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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL, ROOM 112
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, MAY 26, 2010
TIME: 4:07 P.M.

Reported By: Mary Clark Transcribing
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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

CYNTHIA BRYANT, Chief Deputy Director, Policy, designated representative for Ana Matosantos, Director, Department of Finance

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

SENATOR BOB HUFF

ASSEMBLY MEMBER JEAN FULLER

ASSEMBLY MEMBER JULIA BROWNLEY

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

P R O C E E D I N G S

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CHAIRPERSON BRYANT: Let's go ahead and get started. Call the meeting of the State Allocation Board to order. Will Secretary please call the roll.

MS. JONES: Yes. Senator Lowenthal.

SENATOR LOWENTHAL: Here.

MS. JONES: Senator Hancock.

Senator Huff.

Assembly Member Fuller.

Assembly Member Brownley.

Scott Harvey.

MR. HARVEY: Present.

MS. JONES: Kathleen Moore.

MS. MOORE: Here.

MS. JONES: Lyn Greene.

MS. GREENE: Here.

MS. JONES: Cynthia Bryant.

CHAIRPERSON BRYANT: Here.

MS. JONES: We have a quorum.

CHAIRPERSON BRYANT: Okay. Without objection though, I'd like to leave items open for members to add on when they get here. It's a busy time in the Legislature and I think if it's okay, we'll do that.

First item is Tab 2, the **Minutes** for the

1 April 28th, 2010, SAB meeting. Do members have any
2 additions or corrections?

3 Is there any public comment on this item? Do I
4 have a motion.

5 MR. HARVEY: So move.

6 MS. MOORE: Second.

7 CHAIRPERSON BRYANT: I have a motion and a second.
8 All those in favor -- well, I guess you have to call the
9 roll so we can leave it open.

10 MS. JONES: Senator Lowenthal.

11 SENATOR LOWENTHAL: Aye.

12 MS. JONES: Scott Harvey.

13 MR. HARVEY: Aye.

14 MS. JONES: Kathleen Moore.

15 MS. MOORE: Aye.

16 MS. JONES: Lyn Greene.

17 MS. GREENE: Aye.

18 MS. JONES: Cynthia Bryant.

19 CHAIRPERSON BRYANT: Aye.

20 MS. JONES: Motion does not pass. You'll have to
21 leave it open.

22 CHAIRPERSON BRYANT: Got it. We're going to leave
23 them all open for a while.

24 SENATOR LOWENTHAL: I don't think we have a
25 quorum.

1 CHAIRPERSON BRYANT: We had -- we did have --

2 MR. HARVEY: We had one momentarily.

3 MS. KAPLAN: We had. Senator Huff stepped out.

4 SENATOR LOWENTHAL: Oh, okay.

5 CHAIRPERSON BRYANT: Tab 3, the **Executive**
6 **Officer's Statement.**

7 MS. SILVERMAN: Yes. Hi. Good evening, everyone.
8 We're going to provide you a couple updates tonight and one
9 of the updates we want to share with you is the update to
10 the earthquake relief measures.

11 And as an update to you, May 7th, President Obama
12 actually declared the area -- the Imperial earthquake a
13 Federal disaster area. So that actually opens up more
14 opportunities for school districts to receive potential
15 funding for their disaster relief, earthquake-related
16 damages. So that's good news for some of the districts out
17 there. They have relief coming to them.

18 And we also wanted to update to the Board that we
19 expedited the funds -- fund release for Calexico High School
20 project for 4 and a half million dollars. And with that,
21 the good news is they actually were able to open and
22 mitigate most of the issues that occurred for the 16 school
23 sites that were really impacted by this earthquake. So good
24 news is all sites were opened on May 10th.

25 We also wanted to share with you tonight the

1 Budget Letter 10-09. On April 27, 2010, Department of
2 Finance issued a budget letter that basically outlines that
3 each department must have bond proceeds in its hands before
4 making binding commitments. And additionally what they also
5 shared was a plan that Department of Finance would be
6 evaluating the need for each department twice a year,
7 hopefully prior to the spring and the fall sale.

8 And it's important for each department to manage
9 the cash flow in order to be evaluated as far as the
10 potential needs for the program. And obviously we'll be
11 working very closely with Department of Finance to share
12 with them the needs of the program.

13 So we went through the spring sale and evaluated
14 the needs for the program, so we look forward to working
15 with Department of Finance over the summer to evaluate the
16 needs for the program in the fall.

17 We also wanted to highlight charter school
18 funding. In your Consent Specials in the Consent section,
19 we are providing 13 applications of unfunded approvals for
20 \$81 million and this concludes this filing round. So that's
21 good news for the charter school program.

22 We also wanted to share with you the tentative
23 workload plan for 90 days. With that -- you will find that
24 to the Executive Officer's report, and so you could see
25 what's highlighted for the agenda for June and -- excuse

1 me -- August 4th and August 25th.

2 We also wanted to highlight with you on that
3 workload plan is the needs of the State relocatable
4 classroom program and that item will be brought forward to
5 you in June.

6 And again any items added to this calendar may
7 result in other items being postponed at a future meeting
8 and obviously we will be working closely with the Chair to
9 set the agenda.

10 And the last item we wanted to share is the town
11 hall event. The Office of Public School District and the
12 Division of State Architect wrapped up a series of town hall
13 events that we conducted throughout the State, and our last
14 meeting that we held was on May 20th and that was actually
15 at the West Sacramento location of the Office of Public
16 School Construction and Department of General Services and
17 the purpose was to have a dialogue with the school districts
18 to kind of share the issues that they're encountering out in
19 the field and also sharing with you the status of funds that
20 we have in our accounts and we also wanted to hear back as
21 far as what issues are confronting the districts as far as
22 coming in and accessing the cash.

23 And we actually had great participation in that
24 event. We had over a hundred people that actually were
25 either in the audience or visual and -- actually Webcast

1 that event -- that actually participated. So that was great
2 news. And with that, that completes my statement.

3 CHAIRPERSON BRYANT: Is there any questions for
4 Ms. Silverman? Okay. Then moving on to Tab 4, the **Consent**
5 **Calendar**. Did you have any comments on the Consent Calendar
6 before we take it up?

7 MS. SILVERMAN: No. Actually I can share that in
8 the Status of Funds report.

9 CHAIRPERSON BRYANT: Okay. Is there a motion on
10 the Consent Calendar?

11 MS. MOORE: So moved.

12 MS. GREENE: Second.

13 CHAIRPERSON BRYANT: It's been moved and seconded.
14 We'll record everyone here as voting aye without objection
15 and then we can leave it open for the members who are still
16 coming in.

17 All right. Tab -- I'd like to say that we'll take
18 up Tabs 5 and 6 together, the **Status of Funds**,
19 Ms. Silverman.

20 MS. SILVERMAN: Yes. The Status of Funds release
21 report in Tab 5, we actually made some modifications to this
22 item and actually it was a great recommendation by the
23 Chair. There actually is a column that's being added to --
24 that actually shows the funds that's been disbursed through
25 the month of April. So on the top column, which is March

1 2009 sale, there actually were no funds disbursed for
2 Proposition 1D out of the March 2009 and we also wanted to
3 highlight in the April 2009 sale, the middle chart on
4 page 153, that we actually disbursed \$18.1 million.

5 And then the bottom chart is the October-November
6 2009 sale. We actually disbursed \$33 million, so that's
7 good news. I ask you to flip to page 154. On the top of
8 the page for the November and December sale, we wanted to
9 highlight that we disbursed \$29 and a half million in April.

10 And the March 2009 -- excuse me -- March 2010 sale
11 which actually was the bond sale that actually generated
12 \$1.35 billion to the program, we disbursed \$4.5 million to
13 date.

14 So if you add those summaries of all the
15 adjustments, the fund releases during the month of April, if
16 you look at Chart 155, the activity of funds that we
17 released this month is \$85.1 million. So it actually
18 increased quite a bit from the March activity.

19 And again I can draw your attention to page 156.
20 Again this is a summary of all the funds that we have for
21 each of the bond funds represented from the March 2009 sale
22 through the March 2010 sale. We actually received nearly
23 \$4 billion in both March 2009 and March 2010 which is great
24 news for the program. And we've actually liquidated nearly
25 2 billion to date.

1 And I know as part of the courtesy and we wanted
2 to highlight is although we recognize there was \$87 million
3 that was disbursed in the month of April, we actually wanted
4 to share and actually will reflect in next month's report
5 that we actually disbursed over \$600 million before the end
6 of this month. So that's good news.

7 If I can draw your attention to Tab 6. We tried
8 to make some modifications to the Status of Funds report,
9 realizing there was a lot of columns and we tried to make it
10 a little bit simpler and easy to understand. The key issue
11 is what we wanted to highlight is there were a few months
12 that we actually weren't processing some unfunded approvals
13 because we were trying to resolve the construction cost
14 index issue. So if I could draw to your attention on top
15 column in Proposition 1D, we wanted to highlight to the
16 Board we're bringing \$128 million -- nearly \$129 million of
17 unfunded approvals this month and then the middle chart,
18 Proposition 55, we wanted to highlight we're bringing
19 forward \$241 million of unfunded approvals.

20 And in Proposition 47, again highlights that we're
21 bringing forward \$49.2 million in unfunded approvals. So
22 it's rather large volume we're bringing forward this month
23 of unfunded approvals, \$419 million.

24 But we wanted to show -- if you look at the
25 following column -- I know before we had unfunded approval

1 columns and accumulation and I know technically some folks
2 were having difficulty in trying to resolve what really --
3 how much bond authority we really have. And we reflected
4 the bond authority less the unfunded approvals. So if you
5 look at the last column there, it reflects that there's over
6 \$3 billion of bond authority that's still left in the
7 program.

8 MS. KAPLAN: Quickly, Lisa, before you move on,
9 one of the things is just to point out -- and I've pointed
10 this out to a couple of members -- is the likelihood of
11 running out of new construction bond authority is July.
12 Because if you look at -- we have approximately only
13 \$200 million left.

14 MS. SILVERMAN: So can I draw your attention to
15 page 158. Again we wanted to highlight -- we made some
16 changes and in the middle column, we wanted to highlight the
17 emergency repair program. We will process over 83.7 million
18 of unfunded approvals for the emergency repair program.

19 And so hopefully with the budget being enacted,
20 this program does receive funds. Unfortunately those funds
21 will be immediately disbursed and we'll still have a huge
22 balance here of unfunded approvals for the emergency repair
23 program.

24 If I draw your attention to page 158A, we tried to
25 provide you some charts here that actually reflect the bond

1 authority, what's been apportioned in the program, what are
2 unfunded approvals, and what remaining bond authority we
3 have. So again this illustrates out of Proposition 1D that
4 we've apportioned 53 percent of those -- of that bond
5 authority and we've provided 12 percent of unfunded
6 approvals for Proposition 1D and there's still 35 percent of
7 remaining bond authority for the program.

8 And as Lisa pointed out, there's 1. -- excuse
9 me -- 152.6 million of new construction bond authority
10 that's left in Proposition 1D.

11 And on page 158B, again Proposition 55, the
12 original authorization was over \$10 billion. This program,
13 we actually apportioned 93 percent of those bond funds and
14 we still have 2 percent unfunded approvals for
15 Proposition 55 and 5 percent remaining in bond authority.

16 And again a small carve-out, small print, I
17 understand, there's 86.5 billion in new construction left
18 there.

19 Proposition 47 which is page 158C, again an
20 illustration that demonstrates we have apportioned
21 95 percent of those funds out of the \$11.4 billion original
22 authorization and 5 percent of those sit on the unfunded
23 approval list of 567 million and there's a small fraction
24 remaining in bond authority of 22.9 million.

25 So with that, I will open up to any questions.

1 CHAIRPERSON BRYANT: Are there any questions for
2 Ms. Silverman on those two items? Okay. Hearing none,
3 thank you. I do think these charts just really help inform
4 us. Unfortunately the way the accounting works, we can't
5 get current numbers, but it's good to hear. We did really
6 well in May in terms of cash going out of the program.
7 Because that remains to be a big concern of mine which we'll
8 get into in a minute.

9 So next up is the **Consent Specials**. Without
10 objection, I'd like to suggest we take up Tabs 7, 8, 9, and
11 10 in one motion unless somebody would like to hear them
12 separately. If not, I will entertain a motion.

13 SENATOR HUFF: I'll move it. All of them.

14 ASSEMBLY MEMBER BROWNLEY: Second.

15 CHAIRPERSON BRYANT: Is there -- and then is there
16 any public comment on those four items? If not, then we can
17 record -- why don't you go ahead and call the roll. I think
18 everyone's here now.

19 MS. JONES: Okay. Senator Lowenthal.

20 SENATOR LOWENTHAL: Aye.

21 MS. JONES: Senator Hancock.

22 SENATOR HANCOCK: Aye.

23 MS. JONES: Senator Huff.

24 SENATOR HUFF: Aye.

25 MS. JONES: Assembly Member Fuller.

1 ASSEMBLY MEMBER FULLER: Here. Aye.

2 MS. JONES: Assembly Member Brownley.

3 ASSEMBLY MEMBER BROWNLEY: Aye.

4 MS. JONES: Scott Harvey.

5 MR. HARVEY: Aye.

6 ASSEMBLY MEMBER BROWNLEY: Kathleen Moore.

7 MS. MOORE: Aye.

8 MS. JONES: Lyn Greene.

9 MS. GREENE: Aye.

10 MS. JONES: Cynthia Bryant.

11 CHAIRPERSON BRYANT: Aye.

12 MS. JONES: Motion carries.

13 CHAIRPERSON BRYANT: Thank you. I did just want
14 to make a quick comment on Tab 10. That was the charter
15 schools item that Lisa Silverman referenced in the beginning
16 in her EO statement. That -- we actually there put
17 preliminary apportionments out in the tune of 80.09 million
18 for charter schools and I really want to thank Barbara
19 Kampmeinert and the OPSC staff for getting these done and
20 Katrina Johantgen and her staff at California School Finance
21 Authority who does the financial status review.

22 It's a complicated process getting these
23 apportionments there. It's sort of disappointing. We just
24 do it so quick and I just wanted to take a second to say
25 thanks to them.

1 Moving on to Tab 11, **Priorities and Funding**. I
2 think Juan is presenting on that.

3 MR. MIRELES: Thank you, Madam Chair. At the last
4 Board meeting, the Board -- staff presented an item to the
5 Board to discuss the current method of making
6 apportionments. We also presented alternative methods of
7 making these apportionments and the Board decided to explore
8 what we call Option 3 from that item.

9 Option 3 is basically allowing school districts
10 that are currently on the unfunded list to make a
11 certification that they can submit a fund release request
12 within a certain amount of time after the apportionment.
13 The Board also created a subcommittee to discuss the
14 concerns in implementing Option 3 which was made up of
15 Ms. Bryant, Mr. Harvey, and Ms. Moore, and the subcommittee
16 met on May 12th to discuss some of these issues and the item
17 highlights some of the issues that we discussed.

18 First of all, I wanted to just remind the Board
19 that this new alternative process is going to be using the
20 415 million that we have available. This was the remaining
21 balance that we had from the sale -- the last sale of bonds
22 which was a total of 1.3 billion. The Board did make
23 apportionments for 960 million, but the Board decided to
24 consider using the remaining 415 million available for this
25 alternative process.

1 I also want to highlight that this 415 million may
2 be modified depending on some other items that are on agenda
3 this evening. So I wanted to keep that -- bring that to
4 your attention.

5 So on stamped page 186, I wanted to highlight some
6 of these issues that we discussed with the subcommittee and
7 the subcommittee recommendations.

8 The first one is how do you implement the funding
9 for Option 3. I think that there was great concern that
10 this process get started as quickly as possible. There was
11 initial discussion that if regulations are adopted that it
12 would take too long to go through the process, but I think
13 that the subcommittee agreed that we wanted to start the
14 process but at the same time, go through a dual tract of
15 introducing regulations so that they can get through on an
16 emergency basis with the hopes that they be approved by the
17 Office of Administrative Law before the Board makes
18 apportionments.

19 So the subcommittee did recommend that we begin
20 this dual process. We have started discussions with certain
21 agencies to get these projects -- these regulations moved as
22 quickly as possible.

23 Next we had a discussion on facility hardship
24 projects. These are your health and safety projects. There
25 was discussion on whether these types of projects should

1 receive special priority. The subcommittee discussed this
2 at length and decided that the general membership should
3 have a discussion on what kind of priority we should award
4 these types of projects on the regular unfunded list.

5 And just as a reminder, right now projects that
6 are health and safety, we approve them and place them on the
7 unfunded list, but for each month's approvals, they go to
8 the top of that month's list. That's the current system
9 that we have in place now. There was some discussion of
10 whether the Board wants to further discuss those type of
11 priorities for the general approval of these projects.

12 But in the context of 415 million, there was no
13 additional consideration for these types of projects as they
14 relate to Option 3.

15 Next was discussion on financial hardship projects
16 and small school district projects. The first issue dealt
17 with the time. The time that districts have to -- they can
18 submit the certification and they certify that they will be
19 able to submit a fund release request within 60 days, within
20 75 days, whether it should be 90 days, and what kind of
21 consideration we should give to small school districts or
22 financial hardship districts that may require more time to
23 go through the process.

24 There was no consensus on this issue with the
25 subcommittee. That is one of the issues that the full

1 membership should consider tonight.

2 Another issue dealt with site and design
3 apportionments. These are apportionments that -- I should
4 say approvals that are just for either planning so that
5 districts get money and get the plans approved by the
6 agencies and/or site acquisition money so that school
7 districts can go out and acquire land.

8 The current unfunded list has a mix of projects
9 that are for site and design only as well as what we call
10 full grant projects which means that they've gone through
11 and they've received the necessary approvals from CDE, from
12 DSA. There was also no consensus on this issue with the
13 subcommittee. It's another one of the issues that are
14 outstanding that are before you tonight.

15 Another issue was in regards to the equitable
16 distribution of funds between districts. There was initial
17 concern that one or more school districts can come in with
18 multiple fund release projects and use up all their funds.

19 This issue had minimal discussion with the
20 subcommittee and members did not feel that it was an area of
21 concern.

22 Next we had an issue with bond source switching.
23 What this means is basically if a project was initially
24 assigned a certain bond source, namely Proposition 47, 55,
25 or 1D, could they have the opportunity to switch over to a

1 different bond source.

2 Staff did explore this option and we did indicate
3 that we could accommodate bond source switching to the
4 extent that we have remaining bonding authority available.

5 There was also discussion of whether or not we
6 would be able to have an additional grant for labor
7 compliance program grants. As most of you know, under
8 Proposition 47 and 55, school districts can receive
9 additional monies to initiate and enforce labor compliance
10 program. Could we split fund those projects to receive
11 monies from those pots but then the remaining balance of
12 their grant from another bond source such as 1D.

13 That is something that we also agreed to look into
14 and we have determined that we can accommodate this.
15 However, we do want to inform the Board and school districts
16 that by doing this, school districts may be able to receive
17 partial funding for a project while the other part may not
18 be available for some time. So that's just something for
19 the Board members and for the school districts to keep in
20 mind.

21 Next we had discussion in reimbursement projects.
22 There was discussion on whether projects that have already
23 been completed, should they also be able to participate in
24 this alternative process because they've already completed
25 the project, whereas other projects that haven't started,

1 would be new projects, would be able to come in and access
2 the funding.

3 There was consensus on this issue that the
4 subcommittee would allow reimbursement projects to
5 participate as they would also be able to use their
6 reimbursement funds to move potentially other projects and
7 be able to build.

8 Next we had discussion on penalties for false
9 certification. What happens if school districts certify
10 that they can and will come in for -- with a fund release
11 request within a certain amount of time and they don't.
12 Should there be a penalty and what should it be.

13 There was quite a bit of discussion on this issue,
14 but I think the overall consensus of the subcommittee was
15 that they did not want to pursue material inaccuracies for a
16 district that certifies but they don't move through, but
17 there was also discussion of whether if the apportionment
18 should be rescinded and whether they go back to the back of
19 the line.

20 Now, the back of the line discussion is something
21 that I think needs further clarification. There was
22 discussion that the back of the line means districts had to
23 reapply and by reapplying, there are certain conditions that
24 have to be met when they submit an application.

25 There has since been discussion of whether back of

1 the line just means back of the unfunded list and whether
2 that is an adequate penalty. That is something that is
3 still subject for discussion tonight. To clarify, the Board
4 will want to -- should explore what exactly should that
5 penalty be so that the school districts are fully aware.

6 And next we had minimal discussion on data
7 collection, on the impact of the process. I think that
8 there was no objections that staff should collect data on
9 whether this process -- how it worked, what were the lessons
10 learned and then also a communication plan to the school
11 districts.

12 Staff is fully aware that this is a big change to
13 the way we do make apportionments, so we want to make sure
14 that we notify all school districts so that they are fully
15 aware and they can participate if they so choose in this new
16 program.

17 So there was again no objections that staff will
18 be informing districts. We're going to be sending them
19 emails. We're going to put notifications on our Website.
20 We're also planning on submitting or putting together a
21 tutorial online for school districts so they know exactly
22 how this process works.

23 Those were all the issues. Again the ones that
24 are still outstanding are the length of time, whether it
25 should be 60, 75, 90 days, some other time period; whether

1 projects that were approved as a site and design only,
2 should they also be able to participate; and to further
3 clarify the penalties associated with a certification that
4 doesn't come to fruition.

5 We also have on Attachment A an action plan that
6 fully outlines the process in terms of how it's going to
7 work as well as the regulations on Attachment B that will
8 implement this new process.

9 Again I want to highlight again that the
10 415 million that's available, it may or may not be impacted
11 by other items that are on the agenda tonight.

12 So with that, I'll be more than happy to answer
13 any questions.

14 CHAIRPERSON BRYANT: Okay. Are there any -- first
15 of all, just so everyone knows kind of my thinking is on how
16 we proceed is I'd like us to get through the item and have a
17 complete decision on whether or not we're going to go
18 forward with this, and if we're going to go forward, how
19 we're going to go forward; and then later in the meeting,
20 return -- have a final vote on that and so we're done with
21 the item.

22 And then later in the meeting after we get through
23 a few other items that could impact the 415 amount, come
24 back and have a second vote where we actually make a policy
25 statement about what amount of money we would invest in this

1 one-time-only program. So that way we kind of separate the
2 issues of the total dollar amount because there's two items
3 later in the agenda, which I don't recall what numbers they
4 are, but that have -- that we may be apportioning additional
5 dollars. It's in front of us to do that and so we would
6 then subtract those and at the end -- toward the end of the
7 meeting, we'll have a final vote on the dollar amount we
8 invest in the program.

9 So that's my thinking on that. And I thought it
10 might also be helpful to hear from Ms. Moore and Mr. Harvey
11 on their thoughts about the subcommittee process. Is there
12 anything we want to add to this item. The three of us all
13 did review it ahead of time, so we had -- we thought it
14 reflected our discussion other than there is an open
15 question about the penalty section, which we can have a
16 discussion of.

17 And so initially, did you have anything you wanted
18 to add? Ladies first.

19 MS. MOORE: First of all, I want to thank staff.
20 I think they did an exemplary job of presenting the issues
21 to us in the subcommittee and it is reflective of our
22 deliberations. I certainly have recommendations on each of
23 the areas that I think are still not consensus that I am
24 going to advocate for for the Board and at the appropriate
25 time, I will do that.

1 CHAIRPERSON BRYANT: Mr. Harvey.

2 MR. HARVEY: Well, I'm very excited about this
3 one-time opportunity. It is a way of addressing a need that
4 not only affects putting people to work but making kids
5 safer in schools and I think it's a wonderful joint effort
6 and I too want to thank staff for preparing this and indeed
7 reflecting our full discussion.

8 I think we should underscore the fact that we had
9 consensus on 98 percent of the matter after hearing from the
10 stakeholders. Now there are only a few items on the fringe
11 which this full Board will weigh in on and of course if they
12 disagree with our consensus, we can weigh in on those as
13 well.

14 But I certainly appreciated the collaborative
15 effort and the willingness to see the importance of this and
16 move it forward to this time. Thank you.

17 CHAIRPERSON BRYANT: I want to start by asking the
18 Board if anything in the areas where we had consensus, if
19 there's any issues right off the bat that anyone had
20 questions or comments on and then we can -- and then I
21 thought -- what I thought we could do is hear from
22 stakeholders, limit -- we had a three-hour meeting and so
23 there was lots of time. We heard from everybody fully, but
24 perhaps on the two main points which is the penalty, and I
25 put that in quote marks, and the number of days that you

1 have to turn in your 50-05.

2 I think -- as I've thought about it, I kind of
3 have a thought where I think we should land, but anyway, so
4 generally speaking were there any initial comments or
5 questions from the Board. No. Okay. Then why don't we go
6 ahead and ask for public comment and again I think you all
7 appreciate we've heard a lot, so focus on those two key
8 areas that we have some openness to and -- I see Mr. Smoot
9 coming forward. Maybe he'll be our only commenter.

10 All right. Okay. Sorry. There's three.

11 ASSEMBLY MEMBER BROWNLEY: What were the three?

12 CHAIRPERSON BRYANT: The three are the number of
13 days that you have to file your paperwork; the second one is
14 the question of penalties; and the third is whether or not
15 you fund site acquisition -- site and plan -- site
16 acquisition and plan.

17 SENATOR HANCOCK: Ms. Bryant, I would just say on
18 that I don't think I know enough about how it actually
19 impacts school districts on several of them, but having been
20 in local government, 90 days would make sense to me in terms
21 of plan submittal. But my preliminary --

22 CHAIRPERSON BRYANT: I mean just -- might as
23 well -- I think that's where I'm leaning too. I think it
24 will make -- it just gives everybody a full opportunity to
25 participate and we have the time to do it, and -- so I'm

1 kind of with you on the -- just in interest of full
2 disclosure. Mr. Smoot.

3 MR. SMOOT: Thank you. Lyle Smoot, Los Angeles
4 Unified School District. I assume this on and people can
5 hear me. I just want to thank Senator Hancock for that
6 statement. Obviously we would agree with the 90 day time
7 period. It's a little bit better.

8 But the issue I'd like to address is the penalty
9 section. We were originally hoping that the penalty would
10 come out as if you certify or stack apportionment, whatever
11 you want to call that, at the end of the 90 days, your
12 project is taken -- your apportionment is taken away and
13 your project just goes back on the unfunded list.

14 Clearly we understand that if there isn't some
15 penalty of that action that, you know, then there will be no
16 reason for everybody not to ask for -- so we would rather
17 see those projects just put at the end of the line at that
18 point in time. We believe that that's an adequate penalty
19 because the chances are very good that at that point in
20 time, all of the bond measure money that was currently
21 available will be expired and the district will be put back
22 to where they'll have to wait for the next bond measure
23 whenever that may be.

24 We believe there's some concern about the
25 unintended consequences of full rescission and

1 reapplication, not the least of which is workload for
2 everybody involved, but there are some timing issues of when
3 the application submitted that get to be funny and I think
4 we are concerned that if you just rescind the application
5 that the penalty would be so severe that very few districts
6 would apply for this money, rather just sit there and wait
7 and see what happens and therefore, you know, it would have
8 the opposite effect of what you're trying to do is get
9 construction-ready projects to go ahead and I think that
10 would negate a lot of those potential projects. So thank
11 you.

12 CHAIRPERSON BRYANT: Thank you.

13 MR. DUFFY: Madam Chair, members, Tom Duffy for
14 CASH and let me thank you for the effort that you've made in
15 really trying to work out a program at a difficult time to
16 encourage districts -- to incentivize districts to come in
17 and ask for these funds.

18 With regard to those three areas, you all would
19 have received a copy of a letter from Neff Construction that
20 identified in some detail the 90 days is really a period of
21 time that we should look at, allowing districts to be able
22 to come in and ask for fund release because of the work
23 that's needed to bid and secure contracts on projects as
24 well as to deal with issues because of what's happened with
25 the bidding environment.

1 I think that the penalty question -- I would agree
2 with Mr. Smoot, that if a district is risking and fails,
3 putting them at the back of the line and saying whatever
4 that date is that you determine, if it's 90 days, I think
5 that that would be a sufficient penalty without discouraging
6 the risk taking that may be necessary.

7 On the third item, I would say to you that if a
8 project is a project has the need for site acquisition as
9 well as is prepared by having DSA approved plans that could
10 be ready to go at the time, if it has acquired the site that
11 that kind of project should be included as well.

12 Other than those comments, I'd like to thank you
13 again and thank your staff for what I think is a great deal
14 of work and the extra effort on your part, Mr. Harvey and
15 Ms. Moore, and especially you, Ms. Bryant, because of all
16 the time you've spent. Thank you very much.

17 MS. FERRERA: Good evening. Ana Ferrera on behalf
18 of the County School Facilities Consortium and I just want
19 to speak to the financial hardship section and also the
20 issue of reapplication.

21 As far as the financial hardship piece, you know,
22 as the County School Facilities Consortium would agree that
23 the 90-day period is the preferable one and also on the site
24 and design apportionments, we do believe that that should be
25 separate and apportioned -- or allocated separately --

1 appORTIONED separately. Sorry.

2 We also believe that -- I would agree with the
3 comments made prior about reapplication. We think that
4 moving to the back of the line is sufficient and putting on
5 another hat, the Small Schools Association also on the
6 reapplication would be opposed to that as well.

7 CHAIRPERSON BRYANT: Thank you. Just -- I've --
8 just -- I really agree with that, with the reapplication
9 thing. I mean if we're creating a program that was
10 permanent, we are doing this constantly, it might be
11 something I'd consider, but I think because this one-time
12 only, I really don't want to burden schools. We already
13 have -- there's already a large enough burden on schools as
14 it is, but we also want to make sure that every consultant
15 in this room doesn't tell their schools to file for this
16 without -- you know, there's got to be some kind of, you
17 know, hit on the head if it doesn't work. So I appreciate
18 what you said, especially for Small School --

19 MS. FERRERA: And we do appreciate all the work
20 that staff has done on this. It did seem to go very well.
21 Thank you.

22 CHAIRPERSON BRYANT: Can I ask you a question,
23 Juan. Just so -- I just want to make sure on this schedule,
24 the -- if we do the 90 days, we can apportion these projects
25 on November 3rd in our schedule; correct?

1 MR. MIRELES: Yes. That's correct.

2 CHAIRPERSON BRYANT: Okay. Just wanted to --

3 MS. MOORE: No. We would be apportioning
4 August 4th.

5 MR. MIRELES: The fund release would be due
6 November.

7 CHAIRPERSON BRYANT: The fund release would be --
8 I mean we would make it to November -- and so at our
9 November 3rd meeting, we could put the people back on the
10 list, is really what I meant to ask.

11 MR. MIRELES: Yeah. And just to clarify, Madam
12 Chair, the goal right now is that we'd have a 30-day
13 certification filing period that would end June 28th and
14 then we would present to the Board on August 4th
15 apportionments and then that's what would trigger the 60, 90
16 days and then the fund release would be due at that time.

17 CHAIRPERSON BRYANT: Right. And I think just --
18 members that we had -- as we went through this, we thought
19 at first that we wouldn't -- in our discussion last time, we
20 didn't think we had time to do regulations, but as we looked
21 at the regulatory calendar and our actual calendar we
22 realized we could adopt emergency regulations and everyone
23 felt that was a better way to do it because then we have a
24 defined playing field and we actually have rules locked into
25 place and everybody knows what the conditions are.

1 And then those -- if you look at the regulations,
2 they'll repeal automatically at the end of the year once
3 the -- and the program will be over at that point. So --
4 just -- I think everyone felt better in our discussions to
5 actually have it in regulation and we then had to tweak the
6 meeting schedule slightly, which we can talk about real
7 quickly know. We're going to get to it later, but basically
8 we would have to move our end of July meeting one week ahead
9 which would be when you -- members return for the August
10 session presuming there's a summer recess, that -- but
11 anyway, that we would move the meeting a week and that would
12 give us time for the regulations to become effective and for
13 everyone to have the 30 days to send their notice and then
14 we could do the apportionments and it would work if everyone
15 agrees to that.

16 Okay. Anything -- back on the -- so I think --
17 any other -- no other public comment? So do we have -- did
18 you want to say anything about your thoughts because I think
19 you might have different thoughts on the site acquisition
20 piece, is what I was trying to get to.

21 MR. HARVEY: I define the term construction ready
22 to mean actual construction. It was my preference that if
23 we were going to take this one-time opportunity, we should
24 put money into the hands of school districts that were going
25 to employ, first, the most amount of people, perhaps 200

1 laborers on a school site typically, and make schools safer
2 and better for students.

3 I'll acknowledge that if you set money aside for
4 site acquisition and design, there is a small economic
5 multiplier, but it's basically engineers and architects and
6 designers, and I felt strongly that the money should go to
7 actual brick and mortar. That was my preference and is
8 still my preference and it was really I think the only
9 significant matter on this list that we had any real
10 discussion on.

11 I think the stakeholders felt that, gee, we've got
12 this first in, first out, everybody's on the list already,
13 let's keep it as close to what it is even in this one-time
14 experiment. I countered this is a one-time experiment and
15 we should do the most we ca to put people to work and build
16 safe schools not hire more consultants. That was just my
17 preference and I will vote that way when the matter comes
18 up.

19 CHAIRPERSON BRYANT: Ms. Moore.

20 MS. MOORE: And respectfully I have the opposite
21 point of view, so I can just -- why don't I just frame the
22 remaining issues and perhaps we can more forward with this
23 because it appears that we have consensus on, as you
24 indicated, 98 percent of it.

25 I would frame the goals accordingly, that we would

1 want to build and modernize high quality school projects in
2 local communities and that we also want to move bond funds,
3 that is cash, quicker to local communities, and third, to
4 create jobs in all sectors of this industry, including but
5 not limited to construction jobs.

6 So I see the remaining issues as the time frame.
7 I would urge that we support 90 days. I believe it serves
8 the purpose of expediency and also allows districts to --
9 the adequate time to prepare plans, advertise competitively,
10 conduct a bid, and award contract.

11 Mr. Neff, who does this work all over across the
12 state, has provided us with a letter that the average time
13 frame for competitive bid -- that this is the average time
14 frame for competitive bid, which I think is what we want to
15 encourage districts to do.

16 The other issue, project eligibility, I would
17 advocate that all projects on the waiting list for funding
18 including hardship and hardship advance site and plans
19 project. The reason is that this keeps faith with the
20 existing list while at the same time achieving the goal of
21 moving the funds out to local communities and creation of
22 jobs.

23 In essence it keeps the same system as Mr. Gibbs
24 from the building community points out in a letter to us
25 with the only change that the requirement is to file the

1 50-05 within 90 days.

2 And then finally on the penalties, I would
3 advocate for the placement of the project back to the end --
4 or excuse me. I would advocate for placement of the project
5 back to the unfunded list as of November 2nd. That is 90
6 days. Either they would have had to file the 50-05 or we
7 place them back on the list as of November 2nd.

8 And again I believe that this is a tradeoff for
9 school districts. It is a penalty because they run the risk
10 of not being funded in this bond cycle.

11 I would also indicate that we have a couple of
12 other outstanding issues and those are I think today
13 districts should be able to walk out of here and either hear
14 no or tomorrow have reported what is the required document
15 to make this 30-day request.

16 And I would say that that has been listed by staff
17 to be a letter signed by the district representative stating
18 that the three points in Item 2 on page 190 is the document
19 required. And is that what you're indicating, staff?

20 MR. MIRELES: That's correct.

21 MS. MOORE: So that it's very clear those three
22 points, a letter from the district representative within the
23 next 30 days is what will place you into the competitive
24 arena for this funding.

25 And then finally I think there is one issue that

1 we haven't discussed and that is what happens with returned
2 funds. And I would advocate that -- and I've gone back and
3 forth on this and so I offer it out that I would advocate
4 that we put that -- those funds back into the \$415 million
5 piece unless we have -- unless we -- I wasn't sure. Were
6 you going to return applications after August 4th? Was that
7 your intent as -- in running this program?

8 MR. MIRELES: Yes. Yeah. I think the intent was
9 that we were going to use just what's available and make
10 apportionments, the 415, and then if we had more
11 applications at 415 that would be returned pending the
12 Board's --

13 MS. MOORE: So if they're returned, then there
14 isn't a waiting list. So -- okay. Then I would switch
15 that. The returned funds then go back to the regular
16 program to be apportioned.

17 ASSEMBLY MEMBER BROWNLEY: I'm sorry. What are
18 returned funds?

19 MS. MOORE: I'm a district. I couldn't perfect
20 within the 90 days. I get my November 2nd date. I may have
21 had 10 million on the list. It comes back.

22 ASSEMBLY MEMBER BROWNLEY: Okay. And you're
23 saying that it shouldn't go back to this fund? That's what
24 you're saying?

25 MS. MOORE: Well, I'm saying that because it

1 appears that after August 4th when we take action on that
2 the remaining projects are sent back.

3 ASSEMBLY MEMBER BROWNLEY: I see.

4 MR. HARVEY: Well, isn't that frankly a policy
5 call for us?

6 MS. MOORE: It is.

7 MR. HARVEY: I mean to me I would -- hearing this
8 for the first time, I think it's a very good suggestion to
9 address it. I would advocate that we have a waiting list on
10 the off chance that there are monies returned and that folk
11 that qualify for the 415 under this unique program would
12 then be construction ready and fulfill all the goals you
13 outlined.

14 To me it would be useful to use the full 415,
15 collect data on it rather than returning it to the unfunded
16 list.

17 MS. MOORE: The only thing I was with that -- and
18 I mean and I'm talking on the fly because I've been thinking
19 about just the -- having it clarified that we were going to
20 perhaps return those applications is so at what point do we
21 declare that there is additional funds and then what kind of
22 clock are those people under. They're under a new clock
23 then.

24 So do we declare November 3rd that we received
25 50 million back and we're going to -- we then -- the next

1 50 million on the list have 90 days to perfect those 50-05s.

2 CHAIRPERSON BRYANT: I am -- it's kind of like I
3 found myself completely agreeing with you. When I initially
4 was thinking about, you know, like rescissions, I was
5 thinking we would just plow them back in into the waiting
6 list, but there's practical problems with that.

7 One is, is that we really have a defined period of
8 when we are going to make the apportionment, when we're
9 going to have the -- and I'm putting in quote marks -- a
10 rescission, when -- we have specific dates and we're trying
11 to do this one time only and I feel like our only option
12 really is to put it back into the main program and then we
13 can evaluate it at that time. Do we have other rescissions
14 from already the money that we've previously apportioned.
15 Do we have additional bond sales. Do we want to try this
16 experiment again.

17 You know, to me we put it back into the main
18 funding stream and then decide later. I think staff -- I
19 think -- I don't want to speak for you, but I sort of think
20 that they -- that there's a lot -- this is going to take a
21 lot of effort of their part and I think it's sort of -- it
22 just gets us -- it just gives us a straight on it and I say
23 to the people sitting in the room that this is another
24 reason why it's really important if you participate in this
25 program, you're dead serious about it because we really

1 don't want to end up with we tried this and we have
2 200 million worth of people that don't really perfect in the
3 90 days and we've left a lot of people out.

4 So I think practically while I agree with you a
5 hundred percent on policy, I practically -- the practical
6 sense is I have to agree with what Kathleen says because I
7 think in the end it's going to be better for staff.

8 MR. HARVEY: Could we talk about those practical
9 steps because if you're on the list and you've said you were
10 ready to proceed within 90 days and you're now on a waiting
11 list and you haven't rescinded, it sounds like you should be
12 very close to perfecting. Why would you need a lot more
13 time since you had declared you're ready to go and that's
14 why you're on the list to begin with .

15 I don't know if you need another 90 days. Why
16 wouldn't you need -- I mean I -- I don't understand. I'm
17 open on the question.

18 MS. MOORE: I could answer that in that if you're
19 not guaranteed those funds, you're -- you've closed back
20 down. I mean what people are going to do after August 4th
21 that aren't reimbursement, they are going to, you know,
22 begin up those projects and that includes they're going to,
23 you know, dust off the plans, ensure that the plans are
24 ready to go, you know, and move into the advertising for bid
25 and all that.

1 If you don't have -- you're not going to do that
2 because that costs money --- if you don't know that you have
3 the funds. So if you're on the waiting list, you're simply
4 waiting and then that whole -- that would all happen again,
5 that 90 days that Mr. Neff talks about in terms what is
6 required to really put a project out to bid, to
7 competitively advertise it, and to make a quality, you know,
8 award at your board.

9 So I -- if I was a district, I wouldn't be doing
10 anything until I knew the funding was in the bank.

11 MR. HARVEY: All right. I'll concede that, but it
12 makes my argument more comfortable of making sure we go to
13 construction then because we're probably going to have fewer
14 dollars that we're going to be expending. Thank you for
15 that clarification.

16 MS. KAPLAN: Just quickly as a point of --
17 Mr. Harvey, something for you to think about. On
18 November 2nd, more than likely if this program and the money
19 goes out, there is supposed to be another bond sale. So
20 there could be -- instead of having a waiting list, it could
21 be November 3rd that the State Allocation Board is working
22 at allocating further money if a bond sale does go through.

23 So that may be something to take into
24 consideration of what may confuse things so that the
25 Board -- this isn't a one-time thing. If the Board then

1 decides policy-wise to look at this again, it allows equal
2 access for everybody come November.

3 MR. HARVEY: You got a pretty good crystal ball.
4 Bond sale?

5 CHAIRPERSON BRYANT: Ms. Silverman, did you have
6 any thoughts about this?

7 MS. SILVERMAN: Well, you know, I think that we
8 had a general understanding of the premises we would close
9 and then once we close, the Board can weigh in in November
10 whether or not they want to restart.

11 And so at that point in time, they can decide
12 whether or not they want to put the 415 back into the
13 regular pot or move forward with continuing the policy.
14 So --

15 MR. MIRELES: And I think just to add, Madam
16 Chair, that could also be part of perhaps the August 4th
17 discussion. At that point, we'll know who certified, who
18 didn't, how much money we have left, if we're over, if we're
19 under, but at this point, it's hard to say.

20 CHAIRPERSON BRYANT: Okay.

21 MS. KAPLAN: And then one other point of
22 clarification with -- Ms. Moore, what you brought up, what
23 are we defining back of the list as? Are we defining back
24 of the list as November 2nd no matter whether there's bond
25 authority or not on new construction or back of the list --

1 if it's a new construction project, that they go back of the
2 list within bond authority?

3 MS. MOORE: No. I was saying November 2nd is the
4 date that they would receive wherever that lies. I don't
5 know if that's in the money or out of the money. But it is
6 90 days after -- it is the same deadline that it is for
7 districts to perfect 50-05.

8 And I thought that that was -- I know districts
9 like certainty and that's certain. November 2nd, it's a
10 certain date. You know what the rules of the game are.

11 MS. KAPLAN: So it -- to be clear, it would be at
12 that time then new construction is as out of bond authority
13 and so that they would have to wait for the next bond sale.

14 MS. MOORE: It could potentially be, but I think
15 that this Board has some consideration concerning the -- is
16 it the critically overcrowded school movement of funds --
17 that could impact that statement.

18 CHAIRPERSON BRYANT: Okay. Ms. Brownley.

19 ASSEMBLY MEMBER BROWNLEY: Well, are we going to
20 have a discussion or -- I mean I think --

21 CHAIRPERSON BRYANT: Yes. Actually there is one
22 other public comment too, just I missed her. Maybe we
23 should just get that out of the way really fast. I'm sorry.
24 I didn't see you.

25 MS. SULLIVAN: Thank you. I'm Andrea Sullivan

1 with the Orange County Department of Education. I just
2 wanted to thank the Board for their thoughtful consideration
3 of these issues and I've previously submitted a letter on
4 behalf of Orange County Department of Education as a
5 financial hardship district and with an unfunded approval
6 for design.

7 And I just wanted to address the specific points
8 that Mr. Harvey had brought up as far as providing safe
9 schools for our students. These projects are for students
10 that are currently served in these community storefront
11 locations which are not DSA Field Act certified, and so I
12 think that this specifically does help that -- meet that
13 goal and the intention. I'm -- students that aren't even
14 in -- Field Act room to start with.

15 So I just wanted to clarify in that, you know, I
16 think the point has been made that there are jobs that side
17 of the immediate construction on-site, but the point about
18 the students are going to be served, I think it doesn't need
19 to be overlooked.

20 CHAIRPERSON BRYANT: Okay. Thank you.

21 MS. SULLIVAN: Thank you.

22 CHAIRPERSON BRYANT: Ms. Brownley. Sorry about
23 that.

24 ASSEMBLY MEMBER BROWNLEY: Yes. No, not a
25 problem, and I too want to just thank all of you who

1 participated on the subcommittee to bring this forward to us
2 and I am generally in concurrence with all of the
3 recommendations. I just wanted to have a couple clarifying
4 questions.

5 Going to Mr. Harvey's issue relative to the site
6 acquisition and design, do we have any idea how many
7 projects there are on the list that would be like that? I
8 mean is it -- the preponderance I would imagine of the
9 projects are going to be construction projects and not site
10 acquisition and design.

11 CHAIRPERSON BRYANT: Do you know? You have that
12 number; right, Juan?

13 MR. MIRELES: We have an idea, but this is just
14 within the 415 million that we have available, just if we
15 go -- if we were to go down the list, the current unfunded
16 list down to 415, we have seven projects that are site and
17 design projects.

18 ASSEMBLY MEMBER BROWNLEY: I'm sorry. Seven that
19 are what?

20 MR. MIRELES: They're separate site.

21 ASSEMBLY MEMBER BROWNLEY: Okay.

22 MR. MIRELES: And actually eight -- a total of
23 eight projects that are --

24 ASSEMBLY MEMBER BROWNLEY: Total of eight projects
25 and when you go down to 415, what's the total amount of

1 projects?

2 MR. MIRELES: It's a total within the 415. I
3 don't know --

4 MS. KAPLAN: No. How much -- wasn't it like 62?

5 ASSEMBLY MEMBER BROWNLEY: 62 projects -- 8 out of
6 62 projects.

7 MS. KAPLAN: 62 million, wasn't it when I counted
8 it, Juan, yesterday --

9 MR. MIRELES: Yeah. This wasn't for the entire
10 unfunded list. This is just if we --

11 MS. KAPLAN: It was just within the 415.

12 MR. MIRELES: Yes. I don't know what it is for
13 the full unfunded list.

14 ASSEMBLY MEMBER BROWNLEY: Yeah. What's the
15 population of projects within the 415 I guess is --

16 MS. KAPLAN: My estimated guess was about
17 62 million out of the 415.

18 CHAIRPERSON BRYANT: Do we have an answer?

19 MR. MIRELES: It's about 55 or 60.

20 CHAIRPERSON BRYANT: Okay.

21 ASSEMBLY MEMBER BROWNLEY: 55 or 60 projects
22 not -- correct?

23 MR. MIRELES: Projects.

24 ASSEMBLY MEMBER BROWNLEY: So 8 out of 60 or so
25 projects would be in this classification of site acquisition

1 and design.

2 CHAIRPERSON BRYANT: We actually had kind of -- I
3 mean I think that one -- one of the points that was made at
4 the subcommittee meeting that was persuasive to me, in fact
5 it's what I think, is that part of -- for me, the goal of
6 this is to reduce the amount of cash sitting around because
7 we're paying general fund interest. That money's not
8 working for us. It's not in the program.

9 To me if you're doing a site acquisition, you are
10 out there. There's a willing seller of property -- or maybe
11 not, but generally speaking a willing seller of property and
12 so that means that person receives the cash from the
13 property sale. That's reinvested in the community. I think
14 that it has -- well, it's not as nice of a story as a
15 shovel-ready construction project, certainly people, you
16 know, real estate, financial institutions, the person -- the
17 property owner, there is money --

18 ASSEMBLY MEMBER BROWNLEY: Yeah. It puts money in
19 the economy.

20 CHAIRPERSON BRYANT: -- in the economy.

21 ASSEMBLY MEMBER BROWNLEY: Yeah.

22 CHAIRPERSON BRYANT: And it's money out of our
23 program. So I think in the financial hardship, you know,
24 that those separate -- those should be funded just as well.
25 Same with the reimbursement because the reimbursement

1 doesn't necessarily create a construction job, but that gets
2 funding into the school districts, funding where they've
3 had -- you know, they're all desperate for cash, so it seems
4 to me analogic.

5 There is a nuance and that is in the
6 overcrowded --

7 MS. KAPLAN: ORG.

8 CHAIRPERSON BRYANT: -- ORG program, those -- some
9 of those projects come in. They just make one application.
10 That includes site -- the planning and site and also
11 construction is in one application. And so I'd suggest that
12 in that -- we only really -- I think there's only one on the
13 unfunded list, but I would suggest that one of the things we
14 ought to think about doing is just seeing if within the
15 90 days you can get site and planning done, that we'd go
16 ahead and include them in there because it's kind of the
17 same issue of kind of equity issue and we get them moving
18 and it's just slightly -- it's different -- slightly
19 different and -- so that'd be my recommendation on that
20 piece.

21 ASSEMBLY MEMBER BROWNLEY: And then just one
22 overarching question because we had a good deal of
23 discussion about this at the last meeting and it has to do
24 with the emergency regulations and I heard you say that you
25 had checked I guess and feel comfortable that these

1 emergency regulations can be in place in time so that when
2 this kicks off there are rules and regulations in print.
3 Everyone will have them and know them.

4 CHAIRPERSON BRYANT: Right.

5 ASSEMBLY MEMBER BROWNLEY: Because there was some
6 question whether that was even possible at the last meeting.

7 CHAIRPERSON BRYANT: We didn't --

8 ASSEMBLY MEMBER BROWNLEY: So you have now
9 confirmed that it is indeed possible.

10 CHAIRPERSON BRYANT: We've -- and we have worked
11 already in advance to get every -- all of the people with --
12 like one of the entities that often holds it up is the
13 Department of Finance and so we have gotten their commitment
14 to make sure that that -- that it gets through quickly. And
15 so we have it all lined up in our timing -- in the
16 timetable. You know, something could go wrong, but
17 hopefully it won't. We've tried to lay it all out ahead of
18 time.

19 ASSEMBLY MEMBER BROWNLEY: And how much leeway do
20 we have within the time schedule?

21 CHAIRPERSON BRYANT: Very little I would think.
22 We can't really -- we have no slippage really right -- we
23 have a little bit.

24 ASSEMBLY MEMBER BROWNLEY: I just wonder if we
25 need to have a plan in the event that all the pieces don't

1 come together. I don't know, but I -- you know, in our
2 world as legislators, we know that deadlines don't -- we
3 don't hit all of our deadlines all the time. So --

4 CHAIRPERSON BRYANT: Well, we do think we -- I
5 think we still believe that we have the authority to reorder
6 our list which this is in effect a reordering of our list
7 and we still believe we have the legal authority to do that
8 on our own, but we also feel that we provide better
9 transparency by having the regulations.

10 So I think we can still do the apportionment in
11 August even if the regulations haven't gone all the way
12 through the process because we think that it's better to
13 have the regulation.

14 ASSEMBLY MEMBER BROWNLEY: So that -- so you're
15 saying that -- you know, that would buy another 30 days?

16 CHAIRPERSON BRYANT: I'm saying that I think we
17 can stick to our schedule even if the regulations haven't
18 been fully -- if they're not fully approved by OAL.

19 ASSEMBLY MEMBER BROWNLEY: So you believe that you
20 could go through this entire process without any
21 regulations?

22 CHAIRPERSON BRYANT: Yeah. I think -- but we
23 think it's better to do it with. Do you want to say
24 anything? Be brief and don't make me --

25 MR. NANJO: Yeah. No. It's -- I would concur

1 with the Chair that it's better to have regulations. I
2 think, you know, if you have to do a fallback, I would
3 recommend we talk about the fallback if and when that
4 happens rather than trying to anticipate.

5 You're -- you know, you have done everything in
6 your power to make sure the regulations can be implemented
7 in a timely fashion. My understanding is we have already
8 had contacts with OAL about that, so this should work. And
9 I'd recommend going along those lines.

10 CHAIRPERSON BRYANT: Thank you.

11 MS. SILVERMAN: And maybe one thing I can add is
12 like Lisa kindly pointed out that we can actually provide
13 monthly updates as far as the progress that we're making as
14 far as the regulation track.

15 ASSEMBLY MEMBER BROWNLEY: Well, this is something
16 I certainly want to move forward with and I really do -- in
17 concurrence with, you know, the recommendations you're
18 making and the ones that you brought to the table today, the
19 90 days, the including of site acquisition and construction
20 and also the penalty only to be to go to the bottom of the
21 unfunded list.

22 I will say that when I vote in support of this,
23 I'll be voting in support with the assumption that we will
24 have the emergency regulations in place. I'm a little
25 uncomfortable in the idea of moving forward under the

1 presumption that we would never have them in place.

2 CHAIRPERSON BRYANT: Right. Okay. And we'll --

3 ASSEMBLY MEMBER BROWNLEY: So I want to make that
4 clear and on the record.

5 CHAIRPERSON BRYANT: All right. And we'll know in
6 June -- when we come back at our June meeting, we don't have
7 to take action on this item in June, but we will be able to
8 give you a progress report and we'll know if something's
9 gone awry I think by the June meeting.

10 MR. NANJO: Absolutely.

11 MS. JONES: That's correct.

12 CHAIRPERSON BRYANT: We can make adjustments if
13 necessary. Ms. Fuller.

14 ASSEMBLY MEMBER FULLER: So when we vote on this,
15 are we going to amend it so that we have the end of the line
16 as part of the record or do we each individually need to go
17 on record saying that that's what we assume will be in here?

18 MR. MIRELES: We -- just in anticipation of that,
19 Madam Chair, we have suggested regulation changes that we
20 have available that we could distribute to the Board
21 members.

22 CHAIRPERSON BRYANT: I think we should do that.

23 MR. MIRELES: Okay.

24 CHAIRPERSON BRYANT: And the other -- I think we
25 have -- I think that -- I mean I am in concurrence with how

1 Ms. Moore stated where we were, but I think the only
2 difference here is -- Mr. Harvey, how do you want to handle
3 it? Do you want to make a motion on your -- just on your
4 piece or --

5 MR. HARVEY: I would like to vote separately on
6 that. We can pull it out separately from the main motion if
7 that's what you would like and I am in concurrence on all
8 the other matters and no matter what the vote on this
9 preference, I will vote aye on the whole package.

10 So I will therefore move that the list be defined
11 as construction ready to mean to construction ready projects
12 not those for design or site acquisition.

13 CHAIRPERSON BRYANT: And is there a second to
14 Mr. Harvey's motion?

15 SENATOR HUFF: I'll second it.

16 CHAIRPERSON BRYANT: Who -- Mr. Huff seconds it.
17 So can you call the roll on that motion.

18 MS. JONES: Senator Lowenthal?

19 SENATOR LOWENTHAL: Not voting.

20 MS. JONES: Thank you. Senator Hancock.

21 SENATOR HANCOCK: Not voting.

22 MS. JONES: Senator Huff.

23 SENATOR HUFF: Aye.

24 MS. JONES: Assembly Member Fuller.

25 ASSEMBLY MEMBER FULLER: Aye.

1 MS. JONES: Assembly Member Brownley.

2 ASSEMBLY MEMBER BROWNLEY: Now.

3 MS. JONES: Scott Harvey.

4 MR. HARVEY: Aye.

5 MS. JONES: Kathleen Moore.

6 MS. MOORE: No.

7 MS. JONES: Lyn Greene.

8 MS. GREENE: No.

9 MS. JONES: Cynthia Bryant.

10 CHAIRPERSON BRYANT: No.

11 MS. JONES: The motion does not pass.

12 SENATOR HUFF: That felt good, didn't it. We've
13 been inactive here.

14 CHAIRPERSON BRYANT: All right. So, Ms. Moore, do
15 you want to -- I think --

16 MR. MIRELES: Madam Chair.

17 CHAIRPERSON BRYANT: Yes.

18 MR. MIRELES: One clarification. The regulations
19 that -- especially the ones that we just handed out, we also
20 have to clarify in there the time frame. It currently has
21 75 days. So whether the Board adopts 90 days, we will have
22 to change that to the regulations and also the -- we still
23 have the 415 million of what's available. If that figure
24 were to change, we would have to modify that figure as well
25 in the regulations. Just wanted to clarify that.

1 CHAIRPERSON BRYANT: I think that -- one thing is
2 on the staff recommendation list, we need to authorize the
3 Acting Executive Officer to file the emergency regulations
4 with OAL and make the technical changes necessary to get
5 them into compliance with the Board's motion.

6 MS. SILVERMAN: Correct.

7 CHAIRPERSON BRYANT: So -- do you want to take a
8 stab at it?

9 MS. MOORE: The only thing is I'm a little -- with
10 the language before us, I do think it's --

11 CHAIRPERSON BRYANT: Yes.

12 MS. MOORE: -- different than how -- what I said.
13 Maybe we arrive at the same place, but will you kind of take
14 us through this language around the being placed at the end
15 of the unfunded list. How does that operate with this
16 language?

17 MR. MIRELES: The language basically states that
18 for purposes of this section, rescinded shall mean that the
19 apportionment returns to the unfunded approval status with a
20 new unfunded approval date. The new unfunded approval date
21 will be the next available Board date after the 75/90-day
22 time limit to submit the form SAB 50-05 and actually we
23 could probably clarify to make it the same date, if that
24 would be more clearer, Ms. Moore.

25 CHAIRPERSON BRYANT: We could actually state -- we

1 could put in November 2nd or we could say our next Board
2 meeting would be November 3rd, but maybe we can state it as
3 November 2nd.

4 MS. MOORE: If we could date it -- if we could
5 state it as November 2nd, I think that's a great deal
6 greater certainty for school districts and that way it
7 matches with the 50-05.

8 MS. KAPLAN: Point of clarification, is
9 November 2nd the 90th day or the 91st day? So do we maybe
10 want to make it November 3rd which is a Board meeting date?

11 CHAIRPERSON BRYANT: I didn't calculate it. I'm
12 relying on Ms. Moore.

13 MS. MOORE: We calculated it, you know, math was
14 not my greatest subject, but we calculated I believe 90 days
15 was November 2nd.

16 CHAIRPERSON BRYANT: Let's say November --

17 MS. MOORE: From the date of August 4th.

18 MS. KAPLAN: 90 days to turn in. Yeah. 90 days
19 to turn in, so if they turn it in at 4:55 on November 2nd,
20 it's still valid.

21 MS. MOORE: Yes.

22 ASSEMBLY MEMBER BROWNLEY: I think the other thing
23 about November the 3rd and utilizing this date is that it is
24 the day after an election and there is the possibility that
25 some of us would not be reelected and would not be here and

1 so you might not have a quorum.

2 CHAIRPERSON BRYANT: You're -- no, you're here
3 until --

4 ASSEMBLY MEMBER BROWNLEY: Oh, that's right. Till
5 the 1st. That's right.

6 MR. HARVEY: You might be celebrating --

7 CHAIRPERSON BRYANT: You might be celebrating --

8 SENATOR LOWENTHAL: You still have to show up.

9 MS. MOORE: So I will take a stab at a second
10 motion then --

11 CHAIRPERSON BRYANT: Okay.

12 MS. MOORE: -- and that motion is that we approve
13 the subcommittee report on the items that were of consensus
14 and for the items that were not of consensus, we would
15 approve the following: a time frame of 90 days, all
16 projects are eligible, the penalty will be that the project
17 will be placed on the unfunded list as of November 2nd and
18 that the required documents are those listed on Item 2,
19 page 190, three items, and a letter from a district
20 representative.

21 ASSEMBLY MEMBER BROWNLEY: Can I ask one
22 clarification on that. When exactly does the clock start to
23 tick on this program?

24 MS. MOORE: The 90-day clock starts to tick
25 August 4th.

1 MR. MIRELES: That's correct.

2 ASSEMBLY MEMBER BROWNLEY: August 4th. Okay.

3 SENATOR HUFF: Another question --

4 ASSEMBLY MEMBER BROWNLEY: And part of your motion
5 is about the notification to districts with regard to
6 exactly when the clock starts ticking so that everybody has
7 a fair shot on this. Correct?

8 CHAIRPERSON BRYANT: Correct.

9 MS. MOORE: Correct. So maybe -- okay. Let me --
10 that would be the background of it and then let me say that
11 the recommendation would be to approve the procedures
12 outlined in Attachment A with those revisions. Does that
13 make sense to staff? And I think declare that between
14 May 27th and June 28th, OPSC will accept the request to
15 convert unfunded approvals to apportionments based on a
16 letter from the district with the three items noted, to
17 approve the emergency regulations on Attachment B with the
18 changes so just noted, and authorize the Executive Officer
19 to file the emergency regulations with OAL. Is that
20 complete?

21 MR. NANJO: Just to clarify. That's a letter from
22 the authorized representative of the school district; right?
23 District rep?

24 MS. MOORE: Yes. Is -- what is our -- what is the
25 official name of that person, the authorized district rep.

1 MR. MIRELES: Yeah. The district representative.

2 MR. NANJO: Thank you.

3 CHAIRPERSON BRYANT: Senator Lowenthal, did you
4 have a question?

5 SENATOR LOWENTHAL: Yes. I didn't -- I wasn't
6 clear on if on November 3rd they do not meet that deadline,
7 where do they go on the unfunded list? At the bottom or --

8 MS. MOORE: They would be placed on the unfunded
9 list as of that day.

10 SENATOR LOWENTHAL: Just placed on it or placed at
11 the bottom of the unfunded list?

12 MS. MOORE: I was saying placed as of that day.
13 It would be --

14 CHAIRPERSON BRYANT: It would be effectively the
15 bottom of the list.

16 MS. MOORE: It would be the bottom because we --

17 SENATOR LOWENTHAL: Okay.

18 CHAIRPERSON BRYANT: Because we haven't added
19 any --

20 SENATOR LOWENTHAL: All right. So it would be as
21 of that date.

22 MS. MOORE: We wouldn't have taken up anybody.

23 CHAIRPERSON BRYANT: Right.

24 SENATOR LOWENTHAL: So they would be the last to
25 be on it. Fine.

1 CHAIRPERSON BRYANT: Right.

2 ASSEMBLY MEMBER BROWNLEY: So just another
3 clarification. So when -- if we approve this tonight, when
4 do we start accepting applications?

5 CHAIRPERSON BRYANT: We start taking these letters
6 immediately.

7 MS. KAPLAN: Tonight.

8 MR. MIRELES: And just to clarify --

9 CHAIRPERSON BRYANT: Hand your letters forward.

10 MR. MIRELES: It would start tonight and it would
11 end June 28th. It would be a 30-day filing period and then
12 the Board could grant apportionments at the August 4th SAB.

13 ASSEMBLY MEMBER BROWNLEY: Thank you.

14 CHAIRPERSON BRYANT: And one of the things that
15 you walked us through the subcommittee hearing was all the
16 things that you can do to get the word out. So can you -- I
17 think the Board would feel better if you ran through those
18 really quickly.

19 MR. MIRELES: Yeah. We would send an email blast
20 to all school districts. That's one notification. We're
21 also going to provide some information on our Website. We
22 do plan on providing a tutorial, but we also are going to
23 send out our project managers to the monthly County Office
24 of Education meetings to provide information to school
25 districts on the new process and the criteria and any other

1 suggestions from school districts as far as what they think
2 would be more appropriate so that we can spread the word as
3 far as we can.

4 CHAIRPERSON BRYANT: And in addition, you're going
5 to work with all of the stakeholder organizations --

6 MR. MIRELES: Yes.

7 CHAIRPERSON BRYANT: -- to help them reach their
8 members.

9 MR. MIRELES: Absolutely.

10 CHAIRPERSON BRYANT: So -- I think the word will
11 get out and I think the word will get out and I think
12 already the stakeholder community has done a lot of pre-work
13 on this in preparation for this. So I think -- I feel good
14 about it.

15 All right. Any other questions on the motion?
16 Any last minute public comment? We can't change the motion.

17 ASSEMBLY MEMBER BROWNLEY: Was there a second on
18 the motion?

19 CHAIRPERSON BRYANT: Yes. Ms. Greene. We could I
20 guess if you had something really earth shattering.

21 MR. GONZALEZ: Richard Gonzalez, Richard
22 Gonzalez & Associates. I have just two what I consider
23 small points and maybe someone else may not.

24 In the three points that we're supposed to include
25 the letter, I have no idea what the last sentence in the

1 last bullet means. And I don't -- and it could be struck
2 and it'd be fine.

3 CHAIRPERSON BRYANT: Juan.

4 MR. MIRELES: Basically what that certification is
5 stating is that all the other certifications that the
6 district has to abide by still apply with the exception of
7 the 18 month. The 18 month is something that school
8 districts have available, but by making -- by applying this
9 new process, they are now stating that they're going to come
10 in within a reduced time.

11 So with the exception of that certification, all
12 other certifications on our funding application remain in
13 effect.

14 MR. GONZALEZ: I understand that would be the
15 first sentence in that bullet.

16 CHAIRPERSON BRYANT: I think he was adding it just
17 to really make -- try to make it clear and obviously it
18 confused you.

19 MR. GONZALEZ: Yes, it did and I still am not sure
20 what that sentence says and if I were to sign a letter, I'd
21 want to know what I'm signing and knowing what that really
22 means, the words there, any certification made by a school
23 district that does not apply solely the 18-month time limit
24 will remain valid. I'm not quite sure I follow --

25 CHAIRPERSON BRYANT: Can you give me examples of a

1 couple of the --

2 MR. GONZALEZ: The first sentence in that bullet,
3 Madam Chair, seems to reflect what he's suggesting.

4 CHAIRPERSON BRYANT: I think you were planning
5 on -- if I recall, did you prepare a proposed draft letter
6 that districts could use?

7 MR. MIRELES: This was the language that we were
8 proposing that they use, Madam Chair.

9 CHAIRPERSON BRYANT: Can you tweak that last
10 sentence?

11 MR. MIRELES: Yeah. Yeah.

12 CHAIRPERSON BRYANT: Put something out on the
13 Website first thing.

14 ASSEMBLY MEMBER BROWNLEY: What page number is the
15 letter on?

16 MR. MIRELES: We'll clarify.

17 CHAIRPERSON BRYANT: We're talking about -- we're
18 on page 190. It's just bullet points.

19 MR. GONZALEZ: And -- okay. My second point would
20 be if I end up -- if for some reason a district were not
21 able to meet their 90-day time frame, they get a full 18
22 months at the end of the list or do they have an
23 abbreviated --

24 CHAIRPERSON BRYANT: They would get full 18 months
25 at the time of their apportionment.

1 MR. GONZALEZ: Thank you.

2 MS. KAPLAN: I was just going to suggest for the
3 bullet point, instead of kind of using legalese, just say
4 that the district certifies that they understand they're
5 giving up their 18-month timeline to participate in this
6 program. Because isn't what they're certifying to?

7 MR. MIRELES: Yeah.

8 CHAIRPERSON BRYANT: You -- you can put that
9 suggested language in the Website tomorrow.

10 MS. JONES: It's on the record.

11 CHAIRPERSON BRYANT: Okay. So we're ready -- any
12 other comments or questions? Call the roll.

13 MS. JONES: Senator Lowenthal.

14 SENATOR LOWENTHAL: Aye.

15 MS. JONES: Senator Hancock.

16 SENATOR HANCOCK: Aye.

17 MS. JONES: Senator Huff.

18 SENATOR HUFF: Aye.

19 MS. JONES: Assembly Member Fuller.

20 ASSEMBLY MEMBER FULLER: Aye.

21 MS. JONES: Assembly Member Brownley.

22 ASSEMBLY MEMBER BROWNLEY: Aye.

23 MS. JONES: Scott Harvey.

24 MR. HARVEY: Aye.

25 MS. JONES: Kathleen Moore.

1 MS. MOORE: Aye.

2 MS. JONES: Lyn Greene.

3 MS. GREENE: Aye.

4 MS. JONES: Cynthia Bryant.

5 CHAIRPERSON BRYANT: Aye.

6 MS. JONES: Motion carries.

7 CHAIRPERSON BRYANT: Thank you. And I just again
8 want to thank my two cohorts on the subcommittee. Staff was
9 just so helpful on this and all of you, the stakeholders,
10 were also great, so thank you.

11 Moving onto Tab 12, that item was withdrawn.

12 Moving onto Tab 13. Did you want -- Tab 13. Did
13 you want -- I think -- did you want to say something? Are
14 we doing this item or not doing this item?

15 AUDIENCE MEMBER: No. My understanding of the
16 previous discussion resolved our issues, so (indiscernible-
17 away from microphone) withdrawing our appeal. Not being
18 a --

19 CHAIRPERSON BRYANT: If you're not resolved, we'll
20 hear this appeal in August.

21 AUDIENCE MEMBER: Yes. So I appreciate the
22 Board's consideration --

23 CHAIRPERSON BRYANT: Okay. Thank you. Item --
24 Tab 14's been withdrawn.

25 MS. JONES: Madam Chair.

1 SENATOR LOWENTHAL: Tab 13.

2 MS. JONES: Could you please tell the audience the
3 item has been resolved on the record please for the court
4 reporter.

5 CHAIRPERSON BRYANT: Oh, I'm sorry. Tab 14, the
6 items been withdrawn and Item 13 has now been withdrawn and
7 Item 12 was withdrawn. So now we're up to Item 15 --
8 Tab 15.

9 MS. KAPLAN: And just to clarify for the record so
10 that we're abundantly clear what you said on Tab 13 is
11 they're removing the appeal, but if the item is not resolved
12 within the 415, they can reinstate their appeal.

13 CHAIRPERSON BRYANT: Yes, I did say that. Tab 15.
14 Mr. Zian.

15 MR. ZIAN: Okay. Madam Chair, members of the
16 Board, this items presents the districts' **request for**
17 **accelerated funding apportionments and it also provides the**
18 **Board with a comprehensive plan to address the San Pasqual**
19 **Valley Unified School District's earthquake-related and fire**
20 **liquefaction issues.**

21 As you recall at the last Board in April, there
22 was a report dealing with various earthquake efforts that
23 staff presented not only for the OPSC efforts but the other
24 agencies involved and there were two school district
25 requests for accelerated funding.

1 One of the requests, Calexico, was approved. The
2 other one, the San Pasqual request, was deferred until today
3 to allow staff time to work with the district to figure out
4 the best way to deal with comprehensively the district's
5 issues and also address the accelerated funding request.

6 A little bit about San Pasqual. San Pasqual is a
7 school district that is unified. It has three schools, an
8 elementary, a middle, and a high school site located on an
9 88-acre site. They're all contiguous on that site and it's
10 located in close proximity to the Colorado River which has
11 flooded its banks and there has been a lot of liquefaction
12 related issues due to that with the water table seeping
13 under the school district's -- various facilities on that
14 one site.

15 And the liquefaction issue has been documented by
16 a geotechnical firm a couple years ago and that report
17 essentially said that the district facilities were in danger
18 of problems in terms of the foundation, that it was being
19 eroded by the liquefaction issues.

20 Concurrently there was a structural engineer's
21 report during that time two years ago also that documented
22 that building structural systems could possibly fail due to
23 the liquefaction and if there was a major earthquake.

24 Well, we had a major earthquake in April, the
25 Calexico earthquake, and I'm pleased to say there were no

1 building system failures, but there was additional damages
2 according to the superintendent of the district and so here
3 we are today talking about this issue.

4 The district has three projects currently on the
5 unfunded list that the district has prioritized to address
6 past and current health and safety issues. The district has
7 indicated to us that they intend to pursue the CalEMA
8 through FEMA funding as well as seek state funding for any
9 of the issues that are not addressed through that process.

10 The district has also provided pictures,
11 documentary evidence of the damages to the various school
12 facilities and also a narrative detailing some of the
13 damages.

14 What we do not have at present is a delineation of
15 what is the new damages related to the earthquake, but you
16 can see there were damages to the facilities.

17 Based on all these comments that I've made, staff
18 is recommending that for purposes of the gymnasium and any
19 kind of facility hardship that maybe filed in the future
20 that there is a detailed and current structural analysis to
21 look at the facilities to determine the actual risk
22 potential of the building systems failing.

23 Now in terms of the plan, there were three
24 projects sitting on an unfunded list and I'll go through
25 each one because they're a little bit different, each one.

1 Relative to the high school project, the modernization
2 project, it is a project for the demolition and replacement
3 of five classrooms that were damaged by the earthquake. The
4 district is requesting accelerated funding for this project
5 and will not actually bid it until such time that they have
6 an approval -- a funding approval from the Board and staff
7 concurs with the district's request on this particular high
8 school site project due to the fact that the district is
9 dealing with past and current health and safety issues, the
10 plans are shovel ready, and the project can proceed
11 immediately if approved by the Board now and there will be
12 no need to change any of the plans or specifications.
13 There's no scope change issues, anything like that, so it
14 can just move on.

15 Now in relation to the gymnasium, which is also on
16 this site, that is a separate issue. There are no plans or
17 anything for that at present, but as I mentioned earlier,
18 there should be a structural engineer and there should be a
19 more detailed analysis of that and the district will be
20 looking at pursuing federal funding for that particular
21 issue and has begun discussions with staff to facilitate a
22 facility hardship application for that particular project if
23 the need should occur.

24 So relative to the elementary site, the plan for
25 that would be -- this project is for the construction of ten

1 new replacement classrooms. Again there are complementary
2 classrooms at the site right now that were damaged in the
3 earthquake, so this would address that issue, replace them.

4 The district is requesting accelerated funding so
5 they can move ahead with those repairs and they will not bid
6 the project on this particular one either until such time
7 that an approval was made.

8 Staff concurs on this particular project also with
9 the request for funding since the project will again assist
10 the district in dealing with the health and safety issues.
11 The shovel ready issue is there on this project also and the
12 project can proceed immediately without any change to plans
13 or specs or any scope changes, anything like that.

14 The last issue is the junior high school project
15 which was also an accelerated funding request. On this
16 particular project, staff was unable to make the connection
17 to the earthquake. Damages related to that is construction
18 of new classrooms. There are five portables at that site.
19 There wasn't a lot of evidence on that particular one. So
20 staff is not recommending that the Board approve the
21 accelerated funding request on this particular project at
22 this point in time and also on the merits that it could set
23 a dangerous precedent for other districts that would seek to
24 move ahead in the funding pipeline based on whatever reason.

25 So there are four options contained in this item.

1 I won't go through them other than to say that the first
2 option is the staff's recommendation to approve the
3 district's request to provide accelerated funding to the two
4 projects, the high school and the elementary site, and
5 Options 2 and 3 are variations on one dealing with the
6 accelerated funding and the facility hardship and Option 3
7 is just the facility hardship, but in both of these, the
8 issue would be that you slow down the track here, not
9 approve it now, but wait for more detailed structural
10 engineering analysis of the issues.

11 The last Option 4 deals with if the Board doesn't
12 approve any of these options and just wants to go ahead with
13 some other means that we are recommending that the Board
14 consider looking at the lease of portables at a dollar per
15 year with minimal cost to the district in terms of setup and
16 moving and all that stuff if the district wants that kind of
17 situation as an interim proposal to this.

18 So at this point, we're recommending that the
19 recommendations be approved to adopt Option No. 1, the
20 accelerated funding for the high school and the elementary
21 site, deny the district's accelerated funding request on the
22 junior high school site, direct staff to work with the
23 district expeditiously once the required documentation comes
24 in if it's necessary on facility hardship, and if the Board
25 does not approve Recommendation No. 1, then go ahead and

1 offer to the district portables at \$1 per year.

2 And lastly if there are any duplicative expenses
3 on these projects that are funded by FEMA, CalEMA, and also
4 by the state that we avoid any audit issues at the Federal
5 level or the state level in terms of having the state be
6 reimbursed for those costs that are double funded.

7 So that concludes my report.

8 CHAIRPERSON BRYANT: Is there any public comment
9 on this? Is San Pasqual here? There you are. I didn't see
10 you.

11 MR. SCHONEMAN: Madam Chair, David Schoneman,
12 Superintendent, San Pasqual Valley Unified School District.
13 I'd like to thank the Board for their consideration of our
14 product -- our project I should say. At this time, I'd also
15 like to say that we definitely appreciate the assistance of
16 the OPSC staff and leadership in coming to these options.

17 I'd like to say also at this time that the school
18 district is in complete agreement with the OPSC staff with
19 Option No. 1.

20 CHAIRPERSON BRYANT: Thank you. Ms. Moore.

21 MS. MOORE: No. I'm just ready to move Option
22 No. 1.

23 CHAIRPERSON BRYANT: Okay. Did you have something
24 to add, sir? Okay. All right. Is there a motion -- oh, I
25 should ask if there's any questions or comments on this.

1 ASSEMBLY MEMBER FULLER: I'll make the motion.

2 CHAIRPERSON BRYANT: Staff recommendation. Is
3 there a second?

4 ASSEMBLY MEMBER BROWNLEY: I'll second it. I just
5 want to know though if we go with Option 1, where is the
6 money coming from? What pot?

7 CHAIRPERSON BRYANT: It comes out of -- oh,
8 actually I don't know. Which -- it comes out of 415, but
9 I'm not sure, is it new construction -- it's modernization;
10 right?

11 MR. ZIAN: It would come out of modernization one
12 pot, and then the other one is the new construction pot, and
13 I -- here's the question also, which bond, 47, 1D, or
14 whatever. I don't have the answer to that.

15 ASSEMBLY MEMBER BROWNLEY: No. I was mainly --

16 CHAIRPERSON BRYANT: But it does come out of 415.
17 It's one of the items that we needed act on, so it'll drop
18 our 415 down by about 7 million I think.

19 MS. SILVERMAN: 408.3.

20 CHAIRPERSON BRYANT: 408.3 now. And since the
21 Lennox School District withdrew their request and that's it,
22 we'll be able to have our final number.

23 So we have a motion and a second. Would you like
24 to --

25 SENATOR LOWENTHAL: For Option No. 1.

1 CHAIRPERSON BRYANT: For Option No. 1. Call the
2 roll.

3 MS. JONES: Senator Lowenthal.

4 SENATOR LOWENTHAL: Aye.

5 MS. JONES: Senator Hancock.

6 Senator Huff.

7 SENATOR HUFF: Aye.

8 MS. JONES: Assembly Member Fuller.

9 ASSEMBLY MEMBER FULLER: Aye.

10 MS. JONES: Assembly Member Brownley.

11 ASSEMBLY MEMBER BROWNLEY: Aye.

12 MS. JONES: Scott Harvey.

13 MR. HARVEY: Aye.

14 MS. JONES: Kathleen Moore.

15 MS. MOORE: Aye.

16 MS. JONES: Lyn Greene.

17 MS. GREENE: Aye.

18 MS. JONES: Cynthia Bryant.

19 CHAIRPERSON BRYANT: Aye.

20 MS. JONES: Motion carries.

21 MR. SCHONEMAN: Thank you very much.

22 CHAIRPERSON BRYANT: Thank you.

23 SENATOR LOWENTHAL: What about the other staff
24 recommendations? Do we need to, for example, direct staff
25 to expeditiously process the district's facility hardship?

1 MS. JONES: It was to adopt staff recommendation.

2 CHAIRPERSON BRYANT: That's what we just --

3 MR. HARVEY: That was all part --

4 SENATOR LOWENTHAL: Oh, that was -- that was part
5 of it.

6 CHAIRPERSON BRYANT: That was all part of it.
7 Yeah. And also they'll repay if they get any money from
8 FEMA or any other source.

9 Okay. Moving onto Tab 16, Ms. Silverman.

10 MS. SILVERMAN: Yes. Good afternoon again. We
11 wanted to highlight an important item that we wanted to
12 bring back to the Board. It's to **provide clarification of**
13 **the regulations that we have in front of us.** Again it's to
14 present options as far as emergency regulations that clarify
15 when a financial hardship re-review would be conducted on
16 unfunded approvals.

17 The current regulations require that a re-review
18 be conducted by staff to review the available funds for any
19 project that's sitting on the unfunded list for more than
20 180 days.

21 Staff presented actually apportionments in
22 February and April in which the Board at that time had
23 adopted a policy of not conducting the re-reviews as a
24 result of those projects sitting on 180 day list and it was
25 because of a different type of situation. The current

1 review requirements call out that the reviews be conducted
2 because projects are sitting on the unfunded list.

3 And so we wanted to bring clarification as to the
4 type of unfunded list. So with that, the Board had
5 requested staff to bring back regulations that wouldn't harm
6 districts that were put on an unfunded list as a result of
7 the current fiscal crisis.

8 So to provide clarification, staff would propose
9 regulations that define the nature of the unfunded list and
10 the regulations amendment defined on stamped page 206
11 basically calls out the unfunded list is created because of
12 lack of AB55 loans. This creates a distinction in the list
13 as a result of the current crisis than the traditional
14 unfunded list which refers to the information list on
15 unfunded projects.

16 The current budget crisis referred to bonding
17 authority from Proposition 47, 55, and 1D and as a result of
18 the fiscal crisis, on December 17th, 2008, the Pooled Money
19 Investment Board took action to stop disbursing cash from
20 AB55 funds and so with that, they also -- Department of
21 Finance issued a budget letter, Budget Letter 33, that also
22 conforms that the departments that were managing bond
23 programs could not issue active apportionments.

24 And at the March 2009 Board meeting as a result of
25 the fiscal crisis, the Board took a vote as to create an

1 unfunded list as a result of the fiscal crisis. So in
2 following the spirit of that -- and obviously the creation
3 of those emergency regulations were based on the lack of
4 AB55 loans.

5 So staff would like to advise the Board that the
6 authority for new construction will likely be exhausted over
7 the summer and when this happens, this will -- obviously the
8 Board will have to come back and decide whether or not
9 they're going to create a true unfunded list. And that list
10 is not associated with the regulations we have in front of
11 us. The regulations we have in front of us results
12 correctly to clarify that the unfunded list we have
13 currently is as a result of AB55 loans or the lack of loans,
14 funds being available, and so the financial hardship
15 projects added to this list will be subject to an unfunded
16 review if again we exhaust the bonding authority.

17 So staff would like to recommend that all
18 emergency regulations be agendized and presented at the
19 November 2010 State Allocation Board because in following
20 with the spirit of the recommendations that the Board
21 adopted in March 2009, it took a group of emergency
22 regulations and enacted those regulations that actually
23 result in creating emergency regulations for inactive
24 apportionments, create emergency regulations for inactive
25 preliminary apportionments, again create emergency

1 regulations for inactive charter preliminary apportionments
2 and also other regulations in providing career -- extensions
3 to various programs.

4 So just one point of clarification is the
5 regulations we're presenting is providing a sunset date of
6 January 1st, 2011, and I know to some extent we're here in
7 May and folks are probably wondering why such a short sunset
8 date, but again it's in essence to give the Board the
9 opportunity come November to weigh in on all emergency
10 regulation packages that it has before us that are currently
11 in effect. And so that's why we put a sunset date of
12 January 1st, 2011.

13 So with that we ask the Board to adopt
14 regulations, Attachment A, and authorize the Executive
15 Officer to file these emergency regulations with the Office
16 of Administrative Law.

17 CHAIRPERSON BRYANT: So the essence of what we're
18 doing here is creating emergency regs for what the Board
19 believes their intent was the entire time and we're putting
20 it in with all the other emergency regs related to the
21 fiscal crisis.

22 MS. SILVERMAN: Correct.

23 CHAIRPERSON BRYANT: So --

24 MS. SILVERMAN: So we won't lose sight of that.

25 CHAIRPERSON BRYANT: You're not -- this is not a

1 back-door way of trying to get us out of waiving this
2 financial hardship regulation.

3 MS. SILVERMAN: No. The intent is to currently
4 waive it as a result --

5 CHAIRPERSON BRYANT: Just to get this in and we'll
6 re-adopt these regulations in November assuming the crisis
7 continues.

8 MS. SILVERMAN: That's correct. So with that,
9 open up to questions.

10 CHAIRPERSON BRYANT: Is there any other questions?
11 Is there any public comment on this item?

12 UNIDENTIFIED SPEAKER: So move.

13 CHAIRPERSON BRYANT: Mr. Harvey.

14 MR. HARVEY: I don't have a question, but I have a
15 comment. I don't want my no vote to be misinterpreted as
16 opposing the proper way of regulating that which we're going
17 to do. I oppose the policy of forgiving what I thought was
18 good public policy and asking that if you sit that long, you
19 should go back into a re-review. So my vote is based on the
20 policy not on the fact we're doing it by regulation because
21 that's what we should be doing.

22 CHAIRPERSON BRYANT: Thank you. We have a motion.
23 Is there a second?

24 SENATOR HUFF: Second.

25 CHAIRPERSON BRYANT: Senator Huff. Call the roll.

1 MS. JONES: Senator Lowenthal.
2 SENATOR LOWENTHAL: Aye.
3 MS. JONES: Senator Hancock.
4 SENATOR HANCOCK: Aye.
5 MS. JONES: Senator Huff.
6 SENATOR HUFF: Aye.
7 MS. JONES: Assembly Member Fuller.
8 ASSEMBLY MEMBER FULLER: Aye.
9 MS. JONES: Assembly Member Brownley.
10 ASSEMBLY MEMBER BROWNLEY: Aye.
11 MS. JONES: Scott Harvey.
12 MR. HARVEY: No.
13 MS. JONES: Kathleen Moore.
14 MS. MOORE: Aye.
15 MS. JONES: Lyn Greene.
16 MS. GREENE: Aye.
17 MS. JONES: Cynthia Bryant.
18 CHAIRPERSON BRYANT: Aye.
19 MS. JONES: Motion carries.
20 CHAIRPERSON BRYANT: Okay. I would like to
21 propose, if we may, taking a ten-minute break right now
22 because we -- there was -- right when I was walking out of
23 my office, we had some issues on this regulatory language
24 for 17 and I would like a minute to confer with staff before
25 we start that. Ten minutes.

1 (Off record at 5:38 p.m.)

2 (On record at 5:49 p.m.)

3 CHAIRPERSON BRYANT: Try and get back to order.
4 All right. Call this meeting back to order. I think what
5 we want to do real quick is go ahead and lift -- kind of
6 lift the calls, not that we have that process exactly, but
7 we have some open items. So, Ms. Jones, do you want to do
8 those.

9 MS. JONES: Okay. This is for approval of the
10 Minutes. Senator Hancock.

11 SENATOR HANCOCK: Aye.

12 MS. JONES: Assembly Member Fuller.

13 ASSEMBLY MEMBER FULLER: Aye.

14 MS. JONES: Okay. That passes.

15 CHAIRPERSON BRYANT: Okay. Thank you. All right.
16 So Tab 17, Brian LaPask.

17 MR. LaPASK: Thank you. Good evening. This is
18 the **high performance regulations** that we talked about last
19 month. I brought a report last month that talked about kind
20 of the method we had been approaching to promote access to
21 this program and increase participation because it has been
22 a little slow to release funds.

23 The point system that I described last month is
24 essentially the same as what we're presenting today in the
25 way that it affects the funding model. Without getting too

1 far into like kind of the technical aspects of it, we
2 basically aligned our criteria to more closely mirror what
3 the CHPS criteria is so that field -- people out in the
4 field are looking at a similar set of criteria when they're
5 designing these projects.

6 So it helps to reduce some confusion that was
7 previously existing and also make it a little easier for
8 them for making the switch between CHPS and our high
9 performance rating criteria.

10 Some of the changes we made -- well, I'll get into
11 the details of them just to kind of remind everybody exactly
12 what these points are going to do. For new construction
13 projects, they're going to most likely at least double the
14 funding associated with these grants and for modernization
15 projects and new construction addition projects, it will
16 increase sometimes as many as fivefold. So it's a
17 significant increase and I think that's what we kind of set
18 out to do as well as open up access to this program.

19 Some of the other changes that we made included
20 updating for the 2008 energy code that became effective on
21 January 1 of this year. We added what's called a high
22 performance base incentive grant which is for new
23 construction projects that meet the minimum threshold,
24 there's \$150,000 awarded to that project on top of the
25 points and the funding generated from the point system.

1 For mod projects and new construction additions,
2 it's 250,000. And because that grant includes a lot of
3 unique costs associated with these high performing
4 components like commissioning and feasibility studies and
5 things like that, we decided to help benefit smaller
6 districts and projects that are barely meeting their
7 60 percent commensurate to exclude the high performance base
8 incentive grant portion of the high performance grant from
9 the 60 percent commensurate calculation.

10 So, you know, a project that was just barely going
11 to meet that threshold but couldn't go after high performing
12 project -- or high performing components because they
13 wouldn't be able to meet their 60 percent, that's -- that
14 will alleviate that problem for them.

15 Also for financial hardship projects, addition to
16 their design grant, they can certify that they're going to
17 be pursuing high performance in their full grant stage and
18 also submit a school board resolution that indicates that
19 and they'll be able to get on top of their design grant the
20 high performance base incentive grant portion of the
21 project, so either the 150- or the 250,000 along with their
22 design grant.

23 And one more thing on these high performance base
24 incentive grants is there's going to be one allowed per
25 school site and we feel like that's going to kind of spread

1 the funds out to as many schools and districts as possible,
2 so they included a provision for that.

3 Also we're requiring data collection now. So we
4 have a new page added to the PIW that's going to be strictly
5 for high performing projects. It's going to examine energy
6 savings, water savings, all the other benefits that go along
7 with these high performing components and also we're going
8 to look at the differential in costs between the high
9 performance components and standard components so that we
10 can kind of set the framework moving forward for exactly
11 what we think the grant should be.

12 Another thing we're now requiring is school board
13 resolutions. We want executive level sponsorship and we
14 think that this is a very integral piece to making this
15 program more widely used and more popular. It's going to --
16 you know, when school districts see other schools districts
17 having success with certain things, things that they've
18 adopted, the other school board, it tends to spread, so
19 we're hoping that that will help as well.

20 The last piece is third-party verification. This
21 is on stamped page 215 and we have two options. Our
22 regulations -- Option 1 is on Attachment A. Option 2 is on
23 Attachment B. All the things I've described so far are on
24 both attachments. The only difference between Option 1 and
25 Option 2 is the third-party verification piece.

1 Option 1, which is what staff is recommending,
2 does not allow for third-party verification. Some of the
3 concerns that were identified during our worker meetings and
4 Implementation Committee meetings among other things are
5 that complete and total verification by CHPS or
6 certification by LEED doesn't happen until post
7 construction, whereas many of the projects -- the vast
8 majority of the projects that we get are coming in either
9 during or prior to construction.

10 Also the CHPS and LEED criteria are not exactly
11 the same as our rating criteria. They have a lot of
12 operational type credits that we don't have. Ours is for
13 brick and mortar pretty much only.

14 We also believe that currently the DSA has only
15 the statutory authority to review and approve construction
16 plans for school facility projects. There's no documented
17 problems with the DSA review and there's no backlog
18 currently at DSA for these reviews. Plus, you know, it kind
19 of adds another layer because these projects are going to
20 have to go through DSA for approval any way you go about it.

21 So those are kind of the things -- the issues that
22 were raised or the concerns that were raised in opposition
23 to third-party reviews. What third-party reviews would do
24 as part of Option 2 is they would allow districts instead of
25 one way of qualifying for the base incentive grant portion,

1 it would allow them three ways. They'd be able to still
2 qualify by getting the minimum points in the high
3 performance rating criteria or they would be able to get
4 that grant by qualifying for the LEED verification or having
5 LEED -- CHPS certification -- excuse me -- CHPS verification
6 or qualifying for LEED certification.

7 So instead of just having the point system, they'd
8 have also the CHPS and the LEED verifications to move
9 forward with that.

10 That's my presentation. Does anybody have any
11 questions?

12 CHAIRPERSON BRYANT: Senator Hancock.

13 SENATOR HANCOCK: Yeah. Thank you very much,
14 Brian. Could you outline again, we're using terms like
15 verification and certification and you said CHPS
16 verification but LEED certification and DSA certification;
17 right?

18 MR. LaPASK: Actually I think it would be DSA
19 approval. CHPS uses the term verified. It just means that
20 it's been -- you now, CHPS has awarded them whatever point
21 score that they have awarded them. They verified that this
22 is the score that they obtained on it. It's a certain level
23 of CHPS verified.

24 SENATOR HANCOCK: Is that post construction?

25 MR. LaPASK: That's post construction for like --

1 yes, for the actual verification, it happens after the
2 building is constructed and they can go out and look at all
3 the things that have been installed and verified, that
4 it's -- that it meets the points that was --

5 SENATOR HANCOCK: And then what is certification?

6 MR. LaPASK: LEED certification is essentially the
7 same thing. It's just called certification instead of
8 verification.

9 SENATOR HANCOCK: And what's approval?

10 MR. LaPASK: DSA approval is when the plans go to
11 DSA and DSA reviews the plans and comes up with a points
12 score and they provide OPSC a high performance rating
13 criteria scorecard and that's the number that ultimately
14 goes on the funding form that results in the grant.

15 SENATOR HANCOCK: Um-hmm. And then do they go out
16 later to see if the stuff has been actually installed or is
17 it a process where you add up the points and you assume that
18 it's self-certification.

19 MR. LaPASK: For the purposes of funding, it's
20 just an adding up of the points.

21 SENATOR HANCOCK: Okay.

22 MR. LaPASK: They have a scorecard they look at
23 and they check off all the things that are in the design and
24 it results in a number of points and that's what we use to
25 direct funding that we give them.

1 As far as does DSA go and inspect it post
2 construction, I'm not sure. I'd have to ask them.

3 SENATOR HANCOCK: Okay.

4 CHAIRPERSON BRYANT: Did you want to respond?

5 MS. HICKS: I don't need to speak. Do you want --

6 SENATOR HANCOCK: Oh, sure. Yeah. Thank you.

7 MS. HICKS: Hi. I'm Kathy Hicks, the Deputy
8 Director for the Division of the State Architect.

9 SENATOR HANCOCK: Um-hmm.

10 MS. HICKS: When DSA approves the plans, we are
11 approving that they are code compliant and we do have a
12 field --

13 SENATOR HANCOCK: You approve the plans.

14 MS. HICKS: Yes.

15 SENATOR HANCOCK: Okay.

16 MS. HICKS: We approve the plans and deem them
17 code compliant. We also have a field presence or a
18 construction oversight responsibility to ensure that the
19 plans that were approved are actually what was built during
20 construction.

21 SENATOR HANCOCK: Um-hmm. Okay. And that would
22 stay the same.

23 MS. HICKS: Yes.

24 SENATOR HANCOCK: Okay.

25 CHAIRPERSON BRYANT: And, Brian, I think one thing

1 there is -- I mean -- in your -- we have before us Option 1
2 and Option 2 and it -- I mean the only difference really
3 between those is whether or not this -- and I think --
4 specifically could speak to the question of how you might
5 use CHPS or LEED in the base incentive grant piece.

6 MR. LaPASK: Sure. Yeah, let me explain that. If
7 you turn to page 230D -- stamped page 230D and if you look
8 about two-thirds of the way down the page, just above the
9 highlighted section, we actually just -- we're talking about
10 some language that we'd like to add into this section.

11 Just as an example of how this could work, if a
12 school district had obtained their -- the status of being
13 qualified for CHPS verification, they'd be able to come into
14 our program with their funding application and qualify for
15 the base incentive grant portion of this high performance
16 grant.

17 There was some concern that DSA would not have a
18 chance to sort of verify this verification and really see
19 the documentation that went along with it, so I'd like to
20 read into the record exactly what we're trying to change the
21 wording to say.

22 If you look at the number 3 just above the
23 highlighted section --

24 CHAIRPERSON BRYANT: Can I just like just for
25 the -- just to clarify.

1 MR. LaPASK: Yeah. Uh-huh.

2 CHAIRPERSON BRYANT: This is kind of -- Senator
3 Hancock and I have been working a little bit on this
4 Option 2. So this would kind of reflect where we are. I
5 don't want -- not necessarily where you -- the staff is.

6 But you've helped immensely getting this --

7 MR. LaPASK: Thank you.

8 CHAIRPERSON BRYANT: -- here.

9 MR. LaPASK: Thank you. That's correct. Thanks.

10 CHAIRPERSON BRYANT: So I just wanted -- I didn't
11 want you in trouble.

12 MR. LaPASK: Okay.

13 SENATOR HANCOCK: -- wanted us to take the blame.

14 MR. LaPASK: So we did ask to put in -- so No. 3
15 would now read for those projects accepted by the DSA
16 utilizing the 2009 California CHPS criteria, the Board shall
17 provide 150,000 -- and this is for new construction. This
18 will also be input into the mod section, so it will also be
19 for the 250,000 portion. That's in Section 77.4. Excuse
20 me. Okay. Let me start over. Okay.

21 No. 3 will now read, For those projects accepted
22 by the DSA utilizing the 2009 California CHPS criteria, the
23 Board shall provide 150,000 or 250,000 one time for a school
24 site as a high performance base incentive grant if the
25 approved project has submitted documentation certifying to

1 the DSA that this project or that the project meets any of
2 the following.

3 And then they'll be able to qualify by A, B, or C,
4 A being the minimum points, B being qualify for CHPS
5 verification, and C being LEED certification.

6 SENATOR HANCOCK: Okay. But this will be
7 submitted to DSA.

8 MR. LaPASK: DSA will receive documentation
9 certifying that they've met one of those three criteria.

10 SENATOR HANCOCK: Okay. That answers my
11 question -- if nobody else has questions.

12 CHAIRPERSON BRYANT: I think we have -- I
13 definitely know we have public comment. Can see public
14 lining up, so why don't we go ahead and have public comment.
15 Are you just -- oh, I'm sorry. You're just stretching. Oh,
16 go ahead. I'm sorry.

17 ASSEMBLY MEMBER BROWNLEY: Yeah. I mean we can
18 take public comment and take questions after if you --

19 CHAIRPERSON BRYANT: Yeah. Why don't we go ahead
20 and do that.

21 ASSEMBLY MEMBER BROWNLEY: That's fine.

22 MR. DUFFY: Okay. Madam Chair, members, Tom Duffy
23 again for CASH. We're in support of this item and we've
24 worked with the work group on it. I think that using
25 third-party verification or certification is an appropriate

1 thing to do. I think we at least need to try that.

2 CHAIRPERSON BRYANT: But can I just say one thing
3 about --

4 MR. DUFFY: Yes.

5 CHAIRPERSON BRYANT: Third-party certification but
6 it gives the DSA --

7 MR. DUFFY: Yes.

8 CHAIRPERSON BRYANT: -- and OPSC -- I mean they
9 see that and review it and say that they got it.

10 MR. DUFFY: And our understanding is that this
11 will simply the process and make it go faster.

12 CHAIRPERSON BRYANT: Because it's not -- just to
13 be clear. I mean for me it's never been acceptable that we
14 would allow state bond funds go out because a third party
15 says that's okay. At the end of the day, the state still
16 intercedes in there.

17 MR. DUFFY: There's a review.

18 CHAIRPERSON BRYANT: Right.

19 MR. DUFFY: I would liken it to a district hiring
20 an architect and structural engineers and they design plans.
21 Those plans are then submitted to DSA for review. So it's
22 very much like that.

23 So we think that this is a good thing to do. We
24 understand that just using the CHPS model that CHPS would
25 work with the district and at the time that the plans were

1 identified as meeting CHPS criteria, there would be a
2 communication to DSA and DSA would confirm what CHPS has
3 identified and thereafter the communication would then go to
4 OPSC for funding. So we believe that that will work.

5 The one comment on the data collection, Brian, you
6 had mentioned the Project Information Worksheet, the PIW, to
7 be utilized for that. We don't have an objection to that at
8 all. We do believe that it would be important to do two
9 things. One would be to have the work group that has been
10 in place review what has been done and identify how data can
11 be collected and how it could be sorted because some of this
12 is not going to be necessarily easy and clear, so I think
13 relying on the experts to do that both in the field and
14 here.

15 The other is that it would give us an opportunity
16 as well to review the Project Information Worksheet. There
17 have been complaints from the field about difficulties. We
18 know that in reviewing the study the OPSC did last year that
19 relied on those documents that there were questions and
20 there were flaws identified. So I think this would be a
21 good opportunity to review that document for the inclusion
22 of this information as well as to determine if other
23 information is necessary. Thank you very much.

24 MR. TOPPIN: Ted Toppin for the Professional
25 Engineers in California Government. Good evening. I am

1 actually here in support of Option 1 which I would call the
2 public option. At issue here are millions of dollars of
3 state bond money. This is taxpayer money. It is
4 appropriate that it be directed by a state agency led by
5 state staff who are responsible for ensuring that it goes
6 where it is intended to go which is high performing schools
7 and to make school structures more sustainable.

8 I sort of think the third-party option is sort of
9 an extraordinary concept and I think it sort of speaks to
10 the suggestion that the State of California abrogate its
11 responsibilities and oversight role in this program.

12 No non-state entity, third party, nonprofit, or
13 otherwise, should be making determinations that direct where
14 state taxpayer money goes. That's just not an appropriate
15 role for a non-state entity. It's just not and it's an
16 abrogation of the state's role in this program. And quite
17 frankly I'm not even sure that it is legal.

18 And finally I guess I would ask -- the staff made
19 a number of good points about whether this is trying to fit
20 a square peg into a round hole. I will just leave you with
21 the question what problem are we seeking to solve. I know
22 that one round of awards went out last February. I think it
23 was 52 for \$18 million. There are another large 8-,
24 \$9 million ready to go. The staff report says there is no
25 backlog here, so the question I ask is what problem are you

1 seeking to solve by taking what is a fundamentally
2 inherently governmental state function and provide it to a
3 third party that should not be performing that function.
4 Thank you.

5 CHAIRPERSON BRYANT: Sorry about the fall.
6 They've cleared all that away.

7 MR. TOPPIN: Got it. I'm fine.

8 MR. ORR: Good evening. I'm Bill Orr, the
9 Executive Director of the Collaborative for High Performing
10 Schools, and I would like to speak in support of Option 2,
11 but before I get there, I first wanted to rewind just for a
12 second and look at where we were say in January or February.

13 I wanted to acknowledge the incredible progress
14 that we've made on the issues. When I first spoke to the
15 State Allocation Board, there were three things that we were
16 hoping to accomplish.

17 The first one was to supercharge the incentives
18 available for schools and particularly the modernizations
19 and definitely we're there. The second thing is to continue
20 to use the California CHPS criteria as the basis for the
21 high performance program, and as you heard Brian LaPask
22 indicate, that's continued to be the case.

23 And the third was to acknowledge third-party
24 reviews and so I will focus my remarks on that. There are
25 three points I wanted to make. First of all, in terms of

1 the relationship between the CHPS criteria and CHPS verified
2 review and the current and proposed HPI program, CHPS is
3 actually broader, is more comprehensive than the HPI
4 program.

5 You've heard mention that there are these
6 non-bricks and mortar kinds of credits that are not
7 recognized currently. Well, those are part of what CHPS
8 considers to be integral to a high performance school:
9 choices for other aspects of the building. And some of
10 those are partially acknowledged by the new proposal, but
11 there are approximately eight credits that are part of CHPS
12 that are not part of the HPI process.

13 But by allowing the third-party review option,
14 really at no additional expense, you would basically get
15 those additional credits as part of the process. They
16 wouldn't get additional funding through the HPI review, but
17 they would be part of that CHPS verification.

18 The second point that I wanted to make is that it
19 will in fact streamline the process and reduce the cost to
20 school districts. Currently if a school district is
21 interested in pursuing high performance incentive funding
22 and also seeking CHPS verification, they have to go through
23 two separate reviews and pay two separate fees.

24 They need to pay the HPI review fee to DSA and the
25 CHPS verification fee. Now, one of the questions came up

1 is, you know, what is that connection between a CHPS review
2 and an HPI review.

3 Well, DSA has always had since the establishment
4 of this program full access through a Website for each
5 project to all of the information -- all of the
6 documentation, so it's really seamless as far as when CHPS
7 completes a review, then it goes to DSA.

8 But there hasn't really been a financial incentive
9 for school districts. So some school districts have just
10 done the high performance funding and not done CHPS at all
11 and others have opted to do both and they basically have had
12 to go through two complete review processes. So the third-
13 party option, Option 2, would streamline the process.

14 The third thing is I really believe that the
15 third-party option, Option 2, provides the best chance of
16 success not only for the program over the next year as we
17 use the remaining funds that are available both through
18 Prop. 1D and the high performance incentive funds, but the
19 whole idea is to transform the way schools are designed and
20 planned and constructed and operated.

21 And once those bond funds are exhausted, once the
22 HPI funding reviews are completed, CHPS will still be there
23 for that next round of high performance schools and the
24 whole point of this program is to get schools that would not
25 otherwise be building high performance schools to try it

1 out.

2 So going forward, this -- the third-party option
3 would establish a relationship between school districts that
4 are not familiar with building high performance schools and
5 CHPS or LEED or HPI and it's basically a choice.

6 In regard to the development of the CHPS criteria,
7 I just want to give one quick background. CHPS established
8 the CHPS criteria in, by, and for California and I would
9 suggest that the CHPS criteria is still a public option.
10 CHPS is largely funded and the CHPS criteria was originally
11 developed and continues to be maintained by public good
12 charges through the Public Utilities Commission as well as
13 memberships by state agencies.

14 So I would say that the basis for CHPS and the
15 continued availability of the CHPS criteria in California is
16 as a result of California's efforts with the utilities and
17 with the major state agencies in California.

18 So in conclusion, we're basically recommending
19 that the SAB approve Option 2 to give schools the choice --
20 the option to go through the current HPI program as it's
21 revised or to go through a CHPS verified process where the
22 score would be determined after a construction review very
23 similar to the HPI review and funded on that basis.

24 And I'd be happy to answer any questions that you
25 may have to ask.

1 CHAIRPERSON BRYANT: Mr. Harvey.

2 MR. HARVEY: I've got a couple.

3 MR. ORR: Um-hmm.

4 MR. HARVEY: I certainly applaud the CHPS program.
5 It is something that is worthwhile and that it does create
6 an environment and make sure schools are sustainable.

7 I am a little hung up with the legality of
8 allowing a third-party verification and I will address that
9 to someone else. What I really wanted to ask you, Mr. Orr,
10 was how are your CHPS changed? What mechanism is used to
11 change that? Because I am familiar on the local government
12 side with codes that go through the Building Standards
13 Commissioners, iterative process, there's a vote, and then
14 people adopt a code and it's in place for a period of time
15 until there's another public process.

16 We have a California Green Code now. We
17 participated as a state agency in ensuring that schools were
18 part of that. Now that will be something we will follow
19 until there is something else down through this Building
20 Standards Commission.

21 How is your criteria changed? Is it a board of
22 director -- how -- what's the certainty the state would have
23 with your criteria?

24 MR. ORR: Well, that's an excellent question. The
25 way the CHPS criteria is updated, essentially it's been

1 designed to be updated on the same cycle as the Energy Code,
2 which is supposed to be on the order of three years. CHPS
3 has a transparent process where it has a technical committee
4 that consists of state agencies, school districts,
5 regulatory agencies that are organized by specialty so you
6 have sites and materials and energy and water and those
7 committees meet and they develop revisions to the CHPS
8 criteria.

9 That then goes through a transparent public review
10 process almost identical to a rule-making process where
11 there's a 45-day public comment period and then the comments
12 that are received are reviewed and any changes to the
13 criteria as a result of those comments go back out for
14 public comment for a 15-day review period, very much
15 paralleling the AOL review process.

16 The CHPS technical committee historically has been
17 California centric and so almost all of the people that are
18 on the CHPS technical committee are from California. Now
19 we're going through a transition to a national organization,
20 but basically each state that has a CHPS criteria has a
21 state specific committee that goes through that process.

22 And in terms of changes in the future, by
23 approving not only the second option but simply by referring
24 to the 2009 CHPS criteria, you have the certainty because
25 you're incorporating that criteria by reference into the

1 regulations. So CHPS can't just go out next week and say
2 we're changing our criteria now and, oh, here's what it is.
3 You're basically locking in the 2009 version of the CHPS
4 criteria until you would go through a rule-making process to
5 revise that in the future and CHPS doesn't really anticipate
6 revising the criteria in any major way again until 2012.

7 MR. HARVEY: And your fee for reviewing these
8 plans would be what?

9 MR. ORR: The CHPS verified fee is based on the
10 size of the project and the number of points that a school
11 goes after. The basic registration fee is \$900 for a school
12 district and then the range of the third-party review fees
13 goes from \$1,600 to \$5,600 depending on the size of the
14 school and the number of points.

15 MR. HARVEY: And how does that compare to the DSA
16 HPI fee?

17 MR. ORR: You'll have to ask. I'm not exactly
18 certain in terms of their -- their fee review structure is
19 based on square footage and other factors, so I'm not
20 exactly sure how that would be comparable.

21 MR. HARVEY: But a district would have to come up
22 with those thousands of dollars if they chose your --

23 MR. ORR: Right. They would have to do that to go
24 through CHPS verification and that's the case right now
25 where the schools that are going through CHPS verification

1 are paying that fee and the DSA fee as well.

2 MR. HARVEY: Is there someone from DSA who can
3 tell me what our fee is?

4 MR. LaPASK: I believe it's pretty similar.

5 MR. THORMAN: It has a -- I'm Dave Thorman, State
6 Architect. It has a different basis, but essentially the
7 fees are parallel.

8 MR. HARVEY: Thank you.

9 CHAIRPERSON BRYANT: Any other questions.
10 Ms. Greene.

11 MS. GREENE: Go ahead.

12 ASSEMBLY MEMBER FULLER: I'm not sure who I'm
13 directing this to. Perhaps Henry or the staff members, but
14 what other example of SAB, DSA, or OPSC projects use an
15 outside vendor to award eligibility points for taxpayer
16 funding allocations?

17 MR. NANJO: I'm not aware of any. I should
18 probably add at this point that there is some legal
19 vulnerability and risk to doing Option No. 2. Without
20 getting into too many details unless I'm asked to, just the
21 Board should be aware that there is some risk with Option
22 No. 2 for that kind of -- along those lines.

23 ASSEMBLY MEMBER FULLER: It seems to me that this
24 policy really improves the access and that we should try it
25 without subjecting ourselves to further vulnerabilities

1 particularly from a legal challenge because what scares
2 me -- and this is a very odd reversal of roles. Generally
3 Republicans want private vendors and Democrats don't. But
4 at the end of this day, I'm very concerned that we are
5 giving extra money to school districts to do a service that
6 we could do ourselves in-house and retain control over the
7 eligibility playing field, so to speak, or we could do the
8 same thing and lose control over the eligibility playing
9 field and then be placed in a position where we as a
10 Board -- as an SAB were required to defend the actions which
11 we don't control in a lawsuit.

12 Can you comment on that a little bit?

13 MR. NANJO: That's essentially an accurate
14 assessment of the situation we would be in. Again without
15 going into too many details for reasons of other
16 vulnerabilities, we should -- there is some concern along
17 those lines. There's also the concerns I think were raised
18 by some of the speakers that have come forward.

19 ASSEMBLY MEMBER FULLER: So can we -- would there
20 be a way to separate the awarding the points with the
21 eligibility but -- I mean I'm not against a rating system
22 which incentivizes schools to be the most efficient green,
23 sustainable building that we can get while keeping
24 accessibility open enough that lots can apply --

25 MR. NANJO: Right.

1 ASSEMBLY MEMBER FULLER: -- but I'm very concerned
2 about tying the points from a specific outside entity to
3 taxpayer funding allocation.

4 MR. NANJO: Maybe I can say it this way. My
5 understanding -- and this kind of predates my involvement
6 with this, but my understanding is there was a conscious
7 decision made by OPSC and this Board not to adopt a private
8 rating scale, if you will, or system and instead come up
9 with their own.

10 Obviously one of the options available to this
11 Board is insofar as you see elements in LEED or CHPS that
12 enhance our programs, you could -- this Board can adopt
13 alternate scales or additional scales that could be used
14 that don't, for lack of a better term, rely upon an outside
15 entity, but also gives the flexibility or the additional
16 points that you're seeking. So that's a possibility that
17 you -- a direction that this Board could go.

18 ASSEMBLY MEMBER FULLER: And what would be the
19 downside to that for us? It seems like it's just safer, but
20 we still get the accessibility. We still get the incentive
21 behavior.

22 CHAIRPERSON BRYANT: I think part of it is is that
23 this -- if I understand -- you have -- CHPS also has some of
24 their -- they have a more holistic approach and there are
25 some things in there that we couldn't really require

1 somebody to build, per se. I think that's part of it. I
2 don't think you could actually take the CHPS criteria and
3 put it in a bricks and mortars program. That was -- if I
4 understand it correctly.

5 I think Senator Lowenthal has something.

6 SENATOR LOWENTHAL: Yeah. I have a couple of
7 questions I want to ask about -- first about do we have --
8 does this make us vulnerable or not if we move -- and I want
9 to ask Henry.

10 One is the Governor's adopted or provided an
11 Executive Order S-20-04 that -- and I think that was in
12 2005, that all new and renovated state-owned facilities paid
13 for with state funds shall be LEED silver or higher
14 certified buildings. So he's -- we already have an
15 Executive Order that puts this into -- is that in effect and
16 does that not provide some -- that the Governor issued an
17 Executive Order which talks about LEED certified?

18 MR. NANJO: Well, I mean it's -- I don't have any
19 objections to LEED or CHPS. The difference is in that case
20 that is a standard that the Governor has set that will be --
21 that he requires to be adhered to in his buildings.

22 You're doing something a little bit different
23 because the -- what -- instead of setting a standard for a
24 school district, what you're giving them is you're giving
25 them an option to get additional funding by using a rating

1 system of a private entity and at the same time, you're
2 having the private entity essentially verify that they are
3 eligible for those additional funds.

4 SENATOR LOWENTHAL: Right.

5 MR. NANJO: So there's a little nuance there that
6 could cause problems.

7 SENATOR LOWENTHAL: What about -- the second part
8 then, what about other states? Do we also look -- there are
9 ten other states that have adopted CHPS criteria for state
10 and locally funded school facility construction. Some of
11 them have actually mandated that it be done through CHPS.
12 Doesn't that also provide us with some -- if we look at
13 other states and numbers of other states have moved in this
14 direction?

15 MR. NANJO: Well, I mean there -- to a large
16 extent, from a legal standpoint, it's safer is we just said
17 all schools have to meet CHPS standards, whatever, because
18 then you're not using CHPS as a rating and it's not giving
19 the school district additional funds. It's just setting a
20 benchmark or a standard. That's acceptable.

21 The difficulty with what Option 2 is doing is
22 you're actually having an outside entity rate a project and
23 they're eligible for additional funds because of that
24 rating.

25 SENATOR LOWENTHAL: And that has not been done by

1 other states?

2 MR. NANJO: I'm not aware of it and, you know,
3 again I would strongly recommend that if we get into too
4 many more details, we might want to do a close session on
5 this as opposed to doing it in open session.

6 MS. MOORE: I have another --

7 SENATOR HANCOCK: Could I just ask a piggyback
8 question on that. So who verifies the LEED standards have
9 been met when a state building meets LEED standards as per
10 the Governor's Executive Order?

11 MR. NANJO: In that case, LEED is giving the
12 certification, but that's just the standard -- that's a
13 benchmark that we have to reach.

14 CHAIRPERSON BRYANT: And that's different --

15 MR. HARVEY: Actually I'd like to add to that if I
16 might. DGS had a --

17 SENATOR HANCOCK: Yeah, what do you do?

18 MR. HARVEY: -- had a BCP that went through on the
19 heels of that Executive Order and we have staff that were
20 trained as certifiers and folk now in DGS do that
21 certification for buildings and it's not all state
22 buildings. It's new buildings over 50,000 square feet and
23 on existing buildings, it's 10,000 square feet or more.

24 SENATOR HANCOCK: Okay. So you trained DGS people
25 to be LEED certifiers?

1 MR. HARVEY: They don't certify. They know what
2 the points are and what should be in a building. They don't
3 actually sign it. If you do that, you have to go to LEED
4 and pay for their plaque and their, quote, certification.

5 The Governor's Executive Order simply said that is
6 a standard we want state buildings to have. I would argue
7 that the Cal Green Code has superseded that and it was a
8 good effort in '04-'05. We now have -- had this iterative
9 process and we've got a California Green Code which everyone
10 now will be following.

11 CHAIRPERSON BRYANT: So we're not requiring
12 buildings to get LEED certification?

13 MR. HARVEY: We will be following the California
14 Green Code and there are elements of LEED --

15 CHAIRPERSON BRYANT: So the Governor's Executive
16 Order is no longer in effect?

17 MR. HARVEY: I'm not saying it's not in effect.
18 I'm saying the California Green Code has come in time after
19 the Executive Order and I do believe that's what anybody
20 building in California, including K-12s, hospitals,
21 residential, commercial will follow.

22 CHAIRPERSON BRYANT: Did you have something to
23 add?

24 MR. ORR: Yeah. Just in regard to the two issues
25 that were raised. The first one regarding abdicating the

1 state's responsibility to a third party, as I envision
2 Option 2, as I read it, CHPS would basically do the
3 third-party verification as it would on any project, but
4 that ultimately would be subject to the review and approval
5 of DSA.

6 So the work would be done primarily by CHPS, but
7 the actual decision would be made by the state. So it would
8 still maintain the fiduciary responsibility and control by
9 the State of California.

10 The second question that came up in regard to
11 other states, there are ten other states that utilize a CHPS
12 criteria and CHPS offers a CHPS verified program in three
13 other states other than California, Colorado, Massachusetts,
14 and Texas, and two of those three states, the state itself
15 sanctions those third-party reviews through its regulations
16 and procedures.

17 In the State of Colorado, the CHPS verified leader
18 category is a required for LEED goal and that's any state
19 funded project where larger than 25 percent of the funding
20 comes from state sources or it has an air conditioner unit
21 that are subject to that requirement and they specifically
22 recognize both CHPS and LEED.

23 Similarly in the State of Massachusetts, they
24 issued brand new guidelines on March 31st for their school
25 program and it recognizes CHPS verified and LEED certified

1 as well.

2 So in the State of Texas, we have a voluntary
3 program because they have the decentralized school
4 construction program and so there's really not any state
5 oversight of school construction, but we have a CHPS
6 verified program there as well.

7 So as far as the precedent, other states are doing
8 it. In California, I guess the thing I'd just like to point
9 out is that there were several points in the agenda item in
10 opposition to the second option that were described and I
11 did provide responses that I believe were shared with the
12 State Allocation Board members and I think a number of the
13 points that have just come up were referenced in those
14 criteria.

15 Ultimately what CHPS would see us doing is sitting
16 down with DSA and OPSC and working out the procedural
17 details on how this would work together and also in regard
18 to the points, the main thing that CHPS would be doing is
19 the verification. In terms of the establishment of the
20 final points, that would ultimately be up to DSA and OPSC to
21 do and we would provide as a courtesy a recommended HPI
22 score, but it would ultimately be up to the state to
23 determine what the appropriate points would be.

24 MR. NANJO: Maybe staff can clarify, but I believe
25 the regulations do not have DSA doing an HPI analysis if the

1 school district goes through either LEED or CHPS; is that
2 correct or am I missing something there?

3 MR. LaPASK: The LEED or CHPS certification would
4 be in lieu of the minimum point threshold being met in high
5 performance rating criteria and it's only for the base
6 incentive grant portion of the grant. So it wouldn't be for
7 the points. Funding associated with the points would still
8 be reliant upon the DSA review and the scorecard that they
9 provide.

10 CHAIRPERSON BRYANT: I think we have more public
11 comment, but does anybody belong to this purple fund? Is
12 it -- I was wondering.

13 MR. LaPASK: Madam Chair, just one thing --

14 CHAIRPERSON BRYANT: Oh, Senator Lowenthal. I'm
15 sorry.

16 SENATOR LOWENTHAL: I have one more question.
17 Since this is subject -- we're talking about subject to DSA
18 review, how is this different when we do third-party
19 structural or environmental reports and they come back?

20 MR. NANJO: As I understand it with the structural
21 and environmental reviews there's specific statutory
22 authority for them to use third parties in that. We don't
23 have that in this case, so there is -- it's a different --

24 CHAIRPERSON BRYANT: Do we have a prohibition
25 against using a third party?

1 MR. NANJO: In -- well, again that probably should
2 be discussed in a closed session, so --

3 CHAIRPERSON BRYANT: Can we have a closed session
4 when we haven't noticed it?

5 MR. NANJO: No, we can't. Not this time. Sorry.

6 ASSEMBLY MEMBER FULLER: I think part of the
7 problem for me is that these are specific named companies
8 creating a monopoly for those named companies. The
9 service -- the product does not concern me. I think that's
10 great and that's the part that I'm worried about and I think
11 if we pursue this part without separating it without a
12 closed session, we're in trouble.

13 I would advocate that if you can separate that
14 part out and pass all the rest of it and then come back in a
15 closed session and get -- like if you could convince me that
16 this was not crossing that line, then I'd be happy to add
17 this section back in, but I'd like to separate it out.
18 Otherwise I just will not be able to vote for it, but I want
19 to move forward because I think we need to open this money
20 up.

21 CHAIRPERSON BRYANT: Sir.

22 MR. SAMISH: I'm Rob Samish. I'm an Architect
23 with Lionakis here in Sacramento and I've been a part of all
24 the committees and working groups leading up to this issues,
25 part of the grid neutral programs that David Thorman has

1 done, and part of the Green Code working groups as well and
2 I've seen all of this, but I'm -- and I'm also on the board
3 of CHPS, but I'm really speaking today as an architect who
4 deals on the front line with school districts all the time
5 and I'd like to make a case for all those school districts,
6 kind of the little school districts. And I've talked to
7 this group before about I could think -- right off the bat
8 in the last three years, seven schools that are not HPI, not
9 CHPS, and not LEED that could have been.

10 I was on the verge -- our firm was on the verge of
11 having them do it, but they couldn't get the money. It just
12 didn't work.

13 And the program for -- these were all
14 modernizations. The program has been a real failure.
15 That's why we're here doing it. It hasn't worked at all.

16 One of the reasons -- and I think you asked a
17 really good question. What do we gain by having CHPS and
18 LEED along with this program. Well, one, the program we've
19 done up to now has been a failure for modernization and it's
20 hard to do and it hasn't attracted anyone.

21 I would argue that we should do everything we can
22 that -- I know there's a risk, but we should do everything
23 we can to pull those districts in. Maybe I could hand out
24 just a -- what a CHPS scorecard looks like if you don't
25 mind.

1 The reason I'm handing it out, this is a project
2 that's underway right now that our firm is doing. It gives
3 you an idea of what a CHPS scorecard looks like. The HPI
4 program is very similar to that and I went through and just
5 marked those items that are CHPS that are not in the HPI.
6 There's little X's there.

7 And you'll see that it asks for an educational
8 display for the students to show them how a green school
9 works and how it fits into the environment. It asks that
10 you have integrated design meetings for maintenance and
11 operations and so on. There's a few like that.

12 It also mentions some that are grid neutral,
13 climate change which relate to energy, but they're not in
14 the HPI program.

15 The difference I guess that I see is we have seen
16 and I've talked to districts that say I can get some money
17 with HPI, so I'm not going to bother with CHPS or LEED. I'm
18 just going to go after the money.

19 The next project comes around, what's their road
20 map for doing their next project green. They don't have a
21 road map. HPI's a funding mechanism. It's not a growing,
22 changing, based on the latest post occupancy evaluations
23 around the nation of how you actually make a green school.

24 And the reason it's important to me as an
25 architect is that I see the difference with some of my

1 districts that have adopted just a little bit of CHPS at
2 their board level and it starts to filter down and all of a
3 sudden, I have two projects today, three projects really,
4 based on people adopting CHPS and LEED.

5 The other thing is when it's over, you know, three
6 years from now, we look back and we can say, ah, we did 200
7 in California. We did 200 LEED and CHPS projects and we can
8 document them. And it makes a difference to the community.
9 They care about seeing that someone is certifying that
10 they've met some kind of standard. And the LEED and CHPS
11 standards are much higher than the Green Building Code. In
12 schools, the Green Building Code didn't arrive at the higher
13 level that you talked about for hospitals and other kinds of
14 things. It's at a quite low level. I'm hoping to bring --
15 in the future years probably the Green Building Code will
16 come up to that level, but codes tend to take a lot longer.
17 I believe we're working on the 2001 code till recently.
18 So -- I would urge the Option 2. This is the way to go.

19 CHAIRPERSON BRYANT: Additional public comment.

20 MR. THORMAN: (Indiscernible-away from microphone)
21 commented --

22 CHAIRPERSON BRYANT: Yes. Go ahead. This guy's
23 been standing here for a while.

24 MS. GREENE: Can I ask you a question.

25 MR. THORMAN: Sure.

1 MS. GREENE: On this form, three of the X's are
2 for leadership, schools with learning tools and innovation.
3 Am I wrong in thinking that none of that can be paid for by
4 bricks and mortar bond money?

5 MR. THORMAN: I believe that's correct.

6 MS. MOORE: Can I just clarify that because it's
7 confusing to me. If we have an Executive Order that says
8 our state buildings which are built with -- what do we build
9 state buildings with? Are they bond funds?

10 CHAIRPERSON BRYANT: Bond funds. General fund,
11 all kinds of --

12 MS. MOORE: Okay. If we are saying that they
13 are -- they must be LEED certified, which is similar to
14 CHPS, and they have other things in them, why is it that we
15 can't have a CHPS criteria certification?

16 MR. THORMAN: Someone from Finance is going to
17 have to answer the question about the dollars because I
18 don't have an answer there. But in terms of --
19 incidentally, I'm Dave Thorman, the State Architect.

20 In terms of late certification or CHPS, I'm for it
21 100 percent. I'm the greenest State Architect that the
22 state has ever had and it's going to get greener.

23 Now, we need to separate that certification and
24 those qualifications from the funding and from what the
25 responsibility is of this Board. And this Board has a very

1 clear responsibility in terms of HPI. When this program was
2 started, we got together, OPSC, DSA. We worked through all
3 the criteria. We worked primarily with CHPS. We used
4 theirs as a starting point and we developed a criteria. We
5 also developed some -- this was OPSC not DSA -- some funding
6 levels for incentive.

7 Unfortunately that's where it failed. It failed
8 in terms of not enough incentives to get the school
9 districts to come in. In terms of the actual reviews that
10 we've done through DSA, there have been no problems. There
11 have been no issues.

12 We have a review team in place. It's operational.
13 It's working. It can handle any load that we have. It can
14 be augmented by other staff from DGS.

15 Someone earlier asked the question what's broken.
16 What's broken is the funding part which we're correcting.
17 There's not anything broken in terms of the HPI criteria or
18 the process that we use to review that criteria.

19 I would like to clarify one point in terms of the
20 difference in cost between CHPS and HPI. It's about the
21 same, but one thing that needs to be pointed out -- and this
22 is where you get into private sector, you get in some
23 issues.

24 They have two different standards. They have a
25 cost for members and they have a cost for nonmembers and

1 this I think is a concern to me or an indication of a
2 concern between the private and the public sector. We as a
3 group working with OPSC, DSA, and the Board have developed a
4 very good process. We're refining it in terms of the
5 incentives. I think that process is in place. I don't
6 think we need the complications of legality or the
7 complications of the private sector coming in.

8 I encourage the districts, yes, go for CHPS, go
9 for LEED. The one thing I might suggest is the criteria is
10 not that different between the three programs. There's no
11 reason why when they go through the HPI criteria and qualify
12 that can't be passed on to LEED and CHPS so that they don't
13 have to charge as much. Then they could charge a smaller
14 amount and still get their certification on these other
15 issues.

16 See if there are any other points I had. I do
17 think that there is a serious question about the private and
18 the public sector and I do feel that we are committed -- DSA
19 is committed, OPSC is committed to the program as it is in
20 place and now with the proper funding, I don't think we'll
21 have any issues in terms of participation. I welcome any
22 questions.

23 CHAIRPERSON BRYANT: So you don't think -- so can
24 you -- couldn't -- I mean could not you take a CHPS review
25 document and conduct your own review on it. I think the

1 language is really clear. I mean I again want to state I
2 would not support this if this was letting a third-party
3 private enterprise make funding decisions for the State of
4 California. That would be an enigma to me.

5 But this is to me no different than I think the
6 analogy of an environmental document where somebody with
7 expertise conducts an review and you can sit -- you know
8 CHPS criteria. We know we're talking about 2009. When the
9 plans come in to DSA with the CHPS certification, can you or
10 can you not look at the CHPS certification document like
11 you've looked at LEED certification in state buildings and
12 say that it's okay?

13 MR. THORMAN: The process that's been established
14 is that when the plans come in to us for our regular review
15 for structure, fire, life, safety, and access, we also
16 review for HPI, so that the district knows up front if
17 they're going to get the money or not so they can move
18 forward.

19 With LEED and with CHPS, they don't review until
20 after construction and everything is complete.

21 CHAIRPERSON BRYANT: Well, then -- and I
22 appreciate that and I think that's one -- that is definitely
23 kind of a hang-up here. I think that probably no one can
24 bring you a LEED certification when they come in to get --

25 MR. THORMAN: That's correct.

1 CHAIRPERSON BRYANT: -- the 150- or 250-. I think
2 what CHPS is saying is they're willing to change their
3 process to precertify -- to pre-look at it and say this
4 complies. So I think maybe LEED would do that, although I
5 think they've said they won't. So probably the LEED's
6 option isn't on the table, but I think CHPS is willing to
7 look ahead of time and say yeah, this is going to -- and
8 then they're -- the school is building towards a holistic
9 product and just -- you know, I think this does not
10 interfere with DSA's ability to review this and does not
11 interfere with what DSA has done very well, especially
12 recently. And I think -- I don't -- I'm just confused a
13 little bit by just the idea of if the school wants to work
14 with CHPS and bring you their CHPS certified plan why you
15 can't work with that to review whether or not they're in
16 this base incentive grant program.

17 MR. THORMAN: The reality is that CHPS does this
18 on some occasions now. They work with school districts to
19 help them through the process to understand. So that's
20 already happening, but again the program is one that was
21 developed by us. The criteria is California's criteria.
22 It's not CHPS. It's not national CHPS. It's not national
23 LEED. It's California. It's the best of CHPS. It's the
24 best of LEED. It's the best of the other organizations that
25 are out there that are being created now that are developing

1 criteria.

2 So I would argue very strongly for continuing the
3 program as we have it now for Option 1 and bottom line is
4 that DGS and DSA, neither one, and the director do not and
5 will not support the concept of a DSA plan.

6 ASSEMBLY MEMBER BROWNLEY: Madam Chair, can I just
7 say something. I just -- I think that we -- there is a
8 way -- a pathway here in which to meet our goals, but I
9 don't think we have it yet.

10 And it would be my preference if we could work on
11 this just a little bit longer to figure out -- I know. I
12 know, but I -- you know, if -- to see if some of these
13 questions can be answered and to see if we can coordinate
14 DSA and their roles and functions, simultaneously be able to
15 have the certifications and the points -- the funding system
16 that we want to have because the idea here is we want -- you
17 know, we want our schools to be green. We want them to be
18 of the highest standards, but we don't want to abdicate our
19 responsibilities.

20 And I -- but I do think, you know, as each person
21 speaks there, I think that there's ways in which we can
22 figure out this collaboration in a more effective way and
23 I'm just not sure that we're quite ready or quite there.

24 CHAIRPERSON BRYANT: Okay. Senator Hancock.

25 SENATOR HANCOCK: Yeah. I am also not sure we're

1 quite there, but I have to say DSA sat on this program while
2 it failed for quite a while. So let's find a way to make
3 CHPS work, LEED work, and the new high performance standards
4 work.

5 No one is trying to go around the State of
6 California. We are trying to acknowledge nationally known
7 standards that do go beyond what we have. I mean the
8 Architect that just spoke said that it did go beyond what we
9 have, that it's a more holistic approach, that it deals with
10 things other than bricks and mortar, site placement for
11 example, and other things.

12 I know from reading studies -- because when I
13 worked for the U.S. Department of Education, we worked
14 actually with CHPS when they were just getting started and I
15 always thought CHPS was actually trying to take LEED
16 standards and put them for schools and for California
17 schools in particular so that you didn't have to actually
18 put it in there.

19 So it isn't like CHPS is a foreign entity. It was
20 actually developed in California.

21 Now, I'm assuming that DSA will look at the
22 checklist which as my understanding is comes up -- that this
23 is basically like a plan check. Nobody goes out -- I mean
24 we -- DSA checks the plans. This plan -- a plan would come
25 in with a checklist and if it gets the points, which have

1 some points that are not on our list, it could be certified
2 both as an HPI and a CHPS project and that would be good
3 because California would get national recognition as was
4 pointed out for doing it and the districts would feel good
5 about themselves.

6 It's like saying if you're an Eagle Scout you can
7 do all the work for a badge and you don't need the badge
8 because everybody will know you did it. Well, sometimes you
9 really want that badge and I'm trying to work on a way where
10 we can encourage all our districts to do that little extra
11 effort to make -- to get really both of those things and I
12 guess I don't see a conflict, so I don't see what the -- I
13 mean assuming that DSA then looks at the final
14 certification, what's the problem?

15 CHAIRPERSON BRYANT: I mean can I just -- we have
16 DSA and CHPS standing here, but I'm just curious back there.
17 Does anybody have anything to add to this because you, sir,
18 have been standing there quite a while.

19 MR. DUNSTON: Yeah. May I make one comment?

20 CHAIRPERSON BRYANT: Can I -- can we just hear
21 from the rest of the public for a second, then you guys, we
22 can duke it out with you in a second. I just feel bad that
23 we haven't gotten to all of our public comment.

24 MR. DUNSTON: Dennis Dunston, I'm an Architect,
25 and I'm with Public School Solutions. And I was on the --

1 you know, in the last meeting of the work group.

2 I actually first came up here for another issue
3 but I would like to weigh in on this. I think Mr. Thorman
4 explained it very well. This is a state program. It was
5 based on CHPS, but it was fully vetted in the regulatory
6 process. It is in regulations which are included in the
7 item here. So this is a state process and the points for
8 the non-bricks and mortar elements like the educational
9 display, those were removed from that. That's not in the
10 HPI.

11 So that was one of the criteria. I was actually
12 on the committee that helped set up the HPI.

13 So it is a state program, but the programs are
14 very, very similar. The CHPS and the HPI are so similar,
15 particularly in the documentation and the points -- I'm
16 sorry -- the elements that you put in.

17 The points -- the number of points are difference
18 and there would have to be a conversion between the CHPS
19 verified points and the HPI points, but the categories are
20 so close that the documentation necessary could be checked
21 by anyone and just spot checked by DSA to make sure that it
22 was done properly.

23 So I think the system of allowing the CHPS
24 verified is a very good system.

25 Could I bring in another element? I know we're on

1 this one --

2 CHAIRPERSON BRYANT: I think kind of quickly --

3 MR. DUNSTON: Well, the other element that I
4 wanted to bring up was on the -- part of this regulation is
5 a modification to the Project Information Worksheet and that
6 is collecting the data on the high performance and I think
7 that's very critical that we do collect data on this.
8 However, the way it is stated on the PIW right now is really
9 not workable.

10 It has a chart that you have to come up with a
11 standard case and then look at the high performance case
12 above that and it's really not the way the system works.
13 For instance, you get a point for daylighting and you also
14 can get a point for views, sidelines out a window. What do
15 you use as a base case? A building without any windows
16 whatsoever? And then you add the costs in for the windows
17 for daylighting and part of it in for views.

18 Those types of things need -- still need work.
19 It's a good concept, but they still need work. The same
20 thing in improving efficiency in the building -- energy
21 efficiency in the buildings. You get points for a certain
22 percentage above the code required energy system.

23 While you may have ten different elements that got
24 you to that level, but you can't really identify which ones
25 were specific to getting to the code and which ones were

1 beyond that to get to the high performance level.

2 So I think there are some issues there that need
3 to be worked out, but I think that the concept is good.

4 CHAIRPERSON BRYANT: Anybody who hasn't spoken
5 already.

6 MR. DUFFY: Additional point.

7 CHAIRPERSON BRYANT: Okay. If it's brand new and
8 really good.

9 MR. DUFFY: Well, it's to try to resolve this
10 issue of what's permissive and what is it. Can you go out
11 to a third party. DSA today goes out to third parties for
12 structural reviews. That was contemplated in the code and
13 it's in the code, but the California Education Code is a
14 permissive code. If it doesn't prohibit you from doing
15 something, you may do it.

16 So I'm not an attorney, but I differ with your
17 counsel in that we believe that since the code is permissive
18 and this program is of course in the Education Code,
19 Chapter 12.5, and the high performance part of the program
20 is in that same chapter funded through the bonds, so it
21 appears to me that you have the right and authority to say
22 let's at least strike out on this path and attempt something
23 new and different because we are so close, we're on the
24 verge of really beginning something that we think is going
25 to really encourage and incentivize districts.

1 And we don't want to pay for any non-bricks and
2 mortar items at all and as Mr. Dunston said, these programs
3 were carefully put together and vetted in order to avoid
4 that. Thank you very much.

5 CHAIRPERSON BRYANT: Okay. Senator Hancock.

6 SENATOR HANCOCK: Well, I had a suggestion. I
7 don't -- you know, I would like very much to move Option 2
8 with an addition which may take care of this which basically
9 it's the entire item on which we have complete agreement.

10 But that we clarify that the final decision
11 regarding how many points are allocated is made by DSA. No
12 third party pushes the button that says you got X number of
13 points, this is your grant.

14 But that we -- the CHPS criteria can also be used
15 and because they are a little bit different, to provide that
16 in addition to basically Option 1 and Option 2 put together,
17 there will be a memorandum of understanding between OPSC in
18 consultation with the Division of the State Architect and
19 with CHPS and the U.S. Green Building Council to delineate
20 agreed-on procedures and especially to simply make sure that
21 the point allocation that they look at comparable and that
22 that would be done by July 1st. I think it could be done
23 fairly quickly so that the program could be implemented once
24 it's in place.

25 But I'm -- I believe that we have always

1 contemplated that the final sign-off is by DSA and that that
2 will be rather easily accomplished.

3 CHAIRPERSON BRYANT: And I did cut off DSA, which
4 I wanted to get back to them because I think they had a
5 final comment or another comment. Did you?

6 MR. THORMAN: Well, I did, but I forgot what it
7 was.

8 CHAIRPERSON BRYANT: I'm sorry. And,
9 Ms. Brownley, does that -- the way she described that, does
10 that help you at all or does that leave you still -- are you
11 still feeling like we're not ready on the CHPS part?

12 Because here's the thing. One of the other things
13 that's coming through my mind, I mean I like the way you
14 just described it. I like what Brian has on paper because I
15 don't think that takes away the state's authority over this
16 bond spending. However, I'm trying --

17 SENATOR HANCOCK: Could you say what that is again
18 then because I don't know that I have a copy of it.

19 CHAIRPERSON BRYANT: Well, can you read it
20 again -- the language again.

21 MR. LaPASK: It would read for those projects
22 accepted by the DSA utilizing the 2009 California CHPS
23 criteria, the Board shall provide \$150,000 or 250- one time
24 per school site as a high performance base incentive grant
25 if the approved project has submitted documentation

1 certifying to the DSA that the project meets any of the
2 following including the CHPS and the LEED.

3 CHAIRPERSON BRYANT: So another option might be
4 just to today -- because I really -- I wanted to check this
5 box really bad -- is to adopt Option 1 and work on bringing
6 the CHPS thing -- work on that with -- work on it and bring
7 it back again and figure out the legal angle, although I
8 think we're there, but just kind of as an alternative,
9 unless you want to try the motion as you just described and
10 see if the votes are there.

11 SENATOR LOWENTHAL: So Option 1 is to allow third
12 party?

13 CHAIRPERSON BRYANT: No. 1 -- Option 1 would be
14 every -- all the increased points of base grant, everything
15 but the third-party verification.

16 ASSEMBLY MEMBER BROWNLEY: So in essence, it's
17 sort of like working out what Ms. Hancock's memorandum of
18 understanding.

19 CHAIRPERSON BRYANT: And we can bring that back at
20 a later Board meeting, as much as I hate saying that. But I
21 don't know -- I'm not sure where all the members are.
22 Senator Huff.

23 SENATOR HUFF: Yeah. I've been pretty quiet. I
24 wasn't sure we had all the public comment with people
25 standing around here, but you know, from what I heard, we

1 have a California Green Code taking the best of CHPS, best
2 of LEED. I think that's a good thing.

3 From what I'm reading in the staff report, there's
4 no documented problem, the DSA review, and therefore no
5 backlog for high performance reviews. So that's not an
6 issue.

7 There seems to be this little systemic problem
8 that currently you can't certify until after the fact and
9 yet we're trying to score things before the fact, the plans,
10 that still has to be resolved and it's not.

11 And we have some risks legally that we've been
12 told about that we have to talk about in closed session if
13 we move on that. I've listened to all this stuff and I'm
14 still not getting it. About all I can see is that little
15 scout's honor badge or whatever that, you know, we want to
16 get. It doesn't take away from the product. It doesn't
17 take away, but it's a symbol of something I guess.

18 I'm not sure what that's worth. I tend to be a
19 fiscal conservative, so, you know, to me that's not a big
20 important thing. The important thing is the substance of
21 how we're constructing it and we've already got that except
22 perhaps the holistic part that is hard to quantify and I got
23 to think with some direction we could probably come up with
24 a lot of holistic stuff on the same checklist that our guys
25 are going through.

1 So I'm certainly not in a position to support
2 Option 2 tonight. I'm with Option 1. I would certainly
3 support going with Option 1 and looking at Option 2 and
4 maybe you can convince me that that is a better way to go,
5 but I just don't see it right now.

6 CHAIRPERSON BRYANT: Ms. Greene.

7 MS. GREENE: Brian, how long does it take for CHPS
8 to go through and do their checklist?

9 MR. LaPASK: I'm not sure. I think Bill Orr would
10 be able to answer that.

11 MS. GREENE: Okay. How long is it for DSA to do
12 that?

13 MR. LaPASK: It would be done during the course of
14 their normal review. I don't think -- it doesn't add any
15 time to their review. They do it --

16 MS. GREENE: It doesn't add time. Okay. That's
17 all I needed to know. Thanks, Bill.

18 CHAIRPERSON BRYANT: Did you have one last
19 comment? That was when I called for one last comment, that
20 was when you're supposed to come up.

21 MR. GONZALEZ: Thank you, Madam Chair and Board
22 members. Richard Gonzalez & Associates again.

23 I have two items that I think if -- that I'm
24 confused about once again. The PIW was originally created
25 to help create the grant adequacy questions and dealing with

1 the 6 percent issues.

2 This is now being referenced in regulations now
3 and has never been -- has not been used by prior Board
4 actions for purposes for modernization. In this regulation,
5 we're referencing this form as a form to be completed for
6 projects that are part of the modernization program, that
7 the form still says new construction projects only.

8 Now, are we going to be filling out just the high
9 performance component of it or the back side?

10 MR. LaPASK: Yes. For the modernization projects,
11 you'd only have to fill out the component for the
12 modernization.

13 MR. GONZALEZ: So maybe --

14 MR. LaPASK: And in the write-up too, it says that
15 the data that will be collected will not be used for
16 recovering funds or during the audit. It's just purely for
17 data collection, to set a framework for future programs, and
18 to quantify and justify the grants.

19 MR. GONZALEZ: Perhaps a couple little comments in
20 there might be (indiscernible) for new construction only and
21 then maybe a reference to saying for purposes of
22 modernization, just complete this section.

23 MR. LaPASK: Okay.

24 MR. GONZALEZ: The other thing that I was
25 wondering about is what I thought I heard was that a

1 financial hardship school district -- and that's the focus
2 I'm going to have on this one -- can ask for the grant
3 250,000/\$150,000 up front with their design apportionment,
4 but the way this is written, it says for purposes of new
5 construction for an addition to a campus, they can only ask
6 for 150,000, but yet when it comes to full and final, they
7 can get 250,000. Is that the intent? I'll reference
8 page 222.

9 MR. LaPASK: If you look on 230G.

10 MR. GONZALEZ: 230G. Oh, I don't have that page.

11 MR. LaPASK: It's 150- for -- well, I'll just read
12 it. It says that they'll get the design grant plus \$150,000
13 for projects that will be pursuing high performance
14 incentive grants as indicated in the school district
15 governing board resolution that shall be submitted to the
16 OPSC as part of the funding request pursuant to this
17 section.

18 That part is in the new construction area. The
19 next part in the modernization area says plus 250,000,
20 projects, et cetera.

21 MR. GONZALEZ: You're talking about 77.4?

22 MR. LaPASK: No. I'm talking about 81.1 in the
23 hardship section -- the design section I should say. Sorry.

24 MR. GONZALEZ: The section -- what I have here
25 is -- maybe I have not the right version of it. We're

1 talking about Section E? 2(e)(1)(2)?

2 CHAIRPERSON BRYANT: On which page?

3 MR. LaPASK: Yes.

4 MR. GONZALEZ: Version --

5 MR. LaPASK: Stamped page 230F and G.

6 MR. GONZALEZ: Okay. I'm looking at -- I've only
7 got page 220 here. That language is the same from Option A
8 and Option B.

9 MR. LaPASK: Yes.

10 MR. GONZALEZ: Okay. And that's still my issue
11 because what it says here in Item E, it says that for new
12 construction projects -- or excuse me -- the financial
13 hardship component, 81 -- where is it? 81 -- that they
14 get -- essentially they get 20 percent of an --

15 MR. LaPASK: Right.

16 MR. GONZALEZ: -- amount plus --

17 MR. LaPASK: And if you look at the end, it
18 says -- at the end of the underlined section, it says for
19 modernization projects, the Board will apportion an amount
20 not to exceed the following and it has (1) and (2) and under
21 (2), it says if they approve -- if application is received
22 after April 29, 2002, 25 percent of the modernization grant
23 (indiscernible) with any district funds available for the
24 project pursuant to Section 81 --

25 MR. GONZALEZ: Madam Chair, I think it's just

1 something I need to talk with Brian maybe off the Board.

2 CHAIRPERSON BRYANT: Okay. Thank you. All right.
3 Senator Hancock, thoughts.

4 SENATOR HANCOCK: Okay. Well, I think I will try
5 my motion, Ms. Bryant, because I think we have a chance to
6 make a huge cultural shift here and to really put California
7 out in front of a movement to build schools in which
8 children will learn better.

9 I know that there was a major study done. PG&E
10 was one of the funders of three school districts, one in the
11 State of Washington, one in Colorado, and San Juan
12 Capistrano School District in California that showed that
13 when specific CHPS standards around daylighting -- some of
14 the things that we did not before -- were met, even windows
15 that open, test scores of students went up in both reading
16 and mathematics.

17 I think this is extremely important that we
18 incentivize schools in every way to do this. I do not --
19 because it requires DSA sign off at the end and because I
20 think we should ask -- we will be able to get an MOU to
21 align just the way points are established. We will add
22 significantly to the opportunities for our children and I
23 really do want to thank the staff who I know have worked
24 very, very hard on this.

25 It is trailblazing. The data we collect will help

1 us on this just using this one-time fund to actually spend
2 the hundred million we set aside in the bond which now is
3 not going out the door, will give us data -- and I think we
4 can tweak the form so that it really works so that we -- by
5 the time we do another school bond, we'll actually have data
6 on costs that we can use.

7 So I think that, you know, we have an opportunity
8 to set a standard here and -- so I would move the adoption
9 of Brian's language in Option 2 with the proviso that a
10 memorandum of understanding be developed with OPSC in
11 consultation with all the parties, with DSA, with CHPS, with
12 LEED, and that it will agree on review procedures, that it
13 will culminate in a DSA sign-off, and that the MOU will be
14 in place as the program moves forward. And that would be my
15 motion.

16 SENATOR LOWENTHAL: Second.

17 CHAIRPERSON BRYANT: Call the roll.

18 MS. JONES: Senator Lowenthal.

19 SENATOR LOWENTHAL: Aye.

20 MS. JONES: Senator Hancock.

21 SENATOR HANCOCK: Aye.

22 MS. JONES: Senator Huff.

23 SENATOR HUFF: No.

24 MS. JONES: Assembly Member Fuller.

25 ASSEMBLY MEMBER FULLER: No.

1 MS. JONES: Assembly Member Brownley.

2 ASSEMBLY MEMBER BROWNLEY: Aye.

3 MS. JONES: Scott Harvey.

4 MR. HARVEY: No.

5 MS. JONES: Kathleen Moore.

6 MS. MOORE: Aye.

7 MS. JONES: Lyn Greene.

8 MS. GREENE: No.

9 MS. JONES: Cynthia Bryant.

10 CHAIRPERSON BRYANT: Aye.

11 MS. JONES: And the motion does not pass.

12 MR. HARVEY: I would move Option 1 with the
13 understanding that if the parties that are still interested
14 in pursuing what we all agree is a meritorious effort to
15 make schools more sustainable, they can come back if these
16 legal bond covenant issues, those kinds of things can be
17 addressed. So I would move Option 1 with that
18 understanding.

19 SENATOR HUFF: I would second that.

20 MS. MOORE: Point of clarification. What did you
21 mean by that second statement?

22 MR. HARVEY: I don't know my second statement. I
23 move Option 1. I'll just say that.

24 MS. MOORE: So no coming back with agreement about
25 this verification if it was legally --

1 MR. HARVEY: I'm not -- I was saying that is
2 something that if the parties that are interested in
3 pursuing this and they can work out the constraints, I would
4 engage that.

5 CHAIRPERSON BRYANT: And --

6 SENATOR HUFF: That's in addition to.

7 MR. HARVEY: It's addition to.

8 CHAIRPERSON BRYANT: DGS would work on --
9 facilitate that and work with us on that as well?

10 MR. HARVEY: Of course.

11 ASSEMBLY MEMBER BROWNLEY: Could we amend the
12 motion to say to support Option 1 but that we would -- the
13 parties -- we would request that the parties get together
14 and come back to us at the next -- with -- come back to us
15 at the next meeting with their -- either have an agreement
16 or not an agreement, but that they would come back so that
17 we can try to work this out. This is -- I mean this part of
18 it is really the important piece and I think that we can
19 accomplish it even if it requires, you know, a dual track
20 relative to rules and responsibilities. I think it can get
21 done and it's just a matter of I think a little bit more
22 work to get there.

23 MR. HARVEY: That's a friendly amendment and I'll
24 accept that.

25 CHAIRPERSON BRYANT: Is there a second?

1 SENATOR HUFF: I'm good with the second still.

2 CHAIRPERSON BRYANT: Okay. Call the roll.

3 MS. JONES: Okay. Senator Lowenthal.

4 SENATOR LOWENTHAL: No.

5 MS. JONES: Senator Hancock.

6 Senator Huff.

7 SENATOR HUFF: Aye.

8 MS. JONES: Assembly Member Fuller.

9 ASSEMBLY MEMBER FULLER: Aye.

10 MS. JONES: Assembly Member Brownley.

11 ASSEMBLY MEMBER BROWNLEY: Aye.

12 MS. JONES: Scott Harvey.

13 MR. HARVEY: Aye.

14 MS. JONES: Kathleen Moore.

15 Lyn Greene.

16 MS. GREENE: Aye.

17 MS. JONES: Cynthia Bryant.

18 CHAIRPERSON BRYANT: Aye.

19 MS. JONES: And that motion carries.

20 CHAIRPERSON BRYANT: And I will personally help

21 oversee this effort to get this back on the table. All

22 right. So Tab --

23 SENATOR HANCOCK: Ms. Bryant, I would like to

24 thank you too. You have been extraordinary in taking this

25 Board and getting us to work together on this and thank you

1 very much.

2 CHAIRPERSON BRYANT: But I -- literally I
3 should -- I meant to say this again even though you made the
4 comment. I cannot thank this team enough. They were in a
5 very difficult position and they went above and beyond and
6 they were in the office every week till 10:00, and, Brian,
7 you're just totally excellent --

8 MR. LaPASK: Thank you.

9 CHAIRPERSON BRYANT: -- and your entire team,
10 thank you.

11 MR. LaPASK: Thank you.

12 CHAIRPERSON BRYANT: All right. Tab 18 is the
13 **meeting schedule**. I just -- it doesn't need to be adopted
14 or anything, but just everybody put this in your calendars.
15 This new meeting schedule will get us in line with what we
16 did in priorities and funding.

17 We do need a motion on -- returning to **Tab 11**. We
18 need a motion on the **dollar amount** which --

19 MR. HARVEY: 408.3.

20 MS. MOORE: I'll move the 408 --

21 MR. HARVEY: .3.

22 MS. MOORE: -- 43.

23 MR. HARVEY: 408.3.

24 MS. MOORE: .3 --

25 CHAIRPERSON BRYANT: And is there a second?

1 MR. HARVEY: Second.

2 CHAIRPERSON BRYANT: Is there any objection to
3 substituting the previous roll call on that? The roll call
4 related to Tab 11, it will be the same for that.

5 MS. JONES: Thank you for that. Thank you.

6 CHAIRPERSON BRYANT: Not the previous one. And I
7 think then Tab 19 is earthquake which you've already talked
8 about and then I think that's it.

9 So is there any public comment on an item not on
10 the agenda? All right. Then this meeting's adjourned.

11 (Whereupon, at 7:14 p.m. the proceedings were recessed.)

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REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

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

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

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

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on June 23, 2010.

Mary C. Clark
AAERT CERT*D-214
Certified Electronic Court
Reporter and Transcriber