 SENATOR HUFF: Aye.

18 MS. GENERA: Assembly Member Fuller.

19 ASSEMBLY MEMBER FULLER: Aye.

20 MS. GENERA: Assembly Member Brownley.

21 ASSEMBLY MEMBER BROWNLEY: Aye.

22 MS. GENERA: Assembly Hayashi?

23 ASSEMBLY MEMBER HAYASHI: Aye.

24 MS. GENERA: Scott Harvey.

25 MR. HARVEY: Aye.

1 MS. GENERA: Kathleen Moore.

2 MS. MOORE: Aye.

3 MS. GENERA: Lyn Greene.

4 MS. GREENE: Aye.

5 MS. GENERA: Cynthia Bryant.

6 CHAIRPERSON BRYANT: Aye.

7 MS. GENERA: It carries.

8 CHAIRPERSON BRYANT: Thank you. Okay. Tab 4,
9 **Consent.** Is there any public comment on Consent.

10 MS. KAPLAN: Madam Chair, just as a point of
11 clarification, on the recommendations on Tab 3, we only
12 addressed item 1. I don't know if the Board wants to direct
13 staff in any other way.

14 CHAIRPERSON BRYANT: Oh, thank you. Actually --

15 MS. SILVERMAN: Recommendation No. 3 for the
16 portables.

17 CHAIRPERSON BRYANT: I think -- so do you need a
18 vote on Item 3? I mean I think San Pasqual knows they can
19 have them if they need them and you can do the dollar. I
20 don't think we need to vote on that, do we.

21 MS. SILVERMAN: Okay. No.

22 CHAIRPERSON BRYANT: And also obviously continue
23 your due diligence in working with all the districts in the
24 affected area and I actually think that it would be good if
25 we put on the agenda for the next meeting an additional

1 earthquake item in terms of an update, what's going on. I
2 think everyone would be interested in knowing where --

3 MS. SILVERMAN: Follow-up action.

4 CHAIRPERSON BRYANT: A follow-up action.

5 MS. SILVERMAN: Right.

6 CHAIRPERSON BRYANT: And if we have -- if we need
7 additional actions, we can take them.

8 MS. SILVERMAN: Yes. And we'll prepare to do
9 that.

10 CHAIRPERSON BRYANT: Right.

11 MR. NANJO: And, Madam Chair, that's correct.
12 It's within staff's delegation to go ahead and take care of
13 the portables, so you don't need a motion for that. Thank
14 you.

15 CHAIRPERSON BRYANT: Glad I was correct. All
16 right. So Tab 4, **Consent**. Is there any public comment on
17 the Consent items? Any questions or comments from the
18 Board.

19 SENATOR HANCOCK: Move the Consent Calendar.

20 CHAIRPERSON BRYANT: Is there a second?

21 MR. HARVEY: Second.

22 CHAIRPERSON BRYANT: Call the roll.

23 MS. GENERA: Senator Lowenthal.

24 SENATOR LOWENTHAL: Aye.

25 MS. GENERA: Senator Hancock.

1 SENATOR HANCOCK: Aye.

2 MS. GENERA: Senator Huff.

3 SENATOR HUFF: Aye.

4 MS. GENERA: Assembly Member Fuller.

5 ASSEMBLY MEMBER FULLER: Aye.

6 MS. GENERA: Assembly Member Brownley.

7 ASSEMBLY MEMBER BROWNLEY: Aye.

8 MS. GENERA: Assembly Member Hayashi.

9 ASSEMBLY HAYASHI: Aye.

10 MS. GENERA: Scott Harvey.

11 MR. HARVEY: Aye.

12 MS. GENERA: Kathleen Moore.

13 MS. MOORE: Aye.

14 MS. GENERA: Lyn Greene.

15 MS. GREENE: Aye.

16 MS. GENERA: Cynthia Bryant.

17 CHAIRPERSON BRYANT: Aye.

18 MS. GENERA: It carries.

19 CHAIRPERSON BRYANT: Okay. The next is Tabs 5 and
20 6, so I'm suggesting that we just take those up together.
21 We moved the Status of Funding ahead on the agenda from
22 where we usually have it in order for all of us to have the
23 background as we move into the next couple items.

24 MS. SILVERMAN: Correct. We presented this item
25 many times. We're just giving the Board an update of the

1 status of the bond sales that occurred last year in 2009.

2 Collectively in 2009, we received \$2.6 billion in
3 bond proceeds and that was sales that occurred in March
4 2009, April 2009, October 2009, and the November sales in
5 2009.

6 And so out of that -- those funds have been
7 allocated to this program, we wanted to highlight in the
8 chart on page 149 that last month we only liquidated
9 \$26 million from those prior bond proceeds.

10 And so we also wanted to highlight there's a new
11 chart on the back page of 149. There is a new chart there
12 showing that the March process of \$1.35 billion is there to
13 show that the pot of money is there and the various
14 allocations and once we get certification, we'll start
15 releasing those funds.

16 What we wanted to present to you today is a new
17 chart on Tab -- also on page 149. It's 149A. And what that
18 chart reflects, again like I shared with your earlier, is in
19 2009 we received \$2.6 billion in bond proceeds and so if you
20 follow the chart month by month and if you look at the
21 balances in March 2010, from that bond proceeds, we actually
22 liquidated \$1.894 billion from those bond proceeds and as of
23 March, there was still \$733 million available for
24 disbursements for those projects that had prior
25 apportionments.

1 And what that chart reflects now is in our
2 balances from the new \$1.3 billion in cash from the March
3 bond sale, we have over \$2 billion in bond proceeds
4 available for this program.

5 And so again highlight we've been successful in
6 our bond program in receiving proceeds, but we need to match
7 that up with the liquidation. The liquidation is a big
8 concern and so -- and that's the subject of the item of
9 discussion for our policy issues.

10 So with that, if you have any questions with the
11 chart --

12 CHAIRPERSON BRYANT: Are there any questions for
13 Ms. Silverman on these two items? Okay. Thank you.

14 SENATOR HANCOCK: I would move Items 5 and 6.
15 That's appropriate to do together?

16 CHAIRPERSON BRYANT: Do we need to adopt them?
17 Are they --

18 MR. NANJO: It would just be accept the reports.

19 CHAIRPERSON BRYANT: Okay. We'll accept them and
20 substitute our unanimous roll call for acceptance. Clarify
21 I'm not calling the roll every time. Okay.

22 Next is **Consent Specials**, Tab 7. Is there any
23 public comment on this item or questions from the Board? If
24 not, is there a motion?

25 SENATOR HANCOCK: That's what I thought I was

1 moving last time. Sorry. I'll do it now.

2 CHAIRPERSON BRYANT: Substitute the previous
3 motion. Moved by Senator Hancock. Is there a second?

4 MR. HARVEY: Second.

5 CHAIRPERSON BRYANT: Second by Mr. Harvey. We'll
6 again substitute our unanimous roll call without objection.

7 Okay. Moving on to just a little item, Tab 8.

8 Tab 8 is the **priorities in funding** item. At our last
9 meeting, we had a brief discussion about the fact that we
10 had a very successful bond sale at the time of 376 million.

11 At the time we received your report from staff
12 about how the unfunded list was managed and a number of
13 concerns were raised about where we would cut off the list
14 and whether or not we needed to make adjustments.

15 Scott Harvey, Kathleen Moore, and I agreed to
16 create a task force for OPSC to work with. Right after the
17 meeting, we learned that the April bond sale provide our
18 program with an added 975 million. This led us to work on
19 the development of this funding priority item.

20 We now have, as Lisa just explained, 1.3512 ready
21 to apportion. In our next item, we have a recommendation to
22 apportion 941 million of that and while I want to focus on
23 the larger policy discussion, the recommendation in the next
24 item retains flexibility for us to make changes if we so
25 desire.

1 In our discussion, I hope we do not get into
2 specific questions about Item 9 such as funding order or
3 financial hardship. And a brief aside on the financial
4 hardship, I did want to let the Board know it was my
5 decision to move changes to the financial hardship
6 regulation to next month because I thought it made sense
7 given this discussion to only make changes to it once.

8 So I'd like to thank everyone in the regulated
9 community who put the words from -- my words from last month
10 in letters reminding me that I flip-flopped and changed my
11 mind.

12 Anyway, loans from the Pooled Money Investment
13 Account ended over 18 months ago. It doesn't appear that
14 they will resume any time soon and I felt it's really
15 important for us to stop, take a deep breath, and ask
16 ourselves do we want to continue the policies that have
17 guided the program in these difficult times.

18 Are our policy objectives being achieved? Are we
19 protecting the state and not incurring unnecessary interest
20 costs by selling bonds for projects that are not ready to
21 go? Are we achieving the economic stimulus we desire?

22 The staff will present three options for our
23 consideration, but I would like to suggest that we do not
24 have to be bound by these nor do we have to make changes or
25 decide today, but what we really need to make sure is that

1 we are accomplishing what we want to accomplish in the
2 overall program.

3 So with that, I'll have Juan go ahead and present
4 it unless anybody wants to add something immediately to my
5 comments. Okay. Juan, go ahead.

6 MR. MIRELES: Thank you for that great background,
7 Madam Chair. Just to put it into context, what we're
8 talking about is discussing options for sort of a pilot
9 program and this would be for the remaining funds that Madam
10 Chair just talked about in terms of the 1.3 billion
11 awarding, apportionments for 960 million, we really have
12 450 million left to discuss in terms of changing the way we
13 make apportionments.

14 So before we discuss how we possibly contemplate
15 making changes, I want to just to go over the current
16 process. Right now districts submit funding applications to
17 our office, we review the applications, and we'll present
18 them to the Board and place them on an unfunded list.

19 Once bond funds become available, we then move
20 them from the unfunded list and grant apportionments. When
21 a project receives an apportionment, then the school
22 district can come in and submit a fund release request.

23 And just to give you some background, the fund
24 release request, districts have to enter into a binding
25 contract for at least 50 percent of the work. They have to

1 issue notice to proceed. So those are the kind of
2 certifications that they need to submit for a fund release
3 request.

4 Now, the districts also have 18 months to submit
5 this fund release request. So if they receive an
6 apportionment, they will have 18 months to come in and
7 submit the fund release request to our office.

8 So with that, the first option is basically do
9 nothing, maintain the current process. Basically the
10 process will not change. We just process projects and place
11 them on the unfunded list. As projects -- as we receive
12 funds, we will move down the unfunded list and grant
13 apportionments and again the districts will then have 18
14 months to come in and submit a fund release request.

15 A couple of things with this is this will provide
16 consistency in the program and districts will have the
17 ability to expect funding order from the recent bond sales.
18 However, this process doesn't prioritize projects that are
19 ready to construct and apportioned funds could be unused for
20 up to 18 months.

21 So Option 1 is basically to stay the course and
22 take no action.

23 Option 2, we changed the process a little bit.
24 Option 2 proposes to award conditional apportionments and
25 these apportionments would be to all the projects on the

1 unfunded list.

2 So right now we have about 2.2 billion on the
3 unfunded list. That means that all of these projects --
4 actually let me correct that.

5 We propose to make apportionments from the
6 1.3 billion that we have available. If we do, we will grant
7 apportionments to 960 million projects [sic]. That means
8 we'll have a resulting unfunded list of about \$1.2 billion.

9 So that means that all of these projects on this
10 unfunded list will be able to submit a conditional
11 apportionment. By doing so, these districts will be able to
12 submit a fund release request.

13 The idea here is that all the projects that are
14 ready to move forward will have that ability. So everybody
15 will be able to compete and submit a fund release request.

16 Part of this option though does require to have
17 certain conditions placed on these apportionments. We've
18 discussed this option with legal counsel and they have
19 advised us that we would need to have very strict language
20 to basically absolve the state from any kind of liability.

21 Just to give you an example, part of the language
22 that we are proposing to include is that the conditional
23 tentative apportionment will commence the 18-month time
24 limit requirement under the Education Code for all projects
25 receiving such conditional tentative apportionment and to

1 the extent that funds are available will allow for funding
2 for the project.

3 We also want to include language such as although
4 the State Allocation Board has provided the project with a
5 conditional tentative apportionment, such apportionment is
6 different from a normal unqualified apportionment in that a
7 conditional tentative apportionment does not in any way
8 assure, guarantee, or promise that the full funding does or
9 will exist for the project.

10 So the idea here is that basically districts
11 understand that there are some conditions placed on these
12 projects. But again the main option for Option 2 -- I'm
13 sorry. The main objective for Option 2 is to give everybody
14 an apportionment with these conditions so that everybody can
15 compete.

16 That means that more projects will be able to
17 submit a fund release request. We do know that some
18 projects could be on hold, if you will, because district
19 circumstances may have changed, so they may not be ready to
20 go, but we also know that there are the projects that are
21 ready to go and ready to construct, so they may be able to
22 compete under this new option.

23 Is there any questions on Option 2? I can go
24 through each option and answer questions before I move to
25 the next one.

1 CHAIRPERSON BRYANT: Just keep going.

2 MR. MIRELES: Okay. Option 3 is a little
3 different. We basically, well, prioritize apportionments to
4 projects that are ready to submit fund releases. As I
5 mentioned earlier, the process to award a fund release
6 request is that districts have to submit these fund releases
7 and certify that they've entered into contracts and that
8 they've issued notice to proceed.

9 This proposal changes that in that it adds a
10 certain certification that districts can certify that if
11 they do receive an apportionment they can come in and submit
12 a true fund release request within 60 days. So basically we
13 will send -- we will have the opportunity for all projects
14 currently on the unfunded list to make the certification on
15 a revised or preliminary 5005. A 5005 is a fund release
16 form.

17 They will then make these certifications and then
18 based on the districts that can make that certification that
19 they will come in for a fund release within 60 days of an
20 apportionment, then the Board could grant those projects an
21 apportionment.

22 So the idea behind Option 3 is that everything on
23 the unfunded list will be able to submit this revised fund
24 release form that certifies that they can come in right away
25 and the Board will make apportionments to those projects

1 that are ready to go.

2 Again this will promote -- will allow projects
3 that are ready to submit a fund release request to be able
4 to compete with the funds.

5 Another point I wanted to make is that the
6 apportionments will be awarded in date order at each Board
7 meeting. So if we have multiple projects that submit these
8 preliminary fund release requests, we will then sort them in
9 date order of the SAB unfunded approval.

10 Staff will present each month all of the projects
11 that submit a fund release request within a certain date and
12 then list them in order based on the unfunded approval date.

13 The other information that we want to provide is
14 that this option may -- and I want to underscore that -- may
15 require regulation changes. At this point, we're not sure.
16 However, I do want to point out that we want to do
17 everything that we can to implement these options as soon as
18 possible if the Board so chooses.

19 So we are still working on the mechanics of both
20 of these options. Another highlight that I wanted to make
21 is that we will have to make special consideration for
22 financial hardship projects as well as facility hardships.

23 We just talked about some of the health and safety
24 issues. We would have to give special consideration to
25 those types of projects and how they will fit under these --

1 both of these schemes.

2 At this point, both of these options are sort of
3 high level discussions on the concepts. We do plan on
4 coming back and providing the Board with more detail on how
5 to implement each of these if the Board decides to go with
6 one of the options.

7 So with that, I'd be more than happy to answer any
8 questions on Option 2 and 3.

9 MR. NANJO: Just a couple comments from a legal
10 standpoint. Option 3 will in all likelihood require
11 regulations. It's difficult to say that that can be done
12 without regulations. I know we're at high level, but that's
13 a fundamental change in the way this Board has been handling
14 those applications.

15 With regards to Option 2, just we've done our best
16 to put some language that could protect the Board, but that
17 particular option is not without risk, so it is not
18 completely safe. So I just want to leave the caveat for the
19 Board in their consideration.

20 CHAIRPERSON BRYANT: Okay. Are there any other --
21 Board members have any questions/comments? Senator
22 Lowenthal.

23 SENATOR LOWENTHAL: Yeah. I just want to clarify
24 what I heard under Option No. 3. I thought you were saying
25 they first do the preliminary fund release and then I

1 thought I heard you say which will require districts that
2 they can submit something. Is it that they can or they --
3 but I thought it's they will. It's --

4 MR. MIRELES: They will.

5 SENATOR LOWENTHAL: So it's more than can.

6 MR. MIRELES: Yes.

7 SENATOR LOWENTHAL: They will submit it. They are
8 committing to submitting it. Not that they are able to
9 submit it, they will.

10 MR. MIRELES: Yes.

11 SENATOR LOWENTHAL: Thank you.

12 MR. MIRELES: Thank you for the clarification.

13 CHAIRPERSON BRYANT: Any other questions or
14 comments? Mr. Harvey.

15 MR. HARVEY: I want to thank staff for bringing
16 this forward because it does get to I think what this body
17 has talked about which is to move money where it needs to
18 go. We are on a new course and I like the idea that it's a
19 pilot and I would suggest that as a pilot, we might want to
20 be somewhat risk taking and ask staff to really work very
21 hard if we give direction in one of these options to do it
22 without a regulatory change, that we do it as a pilot, as an
23 experiment.

24 We come back and look at what it resulted in and
25 then we change the regulations to conform what our lessons

1 learned were.

2 I kind of like Option 3. It is getting to the nub
3 which is those that are ready shall come forward -- will
4 come forward. Even though we're conditionally putting
5 language in on Option 2, I think we're still potentially
6 exposing the state to some liability.

7 So I am drawn to 3 because it really says if
8 you're ready to go in 60 days, you will. So we're
9 benefiting the private sector. We're creating jobs. We're
10 building schools where they need to be built and I think
11 that should be our first call.

12 CHAIRPERSON BRYANT: Senator Lowenthal.

13 SENATOR LOWENTHAL: Yeah. I too agree with Scott.
14 I like number 3, but the word of caution is if we're really
15 trying to get these projects out as quickly as possible and
16 Henry says we've got to go through a regulatory process,
17 what are we really talking about in terms of timing.

18 MR. NANJO: The regulatory process normally takes
19 four to six months unless there is justification there for
20 an emergency regulation which you may be able to do. So
21 three months, yeah, under an emergency regulation.

22 That being said, you know, it's going to take some
23 time to kind of restructure the process. So that may
24 dovetail, but it's up to the Board. There is a time
25 constraint involved with number 3 -- Option 3.

1 CHAIRPERSON BRYANT: Assemblywoman Fuller.

2 ASSEMBLY MEMBER FULLER: I think our goal for all
3 of us on the Board is to get this money out on the street as
4 soon as possible and all of us have districts that are ready
5 and clamoring for the money. And it seems to me that
6 Option 2 provides us with the most opportunity to make most
7 expedient use.

8 If we are -- since we are going to do another
9 meeting either way evidently and staff is going to be
10 charged to work very, very hard to find the language that
11 guards us against that liability, then we judge that at the
12 next meeting.

13 I think 3 -- initially I really liked 3 and I
14 thought about it a long time, but at the end of the day,
15 it's not particularly speedy and it has its risks because we
16 haven't even thought about the regulations that we might
17 come up with and so we still have the objection about 2 in
18 3, only it's going to take us longer to find that out.

19 So I'm much -- I think more supportive of 2 at
20 this time given that, one, the criteria is to get the money
21 out on the street as soon as possible; two, school districts
22 get really confused and every time you change the whole
23 process, you have to get it all out there and they
24 understand this process with number 2.

25 And so I'm inclined to leave it alone, unless I'm

1 sure it's broken, and it sounds like at the next meeting, we
2 can have some good options brought forward to minimize the
3 risk.

4 CHAIRPERSON BRYANT: Senator Hancock.

5 SENATOR HANCOCK: Yeah. I actually like number 3
6 too. We could also leave it the way it is and just try to
7 really push the money out there, but if we did number 3, it
8 was suggested to me at some point in our briefing today that
9 it would be possible to do a policy change so that you would
10 not have to go through a whole regulatory process and that
11 we could really look at this as really a kind of pilot
12 project because we're really only talking about the
13 415 million that's left after we give out the rest of the
14 money and what -- people's concern I think is that it might
15 be unfair to certain districts, especially smaller districts
16 that might not be ready -- might not be fully staffed and
17 ready to go get out there.

18 But if we did do it as a policy change and as a
19 pilot project, we could ask that staff collect data and come
20 back to us and tell us who was skipped over and why. Who
21 got in this process so that we could actually make a
22 definitive final policy at the end of the time, but we would
23 also be moving forward to get the jobs and the schools
24 built.

25 So if that's a possible thing, I'd like to suggest

1 we might think of that.

2 CHAIRPERSON BRYANT: I think we can. Like I said
3 in my earlier remarks, I think that this is pretty wide
4 open. It doesn't -- I think what I was trying to gauge --
5 assess from all of you is whether or not there's a desire to
6 make -- to somehow or another invigorate how quickly cash is
7 going out and getting out into construction.

8 And I think that's the ultimate goal and there's a
9 number of approaches. I think I'm with you in favoring the
10 least invasive approach so we're not doing massive
11 regulatory changes because we won't get quick results.

12 So can we do something where we reorder our list
13 by setting new policy on a one-time basis or something and
14 I -- you know, we -- the staff's worked amazingly hard on
15 this and so have, you know, a couple of my colleagues as
16 well on here and it's -- they're thorny difficult questions
17 and it's going to take a lot of time and investment of
18 energy from all the experts in the room and here to make it
19 happen if we want to do something different.

20 I think there are probably a few public comments
21 on this item. I'm not sure, but maybe we could hear from a
22 few.

23 MR. DUFFY: Good afternoon, Madam Chair and
24 members, Tom Duffy for CASH. This has been a difficult
25 issue for us and for school district members because of the

1 longstanding tradition of date order.

2 You have a Chair that has been very compelling in
3 her quest for answers to questions that are difficult to
4 answer. We've worked with Cynthia and put together a survey
5 of our members asking the question and we sent that to you.
6 I don't know. Did you receive that, Ms. Greene -- asking
7 the question about how soon we can come in for the dollars.

8 And we had I think a fairly good response and
9 basically about 77 percent said that they would come in
10 within a 60-day period.

11 So even without changing anything, it may be that
12 you would have call on these dollars.

13 But I expect from the discussion you would want to
14 make some kind of change and we would first admonish that
15 you do that kind of with some deliberation on the part of
16 yourselves and your staff and districts and we would work
17 with you to explore what it is that would work, whether it's
18 Option 2 because it is really more of the current program
19 where everybody is apportioned conditionally and then having
20 to come in on their own to decide whether or not they could
21 ask for funds.

22 But if you were to do this, I would ask that you
23 consider a couple of things. One is that we recognize that
24 this -- there isn't a precedent that's being set here that
25 I -- we're in an unusual time and school districts are

1 really struggling at the local level for a variety of
2 reasons. I have to compliment the write-up on this where it
3 talks about those issues the districts are experiencing.

4 So no precedent be set there. I think if you were
5 to go forward with 2 or 3, I think it's important to limit
6 the amount that a particular district would have.

7 LA is a very large district. It has lots of needs
8 and it's got its matching funds. I'm not sure where they
9 would be with this, but I would want to make sure that every
10 district had an opportunity to come in, but if not be a
11 large share of the funds available not got to one district
12 or a few districts.

13 It may be that you also want to consider having a
14 time limit on this pilot, Mr. Harvey, and -- so that you
15 could gauge and I think, Senator Hancock, your comment about
16 being able to gather information/gather data during a
17 particular time, whether it's six months or longer, but we
18 have had concerns about these kinds of proposals in the
19 past. We really would like to dialogue with you and,
20 Ms. Bryant, we really would like to see districts coming in
21 and drawing down those dollars.

22 It would stimulate economy to take care of
23 modernization and new construction needs. It's just very
24 difficult at the local level today when districts are laying
25 off teachers and struggling with general fund -- to be able

1 to explain to a public that isn't sophisticated necessarily
2 that these are capital dollars. They can't be spent on
3 teachers and we're going to go forward with the projects.

4 But I would just ask for your consideration of
5 those comments and thank you, Ms. Bryant, for the
6 opportunity to dialogue with you away from this setting.
7 Thank you very much.

8 CHAIRPERSON BRYANT: I think Ms. Greene has a
9 question that might be directed to you.

10 MS. GREENE: In terms of making it fair for
11 smaller school districts who may not be prepared to do this,
12 would an extension of the 60 days to maybe 90 or a hundred
13 and 20 days based on their size or their hardship or
14 whatever, would the say amount of time make a difference?

15 MR. DUFFY: Thank you asking that question. I
16 actually had a note to comment on that and I didn't.

17 I think even beyond the size -- certainly smaller
18 districts may struggle even more, but what's happening at
19 the local level today because of the hunger within the
20 industry -- construction industry, there are a number of
21 protests that are happening at the local level and they need
22 to be addressed by school district boards before the Board
23 can go forward with their complete award.

24 So we would recommend extending that to at least
25 75 if not 90 days.

1 In California, the minimal amount of time to bid a
2 project is 14 days; advertising twice in a newspaper for a
3 14-day period. After that when bids are taken, if there are
4 protests, they need to be dealt with and their also
5 (indiscernible) due diligence where the district makes sure
6 that everything is in place for the potential awardee in
7 terms of bonds and the like. So additional comment is
8 required. Thank you very much.

9 MR. LYON: Good evening. Richard Lyon on behalf
10 of the California Building Industry Association. We really
11 do appreciate the fact that the Board is taking a look at
12 trying to move projects forward in an expedited manner and
13 as we take a quick look at this, a couple observations.

14 One, we do agree that time is of the essence here
15 and I know that that's not to time is the only consideration
16 because there is liability/risk that's involved here.

17 As we take a look at the options, there is a kind
18 of distinguish with a difference between Option 2 and
19 Option 3. We -- as we look at options, we look at Option 2,
20 what jumps out at us is the seamlessness of Option 2.

21 You've got about 1.2 billion in terms of projects
22 that are on the unfunded list. You've got a pilot program
23 that's \$400 million. So you've got known quantities.
24 You've got a known amount of money. You've got a known
25 demand for that.

1 And to allow those projects within this pilot
2 process to be able to compete equitably for that
3 \$400 million and move forward those who are ready to file a
4 fund release seems to make the most sense to us and this is
5 something that in the consideration of time the Board could
6 do this by way of a policy without having to go through what
7 could potentially be a long and time consuming regulatory
8 process which seems to work against what we're trying to do
9 here which is more projects out the door.

10 So this is a quick read. It -- either option are
11 moving in the right direction, but our read on this is that
12 the preferred would be Option 2. Thank you.

13 CHAIRPERSON BRYANT: I do want to just make one
14 quick comment about just to remind everybody in the room
15 that we have not put any additional projects on the unfunded
16 list for a couple of months now for a couple -- for a
17 variety of different reasons and there is a queue of
18 projects that I would anticipate on the next agenda we would
19 add to that list, and I think that's kind of an important
20 thing that we're not talking about what's in Tab 9.

21 There are going to be -- that list is somewhat --
22 will be somewhat longer the next time we take action on the
23 unfunded list if we choose to maintain it. Just to clarify.

24 Assemblywoman Brownley.

25 ASSEMBLY MEMBER BROWNLEY: I just wanted to make

1 one comment relative to Option 2 and I think that if there
2 are districts who, you know, were on the list and then
3 actually didn't get the money, then, you know, their
4 18-month requirement -- you know, that clock starts to tick
5 and there's no -- they sort of get hit on that because their
6 clock ticks, but they don't get the money and is there some,
7 you know, way in which if we were going to go down the path
8 of 2 if they could be sort of remodulated and have their 18
9 months afforded to them.

10 CHAIRPERSON BRYANT: In some of our discussions
11 that we've actually referred to it as a light switch, you
12 know. It's on your -- the time's ticking that if you're --
13 we're out of cash or there is -- or we're back into a freeze
14 mode that we would have to maintain the Board's overall
15 desire to leave -- hold everybody harmless when the state is
16 the one -- you know, when there's a lack of cash. So I
17 would agree with you on that point.

18 Mr. Harvey.

19 MR. HARVEY: If I might, that is the one issue in
20 our Option 2 that troubles me. It's the 18 months. We have
21 districts now, as Juan has said, that have actually pulled
22 the trigger on the apportionment, but they haven't come in
23 for the money. They've been apportioned money, but they
24 haven't actually drawn it down.

25 And Option 2 can continue that and that's the

1 appealing thing of 3 says you got to say you're ready to do
2 it in 60 days. So again to me we are serious about moving
3 it. Option 3 is the only reason and, you know, districts,
4 declining enrollment, the optics of firing teachers and
5 having a building program, I think there may be some that
6 would hunker down and use the full 18 months.

7 So 3 gives us an offramp for moving the money
8 quickly.

9 CHAIRPERSON BRYANT: I think -- I actually think
10 there's the poster child for this example which now for some
11 reason it fell out of my head -- Baldwin Park. I mean this
12 school district sent us a letter. They're the very next
13 project on -- where the cutoff comes in Tab 9, it's the next
14 district, the next project. They're ready to go. Like they
15 say in their letter they can go to construction nearly
16 immediately and the arbitrariness of just drawing a line
17 impacts that.

18 I think they're just almost the poster child for
19 the -- for having this discussion and seeing if there's a
20 change that can be made. Senator Lowenthal.

21 SENATOR LOWENTHAL: Yeah. I'd like to follow up
22 on a comment that Senator Hancock made earlier which I just
23 wasn't sure of. She said, well, if we did want to move
24 let's say to Option No. 3 and we were very concerned
25 about -- I'm paraphrasing -- you know, the long length of

1 time for a regulatory kind of change that we could call this
2 a policy change and do it as a policy change and as a pilot
3 project. Can you explain that to me what that -- I'm just
4 not clear on it.

5 It seems very reasonable to me, but I need to
6 understand what we're really -- why is that an option.

7 CHAIRPERSON BRYANT: Well, I think -- I mean I --
8 and you guys -- Lance, you can correct me if I'm wrong here.
9 But I think that -- I think what we've talked about in some
10 of our meetings is that what we would really be doing is
11 reordering the list which we may have flexibility to reorder
12 the list.

13 I think when you're talking about a broad policy
14 change, that might really become equivalent to regulatory
15 change and so we have to be careful, you know, how it would
16 go, but I think one of the things we picture was if we make
17 a decision about we want to fund in this order, like right
18 now we have a policy of funding in date order when it's at
19 the Board.

20 SENATOR LOWENTHAL: Right. When it came in.

21 CHAIRPERSON BRYANT: And then the second default
22 level is when the application arrived at OPSC. That might
23 be a policy change, but again as Henry pointed out earlier,
24 we would have to look at each one of these policy changes
25 see if we run afoul and we're in the regulatory world.

1 SENATOR LOWENTHAL: But we could do it as a -- you
2 know, as a policy change and just change the order of what
3 we're doing.

4 CHAIRPERSON BRYANT: You know, like for example --

5 SENATOR LOWENTHAL: And say just a pilot project.

6 CHAIRPERSON BRYANT: For example, you know, we had
7 San Pasquale here. If we were so moved we move them up then
8 I mean I -- I don't know how it would work and I don't know
9 where we get to a point where we have crossed the line into
10 underground regulations and we'd want to avoid that.

11 SENATOR LOWENTHAL: Right. Going up to that line
12 and just staying under -- thank you, Madam Chair.

13 MR. NANJO: And a lot of this is going to be
14 fleshed out when you have the details, but, you know, you've
15 got really two concepts you need to be careful -- we need --
16 we as a Board or you as a Board need to be careful about and
17 that is the concept that you don't want to be inadvertently
18 creating underground regulations.

19 At the same time, to the extent that your existing
20 regulations has a certain process, you don't want to be in a
21 situation where, you know, you created a situation where
22 either you're not following your regulations or you're
23 operating contrary to your regulations.

24 Now, there is this concept of a pilot program or,
25 you know, for lack of a better term, and exploratory

1 creation that you make and to the extent that we can take
2 it, you know, to use Senator Lowenthal's line., to the
3 extent that we can take it up to the line, we're more than
4 happy to try to create something like that, but you got to
5 remember the closer to that line you get, the more risk you
6 get that you're going to be challenged, so --

7 CHAIRPERSON BRYANT: And I think from our -- my
8 department's point of view, we would be very concerned
9 about -- we are in the realm of bonds and we have bonds that
10 have been sold and we have bondholders out that so we have
11 to be very careful of the bond covenants and all of these as
12 well, so -- okay.

13 Is there any other -- oh. Ms. Moore.

14 MS. MOORE: I think these are extraordinary times
15 and that we have an obligation to really look at options
16 that provide funding to school districts that may be ready
17 to go.

18 From the Superintendent's perspective though, we
19 would want to be very careful that this is not precedent
20 setting, that it truly is pilot and that we gather the data
21 from that pilot and are very thoughtful in our deliberations
22 after that of how we may move on into the future.

23 If I put my district hat on, as a district member,
24 I'd be in Option 3 because Option 2 has an inherent risk in
25 it for the district that goes to bid, says that they had it

1 under contract, comes up and lo' and behold we're at 470 and
2 they are not going to get funded.

3 They have a contractual issue. Yes, there's
4 contractual language that you can do, but as Mr. Gibb might
5 want to comment on, that's not really in good faith with
6 your contractors in the area when you suddenly shut
7 something down like that.

8 So I think there's more risk to districts in my
9 mind and I'm very open to hearing more from districts about
10 that in Option 2.

11 And to me Option 3 provides I think still a level
12 of playing field in that if you're ready to go and you're on
13 the list, you're going to be funded in that order. And so
14 I'm more inclined to that because it keeps with the
15 integrity of the list which I think is very important that
16 we'll talk about in the item about why we arrived at where
17 we arrived at drawing the line on the list.

18 So that's -- yet with that caveat, I think that if
19 we have to go to regulations, we lose all the value of what
20 we're debating here. Four months from now, we should have
21 just funded the list and take our knocks where we take them.

22 So I don't know that's the approach that we
23 should -- that as we enter these approaches we should look
24 to how we can achieve it without that and if we can't
25 achieve it without that, I'm not so sure it's all that

1 terribly relevant.

2 So those are our thoughts and we look forward to
3 more -- this next meeting I think. I don't know if we're
4 ready to take action today.

5 And I also compliment staff for putting together
6 an item that we can truly have a very public discussion
7 about something that's of interest to everyone and they can
8 see it as well and comment over the next 30 days.

9 CHAIRPERSON BRYANT: Senator -- oh, well.
10 Mr. Duffy.

11 MR. DUFFY: Just your discussion -- or your
12 comments, Ms. Moore, prompted some thoughts.

13 And I know you talked about districts earlier in
14 your discussions, but there may be districts that are -- and
15 I can think of one and I think I shared this with you,
16 Ms. Bryant -- districts that have not acquired a site --
17 site acquisition is part of the funding that they're after
18 and construction funding would follow.

19 You cannot sign a contract with new construction
20 for a site that you do not own. So consideration for that
21 kind of project would I think be important to make sure that
22 the playing field is level.

23 So that hardship district site acquisition has to
24 occur in advance, that they would be able to come into
25 whichever their option, you'll be able to identify that

1 they're signing a contract to acquire the property because
2 that's indeed what happens and then they would go with
3 construction thereafter. Thank you.

4 CHAIRPERSON BRYANT: Okay. Senator Hancock.

5 SENATOR HANCOCK: Well, for the purposes of
6 discussion, I'm going to try a motion and that would be that
7 we adopt Option 3 as a pilot project for \$415 million and
8 that we ask for a report to come at the end with data on how
9 many projects were dropped back or moved up and why the
10 projects that got dropped did get dropped.

11 And I would suggest that we take the 90 days to
12 shovel ready -- from 60 -- I'm just trying to pick up on
13 CASH's suggestion that if you're talking about site
14 acquisition or certain things, you might need the full 90
15 days. I -- having come from local government, I always
16 worry about you have things like Brown Act requirements to
17 get things on the agenda, et cetera, et cetera.

18 But again this is a motion for discussion
19 purposes, so people think -- have something else to suggest,
20 I'm very open to it.

21 CHAIRPERSON BRYANT: Okay. We have a couple of
22 hands down here.

23 MS. SILVERMAN: Hi. I just want to make sure. I
24 mean it's great that to move an option forward, but just I
25 want to keep it open for discussion as far as whether or not

1 we're going to move the motion for San Pasqual or -- you
2 know, I know we're talking about priorities and are we going
3 to set the priorities for further discussion as a health and
4 safety -- you know, we could adopt a motion, but have the
5 consideration for -- if we're going to move forward the
6 consideration for San Pasqual.

7 SENATOR HANCOCK: Oh, yeah. Definitely.

8 MS. SILVERMAN: -- next time; right. Right.

9 CHAIRPERSON BRYANT: Right. So the change in
10 the -- I mean we could rephrase the motion slightly in that
11 the balance left after we act in Tab 9 would be what is in
12 Senator Hancock's motion.

13 Also -- I mean I also think we also -- I feel a
14 little uncomfortable with it from the standpoint that I'm
15 not positive we know everything we need to know about
16 Option 3 so that we're positive we can execute it without a
17 regulatory change and all of that and I think what I
18 really -- I think what the heart of the motion is moving
19 forward with Option 3 and that means there's a lot of
20 questions we have to answer inside of there -- the things
21 about facility hardship, those -- health and safety, some of
22 the nuances that is not in the memo simply because we only
23 have 30 days since the last meeting.

24 So I think it may be that we were more providing a
25 policy direction and it has to get fleshed out as opposed to

1 it absolutely is going to happen because I think there's a
2 lot of -- I fear there's a lot of unanswered questions.

3 SENATOR HANCOCK: So you want a direction to staff
4 to come -- that we made a policy decision that this is --

5 CHAIRPERSON BRYANT: We want -- get us here,
6 staff.

7 SENATOR HANCOCK: -- what we want to do and we
8 would like to have it come back in final language next
9 month.

10 CHAIRPERSON BRYANT: Right. I think that's
11 probably a safer place for us to be.

12 SENATOR HANCOCK: Well, I would modify my motion
13 to say that in that case.

14 CHAIRPERSON BRYANT: Assemblywoman Fuller.

15 ASSEMBLY MEMBER FULLER: If we can modify the
16 motion so that it leaves room to default back to 2 if we
17 can't -- if we have to go with regulation change. In other
18 words, I would prefer not to be having to vote for 2 because
19 3 might end up being regulation change. I'd be happy with 3
20 if it doesn't take a long time.

21 So I don't know how to get there, but maybe we
22 leave it open that we look into 3 and see if the policy
23 changes can be made and if not, then we look at 2.

24 CHAIRPERSON BRYANT: Assemblywoman Brownley.

25 ASSEMBLY MEMBER BROWNLEY: Yeah. I was just -- I

1 certainly like the direction that the motion's going in and
2 I do think we need a little bit more time to sort of go
3 through these issues and make sure that there are no
4 unintended consequences.

5 I'm just wondering if -- you know, if we should
6 between now and the next meeting have this vetted at the
7 Implementation Committee and have them have a chance to chew
8 on it and, you know, provide some recommendations as well
9 to -- recommendations to staff to make some final
10 recommendations.

11 CHAIRPERSON BRYANT: Mr. Duffy.

12 MR. DUFFY: Yes. And Senator Hancock, I
13 appreciate your leadership on this. Just a fine point, and
14 I think -- I would just ask you to do the deliberation that
15 you're talking about because just the phraseology of which
16 projects would get funded could certainly leave some
17 projects out.

18 Back to the survey that we did, 72 percent of the
19 respondents said that they were seeking reimbursement. So
20 they have spent money on the project. You will
21 reimbursement them very much like Calxico and they'll spend
22 that money on another project to keep things going.

23 So if they -- if the phraseology would be that
24 they'd have to be a new project shovel ready then they would
25 not necessarily qualify. So just -- and I don't think

1 that's what you're anxious to do. All right. Thank you.

2 CHAIRPERSON BRYANT: Okay. I'm sorry. I didn't
3 realize you wanted to speak again. I apologize.

4 MR. SCHONEMAN: Oh, I -- Mr. Duffy's taught me a
5 lesson. I just wanted to leave the Board with a thought
6 from San Pasqual and that is we do have those three projects
7 on there. Those three projects would go a long way toward
8 mitigating the health and safety issues for our kids.
9 However, that still leaves the bulk of the district and all
10 three sites, elementary, middle, and high school are on the
11 same acreage there and I would just respectfully request
12 that you advance our projects 5001, 5002, 5701, through the
13 list, but I would look forward to discussing further with
14 staff the continuance of mitigating the rest of the district
15 as well because these projects alone will not take care of
16 all the health and safety issues with regard to our
17 students.

18 So again I thank you for your consideration and
19 the time to listen to our presentation. Thank you.

20 CHAIRPERSON BRYANT: Are there any other comments?

21 MS. KAPLAN: Okay. As a -- Madam Chair, as a
22 point of clarification to make sure I understand the Board's
23 direction as we move forward, I as -- at the last
24 Implementation Committee meeting depending on what Board
25 action or direction was here, informed my Implementation

1 Committee that we might have a special meeting in May to
2 discuss this. Is it the Board's will that we set that move
3 forward with that special Implementation Committee to
4 discuss the options?

5 CHAIRPERSON BRYANT: Or as an alternative -- and I
6 have -- something I've been thinking about is we could
7 actually -- actually have -- convene a true subcommittee and
8 have it be at a subcommittee of the Board.

9 There's part of me that -- there's part of me --
10 maybe it's because I've really spent a lot of time on this
11 thinking about it and there's part of me that feels like
12 this is such a substantial change that maybe it's even at a
13 higher place than in Implementation if we're going to do it
14 quickly that we really need to have a place to listen to the
15 concerns of everyone and really sit down and think about all
16 of the -- there are so many -- I've already written down a
17 list of five things I hadn't thought of just from what
18 people have said today.

19 So I'm just -- it's just an option. I'm
20 personally willing to sit through that and to hear directly
21 as opposed to having it go to Imp and have poor Ms. Kaplan
22 be the only one who's coming back and distilling the
23 information to us.

24 So it's just an -- it's an option, anybody is
25 willing, thinks it's a good idea.

1 MR. HARVEY: I think it's a great idea.

2 CHAIRPERSON BRYANT: If anybody's willing to do it
3 with me. I don't really want to be alone.

4 MR. HARVEY: Well, you've got your subcommittee as
5 a minimum.

6 CHAIRPERSON BRYANT: Yeah. Okay. So then we can
7 actually -- so maybe we'll do that then if that works for
8 everybody and flesh out Option 3 as Ms. Hancock described it
9 in her motion and with knowing that kind of -- I think we
10 have a pretty good sense of where everybody is.

11 MS. KAPLAN: I'll clarify --

12 SENATOR HUFF: We didn't have a second anyway
13 so --

14 MS. KAPLAN: -- what exactly --

15 CHAIRPERSON BRYANT: And we may not need to
16 have -- I mean maybe we can -- we may not really actually
17 need a motion. My thinking is the direction -- we have
18 direction that we heard from Assemblywoman Fuller that, you
19 know, if we -- it's a fallback to the fallback and it may
20 marry in the end and --

21 MS. KAPLAN: So clarification is the working group
22 or the subcommittee would be the establishment from those
23 members who are on working group which is our Chair, Scott
24 Harvey, and Kathleen Moore. Subcommittee groups can have
25 four members. I do not know if there is any other member

1 that wishes to join.

2 Then I will work with the three of you as staff to
3 the -- and with the OPSC of setting up an appropriate time
4 and then I just wanted to clarify in reviewing Option 3 to
5 make sure that all the Board's issues were addressed that we
6 address issues with small school districts and financial and
7 facility hardships, whether they should get more time than
8 the 90 days.

9 There was a suggestion of potentially a carve-out
10 that should be considered or looked at, how we deal with
11 health and safety, and then how we're going to have a
12 communication plan out to districts to make sure that
13 districts know the process and policy with this new policy
14 change --

15 CHAIRPERSON BRYANT: Right. And the number of
16 days that would be in the mix that -- whether or not site
17 acquisition should be moved up on the -- and I think that
18 was -- I think you caught the rest of them, so --

19 MR. HARVEY: The only correction I would have is I
20 would like to hear about the time frame rather than going in
21 with 90.

22 MS. KAPLAN: Okay.

23 MR. HARVEY: It could be 60. It could be 75. It
24 could be -- who knows.

25 MS. KAPLAN: Absolutely. We'll make sure --

1 CHAIRPERSON BRYANT: Okay.

2 MS. MOORE: If I may also, Cynthia, the
3 subcommittee is a Bagley-Keene Act committee; correct? A
4 subcommittee meets under that --

5 MR. HARVEY: Yes.

6 MS. MOORE: -- so it would be noticed.

7 MR. NANJO: That's right.

8 MS. MOORE: Could we also have it -- Mr. Harvey,
9 could we have it Webcast I think so that more districts can
10 have access to --

11 CHAIRPERSON BRYANT: I think we're required by
12 law.

13 MS. MOORE: Is it?

14 MS. KAPLAN: It's required by law.

15 CHAIRPERSON BRYANT: Even subcommittees have to be
16 Webcast.

17 MS. MOORE: Of the State Allocation Board?

18 CHAIRPERSON BRYANT: Um-hmm.

19 MS. MOORE: Okay. Great. Thank you.

20 MS. KAPLAN: And then based --

21 MR. HARVEY: And we'll look for donations.

22 MS. KAPLAN: And then based on timing to make sure
23 that we have the agenda in Bagley-Keene because it does
24 require a ten-day working notice, Board members might want
25 to look at their calendar. Monday I believe it's May 17th

1 is an appropriate -- probably one of the earlier days to get
2 this or I think Friday may be the first day that very last
3 week, so I think it's May 14th, but in reality the 17th
4 would probably be (indiscernible) once Bagley-Keene, you
5 agendize and get it out.

6 CHAIRPERSON BRYANT: Okay. We'll -- you have --
7 you know how to reach our calendar, so -- okay. Thank you.

8 Moving onto Tab 9, I think this one -- which one
9 of you is doing this?

10 MR. MIRELES: **Tab 9**, we started about the
11 1.3 million that we have available. Middle of the page, we
12 have a chart that outlines the total amount and what bond
13 source it came from. Just a quick summary, we have
14 266 million from Prop. 47; 353 million from Prop. 55; and
15 757 from Prop. 1D for a total of 1.3 billion.

16 We're talking about trying to make apportionments
17 from the unfunded list in date order to basically keep the
18 integrity of the unfunded list and we did so until we
19 reached 960 million. After that point, we realized that
20 given the different amounts of funds from the different
21 propositions, we may have to skip over some projects
22 depending on the bond source.

23 That is why we drew the line at 960. We can go
24 down 960. It doesn't change anything. We keep the
25 integrity of the unfunded list. And that's why we set the

1 line at 960 and we do have all of those projects that are
2 ready for an apportionment. I don't know if you wanted me
3 to explain anything else or why we drew the line there, but
4 I think that's an important that we didn't really get into
5 in Tab 8, so if there's any questions on that point, I can
6 certainly answer them.

7 CHAIRPERSON BRYANT: Are there any questions on
8 this item?

9 MS. SILVERMAN: And the second part of the item is
10 what we wanted to share is with the financial hardship
11 re-reviews. I understand that the Board took action in
12 February to adopt a motion to basically due to the fiscal
13 crisis not adopt the policy of following the re-review as a
14 result of that crisis.

15 Understanding that issue and our ability to come
16 back with a regulation package to clarify that, what we
17 wanted to share with the Board is there are regulations that
18 are still in effect and with that -- and in fact that again
19 the requirement is that there are projects on the unfunded
20 approval list and they're all listed in recommendation Item
21 No. 2 that would require a re-review because the regulations
22 are still there.

23 And as I said earlier, our goal is to bring back
24 the regulation package so that the Board can clarify whether
25 or not they want to follow those requirements or reset the

1 date on those requirements.

2 So the recommendation above is basically either
3 you follow the recommendations you adopted in February where
4 you provide apportionments in Item 1 and then the motion on
5 Item 2 is take a separate motion as far as whether or not
6 you want to follow the re-review process for those projects
7 or decide to exempt those projects from a re-review.

8 And Item 3 is leave those apportionments open for
9 a full and final adjustment should the Board decide to come
10 back for the grant adjustment based on AB127 which that
11 issue is still open. It is not final.

12 So the motion before you today is either you want
13 to adopt Item 1 for providing apportionments to those
14 projects on the list that are not subject to financial
15 hardship re-review and whether or not you want to follow the
16 motion in Item 2 to either accept those projects for
17 hardship review or exclude them for the re-review in Item 2.
18 So I'll need the Board for their recommendation.

19 CHAIRPERSON BRYANT: Mr. Harvey.

20 MR. HARVEY: I just want to set the scene by
21 thanking you for bifurcating the motion. I think it is
22 evidence to us that you have heard the Board. You're
23 providing offramp for those that are comfortable doing that
24 and those that are more honor bound if they choose to follow
25 legal counsel's opinion, they have the option to do that as

1 well.

2 And you haven't combined them. You've recognized
3 an earlier action and I want to thank you for that.

4 I look forward to having a discussion. I think
5 you've laid out the case very well for this first cut. I
6 look forward to talking about the health and safety
7 carve-out that we're trying to accomplish and what that then
8 does to the 415 -- how we can narrowly do it so we're not
9 setting precedent unduly, but I want to thank you for teeing
10 this up the way you have.

11 CHAIRPERSON BRYANT: Any other questions or
12 comments? Is there a motion on this item?

13 MS. MOORE: I'll try, Cynthia. I first have a
14 comment and that is that I think -- I hope everyone
15 understands that the reason that we drew the line at 960 is
16 that is the exact space that we can fund all projects in
17 date order and after that, we do not have the ability to do
18 that and we would indeed be skipping projects that are in a
19 different fund source.

20 So that is clearly why the list line draws at 960.

21 And then if I may try the first motion of two.
22 The first motion is such. I think it's the elephant in the
23 room and that is that for those hardship projects that we
24 provide apportionments in the amount of 199,316,120 to the
25 projects identified in staff recommendation number 2 and

1 this is consistent with the Board's February 24th, 2010,
2 action on this issue in order to hold financial hardship
3 projects harmless in the same manner that all other projects
4 during the state fiscal crisis and find that these
5 apportionments and future apportionments provided to the
6 financial hardship projects that receive unfunded approvals
7 due -- the state's fiscal crisis, while the state has
8 bonding authority, are not contingent on a re-review of the
9 district's available contribution.

10 The provisions of the Regulation Section 1859.81
11 regarding a re-review of the available local contribution do
12 not apply to these projects and the legal rationale for this
13 is as we know from the motion in February that we are able
14 to interpret our own regulations through legislative counsel
15 and indeed that Regulation Section 1859.81 is only triggered
16 when the state funds are exhausted, a condition that does
17 not exist today.

18 I know that's a lengthy resolution -- or motion,
19 but I think this is the third time this is before the Board
20 and we need to be extremely clear.

21 CHAIRPERSON BRYANT: Excellent motion.

22 ASSEMBLY MEMBER BROWNLEY: I'll second.

23 CHAIRPERSON BRYANT: Second. Will you call the
24 roll.

25 MS. GENERA: Senator Lowenthal.

1 SENATOR LOWENTHAL: Aye.

2 MS. GENERA: Senator Hancock.

3 SENATOR HANCOCK: Aye.

4 MS. GENERA: Senator Huff.

5 SENATOR HUFF: Aye.

6 MS. GENERA: Assembly Member Fuller.

7 ASSEMBLY MEMBER FULLER: Aye.

8 MS. GENERA: Assembly Member Brownley.

9 ASSEMBLY MEMBER BROWNLEY: Aye.

10 MS. GENERA: Assembly Member Hayashi.

11 ASSEMBLY HAYASHI: Aye.

12 MS. GENERA: Scott Harvey.

13 MR. HARVEY: No.

14 MS. GENERA: Kathleen Moore.

15 MS. MOORE: Aye.

16 MS. GENERA: Lyn Greene.

17 MS. GREENE: Aye.

18 MS. GENERA: Cynthia Bryant.

19 CHAIRPERSON BRYANT: I'm abstaining. Old show of
20 courage.

21 MS. GENERA: Motion carries.

22 CHAIRPERSON BRYANT: All right. Is there another
23 motion on the balance of the list?

24 MS. MOORE: Unless there's someone else that would
25 like to. First of all, I just want to say that it is --

1 it's a tremendous day that we can apportion 960 million
2 inclusive of the hardship projects and compliment our Chair
3 and staff in having that before us today.

4 CHAIRPERSON BRYANT: And the State Treasurer.

5 MS. MOORE: And the State Treasurer. We hope that
6 these projects move forward and our attributes in our
7 community.

8 I would move approval of staff recommendation
9 number 1 and number 3 for the balance of the list. We just
10 did recommendation number 2 in the prior motion for the
11 remaining projects.

12 MS. GREENE: Second.

13 CHAIRPERSON BRYANT: Call the roll.

14 MS. GENERA: Senator Lowenthal.

15 SENATOR LOWENTHAL: Aye.

16 MS. GENERA: Senator Hancock.

17 SENATOR HANCOCK: Aye.

18 MS. GENERA: Senator Huff.

19 SENATOR HUFF: Aye.

20 MS. GENERA: Assembly Member Fuller.

21 ASSEMBLY MEMBER FULLER: Aye.

22 MS. GENERA: Assembly Member Brownley.

23 ASSEMBLY MEMBER BROWNLEY: Aye.

24 MS. GENERA: Assembly Member Hayashi.

25 ASSEMBLY HAYASHI: Aye.

1 MS. GENERA: Scott Harvey.

2 MR. HARVEY: Aye.

3 MS. GENERA: Kathleen Moore.

4 MS. MOORE: Aye.

5 MS. GENERA: Lyn Greene.

6 MS. GREENE: Aye.

7 MS. GENERA: Cynthia Bryant.

8 CHAIRPERSON BRYANT: Aye.

9 MS. GENERA: Carries.

10 CHAIRPERSON BRYANT: Thank you. That is really
11 excellent news. Please get your 5005s in quickly and start
12 building your schools.

13 (Applause)

14 CHAIRPERSON BRYANT: What's the Board's pleasure
15 on San Pasqual? Do you want to do that now or are we going
16 to do that next month or --

17 MR. HARVEY: I think we agreed that we would try
18 to resolve San Pasqual in this item by taking it out of
19 order, reshuffling I think is the term we used, based on
20 health and safety. So tell us a -- walk us through what
21 options we have. I think you are making a case for one of
22 the projects. I think the district has expanded the list.
23 We probably need to know the pluses and minuses.

24 MS. SILVERMAN: Yeah. And that's a good point
25 because what we want -- I wanted to highlight for you is the

1 other two projects are not impacted by the earthquake. One
2 of the projects is a new construction project, San Pasqual
3 Junior High School, and restate the number 50-63214-00-0001.
4 That project is a Proposition 47 project and the request
5 would be for \$3.1 million. And if you look at page 181 and
6 the balance of Proposition 47, there's -- we don't have
7 sufficient funds to cover that project.

8 So there's only \$4.1 million balance -- oh, excuse
9 me. Restate it.

10 There is funds available. I apologize. There are
11 funds available. There's funds there and there is funds
12 available for Proposition 55 for the other project, for the
13 elementary school project, new construction project, and
14 there are funds available for the Proposition 1D project
15 that was also provided unfunded approval. So there are
16 funds available to --

17 MR. HARVEY: Would your staff recommendation be to
18 move on all three of them or are you separating them because
19 of the magnitude of the health and safety as opposed to --

20 MS. SILVERMAN: Yeah, I would --

21 MR. HARVEY: -- new construction? I need to hear
22 a little bit more.

23 MS. SILVERMAN: Yeah. I think that we would
24 definitely separate the project between the fund source
25 specifically for the San Pasqual Valley High School project.

1 That'd be our recommendation because they were impacted at
2 the site. To the will of the Board if whether or not they
3 want to provide them an apportionment today.

4 MR. HARVEY: How much would that be?

5 MS. SILVERMAN: That would be from Proposition 1D
6 for \$1.5 million and it's project 57-63214-00-001 in which
7 they received an unfunded approval dated February 2010 which
8 is part of your action in the Consent Agenda on page 61,
9 Tab 4.

10 So that's one part of the motion and then the
11 other two motions is whether or not you want to provide
12 funds for the remaining projects that weren't impacted by
13 the earthquake and that would be again 50-63214-00-001 for
14 San Pasqual Junior High and that's on your unfunded approval
15 list for November 2009 for \$3.1 million which is the state's
16 share for Proposition 47.

17 And the other project which is also part of your
18 unfunded approvals today for the February 2010 is
19 Project 50-63214-00-002 for San Pasqual Valley Elementary
20 School for \$4.2 million. And it's the will of the Board
21 whether or not they want to provide funds for those projects
22 that were not impacted by the earthquake.

23 CHAIRPERSON BRYANT: Is there a motion?

24 SENATOR HUFF: I have a question.

25 CHAIRPERSON BRYANT: Mr. Huff.

1 SENATOR HUFF: Just a question on this. So if we
2 move forward with the plans as there, is that going to solve
3 the liquefaction problems or are they like starting fresh.
4 I mean what is it we're being asked to do. I understand
5 we're sort of jumping up at the head of the line. We're
6 doing a preemptive strike as opposed to waiting for an
7 earthquake to come along and shake those down so they are
8 directly impacted, but the question is does this solve that
9 problem.

10 MS. SILVERMAN: I understand from the district,
11 and maybe he could speak to it, I think he shared with us
12 earlier that it's just basically because of the liquefaction
13 issues that they would have to basically -- my understanding
14 is demolish those classrooms and start all over again.

15 SENATOR HUFF: Either that -- what the plan does?

16 CHAIRPERSON BRYANT: Is that correct?

17 SENATOR HANCOCK: Could I ask a question too --

18 CHAIRPERSON BRYANT: Sure.

19 SENATOR HANCOCK: -- he's coming up, Ms. Bryant.
20 I'm also -- I'm inclined to say we should go through the
21 whole thing because it seems to me that possibly that frees
22 up other district money to do the immediate earthquake
23 stuff -- renovations as well, but I don't know that that's
24 the case, in other words, what's the impact on the overall
25 financial ability to repair the facilities.

1 And I'm not crazy about bringing portables at \$21
2 a mile or something either, if we could just fix once and
3 for all, keep life simple.

4 CHAIRPERSON BRYANT: Do you want --

5 MR. SCHONEMAN: David Schoneman, Superintendent,
6 San Pasqual Valley Unified. There was a question.

7 CHAIRPERSON BRYANT: I think the question is
8 Senator Huff was asking whether or not this solves your
9 liquefaction problem.

10 MR. SCHONEMAN: No. This would -- I'm sorry. I
11 got distracted here. Kind of lost that classroom -- this
12 would solve the liquefaction problem for the classrooms
13 that I have noted there. It would do that, but it does
14 not -- would not solve the whole district problem. We would
15 have to be looking at other funds because we're going to be
16 maxed out I believe as far as our eligibilities are
17 concerned with this particular program.

18 That's what I mean -- there's other classrooms and
19 things that would need to be done. So that's -- my previous
20 request was to talk with staff about going forward to fix
21 the rest of the -- like the gym and those things that were
22 mentioned by Ms. Moore.

23 MS. MOORE: However, isn't the gym part of the
24 \$1.5 million high school project in the modernization that
25 we're deliberating on right now?

1 MR. SCHONEMAN: It was. We were looking I believe
2 moving it up just to take care of classrooms at the high
3 school. Because the 1.5 would not take care of the gym.

4 CHAIRPERSON BRYANT: Maybe what -- I mean what
5 about -- maybe what we ought to do is have you work with
6 staff between now and May, figure out which things address
7 your soil liquefaction and what you absolute -- figure it
8 out and then we can take an action on that in May, if
9 there's no objections to that.

10 SENATOR HUFF: I think that's an excellent idea,
11 Madam Chair, so we know exactly what we're voting on and
12 that we're accomplishing what we're trying to do.

13 CHAIRPERSON BRYANT: What we're bumping you up for
14 and --

15 MR. SCHONEMAN: Sure.

16 CHAIRPERSON BRYANT: -- why we're doing it. You
17 obviously have a lot of support here, so just staff can -- I
18 think you already are down the path of really working all
19 those issues through with them. Just make sure we have all
20 the information.

21 MR. SCHONEMAN: Okay. Well, I appreciate the fact
22 that this is kind of -- there's different things that we've
23 talked about, the modernization here and new here and
24 modernization here, but that's kind of the nature of what
25 small hardship districts have to do. I don't think we're

1 necessarily an anomaly when it comes to, you know, putting
2 together packages to make things happen when you're
3 hardship.

4 CHAIRPERSON BRYANT: Right.

5 MR. HARVEY: It's kind of squishy.

6 MR. SCHONEMAN: I beg your pardon?

7 MR. HARVEY: It's kind of squishy.

8 MR. SCHONEMAN: The more we shake --

9 CHAIRPERSON BRYANT: Okay.

10 MR. SCHONEMAN: Thank you, Mr. Harvey.

11 CHAIRPERSON BRYANT: All right. Thank you.

12 MR. SCHONEMAN: Thank you.

13 CHAIRPERSON BRYANT: So moving onto **Reports**.

14 Tab 10 is the **high performance program update**. Just want to
15 say something on this item.

16 I had a slight miscommunication with staff and
17 with Senator Hancock about how we were going to handle this
18 item and it's in the Report section of the agenda which
19 suggests that we may not be able to take action, but it is
20 my desire and it is my commitment to Senator Hancock that we
21 will move this item as far forward as we possibly can and
22 see if we can get consensus and very clear direction so that
23 we can come back in May and be done with this for once and
24 for all and I think we've had several conversations about it
25 and so I think that's the desire of the Chair to try to get

1 complete, absolute, final direction to staff so that we have
2 a regulatory package that we can adopt in May and we can get
3 this high performance program out there and working and get
4 some green schools built before the end of this year.

5 That's my desire.

6 So with that -- thank you.

7 MR. LaPASK: Thank you. I'm Brian LaPask with the
8 Office of Public School Construction. Thank you for
9 listening to our report today.

10 At the February meeting, we were asked to convene
11 a work group to examine the reasons why the high performance
12 program hasn't been more successful so far. To date, we've
13 only apportioned about \$23 million. Actually we've given
14 approvals to about \$18 million and we have about 7- more in
15 the pipeline, which we think that we should have been able
16 to apportion more by now and we're trying to examine exactly
17 why -- what the barriers were.

18 We convened two work groups in March and we had
19 members there from the U.S. Green Building Council. We had
20 architects, school district representatives, Division of
21 State Architect, OPSC, numerous other stakeholders, CASH,
22 CHPS, and the goal there was to promote easier access to the
23 program and increase participation.

24 And so we looked at the areas that we might focus
25 on especially for modernization projects that we could

1 highlight and maybe attach more points to that are in our
2 rating criteria in an effort to really focus on the types of
3 building components that were more difficult to obtain or
4 more costly to obtain and we received a lot of really good
5 feedback and we took actually proposed regulations to the
6 April Implementation Committee meeting and they were well
7 received I think.

8 We proposed 21 additional points over all the
9 different categories. Seven of those 21 points were
10 attached to prerequisites that were -- prerequisites in our
11 criteria that actually the level that they had to meet for
12 the prerequisites in our criteria were above and beyond
13 existing Building Code.

14 So we felt that it would be appropriate to attach
15 points to those. So any project that is to come in from now
16 forward if we adopt those regulations would automatically
17 receive a seven point increase and have the ability to get
18 up to 14 more points if they are able to meet the criteria
19 that we attach more points to in our proposed regulations.

20 An example of this would be if you have a new
21 school project with a base grant of \$30 million that attain
22 34 high performance rating criteria points previously, they
23 would have under the existing regulations gotten a \$705,000
24 high performance grant.

25 With just the prerequisites alone with no other

1 points attained other than the prerequisites, they'd move up
2 from 34 to 41 points and the grant would move up from
3 705,000 to 1.2 million.

4 And like I said, that doesn't take into
5 consideration them being able to possibly achieve more
6 points through other augmentations that we are proposing.

7 The other thing we updated kind of a minor point
8 was to -- the 2008 California Energy Code went into effect
9 on January 1st of this year, and so we're augmenting our
10 regulations to reflect that as well. Those are the changes
11 that we have in our regulations.

12 We received a few other proposals from
13 stakeholders, two of which are highlighted in the item
14 today. The first one was a joint proposal from CASH and
15 Collaboration for High Performance Schools, or CHPS, and it
16 included a two-tier approach. The first tier would be what
17 was referred to as a starter kit or a starter grant.

18 That would be \$150,000 for new construction
19 projects, \$250,000 for modernization projects, and in order
20 to receive this starter grant, one of three criteria would
21 have to be met.

22 The first one would have been meeting the minimum
23 threshold for high performance points in order to get a
24 grant which is 27 points for new construction projects, 20
25 points for modernization projects. The other two ways to

1 qualify would be being CHPS verified or LEED certified.

2 So any district meeting any of those three
3 criteria would be awarded that grant.

4 The tier two grant would be originally is proposed
5 to double the existing funding formula. So don't change the
6 criteria that we have in high performance rating criteria at
7 all, just double the funding associated with it. But since
8 then, through our discussions, through the three work group
9 meetings we've had and also the Implementation Committee
10 meeting, CHPS and CASH have adjusted that proposal to
11 include OPSC's proposed regulation changes as their tier
12 two.

13 So their proposal the way it sits now is the
14 starter grant plus the changes that OPSC has proposed.

15 Along with those changes, there's been a
16 suggestion that this grant is an incentive grant and not
17 necessarily -- you know, it's kind of a unique style type of
18 grant compared to the other ones that we have and so the
19 proposal is to have no matching share for either the tier
20 one or the tier two grant. So it would be completely state
21 funded without any district matching share.

22 We've received legal opinion from the SAB's legal
23 counsel that says because these grants are attached to
24 modernization or new construction projects that there's
25 Education Code that doesn't provide the flexibility to

1 exclude the matching share from those grants. So it doesn't
2 provide the flexibility for us to give the grants without
3 there being a matching share is basically what that boils
4 down to.

5 The other proposal that we received was from
6 San Bernardino City Unified School District and it wasn't
7 necessarily a holistic approach to the program. It was more
8 of a suggestion on ways to improve the program and it was --
9 they had three suggestions.

10 The first one was to find a way to establish a
11 separate nonpupil grant based eligibility system for high
12 performance grants which would effectively separate it from
13 modernization and new construction projects, making it kind
14 of a standalone grant.

15 The other thing they were asking us to do is try
16 to find a way to align the high performance grants with
17 actual costs of the building components that are being
18 integrated as part of the green design.

19 And the third thing they asked for was to possibly
20 apportion the high performance grants on a preliminary basis
21 much like the way that the career tech or overcrowded relief
22 grants are currently handled.

23 There wasn't a whole lot of discussion about those
24 suggestions at our meetings. It really seemed to focus on
25 the CHPS proposal, but we thought that we'd mention them

1 today just reconsideration.

2 Our next steps that we have in mind after today
3 are to take your input, develop revised regulations for the
4 May Implementation Committee, and then bring those to the
5 May SAB meeting for approval. And I'd be happy to answer
6 any questions you have.

7 CHAIRPERSON BRYANT: Thank you. Are there any
8 questions for staff? Is there any -- I was going to see if
9 there's public comment on this item because it might help
10 inform Senator Hancock's comments.

11 MR. DUFFY: Thank you, Madam Chair, members. Tom
12 Duffy again for CASH. I don't think I can do better than
13 what Mr. LaPask just -- Brian LaPask just told you about the
14 proposal.

15 We brought together a number of stakeholders
16 several times and met with OPSC as well as noted and the
17 proposal really did come from -- involving CHPS and
18 architects and engineers and school folks.

19 We think that the start incentive is important
20 because of the amount of money that's spent on planning
21 along with the hard costs in projects, so we think it makes
22 sense to do this. This program especially for modernization
23 has not been an attractive program, so we think that the
24 starter incentive is really an incentive -- propose less for
25 new construction as Brian noted and the reason for that is

1 that the modernization program is really woefully
2 underfunded compared to new construction. You've heard us
3 talk about new construction before and I won't go into that,
4 but we believe that this starter incentive plus utilizing
5 what OPSC has proposed would really make for a viable
6 program. So we urge your consideration of that.

7 CHAIRPERSON BRYANT: Is the CHPS/CASH proposal on
8 the starter incentive only in the modernization arena?

9 MR. DUFFY: No. It's -- proposed \$250,000 for
10 modernization, 150,000 for new construction.

11 CHAIRPERSON BRYANT: Okay. I didn't realize that.
12 Okay.

13 MR. HARVEY: Quick follow-up on that. What were
14 those dollars based on? How did you arrive at those amounts
15 of money?

16 MR. DUFFY: We have listened to the architects and
17 districts that have attempted to move toward greening their
18 projects and we have information I could share with you that
19 identifies the planning costs, Mr. Harvey, that substantial
20 funds beyond the 100,000, 150,000, close to \$200,000 may be
21 spent simply doing the planning and the commissioning for
22 those projects.

23 As you're aware, the -- on the regular program for
24 new construction/modernization, the pupil grants are
25 utilized for planning costs as well as hard costs. Well,

1 that same thing is realized and recognized by the
2 practitioners who are getting to high performance. You have
3 to plan carefully and part of that planning is the
4 commissioning and at the other end of the project, once it's
5 done, the commissioning part of it made sure that the
6 systems that were planned are working effectively so that
7 the goals such as energy savings are going to be realized.

8 MR. HARVEY: Let me ask you this. I think
9 inherent in what you've just said is you do endorse the OPSC
10 recommendation to shake up the points. I mean that's a
11 given. I think the policy question for us is the starter
12 grant, what it should be if we had one, and then the more
13 dicey one perhaps is if we do it, does it require a local
14 match per the Education Code. Is that a fair summary of
15 what's before us?

16 MR. DUFFY: I believe that it is, that our
17 proposal was to identify this as an incentive to say this is
18 important. It's important to the Legislature and the
19 administration and so we'll incentivize you by offering this
20 starter, taking OPSC's point change on top of that and then
21 not requiring the match and that's -- so you say what our
22 proposal has been.

23 MR. HARVEY: I guess I'm really wrestling with the
24 fact that the points give districts more money. The
25 incentive gives them more money. I certainly want to get

1 the money out the door. We want this program to be utilized
2 for all the public policy reasons we've heard, you know,
3 avoid costs going forward because your energy bills are
4 going to be less, it's a healthier environment, less
5 absenteeism, student scores are up. I mean it's the right
6 thing to do.

7 I'm just really wrestling. I will love to hear
8 from Senator Hancock and others on the dollar amount for the
9 incentive. I still have not seen a lot of empirical
10 evidence that suggests that 250- is necessary for the one
11 category, modernization, and 150- on new construction. I
12 don't think I've seen that and that's what I'm wrestling
13 with is the magnitude of the incentive.

14 MR. DUFFY: And I recognize that. We don't have
15 data from many projects at all in this program, but in
16 bringing together again practitioners that are in the field
17 and working at this and have planned, they are telling us
18 that large dollars are spent on the front side in planning
19 and then we'll also need them on the construction side for
20 the hard construction costs.

21 MR. HARVEY: If I may, Ms. Kaplan or
22 Ms. Silverman, do either one of you have any comment on the
23 issue of the amount, how it was arrived at, the validity of
24 it?

25 MS. SILVERMAN: And I think Lisa obviously has had

1 dialogue with others and CHPS as far as trying to get a
2 basis of that 250-. You know, obviously we want to have a
3 good program and good outcomes, but it would be helpful to
4 get a better understanding of the incentive amount, what
5 will be that base, and I know we've had other dialogues
6 about what's a fair base. I mean it would be helpful if we
7 get that information before we establish what that base is.
8 I think it's a fair approach.

9 MS. KAPLAN: What I ended up sending an email to
10 the Board, which I hope that you have, is something that I
11 got from a CASH board member who's also on the
12 Implementation Committee and done a fair amount of green
13 building, Bill Savidge. He did give data. Unfortunately I
14 did receive it late yesterday and have not completely looked
15 through that.

16 I've talked to a couple of districts and the
17 information I get is conflicting because it depends on
18 whether it's an entire project of modernizing or just small
19 portion of it.

20 The one thing that is consistent that I hear is
21 yes, it does take a fair amount of time to apply and go
22 through the HPI process and there is a general consensus of
23 anywhere between 3 and 6 percent of the design costs, that
24 there is an increase up front when you want to do a high
25 performance incentive grant.

1 The one thing that I did learn from CHPS and Bill
2 Orr was that a lot of the 250- that they based it on were
3 grants that were given at the Energy Commission and the
4 Integrated Waste Management Board for high performance
5 schools, so that's where they came up with a thought, but I
6 don't have any more data on me other than that and what some
7 districts have indicated to me.

8 CHAIRPERSON BRYANT: Well, do you think that one
9 of the ways we could look at this though is that the hundred
10 million in and of itself that was in the original bond act
11 was really about providing an incentive to districts to get
12 them to try to do this and part of I think we haven't --
13 we're all speaking for Senator Hancock, but I think we'll
14 hear her say that she wants the data when we're done with
15 this and I think I share that view with her and that perhaps
16 maybe 150-, 250-, 225-, 240-, whatever it is, maybe it
17 doesn't really matter. Maybe we're somewhat throwing
18 spaghetti on the wall because what we're really going to
19 find out is we're going to get the data and we're going to
20 find out what motivates districts to build green, to put
21 these high performance attributes in their schools.

22 So maybe we've been stressing out over it for
23 maybe -- for no real reason. I'm sort of landing there
24 myself at this point.

25 MS. KAPLAN: I think as we know it, there's no

1 real data on this. There has been a report. As a school
2 board member myself at Natomas Unified, one of the questions
3 this Board asked is what's going to motivate a change in
4 behavior so that we start building green schools.

5 I know with my school district, this grant didn't
6 need to exist. The board did decide, hey, we're going to go
7 through and build green no matter what because we know the
8 benefits of it.

9 However, I do know there are districts that
10 probably if we did provide a grant would be more likely to
11 build green and that's where it truly is the Board's
12 pleasure of I will help direct the Implementation Committee
13 and come back and regulations as to whatever incentive grant
14 amount that the Board directs me to do.

15 CHAIRPERSON BRYANT: Ms. Silverman.

16 MS. SILVERMAN: Well, I think it's important to
17 note that, you know, if you do build an incentive grant
18 program, you obviously have to be able to ensure that the
19 money set aside for the incentive to build green is spent on
20 green only. I mean, you know, that should be true and have
21 accountability for those monies for that purpose.

22 And, you know, so if you do decide to go that
23 route, you have to ensure that you are going to build green
24 components and not provide off track to do other things on
25 your project.

1 CHAIRPERSON BRYANT: Right. Do you have --

2 MR. DUFFY: Yes. Madam Chair, members, Rob Samish
3 is here with us. He is from Lionakis. He's an architect
4 and he was part of our stakeholder group and he could talk
5 more effectively, Mr. Harvey, to the nature of the cost.

6 MR. SAMISH: Thank you. I'm also a member of the
7 board of directors for CHPS. I'd like to speak about the
8 districts that have not gotten to the grant level. They've
9 sort of passed under the radar and the reason is, is a lot
10 of those districts wanting to do modernizations come to our
11 office and I can think of six projects in the last three
12 years and that did apply for the HPI funds and the reason
13 was simple.

14 If you went through the point system, they think
15 you get somewhere between 9- and \$25,000 and so it wasn't
16 even worth the effort at all. That's one of the reasons why
17 an eye-popping \$250,000 grant was conceived of in the first
18 place.

19 The other thing is, is that one of the things that
20 I've been doing for CHPS is investigating the post-occupancy
21 studies that have come out and a lot of them have come out
22 in 2009 because all the schools have been built.

23 And there isn't much modernization data on green.
24 There isn't much in the nation. There's very few for any
25 type buildings not just schools. So trying to calculate how

1 much 250,000 gets you on a modernization not on new
2 construction is very difficult. No one's done it and then
3 as Lisa said, part of the 250,000 is -- it feels right.
4 It's been done before by the Energy Commission. I was the
5 project manager for one of those projects that had the
6 \$250,000 grant and I watched the culture change of the
7 district that realized that they need to commission -- they
8 need to have the project actually work, not just the green
9 components and then not be able to operate them and not save
10 energy. That doesn't do any good. And that's why the
11 holistic approach of commissioning and -- a CHPS or a LEED
12 design makes so much sense.

13 You can't piecemeal. It has to be a holistic
14 thing. We like the proposal that there's a board resolution
15 from the district to show leadership. This is an incentive
16 grant and so that's part of it. That can be part of it as
17 well.

18 Specifically though the way we see the 250,000
19 being spent is up front energy studies, for the costs of
20 commissioning itself, acoustics is a prerequisite for
21 modernization. It's very difficult to do on modernization
22 projects because you already have an existing building.
23 It's not new and you have just difficult acoustics project
24 and that raises the cost.

25 I went through and did -- I looked at a variety

1 projects. We have two CHPS projects going through our
2 office right now and just came up with numbers on a very
3 simple modernization, about 4 million in construction cost.

4 And when I added up those numbers, the high
5 efficiency -- commissioning, upgrading the insulation,
6 acoustics, the controls for daylighting, window upgrades so
7 that the daylighting works and you save energy that came out
8 to 260,000. Now that was an amount -- it was sort of taking
9 a ride in different projects, but it gave you an order of
10 magnitude.

11 And the reason that the points haven't worked on
12 our project, if we double the points on all six projects
13 that I mentioned that didn't get to the threshold, we would
14 get \$18,000 and \$36,000. If we use -- it doesn't matter how
15 many -- how you change the points. It never reaches the
16 level that any of our districts want to go ahead. And
17 that's the reason of the 250-.

18 One other piece is that the other part was having
19 LEED or CHPS be an alternative and that is for some of our
20 districts that have already decided to go with LEED or CHPS,
21 we have a binder that's four inches of effort for the DSA
22 submittal and we have another binder that's four inches and,
23 you know, hundreds of hours for the CHPS and so why do both.

24 If you're going to do CHPS, let's submit it to
25 DSA. It's the same program. It's the same points.

1 CHAIRPERSON BRYANT: Okay. Any questions for him?
2 Additional public comment.

3 MS. FERRERA: Ana Ferrera with the County Schools
4 Facilities Consortium. As you know, county offices often
5 are in financial hardship, so I'm going to wave my financial
6 hardship banner again and say, you know, an incentive grant
7 that would provide funding at the front end for planning and
8 design and those types of issues for those of us at the
9 county offices who very much want to build green but may be
10 confined to not being able to do that because of the
11 constraints with financial hardship, we'd certainly
12 appreciate an examination of how financial hardship projects
13 are impacted under either one of these alternatives.

14 CHAIRPERSON BRYANT: Okay.

15 MS. FERRERA: Thank you.

16 CHAIRPERSON BRYANT: Any other questions or
17 comments? Brian.

18 MR. LaPASK: Just a quick point of reference for
19 the Board. I wanted to mention on the heels of Mr. Samish's
20 comments, part of the augments to the regulations that we
21 did took commissioning and acoustics into consideration. We
22 actually added two points to the enhanced commission --
23 actually I take that back. It's four points to the enhanced
24 commissioning criteria as well as attaching two points to
25 the acoustics prerequisite and then in subsequent

1 conversations at the third work group meeting -- because at
2 the Implementation Committee meeting there was a lot of
3 concerns raised about the acoustics and the requirements for
4 meeting the acoustical requirements.

5 We talked even about eliminating that prerequisite
6 altogether and almost everybody in attendance seemed to
7 think that that would be kind of bad move, that it would
8 compromise the greening of the buildings that are being
9 constructed or modernized and so we -- at our next proposal,
10 we're actually planning on providing a couple more points to
11 the acoustics to make it -- the prerequisite four points
12 instead of two.

13 CHAIRPERSON BRYANT: Okay. Senator Hancock.

14 SENATOR HANCOCK: Thank you, everyone, for your
15 patience. Yeah. I very much appreciate the staff report
16 and all the hard work that the members of the Implementation
17 Committee and that our Chair, Ms. Bryant, and others, OPSC
18 put into this work.

19 I would like to recommend to the Board today that
20 we direct staff to return in May with regulations for us to
21 vote on once and for all and that they would be as follows:

22 That we adopt the point revisions and the
23 suggestions of OPSC coupled with a \$250,000 starter grant as
24 an investment in data collection for the state and an
25 incentive for school district participation.

1 I think we've heard that this would help districts
2 cover the up-front costs associated with the collaborations
3 necessary for planning more complicated designs and that
4 would also offset some of the hard costs associated with the
5 more sophisticated energy efficiency equipment and energy
6 efficiency systems.

7 We've had I think so few applications in part
8 because the process is new for school districts and given
9 everything else they're dealing with every day, it takes
10 momentum and commitment at the local level to engage in
11 design and planning for high performance schools.

12 Now California has the opportunity to be an
13 absolute trailblazer in using high performance standards in
14 modernization projects as opposed to new projects. So we
15 want school districts to make the commitment to build and
16 modernize high performance schools and what we will get by
17 doing this with the money in our hundred million dollar pot,
18 which is now like 70 million, is real data on the
19 differential costs and what the real costs associated with
20 design, planning, and construction and materials are.

21 Right now we only have 14 modernization projects.
22 We would have several hundred at least if we go forward with
23 this proposal. And that will be I think very useful to the
24 Department of Finance and other groups as we consider
25 future -- any future school bonds.

1 So I just again want to thank OPSC and everybody
2 for doing this work and move that we direct staff to come
3 back with these regulations in May.

4 CHAIRPERSON BRYANT: Senator Lowenthal.

5 SENATOR LOWENTHAL: Yeah. I just -- and thank
6 you, Senator Hancock. I'm fully supportive, but I just need
7 to understand we've had this discussion before about the
8 differences between incentive grant for modernization and
9 also for new construction. We want to incentivize I hear
10 modernization which we've had few grants.

11 You in your proposal did not mention any
12 difference. I just want to make sure I understand. Do you
13 want the 250- -- to come back with the \$250,000 incentive
14 grant for both modernization and new construction or what
15 CASH has said 250- and 150?

16 SENATOR HANCOCK: Well, I appreciate what CASH
17 said. I would actually prefer the 250,000 for both because
18 the money has to be used for things on the OPSC point list
19 and there will be verification of that afterwards and I
20 think the hard costs will in fact use up anything that's
21 left over from the design costs.

22 But I would be open to modifying that when the
23 regulations come back if the Department of the State
24 Architect, DSA, is able to give us better data about the
25 costs that they've seen in the 14 projects that we have or

1 any of the Energy Commission projects or the Integrated
2 Waste Management projects.

3 They may have that data and if they can give it to
4 us, we could modify that absolute number.

5 SENATOR LOWENTHAL: I'd like to make a motion --
6 this is a motion.

7 CHAIRPERSON BRYANT: Does anyone object to this.

8 MR. HARVEY: There was a motion and a second.

9 CHAIRPERSON BRYANT: And any objection to
10 directing staff --

11 ASSEMBLY MEMBER BROWNLEY: I mean if Mr. Lowenthal
12 wants to make -- second, that's fine with me too.

13 SENATOR HUFF: I have a question --

14 CHAIRPERSON BRYANT: Senator Huff.

15 SENATOR HUFF: -- that could fall under that
16 nature. So I understand currently Ed Code does not allow
17 grants without a matching fund. So my presumption is then
18 that there is legislation working its way through or will
19 that will allow that?

20 CHAIRPERSON BRYANT: No. It's in our regulations
21 that -- our regulations say that it requires a match. I
22 think there's -- it's one of the issues we have to work
23 through that the question is, is what the Ed Code -- the Ed
24 Code provision here, we're not sure, I think is the best way
25 to put it.

1 It's going to have to be clarified in this
2 process, but it says incentive grant, which to me implies
3 it's not required -- it doesn't require a match. Our
4 regulations currently do, but we're revising our regulations
5 in this process. That is what this is about, so we can
6 change our regulations.

7 SENATOR HUFF: So we control the regulations?

8 SENATOR LOWENTHAL: Um-hmm. Right.

9 SENATOR HUFF: I got you. I will just --

10 MR. NANJO: Just a clarification, Madam Chair. A
11 part of the -- part of the difficulty is the Education Code
12 sets forth the new construction projects -- the new
13 construction program and the modernization program. Both of
14 those programs are strictly a matching program.

15 Although I understand and acknowledge the fact
16 that the term incentive grant was used in legislation, the
17 difficulty is we really don't have anything currently that
18 is a nonmatching program in either modernization or new
19 construction, which is what causes the potential legal
20 issue.

21 CHAIRPERSON BRYANT: Right.

22 MR. NANJO: On the other --

23 CHAIRPERSON BRYANT: We're going to push
24 through --

25 MR. NANJO: Yeah.

1 CHAIRPERSON BRYANT: -- exactly the way --

2 SENATOR HUFF: And I would just throw out as a
3 final part of my comment that I -- I'm not fully convinced
4 that we shouldn't have a matching component here. I'm not
5 sure what that looks and feels like, but I'm just a little
6 uncomfortable this grant, you know, maybe it's based on the
7 size of a project and that constitutes part of the match,
8 however you want to do it, but, you know, just I'm a little
9 uncomfortable the way it is right now.

10 I don't mind pursuing it for refinement and sake
11 of discussion, figure out the final up-down vote.

12 CHAIRPERSON BRYANT: Okay. Well, I think it's
13 going to -- it'll be -- I think it'll have to be discussed
14 in May. I mean I think -- I agree with -- I'm where the
15 Senator is on this to try to do this clearly as an incentive
16 grant. The program isn't used right now. We know that, you
17 know, this -- we're never going to have success in this high
18 performance area if we don't get some resolved. And so I'm
19 willing to push the envelope, but we also have bondholder
20 and we have to make sure that we have all of our bases
21 covered, but --

22 MR. NANJO: Madam Chair, one other clarification.
23 This is -- this item unfortunately is on for -- as a report
24 item not an action item, so --

25 MR. HARVEY: We're giving direction.

1 CHAIRPERSON BRYANT: Right. We're --

2 MR. NANJO: Yeah.

3 CHAIRPERSON BRYANT: -- giving direction and --

4 MR. NANJO: Rather than a motion --

5 CHAIRPERSON BRYANT: I hear unanimous consensus
6 from the dais --

7 MR. NANJO: Thank you.

8 CHAIRPERSON BRYANT: -- on Senator Hancock --
9 well, with the issue that Senator Huff raised. So I think
10 we have really clear direction and I will help the staff
11 work this -- get it back here. And thank you, Brian. This
12 is -- you're really -- I've heard nothing -- in all of my
13 conversations on this issue, everyone is very complimentary
14 of you and your team and the work you did on this. So thank
15 you.

16 MR. HARVEY: If I may.

17 CHAIRPERSON BRYANT: Yes, Mr. Harvey.

18 MR. HARVEY: Just one final comment on the grant
19 amount. I mean I think that is going to be a very important
20 decision and I appreciate your willingness to kind of look
21 at it because we also heard that depending on the nature of
22 the modernization project, sometimes they're small little
23 projects. Sometimes it's the complete modernization and I
24 would be uncomfortable having a blanket for something that's
25 very small.

1 So I'm looking forward to hearing --

2 SENATOR HANCOCK: No. I agree with you and I
3 think one of the reasons that I kept the 250- is that we
4 want to encourage schools not just to put solar panels on
5 the roof. We want them to look at the whole school, how the
6 school is insulated, how the -- you know, the air, the --
7 all of the different parts of it and that if we do that, it
8 will really encourage them to move forward with bigger, more
9 holistic projects than small piecemeal projects.

10 MR. HARVEY: I'm with you there. I look forward
11 to the discussion.

12 SENATOR HANCOCK: Great.

13 MS. KAPLAN: Just a point of clarification. So in
14 May when we come back, we'll come back with regulations and
15 where there seems to be areas where it's unclear, we'll come
16 back with language that would allow the Board the option
17 based on their direction. So there would be regulatory
18 language with that.

19 CHAIRPERSON BRYANT: Because when we finish this
20 meeting in May, we will be done with this issue and that
21 will -- it will be done and we'll have done --

22 SENATOR HANCOCK: Looking into the -- when you say
23 things like that, Ms. Kaplan, people get very nervous
24 looking.

25 SENATOR LOWENTHAL: Right.

1 SENATOR HANCOCK: We -- I think what the Board
2 would like with the permission of the Chair because we've
3 talked about it is we want regulations. We will of course
4 look at any additional data we can get and I'm particularly
5 interested in the Office of the State Architect coming and
6 giving us any data they have on actual costs as they've been
7 able to track them. However, we want regulations --

8 CHAIRPERSON BRYANT: Right.

9 SENATOR HANCOCK: -- to vote on.

10 MS. KAPLAN: And let me be clear. Yeah -- no, no.
11 Regulation/regulation changes but also taking into
12 consideration, Senator Huff, if there's other options,
13 language in regulation, whatever the Board decides, it will
14 be in regulatory language for that Board to vote on.

15 SENATOR HANCOCK: Okay.

16 CHAIRPERSON BRYANT: If for some reason we need to
17 have an option, it is going to be in language that we have
18 the exact language in front of us and we're not writing from
19 the dais. It's done. We just put -- we pick Option A or
20 Option B if we have to do that, but hopefully the direction
21 from the Senator was really clear and we can get one
22 regulatory package.

23 MS. MOORE: And if I may, and the summary of that
24 is OPSC's recommendations the 250,000 grant amount, that's
25 the basis from which we begin on next -- in May; correct?

1 CHAIRPERSON BRYANT: Correct. Okay. We have at
2 least one item open which is the Minutes and we need to get
3 another vote on it because we're short right now. Do you
4 want to call the role on the Minutes.

5 MS. GENERA: This is to approve February and March
6 Minutes. Senator Hancock.

7 SENATOR HANCOCK: Aye.

8 MS. GENERA: And Assembly Member Brownley.

9 ASSEMBLY MEMBER BROWNLEY: Aye.

10 MS. GENERA: It carries.

11 CHAIRPERSON BRYANT: Okay. And if there's no --
12 is there any public comment on any item we didn't take up?
13 Okay. Then the next SAB meeting is May 26th and the meeting
14 time and other important meeting details will become
15 available through our public notice process.

16 I want to say thank you to the Senate Rules
17 Committee for letting us back into the John Burton Hearing
18 Room and Senate Sergeant for having the doors open for our
19 public access. And with that, we are adjourned.

20 (Whereupon, at 7:27 p.m. the proceedings were recessed.)

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