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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL, ROOM 4202
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, DECEMBER 15, 2010
TIME: 2:15 P.M.

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

SCOTT HARVEY, Chief Deputy Director, Department of General Services, designated representative for Ron Diedrich, Acting Director, Department of General Services.

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

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

SENATOR ALAN LOWENTHAL

SENATOR LONI HANCOCK

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER JOAN BUCHANAN

ASSEMBLY MEMBER JEFF GORELL

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Acting Executive Officer

LISA KAPLAN, Assistant Executive Officer

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

LANCE DAVIS, Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON BRYANT: All right. Apologies for starting 15 minutes late, but we'll call this meeting to order. Secretary, can you call the roll.

MS. GENERA: Senator Lowenthal.
Senator Hancock.

SENATOR HANCOCK: Here.

MS. GENERA: Senator Huff.
Assembly Member Gorell.

ASSEMBLY MEMBER GORELL: Here.

MS. GENERA: Assembly Member Brownley.

ASSEMBLY MEMBER BROWNLEY: Here.

MS. GENERA: Assembly Member Buchanan.

ASSEMBLY MEMBER BUCHANAN: Here.

MS. GENERA: Scott Harvey.

MR. HARVEY: Present.

MS. GENERA: Kathleen Moore.

MS. MOORE: Here.

MS. GENERA: Lyn Greene.

MS. GREENE: Here.

MS. GENERA: Cynthia Bryant.

CHAIRPERSON BRYANT: Here.

MS. GENERA: We have a quorum.

CHAIRPERSON BRYANT: Thank you. So just a quick

1 announcement. We have on the agenda a closed session.
2 We're going to do it at time certain at 3:00 o'clock. The
3 Senate Sergeants have graciously agreed to let us use 4203
4 for closed session, so the members will leave and all of you
5 can stay in your special audience seats while we go confer
6 in private on some closed session matters.

7 So we'll start with Tab 2, the **Minutes** for the
8 previous meeting. Is there any questions or comments from
9 the Board? Is there any public comment on this item? Do we
10 have a motion?

11 MR. HARVEY: I would move approval of the Minutes.

12 MS. GREENE: Second.

13 CHAIRPERSON BRYANT: We have a motion and a
14 second. Why don't you go ahead and call the roll so we have
15 a roll call.

16 MS. GENERA: Senator Hancock.

17 SENATOR HANCOCK: Aye.

18 MS. GENERA: Assembly Member Gorell.

19 ASSEMBLY MEMBER GORELL: Abstain.

20 MS. GENERA: Assembly Member Brownley.

21 ASSEMBLY MEMBER BROWNLEY: Aye.

22 MS. GENERA: Assembly Member Buchanan.

23 ASSEMBLY MEMBER BUCHANAN: Aye.

24 MS. GENERA: Scott Harvey.

25 MR. HARVEY: Aye.

1 MS. GENERA: Kathleen Moore.

2 MS. MOORE: Aye.

3 MS. GENERA: Lyn Greene.

4 MS. GREENE: Aye.

5 MS. GENERA: Cynthia Bryant.

6 CHAIRPERSON BRYANT: Aye.

7 MS. GENERA: It carries.

8 CHAIRPERSON BRYANT: Okay. Thank you. I did fail
9 to mention that we have with us Assembly Member Gorell who,
10 it's his first day on the State Allocation Board. He's also
11 a new Member and I'm not quite sure what he's done to be
12 sent to the State Allocation Board on his first week in
13 office, although it was my first week on the job I got sent
14 here, so we have something in common. Anyway, so welcome.

15 ASSEMBLY MEMBER GORELL: Thank you.

16 CHAIRPERSON BRYANT: Tab 4, the **Executive**
17 **Officer's Report**. Ms. Silverman.

18 MS. SILVERMAN: Yes. Thank you very much. We
19 definitely want to provide the Board some updates. You
20 know, I know last month we mentioned about -- to the extent
21 that the Emergency Repair Program and there was some
22 uncertainty of whether or not we're going to continue
23 processing applications. So I definitely want to clear the
24 air on that subject. We are definitely still processing the
25 applications and we will continue to process the

1 applications up into the \$800 million established
2 settlement. So with that in mind, again -- also enclosed in
3 the agenda today, we have also applications that we
4 processed also for this month as well.

5 So again staff will process the applications up to
6 the program funding limit, and so consequently, we will no
7 longer be adding projects to that -- to the list and we
8 haven't been accepting applications and we will not continue
9 to accept new applications at this point in time.

10 So once we hit the \$800 million benchmark, we
11 still have \$200 million of projects in house and we'll hold
12 onto those projects until we have exhausted the 800 million
13 of the settlement authority. So again the goal is to
14 continue to process those applications and to continue to
15 provide unfunded approvals up into the \$800 million
16 benchmark.

17 And also we also are very thrilled to announce
18 that -- and it was great news for everybody to hear. The
19 Treasurer's Office successfully sold \$1.483 billion in
20 November which screams of a great deal of joy for all of us
21 in the program. And so there was a big sale that occurred
22 at the end of November that represents Build America Bonds
23 and taxable bonds. Again we'll be bringing live
24 apportionments available for the Board's consideration and
25 approval in Tab 11. Again this is again the priority

1 funding request and the goal is to provide cash to program,
2 construct and modernize schools, and provide safe learning
3 environments. And this will also create thousands of jobs
4 and stimulate the State's economy. So we're really excited
5 about this opportunity tonight.

6 We also wanted to share an update about the
7 Seismic Mitigation Program. The updates are we've been
8 aggressively going out and providing -- we originally
9 received a \$200,000 allocation from the Seismic Safety
10 Commission and with that \$200,000 allocation, that -- those
11 funds were to be used to allow districts an opportunity to
12 get a structural engineering report or a survey to survey
13 those high probability buildings that obviously are on the
14 particular list that we have, that obviously show the most
15 vulnerable buildings that we have in the State.

16 So reaching out in that area, there are 16 school
17 districts that have been identified as the most vulnerable
18 buildings and that represents 48 school buildings that are
19 potentially eligible for the seismic program. And out of
20 the original 16, 9 showed interest in this program, and so
21 with the survey -- and that represents 38 school buildings.

22 So right now we're currently in the evaluation
23 stage with the engineering reports and it looks like to some
24 extent some of these site evaluations may be completed in
25 December. So that's great. And so we'll be -- with that

1 evaluation, it would actually identify the risk involved
2 with these particular buildings and with that plan in place,
3 those projects could potentially move forward with seismic
4 safety and -- to get those projects retrofitted and actually
5 rehabbed and we'll hopefully bring forward some sizeable
6 applications in the future and we'll provide the Board a
7 full update in February to have a better dialogue about
8 what's going on with the Seismic Program.

9 And then the next I want to update is on the
10 expert workgroup, even though it's not a part of the agenda
11 today, but we're happy to share that there was a memorandum
12 of understanding that was signed between the Department of
13 General Services and the Department of Education and that
14 memorandum of understanding to some extent outlines the
15 goals to streamline the process, to work together more
16 collaboratively, provide better outcomes for districts
17 applying for the program, and also work out some issues as
18 far as providing additional layers of transparency and
19 perhaps even going to the extent of even having joint
20 workshops and that's what our goal is to definitely work
21 together.

22 And again Ms. Moore has been very stellar as far
23 as the movement in this program and we're happy to have some
24 positive results here.

25 And we also wanted to share that the Energy

1 Program, we have -- Energy Efficiency Program, although it's
2 not part of the work, it was agendized last month. We still
3 want to share with stakeholders there's still some money
4 available in the program and we would like to advise that
5 there's -- again there's a probability of getting some
6 energy funds. So please you have until April 1st, 2011, to
7 come in with those requests for funding apps.

8 And also attached is our 90-day workload and I
9 know the Chair obviously will not be moving forward with us
10 next month, but obviously she's blessed the 90-day agenda
11 and appreciate that guidance. So attached to the Executive
12 Officer's Statement, we have the January, February, and
13 March agenda and March looks pretty light right now, so with
14 that in mind, if you have any questions, I'm open to
15 questions.

16 CHAIRPERSON BRYANT: Are there any questions for
17 Ms. Silverman?

18 MR. HARVEY: If I can as a follow-up on the energy
19 efficiency issue, are these monies idle because we don't
20 have the ability to incentivize them as we do with the 1D
21 dollars for energy efficiency for the collaborative approach
22 on schools? I know we talked about -- at one point I
23 suggested why don't we try to combine all of these dollars
24 and I guess we can't because of the bond covenants, but what
25 is prohibition for people seeking these dollars from

1 Prop. 55 and 47 I guess?

2 MS. SILVERMAN: Well, I think they have different
3 program requirements and I think what you're referencing is
4 really the high performance program. That isn't a part of
5 Proposition 1D, but obviously this is an older program that,
6 you know, districts have seeked funds in these areas and I
7 think that's coming back -- or the bond authority that's
8 coming back for these particular pots are a result of
9 rescissions and closeouts. So I think perhaps these
10 programs haven't been active for years and so it's just
11 probably put more of an outreach effort out and we have been
12 providing districts email blasts and providing them updates
13 at their county meetings as far as what opportunities they
14 can have to exercise these grants and these programs.

15 So we've been aggressively outreaching to
16 districts out in this area.

17 MR. HARVEY: So there's not obstacles per se, but
18 we have a newer program with the high performance, 1D.
19 We've incentivized that and when these dollars expire in
20 April 2011, where do they go?

21 MS. SILVERMAN: We'll bring back a report to the
22 Board and they could have a full discussion as far as
23 whether or not they want to have the ability to transfer
24 those funds to new construction.

25 MR. HARVEY: Okay. Thank you.

1 CHAIRPERSON BRYANT: Any other questions? I
2 didn't hear you. I thought you were going to say something
3 about OPSC staffing issues.

4 MS. SILVERMAN: Oh, that's -- I'm sorry. That's
5 absolutely correct.

6 CHAIRPERSON BRYANT: Yeah. I just want to throw
7 that in real quick, so --

8 MS. SILVERMAN: Sure. Last month, I know we had a
9 pretty robust discussion about some of the notifications
10 that were sent out to staff. There were surplus notices
11 that were sent to over a thousand Department of General
12 Services' employees and also in that notification, we also
13 had seven employees that were also impacted by that. And
14 with that in mind, knowing that is a sensitive subject and
15 the fact that we were going to agendize the topic here
16 today, but I understand there is some concerns with having
17 that open dialogue since we are -- my understanding
18 Department of Personnel Administration is having dialogue
19 with the unions on this topic and statutorially they send
20 out about three times the amount of notifications than
21 necessary.

22 So I will definitely -- I've answered a few of the
23 questions with some of the members that you had
24 specifically. I'm more than open to keep you updated on a
25 monthly basis as we move progressively in this area, but at

1 this point in time, it's really very early in the process
2 and Department of Personnel Administration would be more
3 than happy to meet with you privately if you have specific
4 questions about the process or specific details about what's
5 actually happening with the formal notification process and
6 where it's at.

7 So I would be more than happy -- you can reach out
8 to me and I can have -- we can have that dialogue and make
9 arrangements to these -- to have these specific meetings.

10 CHAIRPERSON BRYANT: Okay. Thank you. Any other
11 questions or comments? Okay. Moving onto Tab 4, the
12 **Consent Agenda**. Is there any questions on the Consent
13 Agenda? Any public comment on these items? Is there a
14 motion?

15 SENATOR HANCOCK: I would move the Consent Agenda.

16 MR. HARVEY: Second.

17 CHAIRPERSON BRYANT: We have a motion and a
18 second. All those in favor.

19 (Ayes)

20 CHAIRPERSON BRYANT: Any opposed or abstentions?
21 Motion carries. Okay. Tabs 5 and 6.

22 MS. SILVERMAN: Sure. If I can direct your
23 attention to Tabs 5 and 6. Tab 5 is the **Status of Fund**
24 **Release Report** and that's on page 164. And so what we
25 wanted to highlight is -- obviously what we do every month

1 is highlight the amounts of funds that are being disbursed
2 out of each pot and the amount of funds are being disbursed
3 obviously as a result of fund release requests. So for the
4 March 2009 General Obligation Bond sale, there was no
5 activity this month. However, in the April 2009, there was
6 some activity, but it resulted as we were doing some
7 reversals and posting and we over-posted one account. So we
8 wanted to correct that to reflect that.

9 In the October 2009, which is in the lower chart,
10 we actually disbursed \$31.7 million as of -- through
11 November 19th and if I can direct your attention and flip
12 the page to page 165. In the November and December
13 category, there were no funds released. In the middle of
14 your page in the middle chart, in the March 2010, there were
15 60.5 that was disbursed out of that particular bond fund.

16 And although we haven't disbursed any funds, but
17 we did want the report to reflect the new bond source that
18 we received for the November 2010 sale. So that's a
19 specific allocation of \$1.483 million and that's posted
20 there and we'd be happy to -- hopefully with the new
21 activity and moving forward with priorities in funding and
22 providing active apportionments, we'd be happy -- maybe have
23 some movement in that category next month. So we just
24 wanted the report to reflect this new category -- new source
25 of funds.

1 On page 166, if I draw your attention to the far
2 column, we disbursed in total \$90.4 million this month, so
3 again that's great and I think that obviously that was a
4 direct result of accomplishing what we wanted to accomplish
5 as far as priorities in funding. So that was what we
6 processed.

7 And if I can get your attention to turn to
8 page 167, so we still have -- it's a summary chart that
9 obviously reflects what's really left in each of the bond
10 pots, and as we move along, we note that there's
11 \$686.5 million in the respective categories and that
12 represents of all the bond sales through March 2010. And as
13 of next month, we'll post the new bond proceeds also on this
14 chart. So the chart is going to obviously go dramatically
15 higher, but like the success in priorities in funding, we
16 would obviously see dramatic jumps with that within the
17 90-day period, at least that's what our goal is.

18 So -- and with that, we actually accomplished --
19 we had \$2.58 billion in bond proceeds in 2009 and with the
20 new bond proceeds in 2010, that would jump the bond proceeds
21 up to \$2.8 billion of bond proceeds allocated to this
22 program. So that's great news. Any questions?

23 CHAIRPERSON BRYANT: Any questions?

24 MS. SILVERMAN: So if I can direct your attention
25 to Tab 6 which is **Status of Funds**. And we definitely love

1 our colors. If I can highlight, this month we actually
2 processed in Proposition 1D, which is your orange chart on
3 the top -- we processed \$34.5 million in applications and
4 that represents 34.4 million in modernization. That
5 represents 21 projects and we also processed in high
6 performance .1 which also reflects two projects.

7 And then in your middle column, Proposition 55, we
8 processed 146.5 million and I'll explain this. This is a
9 jump. We actually did some switching of bond source so we
10 can accomplish what we need to accomplish, is trying to get
11 as much money out in priorities. So there's going to be a
12 jump in this area and it's because we were doing some bond
13 switching so that we can get as much out as we possibly can.
14 And so that resulted in some projects being processed and
15 switched, which represents 40 projects and likewise in the
16 lower category, Proposition 47, again part of the bond
17 switching, we posted a credit of 126.8 million which three
18 projects. But in total respectfully, we processed
19 \$54.2 million out of the three propositions.

20 And I can direct your attention to the following
21 page. We did process .5 million in Proposition 1A and
22 that's a result of a closeout adjustment. That's -- with
23 districts who request additional funds as a result of the
24 closeout, they have the ability to come back and ask the
25 State for additional funds. So this is what's posted here.

1 So in total for the School Facilities Program for this
2 month, we processed \$54.7 million.

3 And if I grab your attention to Emergency Repair
4 Program, which is the middle of the chart, like I shared
5 with you earlier, the goal was to still process
6 applications. This is 62 projects that we're processing for
7 the Emergency Repair which represents \$12.2 million. In
8 total, the Emergency Repair's cash need is 1.7 --
9 \$1.9 million -- almost \$172 million.

10 So with that -- we also have charts attached which
11 basically outlines the propositions that are available,
12 page 171. So obviously the blue chart represents -- blue
13 portion of the chart represents the projects that have been
14 apportioned and so the maroon part of the chart obviously
15 represents unfunded approvals that are sitting on our list
16 and then the yellow section obviously represents the
17 authority that's left as a result of Proposition 1D. So we
18 still have \$1.766 million -- billion sorry in authority left
19 in Proposition 1D.

20 In Proposition 55, again the chart's looking
21 pretty blue today. Yeah. We represent that's \$8.7 billion.
22 That's 88 percent of the bonds have been apportioned and 839
23 of unfunded approvals which is 7 percent of the bond
24 authority and 5 percent of the bond authority remains which
25 405.6 million.

1 And Proposition 47, we've expended 94.8 million --
2 excuse me -- 94.8 percent of the bond authority which
3 represents \$10.86 billion and likewise we still have
4 \$442 million in bond authority which is in maroon and the
5 yellow represents the authority left in 47 which is
6 151.2 million.

7 And the following chart, the last chart there, is
8 the new construction bond authority and we've obviously
9 posted this chart which was in the middle of this year and
10 this is to reflect that out of all three propositions,
11 Proposition 1D, 55, and 47, that we had the source of new
12 construction provided in all three positions of over
13 \$14 billion. So we've expended 12.99 which is 90 percent of
14 the new construction bond authority and we still have
15 7 percent that sit on the unfunded list and 3 percent which
16 is 450.4 million. That's still part of remaining bond
17 authority for new construction.

18 So with that, if you have any questions.

19 CHAIRPERSON BRYANT: Are there any questions for
20 Ms. Silverman? Okay. Then moving onto **Consent Specials**.
21 Unless you want to discuss any of these items individually,
22 we could take 7, 8, and 9 up as one lot, if there's
23 objection. Is there a motion?

24 SENATOR HANCOCK: So move.

25 MS. MOORE: Second.

1 ASSEMBLY MEMBER BROWNLEY: Second.

2 CHAIRPERSON BRYANT: Okay. We have a motion and a
3 couple seconds. All those in favor.

4 (Ayes)

5 CHAIRPERSON BRYANT: Okay. Any opposition or
6 abstentions? Okay. Moving on to -- what I'd like to do
7 right now, if without objection, is go ahead and take up
8 Tab 21 which is actually -- it's readopting all of the
9 **emergency regs** related to the fiscal crisis and I think if
10 that's okay. Ms. Kampmeindert, did you -- are you putting on
11 that?

12 MS. KAMPMIENERT: Sure. The **fiscal crisis**
13 **regulations** item deals with four regulation sections that
14 are scheduled to sunset on January 1st, 2011. Staff is
15 seeking the Board's direction on whether or not they would
16 like to extend these regulations.

17 There are several reg sections. The first one is
18 Regulation Section 1859.96 and this is for inactive
19 apportionments. This regulation section was put into place
20 at the time of the fiscal crisis because the Board had made
21 active apportionments up through December and then in
22 December, the State ran out of cash. So to protect those
23 districts' 18-month time limit on fund release, the Board
24 declared those projects inactive.

25 Since that time period, all of those projects have

1 received their funds and they have been reactivated. So that
2 regulation section were to sunset, there would be no
3 negative impact to any school districts.

4 The next regulation section is in the Critically
5 Overcrowded Schools Program and it's Section 1859.148.2.
6 And the Critically Overcrowded Schools Program has statutory
7 timelines. The apportionments were made originally as
8 preliminary apportionments. School districts had four years
9 with a possible one-year extension to convert those projects
10 to a final apportionment and there is a component in that
11 program that allows districts that have extensive cleanup on
12 their site to receive an environmental hardship fund release
13 off of the preliminary apportionment.

14 Since the cash was not available to do that, the
15 Board adopted these regulations to declare those preliminary
16 apportionments inactive to protect the statutory timeline.
17 We do still have projects that have not converted from a
18 preliminary apportionment to a final apportionment to a
19 final apportionment in this program.

20 The Board is hearing a different item as a part of
21 this agenda that discusses the cash for the environmental
22 hardship fund releases, but the -- for those projects that
23 do not have the environmental hardship component, there may
24 not be a need to extend this regulation. The districts that
25 are remaining have local match, so they could -- with the

1 exception of the environmental hardship piece, they could
2 continue on with their projects, moving towards a place on
3 the unfunded list just as any other school district in the
4 new construction or modernization program typically does.

5 So that would be a consideration when deciding
6 whether or not to extend that regulation section.

7 Now, the Charter School Program is similar to the
8 Critically Overcrowded Schools and this regulation section
9 is 1859.166.2. Those projects also were preliminary
10 apportionments with the four- to five-year timeline to
11 convert to a final apportionment.

12 The Board did freeze that four- to five-year
13 timeline because for these projects that are advanced fund
14 releases for design costs and site acquisition costs, most
15 of the charter schools that come in to the program do not
16 have a local match. They take advantage of the loan
17 opportunities through the program, so they are not typically
18 able to move forward without the cash assistance from the
19 State. And again you are hearing that cash discussion as
20 part of a different topic on this agenda.

21 But without the cash being made available, there
22 may be some risk in that the program is disadvantaging the
23 charter schools that applied because they cannot access the
24 design or site funds.

25 And then the fourth regulation section is the

1 financial hardship re-reviews which the Board adopted at the
2 May 2010 meeting and it's Regulation Section 1859.81(f) and
3 this deals with the projects that are on the unfunded list
4 that have financial hardship status and they remain on the
5 unfunded list for a length of time that would typically
6 trigger re-review of their financial hardship contribution.

7 The situation has not changed. We do still have
8 financial hardship projects on the unfunded list and those
9 regulations will sunset on January 1st if they are not
10 extended, so it may be in keeping with the Board's prior
11 direction to extend them, but we are seeking direction on
12 which regulations you would like to extend.

13 If the Charter or the COS apportionment
14 regulations are allowed to sunset, we need the Board to
15 reactivate those projects before the regulations do sunset.
16 Otherwise you may not have the ability to reactivate them at
17 a later date.

18 And then the options on page 824, under
19 Option 1(A) and 1(B), you would be extending all regulations
20 except for the first one, the inactive apportionments, which
21 is no longer necessary. You'd be extending all the
22 regulations and the difference is for how long. You could
23 either extend for six months or you could extend for one
24 year.

25 Option 2 would have the Board pick and choose

1 which regulation sections you would like to extend and then
2 Option 3 would be to reactivate all preliminary
3 apportionments and allow all of the regulations related to
4 the fiscal crisis to sunset.

5 We'd be happy to answer any questions.

6 CHAIRPERSON BRYANT: Are there any questions for
7 Ms. Kampmeiner? Any initial thoughts from the Board?

8 MS. GREENE: You have public comment.

9 CHAIRPERSON BRYANT: Yeah. Can I just say
10 something really quick about this. Do I need to leave this?
11 Should I be here? I'm just thinking out loud here. Seeing
12 you walking up here.

13 I just want to say really quick generally speaking
14 on the financial hardship on these regulations that in a
15 way, we're not really in the fiscal crisis anymore in terms
16 of where we initially had done all of these temporary
17 regulations. We were -- you know, we were doing it because
18 the PMIB was suspended and -- I mean the PMIA was -- loans
19 were suspended and we're not really in that situation
20 anymore. There just is no PMIA loan program anymore.

21 And we're in this transitional period of where
22 we're switching to a more permanent way of doing this
23 program. And so in terms of adopting these things in the
24 near term, you know, extending these regulations, we're
25 doing that in a way to facilitate the Board's work on

1 converting this program to having every pot of funding,
2 every piece of the program working in our new paradigm.

3 So I just wanted to say that initially, but I'm
4 starting to think I should have taken a walk on this item.
5 Do you think? Barbara?

6 MS. KAMPMIENERT: If you adopt Option 1(A), you --
7 1(A) or 1(B), you may need to.

8 CHAIRPERSON BRYANT: I'm going to just step off
9 the dais for a little while and let Mr. Harvey handle this.
10 I apologize to everybody.

11 SENATOR HANCOCK: I would suggest that we do
12 support Option 1(A) and extend the sunset for a year and I'm
13 interested in comments from the public, but I would be
14 prepared to move that if it's a general consensus.

15 MR. HARVEY: Why don't we hear from the public
16 first then?

17 SENATOR HANCOCK: Yeah.

18 MR. HARVEY: Thank you.

19 MR. WALRATH: Dave Walrath representing California
20 Charter School Association. We appreciate Senator Hancock's
21 comment. We would urge that it be extended for a year.

22 The Chair is correct. We're in a different world
23 than the financial crisis world that was in December of
24 2008. However, for charter schools and charter school
25 funding process, they do not have access to the types of

1 local funds to move projects forward.

2 Consequently the AB-55, the old PMIA, did work for
3 them and until something similar to that is reestablished,
4 it is difficult for them to go forward with their projects.
5 Consequently if you extend the regulations for another year,
6 it would accomplish the ability for us all to look at how
7 can we craft an alternative program that's fair to all
8 projects in a world in which there's not a PMIA. Unless it
9 is extended, the concern is that a number of these projects
10 would not be able to be perfected within the time frame
11 because of the fiscal constraints and these projects would
12 have to start all over again to the detriment of the
13 students.

14 So we would ask for an extension of a year. Thank
15 you.

16 MR. HARVEY: Thank you. Any other public comment?

17 MR. SMOOT: Thank you. Good morning. Lyle Smoot
18 representing Los Angeles Unified School District. We would
19 just hope that extension includes the COS projects because
20 we have a couple of projects that are not in the
21 environmental hardship situation that haven't been
22 apportioned yet -- final apportioned and they are on the
23 unfunded list because, you know, we've been trying to
24 balance the movement of money and so we've taken money that
25 might have been used for this match and temporarily used it

1 for other things and hopefully when we get our apportionment
2 today, we can kick those projects back in, but we do need
3 the additional time.

4 So I'm just hoping you include COS projects and
5 that -- that one you extend -- and a new microphone.

6 MR. HARVEY: Thank you very much. Other comments.

7 MR. DUFFY: Good afternoon, Mr. Chairman and
8 members. Tom Duffy for CASH. We had believed that the COS
9 program which goes back to 2002 and 2004 had plenty of time
10 to be activated because of the five years. With the pulling
11 of the plug on the clock, the regulations that you adopted
12 assisted the COS projects as they have other kinds of
13 projects.

14 Our concern is that we prolong the COS projects
15 and the reserve of funds that are reserved for each of those
16 projects. A good deal of money beyond the preliminary
17 apportionment was provided to each project and an additional
18 amount recognizing that there may be inflation over time for
19 cost of buildings as well as for land.

20 So two things: One, you have on your agenda later
21 the consideration of moving the COS reserve funds that are
22 reserved for the total program. What I was just mentioning
23 a minute ago was reserves for individual projects. So our
24 concern is that the monies that -- it's about 211 million
25 that's available to be moved to new construction be moved

1 and that you would do that today.

2 If you choose to allow the COS continue into the
3 next year by taking action as Senator Hancock just
4 suggested, we won't disagree with that, but we think it may
5 be important to bring it back before a year to just see
6 what's happening with those projects. But we really would
7 ask that you -- on the latter item, that you -- next item --
8 future item on the agenda that you would move that
9 \$211 million. Thank you.

10 MR. HARVEY: Thank you. Board comments or
11 questions? Please.

12 ASSEMBLY MEMBER BUCHANAN: Thank you. I share
13 some of the concerns of all the speakers. One is if you
14 take a look at the money for new construction, it makes
15 sense to transfer the 211 million to new construction.

16 So at the same time, we're probably -- I don't
17 know when the State -- when this -- we will go back to the
18 old model of having money from the PMIA. I mean we have to
19 realize that we're in a new world and that the rules are
20 going to change.

21 So I support your -- I don't know if you actually
22 formally made a motion, but your suggestion that we extend,
23 but I don't -- but I also agree that that shouldn't limit
24 our being able to transfer excess money from the critically
25 overcrowded schools -- let me finish. Thank you -- into new

1 construction.

2 So -- and, you know, my question there -- and my
3 other concern or question -- and I don't know if we could --
4 if it -- how it is about working this into a motion is can
5 we extend for a year subject to our adopting the new
6 guidelines. I mean it's -- we have to come up with some new
7 model and I don't know if it'll take us three months or six
8 months or nine months or a year to do that, but that --
9 there has to be something that we do. So --

10 MR. HARVEY: May I ask staff to answer both those
11 questions first as to our ability to transfer unencumbered
12 if we take action on this item and then the issue of
13 conditionally terminating these if we adopt a new model
14 rather -- a time certain.

15 MS. KAMPMIENERT: With regards to the transfer,
16 you can still transfer even if you choose to renew these
17 regulations. With the Charter School and the COS
18 regulations, even if you extend them for the full year, the
19 Board can always choose at a later time to reactivate the
20 projects. You're not necessarily leaving them inactive for
21 the full year. So if we do come up with a new cash
22 management system in February or March, you could reactivate
23 the projects at that time.

24 With the financial hardship re-reviews, I'm not
25 sure. Lisa --

1 MS. SILVERMAN: With respect to the financial
2 hardship re-reviews, I mean I think you're right. It's
3 trying to create a funding model that works for everybody
4 where there's, you know, obviously the clear rules and no
5 penalty and I think we could obviously, you know, extend the
6 regs to that period of time until once we clear the air, so
7 what is that model going to represent.

8 So I mean we clearly adopted those regulations in
9 May. There were projects in the priority rounds that were
10 approved that were hardship and we understand the
11 circumstances of being on the unfunded list for an extended
12 period of time and also sensitive to that, but also you're
13 right. We're not going to go back to a PMIB model. So I
14 think it should all be woven into the discussion that we
15 need to bring forward in February.

16 ASSEMBLY MEMBER BUCHANAN: So how do you give
17 school districts some certainty or charter schools some
18 certainty so they know where we are moving forward and
19 balance that with the need to, you know, adopt new -- a new
20 funding model and have long-term certainty in terms of the
21 recommendations? Is that a year or is that six months? Is
22 that an -- you know, how do we balance that need in terms of
23 being able to move forward in a thoughtful manner.

24 MS. SILVERMAN: You're right. It's a fine balance
25 and I think that's -- again we're going to have a robust

1 discussion in February, and even if we did table
2 recommendations for a six-month period, it allows us to set
3 the plate and get work started moving forward. So I mean
4 this could be a temporary stopgap for us right now, but yet
5 we would have an opportunity to put some regulations that
6 really are meaningful and clear to everybody. So I think,
7 you know, we can definitely achieve that.

8 So even if we did go with a six-month provision,
9 we could definitely work out some of those details.

10 ASSEMBLY MEMBER BUCHANAN: Thank you.

11 MR. HARVEY: Other Board comments or questions?

12 MS. MOORE: I just have -- perhaps a compromise
13 with the six months which keeps the issue in focus so that
14 we have -- that people know the lay of the land for six
15 months, but that the -- both the staff and the Board can
16 continue to work on the new program or the new lay of the
17 land and keep the pressure on.

18 I think a year is a long period of time and
19 perhaps some of the issues that drove this to be in place
20 are continuing to dissipate and it's time maybe to look at
21 where our future lies. So I could support six months.

22 MR. HARVEY: Is that a motion?

23 SENATOR HANCOCK: If that's a motion, I would
24 second it.

25 MR. HARVEY: We have a motion to extend the

1 regulations and I presume that motion also includes the
2 sunseting of the one that no longer is necessary.

3 SENATOR HANCOCK: Now, what about the transfer of
4 funds?

5 MS. MOORE: That would be next --

6 MR. HARVEY: That would be next. In fact I'm
7 going to suggest given the limited time --

8 ASSEMBLY MEMBER BUCHANAN: And my understanding is
9 that extending them will not prohibit our ability to
10 transfer the funds.

11 SENATOR HANCOCK: To transfer money. Okay. Good.

12 MR. HARVEY: That is correct. For the record, our
13 extension of these regulations for any period of time does
14 not affect our ability to transfer.

15 MS. MOORE: And then for clarity, it does -- it is
16 inclusive of Critically Overcrowded Schools Program;
17 correct?

18 MS. KAMPMIENERT: Yes. If you adopt Option 1(B),
19 you would be allowing the inactive apportionment regulations
20 to sunset and the other three sections would be extended for
21 six months.

22 MR. HARVEY: And you allow the inactive
23 apportionments to sunset. So it does everything that we
24 just were briefed on.

25 Motion and second. Any other questions on the

1 motion? All those in favor. Aye.

2 (Ayes)

3 MR. HARVEY: Opposed. Abstention. It passes
4 unanimously. May I be so presumptuous as to suggest we go
5 to Item 18 which is the **transfer**. It relates to this and we
6 may be able to dispense of it before we have to adjourn for
7 our 3:00 o'clock closed session. So if we could move to
8 Item 18.

9 MS. KAMPMIENERT: Item 18 is a follow-up to the
10 Board's discussion in August in which you transferred
11 242 million from the COS account to the new construction
12 account. There is still \$211.69 million available in the
13 Critically Overcrowded Schools account in the unrestricted
14 account. We also have the 15 percent reserve which is about
15 \$25 million and the \$25 million needs to stay there until
16 all the preliminary apportionments have converted to final
17 apportionments and that's by statute.

18 But the 211 is available for transfer. We are
19 seeking Board direction on this. In preparation for this
20 item, we did reach out to the school districts that had
21 remaining critically overcrowded schools preliminary
22 apportionments and some of these projects have been on hold
23 since the freeze. So we were unable to get really detailed
24 estimates on the projects, but we do know that some
25 districts are anticipating more needs that would come out of

1 the 15 percent reserve and then we also have districts that
2 need funds for site cleanup and that occurs outside of the
3 preliminary apportionment. It's a final conversion. It
4 happens at the closeout audit.

5 So we know there's a need for about \$220 million
6 after the audits. However, there is no statutory or
7 regulatory requirement that the Board leave the \$211 million
8 in the COS program.

9 So you can transfer the 211 and the options
10 outline various ways in which you may choose to do that.
11 Under Option 1, you would transfer any amounts remaining
12 above the 15 percent reserve as of June 15th, 2011, date
13 which is to provide school districts with a little bit of
14 notice that the money is transferring so that they could
15 hurry up and come in if they wanted to make use of some of
16 the funds.

17 Under Option 2, you would transfer the money now
18 and under Option 3, if you're not ready to make the
19 transfer, we'd be happy to provide a follow-up report in six
20 months so we could reevaluate.

21 And then with Option 4, Option 4 can be used in
22 combination with any of the first three options. It's just
23 another opportunity to determine whether or not you wanted
24 to reactivate the preliminary apportionments. They have ten
25 months left on the clock once the Board reactivates, so you

1 could consider reactivating and then checking back in in a
2 certain time period so that we could see as these projects
3 move forward are people really going to go forward with the
4 project, do we have better cost estimates, or do we have
5 rescissions at that point.

6 So we are seeking Board direction on how much if
7 any to transfer at this time and whether or not we should
8 reactivate the COS projects.

9 CHAIRPERSON BRYANT: Okay. Are there any
10 questions or discussion? Is there public comment? Oh, did
11 you want to say something? Mr. Duffy.

12 MR. DUFFY: Thank you, Madam Chair, members, Tom
13 Duffy again for CASH. We would urge you to take Option 2
14 and do the transfers as I was suggesting a few minutes ago,
15 so that we have funds in the New Construction Program and
16 authority in the New Construction Program.

17 Just a short -- little bit of history. When we
18 put this program together, it was not an easy thing to
19 negotiate in this building and part of what got the
20 negotiation settled on the two largest bonds we've ever had
21 in one bill was that the Critically Overcrowded Schools
22 dollars that were unused would move over -- by action of the
23 Board would move over to new construction and that got
24 agreement from the Republicans and the Democrats and the big
25 districts and small, so this is consistent with that. Thank

1 you.

2 MR. LYON: Good afternoon, members. Richard Lyon
3 on behalf of California Building Industry Association. We
4 too would urge you to adopt Option No. 2. We feel that it
5 keeps faith with both Propositions 47 and 55. It ensures
6 that the new construction account remains solvent and it
7 does provide a reserve 15 percent for conversions in the COS
8 program. So we stand with our partners at the Coalition for
9 Adequate School Housing and encourage you to adopt Option
10 No. 2.

11 CHAIRPERSON BRYANT: Thank you. Any other
12 comment?

13 ASSEMBLY MEMBER BROWNLEY: I'd move Option 2.

14 ASSEMBLY MEMBER BUCHANAN: Second.

15 CHAIRPERSON BRYANT: We have a motion and a second
16 for Option 2. Do you want to call the roll.

17 MS. GENERA: Senator Hancock.

18 SENATOR HANCOCK: Aye.

19 MS. GENERA: Assembly Member Gorell.

20 ASSEMBLY MEMBER GORELL: Aye.

21 MS. GENERA: Assembly Member Brownley.

22 ASSEMBLY MEMBER BROWNLEY: Aye.

23 MS. GENERA: Assembly Member Buchanan.

24 ASSEMBLY MEMBER BUCHANAN: Aye.

25 MS. GENERA: Scott Harvey.

1 MR. HARVEY: Aye.

2 MS. GENERA: Kathleen Moore.

3 MS. MOORE: Aye.

4 MS. GENERA: Lyn Greene.

5 MS. GREENE: Aye.

6 MS. GENERA: Cynthia Bryant.

7 CHAIRPERSON BRYANT: Aye.

8 MS. GENERA: It carries.

9 CHAIRPERSON BRYANT: Okay. Then the hour of
10 3:00 o'clock having almost arrived, I think what we'll do is
11 adjourn into closed session. Pursuant to Government Code
12 Section 1126(a)(1), the Board will meet in closed session to
13 discuss personnel matters and pursuant to Government Code
14 Section 1126(e), the Board will meet in closed session to
15 confer with and receive advice from its legal counsel
16 regarding potential litigation. So hopefully we'll return
17 in approximately 20 minutes maybe, if we're lucky.

18 (Whereupon at 2:58 p.m., the open meeting was recessed
19 for the closed session and resumed as follows at 4:09 p.m.)

20 CHAIRPERSON BRYANT: The State Allocation Board
21 met in closed session pursuant to Government Code
22 Section 1126(a)(1) to discuss personnel matters and pursuant
23 to Government Code Section 1126 Subdivision (e), the Board
24 met in closed session to confer with and receive advice from
25 its legal counsel regarding potential litigation and we have

1 no report from closed session.

2 So returning to the agenda, we're on Tab 10,
3 **Dublin Unified School District.** Ms. Kampmeinert.

4 MS. KAMPMIENERT: Okay. The Dublin item was an
5 appeal from the district related to the application
6 submitted for Kolb Elementary School. The application was
7 originally submitted in January of 2009 and was ultimately
8 returned by OPSC because at the time the district could not
9 demonstrate that they held title to the property which is
10 required in Ed Code.

11 The application was ultimately resubmitted and
12 accepted with an August 25th, 2009, received date at which
13 time the district had initiated a title transfer from the
14 developer to the school district. The district was using a
15 master in lieu agreement in lieu of developer fees and the
16 agreement covered three schools, Kolb Elementary, Green
17 Elementary, and Fallon Middle School.

18 The agreement had been used with two previous
19 applications submitted in 2004 and 2006 and the
20 circumstances were a little bit different in those cases.
21 For those two schools, the OPSC received the application for
22 Green several months after the title transfer had occurred
23 on the property and on Fallon Middle School, the OPSC
24 received the application on May 19th, 2004, but waited until
25 the escrow opened on May 24th, 2004, to assign a received

1 date to that application.

2 So the Fallon Middle School and Kolb Elementary
3 were treated in much the same manner; however, with Kolb
4 Elementary, the difference was a seven month change in the
5 received date as opposed to just simply five days.

6 Now, the -- in the time between when the district
7 submitted in January of 2009 and when it was resubmitted in
8 August of 2009, the appraisal that was submitted to justify
9 the property value had expired by statute. Appraisals are
10 only good for six months -- within six months of the
11 received date to OPSC and the appraisal expired
12 approximately eight days after the application was
13 submitted. So the district did need to go out and update
14 that appraisal and property values declined which resulted
15 in an appraised value coming in at about \$5 million less
16 than the first application submittal date.

17 The district is asking for consideration to have
18 their original application received date honored which would
19 also allow for the use of the first appraisal. And staff
20 has worked extensively with legal counsel in reviewing this.
21 We've reviewed the master in lieu agreement which is
22 included as part of the item beginning on stamped page 217.
23 It's Attachment B.

24 And one of the issues that has been identified
25 with this agreement -- master in lieu agreements can

1 potentially be used to show ownership, but typically there's
2 the secondary component where title has transferred to the
3 school district. In this case, if I could call your
4 attention to stamped page 217 and it's Section B.2, one of
5 the statements that we were having challenges with was that
6 it says subsequent to identification of the E-3 site and
7 after district's request, execute Exhibit E to the master
8 agreement and transfer pursuant to Exhibit E the site
9 commonly referred to as E-3 also known as the Town Center
10 site.

11 Exhibit E was not executed until August of 2009
12 which was the first date that OPSC was able to accept for
13 the application and that exhibit is actually Attachment C of
14 the item on page 221 and in the first couple sentences
15 there, it shows the effective date as August 25th, 2009.

16 So staff is recommending that the Board deny the
17 district's request because the application did not meet the
18 requirements at the time it was originally submitted and I'd
19 be happy to answer any questions and Counsel may also be
20 able to address some of the more technical legal questions.

21 CHAIRPERSON BRYANT: Are there any questions right
22 off the bat? I think we have testimony from the district.

23 MR. HANKE: Thank you very much. Madam Chair,
24 members of the Board, my name is Steve Hanke. I'm
25 Superintendent, Dublin Unified School District. I actually

1 do have with me additional staff in case there are some
2 technical questions that the Board may have today.

3 Dublin Unified is a relatively small school
4 district in the East San Francisco Bay, about 6,300 students
5 and growing at approximately 5 percent per year. The good
6 news is that we're growing and the challenging news is that
7 we're having to work very, very hard to provide space for
8 our students.

9 The district respectfully requests that the Board
10 augment funding provided today by approximately \$2.6 million
11 that is associated with our original application that was
12 submitted for Kolb Elementary School in January of 2009.
13 The district believes that the Kolb project site acquisition
14 funding should be based on that original appraisal provided
15 in the original application filed in January as the January
16 2009 application was a valid submittal and it met all the
17 requirements of law and regulation and I believe most
18 importantly met the intent of what the law says.

19 Regulations do require that a project site is in
20 escrow or is owned by the district at the time it applies
21 for funding. As documented in the district's materials,
22 those that you have in your backup, the district did meet
23 this requirement as it did own that property as evidenced by
24 the master in lieu agreement and in fact the district did do
25 a number of things to the school site prior to the

1 application itself.

2 Those included a review of Department of Toxic
3 Substance Control which approved the site in 2007. The
4 Department of Education approved the site in 2008 and we
5 actually had begun site improvements in the summer of 2008
6 as well.

7 The district frankly would not have completed any
8 of those things if it did not own that property. The
9 district understands and does acknowledge that we must have
10 title in order to receive and utilize funding from the
11 State, but the assertion by OPSC that we must be in title in
12 order to make an application is false. Title merely is an
13 evidence of ownership. It does not establish ownership and
14 we believe that our mitigation agreement with our developers
15 has established that.

16 It really is ownership not title that is in
17 question here and that is all that is required to apply for
18 those funds. OPSC we believe should have acknowledged the
19 original application and appraisal and in not doing so, we
20 believe that they committed a material error in
21 approximately \$2.6 million in project funding that the
22 district short.

23 The district does respectfully request that the
24 Board recognize the original site appraisal date and adjust
25 the Kolb funding accordingly. Thank you very much.

1 CHAIRPERSON BRYANT: Mr. Harvey.

2 MR. HARVEY: If I may, I do have a question that
3 perhaps you can answer and clarify for me and it's very
4 germane to what OPSC staff said about Exhibit E that is part
5 of the master agreement. And I want to understand how the
6 term transfer is used in the document and also in Exhibit E
7 because you're alleging that ownership is what you had and
8 ownership is the key. You have to own the site.

9 The language says to effectuate the property
10 transfer and it goes on to say that you're going to execute
11 Exhibit E which transfers the property. So if you already
12 owned it, what was Exhibit E transferring?

13 MR. HANKE: Exhibit E itself was not transferring
14 property. The actual site at the time of the mitigation
15 agreement had yet to be identified and was subsequently
16 identified in those next couple of years and that's when we
17 began the process of getting the site ready and going
18 through the requirements from the Department of Education
19 and Toxic Substances and so forth. So that particular part
20 was in place as part of the agreement itself

21 MR. HARVEY: So where do I know that you own the
22 property if it isn't through a title or through escrow? And
23 I'm sensing that staff is saying one way of defining
24 ownership is that you do it through title held or you do it
25 in an escrow. So what evidence do we have that you owned it

1 if it's not one of those two indices?

2 MR. HANKE: It is the master in lieu agreement
3 itself.

4 MR. HARVEY: It's the agreement itself.

5 MR. HANKE: The executed agreement establishes
6 ownership of that property.

7 MR. HARVEY: Does staff have a response to that?

8 MR. DAVIS: Yes, Mr. Harvey, if I might. I did
9 review the master agreement and as you pointed out, that was
10 the description of the property and it does seem to indicate
11 that there is a future transfer to take place once it's
12 identified, and once the district makes the request, then
13 that Exhibit E, what you were just looking at, would take
14 place and that took place in August.

15 The issue here really -- and there's a lot of
16 agreement here that I have with the district's analysis
17 regarding several pieces of this situation. The 50-04 is
18 treated just like a regulation. It goes through the Office
19 of Administrative Law and is treated just as any of our
20 regulations. It uses the word owned.

21 The Education Code requires that a district hold
22 title prior to being funded. Staff has traditionally -- has
23 looked at that regulation and interpreted it to be
24 consistent with the Ed Code, that owned means hold title at
25 the time that they make the application.

1 And it's important to note that there is no other
2 time period within the process -- there's no other form that
3 the district provides that would show the Board that they
4 hold title prior to funding, that this is the time when you
5 show the Board you hold title. So the Board has assurances
6 before it funds that the district is in that state, either
7 that or they have entered into escrow with their property.

8 CHAIRPERSON BRYANT: I think Senator Hancock had a
9 question.

10 SENATOR HANCOCK: Well, actually I don't have a
11 question. I just looked at a lot of the material connected
12 with this and I have a comment. We oversee and OPSC
13 oversees the allocation of money so that districts that are
14 operating in good faith can have their projects approved and
15 funded. We are dealing with a technical -- a very technical
16 bureaucratic discussion about the definition of ownership in
17 this case. I believe there is not slightest doubt that
18 Dublin had site control of that piece of property. It was
19 going to build a school on that piece of property. Actually
20 the plans had been approved by other agencies and because of
21 the technical dispute over definition of ownership, they
22 were made to resubmit and then their application was held
23 for a number of months and then lo' and behold the period
24 had run out for when the appraisal was good. So they had to
25 do another appraisal.

1 And what we're really talking about here is
2 whether their initial appraisal stands because it would be a
3 significant source of money for building the school which is
4 now being built. And I've looked -- I tried to go back and
5 just look as a lay person -- I'm not a lawyer -- at some of
6 the things that were said and I would note that the Board
7 does not have a written legal opinion -- or it did not when
8 I started to really look at this last week -- for any of
9 these contentions about how ownership will be defined.

10 But the Ed Code states that the school needs --
11 they need to set forward that the property on which the
12 school will be built is held by the school district to which
13 the Board grants the funds. Again I think you can't say
14 there was any doubt about the fact that this was a property
15 that was in the middle of being transferred and the school
16 was going to be built there.

17 And also the SFP Regulation 1859 says the district
18 can demonstrate ownership by a grant deed, escrow closing
19 statement, order of immediate possession, another evidence
20 satisfactory to the Board.

21 So I -- and then I would just like to cite an AG's
22 opinion to actually Henry Nanjo who used to be our attorney,
23 that says the Board has the discretion to exercise its
24 authority, to determine its own regulations, and that a
25 regulation must be given a reasonable and commonsense

1 interpretation consistent with the apparent purpose and
2 intention of the agency, practical rather than technical in
3 nature, and when applied will reside in wise policy rather
4 than mischief or absurdity, unquote.

5 I would just think that this is a point -- we've
6 talked about mercy clauses and various things on this Board.
7 What do you really -- an appeal is when you're looking at a
8 special situation and that there is the discretion of the
9 Board to do this and that the Board should grant the appeal.

10 And I would be prepared to move that at the
11 appropriate time.

12 MR. DAVIS: If I might speak to a couple of items
13 here. As far as the -- I'm somewhat familiar with that
14 Attorney General's letter to Mr. Nanjo and I would agree.
15 We definitely want to take an interpretation of our
16 regulations that's reasonable and commonsense and that is
17 consistent with the program.

18 My concern here is that the reasonable and
19 commonsense in this case would be to make sure that
20 regulation conforms with what the Ed Code tells us we have
21 to do. A broader sense of the word owned in this case could
22 potentially have this Board making a decision to fund a
23 project in which the school district may not yet be holding
24 title. And the word title is in the Ed Code as what the
25 condition the district has to have. The exception would be

1 to be in escrow at the time of funding.

2 CHAIRPERSON BRYANT: Ms. Buchanan.

3 ASSEMBLY MEMBER BUCHANAN: I'd like to start out
4 by reminding this Board that last month we took action to
5 basically approve an appeal regarding a material inaccuracy
6 for a district that had a contract with a construction
7 management firm because the regulations weren't clear. I
8 mean because most of us know that you enter an agreement
9 with a construction management firm, that's not the same as
10 having an actual agreement to begin construction, but we
11 felt that that was a -- that was done at a time when it
12 wasn't exactly clear and we wanted to err on the side of the
13 district.

14 Well, if you take a look at master mitigation
15 agreements like this going back to 2004 -- because I
16 actually negotiated one for a neighboring district in
17 2002 -- you know, we were just beginning to have these types
18 of agreements where developers gave land or built --
19 constructed schools for us in lieu of actually paying
20 developer fees. So this was a relatively new, kind of
21 virgin area for the school district. In fact we didn't
22 really even know how to fund them because I can remember
23 when our school district was meeting with people from the
24 State here to figure out how we, for example, gave
25 developers any fees we were entitled to for actually

1 building the building -- building the schools.

2 So if you take a look at this master in lieu or
3 this mitigation agreement, it really -- it goes back to 2004
4 and it says two things really. It says the developer is
5 going to actually build two schools for you and identified
6 those schools and it says the developer is also going to
7 provide the land and identifies that land. It doesn't say a
8 site to be determined later. It refers to it as the Town
9 Center Site.

10 So the actual site is identified and there's an
11 agreement that doesn't say may -- it may donate the land to
12 the district. It says it will give that site to the
13 district and this agreement is 2004. And then when you dig
14 through your three-quarters of an inch of paper here, you
15 see -- you can go back to September 27th, 2007, when you got
16 DTSC approval of phase one. You can go to July 1, 2008,
17 where you got CDE approval for the plans. You can go to
18 September 8th where you've got a letter from -- is it NGO --
19 saying that the grading has been complete.

20 So when you take all those combined, if that's not
21 proof that the district owned the land at the time it
22 applied for State funding, then I don't know what we expect.

23 Now, you know, it could be as we talked last week
24 that we need to make the regulations clear going forward as
25 we have more -- let's hope we start having more master

1 mitigation agreements or developer agreements because that
2 would mean the economy is turning around, but it's clear to
3 me that the school district had clear line of ownership to
4 this property and so I can absolutely second or support a
5 motion that you make to approve the appeal.

6 MR. DAVIS: If I may, January 2009 staff had what
7 documents they had to look at and determine whether or not
8 this application should go forward or not. They had the
9 master in lieu agreement.

10 Now, there may have been some work, the Toxic
11 Substance report, some grading -- or at least some
12 pregrading work that would have been done to the -- to a
13 site that may have eventually become the Kolb site, but in
14 January 2009, staff was looking at this master in lieu
15 agreement and having to rely on it to see what was
16 transferred if anything.

17 It does identify a town site, but at the same
18 time, it starts off with the first phrase being subsequent
19 to identification of the site. It would imply that Kolb --
20 whatever the town site is, it might not be the same place.
21 It may be several different places or it may be a general
22 area in which there may be different lots. I don't know.

23 But just from looking at this, staff would not be
24 making mistake in coming to the determination that we can't
25 see what's been transferred. We don't have an

1 identification of exactly what's being transferred. It
2 seems to be that it's going to happen in the future and it
3 does happen in the future. It references execute Exhibit E.
4 Exhibit E comes into existence in August of 2009 and that's
5 the time the staff said, well, the application is complete
6 now and put it forward.

7 CHAIRPERSON BRYANT: Ms. Brownley.

8 ASSEMBLY MEMBER BROWNLEY: Well, in response to
9 that, I think too one of the compelling issues for me is
10 that when the district submitted the application, at that
11 particular point in time, the Department of Education and
12 the Division of State Architecture had already approved the
13 site.

14 So if the district was trying to actually change
15 the site, then they wouldn't have had the DSA approval or
16 the Department's approval. And so that for me is the more
17 compelling -- is the compelling piece of why we should --

18 MR. DAVIS: And I want to make clear that I'm not
19 accusing the district of doing anything like that. I don't
20 believe they were doing -- I believe they were acting
21 absolutely in good faith. That is not my point and I want
22 to be sure I didn't misstate that.

23 My concern was what the staff had to rely on in
24 January of 2009 when they looked at this master in lieu
25 agreement to decide whether or not this application was

1 complete and that was my only point. And I'm not at all
2 accusing this district of doing anything in bad faith.

3 CHAIRPERSON BRYANT: Did you want to --
4 Ms. Kampmeinert, did you have something to add?

5 MS. KAMPMIENERT: Just that we did have the CDE
6 approval and DSA approval at the time as part of the
7 application. However, it's our understanding that neither
8 of those agencies needs to verify ownership prior to making
9 an approval.

10 ASSEMBLY MEMBER BROWNLEY: I'm sorry. What did
11 you say? I couldn't hear you.

12 MS. KAMPMIENERT: I'm sorry. We did have the
13 approvals from CDE and DSA as part of the application and,
14 you know, it would have required going back and getting
15 reapproval. However, it's our understanding that neither of
16 those agencies necessarily needs to verify ownership before
17 making an approval on the site.

18 CHAIRPERSON BRYANT: Ms. Moore.

19 MS. MOORE: That actually is correct. The
20 Department of Education does not verify ownership, but on
21 April of 2008, it was a known site that we approved.

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

24 MR. HANKE: I would like to ask Counsel to speak
25 to the issue of ownership and add a little bit to what I

1 have said, if I could, please.

2 MR. THOMPSON: Madam Chair and staff, thank you.
3 I'm Paul Thompson from Kingsley Bogard Thompson, legal
4 counsel to the district on this matter. And I -- I think
5 I'm in the minority because I actually think the regulations
6 and the rules that are in play here are clear.

7 The key issue that we're dealing with is in fact
8 ownership and the OPSC regulations themselves provide that
9 ownership may be demonstrated by means other than title or
10 escrow documents.

11 The requirement of ownership that we're talking
12 about here is the language that's used in State Allocation
13 Board Form 50-04. That form, however, doesn't define what
14 ownership means. That term, however, is defined in the
15 California Code of Regulations at Section 1859.74.5 and the
16 rules of statutory construction require that when a term is
17 defined in one section of the statutory scheme serving a
18 particular purpose, it has to be presumed to have the same
19 definition in other sections throughout and those same rules
20 apply for construction of administrative regulations.

21 So what that means is the term owns on Form
22 SAB 50-04 has to be given the same meaning as ownership set
23 forth in CCR Section 1859.74.5. And as Senator Hancock
24 pointed out, that section says that a district may establish
25 or demonstrate ownership by one of four means: a grant

1 deed, an escrow closing statement, an order of immediate
2 possession, or by other evidence satisfactory to the Board.

3 And the other evidence satisfactory to the Board
4 here is the master in lieu agreement which was negotiated in
5 2004. It gave the district the right to receive a site of
6 specified acreage. It also specified improvements
7 thereupon. That was an enforceable document. It created an
8 ownership interest at that point in time consistent with the
9 Civil Code which I've talked about in another section of
10 your packet that was an enforceable right.

11 And the fact that title was deferred until later
12 does not impact the fact that the district had an ownership
13 interest at that point in time. Now I understand that the
14 site may not have been identified in 2004 and there are
15 various reasons that was the case because the development
16 around the school site was still occurring and the district
17 needed to decide what the best place was for the school
18 site, but the key here is the site had in fact been
19 identified well before the application was submitted and
20 significant monies and work had been spent on the site
21 which, while the CDE may not have to prove ownership of the
22 site, I think it's very telling evidence that the CDE went
23 out there and said we will approve the use of this site for
24 a school for you.

25 I mean that shows that the district and the

1 developer too believed that the site was owned by the
2 district. You know, I don't think developers are in the
3 habit of doing much free work for sites that they don't
4 think they're obligated to work for on. So I think that's
5 very telling evidence as well.

6 And I think, you know, with title -- title really
7 is a condition precedent to disbursement of the funds. You
8 know, I could foresee situations where it would be awkward
9 for a public entity to in fact have to have title before
10 they were even approved for funds because once you have
11 title, you own the property. There's no going back. If the
12 funds don't ultimately materialize, a public school district
13 which spends taxpayers' money could be in a situation of
14 being -- have a lawsuit filed against them by the owner of
15 the land who will knock on their door and say it's not my
16 problem that you didn't get your funding. You owe me the
17 money because you have title. You now own and control that
18 property and, you know, I think that would be a very tough
19 district to -- or situation to put school districts in.

20 CHAIRPERSON BRYANT: Ms. Kampmeiner, your final
21 point?

22 MS. KAMPMIENERT: I think it becomes more of a
23 legal question, but the regulation section reference was for
24 a very specific circumstance for district-owned sites which
25 is slightly -- it's a different circumstance where a

1 district owns the site and we're relocating district
2 operations so that they can use the district-owned site
3 rather than buying a new parcel. So that's -- we did not
4 use that regulation section typically when we're evaluating
5 site acquisition because it's for a very specific
6 circumstance.

7 CHAIRPERSON BRYANT: Ms. Hancock, do you want to
8 make a motion?

9 SENATOR HANCOCK: Thank you. Yeah, I would like
10 to make a motion and I point out that Mr. Davis that he
11 wasn't accusing the district of malfeasance and I think from
12 the Board's -- if the Board takes action, it's not accusing
13 anybody of anything other than working through a complex set
14 of guidelines in a situation where appeal to the Board is a
15 warranted thing and we have to see where we think the best
16 good for the most children will lie congruent with the
17 intent of our bond funds.

18 So I would move the approval of the Dublin Unified
19 School District's appeal, approve the new school
20 construction application and land valuation as submitted to
21 the Office of Public School Construction in January 2009.

22 MS. GREENE: Second.

23 CHAIRPERSON BRYANT: Is there any other
24 discussion? Any other additional public comment? You guys
25 are with him? Okay. Do you want to call the roll.

1 MS. GENERA: Senator Lowenthal.
2 SENATOR LOWENTHAL: And an aye vote is to?
3 SENATOR HANCOCK: To grant the appeal.
4 SENATOR LOWENTHAL: To grant the appeal. Aye.
5 MS. GENERA: Senator Hancock.
6 SENATOR HANCOCK: Aye.
7 MS. GENERA: Assembly Member Gorell.
8 ASSEMBLY MEMBER GORELL: Aye.
9 MS. GENERA: Assembly Member Brownley.
10 ASSEMBLY MEMBER BROWNLEY: Aye.
11 MS. GENERA: Assembly Member Buchanan.
12 ASSEMBLY MEMBER BUCHANAN: Aye.
13 MS. GENERA: Scott Harvey.
14 Kathleen Moore.
15 MS. MOORE: Aye.
16 MS. GENERA: Lyn Greene.
17 MS. GREENE: Aye.
18 MS. GENERA: Cynthia Bryant. It carries.
19 CHAIRPERSON BRYANT: Okay. Moving onto --
20 MR. HANKE: Thank you very much.
21 CHAIRPERSON BRYANT: Moving on to Tab 11. Maybe
22 we'll just put this over. It's a February issue. Okay. So
23 Tab 11 is our next round of **priorities in funding** for the
24 SFP. Before staff starts -- hopefully this won't take too
25 long, but I did want to thank them. I know we got this item

1 really late, but this has been very, very complicated
2 calculations because we have so many bond funds and we're a
3 little short in one area and I think Michael has literally
4 gone through every possible scenario there is and we have --
5 every time we do this, we learn an awful lot. So I just
6 wanted to publicly thank Michael and the entire OPSC team
7 for their countless thousands of hours that it took to get
8 this item done.

9 And at the end of the day, which I think it will
10 come out, is that there is going to be a little bit of
11 change left over. We had talked about the money in the
12 couch cushions which Michael was to get as much -- I wanted
13 to get it all apportioned today. I want it to be done until
14 the next bond sale, but we didn't make it and I -- in the
15 end, we just really don't want to make a mistake and over
16 apportion and we want to make sure that everybody has an
17 opportunity to get money. So there will be a small --
18 assuming the Board agrees, a small round as well in January
19 adding onto this, so we can do some additional
20 apportionments.

21 And there's one other area that I neglected and
22 I'm going to convene a meeting in my office on Monday to
23 discuss this a little bit further, but one of the -- you
24 know, there's this issue of the DIR regulations that we
25 recently had to temporarily repeal and the DIR is getting

1 ready to -- they're working on redoing those regulations.
2 It's related to, you know, labor compliance.

3 I want to make sure that we have a process in
4 place where for the period of time that those regulations
5 were in place, where districts were disadvantaged whether
6 because they were counting on DIR or they failed to have an
7 LCP in place that all of that is worked out and so those
8 people who are in 47 and 55 at some point down the line
9 can -- we can make right -- make that good and also make --
10 and also provide clear guidance to future auditors of what
11 the rules of the game were at this last period of 2010.

12 Unfortunately that's going to end up being a
13 February issue, but I am going to convene a stakeholder
14 meeting prior to my departure to make sure that we at least
15 have a framework in place that I can hand off to the next
16 Director of Finance, who coincidentally was the previous
17 Director of Finance, and then we can work on that going
18 forward.

19 So I just wanted to say that before we get going
20 and with that, Michael, you can take it away -- or Lisa,
21 whoever's doing it.

22 MS. SILVERMAN: Yeah. I won't do the numbers.
23 I'll let Michael do all the number crunching for us. But
24 again we're definitely at a historical point today where we
25 actually are providing at least at the Board's will

1 \$1.4 billion in apportionments and that's great news to the
2 program.

3 As Cynthia shared with you earlier is the whole
4 goal is to not only throw in the cash that we were going to
5 receive in the bond sale but also like I said, check the
6 couch cushion, check for any change that we have lying
7 around and that came to -- to reconcile at \$253 million. So
8 in total, the total cash available for the priority of
9 funding round is at least \$1.73 billion in cash. So that's
10 phenomenal. I mean we searched high and low and we're able
11 to reconcile. Again the goal was to bring any cash and
12 rescissions and excess prior bond funds to the Board and try
13 to draw a clear line in providing a clear allocation.

14 So what's involved in this item is we are
15 reconciling the second priority round. There was a second
16 priority round that was established by the Board with an
17 open period from October 7th through November 8th in which
18 districts were required to provide certifications in which
19 they understand the time limit of the fund release shall be
20 no more than 90 days from the date of apportionment pursuant
21 to the Board's action at the October 6th meeting.

22 And the district also acknowledges that failure to
23 submit the completed fund release authorization within the
24 90-day period will result in the project being rescinded and
25 the project will be reverted to the unfunded approval list

1 at the bottom of the list, again not guaranteed any bond
2 authority.

3 And the applications that we receive via this --
4 and products receiving approval date would be active until
5 March 15th, 2011. And also the district also had to
6 acknowledge that participating in this priority funding
7 round, the district is waiving its right at the standard
8 18-month timeline with respect to the fund release.

9 So again like we highlighted, staff did a total
10 reconciliation. Again the cash available for this -- for
11 priorities is \$1.73 billion.

12 We wanted to provide you a summary. On page
13 231 -- excuse me -- 232, this is a summary of the projects
14 that actually submitted for priorities. With that, we had
15 174 school districts for 623 of the 863 projects sitting on
16 the unfunded list. So that represents 72 percent of the
17 projects actually did submit that were sitting on the
18 unfunded list.

19 The total request we received was \$2 billion, so
20 \$1.9 billion in requests. So obviously that far exceeds
21 our -- what we are presenting today, the \$1.46 million in
22 apportionments. Again the recommended apportionments are
23 based on the unfunded approval date and received date of the
24 applications that they submitted.

25 So in total OPSC identified 439 apportionment

1 requests of \$1.3 billion that are eligible for apportionment
2 and the attachments provide a detailed list of all
3 apportionment requests received for this filing period.

4 So also noted on the attachment are highlighted
5 applications up to the allotted \$1.46 billion in each of the
6 funding source which will receive an apportionment based on
7 the unfunded approval dates. Again we have set-aside pots
8 of various bond pots for -- to respond to potential issues
9 taken in Tab 12 respectfully. That could be a play of at
10 least \$264 million.

11 Likewise again we would like to share with you
12 that the distribution of funds is obviously limited to the
13 various bond pots and the technicality of whether or not
14 it's taxable or tax exempt bonds.

15 So in order -- again in order to maximize a
16 project funding in each of the fund source, OPSC determined
17 some bond switching that could be accomplished up to the
18 amount of the remaining bond authority. So again depending
19 on the outcome of some of the items listed in the agenda, it
20 could potentially present additional funding item if
21 necessary. Again the goal is to bring those projects back
22 and provide apportionments to the projects that we haven't
23 completed on the list. So that's our goal.

24 So here's a summary of the data request of the
25 projects that submitted for priorities of funding in its

1 respectful categories. Again I won't bore you with all the
2 details. And likewise we're going to match those projects
3 that submitted and actually draw a clear line to some extent
4 of what we can provide apportionments today, so also is
5 another line -- another chart that clearly delineates what
6 we're providing in apportionments.

7 There's going to be 26 applications for
8 overcrowded relief grants of estimated \$152 million for 13
9 districts and 145 new construction grants of over
10 \$581 million for 84 districts and 235 modernization grants
11 for \$442 million for 79 districts, two charter school
12 projects that represent \$9.3 million -- excuse me -- yeah --
13 for one district, site only request which represents four
14 projects, a total of \$7.2 million and that's four districts,
15 and critically overcrowded schools, 11 projects for
16 \$220 million representing one district, and a facility
17 hardship application. That's 16 in total with \$24 million
18 and that represents 12 districts.

19 Again the approved applications received in the
20 State apportionments are required to submit the complete
21 Form 50-05 containing the original signature and must be
22 physically received to the Office of Public School
23 Construction in the stated address by March 15th, 2011.

24 If the OPSC fails to receive the complete form
25 within the allotted time frame, the project will be

1 rescinded without further Board action and will receive a
2 new unfunded approval date of March 15th, 2011. With that,
3 we recommend approval of the items as stated in Attachment A
4 and declare that all applications received and
5 apportionments are subject to the new construction grant
6 increases that are not considered full and final.

7 With that, I open it up for questions.

8 CHAIRPERSON BRYANT: Are there any questions for
9 Ms. Silverman?

10 SENATOR HANCOCK: I would move the apportionment,
11 the item --

12 ASSEMBLY MEMBER BUCHANAN: Second.

13 SENATOR HANCOCK: -- and congratulate the staff
14 and everyone connected with it.

15 MR. HARVEY: Hear, hear.

16 SENATOR HANCOCK: It's a great achievement.

17 (Applause)

18 CHAIRPERSON BRYANT: So if -- let's go ahead. We
19 have a motion and a second. All those in favor.

20 (Ayes)

21 CHAIRPERSON BRYANT: Any opposed? Abstentions?
22 Motion carries. Okay. Item No. -- Tab 12. I'm going -- I
23 have to take a break again. So Mr. Harvey will do the --

24 MR. HARVEY: We can begin with the staff report
25 and then we'll have public testimony.

1 MS. KAMPMIENERT: Behind Tab 12 is the item for
2 **preliminary apportionment advance fund release options.** The
3 Board touched on this subject a couple months ago when the
4 \$10 million was made available for the charter school
5 lottery, but there are two programs within the School
6 Facilities Program that have cash needs that are typically
7 not represented on the unfunded approvals list.

8 As Lisa mentioned in Tab 11, there are some funds
9 that have been set aside, depending on the Board's decision
10 on this item. I'm going to start with the Charter School
11 Facilities Program which has -- it's set up -- structured as
12 a preliminary apportionment and charter schools can request
13 advanced site and design fund releases based off of their
14 preliminary apportionments.

15 Because this is not an unfunded approval, you
16 don't see it on the unfunded approvals list. The need for
17 this funding is about \$178 million if you take all of the
18 preliminary apportionments that the Board has granted.

19 The \$10 million was made available by the Board a
20 couple months ago, but it's far short of the need. Now, in
21 this program, the right type of bond proceed needs to be
22 available for the Board to make the cash available for the
23 advanced fund releases.

24 Because of the low component, the bond proceeds
25 need to have -- need to be taxable so that the loans can be

1 covered for the charter schools. Now, these -- I believe as
2 I mentioned in a different item, these are schools that
3 don't necessarily have the ability to move forward on their
4 projects without having some assistance with the design cost
5 and with -- assistance with paying for the site.

6 So effectively the program has been halted since
7 the cash freeze happened. So we haven't seen a lot of
8 movement in the program. The good news is that the
9 preliminary apportionments were inactive, so the statutory
10 timelines are still there, but it's very difficult for the
11 charter schools to move forward on their projects without
12 access to these funds.

13 So we have received taxable proceeds for the
14 latest bond sales. So the Board is in a position where you
15 have some options on how you want to address the needs for
16 this program and staff has laid out several options for
17 addressing this issue.

18 Now, the funds here -- obviously it's a balance
19 between competing cash needs, so the options are structured
20 to give you some flexibility in how much money you may want
21 to put towards this purpose.

22 Option No. 1 would set aside the entire amount
23 that's necessary to cover the advanced apportionments for
24 all charter schools that have design or site fund releases
25 still out there. That's \$178 million. Now, some of the --

1 the benefits to this option are that it would basically
2 restore the program back to where it was before the fiscal
3 crisis. Charter schools could move forward again and we
4 would start to see projects convert. You would have the
5 ability to reactivate any projects that had access to the
6 cash.

7 The disadvantage is that money could potentially
8 sit for a while. There is no time limit on when a charter
9 school has to come in for an advance fund release for design
10 or site and the time limits on some of the newer filing
11 rounds are three and a half to four or possibly five years
12 out. We do have a batch of projects that would potentially
13 only be 14 months out if reactivated, but that is only about
14 \$40 million, so it's a small piece of the money.

15 Now Option 2 would not reserve the cash. It would
16 put the charter schools -- put just the advanced design and
17 site amounts onto the unfunded list using the preliminary
18 apportionment date, which typically is much earlier, so they
19 would go pretty high up to the top of the list.

20 Now Option 2's kind of a hybrid because it would
21 put advanced apportionments -- excuse me -- advanced fund
22 releases on the unfunded list; however, we also have a known
23 immediate need based on the \$10 million that the Board made
24 available. We had \$56 million worth of applications come in
25 for that lottery and only \$10 million. So we still have

1 \$46 million worth of need for charter schools that have
2 indicated that they can forward within a time frame because
3 the lottery did have a 90, 120, or 150-day time frame
4 depending on the number of applicants that were funded.

5 So in this option, the Board could consider making
6 additional cash available for the lottery to cover all of
7 those that submitted a request and then future advanced
8 design and site fund releases could be placed on the
9 unfunded list for consideration in additional filing --
10 priority filing rounds.

11 The disadvantage -- well, the advantage to this is
12 that it gets the cash out the door within a set time frame.
13 Money's not sitting there and folks would have an
14 opportunity in the future to access proceeds from additional
15 bond sales.

16 The disadvantage is that when the lottery
17 occurred, folks thought it was for \$10 million. They didn't
18 know that their decision to participate in a lottery was
19 going to have any sort of bearing on the disbursement of future
20 bond proceeds. So they may be at a disadvantage for not
21 having applied. Maybe their advanced fund release was in
22 excess of the \$10 million and they needed more than that in
23 order to purchase a site. So it's a possibility that they
24 didn't apply simply because the number was too low in the
25 lottery.

1 Options 3, 4, and 5 are similar to Option 1 in
2 structure, that it's a reservation of funding and it deals
3 with the different filing rounds. So in Option 3, you would
4 be dealing with the two oldest filing rounds first, those
5 projects awarded preliminary apportionments in 2005 and
6 2008. These are the rounds that have actually been declared
7 inactive. The total need there is \$168 million.

8 Under Option 4, you'd be dealing with only the
9 oldest filing round which was in 2005 and that's a
10 \$40 million need. And in Option 5, you'd be dealing with
11 the two newer rounds, Proposition 1D which was in 2008 and
12 then the 2009 filing round and that need is roughly
13 \$138 million and Option 5, the end balance and the cash
14 proceeds available for the October 2010 priority round, we
15 have the least amount of money in Proposition 55. So that
16 would free up some additional money for Proposition 55 for
17 priority funding apportionments. And it also deals with the
18 newer projects.

19 There's a mix of projects in these other options
20 because -- just because they're the oldest projects doesn't
21 necessarily mean they're ready to move forward. Some of the
22 newer projects may be in a better position to move forward
23 more quickly. It all depends.

24 So -- and then Option 6 would not make any cash
25 available for the CSFP advanced fund releases.

1 And then we have -- as a second piece of this
2 item, we have the critically overcrowded schools,
3 environmental hardship fund releases. They're structured
4 the same way as advanced site fund releases in the charter
5 program. Again these are for the sites that require
6 extensive cleanup and it is based off of the preliminary
7 apportionments. So again this need -- this cash need is not
8 on the unfunded approvals list at this time.

9 Now, there are -- of the districts with the
10 remaining preliminary apportionments, it is Los Angeles
11 Unified that has environmental hardship approvals that are
12 waiting for a cash need. Now, they have -- with the last
13 action of the Board took, several of their projects that had
14 environmental hardship approvals were covered with the full
15 grant funding. So that's good. So it lowered our totals
16 here.

17 Under Option 1, it's similar to the structure of
18 the charter school Option 1 where you -- the Board would be
19 reserving \$86.6 million for the environmental hardship fund
20 releases. Staff's original recommendation was to do that so
21 that you could reactivate the program and Los Angeles, for
22 most of those fund releases, could come in right away.

23 You could reactivate the program, get that going.
24 COS projects would have the ten months to convert if you
25 chose to make the money available for all of the projects.

1 However, we have talked to the district and it's our
2 understanding that they favor Option 2 because they may not
3 be ready to request funding on one of them and they wouldn't
4 want to tie up the money unnecessarily.

5 So under Option 2, the environmental hardship
6 approvals would be placed on the unfunded approval list and
7 you could include them in the October 2010 priority funding
8 round because the district did -- in thinking ahead, they
9 did request October 2010 priority funding round cash for
10 some of their environmental hardship approvals. So the
11 immediate cash need would be about \$58.9 million and then
12 for any that they have not requested in the October 2010
13 priority round, those could go on the unfunded list for
14 future priority funding rounds.

15 And then Option 3 would make no money available
16 for this purpose at the time.

17 So the staff recommended under the Charter School
18 Facilities Program is Option 1 so that we can get the
19 program moving again and with Option 2, originally we were
20 favoring Option 1 to get it moving again, but it has come to
21 our attention that that could potentially leave cash sitting
22 there and that the district would prefer Option 2. And
23 that --

24 MR. HARVEY: Any questions of staff before we seek
25 public input? Seeing none, if we could have our public

1 speakers come to the podium and identify yourself for the
2 record.

3 MR. BUSH: Members of the Board, my name is Jim
4 Bush. I have a company called School Site Solutions. We
5 work with a number of school districts and charters and we
6 have about five charter clients.

7 Two of the charter clients that I'm working with
8 are actually on the list for the \$10 million, but they
9 finished a little bit lower than what they'll probably get
10 funded for, but they applied and participated in that
11 program.

12 Several other charters that I'm aware of that I'm
13 working with did not participate in that because their
14 allocation and what they needed was well beyond the
15 6 million plus that was part of Prop. 55 reservation for the
16 lottery and the 3 plus that was available for 1D. For
17 example, one of the charters I'm working with, the site
18 acquisition alone was \$14 million in an urban area and so
19 they chose not to submit a letter because they were well
20 beyond the \$10 million that was part of that program and
21 they just couldn't purchase a piece of property that would
22 only get you a small portion.

23 So -- and then just another charter I'm working
24 with has a construction project going to DSA shortly for
25 about \$11 million, so they chose not to participate in the

1 lottery also because they wouldn't be able to net enough to
2 make the project worthwhile.

3 So I guess my message is if you choose an option,
4 I would recommend that you provide additional funding beyond
5 the Option 2 which is just the charters that are on that
6 list and provide enough time for charters to be able to
7 satisfy the requirements to move into a site purchase and
8 move into a construction project. And I would just
9 recommend that some time period be allowed for charters.

10 Essentially a charter is a financial hardship
11 project. They don't have any funds to allocate to the
12 project except for these funds. So it's difficult to move
13 from a planning project to a site acquisition project to a
14 construction project without the ability to have some money
15 reserved. Thank you very much.

16 MR. HARVEY: Thank you.

17 MR. WALRATH: Dave Walrath representing California
18 Charter Schools Association. Jim laid out the issue fairly
19 clearly on problems being able to move from planning to site
20 to new construction to timing, the ability to know that
21 revenues are available. The problem with the Option 2 which
22 was laid out by staff as well that people didn't know that
23 this was your only shot at applying to know if you could be
24 within a list for funding on a priority in funding option.

25 Representing charter schools, we actually prefer

1 Option 1. We also have talked to a number of you and the
2 concern about ensuring that funds go out. We would hope
3 that you would look at a variety of issues. One is we know
4 Option 2 is the minimum. And if you're coming back in
5 January or February, you theoretically could reopen for
6 charters during that month period and let those who didn't
7 apply similar to Jim's clients an option to apply and then
8 come back for consideration in January.

9 Additionally, we hope you would look at changing
10 the rules of the game for charters when you're looking in
11 January and February and coming back for the next bond sale.
12 Remember, we still have to go through California School
13 Finance Authority to ensure financial solvency. A 90-day
14 period is nigh unto impossible to look at changing the
15 structure in order to allow charters to move their projects
16 forward and be consistent with Proposition 1D which
17 dedicated \$500 million for charter projects.

18 It was done under the theory we would have AB-55
19 loans. We're not there. How do we change this program.
20 How do we make it more balanced, make it open for everybody.
21 We recognize your concerns of getting money out, having
22 people employed, having nails driven as fast as possible,
23 but we would hope you would look at potentially allowing a
24 one-month reopener of the additional similar to the
25 10 million, come back in when you have a look in January as

1 well as directing staff to come back with alternative time
2 frames for charter schools. Thank you.

3 MR. HARVEY: Thank you. Are there any other
4 public speakers on this matter?

5 ASSEMBLY MEMBER BROWNLEY: I had a question of the
6 speaker.

7 MR. HARVEY: I'm sorry. We have a question before
8 we move on. Please.

9 ASSEMBLY MEMBER BROWNLEY: I just had one
10 question. So, you know, I'm hearing your arguments around
11 the timing issue and I'm certainly one that is interested to
12 see if we can in essence hold charter schools in the
13 paradigm that we've sort of established in terms of trying
14 to get projects out the door as quickly as possible.

15 So I mean what is realistic from your vantage
16 point? I mean five years doesn't sound so good. And -- but
17 I understand some of the obstacles here. So I mean what is
18 reasonable to give charter schools what we committed to give
19 them and sort of be playing the same -- be in parity,
20 playing the same game that every other school district is
21 playing.

22 MR. WALRATH: We surveyed our membership and it's
23 not a perfect survey. No survey ever is. But it appears
24 from that result on an 18 month to new construction, about
25 425 million. So similar to career technical education

1 18 month because of the challenges they have to go through
2 the multiple approvals and everything else, at least from
3 the survey we did, quick and dirty, very fast, an 18 month
4 would be about 425 mill rather than a five year. So that is
5 one line.

6 We did not receive information back on alternative
7 lines, either an alternative line of 24 months or an
8 alternative line at 12 months. We are still hoping to get
9 some of that information. If you directed staff to come
10 back with alternatives, we would be working with them,
11 trying to get better data on what could go out within a
12 reasonable time frame to address the issue.

13 ASSEMBLY MEMBER BROWNLEY: And of these charter
14 schools that you surveyed, are they all --

15 MR. WALRATH: Oh, it's on the list of preliminary
16 approvals, the 2009, 55 and Prop. 1D.

17 ASSEMBLY MEMBER BROWNLEY: Okay. But are they all
18 sort of in different places? I mean are some they haven't
19 even made a land acquisition, some have made land
20 acquisitions and are ready to do design or -- I mean is it
21 sort of across the board?

22 MR. WALRATH: They're in different places. Some
23 are closer to site acquisition than being able to go into
24 new construction. Some are design going into site
25 acquisition. Some are not that far. Remember, we're

1 talking about approximately \$800 million when you look at
2 all 47, 55, and 1D. So to the extent you're dealing 425, it
3 is still a subset and so there are some who will not be
4 moving as rapidly as we might hope and like I say, we would
5 be working with everything to refine those numbers and have
6 more assurance.

7 We were asking could you make a commitment and
8 this is what the answer we have back, presuming that they
9 knew what a commitment meant.

10 ASSEMBLY MEMBER BROWNLEY: And do you think it
11 potentially might be fair to look at sort of each segment of
12 the construction phase, design phase, land --

13 MR. WALRATH: Going back --

14 ASSEMBLY MEMBER BROWNLEY: -- acquisition and
15 looking at sort of a time frame --

16 MR. WALRATH: Yeah. Different numbers for
17 different phases.

18 ASSEMBLY MEMBER BROWNLEY: -- deadline.

19 MR. WALRATH: Yes. Different deadlines for
20 different phases. Absolutely.

21 ASSEMBLY MEMBER BROWNLEY: Okay. Thank you.

22 MR. HARVEY: Are there any other questions of this
23 speaker? Please.

24 ASSEMBLY MEMBER BUCHANAN: So I want to see if I'm
25 hearing you correctly because I know we have letters asking

1 for Option 1, but if I'm hearing you correctly, whether we
2 adopt Option 1 or Option 2, what you're really saying is we
3 don't have enough information to really understand the full
4 scope of the needs of charter schools and make the program
5 work for them given the commitment that we've made to
6 charter schools in the bonds. Is that --

7 MR. WALRATH: Not quite.

8 ASSEMBLY MEMBER BUCHANAN: Okay.

9 MR. WALRATH: Option 1 would basically reserve the
10 funds for an unspecified period of time. A number of the
11 members of the Board have indicated that it's contrary to
12 the Board's policy of trying to have money out within set
13 periods of time.

14 ASSEMBLY MEMBER BUCHANAN: Right.

15 MR. WALRATH: We would prefer Option 1.

16 ASSEMBLY MEMBER BUCHANAN: Right.

17 MR. WALRATH: Recognizing, however, that Option 1
18 might not be an option that is consistent with the Board
19 adopted policy that you have on priorities in funding. So
20 we're trying to look at some way of doing an alternative to
21 the terms of five years is a long time versus 90 days.

22 ASSEMBLY MEMBER BUCHANAN: So I appreciate that
23 because I was one of the Board members when we talked about
24 reserving the 10 million whose primary concern was how do we
25 make sure it goes out and translates into, you know, jobs

1 and the -- you know, the hammers or nails or anything else
2 and get people back to work.

3 So then what you're saying is you would be
4 comfortable with Option 2 provided we had follow-up that
5 would -- after the first of the year, that working with you,
6 had follow-up so that we could determine what we needed to
7 do to be able to meet the long-term needs of the charter
8 schools there.

9 MR. WALRATH: Yes. And if possible to reopen for
10 those who didn't apply for the 10 million but could have an
11 opportunity to do that between now and January.

12 ASSEMBLY MEMBER BUCHANAN: Okay. So it would be
13 Option 2 with the ability for those districts who didn't
14 apply to submit applications and then to work with you to
15 determine how we can administer this program in an effective
16 way for charter schools.

17 MR. WALRATH: Correct.

18 ASSEMBLY MEMBER BUCHANAN: Okay.

19 MR. HARVEY: Ms. Moore, do you have a question or
20 a statement?

21 MS. MOORE: No. I'm -- are you continuing on?

22 ASSEMBLY MEMBER BUCHANAN: Well, we have another
23 speaker, so I didn't -- so go ahead. I'm --

24 MS. MOORE: Do you want to wait for the other
25 speaker?

1 MR. HARVEY: We sure can unless you have a
2 particular issue. I guess we are done really. Please. For
3 the record, your name.

4 MR. ARNOLD: Members of the Board, my name is Paul
5 Arnold, Superintendent/Principal of Bangor Elementary School
6 District in Butte County. I guess I'm here today to ask for
7 reservation of funding for our financial hardship and for
8 construction of a gym and multipurpose room on our campus
9 because none currently exist.

10 I was scheduled to be here October 6th to have my
11 appeal heard to backdate my application approval as a
12 consent special. However, my agenda item was inexplicably
13 pulled on October 5th and I have not been able to get back
14 on the agenda yet.

15 MR. HARVEY: Sir, one moment, please. Sir.

16 MR. ARNOLD: Yes.

17 MR. HARVEY: Thank you very much. I want to make
18 sure we're germane to the action item in front of us. It
19 sounds like you are speaking to an item which is not on our
20 agenda. It may be a compelling issue, but I'm not sure it's
21 on the agenda. Can I have some advice as to whether he
22 should be heard under public comment or whether he may speak
23 to this issue which is an apportionment question.

24 MR. DAVIS: Mr. Harvey, I believe we do reserve
25 time at the end of our meeting for public comment --

1 additional public comment that may not be on the agenda.

2 MR. HARVEY: Is it safe to say the Bangor matter
3 is not before us and that would be the more appropriate time
4 to hear this interesting and compelling argument?

5 MR. DAVIS: It is my understanding it will be
6 coming before the Board imminently.

7 MR. HARVEY: With that advice, I would ask that
8 you address us at the public comment portion. We do want to
9 hear your issues, but it's not relative to Agenda Item 12.
10 Thank you very much.

11 A question.

12 ASSEMBLY MEMBER BROWNLEY: Well, I didn't have a
13 question. I wanted to make a motion.

14 MR. HARVEY: A motion is always in order.

15 ASSEMBLY MEMBER BROWNLEY: Well, I wanted to make
16 a motion along the lines of Assembly Member Buchanan
17 relative to accepting Option No. 2 and directing staff to
18 come back with us relative to some options that we could
19 look at to get charter schools on a faster time frame and
20 how that's looked at on a phase process and also have them
21 come back in terms of having another opportunity to get into
22 the cue, and that would be my motion.

23 CHAIRPERSON BRYANT: Would you also cover the
24 issue on the COS Option 2 in this? We have two issues, the
25 one with charter schools and the other with --

1 ASSEMBLY MEMBER BROWNLEY: Yes. I would move
2 Option 2 for the second part as well.

3 MR. HARVEY: So our motion is Option 2 on both of
4 these matters. There is a subset on the first relative to
5 staff coming back. Is the 90-day time frame or some time
6 frame reasonable, staff, to fulfill this issue of flushing
7 out and putting them on a more equal playing field but also
8 making sure whatever we do gets the money out the door and
9 doesn't have the five-year lag time and such?

10 MS. KAMPMIENERT: Can I ask a question on the
11 motion?

12 MR. HARVEY: Oh, absolutely.

13 MS. KAMPMIENERT: On Option 2, it also puts the
14 remaining advanced design and site fund releases -- fund
15 release requests on the unfunded list which would -- they
16 could participate in the priority funding round for 90 days.
17 So are you requesting that we come back and at a minimum
18 they would be able to participate with the 90-day timeline
19 and then we would come back with options to consider
20 altering the timeline for charter schools? Is that what
21 you'd like us to do?

22 ASSEMBLY MEMBER BROWNLEY: I mean certainly if
23 there are charter schools out there that can compete in the
24 90-day time frame, that's great. Let's move forward. Let's
25 treat them with the same parity as everyone else. But it

1 sounds like there are some obstacles for charter schools
2 that we should consider down the road or in the next 60 or
3 90 days.

4 MS. MOORE: Can I speak to the motion?

5 ASSEMBLY MEMBER BUCHANAN: If I hear the motion
6 correctly, it also allows those who didn't apply to come
7 back and apply; correct?

8 MS. KAMPMIENERT: Yes.

9 MR. HARVEY: Okay. Is the Board comfortable with
10 what the motion includes? Any questions on these Option 2s
11 with the amendments articulated?

12 MS. MOORE: I'd like to speak to the motion.

13 MR. HARVEY: Okay.

14 MS. MOORE: As I understand it, we -- whatever we
15 don't reserve today potentially is funding for other
16 priorities as well. So we heard earlier that we had
17 1.7 billion in cash. We apportioned -- or whatever the term
18 is now for cash, we put out 1.4 billion in cash which leaves
19 300 million in cash that is available to the Board.

20 We're putting out in this item 45 million -- I
21 think through this motion, 45 million's agreed for charters
22 and what is it, 83 million to environmental hardships.

23 ASSEMBLY MEMBER BROWNLEY: It's 46 million.

24 MS. MOORE: 46- -- environmental hardship, so, you
25 know, roughly what, less than half of that. We know that

1 people that are on the list that we subsequently approve
2 below the line are going to be very interest in what's
3 occurring, but I do believe and the Department believes that
4 charters have been disadvantaged in the system of
5 apportioning cash.

6 We've had approximately 4 billion in cash that's
7 gone out since 2008. As I understand it, charters have
8 received less than 1 percent of that. I do think they've
9 been disadvantaged and that they also have as -- Cynthia's
10 not here right now, but we sit on the California School
11 Finance Authority Board which also they have to go through
12 which is an additional check and balance in the charter
13 arena and it does take them longer time.

14 But I would think that we would want to actually
15 assign a cash value to this look so that it's a known for
16 the charters and it's a known for the noncharters and where
17 they may stand in the -- you know, in January for potential
18 funding as well because cash is so valuable right now.

19 And I would proposed that if you would be open to
20 an amendment that that amount be 50 million additional; so
21 95 million for Option 2 with a round that the charters that
22 may not -- may have been dissuaded from coming in on the
23 10 million because it was so little that they have another
24 30 days in which to do another round because again I think
25 the interest of everyone is to provide incentives for people

1 to move their projects forward, charters included.

2 And, yes, they may need an additional, you know,
3 maybe six months to perfect that project versus three
4 months. We're talking sites and we're talking planning.
5 We're not talking construction in this amount and then that
6 way charters know that they have that amount to work with.
7 We hope that they come forward in 30 days and participate in
8 that program. If they don't, the Board has authority over
9 that funding and maybe there's somewhere else that it's
10 more -- that we should provide it to as a resource.

11 And then other local school districts can gear
12 their place on the list that we just established and it
13 gives I think a more solid lay of the land for people to
14 make their decisions with then.

15 ASSEMBLY MEMBER BROWNLEY: You know, I'm certainly
16 happy to consider that as an option. I think the only
17 caveat -- and you might have already said it and I just
18 missed it. But the only caveat that I would certainly like
19 to see is that if we increase the amount as you're
20 suggesting, when staff comes back and I presume staff will
21 do their due diligence about coming up with a fair process
22 so there is parity between charter schools and noncharter
23 schools and so the caveat being that when they do that that
24 we create -- when we agree upon some time frame, if that
25 time frame -- if they don't meet that time frame and there's

1 money left over in some sense that we have the option then
2 to move that money elsewhere.

3 MS. MOORE: I completely agree because cash is so
4 valuable and -- but I do believe that charters have been
5 disadvantaged and that we should try and rectify that and
6 give them their fair shot at it as well, given the knowledge
7 that we know they have an additional board to clear before
8 they come here as well.

9 MR. HARVEY: May I be just a little arbitrary and
10 say that we will handle that very good public policy
11 question in a separate motion. I sense that there is
12 consensus on the motion regarding Option 2 for the 45- and
13 the 58- with the request to come back for some additional
14 information. Why don't we handle the additional funding
15 question in a separate motion. So let's --

16 MS. MOORE: Is it 58- or 86-?

17 MS. KAPLAN: 58-.

18 MR. HARVEY: It's 58- because LA and staff agreed
19 that Option 2 was more appropriate for their needs and
20 Option 2 is 58,8-.

21 MS. MOORE: Thank you. Got it.

22 MR. HARVEY: So can we have a roll call on that
23 motion.

24 ASSEMBLY MEMBER BROWNLEY: Well, I don't think we
25 have a second to the motion.

1 MR. HARVEY: I'll second it.

2 MS. GENERA: Senator Lowenthal.

3 SENATOR LOWENTHAL: We've upped the amount or are
4 we doing -- we're not doing -- we just doing the --

5 MR. HARVEY: We're just --

6 SENATOR LOWENTHAL: Aye.

7 MS. GENERA: Assembly Member Gorell.

8 ASSEMBLY MEMBER GORELL: Aye.

9 MS. GENERA: Assembly Member Brownley.

10 ASSEMBLY MEMBER BROWNLEY: Aye.

11 MS. GENERA: Assembly Member Buchanan.

12 ASSEMBLY MEMBER BUCHANAN: Aye.

13 MS. GENERA: Scott Harvey.

14 MR. HARVEY: Aye.

15 MS. GENERA: Kathleen Moore.

16 MS. MOORE: Aye.

17 MS. GENERA: Lyn Greene.

18 MS. GREENE: Aye.

19 MS. GENERA: It carries.

20 MR. HARVEY: Now, Ms. Moore, would you restate
21 your motion on the 50,000 with whatever conditions you wish
22 and we'll see -- 50 million. I'm sorry. 50,000, yes.

23 MS. MOORE: That we place 50- --

24 MR. HARVEY: A dollar here, a dollar there.

25 MS. MOORE: That we place an additional 50 million

1 into a second funding round for charters in the same manner
2 that we did the 10 million that -- that was a 30-day period,
3 wasn't it -- for a 30-day period and ask the staff to come
4 back additionally with a reasonable time frame for those
5 site and plans to work through perhaps longer than 90 days,
6 shorter than five years obviously, but I would say the -- an
7 accelerated time frame that's reasonable for charters.

8 ASSEMBLY MEMBER BROWNLEY: I'd second that.

9 MR. HARVEY: We have a motion and a second. Is
10 there discussion on it? Otherwise we'll call for a vote.
11 Mr. Davis.

12 MR. DAVIS: Just want to be clear what the -- if
13 somebody could restate so we know -- I wasn't clear on what
14 the motion was.

15 MS. MOORE: Did you have a question --

16 MS. KAMPMIENERT: Can I ask a quick question? The
17 \$10 million charter lottery did have some time frames
18 associated with it depending on the number of recipients.
19 We had a 90, 120, or 150-day scenario. For the 50 million
20 that you're proposing, do you want those time frames to be
21 the same or do you want to make 50 million available and
22 have us come back with consideration for perhaps --

23 MS. MOORE: No. We've already established those
24 time frames. I don't see any reason to change them. So I'd
25 stick within your existing framework.

1 MS. KAMPMIENERT: Okay. And then in the future,
2 for future cash advance, we would --

3 MS. MOORE: And if you'd like me to clarify again,
4 I would say that my -- the motion is for placing 50 million
5 from the remaining cash for an additional charter round
6 under the same structure that the previous round was for
7 site and plans and also come back with the recommendation on
8 the amount of time that those site and plans should perfect
9 to the next stage. Currently it's 90 days for all other
10 fund releases and whether we should extend that because of
11 the California School Finance Authority component of the
12 charter approval process.

13 ASSEMBLY MEMBER BROWNLEY: So, Ms. Moore, then --
14 can you just clarify for me then on the motion that just
15 passed on the amount -- what was the amount -- 46 million,
16 how does that money in your mind --

17 MS. MOORE: It goes out in 90 days in my mind. I
18 think the Board -- unless you say something else.

19 MS. KAMPMIENERT: It's the same time frame as the
20 lottery. I think that may have bumped it to 120 days based
21 on the number of recipients. One to eight recipients was 90
22 days and I think it was 9 to 15 recipients was 120 days. So
23 you may have an additional 30 days based on the previous --

24 ASSEMBLY MEMBER BROWNLEY: And so what was the
25 time frame for the 10 million, if you could remind me what

1 that was?

2 MS. KAMPMIENERT: For the \$10 million, we had it
3 structured because the California School Finance Authority
4 has to do financial soundness reviews and they would be
5 getting a large sum of reviews all at the same time --

6 ASSEMBLY MEMBER BROWNLEY: Um-hmm.

7 MS. KAMPMIENERT: -- for the lottery, we
8 structured it so that based on what they thought they could
9 reasonably process within 90 days and 120 days and 150 days.
10 Right now it's 90 days because for the 10 million we only
11 had two complete funding with partials. So it was either
12 two to four depending on who accepted.

13 ASSEMBLY MEMBER BROWNLEY: Uh-huh.

14 MS. KAMPMIENERT: With the full group, that pushes
15 us past the eight recipients and I believe it pushes us into
16 the 120-day timeline for that funding.

17 ASSEMBLY MEMBER BROWNLEY: Okay. So the
18 recommendations that staff's going to come back, you know,
19 to get -- find something between 90 days and five years,
20 what would that apply to?

21 MS. MOORE: You know, I will clarify given what
22 Barbara indicated, that there already was a structure for
23 that -- for the amount or for the time frame based upon the
24 amount and I wouldn't -- I would say continue with that
25 structure. So it wouldn't be that they relook at it all.

1 It's that if it's 50 million, it's 130 days that they have
2 to bring their project to the next stage or get back in line
3 for cash.

4 ASSEMBLY MEMBER BROWNLEY: So based on your
5 motion, there's no need for staff to wrestle with a new
6 process. I'm just --

7 ASSEMBLY MEMBER BUCHANAN: But there are two --
8 there's a little bit of apples and oranges here. From what
9 I'm hearing, there's the process of augmenting the
10 10 million to 60 million I think is what you're talking
11 about and extending the time frame -- no? For districts? I
12 mean I --

13 MS. MOORE: Well, we fund three things. We've --
14 the 10 million already went. We just did the 56 million.

15 MR. HARVEY: Right.

16 MS. MOORE: So they're now at 56 million for
17 charters.

18 ASSEMBLY MEMBER BROWNLEY: Correct.

19 MS. MOORE: But this motion adds an additional
20 50-. The 10 million is under one time constraint; correct?
21 The 46 is under a different time constraint; correct? And
22 the 50 million would be under a different time constraint as
23 well -- or unless it falls within the same as the 46-.

24 MS. KAMPMIENERT: Actually the 46-, if you're
25 adding it to the 10 million, that would be all considered

1 part of that, so the first two charter schools would end up
2 getting the longer time frame. So for the 56 million, that
3 would all be part of the first lottery which would follow
4 the 120-day timeline based on the number of recipients. The
5 additional 50-, since that would be a new lottery and a new
6 timeline, that would have a different time frame depending
7 on the number of recipients. So that would be between 90
8 and 150 days. So you have a structure there.

9 And then what I was hearing from the charter
10 schools and I thought in some of the discussion was that
11 with Option 2 replacing the ones that do not get funded out
12 of either the 10 million or the 46 million or the additional
13 50 million, folks that do not participate in those two
14 filing rounds would go on the unfunded list with a
15 preliminary apportionment date. So if they could not do
16 that in future priority funding rounds in 90 days, I think
17 that was the question we had.

18 Do you want us to look at whether in future
19 priority funding rounds, since they would now be on the
20 unfunded list, do you want us to evaluate whether 90 days is
21 fair for the -- just as it is for other districts so I think
22 that's the question that --

23 MS. MOORE: That makes sense and I'm not
24 completely -- I'm not wedded to that we should do the time
25 frames established. However, I believe that cash is very

1 valuable and we have created incentives for school districts
2 to now go from 180 days to 90 days and they have shifted
3 accordingly.

4 I also think that charters should be in the same
5 paradigm as you said, with a caveat. They have an
6 additional hurdle and that that additional hurdle is another
7 board and another analysis. And I think that we should give
8 that time for that, but that they should be given the same
9 kind of incentive to move these things along because
10 ultimately it is the desire of the Board to both have
11 projects and jobs.

12 ASSEMBLY MEMBER BROWNLEY: Right. And I think I
13 completely agree -- I think we're in complete agreement in
14 the goal here. It's just I'm still a little bit confused
15 about how we're traveling there because --

16 ASSEMBLY MEMBER BUCHANAN: But I --

17 ASSEMBLY MEMBER BROWNLEY: There's the 10-.
18 There's the 46-. There's the 50- with various time frames
19 of which I'm not sure I'm completely clear on and in my
20 first motion, we said we -- staff was going to come back
21 with additional guidelines to get us in some -- somewhere
22 between 90 days and five years. In addition, the first
23 motion also included another -- setting up another time for
24 charter schools to come back up for a reapplication for more
25 funds.

1 So we've got right now everything on the table --

2 MS. MOORE: If -- if --

3 ASSEMBLY MEMBER BROWNLEY: -- here. We've got a
4 lot on the table.

5 ASSEMBLY MEMBER BUCHANAN: And let me kind of
6 go -- because I'm -- what I'm hearing is that there were
7 districts that did not apply in the \$10 million round
8 because their projects exceeded the funding or, you know,
9 they couldn't be in the lottery and were trying to, as part
10 of what we're doing today, open up that access which is why
11 in the previous motion we allowed districts who hadn't
12 applied to apply.

13 If I hear you correctly, what you want to do is
14 continue to have an incentive to get projects out quickly,
15 but to rectify a problem where charters have had different
16 hoops to jump through than other schools and provide some
17 additional incentive in funding.

18 So I guess I've got -- so my question with regard
19 to that -- and I have another issue -- is, is there a reason
20 we couldn't treat that like the \$10 million and ask staff
21 to -- since districts were opening up the application
22 process, just to come back like they did with us with the
23 10 million and without putting any specific -- I mean ask
24 them to come back to us with how to get that out.

25 But what I'm also hearing though from the charter

1 schools and I think I'm hearing from you is that there's a
2 bigger issue in terms of the regulations don't work for
3 charter schools in the same way they work for your
4 traditional schools and we need staff to come back
5 separately to say what do we need to do to fix that so that
6 the process works fairly for both.

7 So I see two issues, one augmenting the
8 \$50 million to try and provide the incident, and two, how do
9 we make -- you know, make changes to the regulations to make
10 them work fairly for both.

11 ASSEMBLY MEMBER BROWNLEY: But the --

12 MR. HARVEY: And I saw her motion doing that
13 frankly.

14 ASSEMBLY MEMBER BROWNLEY: Oh, okay. But the only
15 obstacle that we're addressing in the -- for the 50,000 and
16 for the 10 -- or for the 50 million and previously the
17 10 million is the time in which it would take for those
18 projects to get through the CFA -- what is it called?

19 MS. MOORE: California School Finance Authority.

20 ASSEMBLY MEMBER BROWNLEY: School Finance. Right?

21 MS. MOORE: Yes.

22 ASSEMBLY MEMBER BROWNLEY: Okay. And I understand
23 that that's an obstacle and that needs to be addressed. I
24 also understand that charter schools don't have any cash, so
25 they need the cash up front to be able to go purchase land,

1 they have to do their design, they have to do all these
2 things which take time.

3 And I'm trying to also incentivize I guess in a
4 dual way, one for the students of California to have school
5 houses to learn in, but also for the State of California to
6 get people back to work, to get these projects out the door
7 as fast as we possibly can.

8 So by looking at the phasing of a project and
9 saying realistically what would be a good incentive for them
10 to work more quickly and perhaps prioritize that in their
11 things to do that they would. And so I guess I'm not -- I'm
12 seeing more money being allocated to jump the hurdle for the
13 process by which it has to go through the financing piece,
14 but we're not putting that money in a category of which it's
15 going to make them prioritize and get the project out the
16 door quicker.

17 MS. MOORE: But that's because I'm not explaining
18 it well because that is the goal as well. I think that
19 first we have charters that have not I believe received
20 their share of the cash. We also have a program that has
21 changed and has provided priority for those that move
22 quickly or that can take action.

23 We want to hold charters in the same place but
24 also recognize some of their differences. And so what I was
25 saying is place the 50 million in, do the round. They have

1 the 130 days to go through additional hoops, as you say, and
2 they move and if that is --

3 ASSEMBLY MEMBER BROWNLEY: But they might not
4 because it might be that the purchasing of their --

5 MS. MOORE: Then we --

6 MR. HARVEY: Then we get the money --

7 MS. MOORE: -- look at the larger issue because --
8 yeah. Any -- as we know, if you give 18 months, you can
9 take 18 months. If you gave 90 days, people took 90 days.
10 So it's -- and it's not an easy environment to work within.
11 90 days is very difficult for school districts and, you
12 know, we're giving charters, you know, three months more
13 than that perhaps -- or a couple of months more than that
14 but not that much.

15 So I was putting a time frame on it, but I --

16 ASSEMBLY MEMBER BROWNLEY: But just for one phase
17 of the project which is the financial approval, not for all
18 of the other things.

19 MS. MOORE: No. I'm saying that -- not for the
20 financial approval, for the perfecting the site and plan.
21 Just like that's how the program's operating right now;
22 right?

23 MS. KAMPMIENERT: Right. Under this current
24 lottery system, they have to actually submit the fund
25 release --

1 ASSEMBLY MEMBER BROWNLEY: Right. Mine says let's
2 get --

3 MS. KAMPMIENERT: -- the time frame --

4 ASSEMBLY MEMBER BROWNLEY: -- some money out the
5 door. Then let's come back --

6 MS. KAMPMIENERT: -- and financial soundness is
7 one piece of that, but they also have to have --
8 (indiscernible-simultaneous speaking) with the 10 million
9 and then with the 46 million and then potentially with the
10 50 million, they do have to come in for the funds within the
11 timeline set in the structure of the lottery. So that is
12 still there.

13 MR. HARVEY: Did everyone hear that?

14 ASSEMBLY MEMBER BUCHANAN: No.

15 ASSEMBLY MEMBER BROWNLEY: No.

16 MR. HARVEY: That just as in the 10 million, if we
17 add this 50 million, there is a time certain where they have
18 to come in and perfect. So it is like we got the 10 million
19 out within that time --

20 ASSEMBLY MEMBER BROWNLEY: Okay.

21 ASSEMBLY MEMBER BUCHANAN: So that's back to my
22 question is, is the motion --

23 ASSEMBLY MEMBER BROWNLEY: So that's shovel in the
24 ground?

25 ASSEMBLY MEMBER BUCHANAN: -- all we're doing is

1 augmenting the 10 million by 50 million? If that's the --
2 is that the motion?

3 ASSEMBLY MEMBER BROWNLEY: And that's shovel in
4 the ground.

5 MS. MOORE: They don't -- we're not dealing with
6 shovels in the ground. We are dealing with site and
7 planning. This is only site and planning.

8 ASSEMBLY MEMBER BUCHANAN: To get them to where
9 they can bid for shovels.

10 MS. MOORE: To get them to the shovel in the
11 ground because they -- yeah.

12 ASSEMBLY MEMBER BUCHANAN: Right.

13 ASSEMBLY MEMBER BROWNLEY: Okay.

14 ASSEMBLY MEMBER BUCHANAN: So again is the motion
15 to augment the 10 million by \$50 million so we can get more
16 projects to the point where they're ready to get shovels in
17 the ground? Is that what the motion is?

18 MR. HARVEY: Well, it's actually a separate round.
19 The 10 million has already run its course, so we wouldn't --

20 ASSEMBLY MEMBER BUCHANAN: Right.

21 MR. HARVEY: -- be augmenting yet, but we're
22 replicating it.

23 MS. MOORE: Actually the 46 million -- the
24 56 million has run its course by our prior action; correct?

25

1 MS. KAMPMIENERT: Correct.

2 MS. MOORE: So it's an additional 50 million to
3 have a round and that round is -- has a specific deadline
4 for moving to next stage or --

5 ASSEMBLY MEMBER BUCHANAN: So you want to create a
6 second round of \$50 million. Is that what we're doing?

7 MS. KAMPMIENERT: Correct.

8 MS. MOORE: Yes.

9 MR. HARVEY: Yes.

10 ASSEMBLY MEMBER BROWNLEY: So in two motions, we
11 would have allocated \$96 --

12 MR. HARVEY: Right.

13 ASSEMBLY MEMBER BROWNLEY: -- million and that
14 \$96 million, even though they're going to be separated into
15 two motions, would be dealt with by the same rules?

16 MS. KAMPMIENERT: Yes.

17 MS. MOORE: Yes, but --

18 MR. HARVEY: Yes. Yes.

19 MS. MOORE: But they would be different --

20 MR. HARVEY: Different time frames, but the same
21 rules.

22 MS. MOORE: -- because 46-, their clock starts
23 ticking today.

24 ASSEMBLY MEMBER BUCHANAN: So you want to create a
25 second round with \$50 million.

1 MR. HARVEY: Correct.

2 MS. MOORE: That is correct.

3 ASSEMBLY MEMBER BROWNLEY: Okay. And then staff
4 is going to come back with another set of rules in essence
5 to kind of get between this 90 day/five year thing for
6 whatever future monies we may allocate.

7 ASSEMBLY MEMBER BUCHANAN: Based on your motion.

8 MR. HARVEY: That's also correct.

9 ASSEMBLY MEMBER BROWNLEY: Okay. And in my
10 motion, we also said that they're going to have a second
11 round to apply.

12 ASSEMBLY MEMBER BUCHANAN: Right.

13 MR. HARVEY: This will be the second round.

14 ASSEMBLY MEMBER BUCHANAN: The -- what we're doing
15 is putting 50 million towards that.

16 MR. HARVEY: Toward that.

17 ASSEMBLY MEMBER BUCHANAN: Towards that round.

18 ASSEMBLY MEMBER BROWNLEY: Okay. All righty.

19 MR. HARVEY: Are you comfortable?

20 ASSEMBLY MEMBER BROWNLEY: Sorry that I'm slow on
21 the --

22 MR. HARVEY: You were the second of the motion.
23 Are you still comfortable as the second so we can have a
24 roll call?

25 ASSEMBLY MEMBER BROWNLEY: Yeah, I am. Yeah.

1 Yeah. Yes.

2 MR. HARVEY: We'll call the question.

3 MS. MOORE: Sorry for creating complexity.

4 MR. HARVEY: No. It's --

5 MS. MOORE: I also just want to say that once this
6 is done, we do have additional cash that's left over that we
7 may want to be discussing.

8 MR. HARVEY: I think the Chair indicated we would
9 be doing that next month.

10 ASSEMBLY MEMBER BROWNLEY: And the other thing
11 that I just wanted to add -- going back to my caveat. I
12 don't think that this is going to happen, but in the event
13 that it does and this time frame -- we've got now
14 \$96 million that we're talking about, if your motion passes,
15 that if the money doesn't go out the door that we have the
16 authority then to shift it back over to another bucket where
17 it will go out the door.

18 MR. HARVEY: And that we got discretion to do;
19 correct?

20 MS. SILVERMAN: That's correct. That's what we
21 shared in the item that we adopted, that any funds left over
22 would go follow through, you know, either a priorities round
23 to complete this round or open it up for a new round.

24 ASSEMBLY MEMBER BROWNLEY: All right. Thank you
25 very much for your patience.

1 SENATOR LOWENTHAL: One last question.

2 MR. HARVEY: Please.

3 SENATOR LOWENTHAL: If we -- we've approved -- if
4 we approve the -- we haven't voted on the -- the 46- we
5 have?

6 MR. HARVEY: Yes.

7 SENATOR LOWENTHAL: Right. So we've done the 46-.
8 If we do not approve the additional next round at 50-, we
9 could at some point in the future approve.

10 MR. HARVEY: Yes, we could.

11 SENATOR LOWENTHAL: Yes. All right.

12 MR. HARVEY: Are we comfortable then for the roll
13 call, please.

14 MS. GENERA: Senator Lowenthal.

15 Senator Hancock.

16 SENATOR HANCOCK: Aye.

17 MS. GENERA: Assembly Member Gorell.

18 ASSEMBLY MEMBER GORELL: Aye.

19 MS. GENERA: Assembly Member Brownley.

20 ASSEMBLY MEMBER BROWNLEY: Aye.

21 MS. GENERA: Assembly Member Buchanan.

22 ASSEMBLY MEMBER BUCHANAN: Aye.

23 MS. GENERA: Scott Harvey.

24 MR. HARVEY: Aye.

25 MS. GENERA: Kathleen Moore.

1 MS. MOORE: Aye.

2 MS. GENERA: Lyn Greene.

3 MS. GREENE: Aye.

4 MS. GENERA: It carries.

5 MR. HARVEY: Thank you very much for that robust
6 discussion. Item 13, I believe we would be doing
7 sequentially. I expect our Chair to return momentarily. It
8 is the **Long Beach Unified** matter. Staff report on this,
9 please.

10 MS. KAMPMIENERT: Long Beach Unified has submitted
11 an appeal request to State Allocation Board regarding
12 geographic percentage factor that's in regulations. The
13 geographic percentage factor is available for school
14 districts that are in -- are located in areas where the
15 construction costs are higher either due to remote location,
16 perhaps snow load, or various factors due to where they're
17 located that cause construction costs to increase.

18 Long Beach Unified is responsible for the Santa
19 Catalina Island and construction costs on Santa Catalina
20 Island are extremely expensive. There's one large company
21 that can -- that runs to the island and all materials have
22 to be shipped in. There is not a large local labor force
23 available for any construction projects and it's very
24 difficult to build there.

25 The district has indicated that they would like

1 the Board to set the regulations. Right now the regulations
2 leave the geographic percentage factor to be determined by
3 the Board. For planning purposes, the district would like
4 to change the case-by-case determination to a set 50 percent
5 in regulation which is Option 1. Option 1 would set it.

6 With that, I'd be happy to answer any questions.

7 CHAIRPERSON BRYANT: Senator Lowenthal.

8 SENATOR LOWENTHAL: I'd like to move Option No. 1
9 to --

10 ASSEMBLY MEMBER BUCHANAN: Second.

11 SENATOR LOWENTHAL: -- to set the Catalina
12 excessive cost funding at 50 percent in regulation.

13 ASSEMBLY MEMBER BUCHANAN: Second.

14 CHAIRPERSON BRYANT: We have a motion and a
15 second. All those in favor.

16 (Ayes)

17 CHAIRPERSON BRYANT: Any opposed? Any
18 abstentions? Okay. Motion carries.

19 See, I mean didn't you guys miss me for that last
20 hour. What the heck.

21 SENATOR LOWENTHAL: We could spend an hour on this
22 one if you'd like.

23 CHAIRPERSON BRYANT: All right. So I have a
24 suggestion. Actually since I had kind of some downtime, I
25 talked to a couple people, and if it's -- absent massive

1 objections by the Board, I propose that we skip over all the
2 **MI issues**, the policy discussion and the two other items.
3 I've talked to **San Joaquin**. I did not talk to **Muroc** when I
4 was out there. So if it gives them massive heartburn --
5 does it give you massive heartburn if we pass it over?

6 AUDIENCE: No.

7 CHAIRPERSON BRYANT: Okay. All right. Then we'll
8 move onto -- because I really am trying to get us out of
9 here at a reasonable hour. OPSC staff apparently thinks
10 we're going till 7:00. I personally don't feel like going
11 that long. So I think that -- I was trying to -- we need to
12 do -- I think we need to do Tab 18.

13 MR. HARVEY: We did.

14 MS. GREENE: We did 18.

15 CHAIRPERSON BRYANT: Oh, we did the COS? Oh,
16 that's right. We did it earlier. I forgot.

17 MS. SILVERMAN: Tab 17.

18 CHAIRPERSON BRYANT: Do we need to do 17 or can it
19 wait?

20 MS. SILVERMAN: It's -- open up the round for
21 overcrowded relief grant.

22 CHAIRPERSON BRYANT: Okay. Then let's do Tab 17.
23 Who's presenting?

24 MS. SHARP: Hello. I'm Tracy Sharp, Supervisor
25 with Office of Public School Construction, and I'll be

1 leading the discussion on **Overcrowded Relief Grant Program.**

2 Back at the August 4th, 2010, meeting, the sixth funding
3 cycle of the ORG program was presented. As these concerns
4 were raised regarding projects that were being apportioned
5 where school districts had declining enrollment or also --
6 or may have had closed school sites.

7 As a result of that discussion, staff was asked to
8 take the -- present the item at a future Implementation
9 Committee meeting and discuss it. For your reference, we
10 have listed the last six funding cycles of the ORG program
11 and after those six and some other Board actions, there's
12 approximately 452.8 million remaining in the program.

13 When staff took the item to the Implementation
14 Committee meeting -- it was at the October and November
15 meetings. We looked at all areas of the program and the
16 program components can be divided generally into those that
17 were set in statute and those that are defined in regulation
18 and policy.

19 So we look at changes to the program. There are
20 some areas that require legislation to change and others
21 that don't require legislation. So the summary of the
22 Implementation Committee meetings are -- the discussion is
23 summarized in Attachment A, and those areas that require
24 legislation to change are basically if there will be any
25 transfer of bond authority, if there was a change to the

1 175 percent pupil density threshold, if there was -- the
2 CBEDS enrollment year is 2005-2006 -- is defined in statute.
3 The requirements remove portables within six months of the
4 permanent facility's occupancy is set and that the Board
5 approve applications on a semi-annual basis.

6 Those areas of the program, as I noted, all
7 require legislation to change.

8 Now I'd like to highlight the areas of the program
9 that do not require legislation to change. And that is for
10 starters, the 175 percent pupil density requirement, the
11 calculation, how it is calculated is not defined in statute.
12 It's based on California Department of Education. They've
13 set the method on how that's determined.

14 And in order to qualify for the program, a
15 district must submit an eligibility to CDE to determine the
16 175 percent threshold, whether or not they made it.

17 We looked at if this method was changed, if more
18 school districts could be eligible for the program, and we
19 would potentially have a more competitive program if more
20 districts could apply to the program, although it's not
21 known if that would necessarily increase participation in
22 the program.

23 And currently there's enough eligibility already
24 established for those sites that meet the current
25 175 percent threshold to consume remaining eligibility in

1 the program itself.

2 That takes us to the next piece of our discussions
3 and that is the semi-annual approval and funding cycles of
4 the program. Up to the point, the past six cycles were
5 defined in SFP regulations and the future cycles are open
6 for establishment at this point.

7 The regulations are -- have two different -- or
8 could be interpreted two different ways. In one section,
9 Section 1859.184(b)(7) states that the Board may accept
10 applications every six months and Section (a)(2) states that
11 the Board shall accept applications on a semi-annual basis
12 after January of 2008.

13 So today staff is seeking direction from the Board
14 on these areas that could be considered. The options there
15 are, 1, to direct staff to work with Department of Education
16 on the calculation method for the 175 percent. The Board
17 may decide to establish a seventh funding round for the ORG
18 with the final file date of January 31st, 2011.

19 And then furthermore, the staff is looking for
20 direction on future funding cycles. We could either bring
21 an item to the Board each time for future funding cycles or
22 the Board could direct staff to continuously accept
23 applications on a semi-annual basis based on the filing
24 periods noted. Each cycle would be opening and closing --
25 February 1st would be the opening on January 31st and then

1 the next cycle would begin August 1 to January 31st.

2 We don't have a recommendation at this point.

3 Staff is seeking Board direction on these options.

4 CHAIRPERSON BRYANT: Is there any public comment
5 on this item? Does the Board have any questions or comments
6 or thoughts? Ms. Buchanan.

7 ASSEMBLY MEMBER BUCHANAN: Yeah. I'm just trying
8 to get some clarification here. When we say we've got
9 175 percent pupil density calculation at a school, does that
10 imply there's no capacity in the district, that the
11 district's at full capacity and you have a school that's
12 just added lots of portables or maybe it's an urban site. I
13 mean how do we -- what schools tend to fall into that
14 definition?

15 ASSEMBLY MEMBER BROWNLEY: Schools or districts?

16 ASSEMBLY MEMBER BUCHANAN: Well, I know, but it
17 says -- that's what I'm trying to find out. It says the
18 school site must have a pupil population density equal to or
19 greater than 175 percent of CDE's recommended population
20 density.

21 MS. MOORE: Assembly Member Buchanan, I'd like to
22 introduce Fred Yeager from our office that can talk about
23 the specifics of the calculation.

24 MR. YEAGER: Yes. Fred Yeager, Department of
25 Education. And yes, it is site specific, so there would be

1 one site in a district of 50 schools where the school
2 district as a whole may have capacity at a site -- one site
3 itself may be severely overcrowded.

4 ASSEMBLY MEMBER BUCHANAN: So do we require a
5 district to first consider making boundary adjustments to
6 eliminate overcrowding?

7 MR. YEAGER: The statute doesn't apply for any
8 analysis of that. It's -- each site stands uniquely and
9 there are some adjustments in statute for deducting -- for
10 multi-story construction, class size reduction, portables,
11 but those are the only --

12 ASSEMBLY MEMBER BUCHANAN: Because it seems to me
13 if a district is at capacity and you've got a site where you
14 just have to keep adding portables and all of a sudden, you
15 have no playground, then they should get the grants and go
16 up to two stories or do what they have to do, and if you're
17 in an urban environment, there are times when you have no
18 options to acquire land or whatever.

19 But if it's just one school, then my question --
20 and you have capacity, my question, you know, why aren't we
21 requiring districts to take a look at making adjustments.
22 Now that's not to say that you can always make those
23 adjustments because you can't always change boundaries in a
24 way that requires kids to travel great distances.

25 So I mean that was one just sort of general

1 question I had, but beyond that, you know, we have all these
2 pots of money and when we don't get enough people to apply,
3 which seems like we're always trying to figure out how can
4 we get more people to apply or whatever and it seems like if
5 there's a need, there should be applications.

6 When I look at -- you know, we just transferred
7 money to new school construction and we know we have a need
8 there, so my question is, is how do we assess what really is
9 the need here and if there isn't the need, then can we make
10 a decision, for example, to transfer it to new school
11 instruction. Is there something we could do so we're
12 addressing a real need and we're not trying to find a way to
13 create a need.

14 CHAIRPERSON BRYANT: Well, I think what -- I mean
15 if the staff's determined that, we would have to get
16 statutory change in this instance to transfer it.

17 ASSEMBLY MEMBER BUCHANAN: Oh, but maybe we should
18 have statutory change.

19 CHAIRPERSON BRYANT: And that's what -- which
20 argues for maybe -- I mean I'm -- it argues for me to
21 have -- that we just accept these. We open up a round and
22 we accept these applications continuously and you'll see
23 that there's no use for -- I mean not no use, but that
24 there's little demand on this pot and then we can recommend
25 as a Board to the Legislature that they do a bill to

1 transfer it or one of you takes it in.

2 ASSEMBLY MEMBER BUCHANAN: I mean if I'm a school
3 district, why not just draw boundaries such that if I want
4 to modernize a school --

5 ASSEMBLY MEMBER BROWNLEY: Because you'll get
6 recalled.

7 ASSEMBLY MEMBER BUCHANAN: That is true.
8 Boundaries and sex education, I used to tell people.

9 CHAIRPERSON BRYANT: Yeah. So I mean --

10 ASSEMBLY MEMBER BUCHANAN: But I mean if we need a
11 statute change, then I think we change a statute, but our
12 job -- ultimate job should be to get the money where there's
13 the most need. And so that's -- that's my --

14 SENATOR LOWENTHAL: And with the understanding we
15 don't have unlimited resources and we can't keep just --

16 ASSEMBLY MEMBER BUCHANAN: And with also
17 understanding that, you know, we have -- over half our
18 districts have some form of declining enrollment. Districts
19 are going to have more capacity because unfortunately with
20 the severe budget cuts, very few are able to maintain class
21 size reduction which opens up 50 percent more classrooms in
22 K-3.

23 So I mean the question is, is what is the demand
24 going to be going forward and where should the money be
25 used.

1 MR. HARVEY: If I may.

2 CHAIRPERSON BRYANT: Mr. Harvey.

3 MR. HARVEY: I would like to give a justification
4 for a motion I'm going to make. I'm going to make a motion
5 that addresses your interest in looking at and talking about
6 that calculation and that would be Option 1 because staff
7 says while this threshold is in statute, the method for
8 calculating it is not and why don't we talk about it.

9 And secondarily, consistent with what the Chair
10 has said, I'd like the idea of continually appropriating it
11 to prove whether it's valuable or not, not have a seventh
12 funding cycle and then maybe an eighth, so I would therefore
13 in my motion -- and I will now do it -- move Item No. 1 and
14 Item No. 3(b).

15 ASSEMBLY MEMBER GORELL: Second.

16 CHAIRPERSON BRYANT: Ms. Moore, did --

17 MS. MOORE: Yes. If I could speak to the motion.
18 On Item 1, if we direct staff to work with the Department on
19 the 175 percent pupil density calculation, what that means
20 is we currently have a pupil density calculation that's done
21 in an average and it has been in place throughout this
22 process and has produced the projects that have come to us
23 today.

24 Taking a look at it on an individual probability
25 basis of each project that came before us on the 175 percent

1 as opposed to the average will increase the need in this
2 program. So I think you need to know that that is what your
3 motion will do.

4 And secondly, I -- from our viewpoint, if you want
5 to keep with what I think others have expressed and that is
6 let's let this take its course. If people apply for it,
7 great. Then there is a demand and it's kept equal over the
8 time that we put this in place and if there is not a demand,
9 then maybe it's a legislative action to move that money.

10 So if you want to do that, it's counterproductive
11 to approve Item 1.

12 ASSEMBLY MEMBER BUCHANAN: Yeah. And I agree. I
13 don't think I can support that because I would have no
14 problem with opening up another funding round, but at some
15 point in time, we have to make a decision as to whether or
16 not there's a need and then as -- legislatively determine
17 what to do with that money.

18 MR. HARVEY: All right. I'll amend my motion to
19 be 3(b) only.

20 CHAIRPERSON BRYANT: Ms. Brownley, do you want to
21 comment?

22 ASSEMBLY MEMBER BROWNLEY: Well, I just wanted to
23 add to the conversation here is that -- and I don't have any
24 data or evidence, but what I have heard is that when we miss
25 this last round funding cycle that actually school districts

1 were told that they couldn't apply. So if they were told
2 that -- and I don't whether that's true -- then we don't
3 really know if they -- if the demand, you know, was there or
4 not there. I don't think we really know.

5 So I'm sort of the same feeling of sort of letting
6 it move its course and interestingly enough some of the
7 comments that you made, I was thinking actually just the
8 opposite. In the economic turmoil that our schools are in
9 right now is the only efficiencies in economy schools could
10 potentially gain, albeit it's not an easy decision to make
11 at a local level, is to close a school down and if you have
12 to pack more kids into a school, you get the -- you know,
13 the efficiencies there.

14 I mean if you have just -- you know, you don't
15 have a full school, you still have to have a principal, you
16 still have to have custodians, you have to have, you know,
17 these things. And so, you know, I don't know if that is
18 actually playing into any of this at this moment in time or
19 not.

20 ASSEMBLY MEMBER BUCHANAN: If you had a school
21 with 720 students, you have 120 students per grade level,
22 right, in elementary school, for example. If you have
23 K-12 -- if you have class size reduction in K through 3, 120
24 students, you're going to have six classrooms; right --

25 ASSEMBLY MEMBER BROWNLEY: Well, but there is no

1 class size reduction in this moment in time.

2 ASSEMBLY MEMBER BUCHANAN: But let me finish.

3 Okay. That would be six classrooms per grade level or for
4 your four grade levels, 24 classrooms. If you have to give
5 up class size reduction, you go back to 30 to 1, now you're
6 going to have four classrooms per grade level or, you know,
7 4 times 4, 16. So you're going to pick up eight classrooms,
8 which is going to help with the overcrowding which may mean
9 there'll be more schools that aren't applying for the
10 overcrowding grants.

11 So, you know, a motion that I could accept would
12 be to fund one more cycle or two more cycles, but maybe to
13 fund one more cycle and then ask us to take a look at what
14 the true demand is for the funds and make a decision then as
15 to whether to fund more or to transfer some money to another
16 fund. But I just don't see how you go on indefinitely
17 funding cycle after cycle.

18 ASSEMBLY MEMBER BROWNLEY: We didn't. We didn't
19 have a last funding cycle.

20 CHAIRPERSON BRYANT: Public comment. Did you --

21 ASSEMBLY MEMBER BUCHANAN: Well, I know. But I
22 mean I understand the need for another cycle. I just
23 don't -- and if you do 3(b), that's what it does. You just
24 continue with the same cycles, you know.

25 MR. DUFFY: Madam Chair, members, Tom Duffy again

1 for CASH and not to try and prolong your meeting. But we
2 would argue that this program I think, as you noted,
3 Assembly Member Brownley, this program was taking off in
4 six-month increments, which could be funded, when we ran
5 into this fiscal crisis which I think has impacted districts
6 applying for the funds.

7 This program came as a result of the Williams
8 lawsuit where there were three main areas that were in
9 contention, but one was facilities and overcrowding and
10 places like Oakland and LA were identified as having sites
11 that were overcrowded with classrooms because districts
12 needed to respond to growth.

13 This program does not require eligibility, which
14 is a marvelous thing for districts that are maybe at a
15 standstill in terms of growth but have impacted sites with a
16 lot of portables on them. And so what I would ask you to do
17 is to consider having the program move forward with another
18 round or two rounds of funding.

19 We would ask that OPSC and CDE work together to
20 look at those factors of how you calculate density and
21 encourage districts -- and we all that districts are having
22 difficulty at this time, but encourage districts to really
23 look at this program. So that's what I would ask of you.
24 Thank you very much.

25 CHAIRPERSON BRYANT: Okay. Any other comments?

1 Ms. Hancock.

2 SENATOR HANCOCK: I -- so you're talking about --

3 MR. DUFFY: Yes.

4 SENATOR HANCOCK: -- Option 1, which is having the
5 staff work -- actually Option 1 and Option 3(b). You know,
6 I feel like to really understand this is going to take a
7 little more work on our part. I want to get the monies out
8 as soon as possible because we've got to be building
9 schools.

10 I'm concerned about what happens say in a district
11 that's closing schools and then you suddenly have one site
12 impacted. Well, could you move students easily to other
13 schools in the district so you wouldn't have to build? Or
14 you might just need a smaller modernization grant?

15 On the other hand, I also know from my own
16 district that there are schools where the parents will leave
17 the public school system is their school site isn't kept
18 open and how do we feel about keeping kids in the system.
19 There's a lot of very heavy duty policy here I think.

20 So I actually -- I feel like I'd like to see
21 Option 1, but I'd like to see the Board have a hearing on
22 this or the Education Committees having a hearing at some
23 point. What are we really -- what's the phenomenon here?

24 ASSEMBLY MEMBER BUCHANAN: Could we approve the
25 next round of funding to move forward and then evaluate it

1 at that point in time based on what the demand is?

2 SENATOR HANCOCK: Yeah. That makes sense to me.

3 ASSEMBLY MEMBER BUCHANAN: And no, we're not
4 changing the rules, but all we're doing is we're opening up
5 the next round of funding so schools can apply and see what
6 the demand is and then evaluate at that point in time
7 whether or not we need, you know, future rounds.

8 SENATOR HANCOCK: Yeah.

9 SENATOR LOWENTHAL: So what you're saying is do
10 Option 2 and during this time at the -- see what the -- see
11 where we're going to go in terms of the policy.

12 ASSEMBLY MEMBER BUCHANAN: Yes. Right.

13 ASSEMBLY MEMBER BROWNLEY: Well, if we're talking
14 about moving money out the door as quickly as possible, then
15 another, you know, hybrid might be to, you know, have a new
16 round of funding, but the deadline could be like in February
17 or March, you know, which is sort of off cycle, so to speak.
18 But since we missed the cycle and then I mean we could
19 either -- we could do that and add another cycle on the
20 normal schedule that it's normally been on which is January
21 and July or just do the one.

22 The one -- you know, one question I had though --
23 and I think I know the answer, but I just want to make
24 sure -- is that you were talking about this grant program
25 coming out of the Williams case. And so I'm just wondering

1 if any of this money -- if we were going to transfer money
2 to different buckets, is there any -- can any of this money
3 be transferred to the fund for the Williams case. None
4 whatsoever. Okay.

5 ASSEMBLY MEMBER BUCHANAN: Could I make a motion
6 that we establish --

7 CHAIRPERSON BRYANT: Wait. And just for the
8 record, Mr. Harvey did withdraw his motion.

9 ASSEMBLY MEMBER BUCHANAN: But I make a motion --

10 MR. HARVEY: I can count.

11 ASSEMBLY MEMBER BUCHANAN: -- that we establish a
12 seventh funding cycle with a final filing date of
13 March 31st?

14 MR. DAVIS: One moment before we go forward with
15 that motion. My understanding of the regulations that does
16 set it for January of the year and that's been the cycle.

17 ASSEMBLY MEMBER BROWNLEY: But we missed it.

18 MS. KAPLAN: It's actually -- this is something
19 that the Implementation Committee looked at and
20 unfortunately it's set and we can't change it. So the cycle
21 deadlines are January 31st and July 31st.

22 ASSEMBLY MEMBER BROWNLEY: Then how did we miss
23 this one?

24 MS. KAPLAN: Well, you can still approve the
25 January 31st deadline if you choose Option 2 and then you

1 could approve a July 31st if you just do 3(b).

2 ASSEMBLY MEMBER BROWNLEY: Wait, wait, wait.

3 Okay. I'm just -- I'm not talking necessarily to the motion
4 or to these recommendations, but you're saying that you have
5 to do in January and June, but why didn't we do it in
6 January? I mean how did we miss it I guess is the question,
7 this last funding round.

8 MS. SILVERMAN: I think that was something that
9 obviously the Board asked us to -- at a request of a member
10 to go back and explore some issues that potentially could we
11 change regulations and have a discussion about resetting the
12 cycle. So I think that that discussion was taken to Imp.
13 and -- was that September?

14 MS. KAPLAN: Well, in September and October and
15 the Implementation Committee wants a January 31st funding
16 cycle and a majority of the members of Imp. thought that the
17 regulation that was put in place allowed a continuous
18 funding cycle without coming to the Board and there was some
19 confusion as to whether the Board needed to make a -- give
20 direction to OPSC as to fund cycles on January 31st and then
21 July. And so what we're hoping for is direction to say yes,
22 do a seventh round for deadline January 31st and then
23 another one in July but without having to coming back to the
24 in the future.

25 ASSEMBLY MEMBER BROWNLEY: So is OPSC telling

1 people that they couldn't apply?

2 MS. SILVERMAN: There wasn't an established
3 funding round, so we couldn't, at that point in time, accept
4 applications.

5 ASSEMBLY MEMBER BROWNLEY: So people were
6 inquiring and you had to say no because it wasn't
7 established?

8 MS. SILVERMAN: Well, because it wasn't an
9 established round.

10 ASSEMBLY MEMBER BROWNLEY: Okay.

11 ASSEMBLY MEMBER BUCHANAN: I'd like to amend my
12 motion then to establish two additional funding rounds and
13 so it would -- and with the comment that after we see the
14 demand for those two rounds, we will evaluate in terms of
15 where we are with dollars.

16 ASSEMBLY MEMBER BROWNLEY: I'll second that.

17 CHAIRPERSON BRYANT: Okay. Do we need a roll
18 call? All those in favor say aye.

19 (Ayes)

20 CHAIRPERSON BRYANT: Anybody opposed?
21 Abstentions? Okay. Motion carries. All right. So next is
22 Tab 18, Senator Hancock.

23 SENATOR HANCOCK: Tab 19?

24 CHAIRPERSON BRYANT: I'm sorry. Tab 19. You know
25 what, just one quick thing. There's a plane leaving -- did

1 the plane leave? There's a plane leaving and the Orange
2 County people have to get on a plane and there was going to
3 be a comment on the audit item, although we're not -- our
4 intent is not to go very much into the audit item.

5 Ms. Kaplan was going to do a quick update, but if it's okay,
6 can we just do that real fast so we can hear so she --

7 SENATOR LOWENTHAL: Item 19 -- go to Item 19?

8 CHAIRPERSON BRYANT: Item 19. Lisa.

9 MS. KAPLAN: 23. I'm happy to go to Item 23
10 quickly if we need to.

11 SENATOR LOWENTHAL: Item 19?

12 CHAIRPERSON BRYANT: No, Item -- oh, yeah.

13 Item 23 real fast because you -- if you just go in 30
14 seconds, that'd be great. This is **public comment on Tab 23**.

15 MS. KAPLAN: Which is just the **audit report**
16 **update**.

17 CHAIRPERSON BRYANT: Right.

18 MS. BOGGS: Thank you for your consideration. I'm
19 Lettie Boggs with Colbi Technologies and I've been a member
20 of the audit working group.

21 In allowing feedback and comments on the document,
22 the matrix that you have in the packet, at some point after
23 distribution of the plan document, there was a suggestion
24 added to the middle note box on page 838 and I would just
25 like to register with you that I don't believe the note

1 suggestion to be in line with the adopted policy or the
2 implementation plan and it's not reflective of any audit
3 working group conversation.

4 So to prevent any confusion going forward, I
5 request that you strike that note from the comment box as it
6 is so contrary to the actual implementation item on that
7 line.

8 MS. MOORE: Ms. Boggs, can you say where that is
9 again?

10 MS. BOGGS: Sure. Page -- oh, wait a minute.
11 Which one am I in. Page 838, not 8383A.

12 SENATOR LOWENTHAL: 838?

13 MS. BOGGS: 838.

14 MS. MOORE: Which box?

15 MS. BOGGS: The middle box, the notes to the
16 right, there's a comment that says suggestion and it refers
17 to a third party. That third party comment or suggestion is
18 not at all what was discussed in the adopted -- if you look
19 at the very first box, audits should be conducted by an
20 independent entity outside of OPSC and then we discuss State
21 Controller or independent auditor, but in no -- at no time
22 did we discuss OPSC doing the audits and them being removed
23 by a third party.

24 That's a very different type of thing and I didn't
25 want it to bring a confusion into that particular line item.

1 CHAIRPERSON BRYANT: Okay. Did you get that,
2 Lisa?

3 MS. KAPLAN: Um-hmm.

4 CHAIRPERSON BRYANT: Okay.

5 MS. BOGGS: Thank you for consideration.

6 CHAIRPERSON BRYANT: All right. Thank you. I
7 don't we really need -- on Tab 23, we need to really -- is
8 there anything else that you wanted to add that we need to
9 get a decision on? I mean the bottom line is is that what
10 we know about this audit process is it's a heck of a lot of
11 work and staff was really tied up with the priorities issue
12 and so we have -- we've done some things.

13 I think Mr. Harvey wanted to add something to the
14 discussion of No. 23. DGS has done?

15 MR. HARVEY: Yeah. Consistent with the working
16 group's recommendations to have third party auditors, I am
17 very pleased to report that we are meeting with the State
18 Controller. The State Controller's office is very
19 interested in taking over the external audit function and we
20 are facilitating that meeting for next week.

21 And it is our good-faith effort to abide by those
22 conceptual concepts we had and third party was the very
23 first --

24 CHAIRPERSON BRYANT: And so we'll just continue to
25 work on the -- did you want to add something or --

1 SENATOR LOWENTHAL: No. I just wanted to make a
2 motion.

3 CHAIRPERSON BRYANT: Okay.

4 SENATOR LOWENTHAL: So we can move forward to
5 accept the report and to direct OPSC in conjunction -- or in
6 consultation maybe with the AEO to implement the plan and
7 when there's a question of whether legislation is needed to
8 return to us with options really, any of those issues around
9 legislation.

10 CHAIRPERSON BRYANT: Okay. Is there a second?

11 ASSEMBLY MEMBER BROWNLEY: Second.

12 CHAIRPERSON BRYANT: All those in favor.

13 (Ayes)

14 CHAIRPERSON BRYANT: Any opposed? Abstentions?
15 Motion carries. Okay. So back to -- sorry about that, but
16 I wanted to accommodate those -- our stakeholders. So back
17 to Tab 19 and I think unless there's an objection, this will
18 be our last item. Okay. So Ms. Hancock -- Senator Hancock.

19 SENATOR HANCOCK: Thank you very much.

20 ASSEMBLY MEMBER BROWNLEY: Thanks for speaking for
21 all of us.

22 SENATOR LOWENTHAL: I take it back. There's no
23 objection from this Senator.

24 ASSEMBLY MEMBER BROWNLEY: Yeah. No. For all of
25 us. You're speaking for all of us.

1 SENATOR HANCOCK: So hopefully this item will also
2 move quickly. I would just like to start with thanking the
3 staff, the members of the Committee, Ms. Brownley,
4 Ms. Fuller, Mr. Harvey, for participating in many, many,
5 many meetings. We're really trying to establish clearly
6 once and for all the **operating procedures and the rules of**
7 **the SAB** so that we could make motions and move the agenda in
8 a timely way.

9 We met four times. We had really very, very
10 substantive discussion. I want to thank the advocates and
11 the school districts who came too. There were some of you
12 that came to every meeting and gave us an idea of how what
13 we were looking at would play out in the real world and
14 resulted I think in a much better set of recommendations.

15 So we have a set of working rules and procedures
16 here. We have a number of items that we are -- that don't
17 come up all the time or are very substantive policies and
18 want to continue discussion on those items. We'll bring
19 them back as we work out our recommendations.

20 One is to clarify the appeals procedure, ex parte
21 communication, definition of material inaccuracy, mercy
22 clause, rescission procedure, and I'm going to remove from
23 our -- from the adoption today Section 10, Reconsideration,
24 where we have broad agreement but don't actually have
25 agreement on language, and Section 12, Legal Opinions,

1 because we had some discussion of that in closed session and
2 we need to continue that discussion.

3 SENATOR LOWENTHAL: So we're removing 10 and 12.

4 SENATOR HANCOCK: 10 and 12 for further discussion
5 by the Rules and Operating Procedures Committee.

6 So I would move that we adopt the attached rules
7 and operating procedures, give a copy of the rules to Board
8 members, post them on our Website, direct that the rules be
9 implemented at our January meeting, and note that the rules
10 do establish a vice chair -- a legislative vice chair -- or
11 re-establish it because I think there was one in the past
12 and that person would be elected at the January meeting, and
13 also that we send a letter reminding the Pro Tem and the
14 Assembly Majority Leader that they might want to make
15 appointments because we're missing two members now since
16 Ms. Fuller represented the Assembly and is now in the Senate
17 and Mr. Torlakson.

18 ASSEMBLY MEMBER BUCHANAN: I'm taking his place.

19 SENATOR HANCOCK: Whatever it is. We need to --

20 CHAIRPERSON BRYANT: We just need one I think.

21 SENATOR HANCOCK: We need a full complement. We
22 need -- yeah -- so that we could have a full complement of
23 members.

24 But why don't I just try a simple motion first,
25 that we adopt the rules and operating procedures as laid out

1 here with Section 10 and Section 12 referred for further
2 discussion at the Committee.

3 MR. DAVIS: Madam Chair.

4 CHAIRPERSON BRYANT: Yes, sir.

5 MR. DAVIS: Just a point -- for the record, I've
6 only had a chance to just glance through the rules. I don't
7 see anything that just strikes me right off, but legal
8 hasn't had a chance to really review it. There may not be
9 anything in here that conflicts either Bagley-Keene or any
10 other parts of the Government Code, but I haven't really had
11 a chance to really review it other than a quick read
12 through.

13 CHAIRPERSON BRYANT: Okay. Thank you. The --
14 just one point I notice, Senator Hancock. In the section
15 about the Chair's duties, Subdivision 2.4, it says
16 collaborate with Executive Officer and Assistance Executive
17 Officer in preparation of the agenda and reports to the
18 Board. It leaves out the part that if you go to Section 4
19 on the agenda that the Board's agenda is supposed to be set
20 by the Chair and the Vice Chair together. I sort of think
21 we should add the Vice Chair into that collaboration thing.
22 I think that -- I would picture it being something that the
23 Chair and the Vice Chair would work on with the leadership
24 from OPSC.

25 SENATOR HANCOCK: I would be happy to include

1 that.

2 CHAIRPERSON BRYANT: It's just a minor point, but
3 I think that --

4 SENATOR HANCOCK: Yeah.

5 CHAIRPERSON BRYANT: I think that kind of
6 clarifies it and then I do want to just say -- make one
7 comment. I talked earlier to Senator Hancock about this.
8 I've been some what agnostic on -- a little bit on this
9 first item on who should be the Chair and part of it I think
10 is just a personal thing for me. I always feel like it's --
11 you know, nobody wants me to be Chair, fine, I'll take a
12 walk, but I thought a lot about the fact that I'm on several
13 boards and committees throughout State government and any
14 committee that has to do with bonds is either chaired by the
15 State Treasurer or the Director of Finance.

16 And I think there's -- when you think about what
17 the role of spending bond funds is, it makes a lot of sense.
18 I'm assuming that -- I'm guessing that when elections happen
19 in January that the Director of Finance would probably be
20 reelected as Chair, at least in the near term, and I do
21 think there's education policy issues that relate to whether
22 or not the superintendent should serve, but I think it's --
23 I would just suggest that this is a conversation and a
24 process that you're going to -- I think is -- on a
25 going-forward basis needs to be thought through a little bit

1 more about what -- you know, what -- you know, where, who
2 should be chair.

3 But because we're doing a two-year chair, I
4 shouldn't assume you're electing the Director, but I'm
5 guessing you will, that it's something that you may want to
6 think about whether or not as you think about directing this
7 Board in the future that -- how -- you know, whether or not
8 you'd want to make it a permanent position as the Director.

9 And then one other comment I wanted to make which
10 I guess I would not ordinarily do except that I won't be
11 here anymore. I have grappled strongly with appeals and I
12 had long conversations with Lisa Silverman about how to do
13 appeals. I've been really pushing the staff lately to
14 say -- to send letters and say look, we don't agree with
15 your decision, now you got to file for an appeal so that we
16 have some kind of a -- we're creating a record to come to
17 the Board.

18 But I ran into a situation with a district -- and
19 you'll see this issue in February. It's the Moraga
20 district -- where in a way the consultant argued to me that
21 it wasn't so much that the staff really was -- shouldn't be
22 saying we don't approve your application, that what really
23 should be happening is the staff ought to be saying we are
24 going to recommend that the Board not approve your
25 application.

1 And it's -- there's this difference and there's a
2 subtle difference and I don't have a good answer for you.
3 It just raises an issue and I want to place it on the record
4 because I feel like in the handling of this appeal, I went
5 back and forth with the district a little bit, that
6 there's -- there is an open question there.

7 So the Board at some point as you move forward in
8 your work next year on the Subcommittee is how do you want
9 to ripen those appeals and how do you want to see them and
10 do you want to move into a situation where you have an
11 administrative hearing officer. Where do you want staff to
12 draw the line.

13 Part of it is staff is trying to not overburden
14 the Board and we are seeing now we're going to 6:20 and at
15 the same time, we don't -- the Board doesn't want to
16 delegate its decision-making authority to staff. So that
17 gets into -- that's something that's got to -- you got to
18 sit down and really think about all the options and I don't
19 have a good answer for it, but I just wanted to raise that
20 and I know we're not deciding that issue today, but I don't
21 get to speak publicly to this body for a year after this
22 week, so -- after this month. So --

23 SENATOR LOWENTHAL: You can come back and address
24 us.

25 SENATOR HANCOCK: Anytime I might add.

1 CHAIRPERSON BRYANT: Okay.

2 SENATOR HANCOCK: I think in general choosing the
3 Director of Finance as the Chair is probably a very good
4 idea and a good piece of advice. I think we're just trying
5 to leave a little wiggle room and some options for the
6 Board.

7 On appeals, this will be a substantive, I can
8 assume you, set of meetings that we're going to have to have
9 and I would suggest any of you from local government who
10 have zoning adjustment boards that were very active, it's --
11 there is a process and it can be very clear and there can be
12 a set of reasons given for why it's -- an appeal would most
13 likely be granted or not granted so that there's some
14 guidelines.

15 And I kind of -- I like the suggestion that you
16 just made because if the staff says we aren't going to
17 recommend it, but you can appeal, it's different than us
18 having to then overturn the staff in some way. I mean it
19 lays out the fact that we're dealing with complicated
20 situations and there's a lot of marginal situations in which
21 a judgment call is the only way to do it. And if we --
22 hopefully we will be able to do that.

23 And I would -- anyway I -- we shouldn't try to do
24 it tonight though. So you can call the question if you
25 want.

1 SENATOR LOWENTHAL: Are we going to vote on this?

2 CHAIRPERSON BRYANT: Need a second.

3 SENATOR HANCOCK: Yes.

4 SENATOR LOWENTHAL: Oh, I have -- I just have a
5 question or two to ask if that's okay.

6 SENATOR HANCOCK: Sure.

7 SENATOR LOWENTHAL: I wasn't sure in Section 5(d)
8 where first you put a limit on three times and then we have
9 all these exceptions which just kind of change, you know,
10 when it -- has there been a real problem with that and why
11 are we limiting this? Is it because we've had problems? I
12 haven't seen any because then you go through this whole list
13 of exceptions. And so I just needed some understanding of
14 why we're going down this road.

15 CHAIRPERSON BRYANT: Ms. Silverman.

16 MS. SILVERMAN: I believe there are exceptions and
17 I think material inaccuracies that we've seen time and time
18 again that that's been somewhat of a thorny topic that
19 unfortunately there are some items that never get moved
20 forward and so I think there --

21 SENATOR LOWENTHAL: It keeps coming back. It
22 keeps on our agenda?

23 MS. SILVERMAN: Yes. Yes. So I mean -- and there
24 are times when, you know, there could be a request by the
25 district at any time or it may not be a convenient time to

1 be here. So I'm not --

2 SENATOR LOWENTHAL: Oh, I understand -- I'm just
3 saying why are we dealing with the whole -- is there a
4 reason that we want to limit?

5 MS. KAPLAN: Senator Lowenthal, the genesis of
6 this was actually when I got appointed over a year ago,
7 internally at that time, Rob Cook, Tom Sheehy, and others
8 were working on it and this was set in there because of the
9 inability to move items off the agenda. Therefore this just
10 stayed as for how can we continue to move the agenda if we
11 don't have a process and things keep coming back for Board
12 determination.

13 And we tried to put in enough examples so that it
14 couldn't be -- so nobody got left out, that they actually
15 got heard, but they couldn't keep coming to the Board until
16 they got the decision they were looking for.

17 MR. HARVEY: That's fair.

18 CHAIRPERSON BRYANT: Any other questions or
19 comments?

20 SENATOR LOWENTHAL: And the other -- and I have
21 one other under the staff analysis and it says each item
22 shall have a staff analysis and then -- I'm just wondering
23 about consistency. Instead of -- then it goes in, the OPSC
24 shall provide. Isn't it the staff we're talking about?
25 Wouldn't we just keep saying the staff shall provide because

1 it's all about staff analysis.

2 SENATOR HANCOCK: Does anybody see a problem with
3 that?

4 SENATOR LOWENTHAL: You want to --

5 SENATOR HANCOCK: Staff?

6 SENATOR LOWENTHAL: Well, the staff --

7 ASSEMBLY MEMBER BUCHANAN: Kathleen? I mean --
8 I'm thinking about the people who direct the staff.
9 Cynthia?

10 CHAIRPERSON BRYANT: It doesn't -- to me they're
11 interchangeable.

12 SENATOR LOWENTHAL: Just to say staff.

13 SENATOR HANCOCK: Just to say staff.

14 SENATOR LOWENTHAL: So it's consistent throughout
15 because all throughout this, you keep talking about staff
16 except for here and even the title is staff analysis and I
17 don't mind calling it staff. I'm just wondering --

18 SENATOR HANCOCK: But it does come from OPSC.

19 CHAIRPERSON BRYANT: But in the context of our
20 analyses that are in our binder, OPSC is staffing the Board;
21 isn't that right, Ms. Silverman?

22 MS. SILVERMAN: That's correct. It's generally
23 our staff --

24 SENATOR HANCOCK: And part of what we're trying to
25 get at here is the fact that it's --

1 SENATOR LOWENTHAL: We might want to have --

2 SENATOR HANCOCK: -- so difficult actually to get
3 analyses on time. I think many of us really have to
4 struggle when we get things at the last minute that are
5 changes to the things that we may have looked at in the
6 past. And trying to say unless there's a really important
7 reason, we need to have stuff three working days, five
8 working days in advance so we have a chance to have meetings
9 in which we're fully informed.

10 SENATOR LOWENTHAL: It's just that both of these
11 items, this and the one before it, really have to do with
12 appeals and we have not really dealt with the appeal we're
13 going to issue.

14 SENATOR HANCOCK: Well, I'll tell you we also
15 though -- Senator Lowenthal, we also really wanted to
16 honestly get a staff analysis that would be more parallel in
17 construction to what we get on legislation.

18 SENATOR LOWENTHAL: Um-hmm.

19 SENATOR HANCOCK: Because sometimes you really
20 want to know a few brief things about the background and a
21 recommendation so that when you know the policy goal of the
22 item --

23 SENATOR LOWENTHAL: Um-hmm.

24 SENATOR HANCOCK: -- or of the appeal, you can
25 then fill in the blanks by reading the staff analysis. And

1 hopefully again that would expedite, at least for the
2 legislative members.

3 CHAIRPERSON BRYANT: Well, I would -- I mean I
4 don't want to speak for Ms. Silverman, but I think she
5 would -- I mean we -- they try so hard to get them all done
6 in time.

7 SENATOR HANCOCK: Oh, I know they -- I know.

8 CHAIRPERSON BRYANT: Like last night, I mean
9 seriously they were -- I mean I think Ms. Silverman told me
10 she went to bed at 1:30 last night because they were trying
11 to do such a perfect job on the priorities item, but we
12 didn't get it till 8:30 last night, so --

13 SENATOR HANCOCK: Right. And that's why it's
14 just --

15 CHAIRPERSON BRYANT: I think it's definitely --
16 you know, it's definitely the staff's goal every single
17 meeting and oftentimes, you know, there's just things
18 happen, but generally speaking, I think it's been -- we have
19 a much better record today than we did in say January when
20 everything was all changed, so --

21 SENATOR HANCOCK: No, no. Again this is not a
22 blame item at all. It's just setting a procedure and it
23 might help staff because there are some things if they
24 really can't get done, they should be held over till the
25 next month unless -- and --

1 CHAIRPERSON BRYANT: And they can tell -- and it
2 makes it easier for them to say to stakeholders we need to
3 be done, you have to get us your stuff by this date because
4 we're going to be done.

5 SENATOR HANCOCK: That's right. That's right.

6 CHAIRPERSON BRYANT: Did you want to add
7 something, Ms. Moore?

8 MS. MOORE: Yes. Just one quick question. On the
9 background that is asterisked on page 802 and then it goes
10 over to 803 and I'm assuming it's a background of every
11 item. We're going -- it says background information shall
12 include the time and the amount of the last approved bond as
13 well as the amount of subsequent bond efforts. That seemed
14 out of context.

15 MS. KAPLAN: It was a mistake. It was supposed to
16 be in reference to financial hardship. When the item comes
17 as to determine whether when they come on other evidence
18 that's presented to the Board, the Board has consistently
19 asked for have they gone for a bond, have they tried to --
20 other items. So that needs to reference financial hardship.

21 MS. MOORE: Do you think we need to be that
22 specific and actually just give allowance for the background
23 and staff would know that on those particular items that's
24 always going to be something they need to cover. But that's
25 a very specific thing in a Board policy to me. And nothing

1 else was specified like that.

2 MS. SILVERMAN: Yeah. And we've always done that,
3 stated in hardship districts whether or not they had bonds
4 that passed and so all that information has been disclosed
5 and so -- I agree with you, Ms. Moore. I don't know if we
6 really need to have that tight of a structure.

7 MS. MOORE: And then the other part says
8 background information on appeals, analysis shall include a
9 timeline of events and other information about -- I think
10 that's a broad, appropriate kind of policy thing as well. I
11 don't know. Did you really want -- did you want that in
12 there?

13 SENATOR HANCOCK: You know, I think we should add
14 the word approved district bond, but I'd like to keep it in
15 there because there have been some times when we've had
16 appeals and various things and then it's turned out that
17 there's never been a bond or that -- it just seems to me
18 that that's a very important thing because it gives us a
19 measure of the level of district support for building
20 schools.

21 MS. MOORE: Okay. You guys deliberated. It just
22 seemed out of context, but --

23 SENATOR HANCOCK: Okay. I mean --

24 MS. MOORE: -- if that is information that we want
25 in the background of every item, what the local bond amount

1 is, I mean that's informational item, but it -- there's only
2 one place that we have to regulatorially review that and
3 that's in a hardship case. Otherwise we require that
4 districts provide their contribution and we don't question
5 whether they have a bond to do it with or they --

6 SENATOR HANCOCK: I see what you're saying.

7 MS. MOORE: -- have developer fees to do it with
8 or they have whatever local resources to do it with.
9 We've -- that's not necessarily -- I don't know what the
10 word is -- our business, but in the case of hardship --

11 SENATOR HANCOCK: I see what you're saying.

12 MS. MOORE: In the case of hardship, it is our
13 business because it's one -- am I correct, that it's one of
14 the requirements for -- if you failed in a bond measure
15 amount of time, we might consider an exception to allow you
16 into hardship.

17 MS. KAPLAN: That is one of the considerations,
18 yes.

19 SENATOR HANCOCK: What?

20 MS. KAPLAN: The consideration of when you approve
21 financial hardship, if you've gone out for a bond and you've
22 failed. That those -- that item is looked at for a
23 determination of financial hardship on the way of other
24 evidence that the Board should consider, if it doesn't fall
25 into the neat box of the rules established.

1 SENATOR HANCOCK: Well --

2 MS. MOORE: So, Senator Hancock, it might be that
3 you would say that the background information shall include
4 the date and amount of the last approved bond for -- always
5 for hardship projects and that way -- is that where we look
6 at that? Correct?

7 MS. SILVERMAN: Yes. Like I said, we clearly put
8 that in every item when it comes to a financial hardship
9 issue.

10 MS. MOORE: Financial hardship because as I said
11 otherwise --

12 SENATOR HANCOCK: Okay. So we would say
13 background information for financial hardship designation
14 shall include the date and amount of the last approved
15 district bond.

16 MS. MOORE: That's information you'd need in your
17 item.

18 SENATOR HANCOCK: Yes. That we would need to
19 have. And then background information on appeals and
20 analyses will also include a timeline of events and other
21 information. Okay.

22 ASSEMBLY MEMBER BUCHANAN: And that's not intended
23 to be all inclusive. There may be other information we have
24 as well.

25 SENATOR HANCOCK: Yeah.

1 ASSEMBLY MEMBER BUCHANAN: So we'll --

2 SENATOR HANCOCK: Exactly.

3 ASSEMBLY MEMBER BUCHANAN: -- at a minimum it's
4 going to be --

5 SENATOR HANCOCK: Exactly.

6 CHAIRPERSON BRYANT: Okay.

7 SENATOR HANCOCK: Okay.

8 CHAIRPERSON BRYANT: Now is there a second to --

9 SENATOR LOWENTHAL: Second.

10 CHAIRPERSON BRYANT: Second. All right. All
11 those in favor.

12 MR. HARVEY: May I ask -- at the Subcommittee I
13 spoke very similarly to the Chair relative to who should be
14 the Chair of this body and I felt strongly that it should be
15 DOF. If we could bifurcate the question so I could vote no
16 on that matter, so long as the agency designee is include, I
17 would appreciate it. Or just be reflected on that portion
18 as a no vote.

19 SENATOR HANCOCK: Okay. So you want to sever the
20 motion.

21 CHAIRPERSON BRYANT: Yeah. Okay.

22 SENATOR LOWENTHAL: Everything but the Chair.

23 MR. HARVEY: Everything but that.

24 SENATOR HANCOCK: Okay. That would be agreeable.

25 SENATOR LOWENTHAL: Let's do that.

1 CHAIRPERSON BRYANT: Okay. So all those -- so
2 that we're voting on everything except for Section 2. All
3 those in favor.

4 (Ayes)

5 CHAIRPERSON BRYANT: Opposed?

6 MS. MOORE: I believe it was also with the
7 exception of 10 and 12 as well.

8 CHAIRPERSON BRYANT: Right. Those were axed.

9 SENATOR HANCOCK: Yes, but that was in the motion.

10 CHAIRPERSON BRYANT: So now is there -- we have a
11 second motion on Section 2?

12 SENATOR HANCOCK: Yes. I would so move.

13 SENATOR LOWENTHAL: Second.

14 CHAIRPERSON BRYANT: Okay. We have a motion and
15 second on Section 2. All those in favor.

16 (Ayes)

17 CHAIRPERSON BRYANT: Those opposed.

18 MR. HARVEY: No.

19 CHAIRPERSON BRYANT: And I'll abstain because I
20 like to be courageous. Okay.

21 SENATOR HANCOCK: Good.

22 CHAIRPERSON BRYANT: Congratulations and thank
23 you. And it's not done. It's obviously a work in progress.

24 SENATOR HANCOCK: It's a work in progress, but
25 we've taken a step in the right direction. And thank you,

1 Cynthia, for your help.

2 ASSEMBLY MEMBER BROWNLEY: Madam Chair. Madam
3 Chair.

4 CHAIRPERSON BRYANT: Yes.

5 ASSEMBLY MEMBER BROWNLEY: May I make one more
6 comment before you adjourn the meeting.

7 CHAIRPERSON BRYANT: Sure. We have to have public
8 comment, but I think -- are you telling me I need to --

9 ASSEMBLY MEMBER BROWNLEY: Oh, we're going to have
10 public comments?

11 CHAIRPERSON BRYANT: Is there a tab that we have
12 to take up?

13 MS. MOORE: Not a tab but --

14 MR. DAVIS: Tab 20.

15 CHAIRPERSON BRYANT: Tab 20.

16 SENATOR LOWENTHAL: Are we doing another one?

17 CHAIRPERSON BRYANT: We don't have to do that
18 today, do we?

19 MR. DAVIS: That's Mr. Zian.

20 CHAIRPERSON BRYANT: What?

21 MR. DAVIS: Mr. Zian.

22 CHAIRPERSON BRYANT: We don't have -- it can be
23 put over, can't it?

24 MR. ZIAN: We can do it quick if you want.

25 CHAIRPERSON BRYANT: What?

1 MR. ZIAN: We can do it real quick if you want.

2 SENATOR LOWENTHAL: I have to --

3 CHAIRPERSON BRYANT: Is there -- do we need to
4 vote on it or are you just updating us?

5 MR. HARVEY: Accepting a report, is that all it
6 is?

7 MR. ZIAN: It's accept the report.

8 SENATOR HANCOCK: I'd like to put it over simply
9 because it was forthcoming and I didn't have a chance to
10 read it whenever it came.

11 SENATOR LOWENTHAL: Yeah.

12 MR. HARVEY: Want to put it over --

13 CHAIRPERSON BRYANT: Yeah. Put it over. And then
14 we have Tab -- I think that's it. The only other thing is
15 there's -- if we have public comment. I believe there is --
16 was public comment that earlier didn't get to finish?

17 MS. MOORE: I have one other piece too though that
18 I think we haven't directed concerning the remaining cash of
19 the 1.7 billion that we -- we apportioned 1.4. We reserved
20 another -- I don't -- I can't --

21 ASSEMBLY MEMBER BROWNLEY: 96 million.

22 ASSEMBLY MEMBER BUCHANAN: 96 --

23 MS. MOORE: 95- plus 58-, so roughly another
24 160- -- boy, I'm going to hear about that -- another
25 160 million, but there's another 150 million remaining of

1 cash that we have not dealt with at this meeting and I think
2 we --

3 CHAIRPERSON BRYANT: Okay.

4 MS. MOORE: -- should give direction to staff.

5 CHAIRPERSON BRYANT: Okay. So I thought before we
6 started the priorities item, I thought I said that -- my
7 suggestion is, is that we -- we've looked at the --
8 Barbara's gone I guess -- that we know that -- we've looked
9 at the regulations and we believe we can continue to use
10 this round and give another batch of people another 90 days
11 within the priorities funding, so it would kind of be a
12 Part B of this round so that we can apportion the additional
13 projects, keep going down the list at the next meeting with
14 the change. Is that --

15 MS. MOORE: Are you saying that districts do not
16 need to take an action, that they have already said they're
17 interested in the 90 -- in the round, but we are going to,
18 at the next Board meeting, consider going further down the
19 list with the remaining cash.

20 CHAIRPERSON BRYANT: Right. That was --

21 MS. MOORE: Okay.

22 CHAIRPERSON BRYANT: That was our plan. Now we
23 could open a whole new round, but that would require
24 everybody resubmitting their paperwork and we have -- that
25 was at 400 million in excess applications off this round.

1 So we would just go -- keep going.

2 MS. MOORE: So that would be recommendations at
3 the next Board meeting --

4 CHAIRPERSON BRYANT: Right.

5 MS. MOORE: -- where to -- what group next -- how
6 much is left, what group next, and that would come before
7 the Board.

8 MS. SILVERMAN: That's absolutely correct. Those
9 applications are valid.

10 MS. MOORE: Okay. Great. I wasn't clear on that.

11 CHAIRPERSON BRYANT: Okay. Okay. I'm sorry.
12 That was probably my bad.

13 MS. MOORE: Thank you.

14 SENATOR LOWENTHAL: Madam Chair, are we going to
15 go to public comment, but before we go because I have to
16 catch a plane --

17 CHAIRPERSON BRYANT: Yes.

18 SENATOR LOWENTHAL: -- I just want to thank you
19 for being a wonderful Chair.

20 CHAIRPERSON BRYANT: Oh, thank you.

21 SENATOR LOWENTHAL: And this is --

22 (Applause)

23 MS. SILVERMAN: Well, specifically to that -- I'm
24 sorry we're going to go off topic. On that matter of
25 order -- sorry, Dave. On behalf of the State Allocation

1 Board honoring Cynthia Bryant in whereas obviously she began
2 serving on behalf of the --

3 CHAIRPERSON BRYANT: Oh, you don't have to read
4 it.

5 MS. SILVERMAN: Anyway, thank you again for all
6 your service and I think we all appreciate the effort you
7 put in, very long hours, and I hope we did our best to prove
8 that we can definitely do these in tough times and obviously
9 stimulate the economy. Again thank you again for your
10 leadership.

11 CHAIRPERSON BRYANT: I have generally been not
12 saying anything in all these Board meetings because I'd have
13 to go through every week, but obviously the State Allocation
14 Board's very special to me. I just cannot thank the members
15 enough for all of the support, my staff at Department of
16 Finance, they're fantastic, and OPSC staff who's just been
17 fabulous, and the stakeholders. This is a great group of
18 stakeholders. All of you that are left out here, you can
19 spread it around. I just -- I really have had a great time.
20 I really am very, very grateful. So I appreciate it. Thank
21 you.

22 MR. HARVEY: Hear, hear.

23 (Applause)

24 MR. DUFFY: Thank you. Madam Chair, members, and
25 I just wanted to follow the lead of the good Senator and

1 your other Board members and Lisa. CASH wants to thank you
2 for your leadership. You took on this job in January and
3 you stuck with it through December. There have been a lot
4 of difficult times and you've used humor and intelligence
5 and you just offer so much and we just have to thank you.
6 So the school districts of California I think are better
7 because of your leadership.

8 CHAIRPERSON BRYANT: Thank you.

9 (Applause)

10 CHAIRPERSON BRYANT: So is there additional public
11 comment because I heard a district got cut off. Are they
12 Bangor?

13 MR. YOUNG: That gentleman left.

14 CHAIRPERSON BRYANT: Okay. Well, I'll call that.
15 I'll call the district because we've had a lot of interest
16 in that and a couple members have reached out to me. So I
17 will talk to them.

18 And so with that, this meeting is adjourned.

19 (Whereupon, at 6:38 p.m. the proceedings were recessed.)

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REPORTER'S CERTIFICATE

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